

# Union Calendar No. 144

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 1408

[Report No. 107–192, Parts I and II]

To safeguard the public from fraud in the financial services industry, to streamline and facilitate the antifraud information-sharing efforts of Federal and State regulators, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2001

Mr. ROGERS of Michigan (for himself, Mr. OXLEY, Mrs. KELLY, Mr. BACHUS, and Mr. TIBERI) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on the Judiciary, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

AUGUST 2, 2001

Reported from the Committee on Financial Services with an amendment  
[Strike out all after the enacting clause and insert the part printed in *italic*]

AUGUST 2, 2001

Referral to the Committee on Agriculture extended for a period ending not later than August 2, 2001

AUGUST 2, 2001

The Committee on Agriculture discharged

AUGUST 2, 2001

Referral to the Committee on the Judiciary extended for a period ending not later than September 14, 2001

SEPTEMBER 14, 2001

Referral to the Committee on the Judiciary extended for a period ending not later than October 5, 2001

OCTOBER 5, 2001

Referral to the Committee on the Judiciary extended for a period ending not later than October 12, 2001

OCTOBER 12, 2001

Referral to the Committee on the Judiciary extended for a period ending not later than October 16, 2001

OCTOBER 16, 2001

Additional sponsors: Mr. SHOWS, Mr. SHERMAN, Mr. CANTOR, Mr. HOBSON, Mr. GILLMOR, Mr. NEY, Mrs. ROUKEMA, Ms. KILPATRICK, Mr. WELDON of Florida, Mrs. BIGGERT, Mr. NORWOOD, Mr. KING, Mr. CHAMBLISS, Mrs. NORTHUP, Ms. PRYCE of Ohio, and Mr. CRAMER

OCTOBER 16, 2001

Reported from the Committee on the Judiciary with an amendment; committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through in italic and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on April 4, 2001]

---

## A BILL

To safeguard the public from fraud in the financial services industry, to streamline and facilitate the antifraud information-sharing efforts of Federal and State regulators, and for other purposes.

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

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

4       (a) *SHORT TITLE.*—*This Act may be cited as the “Fi-*  
 5       *nancial Services Antifraud Network Act of 2001”.*

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

*Sec. 1. Short title; table of contents.*

*Sec. 2. Purposes.*

## TITLE I—ANTIFRAUD NETWORK

*Subtitle A—Direction to Financial Regulators*

Sec. 100. *Creation and operation of the network.*

*Subtitle B—Potential Establishment of Antifraud Subcommittee*

Sec. 101. *Establishment.*

Sec. 102. *Purposes of the Subcommittee.*

Sec. 103. *Chairperson; term of chairperson; meetings; officers and staff.*

Sec. 104. *Nonagency status.*

Sec. 105. *Powers of the Subcommittee.*

Sec. 106. *Agreement on cost structure.*

*Subtitle C—Regulatory Provisions*

Sec. 111. *Agency supervisory privilege.*

Sec. 112. *Confidentiality of information.*

Sec. 113. *Liability provisions.*

Sec. 114. *Authorization for identification and criminal background check.*

Sec. 115. *Definitions.*

Sec. 116. *Technical and conforming amendments to other acts.*

Sec. 117. *Audit of State insurance regulators.*

## TITLE II—SECURITIES INDUSTRY COORDINATION

*Subtitle A—Disciplinary Information*

Sec. 201. *Investment Advisers Act of 1940.*

Sec. 202. *Securities Exchange Act of 1934.*

*Subtitle B—Preventing Migration of Rogue Financial Professionals to the Securities Industry*

Sec. 211. *Securities Exchange Act of 1934.*

Sec. 212. *Investment Advisers Act of 1940.*

1 **SEC. 2. PURPOSES.**

2       *The purposes of this Act are—*

3               (1) *to safeguard the public from fraud in the fi-*  
4       *nancial services industry;*

5               (2) *to streamline the antifraud coordination ef-*  
6       *forts of Federal and State regulators and prevent fail-*  
7       *ure to communicate essential information;*

1           (3) to reduce duplicative information requests  
2           by, and other inefficiencies of, financial services regu-  
3           lation;

4           (4) to assist financial regulators in detecting  
5           patterns of fraud, particularly patterns that only be-  
6           come apparent when viewed across the full spectrum  
7           of the financial services industry; and

8           (5) to take advantage of Internet technology and  
9           other advanced data-sharing technology to modernize  
10          the fight against fraud in all of its evolving mani-  
11          festations and permutations.

12       **TITLE I—ANTIFRAUD NETWORK**  
13       **Subtitle A—Direction to Financial**  
14                **Regulators**

15       **SEC. 100. CREATION AND OPERATION OF THE NETWORK.**

16       (a) *SHARING OF PUBLIC INFORMATION.*—The finan-  
17       cial regulators shall, to the extent practicable and appro-  
18       priate and in consultation with other relevant and appro-  
19       priate agencies and parties—

20           (1) develop procedures to provide for a network  
21           for the sharing of antifraud information; and

22           (2) coordinate to further improve upon the anti-  
23           fraud efforts of the participants in the network as  
24           such participants deem appropriate over time.

1       (b) *MINIMUM REQUIREMENTS.*—*The procedures de-*  
2 *scribed in subsection (a) shall—*

3           (1) *provide for the sharing of public final dis-*  
4 *ciplinary and formal enforcement actions taken by*  
5 *the financial regulators that are accessible electroni-*  
6 *cally relating to the conduct of persons engaged in the*  
7 *business of conducting financial activities that is*  
8 *fraudulent, dishonest, or involves a breach of trust or*  
9 *relates to the failure to register with the appropriate*  
10 *financial regulator as required by law;*

11           (2) *include a plan for considering the sharing*  
12 *among the participants of other relevant and useful*  
13 *antifraud information relating to companies and*  
14 *other persons engaged in conducting financial activi-*  
15 *ties, to the extent practicable and appropriate when*  
16 *adequate privacy, confidentiality, and security safe-*  
17 *guards governing access to, and the use of, such infor-*  
18 *mation have been developed that—*

19                   (A) *is accessible by the public; or*

20                   (B) *pertains to information, that does not*  
21 *include personally identifiable information on*  
22 *consumers, on—*

23                           (i) *licenses and applications, financial*  
24 *affiliations and name-relationships, aggre-*

1            *gate trend data, appraisals, or reports filed*  
2            *by a regulated entity with a participant; or*

3            *(ii) similar information generated by*  
4            *or for a participant if—*

5                    *(I) such information is being*  
6                    *shared for the purpose of verifying an*  
7                    *application or other report filed by a*  
8                    *regulated entity; and*

9                    *(II) the participant determines*  
10                   *such information is factual and sub-*  
11                   *stantiated; and*

12            *(3) provide that, if a financial regulator takes*  
13            *an adverse action against a person engaged in the*  
14            *business of conducting financial activities on the basis*  
15            *of information described in paragraph (1) or (2) that*  
16            *was received from another participant through the*  
17            *network, the regulator shall—*

18                    *(A) notify the person of the identity of the*  
19                    *participant from whom such information was re-*  
20                    *ceived;*

21                    *(B) provide the person with a specific and*  
22                    *detailed description of the information that was*  
23                    *received from the other participant through the*  
24                    *network and would be relied on in taking the ad-*  
25                    *verse action; and*

1           (C) notify the person of the right to a rea-  
2           sonable opportunity to respond to such informa-  
3           tion.

4           (c) *PROVISIONS RELATING TO REQUIREMENTS.*—

5           (1) *TIME OF NOTICE.*—The notice to any person,  
6           and the opportunity to respond, under subsection  
7           (b)(3) shall be provided to the person a reasonable pe-  
8           riod of time before any final action against the person  
9           which is based on information referred to in such  
10          paragraph is completed, unless the financial regulator  
11          determines that such advance notice and opportunity  
12          to respond is impracticable or inappropriate, in  
13          which case the notice and opportunity to respond  
14          shall be provided at the time of such final action.

15          (2) *VERIFICATION OR SUBSTANTIATION OF IN-*  
16          *FORMATION.*—With respect to subsection (b)(3), a  
17          delay in the consideration of a license, application,  
18          report, or other request for the purpose of verifying or  
19          substantiating information relating to such license,  
20          application, report, or other request shall not be treat-  
21          ed as an adverse action if the verification or substan-  
22          tiation of such information is completed within a rea-  
23          sonable time.

24          (d) *IMPLEMENTATION.*—

1           (1) *SUBMISSION OF PLAN.*—*Before the end of the*  
2           *6-month period beginning on the date of the enact-*  
3           *ment of this Act, the Federal financial regulators*  
4           *shall submit to Congress a plan detailing how the fi-*  
5           *nancial regulators (and any association representing*  
6           *financial regulators) will meet the requirements of*  
7           *subsections (a) and (b).*

8           (2) *DEADLINE FOR IMPLEMENTATION.*—*Before*  
9           *the end of the 2-year period beginning on the date of*  
10          *the enactment of this Act, the financial regulators*  
11          *shall establish the network described in subsections (a)*  
12          *and (b).*

13          (e) *FINANCIAL REGULATORS DEFINED.*—*For the pur-*  
14          *poses of this section, the term “financial regulators” means*  
15          *the financial regulators described in subparagraphs (A)*  
16          *through (Q) of section 115(3).*

17          (f) *DETERMINATION OF IMPLEMENTATION OF SUB-*  
18          *TITLE B.*—

19               (1) *IN GENERAL.*—*The provisions of subtitle B*  
20               *shall take effect only if the Secretary of the Treasury,*  
21               *or a designee of the Secretary, before the end of the*  
22               *30-day period beginning at the end of the period re-*  
23               *ferred to in—*

24                       (A) *subsection (d)(1), does not determine*  
25                       *that the Federal financial regulators have sub-*



1           *mitted a plan which substantially meets the re-*  
2           *quirements of such subsection; or*

3           *(B) subsection (d)(2), does not determine*  
4           *that the financial regulators have established a*  
5           *network that substantially complies with the re-*  
6           *quirements of subsections (a) and (b).*

7           *(2) SCOPE OF APPLICATION.—This subtitle shall*  
8           *cease to apply as of the date subtitle B takes effect.*

9           *(g) USE OF CENTRALIZED DATABASES.—*

10           *(1) IN GENERAL.—A financial regulator shall be*  
11           *deemed to have met the requirements of subsection*  
12           *(b)(1) if—*

13           *(A) the participants have access to a cen-*  
14           *tralized database that contains information on*  
15           *public final disciplinary or formal enforcement*  
16           *actions similar to that described in such sub-*  
17           *section; or*

18           *(B) the financial regulator makes the infor-*  
19           *mation described in such subsection available to*  
20           *the public over the Internet.*

21           *(2) STATE SUPERVISORS.—It is the sense of the*  
22           *Congress that the National Association of Insurance*  
23           *Commissioners, the Conference of State Bank Super-*  
24           *visors, the American Council of State Savings Super-*  
25           *visors, the National Association of State Credit Union*

1 *Supervisors, and the North American Securities Ad-*  
2 *ministrators Association should develop model guide-*  
3 *lines for regulators in their respective regulated finan-*  
4 *cial industries, where appropriate, to promote uni-*  
5 *form standards for sharing information with the net-*  
6 *work under this section.*

7 *(h) FINANCIAL REGULATOR CONTROL OF ACCESS.—*

8 *(1) IN GENERAL.—Except as provided in para-*  
9 *graph (4), each participant that allows access to its*  
10 *databases or information by other participants*  
11 *through the network may establish parameters for*  
12 *controlling or limiting such access, including the reg-*  
13 *ulation of—*

14 *(A) the type or category of information that*  
15 *may be accessed by other participants and the*  
16 *extent to which any such type or category of in-*  
17 *formation may be accessed;*

18 *(B) the participants that may have access*  
19 *to the database or any specific type or category*  
20 *of information in the database (whether for rea-*  
21 *sons of cost reimbursement, data security, effi-*  
22 *ciency, or otherwise); and*

23 *(C) the disclosure by any other participant*  
24 *of any type or category of information that may*  
25 *be accessed by the participant.*

1           (2) *PROCEDURES.*—A participant may establish  
2           the parameters described in paragraph (1) by regula-  
3           tion, order, or guideline or on a case-by-case basis.

4           (3) *DISCLAIMER.*—

5           (A) *IN GENERAL.*—Each participant shall  
6           ensure that any transfer of information through  
7           the network under this section, other than infor-  
8           mation described in paragraphs (1) and (2) of  
9           subsection (b), from such participant to another  
10          participant is subject to a disclaimer that the in-  
11          formation accessed may be unsubstantiated and  
12          may not be relied on as the basis for denying  
13          any application or license.

14          (B) *REGULATORY FLEXIBILITY.*—Each fi-  
15          nancial regulator may develop guidelines, as the  
16          regulator determines to be appropriate, gov-  
17          erning the location, wording, and frequency of  
18          disclaimers under this paragraph and the man-  
19          ner in which any such disclaimer shall be made.

