

108TH CONGRESS
2D SESSION

H. R. 1375

IN THE SENATE OF THE UNITED STATES

MARCH 22, 2004

Received; read twice and referred to the Committee on Banking, Housing, and
Urban Affairs

AN ACT

To provide regulatory relief and improve productivity for
insured depository institutions, and for other purposes.

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

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

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Financial Services Regulatory Relief Act of 2004”.

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

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL BANK PROVISIONS

Sec. 101. National bank directors.

Sec. 102. Voting in shareholder elections.

Sec. 103. Simplifying dividend calculations for national banks.

Sec. 104. Repeal of obsolete limitation on removal authority of the Comptroller
of the Currency.

Sec. 105. Repeal of intrastate branch capital requirements.

Sec. 106. Clarification of waiver of publication requirements for bank merger
notices.

Sec. 107. Equal treatment for Federal agencies of foreign banks.

Sec. 108. Maintenance of a Federal branch and a Federal agency in the same
State.

Sec. 109. Business organization flexibility for national banks.

Sec. 110. Clarification of the main place of business of a national bank.

TITLE II—SAVINGS ASSOCIATION PROVISIONS

Sec. 201. Parity for savings associations under the Securities Exchange Act of
1934 and the Investment Advisers Act of 1940.

Sec. 202. Investments by Federal savings associations authorized to promote
the public welfare.

Sec. 203. Mergers and consolidations of Federal savings associations with non-
depository institution affiliates.

Sec. 204. Repeal of statutory dividend notice requirement for savings associa-
tion subsidiaries of savings and loan holding companies.

Sec. 205. Modernizing statutory authority for trust ownership of savings asso-
ciations.

Sec. 206. Repeal of overlapping rules governing purchased mortgage servicing
rights.

Sec. 207. Restatement of authority for Federal savings associations to invest in
small business investment companies.

Sec. 208. Removal of limitation on investments in auto loans.

Sec. 209. Selling and offering of deposit products.

Sec. 210. Funeral- and cemetery-related fiduciary services.

Sec. 211. Repeal of qualified thrift lender requirement with respect to out-of-
state branches.

Sec. 212. Small business and other commercial loans.

Sec. 213. Clarifying citizenship of Federal savings associations for Federal
court jurisdiction.

TITLE III—CREDIT UNION PROVISIONS

- Sec. 301. Privately insured credit unions authorized to become members of a Federal home loan bank.
- Sec. 302. Leases of land on Federal facilities for credit unions.
- Sec. 303. Investments in securities by Federal credit unions.
- Sec. 304. Increase in general 12-year limitation of term of Federal credit union loans to 15 years.
- Sec. 305. Increase in 1 percent investment limit in credit union service organizations.
- Sec. 306. Member business loan exclusion for loans to nonprofit religious organizations.
- Sec. 307. Check cashing and money transfer services offered within the field of membership.
- Sec. 308. Voluntary mergers involving multiple common-bond credit unions.
- Sec. 309. Conversions involving common-bond credit unions.
- Sec. 310. Credit union governance.
- Sec. 311. Providing the National Credit Union Administration with greater flexibility in responding to market conditions.
- Sec. 312. Exemption from pre-merger notification requirement of the Clayton Act.
- Sec. 313. Treatment of credit unions as depository institutions under securities laws.

TITLE IV—DEPOSITORY INSTITUTION PROVISIONS

- Sec. 401. Easing restrictions on interstate branching and mergers.
- Sec. 402. Statute of limitations for judicial review of appointment of a receiver for depository institutions.
- Sec. 403. Reporting requirements relating to insider lending.
- Sec. 404. Amendment to provide an inflation adjustment for the small depository institution exception under the Depository Institution Management Interlocks Act.
- Sec. 405. Enhancing the safety and soundness of insured depository institutions.
- Sec. 406. Investments by insured savings associations in bank service companies authorized.
- Sec. 407. Cross guarantee authority.
- Sec. 408. Golden parachute authority and nonbank holding companies.
- Sec. 409. Amendments relating to change in bank control.

TITLE V—DEPOSITORY INSTITUTION AFFILIATES PROVISIONS

- Sec. 501. Clarification of cross marketing provision.
- Sec. 502. Amendment to provide the Federal Reserve Board with discretion concerning the imputation of control of shares of a company by trustees.
- Sec. 503. Eliminating geographic limits on thrift service companies.
- Sec. 504. Clarification of scope of applicable rate provision.

