Mr. BARR of Georgia. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentleman from Georgia (Mr. BARR) will be postponed.

The CHAIRMAN. The Committee will rise informally.

The Speaker pro tempore (Mr. LEWIS of Kentucky) assumed the chair.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 775) ''An Act to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes.''.

The message also announced that the Senate has passed a concurrent resolution of the following title in which concurrence of the House is requested:

S. Con. Res. 43. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

The SPEAKER pro tempore. The Committee will resume its sitting.

FINANCIAL SERVICES ACT OF 1999

The Committee resumed its sitting.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 106–214.

AMENDMENT NO. 5 OFFERED BY MR. FOLEY

Mr. FOLEY. Madam Chairman, I offer amendment No. 5.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. FOLEY:

Page 244, after line 18, insert the following new section (and amend the table of contents accordingly):

SEC. 198A. INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS.

Section 5(a)(7) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(7)), is amended to read as follows:

''(7) ADDITIONAL AUTHORITY FOR INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS, UPGRADES OF CERTAIN FOREIGN BANK AGENCIES AND BRANCHES.—Notwithstanding paragraphs (1) and (2), a foreign bank may—

''(A) with the approval of the Board and the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank's home State if—

''(i) the establishment and operation of such branch or agency is permitted by the State in which the branch or agency is to be established, and

''(ii) in the case of a Federal or State branch, the branch receives only such deposits as would be permitted for a corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.), or

''(B) with the approval of the Board and the relevant licensing authority (the Comptroller in the case of a Federal branch or the appropriate State supervisor in the case of a State branch), upgrade an agency, or a branch of the type referred to in subparagraph (A)(ii), located in a State outside the foreign bank's home State, into a Federal or State branch if—

''(i) the establishment and operation of such branch is permitted by such State; and

''(ii) such agency or branch—

''(I) was in operation in such State on the day before September 29, 1994; or

''(II) has been in operation in such State for a period of time that meets the State's minimum age requirement permitted under section 44(a)(5) of the Federal Deposit Insurance Act.''.

The CHAIRMAN. Pursuant to House Resolution 235, the gentleman from Florida (Mr. FOLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the amendment I am offering today is a States' rights issue. It is noncontroversial, we hope, an amendment that will fix an anomaly in Federal interstate banking laws. It will also help the flow of trade from the U.S. to countries all over the world.

This amendment would allow foreign banks currently operating in the United States to expand their operations as was intended by the Riegle-Neal Banking and Branching Act by allowing agencies to upgrade to branches.

In 1994, when the Riegle-Neal Interstate Banking and Branching bill was passed. Congress sought to allow foreign banks to open additional branches just like domestic banks. This amendment would conform with the intent of the original act.

Unfortunately, not one foreign bank has been able to open additional branches under the Riegle-Neal Federal law provision. While the intention of the act was to allow expansion of foreign banks, the provision in current law has proved to be unworkable.

This amendment would allow foreign bank agencies to upgrade to a branch with the approval of the appropriate chartering agency, the OCC or the State bank supervisor, and the Federal Reserve Board.

In order to accomplish this upgrade, the agency would have to meet the State's minimum age requirement for entry, just like domestic banks. In addition, the agency must meet the requirements for consolidated home country supervision.

This change in Federal law that I am proposing today is a States' rights amendment. If passed, it would remove a Federal limitation that interferes with State law.

The amendment is supported by the Florida Banking Department, the New York Banking Department, the Texas Banking Department and the California Banking Department, as well as the Florida International Bankers Association and Conference of State Bank Supervisors. This amendment has been fully vetted with the Federal Reserve Board, and they have indicated that they have no objection to it.

Madam Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I should note that under the rules someone is entitled to 5 minutes in opposition. I would describe myself for these purposes as leaning against but open to persuasion, I would reassure my friend, the gentleman from Florida (Mr. FOLEY). I am not firmly committed on the subject.

I was interested in what the gentleman said and will listen some more, but I also wanted to use this occasion to address the general bill, Madam Chairman. It is a somewhat constricted debate situation.

What I wanted to do was to explain why I would be voting against this bill, although I think on the subjects that it deals with it does a good job. That is, I think this is a bill which suffers from incompleteness.

I think with regard to the regulation of the financial services industry, this is as good a product as we can expect from a broad representative body. I think the Committee on Banking and Financial Services on both sides worked seriously and well under the leadership of the chairman and the ranking member.

The problem is, in my mind, it carries out a pattern that is too much present in America today and that I think threatens great harm even as it makes some specific progress, and that is a pattern in which we do a good job of fostering conditions in which the capitalist system can flourish. It is in our interest that the capitalist system flourish.

Capitalism clearly has established itself as the superior way for a society to generate wealth, and the generation of wealth is very important. It is important in and of itself because it provides resources for individuals to enjoy themselves, and it is important as a way to provide the resources which help us deal with other problems.

On the other hand, we have learned that capitalism, as great an engine as it is in generating wealth, can have some downsides. In particular, the era of capitalism in which we now are, a kind of globally competitive world, is one where increased wealth is unfortunately accompanied by increased inequality in many cases and by an undermining of society's capacity to deal with some of the social problems that the market does not take care of.

This bill should have been an opportunity to deal with both aspects of

that. It is a good piece of legislation for setting forth the conditions for the financial services industry, central to capitalism. It is a good situation in which the intermediation function of the financial services industry can go forward.

We understand that, in and of itself, that is going to leave us some problems. In particular, I regret terribly the refusal of the majority to let us deal seriously with the amendment offered by the gentlewoman from California, which would have tried to deal with those geographic areas that are left behind.

I do not think we adequately deal with privacy. In fact, in some ways we may be making it worse. That is, unfortunately, a kind of paradigm we are following too frequently. We go forward and we provide the conditions and improve the conditions for wealth to be generated, and I am for that. I would vote for this bill if we were talking simply about these conditions and no other were relevant, but to do that while at the same time we refuse to address the serious problems of poverty in inner cities, and obviously this is not a bill in and of itself to alleviate poverty, but it does seem reasonable to me to say to the large financial institutions they are getting a pretty good set of conditions here. We are responding to their needs. Can they not make a little extra effort in the course of this to help the people who are being left behind? Can they not help the consumers?

I understand if we leave it entirely to the market they would not want to do that. That is why we ought to be coupling market-enhancing legislation like this with some reasonable conditions that say they are going to make more money out of this, and that is a good thing because that is how our society will prosper. But can they not take a little bit of the extra money that they are making out of this and worry about the poor, worry about geographically underserved areas, worry about consumer protection? Can they not do a little more on privacy? Can they not maybe restrict a little bit the extra money they are going to make so people's legitimate privacy concerns can be addressed?

That is the tragedy of this bill. It is a good bill in what it does, but it is a bad bill in what it does not do.

While in other circumstances I might have felt, well, that is the best we can do, it has unfortunately become too common in our society.

I will say I am affected on this by what is going on in my own State where two of the largest banks are merging and are not, in my judgment, willing to do enough to share the benefits of their merger with people who are not doing so well.

So I congratulate the work that the leaders of the Committee on Banking and Financial Services and others have done on the banking provisions that deal specifically with the financial services, but I will not be part of a conditioned pattern of helping people make more money and not worry about those who might be left behind in that very process.

With that, I would reassure again my friend, the gentleman from Florida (Mr. FOLEY), that I am open to persuasion

Madam Chairman, I reserve the balance of my time.

Mr. FOLEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I believe I have just been given a reprieve from the gentleman from Massachusetts (Mr. FRANK). I did not hear an objection to my amendment. I feel it is a very good amendment.

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, let me say, in hopes that the gentleman from Massachusetts (Mr. FRANK) can still be persuaded to this amendment, I would inform the gentleman that the Federal Reserve has no objection to it.

Mr. FRANK of Massachusetts. Madam Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. When the gentleman tells me the Federal Reserve has no objection, is he trying to get me to be for it or against?

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, fair enough.

In addition, the New York Banking Department, the Texas Banking Department, the California Banking Department and the Conference of State Bank Supervisors are leaning in this direction. So I believe it is a very thoughtful, very professional amendment, and I certainly want to compliment the gentleman for bringing it forth, and I am just hopeful for getting unanimity.

Mr. FRANK of Massachusetts. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, let me say that I have been persuaded, and I will support this amendment. When the gentleman mentioned the Texas Banking Department, my colleague from Texas urged me on.

I will say, as we improve this bill and its specific impact on the financial services industry, I regret even more our collective unwillingness to do more than we are doing and to do, in fact, what we could easily do to help those who are being left behind. It is an inappropriate continuation of a pattern of helping the wealthy and the powerful, and we all benefit to some extent from that, but ignoring the other end of the society.

Mr. FOLEY. Madam Chairman, I move adoption of the amendment and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FOLEY).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 106–214.

AMENDMENT NO. 6 OFFERED BY MS. SLAUGHTER.

Ms. SLAUGHTER. Madam Chairman, I offer amendment No. 6.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Ms. Slaughter:

Page 244, after line 18, insert the following new section:

SEC. 198A. FAIR TREATMENT OF WOMEN BY FINANCIAL ADVISERS.

(a) FINDINGS.—The Congress finds as follows:

(1) Women's stature in society has risen considerably, as they are now able to vote, own property, and pursue independent careers, and are granted equal protection under the law.

(2) Women are at least as fiscally responsible as men, and more than half of all women have sole responsibility for balancing the family checkbook and paying the bills.

(3) Estate planners, trust officers, investment advisers, and other financial planners and advisers still encourage the unjust and outdated practice of leaving assets in trust for the category of wives and daughters, along with senile parents, minors, and mentally incompetent children.

(4) Estate planners, trust officers, investment advisers, and other financial planners and advisers still use sales themes and tactics detrimental to women by stereotyping women as uncomfortable handling money and needing protection from their own possible errors of judgment and ''fortune hunters''.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that estate planners, trust officers, investment advisers, and other financial planners and advisers should—

(1) eliminate examples in their training materials which portray women as incapable and foolish; and

(2) develop fairer and more balanced presentations that eliminate outmoded and stereotypical examples which lead clients to take actions that are financially detrimental to their wives and daughters.

The CHAIRMAN. Pursuant to House Resolution 235, the gentlewoman from New York (Ms. SLAUGHTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. SLAUGHTER).

Ms. SLAUGHTER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I am offering this noncontroversial amendment to express the sense of Congress that financial advisors should treat women fairly in drafting wills and trusts. Specifically, financial planners should be urged to modify their training materials to eliminate examples that portray women as incapable and foolish and should develop fairer and more balanced presentations to clients that eliminate outmoded and stereotypical examples. These stereotypical examples lead clients to place more financial restrictions on female heirs.

In the past year, I have learned that estate planners and financial advisors still encourage the unjust practice of leaving assets in trust for senile parents, minors, mentally incompetent children and all wives and daughters.

Women were ostensibly included to protect them from the perceived inability to manage money. However, in researching this issue, I found the real reason to include wives and daughters in this list has little to do with protection. The financial advisors are simply selling a product.

By adding women to this list, financial advisors have substantially increased their sales base, which, of course, increases their own income and bottom line.

Financial planners sell a trust on several arguments. First, they try to sell a trust based on protection; in other words, the inexperience of the woman. Or they try to sell a trust based on tax advantages which do not seem to be as important for sons.

A sure sales pitch is suggesting to a husband that in the event of his wife's remarriage a trust would prevent some other man from enjoying his hard-earned assets. These things which have worked so well in the past are alive and healthy today and always to the detriment of women.

As I found out, this is not just a relic from the 1950s. An article in a monthly publication from August, 1998, includes an example of how clients should protect their financially irresponsible daughter and her equally financially irresponsible spouse without disinheriting them.

□ 1930

The article's author, a financial planner, advises the clients to devise a trust for the daughter to prevent creditors from accessing the principal. The financial planners sell the trust by saying it will serve as a deterrent to keep the daughter's inheritance out of the spendthrift son-in-law's hands. No such restrictions are proposed for any son who might have a spendthrift wife.

A specific example from the financial planner further illustrates my point on the selling tactics currently used.

The financial planners publication said, ''Mr. Smith loves his wife, but he does not love the way she handles money. He knows she is a big spender, and he realizes that he never had the time or patience to teach her how to deal with financial matters . . . Mr. Smith wants a wall built around the assets he leaves behind. The wall is designed to protect Mrs. Smith from herself. It is a wall that will keep con men and well-intended amateur financial advisers out, and if Mrs. Smith remarries, her new husband cannot touch the money in the trust, nor will he get any should he outlive her, unless she puts instructions to that effect in her will.''

These unfair practices were brought to my attention by a woman from Florida who was herself negatively affected by these practices. Her mother's will directed that her estate be directed into five equal parts for her children, then set up an individual trust for each of her daughters, and directed that her sons be given their money outright.

At the time the will was drawn up, she was 28 years old and her sisters were in their twenties. Her brothers, who were deemed apparently capable of handling their inheritance outright, were 21 and 14.

The trust set out for Kappie Spencer and her sisters for their ''protection'' provided for them to receive the annual interest on the assets. Her mother's will contained provisions for withdrawing the principal only for the health, support, and proper care of her daughters and their children, and they could only touch the principal for these very limited reasons if they had exhausted every other source of income available to them.

Surely we would all agree that these restrictions are deeply unfair and condescending to all women.

This amendment is an important step forward to ensure a woman's financial well-being. Because women live longer than men, they need to support themselves longer, but they also earn less than men, wait longer to start saving for retirement, put aside less money, and take fewer of the risks that produce greater returns.

Husbands, however well-intentioned, then aggravate the situation by trying to shield their wives from any decisions regarding money by setting up a trust arrangement, giving a banker, a lawyer, or an accountant control of the purse strings. This may be good business for the financial planner, but it is offensive to keep the spouse in the dark about finances.

With more women handling the checkbook and finances in their families, these outdated selling tactics by financial planners have to be exposed for the patronizing practices which they clearly are. While we cannot mandate society's attitudes, we should encourage a rethinking of these financial practices.

I ask my friends on both sides of the aisle to support this amendment, and I thank the gentleman for accepting this amendment.

Mr. LEACH. Madam Chairman, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, we are very happy to accept this amendment. I would say it is brought to the Congress in a very thoughtful way by one of the most respected members of this body. I think that reflects on the amendment itself.

Ms. SLAUGHTER. I thank the chairman very much.

Mr. VENTO. Madam Chairman, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from Minnesota.

Mr. VENTO. Madam Chairman, I would say that I certainly rise in support, and in the absence the gentleman from New York (Mr. LAFALCE), we are pleased to receive the gentlewoman's amendment.

Ms. SLAUGHTER. I thank the gentlemen very much.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentlewoman from New York (Ms. SLAUGHTER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 106–214.

AMENDMENT NO. 7 OFFERED BY MR. COOK

Mr. COOK. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. COOK:

Page 311, strike line 4 and all that follows through page 312, line 16 and insert the following new section (and amend the table of contents accordingly):

SEC. 241. STUDY OF LIMITING THROUGH REGULATION FEES ASSOCIATED WITH PROVIDING FINANCIAL PRODUCTS.

Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the consequences of limiting, through regulation, commissions, fees, or other costs incurred by customers in the acquisition of financial products.

The CHAIRMAN. Pursuant to House Resolution 235, the gentleman from Utah (Mr. COOK) and a Member opposed each will control 5 minutes.

Mr. DINGELL. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) will be recognized for 5 minutes.

The Chair recognizes the gentleman from Utah (Mr. COOK).

Mr. COOK. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I want to thank the Committee on Rules for allowing me to offer this amendment, which would replace the existing section 241 with a provision requiring the General Accounting Office to study the consequences of limiting, through regulation, commissions, fees, or other costs incurred by customers in the acquisition of financial products.

Through this study, Congress could determine the potential negative effects of the regulation of commissions and fees before directing regulators to impose such rules.

Currently section 241 of H.R. 10 would mandate that financial regulators impose rules requiring the disclosure of commissions, fees, or other costs incurred by customers in the acquisition of financial products. In my view, this could be tantamount to price controls, and really has no place in financial modernization.

The provision in the bill is currently a solution in search of a problem. The question of the effectiveness of disclosing fees and commissions in protecting customers is really untested. There is little indication that disclosing fees and commissions beyond

the extensive disclosure that is currently required would significantly benefit customers.

Such a requirement could even have unanticipated negative consequences. Disclosure of fees and commissions could stifle competition or threaten financial innovation or market liquidity.

Furthermore, the fee disclosure provision is vaguely worded. The term ''other costs incurred by customers'' could be expansively and inappropriately interpreted to include, for example, markups on securities transactions, which have been specifically excluded from the bill's language. Markups are of a very different nature than fees and commissions, but it could be wrongly swept into any rules resulting from the bill.

The fee disclosure proposal contradicts a policy of regulatory reform. This proposal would impose significant new compliance burdens for those affected. This proposal runs counter to streamlining regulation, which is the purpose of this carefully crafted bipartisan legislation.

The SEC and other financial regulators already have the full authority to require that fees and commissions be disclosed. Indeed, in many cases, such disclosure is already mandated. No regulator has suggested that they need additional authority in this area. Forcing regulators to broaden fee disclosure regulations represents congressional micro-management of the regulatory process.

The financial services industry is arguably the most competitive in our economy, and is expected to become increasingly more competitive with passage of H.R. 10. Before we mandate additional government regulation, we should be sure it will not jeopardize this growing financial market.

I urge all my colleagues to support this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I yield myself 3 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Madam Chairman, with all respect to the author of this amendment, the amendment would keep consumers in the dark, and financial providers would enjoy it mightily.

Section 241 of H.R. 10 includes a noncontroversial and commonsense provision that passed the House last year in similar legislation. It requires all financial services regulatory agencies to prescribe or revise rules to improve the disclosure of commissions, fees, and other costs incurred by consumers in the purchase of financial products.

This section does not regulate or limit fees. That would be done by the market. Section 241 merely requires disclosure so consumers can comparison shop on the basis of understandable and accurate disclosure. This helps both competition and consumers.

The amendment would delete this disclosure requirement and replace it with a GAO study, a red herring rate regulation that nobody wants or seeks. We do not seek to regulate rates.

This bill is already a bust for consumers. We are functioning under a gag rule. But this amendment simply strips the consumers of banking and other financial services of one more right, and that is a right to know what the charges are being assessed against them by the banks and other financial institutions, and in a sense it significantly changes existing law.

Madam Chairman, I reserve the balance of my time.

Mr. COOK. Madam Chairman, I yield 30 seconds to my colleague, the gentleman from Texas (Mr. BENTSEN).

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Madam Chairman, I thank the gentleman for yielding time to me.

I rise in support of the amendment. This is what the Committee on Banking and Financial Services adopted. As the gentleman mentioned, the regulatory authorities already have the authority to impose this. We are telling them to do this, rather than waiting to see what the complications would be.

We are seeing increasing transparency in the financial services market. I think it would be a mistake for us to congressionally impose this without getting a study on it first. I commend the gentleman for his amendment, and I rise in support of it.

Mr. DINGELL. Madam Chairman, I yield 30 seconds to my good friend, the gentleman from New York (Mr. LAFALCE)

Mr. LAFALCE. Madam Chairman, I realize there was a discrepancy on this issue between the approach taken by the gentleman from Michigan (Mr. DINGELL) and the Committee on Banking and Financial Services, but my personal preference would be to obtain the language that is in the print before us right now.

I believe in disclosure, and I do not favor the amendment offered by the gentleman from Utah (Mr. COOK). I associate myself with the remarks of the gentleman from Michigan (Mr. DINGELL).

Mr. COOK. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would like to remind the gentleman from Michigan and the gentleman from New York that basically my amendment restores the Committee on Banking and Financial Services language that I think was brokered in a bipartisan agreement between myself and the gentleman from Vermont (Mr. SANDERS).

It was, of course, changed in the Committee on Commerce, and I very much respect their opinions, but felt that this was kind of agreed to back in the Committee on Banking and Financial Services. I just wanted to make that point.

Madam Chairman, I reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, what we are talking about here is a banking system and a financial system that is going to be fair and open. The gentleman, I am sure, will recall that this amendment was adopted unanimously, unanimously by the House last year. This is not something that has been snuck up into the proceedings in some curious fashion, it was in the bill last year. It was adopted overwhelmingly in the Committee on Commerce.

It simply says, disclose. Tell the truth. There is nothing wrong with that.

Madam Chairman, I yield back the balance of my time, with an expression of respect and affection for my colleague on the other side.

Mr. COOK. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, I thank the gentleman. I very much appreciate that. I just want to quickly say that the fee disclosure proposal does contradict, I think, a policy of regulatory reform, and this proposal would impose, I think, significant new compliance burdens for those affected. I think it does run counter to deregulation, which I think has been a hallmark of this Congress.

I urge my colleagues' support.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. COOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. COOK. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentleman from Utah (Mr. COOK) will be postponed.

The point of no quorum is considered withdrawn.

It is now in order to consider amendment No. 8 printed in House Report 106–214.

AMENDMENT NO. 8 OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mrs. ROUKEMA:

Page 312, after line 16, insert the following new subtitle (and amend the table of contents accordingly):

Subtitle E—Banks and Bank Holding Companies

SEC. 251. CONSULTATION.

(a) IN GENERAL.—The Securities and Exchange Commission shall consult and coordinate comments with the appropriate Federal banking agency before taking any action or rendering any opinion with respect to the

manner in which any insured depository institution or depository institution holding company reports loan loss reserves in its financial statement, including the amount of any such loan loss reserve.

(b) DEFINITIONS.—For purposes of subsection (a), the terms ''insured depository institution'', ''depository institution holding company'', and ''appropriate Federal banking agency'' have the same meaning as in section 3 of the Federal Deposit Insurance Act.

The CHAIRMAN. Pursuant to House Resolution 235, the gentlewoman from New Jersey (Mrs. ROUKEMA) and a Member opposed each will control 5 minutes.

Mr. DINGELL. I rise in opposition to the amendment, Madam Chairman.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentlewoman from New Jersey (Mrs. ROUKEMA).

Mrs. ROUKEMA. Madam Chairman, I yield myself 2 minutes and 40 seconds.

Madam Chairman, this issue is very straightforward and it is very clear. Members do not have to know anything about loan loss reserves or about accounting to understand this amendment.

Quite simply, the amendment requires the regulators, that is, the SEC and the Federal banking agencies, to communicate and coordinate before taking any action.

I must stress, there is misinformation out there. I must stress, it does not establish a different accounting system or anything that is bank-friendly in this rule. It does not lower accounting standards. It keeps the same accounting gap standards.

It does not eliminate, and this is the most important thing, it does not eliminate the SEC's statutory authority under the law to set accounting standards for these publicly-held companies, but it does require regulators, including the SEC, to communicate and coordinate.

This is extremely important because it has meant that over time, and particularly within this last year in the Sun Trust case, which I will not go into the details of, there was quite a bit of disagreement here, but it turned out that the SEC, when it took its action against Sun Trust, had had no consultation with the Fed, who is the functional regulator.

It seems very clear that, unfortunately, because of lack of clarification in the law about the requirements for coordination, the banks are being subjected to a kind of regulatory whipsaw. That is what this amendment is designed to deal with. Bank regulators are required by Federal law to apply gap or stricter standards to the banks.

□ 1945

We are not loosening that in any way. We are applying those same statutory requirements.

I had a hearing on June 16 on this subject, and we have received a multiple number of assurances from the SEC that they will work with the banking agencies. Yet that guidance that we have given them has never been followed. The type of prior consultation coordination with the banking agencies that are absolutely essential here have not been done.