20          (4) *FINAL DISCIPLINARY AND FORMAL ENFORCE-*  
21          *MENT ACTIONS NOT SUBJECT TO LIMITATION.*—This  
22          subsection, and standards or procedures adopted by  
23          any participant under this subsection, shall not apply  
24          with respect to information described in paragraphs  
25          (1) and (2) of subsection (b).

1           (5) *NO EFFECT ON PUBLIC OR COMPANY AC-*  
2           *CESS.—No provision of this section shall replace, su-*  
3           *persede, or otherwise affect access to any databases*  
4           *maintained by any Federal or State regulator, or any*  
5           *entity representing any such regulator, which are ac-*  
6           *cessible by the public or persons engaged in the busi-*  
7           *ness of conducting financial activities.*

8           (i) *ELIGIBILITY REQUIREMENTS FOR STATE SECURI-*  
9           *TIES ADMINISTRATORS.—*

10           (1) *IN GENERAL.—No State securities adminis-*  
11           *trator shall be eligible to be a participant and access*  
12           *the network unless—*

13                   (A) *such State securities administrator par-*  
14                   *ticipates in a centralized database for broker-*  
15                   *dealers, broker-dealer agents, investment advis-*  
16                   *ers, and investment advisor representatives, reg-*  
17                   *istered or required to be registered, as designated*  
18                   *by the North American Securities Administra-*  
19                   *tors Association; and*

20                   (B) *such State securities administrator re-*  
21                   *quires the broker-dealer, broker-dealer agent, in-*  
22                   *vestment adviser, or investment adviser rep-*  
23                   *resentative, currently registered or required to be*  
24                   *registered, to file any application, amendment to*

1           *an application, or a renewal of an application*  
2           *through the centralized registration database.*

3           (2) *TIME DELAY FOR PARTICIPATION IN DATA-*  
4           *BASES.—The provisions of paragraph (1) shall not*  
5           *become effective until 3 years after the date of enact-*  
6           *ment of this Act.*

7           (j) *ELIGIBILITY REQUIREMENTS FOR STATE INSUR-*  
8 *ANCE COMMISSIONERS.—*

9           (1) *PARTICIPATION IN DATABASES.—No State*  
10          *insurance commissioner shall be eligible to access the*  
11          *network unless such commissioner participates with*  
12          *other State insurance commissioners—*

13                 (A) *in a centralized database addressing*  
14                 *disciplinary or enforcement actions taken*  
15                 *against persons engaged in the business of insur-*  
16                 *ance, such as the Regulatory Information Re-*  
17                 *trieval System maintained by the National Asso-*  
18                 *ciation of Insurance Commissioners or any net-*  
19                 *work or database designated by such Association*  
20                 *as a successor to such System; and*

21                 (B) *in centralized databases addressing,*  
22                 *with respect to persons engaged in the business*  
23                 *of insurance—*

24                         (i) *corporate and other business affili-*  
25                         *ations or relationships, such as the Pro-*

1            *ducer Database maintained by the National*  
2            *Association of Insurance Commissioners or*  
3            *any network or database designated by such*  
4            *Association as a successor to such Database;*  
5            *and*

6            *(ii) consumer complaints, such as the*  
7            *Complaints Database maintained by the*  
8            *National Association of Insurance Commis-*  
9            *sioners or any network or database des-*  
10           *ignated by such Association as a successor*  
11           *to such Database.*

12           *(2) TIME DELAY FOR PARTICIPATION IN DATA-*  
13           *BASES.—The provisions of subparagraph (1)(B) of*  
14           *this section shall not become effective until 3 years*  
15           *after the date of enactment of this Act.*

16           *(3) ACCREDITATION.—No State insurance com-*  
17           *missioner shall be eligible to access the network unless*  
18           *the State insurance department which such commis-*  
19           *sioner represents meets 1 of the following accredita-*  
20           *tion requirements at the time of access to the network:*

21           *(A) Is accredited by the National Associa-*  
22           *tion of Insurance Commissioners.*

23           *(B) Has an application for accredited sta-*  
24           *tus pending with the National Association of In-*  
25           *surance Commissioners.*

1           (C) *Has a determination by the Sub-*  
2           *committee in effect that such State insurance de-*  
3           *partment meets or exceeds the standards estab-*  
4           *lished by the National Association of Insurance*  
5           *Commissioners for accreditation.*

6           (k) *STANDARDS.—Each financial regulator shall con-*  
7           *sider developing guidelines for participants on—*

8           (1) *how to denote which types of information are*  
9           *to receive different levels of confidentiality protection;*  
10          *and*

11          (2) *how entities or associations that act as*  
12          *agents for financial regulators should denote such*  
13          *agency status when acting in that capacity.*

14          (l) *OTHER SHARING ARRANGEMENTS NOT AF-*  
15          *FECTED.—No provision of this section shall be construed*  
16          *as limiting or otherwise affecting the authority of a finan-*  
17          *cial regulator to provide any person, including another par-*  
18          *ticipant, access to any information in accordance with any*  
19          *provision of law other than this Act.*

20          ***Subtitle B—Potential Establishment***  
21          ***of Antifraud Subcommittee***

22          ***SEC. 101. ESTABLISHMENT.***

23          (a) *IN GENERAL.—Unless the determinations described*  
24          *in section 100(f) are made, after the applicable date de-*  
25          *scribed in such section there shall be established within the*

1 *President’s Working Group on Financial Markets (as estab-*  
2 *lished by Executive Order No. 12631) a subcommittee to*  
3 *be known as the “Antifraud Subcommittee” (hereafter in*  
4 *this title referred to as the “Subcommittee”) which shall*  
5 *consist of the following members:*

6           (1) *The Secretary of the Treasury, or a designee*  
7 *of the Secretary.*

8           (2) *The Chairman of the Securities and Ex-*  
9 *change Commission or a designee of the Chairman.*

10           (3) *A State insurance commissioner designated*  
11 *by the National Association of Insurance Commis-*  
12 *sioners, or a designee of such commissioner.*

13           (4) *The Chairman of the Commodity Futures*  
14 *Trading Commission or a designee of such Chairman.*

15           (5) *A designee of the Chairman of the Federal*  
16 *Financial Institutions Examination Council.*

17           (b) *FINANCIAL LIAISONS.—The following shall serve as*  
18 *liaisons between the Subcommittee and the agencies rep-*  
19 *resented by each such liaison:*

20           (1) *A representative of each Federal banking*  
21 *agency appointed by the head of each such agency.*

22           (2) *A representative of the National Credit*  
23 *Union Administration appointed by the National*  
24 *Credit Union Administration Board.*



1           (3) *A representative of the Farm Credit Admin-*  
2           *istration, appointed by the Farm Credit Administra-*  
3           *tion Board.*

4           (4) *A representative of the Federal Housing Fi-*  
5           *nance Board, appointed by such Board.*

6           (5) *A representative of the Office of Federal*  
7           *Housing Enterprise Oversight of the Department of*  
8           *Housing and Urban Development appointed by the*  
9           *Director of such Office.*

10          (6) *A representative of the Appraisal Sub-*  
11          *committee of the Financial Institutions Examination*  
12          *Council.*

13          (7) *A representative of State bank supervisors*  
14          *designated by the Conference of State Bank Super-*  
15          *visors.*

16          (8) *A representative of State savings association*  
17          *supervisors designated by the American Council of*  
18          *State Savings Supervisors.*

19          (9) *A representative of State credit union super-*  
20          *visors designated by the National Association of State*  
21          *Credit Union Supervisors.*

22          (10) *A representative of State securities adminis-*  
23          *trators designated by the North American Securities*  
24          *Administrators Association.*

1           (11) *A representative of the National Association*  
2 *of Securities Dealers appointed by the National Asso-*  
3 *ciation of Securities Dealers.*

4           (12) *A representative of the National Futures As-*  
5 *sociation appointed by the National Futures Associa-*  
6 *tion.*

7           (13) *Any other financial liaison as the Sub-*  
8 *committee may provide to represent any other finan-*  
9 *cial regulator or foreign financial regulator, includ-*  
10 *ing self-regulatory agencies or organizations that*  
11 *maintain significant databases on persons engaged in*  
12 *the business of conducting financial activities, des-*  
13 *ignated in the manner provided by the Subcommittee.*

14 *(c) OTHER LIAISONS.—*

15           (1) *LAW ENFORCEMENT LIAISONS.—The fol-*  
16 *lowing shall serve as liaisons between the Sub-*  
17 *committee and the agencies represented by each such*  
18 *liaison:*

19                   (A) *A representative of the Department of*  
20 *Justice appointed by the Attorney General.*

21                   (B) *A representative of the Federal Bureau*  
22 *of Investigation appointed by the Director of*  
23 *such Bureau.*

1           (C) *A representative of the United States*  
2           *Secret Service appointed by the Director of such*  
3           *Service.*

4           (D) *A representative of the Financial*  
5           *Crimes Enforcement Network (as established by*  
6           *the Secretary of the Treasury) appointed by the*  
7           *Secretary of the Treasury.*

8           (2) *SUBCOMMITTEE APPOINTED LIAISONS.—The*  
9           *Subcommittee may provide for any other liaison to*  
10          *represent any other regulator, including self-regu-*  
11          *latory agencies or organizations that maintain data-*  
12          *bases on persons engaged in the business of con-*  
13          *ducting financial activities, designated in the manner*  
14          *provided by the Subcommittee.*

15          (d) *VACANCY.—If, for any reason, the position of any*  
16          *member of or liaison to the Subcommittee is not filled with-*  
17          *in a reasonable period of time after being created or becom-*  
18          *ing vacant, the President shall appoint an individual to*  
19          *fill the position after consulting the agency or entity to be*  
20          *represented by such member or liaison, and to the extent*  
21          *possible, shall appoint such individual from a list of pos-*  
22          *sible representatives submitted by such agency or entity.*

23          (e) *REORGANIZATION AUTHORITY.—*

24                  (1) *IN GENERAL.—If the President disbands or*  
25          *otherwise significantly modifies the Working Group*

1       referred to in subsection (a), the President shall pro-  
2       vide for the continuation of the Subcommittee's co-  
3       ordination functions.

4               (2) *MEMBER AND LIAISON WITHDRAWAL.*—If the  
5       President materially alters the structure or duties of  
6       the Subcommittee, any member of or liaison to the  
7       Subcommittee may withdraw from the Subcommittee.

8       **SEC. 102. PURPOSES OF THE SUBCOMMITTEE.**

9               (a) *IN GENERAL.*—The purposes of the Subcommittee  
10      are as follows:

11              (1) *Coordinate access by the participants to*  
12      *antifraud databases of various regulators, by facili-*  
13      *tating the establishment, maintenance, and use of a*  
14      *network of existing antifraud information maintained*  
15      *by such regulators with respect to persons engaged in*  
16      *the business of conducting financial activities.*

17              (2) *Coordinate access by each participant to such*  
18      *network in a manner that allows the participant to*  
19      *review, at a minimal cost, existing information in the*  
20      *databases of other regulators, as a part of licensure,*  
21      *change of control, or investigation, concerning any*  
22      *person engaged in the business of conducting finan-*  
23      *cial activities.*

24              (3) *Coordinate information sharing, where ap-*  
25      *propriate, among State, Federal, and foreign finan-*

1        *cial regulators, and law enforcement agencies, where*  
2        *sufficient privacy and confidentiality safeguards*  
3        *exist.*

4            (4) *Consider coordinating development by par-*  
5        *ticipants of a networked name-relationship index for*  
6        *persons engaged in the business of conducting finan-*  
7        *cial activities using information from the databases of*  
8        *regulators, to the extent such information is available.*

9            (5) *Advise participants on coordinating their*  
10       *antifraud databases with the network.*

11           (6) *Coordinate development of guidelines by par-*  
12       *ticipants for ensuring appropriate privacy, confiden-*  
13       *tiality, and security of shared information, including*  
14       *tracking systems or testing audits, as appropriate.*

15        (b) *CRITERIA FOR NETWORK WITH RESPECT TO ANY*  
16 *PERSON ENGAGED IN THE BUSINESS OF CONDUCTING FI-*  
17 *NANCIAL ACTIVITIES.—*

18           (1) *FINAL DISCIPLINARY AND FORMAL ENFORCE-*  
19       *MENT ACTIONS.—Each financial regulator that is rep-*  
20       *resented by a member of the Subcommittee under sec-*  
21       *tion 101(a) or by a financial liaison to the Sub-*  
22       *committee under section 101(b) shall allow any par-*  
23       *ticipant access, through the network, to any public*  
24       *final disciplinary or formal enforcement action by*  
25       *such regulator which is accessible electronically relat-*

1        *ing to the conduct of persons engaged in the business*  
2        *of conducting financial activities that is fraudulent or*  
3        *dishonest, involves a breach of trust, or relates to the*  
4        *failure to register with the appropriate financial reg-*  
5        *ulator as required by law.*

6                (2) *SENSE OF THE CONGRESS ON OTHER INFOR-*  
7        *MATION.—It is the sense of the Congress that the fi-*  
8        *nancial regulators should consider sharing through*  
9        *the network other relevant and useful antifraud infor-*  
10        *mation relating to companies and other persons en-*  
11        *gaged in conducting financial activities, to the extent*  
12        *practicable and appropriate when adequate privacy,*  
13        *confidentiality, and security safeguards governing ac-*  
14        *cess to and the use of such information have been de-*  
15        *veloped that—*

16                    (A) *is accessible by the public; or*

17                    (B) *consists of information, that does not*  
18        *include personally identifiable information on*  
19        *consumers, on—*

20                    (i) *licenses and applications, financial*  
21        *affiliations and name-relationships, aggreg-*  
22        *ate trend data, or reports filed by a regu-*  
23        *lated entity with the participant; or*

24                    (ii) *similar information generated by*  
25        *or for a participant if—*

1                   (I) such information is being  
2                   shared for the purpose of verifying an  
3                   application or other report filed by a  
4                   regulated entity; and

5                   (II) the participant determines  
6                   such information is factual and sub-  
7                   stantiated; and

8                   (3) NOTICE AND RESPONSE.—If a financial reg-  
9                   ulator takes an adverse action against a person en-  
10                  gaged in the business of conducting financial activi-  
11                  ties on the basis of information described in para-  
12                  graph (1) or (2) that was received from another par-  
13                  ticipant through the network, the regulator shall—

14                  (A) notify the person of the identity of the  
15                  participant from whom such information was re-  
16                  ceived;

17                  (B) provide the person with a specific and  
18                  detailed description of the information that was  
19                  received from the other participant through the  
20                  network and would be relied on in taking the ad-  
21                  verse action; and

22                  (C) notify the person of the right to a rea-  
23                  sonable opportunity to respond to such informa-  
24                  tion.