TITLE VI—BANKING AGENCY PROVISIONS

- Sec. 601. Waiver of examination schedule in order to allocate examiner resources.
- Sec. 602. Interagency data sharing.
- Sec. 603. Penalty for unauthorized participation by convicted individual.

1 (1) by striking “SEC. 5146. Every director
2 must during” and inserting the following:

3 **“SEC. 5146. REQUIREMENTS FOR BANK DIRECTORS.**

4 “(a) RESIDENCY REQUIREMENTS.—Every director of
5 a national bank shall, during”;

6 (2) by striking “total number of directors.
7 Every director must own in his or her own right”
8 and inserting “total number of directors.

9 “(b) INVESTMENT REQUIREMENT.—

10 “(1) IN GENERAL.—Every director of a na-
11 tional bank shall own, in his or her own right,”; and

12 (3) by adding at the end the following new
13 paragraph:

14 “(2) EXCEPTION FOR SUBORDINATED DEBT IN
15 CERTAIN CASES.—In lieu of the requirements of
16 paragraph (1) relating to the ownership of capital
17 stock in the national bank, the Comptroller of the
18 Currency may, by regulation or order, permit an in-
19 dividual to serve as a director of a national bank
20 that has elected, or notifies the Comptroller of the
21 bank’s intention to elect, to operate as a S corpora-
22 tion pursuant to section 1362(a) of the Internal
23 Revenue Code of 1986, if that individual holds debt
24 of at least \$1,000 issued by the national bank that

1 is subordinated to the interests of depositors and
2 other general creditors of the national bank.”.

3 **SEC. 102. VOTING IN SHAREHOLDER ELECTIONS.**

4 Section 5144 of the Revised Statutes of the United
5 States (12 U.S.C. 61) is amended—

6 (1) by striking “or to cumulate” and inserting
7 “or, if so provided by the articles of association of
8 the national bank, to cumulate”;

9 (2) by striking the comma after “his shares
10 shall equal”; and

11 (3) by adding at the end the following new sen-
12 tence: “The Comptroller of the Currency may pre-
13 scribe such regulations to carry out the purposes of
14 this section as the Comptroller determines to be ap-
15 propriate.”.

16 **SEC. 103. SIMPLIFYING DIVIDEND CALCULATIONS FOR NA-**
17 **TIONAL BANKS.**

18 (a) IN GENERAL.—Section 5199 of the Revised Stat-
19 utes of the United States (12 U.S.C. 60) is amended to
20 read as follows:

21 **“SEC. 5199. NATIONAL BANK DIVIDENDS.**

22 “(a) IN GENERAL.—Subject to subsection (b), the di-
23 rectors of any national bank may declare a dividend of
24 so much of the undivided profits of the bank as the direc-
25 tors judge to be expedient.

1 “(b) APPROVAL REQUIRED UNDER CERTAIN CIR-
 2 CUMSTANCES.—A national bank may not declare and pay
 3 dividends in any year in excess of an amount equal to the
 4 sum of the total of the net income of the bank for that
 5 year and the retained net income of the bank in the pre-
 6 ceding two years, minus any transfers required by the
 7 Comptroller of the Currency (including any transfers re-
 8 quired to be made to a fund for the retirement of any
 9 preferred stock), unless the Comptroller of the Currency
 10 approves the declaration and payment of dividends in ex-
 11 cess of such amount.”.

12 (b) CLERICAL AMENDMENT.—The table of sections
 13 for chapter three of title LXII of the Revised Statutes of
 14 the United States is amended by striking the item relating
 15 to section 5199 and inserting the following new item:

“5199. National bank dividends.”.

16 **SEC. 104. REPEAL OF OBSOLETE LIMITATION ON REMOVAL**
 17 **AUTHORITY OF THE COMPTROLLER OF THE**
 18 **CURRENCY.**

19 Section 8(e)(4) of the Federal Deposit Insurance Act
 20 (12 U.S.C. 1818(e)(4)) is amended by striking the 5th
 21 sentence.