I think we have to make it clear that we are not going to stand for this whipsawing back and forth and we will have a clear definition of responsibility.

Madam Chairman, I reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I yield myself 3 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Madam Chairman, I begin by expressing great respect and affection to the gentlewoman from New Jersey (Mrs. ROUKEMA). I would like to read the essential part of the language of the amendment. It says ''The Securities and Exchange Commission shall consult and coordinate comments with the appropriate Federal banking agency before taking any action or rendering any opinion''.

Now, that is pretty broad authority. It makes essentially the SEC, by the requirement for coordinating, subservient with regard to all of the matters under its jurisdiction in dealing with the banking regulators. For example, they could be compelled to address questions of behaviors of bank on accounting and accounting principles.

What the amendment really has in practical effect is the ability for the SEC to be prevented from imposing the same honest financial reporting it requires from other companies. I think we should ask the question why should the banks not play by the same rules that everybody else plays by?

We have got a lot of troubles with accounting and with misapplication of sound accounting principles. I think we ought to take a look at the requirements now, which are generally accepted accounting principles, GAP, as opposed to RAP.

Accounting trickery can afford enormous savings to wrongdoers. It can be sanctified by banking regulators as it has been in the past. It can cost taxpayers billions of dollars again, as it did in the 1980s when banking regulators permitted the use of regulatory accounting, which enabled the banks to then phony up their goodwill and to look solid and solvent where, in fact, they were not.

Bank regulators have said in the hearings before the Committee on Banking and Financial Services, they do not need this authority. The amendment is unnecessary.

The question then is, why would we treat banks differently than others in terms of the reporting which they must make to the regulatory agencies and to the shareholders and stockholders in their periodic reports? Who then but the banks would want to evade the responsibility of telling the truth? How would honest reporting and accounting under the jurisdiction of regulators who treat everybody the same way be bettered by permitting the banks to achieve separate different special and probably more favorable treatment?

Madam Chairman, I reserve the balance of my time.

Mrs. ROUKEMA. Madam Chairman, I yield 15 seconds to the gentleman from Iowa (Mr. LEACH), the chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Madam Chairman, I would just like to say that I think the amendment that the gentlewoman from New Jersey (Mrs. ROUKEMA) has brought is a very thoughtful and reasonable amendment and that it deserves to be added to this bill.

I recognize that what the gentleman from Michigan (Mr. DINGELL) says has a basis in good thought, but I think this is a true improvement.

Mrs. ROUKEMA. Madam Chairman, I yield 1 minute to the gentleman from Florida (Mr. MCCOLLUM), a senior member from the committee.

(Mr. MCCOLLUM asked and was given permission to revise and extend his remarks.)

Mr. MCCOLLUM. Madam Chairman, I want to strongly support this amendment of the gentlewoman from New Jersey (Mrs. ROUKEMA). I think that, with all due respect to the gentleman from Michigan (Mr. DINGELL), banks are different from other corporations for good reason. Banks involve safety and soundness issues. We do not want a bank to fail.

Banks make loans. That is their business. When they make loans, they need loan loss reserves in order to have the padding to assure that they do not fail. That is a business that is best understood by banking regulators.

Yes, the Securities and Exchange Commission should regulate the corporate functions of a bank like it does any other corporation, except that it needs to be aware more than apparently it has been lately of the concerns we all have if we have failures, bankruptcies, defaults that could occur in a down and weak economy.

We have been blessed by a strong one right now. We do not want to see banks put in jeopardy. We do not want to see our deposits in banks put in jeopardy by the potential of their failure if their loans go south and they do not have enough loan loss reserves.

Let us do what the gentlewoman is asking. The gentlewoman from New Jersey (Mrs. ROUKEMA) is simply asking that bank regulators coordinate with the SEC anytime loan loss reserves are involved. That is what should be passed. That is this amendment. Vote yes.

Mr. DINGELL. Madam Chairman, I reserve the balance of my time.

Mrs. ROUKEMA. Madam Chairman, I yield 30 seconds to the gentleman from Minnesota (Mr. VENTO), the ranking member of the Subcommittee on Financial Institutions and Consumer Credit.

Mr. VENTO. Madam Chairman, I rise in support of the amendment. This does not change the Federal accounting standard board or the principles. It does not change the accounting rules or the standards. It simply says that, when one is going to apply them, that one has to have coordination.

The primary regulators here, after all, of banks are the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the State Regulatory Authorities. The fact is the bank should not be pulled in two directions at once.

The fact is most of these are guidelines. They claim that they are cooperating with the regulators. In fact, of course, they keep going and circumventing them around. The fact is that the instance that is brought up here actually reduced the amount of loan loss reserves. It took money out of the bank. We need those loan loss reserves. We need safety and soundness. We need this amendment.

I want to rise in support of Mrs. ROUKEMA's amendment which will require the Securities and Exchange Commission to consult and coordinate with the appropriate Federal banking agency on the issue of loan loss reserves before issuing any comments, taking any action, or rendering any opinion on the level of an institution's loan loss reserves.

This amendment will ensure that the SEC cannot take significant actions that could have a critical or negative impact upon the adequacy of capital that a bank has without communicating with the proper banking regulator. This amendment should help ensure that FDIC insured institutions will not be caught flat footed when the inevitable downward tick of the business cycle hits.

Bank regulators have been strongly stressing that better attention be paid to credit quality in their portfolios. The regulators have been asking banks to have proper reserves. The amendment will have the positive impact of assuring that the SEC cannot act unilaterally to lower important loan loss reserves without consulting with those responsible to assure that the banks are operating in a safe and sound manner.

The amendment does not change accounting standards. It does not alter FASB interpretations. It does not eliminate SEC authority. It is a simple and fair amendment that requires regulatory discourse.

When I asked the SEC witness at our Financial Institutions and Consumer Credit Subcommittee what the SEC's relationship would be with the banking regulators in the instance of a challenge or an issue with regards to an institution's loan loss reserves, the response was there was a hope to continue conferring with the bank regulators. This amendment should do the trick.

I thank the gentlewoman, Chairwoman ROUKEMA, for bringing this amendment for the consideration of the House and ask my colleagues to support it.

The CHAIRMAN. As a member of the reporting committee controlling time in opposition to the amendment, the gentleman from Michigan (Mr. DINGELL) will have the right to close.

Mrs. ROUKEMA. Madam Chairman, I yield 30 seconds to the gentleman from Alabama (Mr. BACHUS), a member of the committee.

(Mr. BACHUS asked and was given permission to revise and extend his remarks.)

Mr. BACHUS. Madam Chairman, we have five agencies that regulate the banks, including the OTS, the FDIC, the Federal Reserve, the Comptroller of the Currency, and the SEC. They all got together said we have overlapping jurisdiction. That is causing concerns. Some warned we need to coordinate our efforts.

The SEC simply does not, has not done that. They have questioned the other organizations, their interpretations on what are the loan loss reserve requirements. They do not have the experience these other regulators have with the banks. Someone has to take the lead.

The bottom line, the SEC cannot come in here like a bull in a China shop and overrule these other banks on their auditing practices and on their reserve practices. This is a great amendment.

Madam Chairman, I would like to thank the gentlewoman from New Jersey for all of her hard work on this legislation and her efforts on this amendment. I would also like to discuss a related accounting matter.

I have been informed by a constituent that the Federal Accounting Standards Board (FASB) may propose a rule eliminating an accounting practice known as ''pooling''.

Pooling is an accounting method used when two companies merge to become one.

In a pooling, the acquiring and acquired companies simply combine their financial statements.

I believe it is important that this issue be discussed publicly before any final rule is implemented.

In addition, it is my understanding that in the past the Federal Accounting Standards Board has not always sought adequate input from the accounting or banking communities on proposed changes in regulations.

I appreciate the Chairwoman's efforts on the pending amendment. I would appreciate it if she would keep this in mind when the conference committee meets so that we include language either in this bill or future legislation to ensure that this process is an open and fair one.

I thank the gentlewoman for her time and attention to this matter.

Mrs. ROUKEMA. Madam Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. BARR).

(Mr. BARR of Georgia asked and was given permission to revise and extend his remarks.)

Mr. BARR of Georgia. Madam Chairman, I rise in support of the amendment offered by the gentlewoman from New Jersey.

Madam Chairman, I appreciate the chairwoman of the Subcommittee of the Financial Institutions and Consumer Credit, MARGE ROUKEMA, for following my lead and bringing this issue to the attention of the House of Representatives today. This amendment comes about from my initial letter to the Securities and Exchange Commission (SEC) in November 1998. Last fall, I wrote the Chairman of the Securities and Exchange Commission (SEC) the following letter detailing my concerns with the loan loss reserve issue:

NOVEMBER 9, 1998.

In re inquiry by the SEC into Sun Trust's accounting practices.

Hon. ARTHUR LEVITT, Jr.,
Chairman, Securities and Exchange Commission, Washington, DC.

DEAR CHAIRMAN LEVITT: It has come to my attention that the Securities and Exchange Commission (SEC) has begun an inquiry into the accounting practices of Sun Trust Bank. The $60.7 billion-asset Sun Trust Bank, based in Atlanta, announced the SEC has opened an inquiry examining its policies for loan-loss reserves as part of a review of the pending acquisition of Crestar Financial Corporation.

It is my understanding that a bank's loan loss reserve is arrived at by evaluating prior loan loss expectations and future loan loss expectations. In addition, a loan loss reserve is a subjective matter which is determined every quarter by a bank's management, its board of Directors, and the banks principal regulator as to the adequacy of the level at any given time. Banking experts believe the SEC's actions are the first time the Commission has judged a bank's reserve to be too large. With a fluctuating economy it would be imprudent to expect institutions to operate in a manner in which they maintain only marginal reserves.

As a member of the House of Representatives Banking and Financial Institutions Committee, I am concerned about the SEC's review of SunTrust's accounting practices.

I would like to review the SEC's decision with someone from your staff. I would therefore appreciate someone contacting my Banking Legislative Assistant, Sarah Dumont, at (202) 225–2944, to schedule a meeting to discuss this issue further.

With warm regards, I am,

Very truly yours,

BOB BARR,
Member of Congress.

In addition, my staff met with the SEC, and it was determined a hearing should be held to discuss this very important issue. Therefore, I contacted the Chairman of the Banking Committee at the start of the 106th Congress to request a hearing.

January 20, 1999.

In Re loan loss reserve hearing.

Hon. JAMES A. LEACH,
Chairman, Committee on Banking and Financial Services, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: As the 106th Congress begins, and the Banking and Financial Services Committee begins to formulate its agenda for the upcoming session, I wanted to take this opportunity to outline a proposed hearing for the Banking Committee to consider.

In September 1998, the Securities and Exchange Commission (SEC) found that some banks been aggressively reserving for future loan losses which the Commission argued made it difficult for investors to understand the real profit picture of these banks. In the past, bank regulators often scrutinized banks for under-reserving.

With a fluctuating economy, many experts agree it is inadvisable to expect institutions to operate in a manner in which they maintain only marginal reserves. However, the SEC's recent inquiry into the ''excess'' reserves at some banks is the first time the Commission has judged a bank's reserve to be too large. The SEC puts forth the novel arguments that banks which over-reserve for

future loan-losses make it difficult for investors to understand the true profit picture.

This increased scrutiny of banks' earnings management has sent mixed signals to the banking community. It is my understanding a loan loss reserve is a subjective matter which is determined every quarter by a bank's management, its Board of Directors, and the banks principal regulator as to the adequacy of the level at any given time. Under the scenario not advocated by the SEC, banks are now faced with a highly uncertain and arbitrary regulatory environment.

A hearing to clarify the past and approaching loan-loss reserve levels would serve a beneficial purpose to clarify regulatory efforts of the SEC and its effects on current banking regulatory procedures.

I will look forward to hearing from you with regard to this proposed hearing.

With warm regards, I am,

Very truly yours,

BOB BARR,
Member of Congress.

In addition, on February 11, 1999, I sent a followup letter to Chairman LEACH, expressing the urgency of this issue and the concern this uncertainty would have on the banking community. I emphasized a hearing would bring clarity to an issue that is confusing and dangerous to the health of the banking industry.

FEBRUARY 11, 1999.

In re loan loss reserve hearing.

Hon. JAMES A. LEACH,
Chairman, Committee on Banking and Financial Services, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I wanted to express my appreciation to both you and Chairwoman Roukema for your commitment to pursue the issue of loan loss reserve limits, and the Security and Exchange Commission's regulation of these limits in the Committee this session.

As you know, in September 1998, the Securities and Exchange Commission (SEC) found that some banks had been aggressively reserving for future loan losses, which the Commission argued made it difficult for investors to understand the real profit picture of these banks. In the past, bank regulators were often scrutinized banks for under-reserving.

Banks are highly regulated and closely supervised by regulatory agencies familiar with the individual banks they regulate and the credit quality of their loan portfolios. It is inefficient, unreasonable, and inappropriate for the SEC to exert discretion over a bank's credit philosophy, which could result in banks lowering the level of reserves they put aside to protect against credit losses. With a fluctuating economy, to undertake such actions or implement policies discourages banks from conservatively reserving for loan losses. Such a policy by the SEC could in fact be detrimental to the health of our financial industry.

This action taken by the SEC now places our banks in a highly uncertain and arbitrary regulatory environment. A hearing to clarify the past and approaching loan-loss reserve levels would clarify regulatory efforts of the SEC, and its effects on current banking regulatory procedures.

With warm regards, I am,

Very truly yours,

BOB BARR,
Member of Congress.

On June 16, 1999, Chairwoman ROUKEMA held a hearing per my request. Again, I thank you, the Chairwoman, for promptly responding to my request for a hearing to determine the process and controversies on setting the adequate loan loss reserve amounts.

As I made you aware of my concerns when the SEC's conducted a 2-month review process of a bank in my congressional district, this bank was penalized and required to restate its earnings by $100 million. During the investigation, the SEC began to question the ''excessive'' reserves at predominately conservative banks. This finding sent a ripple effect across the financial services community. In my opinion, the SEC has over-stepped its authority by attempting to coerce banks into adopting less conservative lending practices.

What the SEC may discourage as ''aggressively'' reserving, the bank regulators and others may support as ''conservatively reserving. There is broad agreement among the industry that an accurate earnings picture is vital for out financial institutions to operate successfully. I am not aware of any complaints filed by bank analysts alleging dishonest or misleading financial reports. Moreover, the bank regulators reviewed banks records and found they complied with all current laws and regulations. When it became clear to me the SEC was acting without the support of the appropriate banking regulators, I wrote to Chairman LEACH, asking hearings be held to look into the SEC's finding that some banks had been improperly reserving for future loan losses.

It seems clear the SEC has engaged in heavy-handed tactics, resulting in at least one bank (SunTrust) restating its earnings from 1994 to 1996; thereby cutting its reserves by $100 million. The SEC's inquiry into the ''excess'' reserves at some banks is the first time in recent history the Commission has judged a bank's reserve to be too large, and argued that over-reserving for future loan losses makes it difficult for investors to understand the true profit picture.

Madam Chairman, as you and I were told back in March during the mark-up of H.R. 10, the SEC and bank regulators have been working together to publish a joint clarification on banks' loan loss reserves. This clarification was to include the methodology and accounting rules as well as documentation and disclosure requirements to help guide banks. However, that clarification never reached a consensus.

On its own initiative, the SEC pushed for the recent issuance of the Financial Accounting Standards Board (FASB) clarifying rule on Statements No. 5, Accounting for Contingencies, and No. 114, Accounting by Creditors for Impairment of a Loan, published on April 12, 1999. The FASB clarification was meant to help guide the Generally Accepted Accounting Principles (GAAP). Instead, the rule seems to have left banks in a state of confusion. This is distressing.

This present confusion over excessive reserve amounts creates a disincentive for banks to maintain the necessary protection against today's fluctuating economy. Unfortunately, banks are receiving conflicting signals concerning loan loss withholdings by two differing interest groups: the SEC and the bank regulators.

Aren't we supposed to learn from our mistakes? One need only look to the Savings and Loan debacle in the 1980's to understand the urgent need to create a clear and concise, uniform standard regarding loan loss reserves. The safety and soundness of our banking industry is vitally important to our economy and it is obvious the SEC's mandate does not reflect common sense or the well-being of the American people. That should alarm everyone.

The financial security and lifetime savings of millions of Americans depends on the ability of banks to establish and follow safe, sound and reasonable lending practices. Maintaining adequate and realistic loan loss reserves is a key part of this process. Any concerns the SEC has with the market value of financial institutions must be reasonable, based on common sense, and arrived at in conjunction with the banks and bank deregulators. Moreover, these loan loss reserve guidelines must not be allowed to become the tail wagging the regulatory dog; seen as more important than the goal of protecting basic fiscal soundness of our banks. Hopefully, the SEC will end its efforts to force hanks to drop conservative lending policies, at least without clear congressional action.

CONGRESS OF THE UNITED STATES,
Washington, DC, February 11, 1999.

In re loan reserve hearing.

Hon. JAMES A. LEACH,
Chairman, Committee on Banking and Financial Services, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I wanted to express my appreciation to both you and Chairwoman Roukema for your commitment to pursue the issue of loan loss reserve limits, and the Security and Exchange Commission's regulation of those limits in the Committee this session.

As you know, in September 1998, the Securities and Exchange Commission (SEC) found that some banks had been aggressively reserving for future loan losses, which the Commission argued made it difficult for investors to understand the real profit picture of these banks. In the past, bank regulators were often scrutinized banks for under-reserving.

Banks are highly regulated and closely supervised by regulatory agencies familiarly with the individual banks they regulate and the credit quality of their loan portfolios. It is inefficient, unreasonable, and inappropriate for the SEC to exert discretion over a bank's credit philosophy, which could result in banks lowering the level of reserves they put aside to protect against credit losses. With a fluctuating economy, to undertake such actions or implement policies discourages banks from conservatively reserving for loan losses. Such a policy by the SEC could in fact be detrimental to the health of our financial industry.

This action taken by the SEC now places our banks in a highly uncertain and arbitrary regulatory environment. A hearing to clarify the past and approaching loan-loss reserve levels would clarify regulatory efforts by the SEC, and its effects on current banking regulatory procedures.

With warm regards, I am,

Very truly yours,

BOB BARR,
Member of Congress.

CONGRESS OF THE UNITED STATES,
Washington, DC, January 20, 1999.

In re loan loss reserve hearing.

Hon. JAMES A. LEACH,
Chairman, Committee on Banking and Financial Services, House of Representatives, Rayburn House Office Building, Washington DC.

DEAR MR. CHAIRMAN: As the 106th Congress begins, and the Banking and Financial Services Committee begins to formulate its agenda for the upcoming session, I wanted to

take this opportunity to outline a proposed hearing for the Banking Committee to consider.

In September 1998, the Securities and Exchange Commission (SEC) found that some banks had been aggressively reserving for future loan losses which the Commission argued made it difficult for investors to understand the real profit picture of these banks, In the past, bank regulators often scrutinized banks for under-reserving.

With a fluctuating economy, many experts agree it is inadvisable to expect institutions to operate in a manner in which they maintain only marginal reserves. However, the SEC's recent inquiry into the ''excess'' reserves at some banks is the first time the Commission has judged a bank's reserve to be too large. The SEC puts forth the novel argument that banks which over-reserve for future loan-losses make it difficult for investors to understand the true profit picture.

This increased scrutiny of banks' earnings management has sent mixed signals to the banking community. It is my understanding a loan loss reserve is a subjective matter which is determined every quarter by a bank's management, its Board of Directors, and the bank's principal regulator as to the adequacy of the level at any given time. Under the scenario not advocated by the SEC, banks are now faced with a highly uncertain and arbitrary regulatory environment.

A hearing to clarify the past and approaching loan-loss reserve levels would serve a beneficial purpose to clarify regulatory efforts of the SEC and its effects on current banking regulatory procedures

I will look forward to hearing from you with regard to the proposed hearing.

With warm regards, I am,

Very truly yours,

BOB BARR,
Member of Congress.

MARKUP OF H.R. 10, THE FINANCIAL SERVICES ACT OF 1999, WEDNESDAY, MARCH 10, 1999, HOUSE OF REPRESENTATIVES, COMMITTEE ON BANKING AND FINANCIAL SERVICES, WASHINGTON, DC.

The CHAIRMAN. The Clerk will call up the amendment.

Ms. COLE. Amendment offered by Mr. Barr. Page 96 after line——

The CHAIRMAN. Without objection, the amendment will be considered as read and Mr. Barr is recognized.

Mr. BARR. Thank you, Mr. Chairman. Mr. Chairman, this amendment provides for at least a partial redress for a problem that has arisen last fall in which the Securities and Exchange Commission, in not consulting with federal banking agencies, took action against a major bank—in this case, Sun Trust—forcing it to lower its loan loss reserves after it had already set those, by $100 million.

As far as I know, Mr. Chairman, this is the first instance in which the SEC or any federal agency has taken against a bank for being perhaps, too conservative in seeking to protect its customers, its shareholders, against possible problems in the future economy.

If in fact, we are witnessing here some action or policy on the part of the SEC that is going to create uncertainty with regard to banks being able to establish proper and conservative reserves for future loan losses, then I think at least it ought to be something that is done in consultation with the banking agencies, the federal banking agencies.

I have been looking at this and appreciate very much the very strong support and active involvement of Chairwoman Marge Roukema in this regard as well.

And what I have proposed here, Mr. Chairman, is a very simple, straightforward amendment that simply requires that within 60 days after the enactment of this Act the SEC and the federal banking agencies will consult with each other concerning these matters of future loan loss reserves, so that we don't have a patchwork lack of policy in this regard.

Moreover, Mr. Chairman, at subparagraph B, I provide that pursuant to and as a result of these negotiations the SEC and the banking agencies submit a report to the Congress reflecting the results of their consultation, so that we can have, and so that the banking industry knows where they stand.

I think this is very, very prudent and a good management too, Mr. Chairman, and will avoid the disruptions that certainly will occur if the SEC is allowed to unilaterally, without consulting with the banking agencies, force banks after the fact to lower their loan loss reserves.

This is not, as far as I can tell, Mr. Chairman, an instance in which Sun Trust had done anything wrong. As a matter of fact, they were being very, very prudent in setting their future loan loss reserves.

So I would urge other members to adopt this very reasonable approach which hopefully will avoid further disruptions. It will impose no significant cost on anybody but hopefully will avoid significant costs in the future by forcing the SEC to work with the federal banking agencies as opposed to possibly adverse to them.

I understand that the SEC is interested in working something out on this, Mr. Chairman, but I don't think that obviates the need for this amendment at this time. If in fact, something is worked out then that will be just fine.

But I do think that it is important for this committee at this time and for the full House in taking up consideration of H.R. 10 to tell the SEC, if you are going to take this sort of action which is something that is very novel, at least do so in consultation with the federal banking agencies.

So that the banks know where things stand and if they do have to change their policies at least they know in advance as opposed to coming in—the SEC that is—coming in after the fact and forcing them to expend very significant sums of money and causing disruptions to shareholders and to the banking community.

I would urge adoption of the amendment.

The CHAIRMAN. Mrs. Roukema.

Mrs. ROUKEMA. Mr. Chairman, may I be recognized out of my own time?

The CHAIRMAN. Yes, you are.

Mrs. ROUKEMA. Thank you. Thank you, Mr. Chairman. I apologize to you and all the members of the committee, and now especially to Mr. BARR because I have arrived so late here.