25                  (4) PROVISIONS RELATING TO REQUIREMENTS.—

1           (A) *TIME OF NOTICE.*—Any notice to any  
2 person, and an opportunity to respond, under  
3 paragraph (3) shall be provided to the person a  
4 reasonable period of time before any final action  
5 against the person which is based on information  
6 referred to in such paragraph is completed, un-  
7 less the financial regulator determines that such  
8 advance notice and opportunity to respond is  
9 impracticable or inappropriate, in which case  
10 the notice and opportunity to respond shall be  
11 provided at the time of such final action.

12           (B) *VERIFICATION OR SUBSTANTIATION OF*  
13 *INFORMATION.*—With respect to information re-  
14 ferred to in paragraph (3), a delay in the con-  
15 sideration of a license, application, report, or  
16 other request for the purpose of verifying or sub-  
17 stantiating information relating to such license,  
18 application, report, or other request shall not be  
19 treated as an adverse action if the verification or  
20 substantiation of such information is completed  
21 within a reasonable time.

22           (5) *USE OF CENTRALIZED DATABASES.*—

23           (A) *IN GENERAL.*—A financial regulator  
24 shall be deemed to have met the requirements of  
25 paragraph (1) if the Subcommittee determines



1           that the participants have access to a centralized  
2           database that contains information on public  
3           final disciplinary or formal enforcement actions  
4           similar to that described in paragraph (1) or if  
5           the financial regulator makes the information  
6           described in paragraph (1) available to the pub-  
7           lic over the Internet.

8                       (B) *FACTORS FOR DETERMINATION.*—The  
9           Subcommittee shall make the determination  
10          under subparagraph (A) on an ongoing basis,  
11          considering both short-term costs and techno-  
12          logical limitations, as well as the need for long-  
13          term comprehensive coverage, and other appro-  
14          priate factors.

15                      (C) *STATE SUPERVISORS.*—It is the sense of  
16          the Congress that the National Association of In-  
17          surance Commissioners, the Conference of State  
18          Bank Supervisors, the American Council of State  
19          Savings Supervisors, the National Association of  
20          State Credit Union Supervisors, and the North  
21          American Securities Administrators Association  
22          should develop model guidelines for regulators in  
23          their respective regulated financial industries,  
24          where appropriate, to promote uniform stand-

1           ards for sharing information with the network  
2           under this section.

3           (c) *FINANCIAL REGULATOR CONTROL OF ACCESS.*—

4           (1) *IN GENERAL.*—*Except as provided in para-*  
5           *graph (4), each participant that allows access to its*  
6           *databases or information by other participants*  
7           *through the network may establish parameters for*  
8           *controlling or limiting such access, including the reg-*  
9           *ulation of—*

10                   (A) *the type or category of information that*  
11                   *may be accessed by other participants and the*  
12                   *extent to which any such type or category of in-*  
13                   *formation may be accessed;*

14                   (B) *the participants that may have access*  
15                   *to the database or any specific type or category*  
16                   *of information in the database (whether for rea-*  
17                   *sons of cost reimbursement, data security, effi-*  
18                   *ciency, or otherwise); and*

19                   (C) *the disclosure by any other participant*  
20                   *of any type or category of information that may*  
21                   *be accessed by the participant.*

22           (2) *PROCEDURES.*—*A participant may establish*  
23           *the parameters described in paragraph (1) by regula-*  
24           *tion, order, or guideline or on a case-by-case basis.*

25           (3) *DISCLAIMER.*—

1           (A) *IN GENERAL.*—Each participant shall  
2           ensure that any transfer of information through  
3           the network under this section, other than infor-  
4           mation described in paragraphs (1) and (2) of  
5           subsection (b), from such participant to another  
6           participant is subject to a disclaimer that the in-  
7           formation accessed may be unsubstantiated and  
8           may not be relied on as the basis for denying  
9           any application or license.

10           (B) *SUBCOMMITTEE FLEXIBILITY.*—The  
11           Subcommittee may prescribe such guidelines as  
12           the Subcommittee determines to be appropriate  
13           governing the location, wording, and frequency  
14           of disclaimers under this paragraph and the  
15           manner in which any such disclaimer shall be  
16           made.

17           (4) *FINAL DISCIPLINARY AND FORMAL ENFORCE-*  
18           *MENT ACTIONS NOT SUBJECT TO LIMITATION.*—This  
19           subsection, and standards or procedures adopted by  
20           any participant under this subsection, shall not apply  
21           with respect to information described in paragraphs  
22           (1) and (2) of subsection (b).

23           (5) *NO EFFECT ON PUBLIC OR COMPANY AC-*  
24           *CESS.*—No provision of this section shall replace, su-  
25           persede, or otherwise affect access to any databases

1       *maintained by any Federal or State regulator, or any*  
2       *entity representing any such regulator, which are ac-*  
3       *cessible by the public or persons engaged in the busi-*  
4       *ness of conducting financial activities.*

5       *(d) ELIGIBILITY REQUIREMENTS FOR STATE SECURI-*  
6       *TIES ADMINISTRATORS.—*

7               *(1) IN GENERAL.—No State securities adminis-*  
8       *trator shall be eligible to be a participant and access*  
9       *the network unless—*

10                   *(A) such State securities administrator par-*  
11       *ticipates in a centralized database for broker-*  
12       *dealers, broker-dealer agents, investment advis-*  
13       *ers, and investment advisor representatives, reg-*  
14       *istered or required to be registered, as designated*  
15       *by the North American Securities Administra-*  
16       *tors Association; and*

17                   *(B) such State securities administrator re-*  
18       *quires the broker-dealer, broker-dealer agent, in-*  
19       *vestment adviser, or investment adviser rep-*  
20       *resentative, currently registered or required to be*  
21       *registered, to file any application, amendment to*  
22       *an application, or a renewal of an application*  
23       *through the centralized registration database.*

24               *(2) TIME DELAY FOR PARTICIPATION IN DATA-*  
25       *BASES.—The provisions of paragraph (1) shall not*

1       *become effective until 3 years after the date of enact-*  
2       *ment of this Act.*

3       *(e) ELIGIBILITY REQUIREMENTS FOR STATE INSUR-*  
4       *ANCE COMMISSIONERS.—*

5               *(1) PARTICIPATION IN DATABASES.—No State*  
6       *insurance commissioner shall be eligible to access the*  
7       *network unless such commissioner participates with*  
8       *other State insurance commissioners—*

9                       *(A) in a centralized database addressing*  
10       *disciplinary or enforcement actions taken*  
11       *against persons engaged in the business of insur-*  
12       *ance, such as the Regulatory Information Re-*  
13       *trieval System maintained by the National Asso-*  
14       *ciation of Insurance Commissioners or any net-*  
15       *work or database designated by such Association*  
16       *as a successor to such System; and*

17                       *(B) in centralized databases addressing,*  
18       *with respect to persons engaged in the business*  
19       *of insurance—*

20                               *(i) corporate and other business affili-*  
21       *ations or relationships, such as the Pro-*  
22       *ducer Database maintained by the National*  
23       *Association of Insurance Commissioners or*  
24       *any network or database designated by such*

1           *Association as a successor to such Database;*  
2           *and*

3                     *(ii) consumer complaints, such as the*  
4           *Complaints Database maintained by the*  
5           *National Association of Insurance Commis-*  
6           *sioners or any network or database des-*  
7           *ignated by such Association as a successor*  
8           *to such Database.*

9           (2) *TIME DELAY FOR PARTICIPATION IN DATA-*  
10          *BASES.—The provisions of subparagraph (1)(B) of*  
11          *this section shall not become effective until 3 years*  
12          *after the date of enactment of this Act.*

13                 (3) *ACCREDITATION.—No State insurance com-*  
14          *missioner shall be eligible to access the network unless*  
15          *the State insurance department which such commis-*  
16          *sioner represents meets 1 of the following accredita-*  
17          *tion requirements at the time of access to the network:*

18                     (A) *Is accredited by the National Associa-*  
19                     *tion of Insurance Commissioners.*

20                     (B) *Has an application for accredited sta-*  
21                     *tus pending with the National Association of In-*  
22                     *surance Commissioners.*

23                     (C) *Has a determination by the Sub-*  
24                     *committee in effect that such State insurance de-*  
25                     *partment meets or exceeds the standards estab-*

1            *lished by the National Association of Insurance*  
2            *Commissioners for accreditation.*

3            *(f) SUBCOMMITTEE STANDARDS.—The Subcommittee*  
4            *shall consider developing guidelines for participants on—*

5            *(1) how to denote which types of information are*  
6            *to receive different levels of confidentiality protection;*  
7            *and*

8            *(2) how entities or associations that act as*  
9            *agents for financial regulators should denote such*  
10           *agency status when acting in that capacity.*

11           *(g) REPORTING AND FEASIBILITY REQUIREMENTS AND*  
12           *REVIEW OF OPTIMAL NETWORKING METHODS.—*

13           *(1) REPORT.—Before the end of the 180-day pe-*  
14           *riod beginning on the date this subtitle takes effect in*  
15           *accordance with section 101(a), and again before the*  
16           *end of the 2-year period beginning on such date, the*  
17           *Subcommittee shall submit a report to the Congress*  
18           *regarding the methods the regulators plan to use to*  
19           *network information, and a description of any im-*  
20           *pediments to (or recommended additional legislation*  
21           *for) facilitating the appropriate sharing of such infor-*  
22           *mation.*

23           *(2) TIMEFRAME FOR NETWORKING.—*

24           *(A) IN GENERAL.—The networking of infor-*  
25           *mation required under subsection (b)(1) shall be*

1           *established before the end of the 2-year period be-*  
2           *ginning on the date this subtitle takes effect, un-*  
3           *less the Subcommittee determines, in conjunction*  
4           *with the liaisons, that such a network cannot be*  
5           *established within such time period in a prac-*  
6           *ticable and cost-effective manner.*

7                   *(B) REPORTS ON EFFORTS IF TIMEFRAME*  
8           *IS NOT MET.—If the Subcommittee makes such a*  
9           *determination, the Subcommittee shall report an-*  
10          *nually to the Congress on its efforts to coordinate*  
11          *the sharing of appropriate information among*  
12          *the regulators until the networking requirements*  
13          *are fulfilled.*

14           *(h) OTHER SHARING ARRANGEMENTS NOT AF-*  
15          *FECTED.—No provision of this section shall be construed*  
16          *as limiting or otherwise affecting the authority of a finan-*  
17          *cial regulator or other member or liaison of the Sub-*  
18          *committee to provide any person, including another partici-*  
19          *pant, access to any information in accordance with any*  
20          *provision of law other than this Act.*

21           *(i) NO NEW DATABASES OR EXPENDITURES MAN-*  
22          *DATED.—In implementing this Act, the Subcommittee shall*  
23          *not have any authority to require a member or liaison to*  
24          *create a new database or otherwise incur significant costs*



1 *in modifying existing databases for the networking of infor-*  
2 *mation.*

3 **SEC. 103. CHAIRPERSON; TERM OF CHAIRPERSON; MEET-**  
4 **INGS; OFFICERS AND STAFF.**

5 (a) *CHAIRPERSON.—*

6 (1) *SELECTION.—The members of the Sub-*  
7 *committee shall select the Chairperson from among*  
8 *the members of the Subcommittee.*

9 (2) *TERM.—The term of the Chairperson shall be*  
10 *2 years.*

11 (b) *MEETINGS.—The Subcommittee shall meet at the*  
12 *call of the Chairperson or a majority of the members when*  
13 *there is business to be conducted.*