22 **SEC. 105. REPEAL OF INTRASTATE BRANCH CAPITAL RE-**
 23 **QUIREMENTS.**

24 Section 5155(c) of the Revised Statutes of the United
 25 States (12 U.S.C. 36(c)) is amended—

1 (1) in the 2nd sentence, by striking “, without
2 regard to the capital requirements of this section,”;
3 and

4 (2) by striking the last sentence.

5 **SEC. 106. CLARIFICATION OF WAIVER OF PUBLICATION RE-**
6 **QUIREMENTS FOR BANK MERGER NOTICES.**

7 The last sentence of sections 2(a) and 3(a)(2) of the
8 National Bank Consolidation and Merger Act (12 U.S.C.
9 215(a) and 215a(a)(2), respectively) are each amended by
10 striking “Publication of notice may be waived, in cases
11 where the Comptroller determines that an emergency ex-
12 ists justifying such waiver, by unanimous action of the
13 shareholders of the association or State bank” and insert-
14 ing “Publication of notice may be waived if the Comp-
15 troller determines that an emergency exists justifying such
16 waiver or if the shareholders of the association or State
17 bank agree by unanimous action to waive the publication
18 requirement for their respective institutions”.

19 **SEC. 107. EQUAL TREATMENT FOR FEDERAL AGENCIES OF**
20 **FOREIGN BANKS.**

21 The 1st sentence of section 4(d) of the International
22 Banking Act of 1978 (12 U.S.C. 3102(d)) is amended by
23 inserting “from citizens or residents of the United States”
24 after “deposits”.

1 **SEC. 108. MAINTENANCE OF A FEDERAL BRANCH AND A**
2 **FEDERAL AGENCY IN THE SAME STATE.**

3 Section 4(e) of the International Banking Act of
4 1978 (12 U.S.C. 3102(e)) is amended by inserting “if the
5 maintenance of both an agency and a branch in the State
6 is prohibited under the law of such State” before the pe-
7 riod at the end.

8 **SEC. 109. BUSINESS ORGANIZATION FLEXIBILITY FOR NA-**
9 **TIONAL BANKS.**

10 (a) IN GENERAL.—Chapter one of title LXII of the
11 Revised Statutes of the United States (12 U.S.C. 21 et
12 seq.) is amended by inserting after section 5136B the fol-
13 lowing new section:

14 **“SEC. 5136C. ALTERNATIVE BUSINESS ORGANIZATION.**

15 “(a) IN GENERAL.—The Comptroller of the Currency
16 may prescribe regulations—

17 “(1) to permit a national bank to be organized
18 other than as a body corporate; and

19 “(2) to provide requirements for the organiza-
20 tional characteristics of a national bank organized
21 and operating other than as a body corporate, con-
22 sistent with the safety and soundness of the national
23 bank.

24 “(b) EQUAL TREATMENT.—Except as provided in
25 regulations prescribed under subsection (a), a national
26 bank that is operating other than as a body corporate shall

1 have the same rights and privileges and shall be subject
2 to the same duties, restrictions, penalties, liabilities, condi-
3 tions, and limitations as a national bank that is organized
4 as a body corporate.”.

5 (b) TECHNICAL AND CONFORMING AMENDMENT.—
6 Section 5136 of the Revised Statutes of the United States
7 (12 U.S.C. 24) is amended, in the matter preceding the
8 paragraph designated as the “First”, by inserting “or
9 other form of business organization provided under regula-
10 tions prescribed by the Comptroller of the Currency under
11 section 5136C” after “a body corporate”.

12 (c) CLERICAL AMENDMENT.—The table of sections
13 for chapter one of title LXII of the Revised Statutes of
14 the United States (12 U.S.C. 21 et seq.) is amended by
15 inserting after the item relating to section 5136B the fol-
16 lowing new item:

“5136C. Alternative business organization.”.

17 **SEC. 110. CLARIFICATION OF THE MAIN PLACE OF BUSI-**
18 **NESS OF A NATIONAL BANK.**

19 Title LXII of the Revised Statutes of the United
20 States is amended—

21 (1) in the paragraph designated the “Second”
22 of section 5134 (12 U.S.C. 22), by striking “The
23 place where its operations of discount and deposit
24 are to be carried on” and inserting “The place

1 where the main office of the national bank is, or is
2 to be, located”; and

3 (2) in section 5190 (12 U.S.C. 81), by striking
4 “the place specified in its organization certificate”
5 and inserting “the main office of the national bank”.