Believe it or not because of weather conditions I have been traveling since 7 o'clock yesterday morning to get back here to Washington. And you might not believe that, but that was the fact, and I apologize for being late but it couldn't be helped. God wasn't working with me today.

Now, Mr. BARR and I have been working on this. I think we have had consistent opinions on this problem of loan loss reserves, and I believe he and I have the same amendment that was put forth.

However, I have been working with the SEC and the other regulators on this and I have just learned moments before I entered here that aside from it being imminent where we had a draft of the agreement that the SEC and the regulators are working on the same things that Mr. BARR and I had been trying to get agreement on, I have just been informed not more than two or three minutes ago that agreement has been completely reached by all parties, including the SEC, and that the final agreement is being faxed.

Now, it is my understanding that accomplishes completely what Mr. BARR and I have been trying to do here. So I would say that pending receipt of that final agreement, I don't know whether there is any point to passing this legislation, this amendment or not, or whether we should reserve judgment until Mr. BARR, I, and other staff and the Chairman go over it, because I believe it has accomplished our purpose.

Certainly the questions that I've asked all have been answered at least on the phone and in the first draft. So we are waiting momentarily for that final draft to be here.

Mr. BACHUS. Would the Chairwoman yield?

Mrs. ROUKEMA. Yes. Yes, I yield to my friend.

Mr. BARR. If we could procedurally, Mr. Chairman, I would have no objection to withholding the amendment at this time so long as we will have an opportunity before a final voting on H.R. 10 in this committee, to resurrect it if it becomes necessary. Or if not, we could incorporate the agreement that we hope has been reached and reflects our views in the final product.

The CHAIRMAN. Let me just respond generally——

Mrs. ROUKEMA. If that is possible that would certainly be a sensible way, I would think, of approaching the subject. Because it is something that we do want to see is corrected in this legislation, if need be.

The CHAIRMAN. Well, if the gentlelady would yield, let me say to both her and Mr. BARR that this is a very extraordinary subject matter and it is one that would necessitate Congressional intervention if the various regulators did not come to mutual understanding.

I appreciate the offer of the gentleman, Mr. BARR. I think it is the most appropriate offer, and that is to withdraw the amendment at the moment and then to review what has occurred.

And in that event let me say, the amendment is withdrawn and the Chair would ask unanimous consent to return to the subject matter in the event that Mrs. ROUKEMA and Mr. BARR are dissatisfied in a fundamental way with what is apparently proceeding today in the Executive Branch.

Without objection so ordered. The subject matter is reserved and the amendment is withdrawn. Are there further amendments to Title I?

Mrs. ROUKEMA. Thank you, Mr. Chairman.

Ms. WATERS. Mr. Chairman.

The CHAIRMAN. I said to Mrs. WATERS that I would recognize her next.

Ms. WATERS. Yes, thank you very much, Mr. Chairman. This is really offered by Mr. GUTIERREZ. I and Ms. SCHAKOWSKY have supported and co-sponsored this with him. He had to leave so he asked me to take it up. So the amendment is at the desk.

Mrs. ROUKEMA. Madam Chairman, I yield such time as she may consume to the gentlewoman from New York (Mrs. KELLY) from the committee.

(Mrs. KELLY asked and was given permission to revise and extend her remarks.)

Mrs. KELLY. Madam Chairman, I rise in support of the amendment.

I thank my good friend from New Jersey for yielding me time.

Madam Chairman, I rise in strong support of this amendment. This loan loss reserve issue is creating a great deal of confusion for banks that are publicly traded on an exchange or market. This situation where they are torn between directions from their primary bank regulator and the SEC need not happen if proper

communications are established between the regulators. In this case—the proper loan loss reserves needed by the banks—communication was clearly lacking. This language does not stop the SEC from doing anything, it simply requires them to communicate as they should have been doing all along.

We held a hearing on this loan loss reserve issue in our Financial Institutions Subcommittee on June 16. The message we heard from all parties involved was that better communication is necessary. I hope all of my colleagues on both sides of the aisle will join us in support of this common sense amendment.

Mrs. ROUKEMA. Madam Chairman, I yield such time as he may consume to the gentleman from New York (Mr. LAFALCE), the ranking member.

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Madam Chairman, I rise in support of the amendment.

Mrs. ROUKEMA. Madam Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. BENTSEN), also a member of the committee.

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Madam Chairman, I rise in support of the amendment.

Mrs. ROUKEMA. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I want to again stress there is no change in GAP, no change in the accounting standards or the statutory requirements and the statutory authority of the SEC. It simply requires absolute coordination and conferring.

Mr. DINGELL. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, let me read the language of the amendment again so everybody understands what we are talking about. It says, ''The Securities and Exchange Commission shall consult and coordinate comments with the appropriate Federal banking agency before taking any action or rendering any opinion.''

That makes the SEC subject to the bank regulators in matters in which it has traditionally acted under its powers given it by the Congress of the United States. Never before has it been subject to the jurisdiction of the bank regulators.

Now, the bank regulators said they did not need this authority. As a matter of fact, the joint guidance issued in March of this year by the SEC and by the bank regulators reaffirmed the importance of credible financial statements and meaningful disclosure to investors to a safe and sound financial system.

The joint interagency letter reaffirms the policy set by Congress that the banks should follow GAP when recording and reporting loan locations.

I would simply advise my colleagues, there is no reason to do this. The bank regulators do not seek the authority to have this done. The only good-hearted folks who want to do it is the bankers. The bankers simply do not want to tell the people all the things they should. They want to be able to get things cooked around the way they might like to have them done.

I would also inform my colleagues that there is something else. This is going to impose interminable amounts of delay on banks in getting decisions on matters important to them which are charged to the SEC because of the immense amount of coordination, the immense amount of time, the immense amount of effort, and the immense amount of action that will be required by both the SEC and by the bank regulators.

If my colleagues want to waste time, hurt banking, hurt consumers, and see to it that the people do not receive an honest picture of events going on in the bank, this is the amendment for them. If, however, my colleagues want to continue a system which works generally well and which causes no problem and which the bank regulators seek no change, then vote with me. Vote against the amendment.

Madam Chairman, I include for the RECORD the Joint Release that I referred to as follows:

SECURITIES AND EXCHANGE COMMISSION, FEDERAL DEPOSIT INSURANCE CORPORATION, FEDERAL RESERVE BOARD, OFFICE OF COMPTROLLER OF THE CURRENCY, OFFICE OF THRIFT SUPERVISION,

Washington, DC, March 10, 1999.

JOINT PRESS RELEASE

The Securities and Exchange Commission, Federal Deposit Insurance Corporation, Federal Reserve Board, Office of Comptroller of the Currency, and Office of Thrift Supervision have jointly issued the attached letter to financial institutions on the allowance for loan losses.

Attachment:

JOINT INTERAGENCY LETTER TO FINANCIAL INSTITUTIONS

Last November, the Securities and Exchange Commission, Federal Deposit Insurance Corporation, Federal Reserve Board, Office of Comptroller of the Currency, and Office of Thrift Supervision (the Agencies) issued a Joint Interagency Statement in which they reaffirmed the importance of credible financial statements and meaningful disclosure to investors and to a safe and sound financial system. The Joint Interagency Statement underscored the requirement that depository institutions record and report their allowance for loan and lease losses in accordance with generally accepted accounting principles (GAAP). We stress and continue to emphasize the importance of depository institutions having prudent, conservative, but not excessive, loan loss allowances that fall within an acceptable range of estimated losses. We recognize that today instability in certain global markets, for example is likely to increase loss inherent in affected institutions' portfolios and consequently require higher allowances for credit losses than were appropriate in more stable times.

Despite the issuance of the November Joint Interagency Statement, there is continued uncertainty among financial institutions as to the expectations of the banking and securities regulators on the appropriate amount, disclosure and documentation of the allowance for credit losses. The Agencies now announce additional measures designed to address this continued uncertainty. These measures are consistent with the Agencies' mutual objective of, and focus on, addressing prospectively, where feasible, issues related to improving the documentation, disclosure, and reporting of loan loss allowances of financial institutions.

The Agencies are establishing a Joint Working Group, comprised of policy representatives from each of the Agencies, to gain a better understanding of the procedures and processes, including ''sound practices,'' used generally by banking organizations to determine the allowance for credit losses. An important aspect of the Joint Working Group's activities will be to receive input from representatives of the banking industry and the accounting profession on these matters, and will not involve joint examinations of institutions. The common base of knowledge that results will facilitate the joint and individual efforts of the Agencies to provide improved guidance on appropriate procedures, documentation, and disclosures to the banking industry. This will assist the banking community in complying with GAAP and will improve comparability among financial statements of depository and other lending institutions. The Joint Working Group will also share information and insights concerning issues of mutual concern that may arise.

Using information gathered through the Joint Working Group and from representatives of the accounting profession and the banking industry, the Agencies will work together to issue parallel guidance, on a timely basis, and within a year on the first two items listed below, in the following key areas regarding credit loss allowances:

Appropriate Methodologies and Supporting Documentation.—The Agencies intend to issue guidance that will suggest procedures and processes necessary for a reasoned assessment of losses inherent in a portfolio and discuss ways to ensure that documentation supports the reported allowance.

Enhanced Disclosures.—This guidance will address appropriate disclosures of allowances for credit losses and the credit quality of institutions' portfolios by identifying key areas for enhanced disclosures, including the need for institutions to disclose changes in risk factor and asset quality that affect allowances for credit losses. The enhanced disclosures would contribute to better understanding by investors and the public of the risk profile of banking institutions and improve market discipline.

The Agencies will work together to encourage and support the Financial Accounting Standards Board's process of providing additional guidance regarding accounting for allowances for loan losses. The Agencies emphasize that GAAP requires that management's determination be based on a comprehensive, adequately documented, and consistently applied analysis of the particular institution's exposures, the effects of its lending and collection policies, and its own loss experience under comparable conditions.

In addition, the Agencies will support and encourage the task force of the American Institute of Certified Public Accountants (AICPA) that is developing more specific guidance on the accounting for allowances for credit losses and the techniques of measuring the credit loss inherent in a portfolio at a particular date. In particular, the AICPA task force will focus on providing guidance on how best to distinguish probable-losses inherent in the portfolio as of the balance sheet date—the guidepost agreed to by the Agencies for reporting allowances in accordance with GAAP—from possible or future losses not inherent in the balance sheet

as of that date. Additionally, the Agencies will ask the AICPA task force to consider recently developed portfolio credit risk measurement and management techniques that are consistent with GAAP as part of this effort. The AICPA project already has been initiated and will include representatives from the accounting profession and the banking industry, as well as observers from the SEC and the banking agencies.

Senior staff of the Agencies will continue to meet to discuss banking industry accounting and financial disclosure policy issues of interest that affect the transparency of financial reporting and bank safety and soundness. These discussions will address progress in the application of accounting and disclosure standards by banking institutions, including those impacting the allowance for credit losses, with particular focus on recently identified issues and trends. The meetings also will be used to coordinate projects of the Agencies in areas of mutual interest. The first of these meetings was held on January 27.

The Agencies believe that the actions announced above will promote a better and clearer understanding among financial institutions of the appropriate procedures and processes for determining credit losses in accordance with GAAP. The Agencies intend that these steps will enhance the transparency of financial information and improve market discipline, consistent with safety and soundness objectives. In recognition of the specialized regulatory nature of the banking industry and in order to resolve ongoing uncertainties in the industry, with the announcement of these initiatives, the Agencies' focus, in so far as feasible, will be on enhancing allowance practices going forward.

To: Washington, Consuela.
Subject: More on loan loss.
Re: the transcript I just sent you—I know a few of the bank regulators kind of waffled or ducked a little on the answer to ''do we need regulation?'' but NONE of them said anything close to ''yes.''

Also, below is an excerpt from the appendix to the OCC's written testimony for the loan loss hearing (also on the H. Banking website):

Question 4. Please discuss whether the SEC has consulted with and coordinated its comments on loan loss reserves with the Federal Reserve and other federal banking regulators. Please discuss whether you believe consultation between the SEC and the regulators prior to the SEC issuing loan loss reserve comments would be workable and whether prior consultation would promote a more consistent approach to GAAP.

Answer 4. Although SEC staff occasionally consult with the OCC's Chief Accountant's staff on accounting issues, the SEC has not generally done so on issues involving comments for a specific registrant, particularly regarding the registrant's loan loss reserve.

The OCC believes that such consultation would promote a more consistent approach to GAAP. However, because of examination timing and other logistical issues, such consultation, if practiced for all filings, might detract from the SEC's ability to ensure that registrants receive timely reviews of their statements. A more efficient approach would be for the SEC to consult with bank regulators on filings where it has significant questions pertaining to a registrant's loan loss reserve.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. ROUKEMA).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mrs. ROUKEMA. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentlewoman from New Jersey (Mrs. ROUKEMA) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 235, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 1 offered by the gentleman from North Carolina (Mr. BURR), amendment No. 4 offered by the gentleman from Georgia (Mr. BARR), amendment No. 7 offered by the gentleman from Utah (Mr. COOK), and amendment No. 8 offered by the gentlewoman from New Jersey (Mrs. ROUKEMA).

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MR. BURR OF NORTH CAROLINA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 1 offered by the gentleman from North Carolina (Mr. BURR) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 189, not voting 7, as follows:

[Roll No. 268]

AYES—238

Abercrombie
Aderholt
Archer
Armey
Bachus
Baird
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Biggert
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Boswell
Boucher
Brady (TX)
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clyburn
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Davis (FL)
Davis (VA)
Deal
Delahunt
DeLay
DeMint
Diaz-Balart
Dickey
Dixon
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Etheridge
Everett
Ewing
Fletcher
Fowler
Franks (NJ)
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hilleary
Hilliard
Hobson
Horn
Houghton
Hoyer
Hulshof
Hunter
Hyde
Isakson
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Jones (NC)
Kasich
Kelly
Kildee
King (NY)
Kingston
Kleczka
Knollenberg
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
Meek (FL)
Metcalf
Miller (FL)
Minge
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Ose
Oxley
Packard
Paul
Payne
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Pombo
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Reynolds
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Rush
Salmon
Sanford
Sawyer
Saxton
Schaffer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shows
Shuster
Simpson
Skelton
Smith (TX)
Souder
Spence
Spratt
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Toomey
Towns
Traficant
Udall (CO)
Vitter
Walden
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—189

Ackerman
Allen
Andrews
Baldacci
Baldwin
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Blagojevich
Blumenauer
Bonior
Bono
Boyd
Brady (PA)
Brown (OH)
Campbell
Capps
Capuano
Cardin
Carson
Clement
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Danner
Davis (IL)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Ehlers
Engel
English
Eshoo
Evans
Farr
Fattah
Filner
Foley
Forbes
Ford
Frank (MA)
Frelinghuysen
Frost
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Gordon
Green (WI)
Gutierrez
Hall (OH)
Hefley
Hill (IN)
Hill (MT)
Hinchey
Hinojosa
Hoeffel
Hoekstra
Holden
Holt
Hooley
Hostettler
Hutchinson
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kilpatrick
Kind (WI)
Klink
Kolbe
Kucinich
Kuykendall
LaFalce
Lampson
Lantos
Larson
Leach
Lee
Levin
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, Gary
Miller, George
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Petri
Phelps
Pickett
Pomeroy
Porter
Rahall
Rangel
Regula
Reyes
Riley
Rivers
Rodriguez
Roemer

Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Scarborough
Schakowsky
Serrano
Sherman
Sisisky
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Stabenow
Stark
Stearns
Tanner
Tiahrt
Tierney
Turner
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Waters
Waxman
Wexler
Weygand
Woolsey
Wu

NOT VOTING—7

Borski
Brown (CA)
Fossella
Ganske
Green (TX)
Lipinski
Pelosi

□ 2025

Messrs. DAVIS of Illinois, NUSSLE, OBERSTAR, RILEY, DEUTSCH, and TIAHRT changed their vote from ''aye'' to ''no.''

Mrs. THURMAN, Ms. EDDIE BERNICE JOHNSON of Texas, and Messrs. ABERCROMBIE, SHADEGG, HILLIARD, DIXON, UDALL of Colorado, and LAZIO changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 235, the Chair announces that it will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 4 OFFERED BY MR. BARR OF GEORGIA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 4 offered by the gentleman from Georgia (Mr. BARR) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 129, noes 299, not voting 6, as follows:

[Roll No. 269]

AYES—129

Aderholt
Archer
Armey
Barcia
Barr
Bartlett
Barton
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Burr
Buyer
Callahan
Camp
Campbell
Chabot
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Cook
Crane
Cubin
Deal
DeMint
Doolittle
Dreier
Duncan
Ehrlich
English
Everett
Fletcher
Gallegly
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Green (WI)
Gutknecht
Hall (TX)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hoekstra
Hostettler
Hulshof
Hunter
Istook
Jenkins
Johnson, Sam
Jones (NC)
Kingston
Largent
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Lucas (OK)
Manzullo
McInnis
McIntyre
McKeon
Metcalf
Miller, Gary
Miller, George
Mink
Moran (KS)
Myrick
Nethercutt
Ney
Norwood
Ose
Packard
Paul
Pease
Peterson (MN)
Pickering
Pickett
Pitts
Pombo
Radanovich
Reynolds
Riley
Rivers
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Sanford
Scarborough
Schaffer
Sensenbrenner
Sessions
Sherwood
Shuster
Skeen
Smith (MI)
Smith (NJ)
Spence
Stearns
Stump
Sununu
Tancredo
Taylor (MS)
Taylor (NC)
Thornberry
Tiahrt
Toomey
Walden
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
Wicker
Woolsey
Young (AK)

NOES—299

Abercrombie
Ackerman
Allen
Andrews
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Bonior
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Bryant
Burton
Calvert
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chambliss
Clay
Clayton
Clyburn
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crowley
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Dunn
Edwards
Ehlers
Emerson
Engel
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Filner
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Ganske
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Gordon
Granger
Greenwood
Gutierrez
Hall (OH)
Hansen
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Horn
Houghton
Hoyer
Hutchinson
Hyde
Inslee
Isakson
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Larson
Latham
Lazio
Leach
Lee
Levin
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McIntosh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Minge
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Peterson (PA)
Petri
Phelps
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Rodriguez
Roemer
Rogan
Rogers
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schakowsky
Scott
Serrano
Shadegg
Shaw
Shays
Sherman
Shimkus
Shows
Simpson
Sisisky
Skelton
Slaughter
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Sweeney
Talent
Tanner
Tauscher
Tauzin
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thune
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walsh
Waters
Watt (NC)
Waxman
Weiner
Weldon (PA)
Wexler
Weygand
Whitfield
Wilson
Wise
Wolf
Wu
Wynn
Young (FL)

NOT VOTING—6

Borski
Brown (CA)
Fossella
Green (TX)
Lipinski
Pelosi

□ 2033

Mr. NADLER changed his vote from ''aye'' to ''no.''

Mr. TAYLOR of Mississippi changed his vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 7 OFFERED BY MR. COOK

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 7 offered by the gentleman from Utah (Mr. COOK) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 114, noes 313, not voting 7, as follows:

[Roll No. 270]

AYES—114

Aderholt
Archer
Armey
Bachus
Baker
Barr
Bartlett
Bentsen
Biggert
Blunt
Boehner
Bonilla
Boswell
Burton
Buyer
Callahan
Cannon
Chambliss
Coburn
Collins
Cook
Cramer
Crane
Cubin
Cunningham
Davis (VA)
DeLay
DeMint
Diaz-Balart
Dreier
Duncan
Dunn
Engel
English
Everett
Fletcher
Gibbons
Gilchrest
Goodling
Goss
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hoekstra
Horn
Hostettler
Hutchinson
Isakson
Jenkins
Kingston
Kuykendall
Latham
Leach
Lewis (KY)
Linder
Maloney (NY)
McCollum
McCrery
McGovern
McInnis
McIntosh
McKeon
McNulty
Metcalf

Miller, Gary
Morella
Myrick
Nadler
Nethercutt
Norwood
Nussle
Ose
Packard
Paul
Peterson (MN)
Riley
Rogers
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Scarborough
Sessions
Shadegg
Shuster
Simpson
Slaughter
Smith (MI)
Spence
Stearns
Stump
Sununu
Sweeney
Tancredo
Taylor (NC)
Terry
Thornberry
Thune
Tiahrt
Toomey
Upton
Walden
Weldon (FL)
Weller
Wicker

NOES—313

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Barton
Bass
Bateman
Becerra
Bereuter
Berkley
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Boehlert
Bonior
Bono
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Calvert
Camp
Campbell
Canady
Capps
Capuano
Cardin
Carson
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Coble
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
Deal
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Edwards
Ehlers
Ehrlich
Emerson
Eshoo
Etheridge
Evans
Ewing
Farr
Fattah
Filner
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Graham
Granger
Green (WI)
Gutierrez
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
LaTourette
Lazio
Lee
Levin
Lewis (CA)
Lewis (GA)
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McHugh
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Murtha
Napolitano
Neal
Ney
Northup
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pease
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Rivers
Rodriguez
Roemer
Rogan
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Vitter
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (PA)
Wexler
Weygand
Whitfield
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—7

Borski
Brown (CA)
Chenoweth
Fossella
Green (TX)
Lipinski
Pelosi

□ 2040

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 8 OFFERED BY MRS. ROUKEMA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment No. 8 offered by the gentlewoman from New Jersey (Mrs. ROUKEMA) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 407, noes 20, not voting 7, as follows:

[Roll No. 271]

AYES—407

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
Delahunt
DeLauro
DeLay
DeMint
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pascrell
Paul
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker

Wilson	Woolsey	Young (FL)
Wise	Wu	
Wolf	Young (AK)	

NOES—20

DeGette	Markey	Rivers
Deutsch	Martinez	Rush
Dingell	McCarthy (MO)	Sanchez
Engel	McKinney	Stark
Hill (MT)	Pallone	Towns
Larson	Pastor	Wynn
Luther	Rangel	

NOT VOTING—7

Borski	Fossella	Pelosi
Brown (CA)	Green (TX)	
Diaz-Balart	Lipinski	

□ 2048

Mr. LUTHER changed his vote from ''aye'' to ''no.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. It is now in order to consider Amendment No. 9 printed in House Report 106–214.

AMENDMENT NO. 9 OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 9 offered by Mr. WATT of North Carolina:

Page 325, line 25, strike the ''or'' after the semicolon.

Page 326, line 4, strike the period and insert ''; or''.

Page 326, after line 4, insert the following new subparagraph:

''(C) in the case of an institution or subsidiary at which insurance products are sold or offered for sale, the fact that—

''(i) the approval of an extension of credit to a customer by the institution or subsidiary may not be conditioned on the purchase of an insurance product by such customer from the institution or subsidiary; and

''(ii) the customer is free to purchase the insurance product from another source.''.

The CHAIRMAN. Pursuant to House Resolution 235, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 5 minutes.

Mr. HILL of Montana. Madam Chairman, I claim the time on the other side.

The CHAIRMAN. Is the gentleman in opposition?

Mr. HILL of Montana. I am momentarily leaning against this amendment, however I am persuadable.

The CHAIRMAN. The gentleman from Montana will be recognized for 5 minutes.

Mr. WATT of North Carolina. Madam Chairman, I yield myself 3 minutes.

Madam Chairman, this amendment is noncontroversial, I believe, and I hope that there is no opposition to it.