14 (c) *QUORUM.—A majority of members of the Sub-*  
15 *committee shall constitute a quorum.*

16 (d) *MAJORITY VOTE.—Decisions of the Subcommittee*  
17 *shall be made by the vote of a majority of the members of*  
18 *the Subcommittee.*

19 (e) *OFFICERS AND STAFF.—The Chairperson of the*  
20 *Subcommittee may appoint such officers and staff as may*  
21 *be necessary to carry out the purposes of the Subcommittee.*

22 **SEC. 104. NONAGENCY STATUS.**

23 *The Subcommittee shall not be considered an advisory*  
24 *committee for purposes of the Federal Advisory Committee*

1 *Act or as an agency for purposes of subchapter II of chapter*  
2 *5 of title 5, United States Code.*

3 **SEC. 105. POWERS OF THE SUBCOMMITTEE.**

4 (a) *IN GENERAL.*—*The Subcommittee shall have such*  
5 *powers as are necessary to carry out the purposes of the*  
6 *Subcommittee under this title.*

7 (b) *INFORMATION TO FACILITATE COORDINATION.*—  
8 *Each agency and entity represented by a member or liaison*  
9 *shall, to the extent permitted by law, provide the Sub-*  
10 *committee with a description of the types of databases*  
11 *maintained by the agency or entity to assist the Sub-*  
12 *committee in carrying out the purposes described in section*  
13 *102(a).*

14 (c) *SERVICE OF MEMBERS AND LIAISONS.*—*Members*  
15 *of and liaisons to the Subcommittee shall serve without ad-*  
16 *ditional compensation for their work on the Subcommittee.*

17 (d) *ADMINISTRATIVE AND TECHNICAL SUPPORT.*—*The*  
18 *Subcommittee may request that any agency or entity rep-*  
19 *resented by a member or liaison provide the Subcommittee*  
20 *with any administrative, technical, or other support service*  
21 *that the Subcommittee determines is necessary or appro-*  
22 *priate for it to carry out the purposes described in section*  
23 *102(a).*

1 **SEC. 106. AGREEMENT ON COST STRUCTURE.**

2       (a) *IN GENERAL.*—*The Subcommittee shall determine,*  
3 *after consultation with the affected participants or their*  
4 *representatives, the means for providing for any costs the*  
5 *Subcommittee may incur in carrying out the purposes of*  
6 *this subtitle.*

7       (b) *CONSULTATION AND AGREEMENT ON FEES AND*  
8 *CONTRIBUTIONS.*—*Notwithstanding any other provision of*  
9 *this subtitle, the Subcommittee may not impose any fee or*  
10 *assessment on, or apportion any contribution against, any*  
11 *member or liaison under this section unless—*

12               (1) *the Subcommittee consults with such member*  
13 *or liaison; and*

14               (2) *the member or liaison consents to the*  
15 *amounts, or to a schedule, of such fees, assessments,*  
16 *or contributions.*

17       (c) *REIMBURSEMENT OF PARTICIPANT COSTS.*—*Before*  
18 *allowing access by the Subcommittee or a participant to*  
19 *any information described in section 102, other than access*  
20 *described in subsection (b)(1) of such section, a member or*  
21 *liaison may request the reimbursement of reasonable costs*  
22 *for providing such access.*

23 ***Subtitle C—Regulatory Provisions***

24 **SEC. 111. AGENCY SUPERVISORY PRIVILEGE.**

25       (a) *DEFINITIONS.*—*For purposes of this section, the*  
26 *following definitions shall apply:*

1           (1) *SUPERVISORY PROCESS.*—The term “super-  
2           visory process” means any activity engaged in by a  
3           financial regulator to carry out the official respon-  
4           sibilities of the financial regulator with regard to the  
5           regulation or supervision of persons engaged in the  
6           business of conducting financial activities, including  
7           examinations, inspections, visitations, investigations,  
8           consumer complaints, or any other regulatory or su-  
9           pervisory activities.

10           (2) *CONFIDENTIAL SUPERVISORY INFORMA-*  
11           *TION.*—Subject to paragraph (3), the term “confiden-  
12           tial supervisory information” means any of the fol-  
13           lowing information which is treated as, or considered  
14           to be, confidential information by a financial regu-  
15           lator, regardless of the form or format in which the  
16           information is created, conveyed, or maintained:

17                   (A) Any report of examination, inspection,  
18                   visitation, or investigation, and information pre-  
19                   pared or collected by the financial regulator in  
20                   connection with the supervisory process,  
21                   including—

22                           (i) any file, work paper, or similar in-  
23                           formation;

24                           (ii) any correspondence, communica-  
25                           tion, or information exchanged, in connec-

1            *tion with the supervisory process, between a*  
2            *financial regulator and a person engaged in*  
3            *the business of conducting financial activi-*  
4            *ties; and*

5            *(iii) any information, including any*  
6            *report, created by or on behalf of a person*  
7            *engaged in the business of conducting finan-*  
8            *cial activities that is required by, or is pre-*  
9            *pared at the request of, a financial regu-*  
10           *lator in connection with the supervisory*  
11           *process.*

12           *(B) Any record to the extent it contains in-*  
13           *formation derived from any report, correspond-*  
14           *ence, communication or other information de-*  
15           *scribed in subparagraph (A).*

16           *(C) Any consumer complaints filed with the*  
17           *financial regulator by a consumer with respect*  
18           *to a person engaged in the business of conducting*  
19           *financial activities that have been identified by*  
20           *the financial regulator as requiring confidential*  
21           *treatment to protect the integrity of an inves-*  
22           *tigation or the safety of an individual.*

23           *(3) EXCLUSIONS.—The term “confidential super-*  
24           *visory information” shall not include—*

1           (A) any book, record, or other information,  
2           in the possession of, or maintained on behalf of,  
3           the person engaged in the business of conducting  
4           financial activities that—

5                   (i) is not a report required by, or pre-  
6                   pared at the request of, a financial regu-  
7                   lator; and

8                   (ii) is not, and is not derived from,  
9                   confidential supervisory information that  
10                  was created or prepared by a financial reg-  
11                  ulator; or

12           (B) any information required to be made  
13           publicly available by—

14                   (i) any applicable Federal law or regu-  
15                   lation; or

16                   (ii) in the case of confidential super-  
17                   visory information created by a State fi-  
18                   nancial regulator or requested from a per-  
19                   son engaged in the business of conducting  
20                   financial activities by a State financial reg-  
21                   ulator, any applicable State law or regula-  
22                   tion that specifically refers to such type of  
23                   information.

24           (b) FINANCIAL REGULATOR SUPERVISORY PRIVI-  
25           LEGE.—

1           (1) *PRIVILEGE ESTABLISHED.*—

2                   (A) *IN GENERAL.*—*All confidential super-*  
3 *visory information shall be privileged from dis-*  
4 *closure to any person except as provided in this*  
5 *section.*

6                   (B) *PROHIBITION ON UNAUTHORIZED DIS-*  
7 *CLOSURES.*—*No person in possession of confiden-*  
8 *tial supervisory information may disclose such*  
9 *information, in whole or in part, without the*  
10 *prior authorization of the financial regulator*  
11 *that created the information, or requested the in-*  
12 *formation from a person engaged in the business*  
13 *of conducting financial activities, except for a*  
14 *disclosure made in published statistical material*  
15 *that does not disclose, either directly or when*  
16 *used in conjunction with publicly available in-*  
17 *formation, the affairs of any person or other per-*  
18 *sonally identifiable information.*

19                   (C) *AGENCY WAIVER.*—*The financial regu-*  
20 *lator that created the confidential supervisory*  
21 *information, or requested the confidential super-*  
22 *visory information from a person engaged in the*  
23 *business of conducting financial activities, may*  
24 *wave, in whole or in part, in the discretion of*

1           *the regulator, any privilege established under*  
2           *this paragraph with respect to such information.*

3           (2) *EXCEPTIONS.—*

4                 (A) *ACCESS BY GOVERNMENTAL BODIES.—*

5                     (i) *CONGRESS AND GENERAL ACCOUNT-*  
6                     *ING OFFICE.—No provision of paragraph*  
7                     *(1) shall be construed as preventing access*  
8                     *to confidential supervisory information by*  
9                     *duly authorized committees of the Congress*  
10                    *or the Comptroller General of the United*  
11                    *States.*

12                   (ii) *FINANCIAL REGULATOR OVER-*  
13                    *SIGHT.—No financial regulator which is de-*  
14                    *scribed in subparagraph (P), (Q), or (R) of*  
15                    *section 115(3) and is subject to the oversight*  
16                    *of a Federal financial regulator may assert*  
17                    *the privilege described in paragraph (1) to*  
18                    *prevent access to confidential supervisory*  
19                    *information by such Federal financial regu-*  
20                    *lator.*

21                 (B) *PRIVILEGE NOT WAIVED.—If a finan-*  
22                    *cial regulator provides access to confidential su-*  
23                    *pervisory information to the Congress, the Comp-*  
24                    *troller General, or another financial regulator,*  
25                    *such action shall not affect the ability of the fi-*



1            *financial regulator to assert any privilege associ-*  
2            *ated with such information against any other*  
3            *person.*

4            *(c) TREATMENT OF FOREIGN SUPERVISORY INFORMA-*  
5            *TION.—In any proceeding before a Federal or State court*  
6            *of the United States, in which a person seeks to compel pro-*  
7            *duction or disclosure by a financial regulator of informa-*  
8            *tion or documents prepared or collected by a foreign finan-*  
9            *cial regulator that would, had the information or document*  
10           *been prepared or collected by a financial regulator, be con-*  
11           *fidential supervisory information for purposes of this sec-*  
12           *tion, the information or document shall be privileged to the*  
13           *same extent that the information and documents of finan-*  
14           *cial regulators are privileged under this title.*

15           *(d) OTHER PRIVILEGES NOT WAIVED BY DISCLOSURE*  
16           *TO FINANCIAL REGULATOR.—The submission by a person*  
17           *engaged in the business of conducting financial activities*  
18           *of any information to a financial regulator or a foreign*  
19           *financial regulator in connection with the supervisory proc-*  
20           *ess of such financial regulator or foreign financial regulator*  
21           *shall not waive, destroy, or otherwise affect any privilege*  
22           *such person may claim with respect to such information*  
23           *under Federal or State law as to a party other than such*  
24           *financial regulator or foreign financial regulator.*

25           *(e) DISCOVERY AND DISCLOSURE OF INFORMATION.—*

1           (1) *INFORMATION AVAILABLE ONLY FROM FINAN-*  
2           *CIAL REGULATOR.—*

3           (A) *IN GENERAL.—No person (other than*  
4           *the financial regulator that created the informa-*  
5           *tion or requested the information from a person*  
6           *engaged in the business of conducting financial*  
7           *activities) may disclose, in whole or in part, any*  
8           *confidential supervisory information to any per-*  
9           *son who seeks such information through sub-*  
10          *poena, discovery procedures, or otherwise.*

11          (B) *PROCEDURE FOR REQUESTS SUB-*  
12          *MITTED TO FINANCIAL REGULATOR.—*

13          (i) *IN GENERAL.—Any request for dis-*  
14          *covery or disclosure of confidential super-*  
15          *visory information shall be made to the fi-*  
16          *nancial regulator that created the informa-*  
17          *tion, or requested the information from a*  
18          *person engaged in the business of con-*  
19          *ducting financial activities.*

20          (ii) *PROCEDURE.—Upon receiving a*  
21          *request for confidential supervisory infor-*  
22          *mation, the financial regulator shall deter-*  
23          *mine within a reasonable time period*  
24          *whether to disclose such information pursu-*

1            *ant to procedures and criteria established*  
2            *by the financial regulator.*

3            *(C) NOTIFICATION.—*

4                    *(i) IN GENERAL.—Before any financial*  
5                    *regulator releases information that was re-*  
6                    *quested from a person engaged in the busi-*  
7                    *ness of conducting financial activities to a*  
8                    *person under subparagraph (B), notice and*  
9                    *a reasonable time for comment shall be pro-*  
10                   *vided to the person from whom such infor-*  
11                   *mation was requested unless such*  
12                   *information—*

13                   *(I) is being provided to another fi-*  
14                   *nancial regulator, an agency or entity*  
15                   *represented by a liaison to the Sub-*  
16                   *committee, or a Federal, State, or for-*  
17                   *foreign government (or any agency or in-*  
18                   *strumentality of any such government*  
19                   *acting in any capacity);*

20                   *(II) is being sought for use in a*  
21                   *criminal proceeding or investigation,*  
22                   *or a regulatory, supervisory, enforce-*  
23                   *ment, or disciplinary administrative*  
24                   *proceeding, civil action, or investiga-*  
25                   *tion; or*

1                   (III) was originally created, or  
2                   included in information created, by the  
3                   financial regulator.

4                   (ii) PROCEDURES AND REQUIRE-  
5                   MENTS.—A financial regulator may pre-  
6                   scribe regulations, or issue orders, guide-  
7                   lines, or procedures, governing the notice  
8                   and time period required by clause (i).