6 **TITLE II—SAVINGS ASSOCIATION** 7 **PROVISIONS**

8 **SEC. 201. PARITY FOR SAVINGS ASSOCIATIONS UNDER THE** 9 **SECURITIES EXCHANGE ACT OF 1934 AND** 10 **THE INVESTMENT ADVISERS ACT OF 1940.**

11 (a) SECURITIES EXCHANGE ACT OF 1934.—

12 (1) DEFINITION OF BANK.—Section 3(a)(6) of
13 the Securities Exchange Act of 1934 (15 U.S.C.
14 78c(a)(6)) is amended—

15 (A) in subparagraph (A), by inserting “or
16 a Federal savings association, as defined in sec-
17 tion 2(5) of the Home Owners’ Loan Act” after
18 “a banking institution organized under the laws
19 of the United States”; and

20 (B) in subparagraph (C)—

21 (i) by inserting “or savings associa-
22 tion as defined in section 2(4) of the Home
23 Owners’ Loan Act,” after “banking insti-
24 tution,”; and

1 (ii) by inserting “or savings associa-
2 tions” after “having supervision over
3 banks”.

4 (2) INCLUDE OTS UNDER THE DEFINITION OF
5 APPROPRIATE REGULATORY AGENCY FOR CERTAIN
6 PURPOSES.—Section 3(a)(34) of such Act (15
7 U.S.C. 78c(a)(34)) is amended—

8 (A) in subparagraph (A)—

9 (i) in clause (ii), by striking “(i) or
10 (iii)” and inserting “(i), (iii), or (iv)”;

11 (ii) by striking “and” at the end of
12 clause (iii);

13 (iii) by redesignating clause (iv) as
14 clause (v); and

15 (iv) by inserting the following new
16 clause after clause (iii):

17 “(iv) the Director of the Office of
18 Thrift Supervision, in the case of a savings
19 association (as defined in section 3(b) of
20 the Federal Deposit Insurance Act (12
21 U.S.C. 1813(b))) the deposits of which are
22 insured by the Federal Deposit Insurance
23 Corporation, a subsidiary or a department
24 or division of any such savings association,

1 or a savings and loan holding company;
2 and”;

3 (B) in subparagraph (B)—

4 (i) in clause (ii), by striking “(i) or
5 (iii)” and inserting “(i), (iii), or (iv)”;

6 (ii) by striking “and” at the end of
7 clause (iii);

8 (iii) by redesignating clause (iv) as
9 clause (v); and

10 (iv) by inserting the following new
11 clause after clause (iii):

12 “(iv) the Director of the Office of
13 Thrift Supervision, in the case of a savings
14 association (as defined in section 3(b) of
15 the Federal Deposit Insurance Act (12
16 U.S.C. 1813(b))) the deposits of which are
17 insured by the Federal Deposit Insurance
18 Corporation, or a subsidiary of any such
19 savings association, or a savings and loan
20 holding company; and”;

21 (C) in subparagraph (C)—

22 (i) in clause (ii), by striking “(i) or
23 (iii)” and inserting “(i), (iii), or (iv)”;

24 (ii) by striking “and” at the end of
25 clause (iii);

1 (iii) by redesignating clause (iv) as
2 clause (v); and

3 (iv) by inserting the following new
4 clause after clause (iii):

5 “(iv) the Director of the Office of
6 Thrift Supervision, in the case of a savings
7 association (as defined in section 3(b) of
8 the Federal Deposit Insurance Act (12
9 U.S.C. 1813(b))) the deposits of which are
10 insured by the Federal Deposit Insurance
11 Corporation, a savings and loan holding
12 company, or a subsidiary of a savings and
13 loan holding company when the appro-
14 priate regulatory agency for such clearing
15 agency is not the Commission; and”;

16 (D) in subparagraph (D)—

17 (i) by striking “and” at the end of
18 clause (ii);

19 (ii) by redesignating clause (iii) as
20 clause (iv); and

21 (iii) by inserting the following new
22 clause after clause (ii):