In this day in which we are moving toward allowing banks and insurance companies and securities companies to come together into one corporation, the concern that I hear more often than any other concern as I talk to constituents is a concern that when they go to borrow money from a bank, that bank will require them as a condition of getting the loan to use other services that are being brought into this umbrella such as requiring them to purchase insurance from a subsidiary of the bank or an affiliate of the bank, and of course that would be extremely unfair and put the customer at a disadvantage and would put the financial institution at a substantial advantage if they could require as a condition of getting a loan that insurance be bought from one of the affiliated companies.

So in the Committee on Banking and Financial Services I offered this amendment. It passed overwhelmingly in the Committee on Banking and Financial Services, and for some reason when the bill was re-printed, it was not there. So I offered the amendment before the Committee on Rules to get this reinstated.

Let me be clear that this does not prohibit a bank from requiring insurance to be purchased in connection with a loan, because many loans are securitized with life insurance or other kinds of insurance, title insurance. What it says is that that lender cannot require that the customer obtain that insurance from one of its affiliates, and it should be clear that the customer is free to go to an unaffiliated company to obtain insurance if in fact that insurance is required as a condition of the loan.

Let me make one other quick point. This amendment becomes even more important in light of all of the discussions about privacy because if there is to be a sharing of information among affiliates, one of the things that will be able to be shared is the expiration dates on insurance policies, and that in and of itself is likely to put a subsidiary insurance company at an advantage because they may know when an insurance policy is expiring. All the more reason we need to make it absolutely explicitly clear that no customer can be required to purchase insurance from a subsidiary or affiliate of the lending company as a condition for getting the loan.

Madam Chairman, I reserve the balance of my time.

Mr. HILL of Montana. Madam Chairman, I yield myself 3 minutes.

(Mr. HILL of Montana asked and was given permission to revise and extend his remarks.)

Mr. HILL of Montana. Madam Chairman, I first want to join with the chairman to state that I do support the amendment and compliment the gentleman from North Carolina (Mr. WATT) for bringing it forward. This bill is going to create new financial institutions, allow them to provide new services which will hopefully lower the cost to consumers and create greater competition, and in the end the consumers are going to benefit that.

But there is a serious concern, and that has to do with lending institutions who have the ability to exert undue influence, some would say even potentially coercive influence over their customers.

H.R. 10, this bill, substantially erodes the States' supervision over insurance sales. In fact, it defers to the Comptroller of the Currency with regard to the sale of insurance by national banks. And there is great concern on my part and others about this bill for that reason, and it is my hope that we will go beyond this amendment in conference to deal with this.

But it is extremely important, I think, that the House tonight assert the concept that lenders cannot exert this influence, tying sales of other services in order to influence a loan. Today in every State in the union that conduct is assured through the actions of insurance commissioners and state legislators. Unfortunately this law, H.R. 10 if it passes, will preempt that making that authority void.

I think it is important for Members in the Chamber then tonight to say that no consumer who is applying for a loan or any form of credit should mistakenly believe that their purchase of insurance, or any other service for that matter, from that lender will enhance their ability to get that loan and that credit.

I have a similar provision in this bill with regard to the conduct of the activity of title insurance, however it goes substantially further. It reasserts the State authority over the conduct of title insurance sales activity.

Again, I hope that the conferees will find a better solution than just this amendment, but I think it is essential tonight that the House make clear that we want these protections for consumers in its place.

I would like to just speak briefly to the bill. I hope tonight that we will have an overwhelming support for this bill. I have some concerns about the State regulation of insurance and the structure of these new financial institutions, but it is essential that we modernize our financial institutions.

We have a trade surplus in services and substantially a consequence of our competitiveness in financial services, and if we want to maintain the jobs and the opportunities, the investment in our economy and the growth, then we need to have institutions that are competitive internationally.

Madam Chairman, I would urge all my colleagues to support this bill and to support this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Chairman, I yield 1 minute to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Madam Chairman, I rise in support of the amendment, and I thank the gentleman from North Carolina for offering it.

This provision was included within the product produced by the Committee on Banking and Financial Services as were a number of other important consumer protection provisions. The Committee on Rules permitted

this amendment to be offered; that is good. They could have permitted the other consumer protection provisions that were included in the banking bill to come before the floor also; most importantly, the one prohibiting redlining by insurance companies that would affiliate with banks. They should not have permitted an amendment on an insurance provision on which there was never a hearing allowing the redomestication of mutual insurance companies in order to rip off the policyholders in order to satisfy the greed of the officers and directors of those mutual insurance companies.

Support the Watt amendment. Strongly oppose the Bliley amendment.

Mr. HILL of Montana. Madam Chairman, I yield 1 minute to the gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Madam Chairman, I thank the gentleman for yielding this time to me, and I would like to address briefly the Watt amendment. This is an extraordinarily thoughtful amendment brought by one of the most thoughtful Members of our body. Indeed, as chairman of the committee, I would like to say as strongly as I can I know of no more constructively involved member of the Committee on Banking and Financial Services or of this Congress than the gentleman from North Carolina (Mr. WATT), and I would urge support of this amendment. It makes good common sense.

□ 2100

Mr. WATT of North Carolina. Madam Chairman, I yield 1 minute to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Madam Chairman, I would say to the gentleman from Iowa (Mr. LEACH) and the gentleman from North Carolina (Mr. WATT), the sponsor of this amendment, I stood here, having been a freshman member of the Committee on Banking and Financial Services, going through H.R. 10, and wondered what was in it for the consumer.

Under financial modernization, a bank can become an insurance company; an insurance company could become a bank? What would happen to the consumer?

Thank God, thanks to the leadership of our ranking member and the gentleman from North Carolina (Mr. WATT) and other members of the committee, there were consumer protection provisions like this one that said that even if I get a loan from bank A, I do not have to get my insurance from bank A.

So all the little old women walking into banks could say, someone is looking out for me.

I am pleased to stand here in favor, Madam Chairman, of this amendment. I stand here in support of this amendment believing it will help H.R. 10 get closer to the bill that came out of the Committee on Banking and Financial Services.

Mr. HILL of Montana. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I think what is important for all the Members in the Chamber to understand is that, without this amendment, H.R. 10, in essence, creates a void with regard to the regulation of insurance with regard to this activity, the potential course of sale of insurance or other services to loan customers of lending institutions.

So I would urge all of my colleagues to support this amendment.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. WATT).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 10 printed in House Report 106–214.

AMENDMENT NO. 10 OFFERED BY MR. BLILEY

Mr. BLILEY. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. BLILEY:

Page 327, after line 16, insert the following subsection (and redesignate subsequent subsections accordingly):

''(e) DOMESTIC VIOLENCE DISCRIMINATION PROHIBITION.—

''(1) IN GENERAL.—In the case of an applicant for, or an insured under, any insurance product described in paragraph (2), the status of the applicant or insured as a victim of domestic violence, or as a provider of services to victims of domestic violence, shall not be considered as a criterion in any decision with regard to insurance underwriting, pricing, renewal, or scope of coverage of insurance policies, or payment of insurance claims, except as required or expressly permitted under State law.

''(2) SCOPE OF APPLICATION.—The prohibition contained in paragraph (1) shall apply to any insurance product which is sold or offered for sale, as principal, agent, or broker, by any insured depository institution or wholesale financial institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution.

''(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that, by the end of the 30-month period beginning on the date of the enactment of this Act, the States should enact prohibitions against discrimination with respect to insurance products that are at least as strict as the prohibitions contained in paragraph (1).

''(4) DOMESTIC VIOLENCE DEFINED.—For purposes of this subsection, the term 'domestic violence' means the occurrence of 1 or more of the following acts by a current or former family member, household member, intimate partner, or caretaker:

''(A) Attempting to cause or causing or threatening another person physical harm, severe emotional distress, psychological trauma, rape, or sexual assault.

''(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances that place the person in reasonable fear of bodily injury or physical harm.

''(C) Subjecting another person to false imprisonment.

''(D) Attempting to cause or cause damage to property so as to intimidate or attempt to control the behavior of another person.

Page 336, after line 13, insert the following new subtitle (and redesignate subsequent subtitles and amend the table of contents accordingly):

Subtitle B—Redomestication of Mutual Insurers

SEC. 311. GENERAL APPLICATION.

This subtitle shall only apply to a mutual insurance company in a State which has not enacted a law which expressly establishes reasonable terms and conditions for a mutual insurance company domiciled in such State to reorganize into a mutual holding company.

SEC. 312. REDOMESTICATION OF MUTUAL INSURERS.

(a) REDOMESTICATION.—A mutual insurer organized under the laws of any State may transfer its domicile to a transferee domicile as a step in a reorganization in which, pursuant to the laws of the transferee domicile and consistent with the standards in subsection (f), the mutual insurer becomes a stock insurer that is a direct or indirect subsidiary of a mutual holding company.

(b) RESULTING DOMICILE.—Upon complying with the applicable law of the transferee domicile governing transfers of domicile and completion of a transfer pursuant to this section, the mutual insurer shall cease to be a domestic insurer in the transferor domicile and, as a continuation of its corporate existence, shall be a domestic insurer of the transferee domicile.

(c) LICENSES PRESERVED.—The certificate of authority, agents' appointments and licenses, rates, approvals and other items that a licensed State allows and that are in existence immediately prior to the date that a redomesticating insurer transfers its domicile pursuant to this subtitle shall continue in full force and effect upon transfer, if the insurer remains duly qualified to transact the business of insurance in such licensed State.

(d) EFFECTIVENESS OF OUTSTANDING POLICIES AND CONTRACTS.—

(1) IN GENERAL.—All outstanding insurance policies and annuities contracts of a redomesticating insurer shall remain in full force and effect and need not be endorsed as to the new domicile of the insurer, unless so ordered by the State insurance regulator of a licensed State, and then only in the case of outstanding policies and contracts whose owners reside in such licensed State.

(2) FORMS.—

(A) Applicable State law may require a redomesticating insurer to file new policy forms with the State insurance regulator of a licensed State on or before the effective date of the transfer.

(B) Notwithstanding subparagraph (A), a redomesticating insurer may use existing policy forms with appropriate endorsements to reflect the new domicile of the redomesticating insurer until the new policy forms are approved for use by the State insurance regulator of such licensed State.

(e) NOTICE.—A redomesticating insurer shall give notice of the proposed transfer to the State insurance regulator of each licensed State and shall file promptly any resulting amendments to corporate documents required to be filed by a foreign licensed mutual insurer with the insurance regulator of each such licensed State.

(f) PROCEDURAL REQUIREMENTS.—No mutual insurer may redomesticate to another State and reorganize into a mutual holding company pursuant to this section unless the State insurance regulator of the transferee domicile determines that the plan of reorganization of the insurer includes the following requirements:

(1) APPROVAL BY BOARD OF DIRECTORS AND POLICYHOLDERS.—The reorganization is approved by at least a majority of the board of directors of the mutual insurer and at least a majority of the policyholders who vote after notice, disclosure of the reorganization and the effects of the transaction on policyholder contractual rights, and reasonable opportunity to vote, in accordance with such notice, disclosure, and voting procedures as are approved by the State insurance regulator of the transferee domicile.

(2) CONTINUED VOTING CONTROL BY POLICYHOLDERS; REVIEW OF PUBLIC STOCK OFFERING.—After the consummation of a reorganization, the policyholders of the reorganized insurer shall have the same voting rights with respect to the mutual holding company as they had before the reorganization with respect to the mutual insurer. With respect to an initial public offering of stock, the offering shall be conducted in compliance with applicable securities laws and in a manner approved by the State insurance regulator of the transferee domicile.

(3) AWARD OF STOCK OR GRANT OF OPTIONS TO OFFICERS AND DIRECTORS.—For a period of 6 months after completion of an initial public offering, neither a stock holding company nor the converted insurer shall award any stock options or stock grants to persons who are elected officers or directors of the mutual holding company, the stock holding company, or the converted insurer, except with respect to any such awards or options to which a person is entitled as a policyholder and as approved by the State insurance regulator of the transferee domicile.

(4) CONTRACTUAL RIGHTS.—Upon reorganization into a mutual holding company, the contractual rights of the policyholders are preserved.

(5) FAIR AND EQUITABLE TREATMENT OF POLICYHOLDERS.—The reorganization is approved as fair and equitable to the policyholders by the insurance regulator of the transferee domicile.

SEC. 313. EFFECT ON STATE LAWS RESTRICTING REDOMESTICATION.

(a) IN GENERAL.—Unless otherwise permitted by this subtitle, State laws of any transferor domicile that conflict with the purposes and intent of this subtitle are preempted, including but not limited to—

(1) any law that has the purpose or effect of impeding the activities of, taking any action against, or applying any provision of law or regulation to, any insurer or an affiliate of such insurer because that insurer or any affiliate plans to redomesticate, or has redomesticated, pursuant to this subtitle;

(2) any law that has the purpose or effect of impeding the activities of, taking action against, or applying any provision of law or regulation to, any insured or any insurance licensee or other intermediary because such person has procured insurance from or placed insurance with any insurer or affiliate of such insurer that plans to redomesticate, or has redomesticated, pursuant to this subtitle, but only to the extent that such law would treat such insured licensee or other intermediary differently than if the person procured insurance from, or placed insurance with, an insured licensee or other intermediary which had not redomesticated;

(3) any law that has the purpose or effect of terminating, because of the redomestication of a mutual insurer pursuant to this subtitle, any certificate of authority, agent appointment or license, rate approval, or other approval, of any State insurance regulator or other State authority in existence immediately prior to the redomestication in any State other than the transferee domicile.

(b) DIFFERENTIAL TREATMENT PROHIBITED.—No State law, regulation, interpretation, or functional equivalent thereof, of a State other than a transferee domicile may treat a redomesticating or redomesticated insurer or any affiliate thereof any differently than an insurer operating in that State that is not a redomesticating or redomesticated insurer.

(c) LAWS PROHIBITING OPERATIONS.—If any licensed State fails to issue, delays the issuance of, or seeks to revoke an original or renewal certificate of authority of a redomesticated insurer immediately following redomestication, except on grounds and in a manner consistent with its past practices regarding the issuance of certificates of authority to foreign insurers that are not redomesticating, then the redomesticating insurer shall be exempt from any State law of the licensed State to the extent that such State law or the operation of such State law would make unlawful, or regulate, directly or indirectly, the operation of the redomesticated insurer, except that such licensed State may require the redomesticated insurer to—

(1) comply with the unfair claim settlement practices law of the licensed State;

(2) pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on licensed insurers or policyholders under the laws of the licensed State;

(3) register with and designate the State insurance regulator as its agent solely for the purpose of receiving service of legal documents or process;

(4) submit to an examination by the State insurance regulator in any licensed state in which the redomesticated insurer is doing business to determine the insurer's financial condition, if—

(A) the State insurance regulator of the transferee domicile has not begun an examination of the redomesticated insurer and has not scheduled such an examination to begin before the end of the 1-year period beginning on the date of the redomestication; and

(B) any such examination is coordinated to avoid unjustified duplication and repetition;

(5) comply with a lawful order issued in—

(A) a delinquency proceeding commenced by the State insurance regulator of any licensed State if there has been a judicial finding of financial impairment under paragraph (7); or

(B) a voluntary dissolution proceeding;

(6) comply with any State law regarding deceptive, false, or fraudulent acts or practices, except that if the licensed State seeks an injunction regarding the conduct described in this paragraph, such injunction must be obtained from a court of competent jurisdiction as provided in section 314(a);

(7) comply with an injunction issued by a court of competent jurisdiction, upon a petition by the State insurance regulator alleging that the redomesticating insurer is in hazardous financial condition or is financially impaired;

(8) participate in any insurance insolvency guaranty association on the same basis as any other insurer licensed in the licensed State; and

(9) require a person acting, or offering to act, as an insurance licensee for a redomesticated insurer in the licensed State to obtain a license from that State, except that such State may not impose any qualification or requirement that discriminates against a nonresident insurance licensee.

SEC. 314. OTHER PROVISIONS.

(a) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over litigation arising under this section involving any redomesticating or redomesticated insurer.

(b) SEVERABILITY.—If any provision of this section, or the application thereof to any person or circumstances, is held invalid, the remainder of the section, and the application of such provision to other persons or circumstances, shall not be affected thereby.

SEC. 315. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) COURT OF COMPETENT JURISDICTION.—The term ''court of competent jurisdiction'' means a court authorized pursuant to section 314(a) to adjudicate litigation arising under this subtitle.

(2) DOMICILE.—The term ''domicile'' means the State in which an insurer is incorporated, chartered, or organized.

(3) INSURANCE LICENSEE.—The term ''insurance licensee'' means any person holding a license under State law to act as insurance agent, subagent, broker, or consultant.

(4) INSTITUTION.—The term ''institution'' means a corporation, joint stock company, limited liability company, limited liability partnership, association, trust, partnership, or any similar entity.

(5) LICENSED STATE.—The term ''licensed State'' means any State, the District of Columbia, American Samoa, Guam, Puerto Rico, or the United States Virgin Islands in which the redomesticating insurer has a certificate of authority in effect immediately prior to the redomestication.

(6) MUTUAL INSURER.—The term ''mutual insurer'' means a mutual insurer organized under the laws of any State.

(7) PERSON.—The term ''person'' means an individual, institution, government or governmental agency, State or political subdivision of a State, public corporation, board, association, estate, trustee, or fiduciary, or other similar entity.

(8) POLICYHOLDER.—The term ''policyholder'' means the owner of a policy issued by a mutual insurer, except that, with respect to voting rights, the term means a member of a mutual insurer or mutual holding company granted the right to vote, as determined under applicable State law.

(9) REDOMESTICATED INSURER.—The term ''redomesticated insurer'' means a mutual insurer that has redomesticated pursuant to this subtitle.

(10) REDOMESTICATING INSURER.—The term ''redomesticating insurer'' means a mutual insurer that is redomesticating pursuant to this subtitle.

(11) REDOMESTICATION OR TRANSFER.—The terms ''redomestication'' and ''transfer'' mean the transfer of the domicile of a mutual insurer from one State to another State pursuant to this subtitle.

(12) STATE INSURANCE REGULATOR.—The term ''State insurance regulator'' means the principal insurance regulatory authority of a State, the District of Columbia, American Samoa, Guam, Puerto Rico, or the United States Virgin Islands.

(13) STATE LAW.—The term ''State law'' means the statutes of any State, the District of Columbia, American Samoa, Guam, Puerto Rico, or the United States Virgin Islands and any regulation, order, or requirement prescribed pursuant to any such statute.

(14) TRANSFEREE DOMICILE.—The term ''transferee domicile'' means the State to which a mutual insurer is redomesticating pursuant to this subtitle.

(15) TRANSFEROR DOMICILE.—The term ''transferor domicile'' means the State from which a mutual insurer is redomesticating pursuant to this subtitle.

SEC. 316. EFFECTIVE DATE.

This subtitle shall take effect on the date of the enactment of this Act.

PARLIAMENTARY INQUIRY

Mr. VENTO. Madam Chairman, parliamentary inquiry.

Madam Chairman, is it possible to have this amendment divided by unanimous consent?

The CHAIRMAN. Under the rule, the amendment is not divisible; and the Committee cannot alter that feature of the rule.

Mr. VENTO. Even though these are separate topics, completely separate topics, in the amendment?

The CHAIRMAN. It is not in order under the rule, even by unanimous consent.

Mr. LAFALCE. Even though it is not in order under the rule that we oppose, could we not divide it if there were unanimous consent?

The CHAIRMAN. The Committee of the Whole cannot change the rule.

Mr. LAFALCE. Could we have unanimous consent to rise and then ask unanimous consent to go into the full House and then request a division of this amendment into two parts?

Mr. BLILEY. I object.

The CHAIRMAN. No request has been made.

MOTION OFFERED BY MR. LAFALCE

Mr. LAFALCE. Madam Chairman, I move that the Committee do now rise for the purpose aforestated.

The CHAIRMAN. The question is on the motion offered by the gentleman from New York (Mr. LAFALCE).

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. LAFALCE. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 179, noes 232, not voting 23, as follows:

[Roll No. 272]

AYES—179

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dixon
Doggett
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Gordon
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Millender-McDonald
Mink
Moakley
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Payne
Peterson (MN)
Pomeroy
Price (NC)
Rangel
Reyes
Rivers
Rodriguez
Roemer
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Schakowsky
Scott
Serrano
Sherman
Shows
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Woolsey
Wu
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—232

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Cook
Cooksey
Costello
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Dingell
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Ford
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, George
Minge
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Ose
Oxley
Packard
Pastor
Paul
Pease
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Portman
Pryce (OH)
Quinn
Rahall
Ramstad
Regula
Reynolds
Riley
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Traficant
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield

NOT VOTING—23

Baldacci
Barton
Borski
Brown (CA)
Clay
Combest
Dicks
Dooley
Doyle
Fossella
Green (TX)
Gutierrez
Holden
Lipinski
Menendez
Miller, Gary
Nussle
Pelosi
Pombo
Porter
Radanovich
Rogan
Sawyer

□ 2124

Mrs. MYRICK, Mr. GUTKNECHT, Mr. GREENWOOD, and Mrs. MORELLA changed their vote from ''aye'' to ''no.''

Mr. HOEFFEL, Mr. DAVIS of Illinois, Ms. SANCHEZ, and Ms. MCKINNEY changed their vote from ''no'' to ''aye.''

So the motion to rise was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Pursuant to House Resolution 235, the gentleman from Virginia (Mr. BLILEY) and a Member opposed each will control 5 minutes.

Mr. LAFALCE. Madam Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from New York (Mr. LAFALCE) will be recognized to control the time in opposition.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Madam Chairman, I yield myself 1½ minutes.

Madam Chairman, this amendment is simple and straightforward. It does only two things. First, it prohibits banks from discriminating against victims of domestic violence and insurance sales.

The majority of States already have laws preventing discrimination against victims of domestic violence. However, H.R. 10 would allow Federal banking regulators to preempt a number of State consumer protection laws, and in addition, a few States have not yet acted on this issue.

This amendment would not preempt State laws, but ensures where no protections for domestic violence victims existed or where the banking regulators were trying to preempt such laws, the domestic violence victims will be protected.

Second, the bill would allow mutual insurance companies to redomesticate and reorganize into a mutual holding company or into a stock company. Without the redomestication provision, mutual insurance companies will be placed at a severe disadvantage in raising capital and competing with other financial holding companies.

It only takes effect in States that have not enacted laws governing mutual holding companies, and it requires approval from the insurance regulator that the company has met numerous specific consumer protections.

Madam Chairman, I yield 1½ minutes to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Madam Chairman, I rise in reluctant support of the Bliley amendment. I guess I am pleased, if a

little bit puzzled, that this amendment has been coupled, the domestic violence amendment has been coupled with redomestication of mutual insurers. I think the only two things that are the same in these concepts are the word ''domestic.''

□ 2130

But the reason I support this amendment is because it is extremely important to millions of domestic violence victims around this country, many of them women who have been discriminated against, unbelievably, in insurance company underwriting and in claims processing and in rates.

We have a woman in Colorado, for example, whose husband tried to murder her by burning down their house. She was almost killed, but she survived. When the insurance company got the claim, they only paid 50 percent because they said she was 50 percent responsible for the house burning down because she was a domestic violence victim.