9                   (2) FEDERAL COURT JURISDICTION OVER DIS-  
10                  PUTES.—

11                  (A) REMOVAL AUTHORITY.—In any action  
12                  or proceeding in which a party seeks to compel  
13                  disclosure of confidential supervisory informa-  
14                  tion, a financial regulator may, in its sole dis-  
15                  cretion, elect to remove the matter relating to the  
16                  disclosure issue to Federal court, and, if the ac-  
17                  tion is so removed, the appropriate Federal court  
18                  shall have exclusive jurisdiction over such mat-  
19                  ter.

20                  (A) DECLARATORY JUDGMENT.—If a  
21                  party seeks in any action or pro-  
22                  ceeding to compel disclosure of con-  
23                  fidential supervisory information, a  
24                  financial regulator may in a civil ac-

1           **tion for a declaratory judgment seek**  
2           **to prevent such disclosure.**

3           (B) *JUDICIAL REVIEW.*—*Judicial review of*  
4           *the final action of a financial regulator with re-*  
5           *gard to the disposition of a request for confiden-*  
6           *tial supervisory information shall be before a*  
7           *district court of the United States of competent*  
8           *jurisdiction, subject to chapter 7 of part I of title*  
9           *5, United States Code.*

10          (f) *AUTHORITY TO INTERVENE.*—*In the case of any*  
11          *action or proceeding to compel compliance with a subpoena,*  
12          *order, discovery request, or other judicial or administrative*  
13          *process with respect to any confidential supervisory infor-*  
14          *mation of a financial regulator concerning any person en-*  
15          *gaged in the business of conducting financial activities, the*  
16          *financial regulator may intervene in such action or pro-*  
17          *ceeding, and such person may intervene with such regu-*  
18          *lator, for the purpose of—*

19                 (1) *enforcing the limitations established in para-*  
20                 *graph (1) of subsections (b) and (e);*

21                 (2) *seeking the withdrawal of any compulsory*  
22                 *process with respect to such information; and*

23                 (3) *registering appropriate objections with re-*  
24                 *spect to the action or proceeding to the extent the ac-*

1        *tion or proceeding relates to or involves such informa-*  
2        *tion.*

3        *(g) RIGHT TO APPEAL.—Any court order that compels*  
4        *production of confidential supervisory information may be*  
5        *immediately appealed by the financial regulator and the*  
6        *order compelling production shall be automatically stayed,*  
7        *pending the outcome of such appeal.*

8        *(h) REGULATIONS.—*

9            *(1) AUTHORITY TO PRESCRIBE.—Each financial*  
10        *regulator may prescribe such regulations as the regu-*  
11        *lator considers to be appropriate, after consultation*  
12        *with the other financial regulators (to the extent the*  
13        *prescribing financial regulator considers appropriate*  
14        *and feasible), to carry out the purposes of this section.*

15            *(2) AUTHORITY TO REQUIRE NOTICE.—Any reg-*  
16        *ulations prescribed by a financial regulator under*  
17        *paragraph (1) may require any person in possession*  
18        *of confidential supervisory information to notify the*  
19        *financial regulator whenever the person is served with*  
20        *a subpoena, order, discovery request, or other judicial*  
21        *or administrative process requiring the personal at-*  
22        *tendance of such person as a witness or requiring the*  
23        *production of such information in any proceeding.*

24        *(i) ABILITY TO PARTIALLY WAIVE PRIVILEGE WHERE*  
25        *NO OTHER PRIVILEGE APPLIES.—A financial regulator*

1 *may, to the extent permitted by applicable law governing*  
2 *the disclosure of information by the regulator, authorize a*  
3 *waiver of the privilege established by this section to allow*  
4 *access by a person to confidential supervisory information*  
5 *created by such regulator (or requested by such regulator*  
6 *from any person engaged in the business of conducting fi-*  
7 *ancial activities), except that—*

8           (1) *the regulator may place appropriate limits*  
9           *on the use and disclosure of the information shared,*  
10           *and may continue to assert the privilege with respect*  
11           *to any other person that seeks access to the informa-*  
12           *tion; and*

13           (2) *such waiver shall not affect any other privi-*  
14           *lege or confidentiality protection that any party may*  
15           *assert against any person other than such financial*  
16           *regulator.*

17           (j) *SHARING OF REPORTS.—*

18           (1) *IN GENERAL.—Subject to subsection (k), no*  
19           *provision of this section shall be construed as pre-*  
20           *venting a person engaged in the business of con-*  
21           *ducting financial activities from providing a report*  
22           *that is required by, or prepared at the request of, a*  
23           *financial regulator (the originating financial regu-*  
24           *lator) to another financial regulator that has the au-*

1 *thority to obtain the information from the person*  
2 *under any other provision of law.*

3 (2) *PRIVILEGE PRESERVED.*—*If a person pro-*  
4 *vides a report referred to in paragraph (1) to a fi-*  
5 *nancial regulator other than the originating financial*  
6 *regulator, such action shall not affect the ability of*  
7 *the originating financial regulator to assert any*  
8 *privilege that such financial regulator may claim*  
9 *with respect to the report against any person that is*  
10 *not a financial regulator.*

11 (k) *REQUESTS FOR INFORMATION INVOLVING AN-*  
12 *OTHER FINANCIAL REGULATOR.*—

13 (1) *IN GENERAL.*—*Before any financial regu-*  
14 *lator requests information from a person engaged in*  
15 *the business of conducting financial activities that is*  
16 *confidential supervisory information contained in a*  
17 *report that was created by another financial regu-*  
18 *lator, or that was derived from confidential super-*  
19 *visory information that was created by another finan-*  
20 *cial regulator, (hereafter in this subsection referred to*  
21 *as the “originating financial regulator”), the finan-*  
22 *cial regulator seeking such information (hereafter in*  
23 *this subsection referred to as the “requesting financial*  
24 *regulator”) shall first request such information di-*  
25 *rectly from the originating financial regulator.*



1           (2) *NOTICE OF INTENT TO REQUEST INFORMA-*  
2           *TION FROM FINANCIAL INSTITUTION.*—*If, pursuant to*  
3           *a request from a requesting financial regulator under*  
4           *paragraph (1), an originating financial regulator re-*  
5           *fuses to provide the information described in such*  
6           *paragraph, the requesting financial regulator may*  
7           *not request or compel the production of such informa-*  
8           *tion from a person engaged in the business of con-*  
9           *ducting financial activities unless the requesting fi-*  
10          *ancial regulator first provides notice of such regu-*  
11          *lator’s intention (to make such request or compel such*  
12          *production) to the originating financial institution*  
13          *and provides the originating financial regulator with*  
14          *reasonable opportunity to respond.*

15          (3) *DECLARATORY JUDGMENT.*—*The opportunity*  
16          *to respond described in paragraph (2) shall include*  
17          *the right of the originating financial regulator to*  
18          *bring an action in the United States District Court*  
19          *for the District of Columbia for a declaratory judg-*  
20          *ment of the rights and privileges of the requesting and*  
21          *originating financial regulators with respect to the*  
22          *information described in paragraph (1), and such re-*  
23          *lief as may be appropriate.*

24          (4) *STANDARDS.*—*In any action brought under*  
25          *paragraph (3), the United States District Court for*

1 *the District of Columbia shall decide the matter de*  
2 *novo based on applicable law, other than this title, in-*  
3 *cluding any protections or privileges that would be*  
4 *available to the originating financial regulator if such*  
5 *regulator were to intervene in an action brought by*  
6 *the requesting financial regulator to compel the pro-*  
7 *duction of such information from the person engaged*  
8 *in the business of conducting financial activity re-*  
9 *ferred to in paragraph (1).*

10 (5) *PROHIBITION ON REQUESTING INFORMATION*  
11 *WHILE ACTION IS PENDING.*—*While any action under*  
12 *paragraph (3) is pending with respect to any infor-*  
13 *mation described in paragraph (1), the requesting fi-*  
14 *nancial regulator may not make any request for such*  
15 *information from any person engaged in the business*  
16 *of conducting financial activity.*

17 (6) *RULE OF CONSTRUCTION.*—*No provision of*  
18 *this subsection may be construed as creating any new*  
19 *authority for any financial regulator to request or*  
20 *compel the production of any information from any*  
21 *person engaged in the business of conducting finan-*  
22 *cial activities.*

23 (l) *NO WAIVER OF ANY PRIVILEGE OF ANY OTHER*  
24 *PARTY.*—*No provision of this Act shall provide a financial*  
25 *regulator with any new authority to disclose information*

1 *in contravention of applicable law governing disclosure of*  
2 *information.*

3 **SEC. 112. CONFIDENTIALITY OF INFORMATION.**

4 (a) *IN GENERAL.*—

5 (1) *FINANCIAL REGULATORS.*—*Except as other-*  
6 *wise provided in this section or section 111, any re-*  
7 *quirement under Federal or State law regarding the*  
8 *privacy or confidentiality of any information or ma-*  
9 *terial in the possession of any participant, and any*  
10 *privilege arising under Federal or State law (includ-*  
11 *ing the rules of any Federal or State court) with re-*  
12 *spect to such information or material, shall continue*  
13 *to apply to such information or material after the*  
14 *information or material has been disclosed through*  
15 *the network to another participant or, if subtitle B*  
16 *has taken effect, the Subcommittee.*

17 (2) *CERTAIN INSURANCE INFORMATION.*—*Except*  
18 *as otherwise provided in this section or section 111,*  
19 *any requirement under Federal or State law regard-*  
20 *ing the privacy or confidentiality of any information*  
21 *or material in the possession of the National Associa-*  
22 *tion of Insurance Commissioners, or any member or*  
23 *affiliate of the Association, and any privilege arising*  
24 *under Federal or State law (including the rules of*  
25 *any Federal or State court) with respect to such in-*

1        *formation or material, shall continue to apply to such*  
2        *information or material after the information has*  
3        *been disclosed to the Association, or any other member*  
4        *or affiliate of the Association, through the computer*  
5        *databases maintained by the Association.*

6            (3) *NONAPPLICABILITY OF CERTAIN REQUIRE-*  
7        *MENTS.—Information or material that is subject to a*  
8        *privilege or confidentiality under any other para-*  
9        *graph of this subsection shall not be subject to—*

10            (A) *disclosure under any Federal or State*  
11        *law governing the disclosure to the public of in-*  
12        *formation held by an officer or an agency of the*  
13        *Federal Government or the respective State; or*

14            (B) *subpoena or discovery, or admission*  
15        *into evidence, in any private civil action or ad-*  
16        *ministrative process,*

17        *unless with respect to any privilege held by a partici-*  
18        *part with respect to such information or material, the*  
19        *participant waives, in whole or in part, in the discre-*  
20        *tion of the participant, such privilege.*

21            (b) *PREEMPTION OF STATE LAW.—Any State law, in-*  
22        *cluding any State open record law, relating to the disclosure*  
23        *of confidential supervisory information or any information*  
24        *or material to which subsection (a) applies that is incon-*  
25        *sistent with any provision of section 111 or subsection (a)*

1 *of this section shall be superseded by the requirements of*  
2 *such provision to the extent State law provides less con-*  
3 *fidentiality or a weaker privilege.*

4 *(c) DUTY OF FINANCIAL REGULATOR TO MAINTAIN*  
5 *CONFIDENTIALITY.—A participant may not receive,*  
6 *download, copy, or otherwise maintain any information or*  
7 *material from any other member of or liaison to the Sub-*  
8 *committee through the network unless—*

9 *(1) the participant maintains a system that en-*  
10 *ables the participant to maintain full compliance*  
11 *with the requirements of sections 100, 102, and 111*  
12 *and this section, with respect to such information and*  
13 *material; and*

14 *(2) if and to the extent required by the guidelines*  
15 *established under sections 100 and 102, a record is*  
16 *maintained of each attempt to access such informa-*  
17 *tion and material, and the identity of the person*  
18 *making the attempt, in order to prevent evasions of*  
19 *such requirements.*

20 **SEC. 113. LIABILITY PROVISIONS.**

21 *(a) NO LIABILITY FOR GOOD FAITH DISCLOSURES.—*  
22 *Any financial regulator, and any officer or employee of any*  
23 *financial regulator, shall not be subject to any civil action*  
24 *or proceeding for monetary damages by reason of the good*  
25 *faith action or omission of any officer or employee, while*

1 *acting within the scope of office or employment, relating*  
2 *to collecting, furnishing, or disseminating regulatory or su-*  
3 *pervisory information concerning persons engaged in the*  
4 *business of conducting financial activities, to or from an-*  
5 *other financial regulator, whether directly or through the*  
6 *network.*

7 (b) *CRIMINAL LIABILITY FOR INTENTIONAL UNLAWFUL*  
8 *DISCLOSURES.—*

9 (1) *IN GENERAL.—It shall be unlawful to will-*  
10 *fully disclose to any person any information con-*  
11 *cerning any person engaged in the business of con-*  
12 *ducting financial activities knowing the disclosure to*  
13 *be in violation of any provision of this title—*

14 (A) *requiring the confidentiality of such in-*  
15 *formation; or*

16 (B) *establishing a privilege from disclosure*  
17 *for such information that has not been waived by*  
18 *the relevant financial regulator.*