23 “(iii) the Director of the Office of
24 Thrift Supervision, in the case of a savings
25 association (as defined in section 3(b) of

1 the Federal Deposit Insurance Act (12
2 U.S.C. 1813(b)) the deposits of which are
3 insured by the Federal Deposit Insurance
4 Corporation; and”;

5 (E) in subparagraph (F)—

6 (i) by redesignating clauses (ii), (iii),
7 and (iv) as clauses (iii), (iv), and (v), re-
8 spectively; and

9 (ii) by inserting the following new
10 clause after clause (i):

11 “(ii) the Director of the Office of
12 Thrift Supervision, in the case of a savings
13 association (as defined in section 3(b) of
14 the Federal Deposit Insurance Act (12
15 U.S.C. 1813(b)) the deposits of which are
16 insured by the Federal Deposit Insurance
17 Corporation; and”;

18 (F) by moving subparagraph (H) and in-
19 serting such subparagraph after subparagraph
20 (G); and

21 (G) by adding at the end the following new
22 sentence: “As used in this paragraph, the term
23 ‘savings and loan holding company’ has the
24 meaning given it in section 10(a) of the Home
25 Owners’ Loan Act (12 U.S.C. 1467a(a)).”.

1 (b) INVESTMENT ADVISERS ACT OF 1940.—

2 (1) DEFINITION OF BANK.—Section 202(a)(2)
3 of the Investment Advisers Act of 1940 (15 U.S.C.
4 80b–2(a)(2)) is amended—

5 (A) in subparagraph (A) by inserting “or
6 a Federal savings association, as defined in sec-
7 tion 2(5) of the Home Owners’ Loan Act” after
8 “a banking institution organized under the laws
9 of the United States”; and

10 (B) in subparagraph (C)—

11 (i) by inserting “, savings association
12 as defined in section 2(4) of the Home
13 Owners’ Loan Act,” after “banking insti-
14 tution”; and

15 (ii) by inserting “or savings associa-
16 tions” after “having supervision over
17 banks”.

18 (2) CONFORMING AMENDMENTS.—Subsections
19 (a)(1)(A)(i), (a)(1)(B), (a)(2), and (b) of section
20 210A of such Act (15 U.S.C. 80b–10a), as added by
21 section 220 of the Gramm-Leach-Bliley Act, are
22 each amended by striking “bank holding company”
23 each place it occurs and inserting “bank holding
24 company or savings and loan holding company”.

1 (c) CONFORMING AMENDMENT TO THE INVESTMENT
 2 COMPANY ACT OF 1940.—Section 10(c) of the Investment
 3 Company Act of 1940 (15 U.S.C. 80a–10(c)), as amended
 4 by section 213(e) of the Gramm-Leach-Bliley Act, is
 5 amended by inserting after “1956)” the following: “or any
 6 one savings and loan holding company (together with its
 7 affiliates and subsidiaries) (as such terms are defined in
 8 section 10 of the Home Owners’ Loan Act)”.

9 **SEC. 202. INVESTMENTS BY FEDERAL SAVINGS ASSOCIA-**
 10 **TIONS AUTHORIZED TO PROMOTE THE PUB-**
 11 **LIC WELFARE.**

12 (a) IN GENERAL.—Section 5(c)(3) of the Home Own-
 13 ers’ Loan Act (12 U.S.C. 1464(c)) is amended by adding
 14 at the end the following new subparagraph:

15 “(D) DIRECT INVESTMENTS TO PROMOTE
 16 THE PUBLIC WELFARE.—

17 “(i) IN GENERAL.—A Federal savings
 18 association may make investments de-
 19 signed primarily to promote the public wel-
 20 fare, including the welfare of low- and
 21 moderate-income communities or families
 22 through the provision of housing, services,
 23 and jobs.

24 “(ii) DIRECT INVESTMENTS OR ACQUI-
 25 SITION OF INTEREST IN OTHER COMPA-

1 NIES.—Investments under clause (i) may
2 be made directly or by purchasing interests
3 in an entity primarily engaged in making
4 such investments.

5 “(iii) PROHIBITION ON UNLIMITED LI-
6 ABILITY.—No investment may be made
7 under this subparagraph which would sub-
8 ject a Federal savings association to unlim-
9 ited liability to any person.