I am disappointed, frankly, that the Committee on Rules did not make in order my amendment with the gentleman from Ohio (Mr. Oxley), a stand alone amendment, which was unanimously supported in the Committee on Commerce, which passed this House last year as part of the House bill, and went on to the Senate. I am saddened that that was not done in its own right. But, frankly, it was not. So, to me, it is important for the millions of domestic violence victims to pass this amendment.

Mr. LAFALCE. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, this amendment is a travesty and should be opposed. It is absolutely outrageous that the Committee on Rules has permitted the combination of prohibitions against discrimination because of domestic violence with redomestication of mutual insurance companies.

My colleagues would get 100 percent of this body to vote for the prohibition with respect to domestic violence, and they know that. No one should vote for the redomestication of mutual insurance company, and that is the only reason the gentleman from Virginia (Mr. BLILEY) has combined them, because no one would vote for his amendment if it were standing by itself.

Why? Because greed is involved. Greed on the part of the officers and directors of the mutual insurance companies.

Why? Because theft is involved. Theft is involved of the ownership right of, not millions, but tens of millions of policy holders, women and men and children, et cetera. One is stealing their rights by this Federal law.

Why? Because this is an anti-States rights amendment. That is why the National Conference of State Legislatures have said, do not pass this amendment. We recognize the provisions of domestic violence. We love those. But we do not want you to infringe on our rights.

The gentleman from Virginia said, well, if the State has got a mutual holding company provision, it does not apply. Well, New York does not. Massachusetts does not. Countless other States do not. The gentleman would override theirs.

The gentleman said, well, the State insurance regulator has to approve. Not of the host States, just of the States they want to go to. They will pick the worst State in the Union, they will go to that State, and, of course, the insurance regulator will permit it. They will do anything to get a domestic, a mutual insurance company to relocate so long as they can satisfy the officers and directors.

There is no good reason for it. There has been no hearing on it. It has absolutely no relationship to financial services modernization. It has absolutely no relationship to affiliation. What is this? It is a pay off to the mutual insurance industry. No more. No less.

Mr. BLILEY. Madam Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Madam Chairman, I rise today in support of the amendment of the gentleman from Virginia (Mr. BLILEY) to put this redomestication provision back in this legislation. This is a technical issue, and I think I want to try to clarify what this amendment seeks to do.

Mutual insurance companies are essentially cooperatives and they have no stockholders, only policy holders. A mutual company may own the stock of the subsidiary, but, having no shareholders, it is confined to lower subsidiaries if they want to diversify.

This structure imposes serious limitations on the ability of a mutual company to make significant acquisitions in order to stay competitive. In addition, a mutual insurer cannot sell stock, thereby limiting its ability to raise capital to diversify.

Taken together, these factors place mutual insurers at a substantial disadvantage in an affiliated environment such as H.R. 10 allows for.

While State laws generally permit insurers to move their base, States are capable of imposing significant practical barriers to redomestication. I do not believe that a mutual insurer's ability to participate fully in an affiliated financial services environment should depend solely on the State where they are based.

It is for these reasons I believe we should support this amendment.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Madam Chairman, this is the most shameful abuse of the democratic process I have ever seen. My colleagues have an effort not to stop the insurance company from demutualizing, but simply to require them to abide by the State law where they were chartered and their contract with their policy holders.

The gentleman from Virginia is not saying they should be able to demutualize, he is saying they should be able to do it without sharing with the policyholders what they pledged to the policyholders they would do when they sold them the policy. That is so hard to defend that he is literally hiding behind battered women.

Why are these together? Domestic violence and redomestication? I am surprised the gentleman does not have in there housebreaking one's dog for domestic animals because that is all it has got in common.

The gentleman has something so bad it cannot stand on its own. He is asking to give permission to the mutual insurance companies. What the gentlewoman from New York (Mrs. KELLY) said is completely irrelevant. No one is trying to stop them from demutualizing.

They now have to, in certain States, demutualize in accordance with the rules of that State where they were chartered and in accordance with what they promise the policyholders. This is a license for them to avoid States rights, break the rules that they have for policyholders, and the gentleman shamefully does it by hiding behind the victims of domestic violence.

Mr. BLILEY. Madam Chairman, I yield the balance of my time to the gentleman from New York (Mr. TOWNS).

(Mr. TOWNS asked and was given permission to revise and extend his remarks.)

Mr. TOWNS. Madam Chairman, let me say that, first of all, the argument is the Committee on Rules. My colleagues point to the fact that the Committee on Rules did it again. That is what they are really saying. But I do not think that my colleagues should forget about what we are dealing with here. We are talking about two things, domestic violence and redomestication. I think that these issues are very, very important.

Also, I want to talk about the fact that insurance, the last time I heard, was under the jurisdiction of the Committee on Commerce. I mean, unless something changed over the last 24 hours, the Committee on Commerce had jurisdiction over insurance. So, therefore, I think that the Committee on Commerce here really has a lot to say about this issue.

I think that the other thing that I would like to just sort of talk about, mutual insurance companies would be placed at a severe disadvantage in terms of raising capital. I think that capital is very, very important. This amendment corrects that. I think that we need to make certain that that is done. I think that is important that we do that.

Let me say to my colleagues that I think this is a good amendment, and I urge support of it.

Mr. LaFALCE. Madam Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Madam Chairman, I rise in opposition to particularly the last part of this amendment. It really is a real disservice to mutual policyholders, who are owners of the insurance company. To allow an insurance company to take the assets and convert to a stock company puts those policyholders at a real disadvantage.

Now, I had some experience with this. The last case that I ever handled in the practice of law was one of these cases where a mutual company, without the authorization of the insureds, tried to do this very thing. They ended up understating the value of the assets. They were not going to give the insurance policyholders one dime until we got involved, and they ended up paying them millions of dollars.

I think this is a bad idea, and we should vote against this amendment.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. BARRETT) for closure.

Mr. BARRETT of Wisconsin. Madam Chairman, the States rights, States rights, States rights. Where are they? Where are the States rights?

We have got all these elected officials at the State level, and we do not trust them. Because if they refuse to pass a law that the mutual insurance companies like, we are going to just allow them to pack up and move out of State.

This is the most hypocritical amendment for advocates of States rights that I have seen in this Chamber. How anybody can vote for this amendment and claim they are in favor of States rights defies logic.

It is a rip-off. It is a rip-off to shareholders and for stockholders and mutual insurance policyholders who bought those policies because they would be owners of that company. It rips them off. It is wrong, wrong, wrong.

It is unfortunate that it is being hidden behind battered women. That is disgusting. This amendment should be voted down. We should do it right, provide protection for the battered women, and not allow this dangerous rip-off.

The CHAIRMAN. All time for debate on this amendment has expired.

The question is on the amendment offered by the gentleman from Virginia (Mr. BLILEY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BLILEY. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentleman from Virginia will be postponed.

It is now in order to consider amendment No. 11 printed in House Report 106–214.

AMENDMENT NO. 11 OFFERED BY MR. OXLEY

Mr. OXLEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. OXLEY:

Page 378, beginning on line 16, strike subtitle A of title V and insert the following (and conform the table of contents accordingly):

Subtitle A—Disclosure of Nonpublic Personal Information

SEC. 501. PROTECTION OF NONPUBLIC PERSONAL INFORMATION.

(a) PRIVACY OBLIGATION POLICY.—It is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information.

(b) FINANCIAL INSTITUTIONS SAFEGUARDS.—In furtherance of the policy in subsection (a), each agency or authority described in section 505(a) shall establish appropriate standards for the financial institutions subject to their jurisdiction relating to administrative, technical, and physical safeguards—

(1) to insure the security and confidentiality of customer records and information;

(2) to protect against any anticipated threats or hazards to the security or integrity of such records; and

(3) to protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer.

SEC. 502. OBLIGATIONS WITH RESPECT TO DISCLOSURES OF PERSONAL INFORMATION.

(a) NOTICE REQUIREMENTS.—Except as otherwise provided in this subtitle, a financial institution may not, directly or through any affiliate, disclose to a nonaffiliated third party any nonpublic personal information, unless such financial institution provides or has provided to the consumer a notice that complies with section 503(b).

(b) OPT OUT.—

(1) IN GENERAL.—A financial institution may not disclose nonpublic personal information to nonaffiliated third parties unless—

(A) such financial institution clearly and conspicuously discloses to the consumer, in writing or in electronic form (or other form permitted by the regulations prescribed under section 504), that such information may be disclosed to such third parties;

(B) the consumer is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such third parties; and

(C) the consumer is given an explanation of how the consumer can exercise that nondisclosure option.

(2) EXCEPTION.—This subsection shall not prevent a financial institution from providing nonpublic personal information to a nonaffiliated third party to perform services or functions on behalf of the financial institution, including marketing of the financial institution's own products or services or financial products or services offered pursuant to joint agreements between two or more financial institutions that comply with the requirements imposed by the regulations prescribed under section 504, if the financial institution fully discloses the providing of such information and enters into a contractual agreement with the third party that requires the third party to maintain the confidentiality of such information.

(c) LIMITS ON REUSE OF INFORMATION.—Except as otherwise provided in this subtitle, a nonaffiliated third party that receives from a financial institution nonpublic personal information under this section shall not, directly or through an affiliate of such receiving third party, disclose such information to any other person that is a nonaffiliated third party of both the financial institution and such receiving third party, unless such disclosure would be lawful if made directly to such other person by the financial institution.

(d) LIMITATIONS ON THE SHARING OF ACCOUNT NUMBER INFORMATION FOR MARKETING PURPOSES.—A financial institution shall not disclose an account number or similar form of access number or access code for a credit card account, deposit account, or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer.

(e) GENERAL EXCEPTIONS.—Subsections (a) and (b) shall not prohibit the disclosure of nonpublic personal information—

(1) as necessary to effect, administer, or enforce a transaction requested or authorized by the consumer, or in connection with—

(A) servicing or processing a financial product or service requested or authorized by the consumer;

(B) maintaining or servicing the consumer's account with the financial institution; or

(C) a proposed or actual securitization, secondary market sale (including sales of servicing rights), or similar transaction related to a transaction of the consumer;

(2) with the consent or at the direction of the consumer;

(3) to protect the confidentiality or security of its records pertaining to the consumer, the service or product, or the transaction therein, or to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability, for required institutional risk control, or for resolving customer disputes or inquiries, or to persons holding a beneficial interest relating to the consumer, or to persons acting in a fiduciary capacity on behalf of the consumer;

(4) to provide information to insurance rate advisory organizations, guaranty funds or agencies, applicable rating agencies of the financial institution, persons assessing the institution's compliance with industry standards, and the institution's attorneys, accountants, and auditors;

(5) to the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978, to law enforcement agencies (including a Federal functional regulator, a State insurance authority, or the Federal Trade Commission), self-regulatory organizations, or for an investigation on a matter related to public safety;

(6) to a consumer reporting agency in accordance with the Fair Credit Reporting Act, or in accordance with interpretations of such Act by the Board of Governors of the Federal Reserve System or the Federal Trade Commission, including interpretations published as commentary (16 C.F.R. 601-622);

(7) in connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal information concerns solely consumers of such business or unit; or

(8) to comply with Federal, State, or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation or subpoena by Federal, State, or local authorities; or to respond to judicial

process or government regulatory authorities having jurisdiction over the financial institution for examination, compliance, or other purposes as authorized by law.

SEC. 503. DISCLOSURE OF INSTITUTION PRIVACY POLICY.

(a) DISCLOSURE REQUIRED.—A financial institution shall clearly and conspicuously disclose to each consumer, at the time of establishing the customer relationship with the consumer and not less than annually, in writing or in electronic form (or other form permitted by the regulations prescribed under section 504), its policies and practices with respect to protecting the nonpublic personal information of consumers in accordance with the rules prescribed under section 504.

(b) INFORMATION TO BE INCLUDED.—The disclosure required by subsection (a) shall include—

(1) the policy and practices of the institution with respect to disclosing nonpublic personal information to nonaffiliated third parties, other than agents of the institution, consistent with section 502 of this subtitle, and including—

(A) the categories of persons to whom the information is or may be disclosed, other than the persons to whom the information may be provided pursuant to section 502(e); and

(B) the practices and policies of the institution with respect to disclosing of nonpublic personal information of persons who have ceased to be customers of the financial institution;

(2) the categories of nonpublic personal information that are collected by the financial institution;

(3) the policies that the institution maintains to protect the confidentiality and security of nonpublic personal information in accordance with section 501; and

(4) the disclosures required, if any, under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act.

SEC. 504. RULEMAKING.

(a) REGULATORY AUTHORITY.—The Federal banking agencies, the National Credit Union Association, the Secretary of the Treasury, and the Securities and Exchange Commission, shall jointly prescribe, after consultation with the Federal Trade Commission, and representatives of State insurance authorities designated by the National Association of Insurance Commissioners, such regulations as may be necessary to carry out the purposes of this subtitle. Such regulations shall be prescribed in accordance with applicable requirements of the title 5, United States Code, and shall be issued in final form within 6 months after the date of enactment of this Act.

(b) AUTHORITY TO GRANT EXCEPTIONS.—The regulations prescribed under subsection (a) may include such additional exceptions to subsections (a) and (b) of section 502 as are deemed consistent with the purposes of this subtitle.

SEC. 505. ENFORCEMENT.

(a) IN GENERAL.—This subtitle and the rules prescribed thereunder shall be enforced by the Federal functional regulators, the State insurance authorities, and the Federal Trade Commission with respect to financial institutions subject to their jurisdiction under applicable law, as follows:

(1) Under section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, Federal branches and Federal agencies of foreign banks, and any subsidiaries of such entities, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act, bank holding companies and their nonbank subsidiaries or affiliates (except broker-dealers, affiliates providing insurance, investment companies, and investment advisers), by the Board of Governors of the Federal Reserve System;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), insured State branches of foreign banks, and any subsidiaries of such entities, by the Board of Directors of the Federal Deposit Insurance Corporation; and

(D) savings association the deposits of which are insured by the Federal Deposit Insurance Corporation, and any subsidiaries of such a savings association, by the Director of the Office of Thrift Supervision.

(2) Under the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal or state chartered credit union, and any subsidiaries of such an entity.

(3) Under the Farm Credit Act of 1971, by the Farm Credit Administration with respect to the Federal Agricultural Mortgage Corporation, any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(4) Under the Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to any broker-dealer.

(5) Under the Investment Company Act of 1940, by the Securities and Exchange Commission with respect to investment companies.

(6) Under the Investment Advisers Act of 1940, by the Securities and Exchange Commission with respect to investment advisers registered with the Commission under such Act.

(7) Under Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U. S. C. 4501 et seq.), by the Office of Federal Housing Enterprise Oversight with respect to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(8) Under the Federal Home Loan Bank Act, by the Federal Housing Finance Board with respect to Federal home loan banks.

(9) Under State insurance law, in the case of any person engaged in providing insurance, by the State insurance authority of the State in which the person is domiciled, subject to section 104 of this Act.

(10) Under the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution that is not subject to the jurisdiction of any agency or authority under paragraphs (1) through (9) of this subsection.

(b) ENFORCEMENT OF SECTION 501.—

(1) IN GENERAL.—Except as provided in paragraph (2), the agencies and authorities described in subsection (a) shall implement the standards prescribed under section 501(b) in the same manner, to the extent practicable, as standards prescribed pursuant to subsection (a) of section 39 of the Federal Deposit Insurance Act are implemented pursuant to such section.

(2) EXCEPTION.—The agencies and authorities described in paragraphs (4), (5), (6), (9), and (10) of subsection (a) shall implement the standards prescribed under section 501(b) by rule with respect to the financial institutions subject to their respective jurisdictions under subsection (a).

(c) DEFINITIONS.—The terms used in subsection (a)(1) that are not defined in this subtitle or otherwise defined in section 3(s) of the Federal Deposit Insurance Act shall have the meaning given to them in section 1(b) of the International Banking Act of 1978.

SEC. 506. FAIR CREDIT REPORTING ACT AMENDMENT.

(a) AMENDMENT.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended—

(1) in subsection (d), by striking everything following the end of the second sentence; and

(2) by striking subsection ''(e)'' and inserting in lieu thereof the following:

''(e) REGULATORY AUTHORITY.—

''(1) The Federal banking agencies referred to in paragraphs (1) and (2) of subsection (b) shall jointly prescribe such regulations as necessary to carry out the purposes of this Act with respect to any persons identified under paragraphs (1) and (2) of subsection (b), or to the holding companies and affiliates of such persons.

''(2) The Administrator of the National Credit Union Administration shall prescribe such regulations as necessary to carry out the purposes of this Act with respect to any persons identified under paragraph (3) of subsection (b).''.

(b) CONFORMING AMENDMENT.—Section 621(a) of the Fair Credit Reporting Act (15 U.S.C. 1681s(a)) is amended by striking paragraph (4).

SEC. 507. RELATION TO OTHER PROVISIONS.

This subtitle shall not apply to any information to which subtitle D of title III applies.

SEC. 508. STUDY OF INFORMATION SHARING AMONG FINANCIAL AFFILIATES.

(a) IN GENERAL.—The Secretary of the Treasury, in conjunction with the Federal functional regulators and the Federal Trade Commission, shall conduct a study of information sharing practices among financial institutions and their affiliates. Such study shall include—

(1) the purposes for the sharing of confidential customer information with affiliates or with nonaffiliated third parties;

(2) the extent and adequacy of security protections for such information;

(3) the potential risks for customer privacy of such sharing of information;

(4) the potential benefits for financial institutions and affiliates of such sharing of information;

(5) the potential benefits for customers of such sharing of information;

(6) the adequacy of existing laws to protect customer privacy;

(7) the adequacy of financial institution privacy policy and privacy rights disclosure under existing law;

(8) the feasibility of different approaches, including opt-out and opt-in, to permit customers to direct that confidential information not be shared with affiliates and nonaffiliated third parties; and

(9) the feasibility of restricting sharing of information for specific uses or of permitting customers to direct the uses for which information may be shared.

(b) CONSULTATION.—The Secretary shall consult with representatives of State insurance authorities designated by the National Association of Insurance Commissioners, and also with financial services industry, consumer organizations and privacy groups, and other representatives of the general public, in formulating and conducting the study required by subsection (a).

(c) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Congress containing the findings and conclusions of the study required under subsection (a), together with such recommendations for legislative or administrative action as may be appropriate.

SEC. 509. DEFINITIONS.

As used in this subtitle:

(1) FEDERAL BANKING AGENCY.—The term ''Federal banking agency'' has the meanings given to such terms in section 3 of the Federal Deposit Insurance Act.

(2) FEDERAL FUNCTIONAL REGULATOR.—The term ''Federal functional regulator'' means—

(A) the Board of Governors of the Federal Reserve System;

(B) the Office of the Comptroller of the Currency;

(C) the Board of Directors of the Federal Deposit Insurance Corporation;

(D) the Director of the Office of Thrift Supervision;

(E) the National Credit Union Administration Board;

(F) the Farm Credit Administration; and

(G) the Securities and Exchange Commission.

(3) FINANCIAL INSTITUTION.—The term ''financial institution'' means any institution the business of which is engaging in financial activities or activities that are incidental to financial activities, as described in section 6(c) of the Bank Holding Company Act of 1956.

(4) NONPUBLIC PERSONAL INFORMATION.—

(A) The term ''nonpublic personal information'' means personally identifiable financial information—

(i) provided by a consumer to a financial institution;

(ii) resulting from any transaction with the consumer or the service performed for the consumer; or

(iii) otherwise obtained by the financial institution.

(B) Such term does not include publicly available information, as such term is defined by the regulations prescribed under section 504.

(C) Notwithstanding subparagraph (B), such term shall include any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable information other than publicly available information.

(5) NONAFFILIATED THIRD PARTIES.—The term ''nonaffiliated third parties'' means any entity that is not an affiliate of, or related by common ownership or affiliated by corporate control with, the financial institution, but does not include a joint employee of such institution.

(6) AFFILIATE.—The term ''affiliate'' means any company that controls, is controlled by, or is under common control with another company.

(7) NECESSARY TO EFFECT, ADMINISTER, OR ENFORCE.—The term ''as necessary to effect, administer or enforce the transaction'' means—

(A) the disclosure is required, or is a usual, appropriate or acceptable method, to carry out the transaction or the product or service business of which the transaction is a part, and record or service or maintain the consumer's account in the ordinary course of providing the financial service or financial product, or to administer or service benefits or claims relating to the transaction or the product or service business of which it is a part, and includes—

(i) providing the consumer or the consumer's agent or broker with a confirmation, statement, or other record of the transaction, or information on the status or value of the financial service or financial product; and

(ii) the accrual or recognition of incentives or bonuses associated with the transaction that are provided by the financial institution or any other party;

(B) the disclosure is required, or is one of the lawful or appropriate methods, to enforce the rights of the financial institution or of other persons engaged in carrying out the financial transaction, or providing the product or service;

(C) the disclosure is required, or is a usual, appropriate, or acceptable method, for insurance underwriting at the consumer's request or for reinsurance purposes, or for any of the following purposes as they relate to a consumer's insurance: account administration, reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), participating in research projects, or as otherwise required or specifically permitted by Federal or State law; or

(D) the disclosure is required, or is a usual, appropriate or acceptable method, in connection with—

(i) the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit or other payment card, check, or account number, or by other payment means;

(ii) the transfer of receivables, accounts or interests therein; or

(iii) the audit of debit, credit or other payment information.

(8) STATE INSURANCE AUTHORITY.—The term ''State insurance authority'' means, in the case of any person engaged in providing insurance, the State insurance authority of the State in which the person is domiciled.

(9) CONSUMER.—The term ''consumer'' means an individual who obtains, from a financial institution, financial products or services which are to be used primarily for personal, family, or household purposes, and also means the legal representative of such an individual.

(10) JOINT AGREEMENT.—The term ''joint agreement'' means a formal written contract pursuant to which two or more financial institutions jointly offer, endorse, or sponsor a financial product or service, and any payments between the parties are based on business or profit generated.

SEC. 510. EFFECTIVE DATE.

This subtitle shall take effect 6 months after the date on which the rules under section 503 are promulgated, except—

(1) to the extent that a later date is specified in such rules; and

(2) that section 506 shall be effective upon enactment.

The CHAIRMAN. Pursuant to House Resolution 235, the gentleman from Ohio (Mr. OXLEY) and a Member opposed each will control 15 minutes.

Mr. MARKEY. Madam Chairman, I rise to request control of the time in opposition to the amendment.

The CHAIRMAN. Is the gentleman opposed to the amendment?

Mr. MARKEY. I am in momentary opposition to the amendment.

The CHAIRMAN. The gentleman from Ohio (Mr. OXLEY) and the gentleman from Massachusetts (Mr. MARKEY) each will control 15 minutes.

The Chair recognizes the gentleman from Ohio (Mr. OXLEY).

Mr. OXLEY. Madam Chairman, I yield myself 3 minutes.

Madam Chairman, I want to talk about what the brave new world of financial services marketplace is going to look like and what it is going to look like realistically as opposed to some of the scare stories my colleagues are going to hear from the gentleman from Massachusetts (Mr. MARKEY).

Basically, it means more choice of services and products, varied for the consumer, the joint ventures and, yes, the responsible sharing of consumer information taking place in the market today.

The reality is, the integrated products and services today's consumer expects from his or her financial institutions require information sharing, especially among affiliates. After all, in the eyes of the consumer, what are affiliates other than different departments of the same company that they are dealing with.

One can bet, for example, that if a consumer in Ohio, for example, has a relationship with bank one and is applying for a preapproved mortgage loan, he expects them to know when he calls that he has a savings account, a checking account, a car loan, and a CD with them. The last thing he wants is more government regulation and more forms to fill out when he is dealing with his own company.