19 (2) *PENALTY.—Notwithstanding section 3571 of*  
20 *title 18, United States Code, any person who violates*  
21 *paragraph (1) shall be fined an amount not to exceed*  
22 *the greater of \$100,000 or the amount of the actual*  
23 *damages sustained by any person as a result of such*  
24 *violation, or imprisoned not more than 5 years, or*  
25 *both.*

1           (c) *FULL, CONTINUED PROTECTION UNDER THE SO-*  
2  *CALLED “FEDERAL TORT CLAIMS ACT”.*—No provision of  
3  *this Act shall be construed as reducing or limiting any pro-*  
4  *tection provided for any Federal agency, or any officer or*  
5  *employee of any Federal agency, under section 2679 of title*  
6  *28, United States Code.*

7           (d) *PROTECTION APPLIED TO THE SUBCOMMITTEE.*—  
8  *For the purposes of this section, the term “financial regu-*  
9  *lator” includes the Subcommittee after subtitle B has taken*  
10  *effect.*

11 **SEC. 114. AUTHORIZATION FOR IDENTIFICATION AND**  
12 **CRIMINAL BACKGROUND CHECK.**

13           (a) *SHARING OF CRIMINAL RECORDS.*—

14               (1) *ATTORNEY GENERAL AUTHORIZATION.*—  
15            *Upon receiving a request from a financial regulator,*  
16            *the Attorney General shall—*

17                       (A) *search the records of the Criminal Jus-*  
18                        *tice Information Services Division of the Federal*  
19                        *Bureau of Investigation, and any other similar*  
20                        *database over which the Attorney General has*  
21                        *authority and deems appropriate, for any crimi-*  
22                        *nal background records (including wanted per-*  
23                        *sons information) corresponding to the identi-*  
24                        *fication information provided under subsection*  
25                        *(b); and*

1           (B) either—

2                   (i) shall provide any such records to  
3                   any authorized agent of the financial regu-  
4                   lator, which shall provide the relevant infor-  
5                   mation to such regulator; or

6                   (ii) may provide such records directly  
7                   to the financial regulator if the Attorney  
8                   General limits such provision of records to  
9                   relevant information.

10           (2) *AUTHORIZED AGENT DEFINED.*—For pur-  
11           poses of this section, the term “authorized agent”  
12           means—

13                   (A) any agent which has been recognized by  
14                   the Attorney General for such purpose and au-  
15                   thorized by at least 3 other financial regulators  
16                   to receive such records and perform the informa-  
17                   tion sharing requirements of paragraph (3);

18                   (B) the State attorney general for the State  
19                   in which the regulator is primarily located; and

20                   (C) any law enforcement designee of the At-  
21                   torney General or such State attorney general.

22           (3) *INFORMATION SHARED.*—

23                   (A) *IN GENERAL.*—The authorized agent  
24                   shall provide to the requesting financial regu-



1           *lator only any records that are relevant informa-*  
2           *tion.*

3           *(B) RELEVANT INFORMATION DEFINED.—*

4           *For purposes of this section, the term “relevant*  
5           *information” means any of the following records:*

6                     *(i) All felony convictions.*

7                     *(ii) All misdemeanor convictions*  
8                     *involving—*

9                             *(I) violation of a law involving fi-*  
10                            *nancial activities;*

11                            *(II) dishonesty or breach of trust,*  
12                            *within the meaning of section 1033 of*  
13                            *title 18, United States Code, including*  
14                            *taking, withholding, misappropriating,*  
15                            *or converting money or property;*

16                            *(III) failure to comply with child*  
17                            *support obligations;*

18                            *(IV) failure to pay taxes; and*

19                            *(V) domestic violence, child abuse,*  
20                            *or a crime of violence.*

21           *(C) CRIME OF VIOLENCE DEFINED.—For*

22           *purposes of subparagraph (B)(ii)(V), the term*  
23           *“crime of violence” means a burglary of a dwell-*  
24           *ing and a criminal offense that has as an ele-*  
25           *ment, the use or attempted use of physical force,*

1           *or threat of great bodily harm, or the use, at-*  
2           *tempted use, or threatened use of a deadly weap-*  
3           *on, against an individual, including committing*  
4           *or attempting to commit murder, manslaughter,*  
5           *kidnapping, aggravated assault, forcible sex of-*  
6           *fenses, robbery, arson, extortion, and extortionate*  
7           *extension of credit.*

8           (4) *STATE UNIFORM OR RECIPROCITY LAWS RE-*  
9           *QUIREMENT.—*

10           (A) *IN GENERAL.—The Attorney General*  
11           *may not provide any records under this sub-*  
12           *section to an insurance regulator of a State, or*  
13           *agent of such regulator, if such State does not*  
14           *have in effect uniform or reciprocity laws and*  
15           *regulations governing the licensure of individuals*  
16           *and entities authorized to sell and solicit the*  
17           *purchase of insurance within the State as set*  
18           *forth in section 321 of Public Law 106–102.*

19           (B) *DETERMINATION OF RECIPROCITY.—*  
20           *The determination of whether or not a State has*  
21           *uniform or reciprocity laws or regulations in ef-*  
22           *fect for purposes of subparagraph (A) shall be*  
23           *made by the Attorney General, with the advice*  
24           *and counsel of the National Association of Insur-*  
25           *ance Commissioners.*

1           (C) *EXCEPTION UNDER CERTAIN CIR-*  
2           *CUMSTANCES.—Notwithstanding subparagraph*  
3           *(B), the Attorney General may provide records*  
4           *under this section to an insurance regulator of a*  
5           *State, or agent of such regulator, on the basis of*  
6           *a specific determination by the National Associa-*  
7           *tion of Insurance Commissioners that such State*  
8           *has in effect uniform or reciprocity laws and*  
9           *regulations referred to in subparagraph (A) if—*

10                   (i) *a determination by the Attorney*  
11                   *General under subparagraph (B) is pend-*  
12                   *ing; or*

13                   (ii) *the Attorney General considers*  
14                   *whether such State has in effect such uni-*  
15                   *form or reciprocity laws or regulations and*  
16                   *fails to make a determination, unless the*  
17                   *Attorney General subsequently determines*  
18                   *that such State does not have in effect uni-*  
19                   *form or reciprocity laws or regulations.*

20           (b) *FORM OF REQUEST.—A request under subsection*  
21           *(a) shall include a copy of any necessary identification in-*  
22           *formation required by the Attorney General, such as the*  
23           *name and fingerprints of the person about whom the record*  
24           *is requested and a statement signed by the person acknowl-*

1 *edging that the regulator (or such regulator's designated*  
2 *agent under subsection (g)(1)) may request the search.*

3 *(c) LIMITATION ON PERMISSIBLE USES OF INFORMA-*  
4 *TION.—Information obtained under this section may—*

5 *(1) be used only for regulatory or law enforce-*  
6 *ment purposes; and*

7 *(2) be disclosed—*

8 *(A) only to other financial regulators or*  
9 *Federal or State law enforcement agencies; and*

10 *(B) only if the recipient agrees to—*

11 *(i) maintain the confidentiality of such*  
12 *information; and*

13 *(ii) limit the use of such information*  
14 *to appropriate regulatory and law enforce-*  
15 *ment purposes.*

16 *(d) PENALTY FOR IMPROPER USE.—*

17 *(1) IN GENERAL.—Whoever uses any information*  
18 *obtained under this section knowingly and willfully*  
19 *for an unauthorized purpose shall be fined under title*  
20 *18, United States Code, imprisoned for not more than*  
21 *2 years, or both.*

22 *(2) ADDITIONAL PENALTIES AND WAIVERS.—*

23 *(A) IN GENERAL.—Any authorized agent*  
24 *who violates paragraph (1), or any individual*  
25 *who directs such agent to violate such para-*

1           *graph, shall be barred from engaging in or regu-*  
2           *lating any activities related to the business of in-*  
3           *surance.*

4                   (B) *WAIVER AUTHORIZED.—The Attorney*  
5           *General, in the discretion of the Attorney Gen-*  
6           *eral, may waive the bar in subparagraph (A), as*  
7           *appropriate.*

8           (e) *RELIANCE ON INFORMATION.—A financial regu-*  
9           *lator (or such regulator’s designated agent under subsection*  
10          *(g)(1)) who reasonably relies on information provided*  
11          *under this section shall not be liable in any action for using*  
12          *information as permitted under this section in good faith.*

13           (f) *CLARIFICATION OF SECTION 1033.—With respect to*  
14          *any action brought under section 1033(e)(1)(B) of title 18,*  
15          *United States Code, no person engaged in the business of*  
16          *conducting financial activities shall be subject to any pen-*  
17          *alty resulting from such section if the individual who the*  
18          *person permitted to engage in the business of insurance is*  
19          *licensed, or approved (as part of an application or other-*  
20          *wise), by a State insurance regulator that performs crimi-*  
21          *nal background checks under this section, unless such person*  
22          *knows that the individual is in violation of section*  
23          *1033(e)(1)(A) of such title.*

24           (g) *DESIGNATION OF AGENT.—*

1           (1) *IN GENERAL.*—*A financial regulator may*  
2 *designate an agent for facilitating requests and ex-*  
3 *changes of information under this section between or*  
4 *among the financial regulator, the Attorney General,*  
5 *and any other authorized agent.*

6           (2) *SENSE OF CONGRESS REGARDING AGENTS OF*  
7 *INSURANCE REGULATORS.*—*It is the sense of the Con-*  
8 *gress that—*

9           (A) *each State insurance commissioner*  
10 *should designate the National Association of In-*  
11 *urance Commissioners as an agent under para-*  
12 *graph (1);*

13           (B) *persons engaged in the business of in-*  
14 *urance should be able to use the National Asso-*  
15 *ciation of Insurance Commissioners to facilitate*  
16 *obtaining fingerprints and supplying identifica-*  
17 *tion information for use in background checks*  
18 *under this section on a multijurisdictional basis;*

19           (C) *the National Association of Insurance*  
20 *Commissioners should maintain a database to*  
21 *obtain records under this section for use by State*  
22 *insurance commissioners to reduce multiple or*  
23 *duplicative fingerprinting requirements and*  
24 *criminal background checks, except that any such*  
25 *record shall not be maintained for more than 1*

1           year without performing a new background check  
2           to determine if the criminal background record  
3           has changed;

4           (D) other financial regulators that require  
5           fingerprints and criminal background checks  
6           should similarly coordinate efforts to reduce du-  
7           plication for persons engaged in the business of  
8           conducting multiple types of financial activities;  
9           and

10           (E) the National Association of Insurance  
11           Commissioners, and other financial regulators  
12           that use this section, should consult with the At-  
13           torney General to consider the feasibility of de-  
14           veloping an on-going notification system that  
15           would allow the Attorney General to notify such  
16           Association when a licensed or approved insur-  
17           ance professional is convicted of a relevant  
18           crime.

19           (h) FEES.—The Attorney General may charge a rea-  
20           sonable fee for the provision of information under this sec-  
21           tion.

22           (i) RULE OF CONSTRUCTION.—This section shall not—  
23           (1) provide independent authorization for a fi-  
24           nancial regulator to require fingerprinting as a part  
25           of a licensure or other application;

1           (2) *require a financial regulator to perform*  
2 *criminal background checks under this section; or*

3           (3) *supersede or otherwise limit any other au-*  
4 *thority that allows access to criminal background*  
5 *records.*

6           (j) *REGULATIONS.—The Attorney General may pre-*  
7 *scribe regulations to carry out this section.*

8 **SEC. 115. DEFINITIONS.**

9           *For purposes of this title, the following definitions*  
10 *shall apply:*

11           (1) *FEDERAL BANKING AGENCY.—The term*  
12 *“Federal banking agency” has the same meaning as*  
13 *given in section 3(z) of the Federal Deposit Insurance*  
14 *Act.*

15           (2) *FINANCIAL ACTIVITIES.—*

16           (A) *IN GENERAL.—The term “financial*  
17 *activities”—*

18                   (i) *means banking activities (including*  
19 *the ownership of a bank), securities activi-*  
20 *ties, insurance activities, or commodities*  
21 *activities; and*

22                   (ii) *includes all activities that are fi-*  
23 *nancial in nature or are incidental to a fi-*  
24 *nancial activity (as defined under section*



1                   4(k) of the Bank Holding Company Act of  
2                   1956).

3                   (B) *RULE OF CONSTRUCTION.*—Subpara-  
4                   graph (A) shall not be construed as creating any  
5                   inference, including any negative inference, con-  
6                   cerning the types or extent of activities that are  
7                   appropriately recognized as activities that are fi-  
8                   nancial in nature, or are incidental to a finan-  
9                   cial activity, for purposes of section 4 of the  
10                  Bank Holding Company Act of 1956.

11                  (3) *FINANCIAL REGULATOR.*—The term “finan-  
12                  cial regulator” means—

13                         (A) each Federal banking agency;

14                         (B) the Securities and Exchange Commis-  
15                         sion;

16                         (C) the Commodity Futures Trading Com-  
17                         mission;

18                         (D) the National Credit Union Administra-  
19                         tion;

20                         (E) the Farm Credit Administration;

21                         (F) the Federal Housing Finance Board;

22                         (G) the Federal Trade Commission, to the  
23                         extent the Commission has jurisdiction over fi-  
24                         nancial activities being conducted by a person

1 engaged in the business of conducting financial  
2 activities;

3 (H) the Secretary of the Treasury, to the ex-  
4 tent the Secretary has jurisdiction over financial  
5 activities being conducted by a person engaged  
6 in the business of conducting financial activities;

7 (I) the Office of Federal Housing Enterprise  
8 Oversight of the Department of Housing and  
9 Urban Development;

10 (J) the Appraisal Subcommittee of the Fi-  
11 nancial Institutions Examination Council;

12 (K) any State bank supervisor (as defined  
13 in section 3(r) of the Federal Deposit Insurance  
14 Act), including the Conference of State Bank Su-  
15 pervisors only to the extent such conference is  
16 acting as an agent of, and is subject to the over-  
17 sight of, any such State bank supervisor;

18 (L) any State savings association super-  
19 visor, including the American Council of State  
20 Savings Supervisors only to the extent such con-  
21 ference is acting as an agent of, and is subject  
22 to the oversight of, any such State savings asso-  
23 ciation supervisor;

24 (M) any State insurance commissioner, in-  
25 cluding the National Association of Insurance

1           *Commissioners only to the extent such associa-*  
2           *tion is acting as the agent of, and is subject to*  
3           *the oversight of, any such insurance commis-*  
4           *sioner;*

5           *(N) any State securities administrator, in-*  
6           *cluding the North American Securities Adminis-*  
7           *trators Association only to the extent such asso-*  
8           *ciation is acting as the agent of, and is subject*  
9           *to the oversight of, any such securities adminis-*  
10          *trator;*

11          *(O) any State credit union supervisor, in-*  
12          *cluding the National Association of State Credit*  
13          *Union Supervisors only to the extent such asso-*  
14          *ciation is acting as the agent of, and is subject*  
15          *to the oversight of, any such credit union super-*  
16          *visor;*

17          *(P) the National Association of Securities*  
18          *Dealers, only to the extent that—*

19                 *(i) such association is acting in con-*  
20                 *nection with the financial services industry;*  
21                 *and*

22                 *(ii) the association and the relevant ac-*  
23                 *tions are subject to the oversight of the Secu-*  
24                 *rities and Exchange Commission;*

1           (Q) *the National Futures Association, only*  
2           *to the extent that—*

3                   (i) *such association is acting in con-*  
4                   *nection with the financial services industry;*  
5                   *and*

6                   (ii) *the association and the relevant ac-*  
7                   *tions are subject to the oversight of the Com-*  
8                   *modity Futures Trading Commission or the*  
9                   *Securities and Exchange Commission; and*

10           (R) *any other self-regulatory organization*  
11           *that engages in or coordinates regulatory and su-*  
12           *pervisory activities, with respect to any person*  
13           *engaged in the business of conducting financial*  
14           *activities, and is subject to the oversight of the*  
15           *Securities and Exchange Commission or the*  
16           *Commodity Futures Trading Commission, but*  
17           *only to the extent that the organization engages*  
18           *in such activities and is subject to such oversight.*

19           (4) *FOREIGN FINANCIAL REGULATOR.—The term*  
20           *“foreign financial regulator” means any agency, enti-*  
21           *ty, or body (including a self-regulatory organization)*  
22           *that is empowered by the laws of a foreign country*  
23           *to supervise and regulate persons engaged in the busi-*  
24           *ness of conducting financial activities, but only to the*  
25           *extent of such supervisory and regulatory activities.*

1           (5) *PARTICIPANT.*—*The term “participant”*  
2           *means any entity described in section 101 as being*  
3           *represented by a member of, or a liaison to, the Sub-*  
4           *committee (regardless of whether subtitle B has taken*  
5           *effect) but only to the extent the regulator provides or*  
6           *obtains access to information through the network.*

7           (6) *PERSON.*—*The term “person” includes any*  
8           *financial regulator.*

9           (7) *PERSON ENGAGED IN THE BUSINESS OF CON-*  
10          *DUCTING FINANCIAL ACTIVITIES.*—*The term “person*  
11          *engaged in the business of conducting financial ac-*  
12          *tivities” includes, to the extent appropriate under the*  
13          *laws applicable to the jurisdiction of a financial regu-*  
14          *lator over such person—*

15                 (A) *any director, officer, employee, or con-*  
16                 *trolling stockholder of, or agent for, any such*  
17                 *person;*

18                 (B) *any other person who has filed or is re-*  
19                 *quired to file a change-in-control notice with the*  
20                 *appropriate financial regulator before acquiring*  
21                 *control of such person; and*

22                 (C) *any person who has sought approval*  
23                 *from a financial regulator to engage in the busi-*  
24                 *ness of conducting financial activities, or that*

1           *was engaged in such business and subject to the*  
2           *jurisdiction of a financial regulator; and*

3           *(D) any shareholder, consultant, joint ven-*  
4           *ture partner, and any other person, including an*  
5           *independent contractor, as determined by the ap-*  
6           *propriate financial regulator (by regulation or*  
7           *case-by-case) who participates in the conduct of*  
8           *the affairs of such person.*

9           (8) *STATE INSURANCE COMMISSIONER.*—*The*  
10          *term “State insurance commissioner” means any offi-*  
11          *cer, agency, or other entity of any State which has*  
12          *primary regulatory authority over the business of in-*  
13          *surance and over any person engaged in the business*  
14          *of insurance to the extent of such activities, in such*  
15          *State.*

16          (9) *STATE SECURITIES ADMINISTRATOR.*—*The*  
17          *term “State securities administrator” means the secu-*  
18          *rities commission (or any agency or office performing*  
19          *like functions) of any State.*

20       **SEC. 116. TECHNICAL AND CONFORMING AMENDMENTS TO**  
21                               **OTHER ACTS.**

22          (a) *Subsection (b) of section 552a of title 5, United*  
23       *States Code, is amended—*

24               (1) *by striking “and” at the end of paragraph*  
25               (11);

1           (2) *by striking the period at the end of para-*  
2 *graph (12) and inserting “; or”; and*

3           (3) *by inserting after paragraph (12) the fol-*  
4 *lowing new paragraph:*

5           “(13) *for recordkeeping, licensing, and other reg-*  
6 *ulatory and law enforcement purposes in accordance*  
7 *with title I of the Financial Services Antifraud Net-*  
8 *work Act of 2001—*

9           “(A) *through a network or name-relation-*  
10 *ship index maintained under such title; or*

11           “(B) *to a multistate database maintained*  
12 *by the National Association of Insurance Com-*  
13 *missioners and any subsidiary or affiliate of*  
14 *such association, subject to the requirements of*  
15 *such title.”.*

16       (b) *Section 1113 of the Financial Institutions Regu-*  
17 *latory and Interest Rate Control Act of 1978 (12 U.S.C.*  
18 *3413) is amended by adding at the end the following new*  
19 *subsection:*

20       “(r) *This title shall not apply to disclosure by a finan-*  
21 *cial regulator of information pursuant to subtitle A or B*  
22 *of the Financial Services Antifraud Network Act of 2001*  
23 *to the extent the disclosure is made in accordance with the*  
24 *requirements of such Act.”.*

1       (c) *Section 602 of the Consumer Credit Protection Act*  
2 *(15 U.S.C. 1681) is amended by adding at the end the fol-*  
3 *lowing new subsection:*

4       “(c) *This title shall not apply to a communication be-*  
5 *tween participants, as defined in the Financial Services*  
6 *Antifraud Network Act of 2001, to the extent the commu-*  
7 *nication is made in accordance with such Act.”.*

8       **SEC. 117. AUDIT OF STATE INSURANCE REGULATORS.**

9       (a) *IN GENERAL.—At the request of the Congress, the*  
10 *Comptroller General shall audit a State insurance regulator*  
11 *or any person who maintains information on behalf of such*  
12 *regulator.*

13       (b) *LIMITATIONS ON DISCLOSURE OF INFORMATION.—*  
14 *Except as provided in this subsection, an officer or employee*  
15 *of the General Accounting Office may not disclose informa-*  
16 *tion identifying an open insurance company or a customer*  
17 *of an open or closed insurance company. The Comptroller*  
18 *General may disclose information related to the affairs of*  
19 *a closed insurance company only if the Comptroller General*  
20 *believes the customer had a controlling influence in the*  
21 *management of the closed insurance company or was re-*  
22 *lated to or affiliated with a person or group having a con-*  
23 *trolling influence.*

24       (c) *COORDINATION WITH STATE REGULATOR.—An of-*  
25 *ficer or employee of the Office may discuss a customer or*



1 *insurance company with an official of a State insurance*  
2 *regulator and may report an apparent criminal violation*  
3 *to an appropriate law enforcement authority of the United*  
4 *States Government or a State.*

5 (d) *CONGRESSIONAL OVERSIGHT.*—*This subsection*  
6 *shall not be construed as authorizing an officer or employee*  
7 *of a State insurance regulator to withhold information from*  
8 *a committee of the Congress authorized to have the informa-*  
9 *tion.*

10 (e) *ADMINISTRATIVE ASPECTS OF AUDIT.*—

11 (1) *IN GENERAL.*—*To carry out this section, all*  
12 *records and property of or used by a State insurance*  
13 *regulator, including samples of reports of examina-*  
14 *tions of an insurance company the Comptroller Gen-*  
15 *eral considers statistically meaningful and*  
16 *workpapers and correspondence related to the reports*  
17 *shall be made available to the Comptroller General.*  
18 *The Comptroller General shall give a State insurance*  
19 *regulator a current list of officers and employees to*  
20 *whom, with proper identification, records and prop-*  
21 *erty may be made available, and who may make*  
22 *notes or copies necessary to carry out an audit.*

23 (2) *PREVENTION OF UNAUTHORIZED ACCESS.*—  
24 *The Comptroller General shall prevent unauthorized*  
25 *access to records or property of or used by a State in-*

1        *insurance regulator that the Comptroller General ob-*  
2        *tains during an audit.*

3        *(f) CONFIDENTIALITY.—*

4                *(1) IN GENERAL.—The Comptroller General shall*  
5        *maintain the same level of confidentiality for a record*  
6        *made available under this section as is required of the*  
7        *head of the State insurance regulator from which it*  
8        *is obtained.*

9                *(2) PREVENTION OF INVASION OF PERSONAL PRI-*  
10        *VACY.—The Comptroller General shall keep informa-*  
11        *tion described in section 552(b)(6) of title 5, United*  
12        *States Code, that the Comptroller General obtains in*  
13        *a way that prevents unwarranted invasions of per-*  
14        *sonal privacy.*

15                *(3) AVAILABILITY OF INFORMATION.—Except as*  
16        *provided in subsection (b), no provision of this section*  
17        *shall be construed as authorizing any information to*  
18        *be withheld from the Congress.*

19                *(g) AVAILABILITY OF INFORMATION AND INSPECTION*  
20        *OF RECORDS.—The right of access of the Comptroller Gen-*  
21        *eral to information under this section shall be enforceable*  
22        *under section 716 of title 31, United States Code.*

23                *(h) DEFINITIONS.—For purposes of this section, the*  
24        *following definitions shall apply:*

1           (1) *STATE INSURANCE REGULATOR DEFINED.*—  
 2           *The term “State insurance regulator” means the*  
 3           *principal insurance regulatory authority of a State,*  
 4           *the District of Columbia, any territory of the United*  
 5           *States, Puerto Rico, Guam, American Samoa, the*  
 6           *Trust Territory of the Pacific Islands, the Virgin Is-*  
 7           *lands, and the Northern Mariana Islands.*

8           (2) *INSURANCE COMPANY.*—*The term “insurance*  
 9           *company” includes any person engaged in the busi-*  
 10          *ness of insurance to the extent of such activities.*

## 11 **TITLE II—SECURITIES INDUSTRY**

### 12 **COORDINATION**

#### 13 **Subtitle A—Disciplinary**

#### 14 **Information**

##### 15 **SEC. 201. INVESTMENT ADVISERS ACT OF 1940.**

16          *Section 204 of the Investment Advisers Act of 1940 (15*  
 17          *U.S.C. 80b-4) is amended—*

18                 (1) *by striking “Every investment” and insert-*  
 19                 *ing the following:*

20                 “*(a) IN GENERAL.—Every investment*”; and

21                 (2) *by adding at the end the following:*

22                 “*(b) FILING DEPOSITORIES.—The Commission, by*  
 23                 *rule, may require an investment adviser—*

24                         “*(1) to file with the Commission any fee, appli-*  
 25                         *cation, report, or notice required to be filed by this*

1 *title or the rules issued under this title through any*  
2 *entity designated by the Commission for that purpose;*  
3 *and*

4 *“(2) to pay the reasonable costs associated with*  
5 *such filing and the establishment and maintenance of*  
6 *the systems required by subsection (c).*

7 *“(c) ACCESS TO DISCIPLINARY AND OTHER INFORMA-*  
8 *TION.—*

9 *“(1) MAINTENANCE OF SYSTEM TO RESPOND TO*  
10 *INQUIRIES.—The Commission shall require the entity*  
11 *designated by the Commission under subsection*  
12 *(b)(1)—*

13 *“(A) to establish and maintain a toll-free*  
14 *telephone listing or other readily accessible elec-*  
15 *tronic process to receive inquiries regarding dis-*  
16 *ciplinary actions and proceedings and other in-*  
17 *formation involving investment advisers and*  
18 *persons associated with investment advisers; and*

19 *“(B) to respond promptly to such inquiries.*

20 *“(2) RECOVERY OF COSTS.—An entity des-*  
21 *ignated by the Commission under subsection (b)(1)*  
22 *may charge persons, other than individual investors,*  
23 *reasonable fees for responses to inquiries made under*  
24 *paragraph (1).*

1           “(3) *LIMITATION ON LIABILITY.*—An entity des-  
2           ignated by the Commission under subsection (b)(1)  
3           shall not have any liability to any person for any ac-  
4           tions taken or omitted in good faith under this sub-  
5           section.”.