The amendment I offer today with the gentlewoman from Ohio (Ms. PRYCE) and the gentlewoman from New Jersey (Mrs. ROUKEMA) takes a more realistic, more free market, more consumer friendly approach to the issue of privacy.

The amendment, I want to make this very clear, requires mandatory disclosure for the first time of financial institutions' privacy policy in clear and conspicuous language. The amendment provides an opt-out provision, enabling consumers who so choose not to have their confidential financial information disclosed to unaffiliated third parties.

It includes a prohibition on the sharing of consumer account numbers to third parties in connection with the marketing of products, thus addressing concerns regarding third-party telemarketing.

The amendment requires the financial institution regulators to set and enforce standards for the security of confidential information. An amendment requires the Secretary of Treasury to do a comprehensive study on privacy issues as it relates to affiliate structure.

I would point out to the Members this issue of information sharing within affiliates has had no hearing whatsoever, the Committee on Banking and Financial Services or in the Committee on Commerce. This would require a study by the Treasury Department to find out exactly where the pressure points are.

Madam Chairman, these are strong, new protections for consumer privacy, unheard of before. It takes a huge step in providing the kind of privacy for consumers and, at the same time, at the same time, allowing the efficiencies of the marketplace to work so effectively.

We trust consumers to make those kinds of choices when they are dealing

with their financial services company. If they do not like that privacy policy or they think that they are having their information passed on, they can simply change companies and vote with their feet.

□ 2145

That is what this amendment does. We trust the consumer. We think this is the best approach to privacy. I would ask support of the Oxley amendment.

Madam Chairman, I reserve the balance of my time.

Mr. MARKEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, maybe there are Members in this institution and maybe there are Americans who do not share the same concerns I have about my financial privacy. When I go to the ATM machine in this building, I go over and I punch in my four numbers, and then, as the machine spits out the hundred dollars, I pocket that and out spits a receipt. The receipt tells me what my balance is.

Now, I do not know about the other people in this Chamber, but I hide that sheet from the intern or the page who is standing right behind me, because I do not want them to know what my balance is.

Now, maybe I am different from other people in this room. As a matter of fact, I do not even throw away that slip in the bucket that is right there. I walk 10 buckets away, or I pocket it because I do not want anyone to know what my balance is.

Now, the Oxley amendment makes some progress because it gives an opportunity for a consumer to block the sale of that information to an unaffiliated company. That is progress. However, it does not stop within a bank holding company, if our checking records or any of our banking records are now affiliated with a new brokerage or a new insurance or a new telemarketing firm, because in fact the bank holding company can now be affiliated with a telemarketer. Or, looking earlier at the Burr amendment, perhaps television stations. Perhaps it will be CNBC. Perhaps it will be the Drudge Report. They can be affiliated with anything, anything, potentially. Well, we do not get any protection because they can share the information with anyone they affiliate with.

So the Oxley amendment does take a step forward, yes. Yes, indeed. But only when we reach, only when we reach the recommittal motion, which is coming up in about 15 or 20 minutes, will we get a chance to close the big loophole. The big loophole. And all I ask of my colleagues is that while, in fact, the Oxley amendment shuts down sale to robbers, that is burglars, those outside the bank holding company, it does not do anything about electronic embezzlers inside the bank holding company marketing it, not just to its affiliates, but they can market it because they are affiliates to anyone else in the world. That is the loophole. We have no privacy.

So the Oxley amendment is a good step forward but with a big loophole left that the recommittal motion is going to give every Member out here a chance to vote in a substantive way for, as they will for the health care provision that the gentleman from California (Mr. CONDIT) wants and the redlining provision that the gentlewoman from Texas (Ms. JACKSON-LEE) wants.

But the key here is to understand that at least on this Oxley amendment, while it is a good step forward, there is another big vote coming up in about 15 minutes after that, and this is just a preview of coming attractions that we are going to try to give our colleagues during the course of this debate on Oxley.

Madam Chairman, I reserve the balance of my time.

Mr. OXLEY. Madam Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BAKER), a member of the Committee on Banking and Financial Services and a subcommittee chair.

Mr. BAKER. Madam Chairman, I thank the gentleman for yielding me this time.

Madam Chairman, if we listened to the previous speaker's concerns about security and privacy in today's world, with computers on everyone's desk at home, computers across this Nation in business at this moment exchanging billions of pieces of information, we should be extremely concerned about privacy. I would merely point out, if AL GORE had not invented the Internet to begin with, we would not be having this problem tonight.

But let us get to the current state of law. The fact is, if we do not adopt this amendment and approve this bill there is no privacy constraints not only on financial institutions but on free enterprise institutions outside the financial marketplace.

Let us talk about the amendment. What does it do? It says, if someone is outside the bank, we can no longer give them proprietary private information of those customers, which does not belong to them. We cannot sell it to them, we cannot give it to them, we cannot do anything with it because that is prohibited by this law. First time ever. Federal law prohibits the use of proprietary financial institution information to third parties. This is a major step forward.

This kind of reminds me like my first experience in one of those big grocery stores. As I walked down the aisle I saw jeans for 12 bucks. First time in my life. That was a big deal. I walked around the corner, and I saw tires for four-wheelers. My goodness, how did they get here? I went around the next corner, and I ran into one of these nice ladies, and she had these little bitty wieners they only give out one at a time. But they were selling those little wieners in the store, along with the tires, along with the jeans, along with everything else. I thought this is amazing. What convenience. And great prices, too.

If we adopt this bill tonight, without the extreme provisions that the gentleman from Massachusetts (Mr. MARKEY) proposes, we can have the same thing in financial services. We can go to one location and we can buy insurance, we can invest in stocks, we can manage our retirement fund, all with the ease of dealing with one person and one institution.

What about the small town bank? The guy who runs the small town bank, he is the loan officer, he is the chief executive officer. He opens up in the morning; he closes at night. He sells insurance. If we took the Markey position with technology, that guy would have to have some type of surgery to split his head because he could not talk to the customer about two products. It would be prohibited because he would be sharing information improperly.

Please, this is a good product. It is the right approach. It is the right time.

Mr. MARKEY. Madam Chairman, I yield 3 minutes to the gentleman from New York (Mr. LAFALCE), the ranking member of the Committee on Banking and Financial Services.

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Madam Chairman, I rise in support of this amendment. And, first of all, I want to give special thanks to two members from my staff, Dean Sagar and Tricia Hasten, who worked so hard on this; Kirsten Johnson from the staff of the gentleman from Minnesota (Mr. VENTO); Kristi from the staff of the gentleman from Texas (Mr. FROST); and so many other people, the gentlewoman from Ohio (Ms. PRYCE) and her staff, et cetera; the gentleman from Iowa (Mr. LEACH) and his staff.

This is a significant advancement with respect to privacy. There is no question about it. The gentleman from Massachusetts (Mr. MARKEY) had two options, to offer an amendment as a substitute for this, and I think this would have been preferable if we had to choose between the two; or to offer an amendment that would augment this. In his motion to recommit he will offer an amendment that will augment this; and, therefore, we could have the best of both worlds. So I advise my colleagues of that.

Now, what is good about this? What is excellent about this? Well, first of all, it creates for the very first time an affirmative and continuing obligation, a duty on the part of financial institutions to protect customer information. That does not exist under current law.

I introduced this bill in the last Congress. We were unable to get it. We did not even get it in the Committee on Banking and Financial Services' product. We have it in this amendment. This is terrific.

Further, not only do we create an obligation, we give the financial regulators the ability to articulate standards that the financial institutions must meet in order to fulfill that obligation. This, too, is terrific. I thank my staff. We have opt-out language that was contained in the amendment of the gentleman from Ohio (Mr. GILLMOR).

I introduced a bill to fulfill the challenge that the Comptroller of the Currency gave when he gave his speech talking about seamy financial institution practices. To fulfill the challenge of the lawsuit brought by the Attorney General from Minnesota, the bill would have been not just an opt-out or an opt-in but an actual prohibition. We have that in this amendment.

We have a prohibition on the disclosure of account numbers. We prohibit financial institutions from sharing with unaffiliated parties any credit card savings and transaction account numbers or other means of access to such accounts for purposes of marketing to the consumer, including telemarketing, including direct mail, and including E-mail marketing.

We have a prohibition on third party resale of private information. We prohibit unaffiliated third parties that receive confidential customer information from a financial institution from reselling or sharing this information with any other unaffiliated parties.

Let us not look a gift horse in the mouth. This is a terrific amendment. We would not have gotten here without the gentleman from Washington (Mr. INSLEE), we would not have gotten here without the gentleman from Massachusetts (Mr. MARKEY), and I thank them for that. Let us accept this and then let us go forward.

Mr. OXLEY. Madam Chairman, I yield 3 minutes to the gentlewoman from Ohio (Ms. PRYCE), who has done such a wonderful job in leading us in this effort on privacy.

Ms. PRYCE of Ohio. Madam Chairman, I thank my friend for yielding this time.

Madam Chairman, let me ask my colleagues if they are tired of their phone ringing in the middle of dinner only to be solicited for lawn care service. Are they tired of getting so much junk mail that they have to empty their trash twice as often as they used to? Are they tired of their teenagers being solicited for a new credit card every other week? Are they tired of wondering who in the world is giving out their addresses and phone numbers to these strangers? Well, I am, and I am mad as heck about it.

So today I am taking the floor to issue a public service warning to all of our constituents: ''Mr. and Mrs. America, your personal financial information may be disclosed by your bank to any Tom, Dick and Harry without your knowledge and without your consent.''

That is right, America, in all the years of banking law in this country there are no laws on the book to protect your privacy. Can you imagine that? That is wrong. It is un-American, it is anti-consumer, and it has to stop. The privacy amendment being offered here tonight is a historic precedent to put an end to that.

Now, many of my friends on the other side of the aisle say it is not perfect or complete enough, but, Madam Chairman, for the first time ever we will be saying that each financial institution has a legal obligation to protect the privacy and confidentiality of its customers. And for the first time ever we will be saying that every financial institution must adhere to strict standards to ensure the security and confidentiality of customer records. And for the first time ever we will require every institution to fully disclose to a customer up front what their privacy policy is. And perhaps most importantly, for the first time ever we will require that financial institutions give their customers a right to just say no to the sharing of what most Americans hold very, very dear: private information about themselves and their families.

Madam Chairman, make no mistake, this is a landmark privacy legislation which was drafted in a bipartisan fashion. And given that current law gives our constituents no protection whatsoever, and given that our colleagues in the other body have no privacy protection in their banking bill whatsoever, and given that last year's version of this very bill had no privacy protections whatsoever, while customers are growing more and more troubled by random telemarketing and junk mail, it is critical we adopt this amendment.

Privacy is a very personal thing. Americans feel very strongly about protecting it. Let us heed the voice of America. I urge adoption of the amendment.

Mr. MARKEY. Madam Chairman, I yield 3 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Madam Chairman, the previous speaker, the gentlewoman from Ohio (Ms. PRYCE), is entirely correct. Americans are sick and tired of having their personal financial information, their credit cards, their savings account information given away to telemarketers and getting those obnoxious calls during dinner time.

□ 2200

She is right. But they are just as tired of getting those calls from the affiliates of banks as they are from third parties of banks.

That is why it is imperative to augment the Oxley amendment by the motion to recommit to make sure that Americans have the right to stop not only third parties but affiliates from making those calls and violating their privacy.

Now, if I can share with Members something I learned yesterday and I think it is important in this debate. The members of the industry have objected to affiliate coverage of this vital protection, and they have said that if we do this, the financial system would collapse, there is simply no way that the banking system could accommodate this reasonable consumer protection.

Well, guess what? In Minnesota yesterday, a major U.S. bank got caught with its hand in the cookie jar. They were, in fact, giving away consumer private financial information. It was being used to telemarket to consumers. And when they were caught by the Minnesota attorney general, they said, mea culpa, you got us. We give up. But do my colleagues know what they agreed to? They agreed to a Minnesota consent decree, to a judicial order prohibiting sharing with their affiliate and their third parties because they knew that this could be done.

I am here to say, if it is good enough for the good folks in Minnesota, it is good enough for everybody across America and the U.S. Congress ought to be just as progressive and just as effective as the Minnesota attorney general and we ought to make sure that affiliates are covered just as well. That is why we have got to pass this motion to recommit.

Before I sit, we have talked a lot about privacy. I want to commend the work of the gentleman from Iowa (Chairman LEACH) and the gentleman from New York (Mr. LAFALCE) on this program. We have made some advancement. But we will be sorely, sorely feeling bad when our consumers look back to tonight and say to me and the gentleman from Massachusetts (Mr. MARKEY) and the rest of us, why did we not take care of the affiliates at the same time we took care of the third parties?

It is our chance to do it tonight. Pass the motion to recommit and finish the job.

Mr. OXLEY. Madam Chairman, I am pleased to yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA) who has taken great leadership on this issue and who is the Subcommittee Chair on Financial Institutions and Consumer Credit.

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Madam Chairman, I thank my colleague the gentleman from Ohio (Mr. OXLEY) for yielding me the time.

Madam Chairman, I have got to say that I am really very pleased by this debate thus far. I appreciate everything that the gentleman from New York (Mr. LAFALCE) has said. I think that is very constructive. And certainly I want to commend the gentleman from Ohio (Mr. OXLEY) and the gentlewoman from Ohio (Ms. PRYCE) and I think she and the gentleman from New York (Mr. LAFALCE) have greatly strengthened the whole argument for this by saying this gives us more privacy than under any law that we have ever had.

This is a giant step in the right direction. But I must also say that it is

more than just a start. It is not the whole thing, but it is much more than just a start. It is literally a foundation for whatever we might do in the future. But it is a wonderful foundation, a strong foundation.

I want to say that, as the Chairwoman of the Subcommittee on Financial Institutions and Consumer Credit, some weeks ago before this privacy thing erupted, really I had set privacy hearings for July 21 and 22 with the recognition that there are some complexities that are here that we will have to deal with.

The gentleman from Ohio (Mr. OXLEY) pointed out that there is a report that we are going to be looking for as part of this amendment. But I want to point out to my colleagues that there are complexities to privacy and accountability here that have not been completely thought through.

For example, some may be concerned about the exceptions included in this bill. But, in my opinion, these exceptions are included to ensure that everyday transactions like mortgage servicing, securitization of mortgages, printing of checks can continue under our new financial system. But there are also exceptions that allow our law enforcement officials to conduct important investigations relating to public safety.

This is just another way of saying that this is a wonderful foundation, more than a small step, in the right direction. It is a giant step. But we have more to do, and this puts us on the right direction.

Mr. MARKEY. Madam Chairman, could the Chair tell me how much time is remaining.

The CHAIRMAN. The gentleman from Massachusetts (Mr. MARKEY) has 5½ minutes remaining. The gentleman from Ohio (Mr. OXLEY) has 5 minutes remaining.

Mr. MARKEY. Madam Chairman, I yield 2 minutes to the gentleman from Texas (Mr. BARTON).

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Madam Chairman, I want to rise to commend the distinguished subcommittee chairman for what he has done but to condemn him for not going as far as he should.

The bill as reported out of the Committee on Banking and Financial Services had no privacy protection at all. The bill that was reported out of the Committee on Commerce had privacy provisions that the gentleman from Massachusetts (Mr. MARKEY) offered that some people thought was too inflexible.

I supported the gentleman from Massachusetts (Mr. MARKEY). I worked with him and his staff to come up with a modified Markey-Barton-Dingell-Inslee-Eshoo et al. amendment that we offered to the Committee on Rules that was not ruled in order.

I remember the old days when we thought that banks should be banks and insurance companies should be insurance companies and brokers should be brokers. That was the good ol' days of the 1980s, not the 1940s or 1950s.

Well, tonight we have before us a mega-financial service reform bill that, according to those that support it, is going to allow companies to operate through hundreds of subsidiaries and affiliates, hundreds.

The question that I ask this body and the country is: If we are concerned about the selling and sharing of information to third parties, should we not be just as concerned about the selling, sharing, transmitting, or accessing that information inside of these affiliates if there are going to be dozens or hundreds of these affiliates?

I think that what the gentleman from Ohio (Mr. OXLEY) and the gentlewoman from Ohio (Ms. PRYCE) have done is a step in the right direction. But it is only a step. Until we solve the riddle of handling information within the affiliates structure, we do not have privacy. We do not have privacy.

So I will vote for the amendment because it is a step in the right direction, but I will vote against final passage until we get this issue settled. It is not going to go away. We need to address it.

The debate this evening on the floor is good. I commend the gentleman from Massachusetts (Mr. MARKEY) and the gentleman from New York (Mr. LAFALCE) and the gentleman from Ohio (Mr. LEACH) and the gentleman from Ohio (Mr. OXLEY) and the gentlewoman from Ohio (Ms. PRYCE) and others for bringing the debate to the country. But the ultimate solution is not Oxley-Pryce. We need to go further.

Mr. OXLEY. Madam Chairman, I am pleased to yield 1 minute to the gentleman from Ohio (Mr. GILLMOR) who has been one of the leaders on the Committee on Commerce on the banking provisions, as well as the privacy provisions.

(Mr. GILLMOR asked and was given permission to revise and extend his remarks.)

Mr. GILLMOR. Madam Chairman, I want to commend the chairman for his leadership on the privacy issue. This amendment is an important step in protecting individual privacy. It protects it by regulating the disclosure and the sharing of consumer information by financial institutions.

It contains a number of the elements that were in an amendment that I offered in the Committee on Commerce, and the Committee on Commerce did adopt those provisions but it is not in the version before us.

Consumers feel they have lost control over how their financial information is being collected, how it is being distributed by institutions having nothing to do with the financial relations they have with those providers.

Personal information is much more accessible now, even without the person whose privacy is invaded knowing it is being invaded. The sale and transfer of that information is both widespread and it is growing. And the simple reason is the astonishing growth in technology today and information gathering and the human benefits the tremendous benefits we get from that also carry with them unprecedented threats to personal privacy and personal privacy need protection because it is an important part of individual freedom.

I urge support of the amendment.

Mr. MARKEY. Madam Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. FROST).

(Mr. FROST asked and was given permission to revise and extend his remarks.)

Mr. FROST. Madam Chairman, I rise in support of the Oxley amendment.

Mr. MARKEY. Madam Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

(Mr. VENTO asked and was given permission to revise and extend his remarks.)

Madam Chairman, I rise in support of the comprehensive privacy amendment. I believe that this amendment improves the bill by providing consumers with new important safeguards for their financial privacy.

Public concerns about personal information privacy are growing. Seemingly each week, there are new reports of stolen identities, selling of consumer financial data, ''cookies'' on Internet sites, hijacked ATM cards and numbers. Both the Banking Committee and the Commerce Committee, for the first time, addressed consumer privacy in H.R. 10. During the Banking Committee debate on this issue, I stated that the issue of privacy is even bigger than the financial services modernization bill. While it is appropriate to insure that adequate privacy safeguards are in place to protect consumer privacy in the new financial marketplace, this legislation is not the vehicle to address an all embracing comprehensive privacy legislation. This bill will not stop identity theft. It will not stop the stealing of Social Security numbers nor the filing of false tax returns. H.R. 10 will not stop the selling of driver's license information or the selling of its lists or attaching cookies to visitors to web sites. Nor will this bill stop the diversion of an individual's mail nor the stealing of credit card and ATM numbers. Those issues are left for another day and future action.

H.R. 10 should contain a privacy protection component as it relates to financial institutions. That component should not just be a rhetorical statement, it must be a workable safeguard for consumers. The financial privacy protection amendment pending before the Committee is better than the Banking and Commerce Committee alternatives. It is a good, workable product that will serve our constituents well. The Financial Privacy Protection amendment reinforces the opt-out for third party information sharing—a key consumer concern. More importantly, the amendment puts in place strong affirmative provisions of law that provide absolute protections and benefits for consumers.

Those provisions include:

Affirmative privacy responsibility and policy.—Banks, insurance companies, credit unions, security firms, mutual funds, thrifts and

other financial institutions will be required by law to be respect for consumer's financial privacy and to have a privacy policy that meets federal standards to protect the security and confidentiality of the customers personal information.

Prohibition on sharing account numbers.—Consumer account numbers cannot be shared for the purposes of third party marketing. This protection applies to all consumers and requires no action on their part.

Workable ''Opt-Out'' on third party information sharing.—Consumers can ''opt-out'' of sharing of information with third parties in a workable fashion that protects consumers' privacy while allowing the processing of services they request.

Effective regulatory authority.—Regulatory and enforcement authority is provided to the specific regulators of each type of financial institutions. These regulators can best do the job instead of the alternative single regulator who is understaffed and supports privacy ''self-regulation'' for the industry it is currently charged to regulate.

Prohibits repackaging of consumer information.—Consumer information remains protected. It cannot be resold or shared by third parties or profiled or repackaged to avoid privacy protections.

Consumer disclosure.—Consumers must be notified of the financial institutions' privacy policy at the time that they open an account and at least annually thereafter.

These common sense, workable provisions will be added to the substantial protections already included in H.R. 10 that prohibit obtaining customer information through false pretenses and disclosing a consumer's health and medical information.

In addition, the legislation clearly defines what is ''publicly available information''. This definition is designed to insure that non-public information is not disseminated through a public information loophole. Under the amendment, which I helped to draft, publicly available information is intended to include information such as:

Public records from country or municipal sources, such as tax assessors' offices, recorders of deeds, tax collectors, planning departments and court systems;

Public records from state sources, such as planning agencies, secretaries of state, revenue agencies, departments of motor vehicles, state courts, departments of education, departments of forestry, environmental reporting agencies and employment security agencies;

Public records from federal sources, such as federal courts, the IRS, FEMA, the USGS, FCC, FAA, U.S. Post Office and Census Bureau; and

Public information from Journals, newspapers and other publications.

I do not take a back seat to any Member when it comes to consumer rights and consumer privacy. I have worked to protect consumer privacy through laws like Truth in Lending, Fair Credit Reporting Act and the Electronic Fund Transfer Act. I also introduced one of the first proposals to protect a consumer's privacy on the Internet, the Consumer Internet Privacy Protection Act.

During the Banking Committee mark-up, I introduced an amendment that would have provided an annual opt-out on affiliate sharing. I withdrew that amendment because I realized that it was unworkable. Other advocates of the opt-out are to date not dissuaded by the problems. Consumer privacy is not insured and consumer services are reduced. Unified statements cannot be issued and something as simple as calling to get an account balance will become a bureaucratic nightmare. The only thing that an affiliate opt-out amendment accomplishes is to require financial institutions to restructure themselves to conform to the cookie cutter mold developed by Congress.

A law that requires consumer action is appropriate but third party and affiliate ''opt-out'' is hardly the last word in consumer rights. The fact is that a number of consumers have such a right today under FCRA or institution policies. Even with that authority, only a small fraction of individuals, less than 1 percent, exercise that option. Consumer choice is nice but what does it really accomplish—what is the bottom line.

Another deficiency of the alternative proposal is the regulator. That approach gives enforcement authority to the Federal Trade Commission as opposed to the appropriate regulator for each financial institution. This is the same regulator who testified last year before the House Commerce Subcommittee on Telecommunications on Internet privacy. At that time, FTC Chairman Pitofsky testified that: ''The Commission believes that self-regulation is preferred to a detailed legislative mandate . . .'' We should not turn over such an important enforcement authority to such a reluctant regulator.

Madam Chairman, I urge my Colleagues to support the pending amendment. If we are to pass financial modernization, strong consumer privacy protection must be a cornerstone of that proposal. The pending amendment helps us to achieve that goal.

Mr. MARKEY. Madam Chairman, I yield myself the balance of the time.

Madam Chairman, the Oxley amendment is a good step forward. We will concede that. But it has huge loopholes in the law that it does not close.

As soon as we finish this debate on the Oxley amendment, we are going to have an opportunity to vote on a recommital motion. Within that recommital motion, each Member out here on the floor will have a straight shot to vote on the provisions that the Committee on Rules did not give the Members a chance to vote on.

They will have a chance to vote on the Condit amendment. The gentleman from California (Mr. CONDIT) and the gentleman from California (Mr. WAXMAN) have a proposal that will close all the medical loopholes. It will ensure that your medical information cannot be given away. It will guarantee that the exceptions that are inside of this bill that swallow the rule do not allow for families across this country to have their medical information sold and bought as though it was just an ordinary commodity.

Every Member on the floor in the recommital motion will also be put on substantive record on the issue of financial privacy within the holding company. That is, if they have all of their checks inside of a bank right now and they do not want them to give it over to a telemarketing affiliate, they do not want them to give it over to the brokerage affiliate, they do not want them to hand it over to the insurance affiliate, they cannot say no. They have no right to say no under the Republican bill.

In the recommital motion, each Member is going to be given an opportunity to say to every American, I think you should have the right to say no. I do not want any of my children's privacy compromised. I do not want my family's privacy compromised. I do not want the medical secret of my family out on the street just because it happens to be a bank holding company that owns the insurance policy, the checks, or the brokerage account and they have a marketing affiliate that sells my privacy like it is a commodity to hundreds of companies that are dying to find out everything that is going on within my State.

So we are going to give everyone an opportunity in that recommital motion, and we are going to throw in the Lee redlining as well as the third little provision. That is only going to be a 5-minute debate altogether. But when my colleagues vote on it, they are going on record on those issues. Because if it is successful, it goes into the bill immediately, and we are voting final passage. And if my colleagues vote no, this bill is leaving here with every one on record against medical privacy and against the financial privacy provision that ensures that the bank holding company and its telemarketing subsidiary, its affiliate, cannot just take all their secrets and sell them to the rest of the world and make millions of dollars.

Yes, they call it a synergy, by the way, a synergy. But we are trying to take the sin out of the synergy. We are trying to make sure that they get the benefits of all these products, they can say yes if they want them, but they can say no as well. That is what this is all about. It does not stop any bank from trying to get them to buy these products. What it says is they have a right to say, no, I do not want this. I want the checking account, that is it. Please do not sell the rest of the material to anyone else.

So the Oxley amendment is something that should be supported. I think we will all support it unanimously on this side. But the big vote is coming up in about 10 more minutes.

Mr. OXLEY. Madam Chairman, I am pleased to yield 1 minute to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Madam Chairman, I thank the gentleman for yielding me the time.

Madam Chairman, I am pleased to support this amendment. It has a strong bipartisan protection for consumers. I know there is some honest disagreement between my colleagues on this very important issue of privacy. But what I would like to do is urge my colleagues to look at what is in this amendment, not what is missing.

My constituents of my district have told me time and time again that they

do not want their names and permanent information sold to companies they have never heard of. If we pass this Oxley amendment, consumers will be able to tell their banks; no, I do not want my name sold; no, I do not want you to share information with third parties.

Madam Chairman, this amendment takes us much further than I ever dreamt that we would go in strengthening current laws creating new and effective protections for consumers on privacy. Most of all, it has meaningful enforcement language. I urge its passage.

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Mr. OXLEY. Madam Chairman, I yield 2 minutes to the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules.

(Mr. DREIER asked and was given permission to revise and extend his remarks.)

Mr. DREIER. Madam Chairman, I rise in strong support of this amendment. I would like to begin by not only congratulating the gentleman from Ohio (Mr. OXLEY) but, of course, my colleague on the second row here who worked long and hard as a member of the Committee on Rules and, yes, I want to even congratulate, we have once again made this a bipartisan effort, when I heard the word ''terrific'' used three times by my friend the gentleman from New York (Mr. LAFALCE), and I know that we will see very broad bipartisan support for what is I think a very important measure.

We are all appalled at the thought of telemarketers getting access to information. We all want to do everything that we can to stop that. In fact, the base text of this bill has the strongest consumer privacy protection we have ever had. But guess what? This amendment, that we are all going to be, I hope, overwhelmingly supporting based on the statements that I have been hearing, will be even tougher. The fact of the matter is this is a very balanced compromise. Why? Because privacy is a first priority. That is what it is that the American people want. But there are some other demands that they have. They also demand low cost and integrated financial products and services, they demand on-line banking and brokerage services, and they demand protection against financial fraud. Quite frankly to meet these demands, all of these demands, affiliates have to be able to share some information. That is why I am convinced that this now bipartisan effort which has seen many Members involved is in fact the balance that is needed for us to deal with the issue of privacy as well as meeting consumer demands.

I encourage my colleagues to support it.

Mr. OXLEY. Madam Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Ohio is recognized for 1 minute.

Mr. OXLEY. Madam Chairman, let me reiterate to the Members. Under the Oxley amendment, for the first time we are requiring financial services organizations to actually have a privacy policy. It has to be printed, it has to be explained to the customer, the customer has an opportunity to understand exactly what that privacy policy is. It never happened before until this amendment becomes law.

Secondly, now that the consumer who is working with this affiliate company understands that policy, he may or may not decide to continue to do business with that company. If he is so concerned that the company he is dealing with is going to be selling that information or leaking that information to other parts of the affiliate, he is going to vote with his feet, he is going to act like an educated consumer, to quote a famous line from Sy Syms. He is going to be an educated consumer, and he is going to go someplace else where his privacy is going to be protected. That is the marketplace working very effectively, I would say to my friend from Massachusetts, not some statute that ties up these financial institutions, costs them millions and millions of dollars which is going to be passed on to the consumer ultimately and is going to be less and less efficient.

This is the product that was worked on in a bipartisan way. I ask the Members to support the amendment.

Ms. JACKSON-LEE of Texas. Madam Chairman, I rise in support of the Oxley/Pryce/Roukema amendment because it requires financial institutions to respect the privacy of its customers. This is a basic consumer protection and I urge my colleagues to support this amendment.

The provisions of this amendment include basic consumer privacy protections. It requires an ''affirmative and continuing obligation'' to protect customer's personal information.

This amendment requires regulatory standards to insure security and confidentiality of customer records to protect against unauthorized access and use. With recent advances in technology, there is the possibility that a computer hacker can break into a bank's computer system and access personal account information.

This amendment requires that consumers be given the opportunity to opt-out of the disclosure of their private information with unaffiliated third parties. It also prohibits unaffiliated third parties that receive confidential customer information from sharing that information with any other unaffiliated parties.

Another important provision in this amendment requires that all financial institutions disclose their policies and practices for collecting customer information. All customers should have notice of these policies in advance.

Customers should also have advance knowledge of policies that protect their confidential information and the policies that prevent that information from being shared with unaffiliated parties. Advance knowledge of these policies not only protect the consumer, but it also protects the financial institution.

This amendment prohibits financial institutions from sharing credit card, savings and transaction account numbers for purposes of marketing to the consumer. This account information is especially sensitive and should be kept as confidential as possible.

These are common sense provisions that protect Americans who are sincerely concerned about privacy. These days, many companies have access to information about our spending and saving habits because of lax privacy laws that only make consumers vulnerable. However, I am looking forward to ensuring greater consumer protection as it relates to privacy issues—including medical records privacy—as this legislation moves to conference.

I am concerned that this amendment will allow financial institutions to share consumer information through their affiliates without restriction. However, this amendment is an important first step to ensuring a marginal level of privacy for consumers.I support the provisions in this amendment and I urge my colleagues to vote for its passage.

Mrs. MALONEY of New York. Madam Chairman, last year H.R. 10 passed this Chamber by one vote. In that version of Financial Modernization, there were no privacy provisions. This year things have changed. There are privacy provisions in the base text and there is this amendment which, if adopted, will make this one of the strongest privacy bills to involve the financial services industry.

I would like to thank all of the members who have worked on crafting this amendment, including Representatives FROST, LAFALCE, PRYCE, and OXLEY. A few days ago I submitted to this informal privacy working group a suggested amendment. My proposal would make certain that if an affiliate in a holding company were sold to another entity, only the information about their own customers could be transferred. No information about customers in the original holding company are allowed to be shared with the sold entity's new affiliates unless they were already a customer. This is an important privacy protection and I was pleased that the authors agreed to add it into this amendment.

Perhaps the most important part of this amendment are the strong disclosure provisions. This bill requires financial institutions to annually disclose to their customers their policies practices for collecting and protecting the customer's private information. Financial Modernization means more choices for consumers, and part of that choice should include the privacy policies of the firm which is trying to attract their business. If a customer is unsatisfied with a privacy policy of a firm, they can choose another. But this form of competition only works with strong disclosure requirements.

This amendment will also prohibit financial institutions from reselling a consumer's private information to a third party and will prohibit them also from sharing a customer's account numbers in order to market to that customer. This should prevent many of those unwanted telemarketing calls resulting from a relationship with a bank or other financial firm.

There are still some problems with the base text, including the problems with the privacy of medical information. But I am pleased with the colloquy between Mr. GANSKE and Mr. LAFALCE and I am confident that these issues will be worked out in conference.

These are the best privacy provisions to ever appear in a draft of H.R. 10 and I am supportive of this effort. To be sure, during this debate many good issues have been raised about these privacy issues. Chairman

LEACH has announced hearings on privacy for the end of July and I am sure the Banking Committee will continue to examine the issue and consider appropriate legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. OXLEY).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. OXLEY. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentleman from Ohio (Mr. OXLEY) will be postponed.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to House Resolution 235, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 10 offered by the gentleman from Virginia (Mr. BLILEY); amendment No. 11 offered by the gentleman from Ohio (Mr. OXLEY).

The Chair will reduce to 5 minutes the time for the second electronic vote in this series.

AMENDMENT NO. 10 OFFERED BY MR. BLILEY

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. BLILEY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 203, not voting 5, as follows:

[Roll No. 273]

AYES—226

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Blunt
Boehner
Bonilla
Bono
Boucher
Brady (TX)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeGette
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dingell
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Forbes
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jenkins
John
Johnson (CT)
Johnson, Sam
Kasich
Kelly
Kildee
King (NY)
Kingston
Knollenberg
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
McCollum
McCrery
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Miller (FL)
Miller, Gary
Moran (KS)
Myrick
Nethercutt
Ney
Northup
Norwood
Ose
Oxley
Packard
Pallone
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Strickland
Stump
Sununu
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Towns
Traficant
Upton
Vitter
Walden
Wamp
Watkins
Watts (OK)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)

NOES—203

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (FL)
Capuano
Cardin
Carson
Chenoweth
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Davis (IL)
DeFazio
Delahunt
DeLauro
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Foley
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Gutierrez
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kilpatrick
Kind (WI)
Kleczka
Klink
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Larson
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHugh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Nadler
Napolitano
Neal
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Pascrell
Pastor
Paul
Payne
Peterson (MN)
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Stupak
Sweeney
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weiner
Weldon (FL)
Wexler
Weygand
Wise
Woolsey
Wu
Wynn

NOT VOTING—5

Brown (CA)
Fossella
Green (TX)
Lipinski
Pelosi

☐ 2240

Messrs. MOAKLEY, MCHUGH and JONES of North Carolina changed their vote from ''aye'' to ''no.''

Messrs. DAVIS of Florida, VITTER, BROWN of Ohio and DEUTSCH changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to House Resolution 235, the Chair announces that she will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the additional amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 11 OFFERED BY MR. OXLEY

The CHAIRMAN. The pending business is the demand for a recorded vote on Amendment No. 11 offered by the gentleman from Ohio (Mr. OXLEY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will designate the amendment.

The Clerk designated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 427, noes 1, not voting 6, as follows:

[Roll No. 274]

AYES—427

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle

Chabot
Chambliss
Chenoweth
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
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Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
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Larson
Latham
LaTourette
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Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
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Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—1

Paul

NOT VOTING—6

Brown (CA)
Fossella
Green (TX)
Lipinski
Pelosi
Walsh

□ 2249

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mrs. EMERSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes, pursuant to House Resolution 235, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MARKEY

Mr. MARKEY. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER. Is the gentleman from Massachusetts opposed to the bill?

Mr. MARKEY. Yes, I am opposed to the bill in its current form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MARKEY of Massachusetts moves to recommit the bill H.R. 10 to the Committee on Banking and Financial Services with instructions to report the same to the House forthwith with the following amendments:

Page 9, after line 19, insert the following new subparagraph (and redesignate the subsequent subparagraph accordingly):

''(D) In the case of any bank holding company which underwrites or sells, or any affiliate of which underwrites or sells, annuities contracts or contracts insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death—

''(i) the company or affiliate has not been adjudicated in any Federal court, and has not entered into a consent decree filed in a Federal court or into a settlement agreement, premised upon a violation of the Fair Housing Act for the activities described in this subparagraph;

''(ii) if such company or affiliate has entered into any such consent decree or settlement agreement, the company or the affiliate is not in violation of the decree or settlement agreement as determined by a court of competent jurisdiction or the agency with which the decree or agreement was entered into; or

''(iii) the company has been exempted from the requirements of clauses (i) and (ii) by the Board under paragraph (4).

Page 9, line 24, strike ''and (C)'' and insert ''(C), and (D)''.

Page 10, line 15, strike ''(1)(D)'' and insert ''(1)(E)''.

Page 11, after line 4, insert the following new paragraph:

''(4) VIOLATIONS OF THE FAIR HOUSING ACT.—The Board may, on a case-by-case basis, exempt a bank holding company from meeting the requirements of clauses (i) and (ii) of paragraph (1)(D).

Page 25, line 2, strike ''or (C)'' and insert ''(C), or (D)''.

Page 26, line 18, strike ''(B) or (C)'' and insert ''(B), (C), or (D)''.

Page 84, line 18, strike ''(1)(D)'' and insert ''(1)(E)''.

Page 184, line 17, strike ''(1)(D)'' and insert ''(1)(E)''.

Page 370, beginning on line 20, strike subtitle D of title III through page 373, line 17 (and conform the table of contents accordingly).

Strike title V and insert the following (and conform the table of contents accordingly):

TITLE V—PRIVACY OF CONSUMER INFORMATION

Subtitle A—Disclosure of Nonpublic Personal Information

SEC. 501. PROTECTION OF NONPUBLIC PERSONAL INFORMATION.

(a) PRIVACY OBLIGATION POLICY.—It is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information.

(b) FINANCIAL INSTITUTIONS SAFEGUARDS.—In furtherance of the policy in subsection (a), each Federal functional regulator shall establish appropriate standards for the financial institutions subject to their jurisdiction, and the Commission shall establish such standards for any financial institutions not subject to such jurisdiction, relating to administrative, technical, and physical safeguards—

(1) to insure the security and confidentiality of customer records and information;

(2) to protect against any anticipated threats or hazards to the security or integrity of such records; and

(3) to protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer.

SEC. 502. OBLIGATIONS WITH RESPECT TO PERSONAL INFORMATION.

(a) GENERAL REQUIREMENTS.—Except as otherwise provided in this subtitle, a financial institution may not, directly or through

any affiliate, disclose or make an unrelated use of any nonpublic personal information collected by the financial institution in connection with any transaction with a consumer in any financial product or any financial service, unless—

(1) such financial institution provides or has provided to the consumer a notice that complies with section 503 and the rules thereunder; and

(2) such financial institution maintains procedures to protect the confidentiality and security of nonpublic personal information.

(b) OPT-OUT REQUIRED FOR INFORMATION TRANSFERS.—

(1) OPPORTUNITY TO OBJECT REQUIRED.—The Commission shall by rule prohibit a financial institution from making available any nonpublic personal information to any affiliate of the institution, or to any other person that is not an affiliate of the institution, unless the consumer to whom the information pertains—

(A) is given the opportunity in accordance with such rule to object to the transfer of such information; and

(B) does not object, or withdraws the objection.

(2) FLEXIBILITY OF FORM.—A financial institution may, in complying with paragraph (1), present the opportunity to object in a manner that permits the consumer to object—

(A)(i) with respect to both affiliates and nonaffiliated persons;

(ii) separately with respect to affiliates generally and nonaffiliated persons generally; or

(iii) separately with respect to specified affiliates and nonaffiliated persons; and

(B) separately with respect to specified financial and nonfinancial products and services that may be offered to the consumer.

(c) ACCESS TO AND CORRECTION OF INFORMATION VENDED TO THIRD PARTIES.—

(1) RULE REQUIRED.—The Commission shall by rule require a financial institution that, for any consideration, makes available nonpublic personal information collected by the financial institution in connection with any transaction with a consumer in any financial product or any financial service to any person or entity other than an employee or agent of such institution, an affiliate of such institution, or an employee or agent of such affiliate, to afford that consumer—

(A) the opportunity to examine, upon request, the nonpublic personal information that was so made available; and

(B) the opportunity to dispute the accuracy of any of such information, and to present evidence thereon.

(2) EXCEPTION FOR PROPRIETARY INFORMATION.—The rule required by paragraph (1) shall not require a financial institution to afford a customer who requests access to the nonpublic personal information that was made available the opportunity to examine or dispute any data obtained by any analysis or evaluation performed using such information, or to examine or dispute the methodology of such analysis or evaluation.

(d) LIMITATIONS ON THE SHARING OF ACCOUNT NUMBER INFORMATION FOR MARKETING PURPOSES.—A financial institution shall not disclose an account number or similar form of access number or access code for a credit card account, deposit account, or transaction account of a consumer to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer.

(e) GENERAL EXCEPTIONS.—Subsections (a) and (b) shall not prohibit the disclosing of nonpublic personal information, the making of an unrelated use of such information, or the making available of such information to affiliates or other persons by the financial institution—

(1) as necessary to effect, administer, or enforce the transaction or a related transaction;

(2) with the consent or at the direction of the consumer;

(3) as necessary to protect the confidentiality or security of its records pertaining to the consumer, the financial service or financial product, or the transaction therein;

(4) as necessary to take precautions against liability or to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability;

(5) as necessary to respond to judicial process;

(6) to the extent permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1974, to provide information to law enforcement agencies (including a functional regulator, a State insurance authority, or the Commission) or for an investigation on a matter related to public safety;

(7) to a consumer reporting agency in accordance with title VI of the Consumer Credit Protection Act;

(8) in executing a sale or exchange whereby the financial institution transfers to another financial institution or other person the business unit or operation, or substantially all the assets of the business unit or operation, with which the customer's transactions were effected; or

(9) in connection with a proposed or actual securitization, secondary market sale or similar commercial transaction;

(10) for reinsurance purposes.

SEC. 503. NOTICE CONCERNING DISCLOSING INFORMATION.

(a) RULE REQUIRED.—The Commission shall, after consultation with the Federal functional regulators and one or more representatives of State insurance regulators, prescribe rules in accordance with this section to prohibit unfair and deceptive acts and practices in connection with the disclosing of nonpublic personal information or with making unrelated uses of such information. Such rules shall require any financial institution, through the use of a form that complies with the rules prescribed under subsection (b), to clearly and conspicuously disclose to the consumer—

(1) the categories of nonpublic personal information that are collected by the financial institution;

(2) the practices and policies of the financial institution with respect to disclosing nonpublic personal information, or making unrelated uses of such information, including—

(A) the categories of persons to whom the information is or may be disclosed or who may be permitted to make unrelated uses of such information, other than the persons to whom the information must be provided to effect, administer, or enforce the transaction; and

(B) the practices and policies of the institution with respect to disclosing or making unrelated uses of nonpublic personal information of persons who have ceased to be customers of the financial institution; and

(3) the policies that the institution maintains to protect the confidentiality and security of nonpublic personal information.

(b) DESIGN OF NOTICE REQUIREMENTS.—In prescribing the form of a notice for purposes of subsection (a), the Commission shall ensure that consumers are readily able to compare differences in the measures that the financial institution takes, and the policies that the institution has established, to protect the consumer's privacy as compared to the measures taken and the policies established by other financial institutions. Such form shall specifically identify the rights the institution affords consumers to grant or deny consent to (1) the disclosing of nonpublic personal information for any purpose other than as required in order to effect, administer, or enforce the consumer's transaction, or (2) the making of an unrelated use of such information.

(c) ADDITIONAL CONTENTS OF RULES; EXEMPTIVE RULES.—The Commission shall, by rule after consultation with the functional regulators, and may by order—

(1) specify the disclosures and uses of information which, for purposes of this subtitle and the rules prescribed thereunder, may be treated as necessary to effect, administer, or enforce a consumer's transaction with respect to a variety of financial services and financial products;

(2) specify timing requirements with respect to notices to new and existing customers, which shall not require notices more frequently than annually unless there has been a change in the information required to be disclosed pursuant to subsection (a); and

(3) provide, consistent with the purposes of this subtitle, exemptions or temporary waivers to, or delayed effective dates for, any requirement of this subtitle or the rules prescribed thereunder.

(d) EXEMPTIVE RULES TO PERMIT EFFICIENT DATA STORAGE AND RETRIEVAL.—The exemptive rules prescribed by the Commission pursuant to subsection (c)(3) shall include such rules as may be necessary to permit financial institutions and their affiliates to establish and maintain efficient systems to collect and access nonpublic personal information in shared or networked data storage and retrieval facilities that are implemented in a manner consistent with the requirements of sections 501 and 502.

(e) RULEMAKING DEADLINE.—The Commission shall initially prescribe the rules required by this section within one year after the date of enactment of this Act. Such rules, and any revisions of such rules, shall be prescribed in accordance with section 553 of title 5, United States Code.

SEC. 504. ENFORCEMENT.

(a) IN GENERAL.—Except as provided in subsection (d), this subtitle and the rules prescribed thereunder shall be enforced by the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) ACTIONS BY THE COMMISSION.—The Federal Trade Commission shall prevent any person from violating this subtitle and the rules prescribed thereunder in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this subtitle, except that notwithstanding section 5(a)(2) of such Act (15 U.S.C. 45(a)(2)) the Commission shall, for purposes of this title, have jurisdiction with respect to banks, savings and loan institutions, and Federal credit unions. Any person who violates this subtitle or the rules prescribed thereunder shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this subtitle.

(c) TREATMENT OF RULES.—A rule issued by the Commission under this title shall be treated as a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) REGULATIONS PRESCRIBED UNDER SECTION501.—The regulations prescribed under

section 501 by the Federal functional regulators shall be enforced by the Federal functional regulators with respect to financial institutions subject to their jurisdiction under applicable law, as follows:

(1) Under section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, Federal branches and Federal agencies of foreign banks, and any subsidiaries of such entities, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, organizations operating under section 25 or 25A of the Federal Reserve Act, bank holding companies and their nonbank subsidiaries or affiliates (except broker-dealers, affiliates providing insurance, investment companies, and investment advisers), by the Board of Governors of the Federal Reserve System;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), insured State branches of foreign banks, and any subsidiaries of such entities, by the Board of Directors of the Federal Deposit Insurance Corporation; and

(D) savings association the deposits of which are insured by the Federal Deposit Insurance Corporation, and any subsidiaries of such a savings association, by the Director of the Office of Thrift Supervision.