6 **SEC. 202. SECURITIES EXCHANGE ACT OF 1934.**

7           Subsection (i) of section 15A of the Securities Ex-  
8           change Act of 1934 (15 U.S.C. 78o-3) is amended to read  
9           as follows:

10          “(i) *OBLIGATION TO MAINTAIN DISCIPLINARY AND*  
11 *OTHER DATA.*—

12           “(1) *MAINTENANCE OF SYSTEM TO RESPOND TO*  
13 *INQUIRIES.*—A registered securities association  
14           shall—

15           “(A) establish and maintain a toll-free tele-  
16           phone listing or other readily accessible elec-  
17           tronic process to receive inquiries regarding dis-  
18           ciplinary actions and proceedings and other in-  
19           formation involving its members and their asso-  
20           ciated persons and regarding disciplinary ac-  
21           tions and proceedings and other information  
22           that has been reported to the Central Registra-  
23           tion Depository by any registered national secu-  
24           rities exchange involving its members and their  
25           associated persons; and

1                   “(B) promptly respond to such inquiries.

2                   “(2) *RECOVERY OF COSTS.*—Such association  
3                   may charge persons, other than individual investors,  
4                   reasonable fees for responses to such inquiries.

5                   “(3) *LIMITATION ON LIABILITY.*—Such an asso-  
6                   ciation or exchange shall not have any liability to  
7                   any person for any actions taken or omitted in good  
8                   faith under this subsection.”.

9                   ***Subtitle B—Preventing Migration of***  
10                   ***Rogue Financial Professionals***  
11                   ***to the Securities Industry***

12                   ***SEC. 211. SECURITIES EXCHANGE ACT OF 1934.***

13                   (a) *BROKERS AND DEALERS.*—Section 15(b) of the Se-  
14                   curities Exchange Act of 1934 (15 U.S.C. 78o(b)) is  
15                   amended—

16                   (1) in paragraph (4), by striking subparagraphs  
17                   (F) and (G) and inserting the following:

18                   “(F) is subject to any order of the Commission  
19                   barring or suspending the right of the person to be as-  
20                   sociated with a broker or dealer.

21                   “(G) has been found by a foreign financial regu-  
22                   latory authority to have—

23                   “(i) made or caused to be made in any ap-  
24                   plication for registration or report required to be  
25                   filed with a foreign financial regulatory author-

1           *ity, or in any proceeding before a foreign finan-*  
2           *cial regulatory authority with respect to reg-*  
3           *istration, any statement that was at the time*  
4           *and in the light of the circumstances under*  
5           *which it was made false or misleading with re-*  
6           *spect to any material fact, or omitted to state in*  
7           *any such application, report, or proceeding any*  
8           *material fact that is required to be stated there-*  
9           *in;*

10           *“(ii) violated any foreign statute or regula-*  
11           *tion regarding securities, banking, thrift activi-*  
12           *ties, credit union activities, insurance, or con-*  
13           *tracts of sale of a commodity for future delivery,*  
14           *traded on or subject to the rules of a contract*  
15           *market or any board of trade; or*

16           *“(iii) aided, abetted, counseled, commanded,*  
17           *induced, or procured the violation by any other*  
18           *person of any provision of any statutory provi-*  
19           *sions enacted by a foreign government, or rules*  
20           *or regulations thereunder, regarding securities,*  
21           *banking, thrift activities, credit union activities,*  
22           *insurance, or contracts of sale of a commodity*  
23           *for future delivery traded on or subject to the*  
24           *rules of a contract market or any board of trade,*  
25           *or to have failed reasonably to supervise, with a*

1           *view to preventing violations of such statutory*  
2           *provisions, rules, and regulations, another person*  
3           *who commits such a violation, if such other per-*  
4           *son is subject to his supervision.*

5           *“(H) is subject to any final order of a State se-*  
6           *curities commission (or any agency or officer per-*  
7           *forming like functions), State authority that super-*  
8           *vises or examines banks, thrifts, or credit unions,*  
9           *State insurance commission (or any agency or office*  
10          *performing like functions), an appropriate Federal*  
11          *banking agency (as defined in section 3 of the Federal*  
12          *Deposit Insurance Act (12 U.S.C. 1813(q)), or the*  
13          *National Credit Union Administration, that—*

14                 *“(i) bars such person from association with*  
15                 *an entity regulated by such commission, author-*  
16                 *ity, agency, or officer, or from engaging in the*  
17                 *business of securities, insurance, banking, thrift*  
18                 *activities, or credit union activities; or*

19                 *“(ii) constitutes a final order based on vio-*  
20                 *lations of any laws or regulations that prohibit*  
21                 *fraudulent, manipulative, or deceptive conduct.”;*

22                 *and*

23                 *(2) in paragraph (6)(A)(i), by striking “or omis-*  
24                 *sion enumerated in subparagraph (A), (D), (E), or*  
25                 *(G)” and inserting “, or is subject to an order or*



1        *finding, enumerated in subparagraph (A), (D), (E),*  
2        *(G), or (H)”.*

3        (b) *MUNICIPAL SECURITIES BROKERS AND DEAL-*  
4 *ERS.—Section 15B(c) of the Securities Exchange Act of*  
5 *1934 (15 U.S.C. 78o-4(c)) is amended—*

6            (1) *in paragraph (2)—*

7                    (A) *by striking “or omission enumerated in*  
8 *subparagraph (A), (D), (E), or (G)” and insert-*  
9 *ing “, or is subject to an order or finding, enu-*  
10 *merated in subparagraph (A), (D), (E), (G), or*  
11 *(H)”;* *and*

12                    (B) *by striking “ten” and inserting “10”;*  
13 *and*

14                    (2) *in paragraph (4) by striking “or omission*  
15 *enumerated in subparagraph (A), (D), (E), or (G)”*  
16 *and inserting “, or is subject to an order or finding,*  
17 *enumerated in subparagraph (A), (D), (E), (G), or*  
18 *(H)”.*

19        (c) *GOVERNMENT SECURITIES BROKERS AND DEAL-*  
20 *ERS.—Section 15C(c)(1) of the Securities Exchange Act of*  
21 *1934 (15 U.S.C. 78o-5(c)(1)) is amended—*

22            (1) *in subparagraph (A), by striking “or omis-*  
23 *sion enumerated in subparagraph (A), (D), (E), or*  
24 *(G)” and inserting “, or is subject to an order or*

1       *finding, enumerated in subparagraph (A), (D), (E),*  
2       *(G), or (H)”; and*

3             (2) *in subparagraph (C), by striking “or omis-*  
4       *sion enumerated in subparagraph (A), (D), (E), or*  
5       *(G)” and inserting “, or is subject to an order or*  
6       *finding, enumerated in subparagraph (A), (D), (E),*  
7       *(G), or (H)”.*

8       (d) *CLEARANCE AND SETTLEMENT.—Section 17A(c) of*  
9       *the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(c))*  
10       *is amended—*

11             (1) *in paragraph (3)(A), by striking “enumer-*  
12       *ated in subparagraph (A), (D), (E), or (G)” and in-*  
13       *serting “, or is subject to an order or finding, enu-*  
14       *merated in subparagraph (A), (D), (E), (G), or (H)”; and*  
15       *and*

16             (2) *in paragraph (4)(C)—*

17                 (A) *by striking “enumerated in subpara-*  
18       *graph (A), (D), (E), or (G)” and inserting “, or*  
19       *is subject to an order or finding, enumerated in*  
20       *subparagraph (A), (D), (E), (G), or (H)”; and*

21                 (B) *by striking “ten years” and inserting*  
22       *“10 years”.*

23       (e) *DEFINITION OF STATUTORY DISQUALIFICATION.—*  
24       *Section 3(a)(39)(F) of the Securities Exchange Act of 1934*  
25       *(15 U.S.C. 78c(a)(39)(F)) is amended by striking “has com-*

1 *mited or omitted any act enumerated in subparagraph*  
2 *(D), (E), or (G)” and inserting “has committed or omitted*  
3 *any act, or is subject to an order or finding, enumerated*  
4 *in subparagraph (D), (E), (G), or (H)”.*

5 **SEC. 212. INVESTMENT ADVISERS ACT OF 1940.**

6 *(a) AUTHORITY TO DENY OR REVOKE REGISTRATION*  
7 *BASED ON STATE (AND OTHER GOVERNMENTAL) ADMINIS-*  
8 *TRATIVE ACTIONS.—Section 203(e) of the Investment Advis-*  
9 *ers Act of 1940 (15 U.S.C. 80b–3(e)) is amended by striking*  
10 *paragraphs (7) and (8) and inserting the following:*

11 *“(7) is subject to any order of the Commission*  
12 *barring or suspending the right of the person to be as-*  
13 *sociated with an investment adviser.*

14 *“(8) has been found by a foreign financial regu-*  
15 *latory authority to have—*

16 *“(A) made or caused to be made in any ap-*  
17 *plication for registration or report required to be*  
18 *filed with a foreign securities authority, or in*  
19 *any proceeding before a foreign securities author-*  
20 *ity with respect to registration, any statement*  
21 *that was at the time and in light of the cir-*  
22 *cumstances under which it was made false or*  
23 *misleading with respect to any material fact, or*  
24 *has omitted to state in any such application, re-*

1           *port, or proceeding any material fact that is re-*  
2           *quired to be stated therein;*

3           *“(B) violated any foreign statute or regula-*  
4           *tion regarding securities, banking, thrift activi-*  
5           *ties, credit union activities, insurance, or con-*  
6           *tracts of sale of a commodity for future delivery*  
7           *traded on or subject to the rules of a contract*  
8           *market or any board of trade;*

9           *“(C) aided, abetted, counseled, commanded,*  
10          *induced, or procured the violation by any other*  
11          *person of any foreign statute or regulation re-*  
12          *garding securities, banking, thrift activities,*  
13          *credit union activities, insurance, or contracts of*  
14          *sale of a commodity for future delivery traded on*  
15          *or subject to the rules of a contract market or*  
16          *any board of trade, or to have failed reasonably*  
17          *to supervise, with a view to preventing violations*  
18          *of statutory provisions, and rules and regula-*  
19          *tions promulgated thereunder, another person*  
20          *who commits such a violation, if such other per-*  
21          *son is subject to his supervision.*

22          *“(9) is subject to any final order of a State secu-*  
23          *rities commission (or any agency or officer per-*  
24          *forming like functions), State authority that super-*  
25          *vises or examines banks, thrifts, or credit unions,*

1       *State insurance commission (or any agency or office*  
2       *performing like functions), an appropriate Federal*  
3       *banking agency (as defined in section 3 of the Federal*  
4       *Deposit Insurance Act (12 U.S.C. 1813(q)), or the*  
5       *National Credit Union Administration, that—*

6               “(A) bars such person from association with  
7               an entity regulated by such commission, author-  
8               ity, agency, or officer, or from engaging in the  
9               business of securities, insurance, banking, thrift  
10              activities, or credit union activities; or

11              “(B) constitutes a final order based on vio-  
12              lations of any laws or regulations that prohibit  
13              fraudulent, manipulative, or deceptive conduct.”.

14       ***(b) BARS ON FELONS ASSOCIATED WITH INVESTMENT***  
15       ***ADVISERS.—Section 203(f) of the Investment Advisers Act***  
16       ***of 1940 (15 U.S.C. 80b–3(f)) is amended—***

17              (A) by striking “or (8)” and inserting “(8),  
18              or (9)”; and

19              (B) by inserting “or (3)” after “paragraph  
20              (2)”.

**Union Calendar No. 144**

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H.R. 1408**

**[Report No. 107-192, Parts I and II]**

---

---

**A BILL**

To safeguard the public from fraud in the financial services industry, to streamline and facilitate the antifraud information-sharing efforts of Federal and State regulators, and for other purposes.

---

---

OCTOBER 16, 2001

Reported from the Committee on the Judiciary with an amendment; committed to the Committee of the Whole House on the State of the Union, and ordered to be printed