(2) Under the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal or state chartered credit union, and any subsidiaries of such an entity.

(3) Under the Farm Credit Act of 1971, by the Farm Credit Administration with respect to the Federal Agricultural Mortgage Corporation, any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(4) Under the Securities Exchange Act of 1934, by the Securities and Exchange Commission with respect to any broker-dealer.

(5) Under the Investment Company Act of 1940, by the Securities and Exchange Commission with respect to investment companies.

(6) Under the Investment Advisers Act of 1940, by the Securities and Exchange Commission with respect to investment advisers registered with the Commission under such Act.

(7) Under Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U. S. C. 4501 et seq.), by the Office of Federal Housing Enterprise Oversight with respect to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(8) Under the Federal Home Loan Bank Act, by the Federal Housing Finance Board with respect to Federal home loan banks.

SEC. 505. FAIR CREDIT REPORTING ACT AMENDMENT.

(a) AMENDMENT.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is amended—

(1) in subsection (d), by striking everything following the end of the second sentence; and

(2) by striking subsection ''(e)'' and inserting in lieu thereof the following:

''(e) REGULATORY AUTHORITY.—

''(1) The Federal banking agencies referred to in paragraphs (1) and (2) of subsection (b) shall jointly prescribe such regulations as necessary to carry out the purposes of this Act with respect to any persons identified under paragraphs (1) and (2) of subsection (b).

''(2) The Administrator of the National Credit Union Administration shall prescribe such regulations as necessary to carry out the purposes of this Act with respect to any persons identified under paragraph (3) of subsection (b).''.

(b) CONFORMING AMENDMENTS.—Section 621 of the Fair Credit Reporting Act (15 U.S.C. 1681s) is further amended—

(1) by striking paragraph (4) of subsection (a); and

(2) in subsection (b)—

(A) by inserting ''and bank holding companies, and subsidiaries of bank holding companies other than depository institutions,'' after ''Federal Reserve Act,'' in paragraph (1)(B); and

(B) by inserting '', and savings and loan holding companies and subsidiaries of savings and loan holding companies'' after ''Insurance Corporation'' in paragraph (2).

SEC. 506. DEFINITIONS.

As used in this subtitle:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) FEDERAL FUNCTIONAL REGULATOR.—The term ''Federal functional regulator'' means—

(A) the Board of Governors of the Federal Reserve System;

(B) the Office of the Comptroller of the Currency;

(C) the Board of Directors of the Federal Deposit Insurance Corporation;

(D) the Director of the Office of Thrift Supervision;

(E) the National Credit Union Administration Board;

(F) the Farm Credit Administration; and

(G) the Securities and Exchange Commission.

(3) FINANCIAL INSTITUTION.—The term ''financial institution'' means any institution the business of which is engaging in financial activities or activities that are incidental to financial activities, as determined under section 6(c) of the Bank Holding Company Act of 1956. Such term, when used in connection with a transaction for a consumer, means only the financial institution with which the consumer expects to conduct such transaction and does not include any affiliate, subsidiary, or contractually-related party of that financial institution, even if such affiliate, subsidiary, or party is also a financial institution and participates in the effecting, administering, or enforcing such transaction.

(4) NONPUBLIC PERSONAL INFORMATION.—

(A) The term ''nonpublic personal information'' means personally identifiable financial information—

(i) provided by a consumer to a financial institution;

(ii) resulting from any transaction with the consumer or the service performed for the consumer; or

(iii) otherwise obtained by the financial institution.

(B) Such term does not include publicly available information, as such term is defined by the regulations prescribed under section 504.

(C) Notwithstanding subparagraph (B), such term shall include any list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using any personally identifiable information other than publicly available information.

(5) DIRECTORY INFORMATION.—The term ''publicly available directory information'' means subscriber list information required to be made available for publication pursuant to section 222(e) of the Communications Act of 1934 (47 U.S.C. 222(3)).

(6) UNRELATED USE.—The term ''unrelated use'', when used with respect to information collected by the financial institution in connection with any transaction with a consumer in any financial product or any financial service, means any use other than a use that is necessary to effect, administer, or enforce such transaction.

(7) AFFILIATE.—The term ''affiliate'' means any company that controls, is controlled by, or is under common control with another company.

(8) NECESSARY TO EFFECT, ADMINISTER, OR ENFORCE.—The disclosing or use of nonpublic personal information shall be treated—

(A) as necessary to effect or administer a transaction with a consumer if the disclosing or use is required, or is one of the usual and accepted methods, to carry out the transaction and record and maintain the customer's account in the ordinary course of providing the financial service or financial product, and includes—

(i) providing the consumer with a confirmation, statement, or other record of the transaction, or information on the status or value of the financial service or financial product; and

(ii) the accrual or recognition of incentives or bonuses associated with the transaction that are provided by the financial institution or any other party;

(B) as necessary to enforce a transaction with a consumer if the disclosing or use is required, or is one of the lawful methods, to enforce the rights of the financial institution or of other persons engaged in carrying out the financial transaction, or providing the financial product or financial service; and

(C) as necessary to effect, administer, or enforce a transaction with a consumer if the disclosure is made in connection with—

(i) the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit or other payment card or account number, or by other payment means;

(ii) the transfer of receivables, accounts or interests therein; or

(iii) the audit of debit, credit or other payment information.

The Commission shall, consistent with the purposes of this subtitle, prescribe by rule actions that shall, in a variety of financial services, and with respect to a variety of financial products, be treated as necessary to effect, administer, or enforce a financial transaction.

(9) FINANCIAL SERVICES; FINANCIAL PRODUCTS; TRANSACTION; RELATED TRANSACTION.—The Commission shall, consistent with the purposes of this subtitle, prescribe by rule definitions of the terms ''financial services'', ''financial products'', ''transaction'', ''related transaction'', and ''unrelated third party'' for purposes of this subtitle.

SEC. 507. EFFECTIVE DATE.

This subtitle shall take effect one year after the date on which the Commission prescribes in final form the rules required by section 503(a), except to the extent that a later date is specified in such rules.

Subtitle B—Fraudulent Access to Financial Information

SEC. 521. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.

(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE PRETENSES.—It shall be a violation of this subtitle for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person—

(1) by making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution;

(2) by making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution; or

(3) by providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation.

(b) PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES.—It shall be a violation of this subtitle to request a person to obtain customer information of a financial institution, knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a).

(c) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, to obtain customer information of a financial institution in connection with the performance of the official duties of the agency.

(d) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS IN CERTAIN CASES.—No provision of this section shall be construed so as to prevent any financial institution, or any officer, employee, or agent of a financial institution, from obtaining customer information of such financial institution in the course of—

(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information;

(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b).

(e) NONAPPLICABILITY TO INSURANCE INSTITUTIONS FOR INVESTIGATION OF INSURANCE FRAUD.—No provision of this section shall be construed so as to prevent any insurance institution, or any officer, employee, or agency of an insurance institution, from obtaining information as part of an insurance investigation into criminal activity, fraud, material misrepresentation, or material nondisclosure that is authorized for such institution under State law, regulation, interpretation, or order.

(f) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed so as to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

SEC. 522. ADMINISTRATIVE ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Compliance with this subtitle shall be enforced by the Federal Trade Commission in the same manner and with the same power and authority as the Commission has under the title VIII, the Fair Debt Collection Practices Act, to enforce compliance with such title.

(b) NOTICE OF ACTIONS.—The Federal Trade Commission shall—

(1) notify the Securities and Exchange Commission whenever the Federal Trade Commission initiates an investigation with respect to a financial institution subject to regulation by the Securities and Exchange Commission;

(2) notify the Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) whenever the Commission initiates an investigation with respect to a financial institution subject to regulation by such Federal banking agency; and

(3) notify the appropriate State insurance regulator whenever the Commission initiates an investigation with respect to a financial institution subject to regulation by such regulator.

SEC. 523. CRIMINAL PENALTY.

(a) IN GENERAL.—Whoever knowingly and intentionally violates, or knowingly and intentionally attempts to violate, section 521 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

(b) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, section 521 while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

SEC. 524. RELATION TO STATE LAWS.

(a) IN GENERAL.—This subtitle shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this subtitle, and then only to the extent of the inconsistency.

(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this subtitle if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this subtitle as determined by the Commission, on its own motion or upon the petition of any interested party.

SEC. 525. AGENCY GUIDANCE.

In furtherance of the objectives of this subtitle, each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) and the Securities and Exchange Commission or self-regulatory organizations, as appropriate, shall review regulations and guidelines applicable to financial institutions under their respective jurisdictions and shall prescribe such revisions to such regulations and guidelines as may be necessary to ensure that such financial institutions have policies, procedures, and controls in place to prevent the unauthorized disclosure of customer financial information and to deter and detect activities proscribed under section 521.

SEC. 526. REPORTS.

(a) REPORT TO THE CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General, in consultation with the Federal Trade Commission, Federal banking agencies, the Securities and Exchange Commission, appropriate Federal law enforcement agencies, and appropriate State insurance regulators, shall submit to the Congress a report on the following:

(1) The efficacy and adequacy of the remedies provided in this subtitle in addressing attempts to obtain financial information by fraudulent means or by false pretenses.

(2) Any recommendations for additional legislative or regulatory action to address threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.

(b) ANNUAL REPORT BY ADMINISTERING AGENCIES.—The Federal Trade Commission and the Attorney General shall submit to Congress an annual report on number and disposition of all enforcement actions taken pursuant to this subtitle.

SEC. 527. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) CUSTOMER.—The term ''customer'' means, with respect to a financial institution, any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

(2) CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION.—The term ''customer information of a financial institution'' means any information maintained by or for a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.

(3) DOCUMENT.—The term ''document'' means any information in any form.

(4) FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term ''financial institution'' means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term ''financial institution'' includes any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any broker or dealer, any investment adviser or investment company, any insurance company, any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p)).

(C) SECURITIES INSTITUTIONS.—For purposes of subparagraph (B)—

(i) the terms ''broker'' and ''dealer'' have the meanings provided in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(ii) the term ''investment adviser'' has the meaning provided in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)); and

(iii) the term ''investment company'' has the meaning provided in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3).

(D) FURTHER DEFINITION BY REGULATION.—The Federal Trade Commission, after consultation with Federal banking agencies and the Securities and Exchange Commission, may prescribe regulations clarifying or describing the types of institutions which shall be treated as financial institutions for purposes of this subtitle.

Mr. MARKEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. The gentleman from Massachusetts (Mr. MARKEY) is recognized for 5 minutes.

Mr. MARKEY. Mr. Speaker, the recommittal motion that we are going to vote upon in 10 minutes will contain three elements. It will contain the amendment of the gentlewoman from California (Ms. LEE) on insurance redlining, which she won in the Committee on Banking and Financial Services, but the Committee on Rules would not put in order. It will include the amendment of the gentleman from California (Mr. CONDIT) and the gentleman from California (Mr. WAXMAN), which ensures that full medical privacy

protections are guaranteed. They are not in this bill; and third, that the financial privacy amendment, which I won in the Committee on Commerce, but not put in order out here, is also voted upon.

Remember, in the Oxley amendment, telemarketing is prohibited by unaffiliated companies of a bank holding company but telemarketing of the financial data is not stopped inside the bank holding company.

We are going to prohibit that tonight in the recommittal motion.

Mr. Speaker, I yield to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, when I appeared before the Committee on Rules yesterday, I said there were a number of corrections or amendments that should be offered. First of all, I said please restore a provision that the Committee on Banking and Financial Services adopted or at least allow us to offer it as an amendment. That dealt with a prohibition against redlining against an insurance company when the insurance company wants to affiliate with a bank. That is in the Markey motion to recommit.

I also said I was very troubled by the Ganske amendment because although it is extremely well intentioned, the exceptions to it one could drive a Mack truck through it right now, and it might be construed as preempting the ability to articulate through regulation more broad sweeping privacy protections.

Also, at that time, the Markey amendment would have been a substitute for the excellent privacy provisions that have been worked out in a bipartisan fashion. I can support the bill but the bill would be improved tremendously by the motion to recommit.

Mr. MARKEY. Mr. Speaker, I yield to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I thank my colleague, the gentleman from Massachusetts (Mr. MARKEY) for yielding and for his consistent hard work on behalf of our consumers.

Mr. Speaker, I wanted to support a reasonable financial services modernization bill and I worked very hard with my colleagues to include important consumer protections and privacy measures as this bill moved to the floor. Unfortunately, however, the Republicans refused to accept these amendments, and made matters worse by wiping out an adopted anti-redling provision to require the insurance industry to comply with the Fair Housing Act and not discriminate against the poor, minorities and people who live in neighborhoods redlined by the insurance industry.

We have not allowed banks to discriminate. Why should we allow the insurance industry to discriminate?

We did not adopt this amendment to stall this bill as one of my Republican colleagues accused me of earlier. We adopted this amendment to provide equal opportunity for all Americans. The Committee on Rules, by whatever unDemocratic means they used in a blatant, arrogant misuse of their power, deleted this important, agreed-upon amendment. This overt violation of the legislative process is outrageous and really should be illegal. It is an example of governmental lawlessness.

Let us restore some integrity to this process and vote for this motion to recommit

Mr. MARKEY. Mr. Speaker, I yield to the gentleman from California (Mr. CONDIT).

Mr. CONDIT. Mr. Speaker, I rise in support of the recommittal motion and am opposed to H.R. 10. Let me simply just say the reason that I oppose H.R. 10 and support the motion to recommit is section 351.

This section of the bill should have been deleted. The privacy part related to medical records is inadequate. It does not have consumer consent. The definition of the consent under this section on page 371 is too vague. The health research part of the bill creates loopholes for drug companies and marketing firms. Patients rights, they simply do not exist; no access to a person's own health records. A person cannot even get their own records and have control over them. There is no redress if a person's privacy is violated; no restrictions on third party entities from disclosing personal information to marketing firms or other parties.

We ought to do this right on behalf of the American people.

It is important that we do this bill H.R. 10, but it is not more important than us protecting people's privacy. That should be our main thrust in this bill is to make sure that the people of this country can count on us to protect their privacy.

Mr. MARKEY. Mr. Speaker, this is a pure substance vote. These are the votes the bankers did not want to be taken. The reason they did not want them to be taken is because they are so hard. Yes, we are going to offer full medical privacy protection to all of people's records.

□ 2300

This is a straight up-or-down substantive vote. Yes, we are going to give full financial protection. It does not make any difference whether it is some third party or the bank themselves, we have a right to say no. If we want all of these services from this new financial structure, we can take advantage of them, but we might be part of the 10 percent or 20 percent or 30 percent, in the same way that we have an unlisted phone number, we just might not want anyone telemarketing to us, even from our bank, going through all of our checks. Just say no.

Thirdly, the point of the gentlewoman from California (Ms. LEE) on the insurance industry, why should it be any different on redlining? Why should not her community and all the poorer communities of the country have those kinds of protections?

When Members vote for recommital, it goes straight into the bill, it is part of it, and then we vote final passage. If Members vote no, they are voting not to put it in the bill right now. Recommital does not go back to the committee, it just goes right to that desk and into the bill immediately.

This is a straight substance vote. Please, vote for the recommital motion, and Members have made this a good financial services modernization bill for the banks and for the American people.

Mr. LEACH. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER. The gentleman from Iowa (Mr. LEACH) is recognized for 5 minutes.

Mr. LEACH. First, Mr. Speaker, let me express my appreciation for the thoughtfulness of the concerns of the proponents of this motion.

At the risk of presumption, I would stress that the majority and the minority are not as far apart as the rhetoric might lead a listener to this debate to expect.

There are two principal aspects to the amendment. One relates to the Lee amendment on redlining, which some of us on this side differ with, and others, like myself, find quite reasonable.

The other relates to privacy. Here I would simply note that the bill before us represents the greatest expansion of privacy rights in modern day finance. Indeed, it represents, in the words of the gentlewoman from Oregon (Ms. HOOLEY), a movement far further than she would have ever have dreamed.

In the words of the gentleman from Massachusetts (Mr. MARKEY), it is a good step forward. Actually, it is not one but a number of steps forward. Let me mention six.

One, there is a mandatory disclosure by financial institutions of privacy policies.

Two, there are consumer opt-out choices to prevent the sale of confidential information to unaffiliated third parties.

Three, there is a medical opt-in choice to prevent the transfer of a consumer's medical information without the consumer's consent.

Four, there is a prohibition on disclosure of consumer account numbers to third party telemarketers.

Five, there are new privacy enforcement mechanisms for financial institution regulators.

Six, there is a prohibition on pretext calling. This is a policy where individuals can call up an institution and claim they are someone else and get their information, and now that is outlawed.

To object to this bill on final passage will be to vote against these privacy protections. Indeed, the biggest privacy vote of all our careers in the United States Congress will be on final passage of this bill. Let me repeat, the biggest privacy vote of all our careers in Congress will be on final passage of this bill.

Now, what is the amendment before us? Basically, the amendment before us subtracts one feature of the bill and adds another. What it subtracts is the provision of the gentleman from Iowa (Mr. GANSKE) which imposes important new protections for health and medical privacy. I have never known a more misunderstood provision, so let me stress what the Ganske provision does.

It imposes a broad prohibition on the disclosure by an insurance company or its affiliates of individually identifiable health, medical, and genetic information, unless the customer expressly consents to such disclosure.

If Members strip this provision of H.R. 10 from the bill, they are leaving customers of financial companies without any medical privacy protections, thereby leading to precisely the kinds of privacy umbrages that the opponents of the language claim they want to prevent.

In this regard, I would stress again that there is no intent in this bill to preempt executive branch actions or jeopardize any confidences associated with doctor-patient relationships, nor the privacy protections currently afforded any medical records.

Indeed, the intent is to strengthen these protections. To the degree that more precision in this area is required, this gentleman is prepared to work in conference to ensure that that occurs.

What is it that this amendment adds? It adds a restriction on the ability of financial institutions to share consumer information with affiliates that are all part of the same financial organization.

Unfortunately, there is some question whether this proposed restriction on affiliate information-sharing might needlessly and dramatically increase costs for consumers and financial institutions, reduce consumer convenience, impair fraud detection and prevention, and deny consumers new cost-effective products.

It is the intention of the various committees of jurisdiction, including the Committee on Banking and Financial Services, to hold hearings on this issue in the near future. This Member has an open mind. The concerns I raise are questions without definitive answers.

Accordingly, at this time, I would urge caution, and only ask that Members recognize the historical nature of the extraordinary expansion of privacy protection contained in this bill.

In conclusion, I urge an enthusiastic yes vote on final passage, again, final passage on the greatest privacy expansion in the history of American finance, and a preliminary no vote on the Markey motion to recommit until the consequences of his approach receive careful scrutiny in the hearings process.

I thank all, friend and foe, for their courtesies.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. MARKEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 198, nays 232, not voting 5, as follows:

[Roll No. 275]

YEAS—198

Abercrombie
Ackerman
Allen
Andrews
Baird
Baldacci
Baldwin
Barcia
Barrett (WI)
Becerra
Bentsen
Berkley
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Capuano
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Crowley
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gejdenson
Gephardt
Gonzalez
Gordon
Gutierrez
Hall (OH)
Hastings (FL)
Hill (IN)
Hilliard
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E.B.
Jones (OH)
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Larson
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller, George
Minge
Mink
Moakley
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Phelps
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rogan
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schakowsky
Scott
Serrano
Sherman
Shows
Sisisky
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stabenow
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Thurman
Tierney
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weiner
Wexler
Weygand
Woolsey
Wu
Wynn

NAYS—232

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Biggert
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boucher
Brady (TX)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Cramer
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
DeMint
Diaz-Balart
Dickey
Dooley
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Fletcher
Foley
Forbes
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green (WI)
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Kasich
Kelly
King (NY)
Kingston
Knollenberg
Kolbe
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Maloney (CT)
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Miller, Gary
Mollohan
Moran (KS)
Morella
Myrick
Nethercutt
Ney
Northup
Norwood
Nussle
Ose
Oxley
Packard
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Reynolds
Riley
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simpson
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spence
Stearns
Stump
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (NC)
Terry
Thomas
Thornberry
Thune
Tiahrt
Toomey
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)

NOT VOTING—5

Brown (CA)
Fossella
Green (TX)
Lipinski
Pelosi

□ 2323

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LEACH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 343, noes 86, not voting 6, as follows:

[Roll No. 276]

AYES—343

Ackerman
Aderholt
Allen
Andrews
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Cardin
Carson
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Collins
Cook
Cooksey
Cox
Cramer
Crane
Crowley
Cubin
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Etheridge
Everett
Ewing
Fletcher
Foley
Forbes
Ford
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Hill (IN)
Hill (MT)
Hilleary
Hinojosa
Hobson
Hoeffel
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Klink
Knollenberg
Kolbe
Kuykendall
LaFalce
Largent
Larson
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lowey
Lucas (KY)
Lucas (OK)
Maloney (CT)
Maloney (NY)
Manzullo
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (FL)
Miller, Gary
Minge
Moakley
Mollohan
Moore
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Strickland
Stump
Sununu
Sweeney
Talent
Tanner
Tauscher
Tauzin
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thune
Tiahrt
Toomey
Towns
Traficant
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOES—86

Abercrombie
Baldwin
Barrett (WI)
Barton
Bonilla
Brady (PA)
Brady (TX)
Brown (OH)
Campbell
Capps
Capuano
Chenoweth
Clay
Coburn
Combest
Condit
Conyers
Costello
Coyne
Cummings
DeFazio
DeGette
Delahunt
DeLauro
Dingell
Edwards
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Gejdenson
Granger
Hefley
Hilliard
Hinchey
Hoekstra
Inslee
Jackson (IL)
Kaptur
Kleczka
Kucinich
LaHood
Lampson
Lantos
Lee
Lewis (GA)
Lofgren
Luther
Markey
Martinez
McCarthy (MO)
McDermott
McKinney
Meehan
Mica
Miller, George
Mink
Moran (KS)
Nadler
Obey
Olver
Ortiz
Paul
Payne
Peterson (MN)
Phelps
Rivers
Rodriguez
Roybal-Allard
Sanders
Schakowsky
Serrano
Stark
Stenholm
Stupak
Tancredo
Taylor (MS)
Thornberry
Thurman
Tierney
Turner
Waters
Waxman
Woolsey

NOT VOTING—6

Archer
Brown (CA)
Fossella
Green (TX)
Lipinski
Pelosi

☐ 2332

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. REYNOLDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 10.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR CONDITIONAL ADJOURNMENT OF THE SENATE AND HOUSE

Mr. REYNOLDS. Mr. Speaker, I call from the Speaker's table the Senate concurrent resolution (S. Con. Res. 43) providing for conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives, and ask for its immediate consideration.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 43

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, July 1, 1999, Friday, July 2, 1999, or Saturday, July 3, 1999, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, July 12, 1999, or until such time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Thursday, July 1, 1999, or Friday, July 2, 1999, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 12:30 p.m. on Monday, July 12, 1999, for morning-hour debate, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

The SPEAKER. Without objection, House Resolution 236 is laid on the table.

There was no objection.

AUTHORIZING SPEAKER, MAJORITY LEADER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND TO MAKE APPOINTMENTS NOT WITHSTANDING ADJOURNMENT

Mr. REYNOLDS. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, July 12, 1999, the Speaker, majority leader, and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 14, 1999

Mr. REYNOLDS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 14, 1999.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1300

Mr. FROST. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1300.