10 “(iv) SINGLE INVESTMENT LIMITA-
11 TION TO BE ESTABLISHED BY DIREC-
12 TOR.—Subject to clauses (v) and (vi), the
13 Director shall establish, by order or regula-
14 tion, limits on—

15 “(I) the amount any savings as-
16 sociation may invest in any 1 project;
17 and

18 “(II) the aggregate amount of in-
19 vestment of any savings association
20 under this subparagraph.

21 “(v) FLEXIBLE AGGREGATE INVEST-
22 MENT LIMITATION.—The aggregate
23 amount of investments of any savings asso-
24 ciation under this subparagraph may not
25 exceed an amount equal to the sum of 5

1 percent of the savings association’s capital
2 stock actually paid in and unimpaired and
3 5 percent of the savings association’s
4 unimpaired surplus, unless—

5 “(I) the Director determines that
6 the savings association is adequately
7 capitalized; and

8 “(II) the Director determines, by
9 order, that the aggregate amount of
10 investments in a higher amount than
11 the limit under this clause will pose
12 no significant risk to the affected de-
13 posit insurance fund.

14 “(vi) MAXIMUM AGGREGATE INVEST-
15 MENT LIMITATION.—Notwithstanding
16 clause (v), the aggregate amount of invest-
17 ments of any savings association under
18 this subparagraph may not exceed an
19 amount equal to the sum of 10 percent of
20 the savings association’s capital stock actu-
21 ally paid in and unimpaired and 10 per-
22 cent of the savings association’s
23 unimpaired surplus.

24 “(vii) INVESTMENTS NOT SUBJECT TO
25 OTHER LIMITATION ON QUALITY OF IN-

1 VESTMENTS.—No obligation a Federal sav-
 2 ings association acquires or retains under
 3 this subparagraph shall be taken into ac-
 4 count for purposes of the limitation con-
 5 tained in section 28(d) of the Federal De-
 6 posit Insurance Act on the acquisition and
 7 retention of any corporate debt security
 8 not of investment grade.”.

9 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 10 Section 5(c)(3)(A) of the Home Owners’ Loan Act (12
 11 U.S.C. 1464(c)(3)(A)) is amended to read as follows:

12 “(A) [Repealed.]”.

13 **SEC. 203. MERGERS AND CONSOLIDATIONS OF FEDERAL**
 14 **SAVINGS ASSOCIATIONS WITH NONDEPOSI-**
 15 **TORY INSTITUTION AFFILIATES.**

16 Section 5(d)(3) of the Home Owners’ Loan Act (12
 17 U.S.C. 1464(d)(3)) is amended—

18 (1) by redesignating subparagraph (B) as sub-
 19 paragraph (C); and

20 (2) by inserting after subparagraph (A) the fol-
 21 lowing new subparagraph:

22 “(B) MERGERS AND CONSOLIDATIONS
 23 WITH NONDEPOSITORY INSTITUTION AFFILI-
 24 ATES.—

1 “(i) IN GENERAL.—Upon the approval
2 of the Director, a Federal savings associa-
3 tion may merge with any nondepository in-
4 stitution affiliate of the savings associa-
5 tion.

6 “(ii) RULE OF CONSTRUCTION.—No
7 provision of clause (i) shall be construed
8 as—

9 “(I) affecting the applicability of
10 section 18(c) of the Federal Deposit
11 Insurance Act; or

12 “(II) granting a Federal savings
13 association any power or any author-
14 ity to engage in any activity that is
15 not authorized for a Federal savings
16 association under any other provision
17 of this Act or any other provision of
18 law.”.

19 **SEC. 204. REPEAL OF STATUTORY DIVIDEND NOTICE RE-**
20 **QUIREMENT FOR SAVINGS ASSOCIATION SUB-**
21 **SIDIARIES OF SAVINGS AND LOAN HOLDING**
22 **COMPANIES.**

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

1 “(f) DECLARATION OF DIVIDEND.—The Director
2 may—

3 “(1) require a savings association that is a sub-
4 sidiary of a savings and loan holding company to
5 give prior notice to the Director of the intent of the
6 savings association to pay a dividend on its guar-
7 anty, permanent, or other nonwithdrawable stock;
8 and

9 “(2) establish conditions on the payment of
10 dividends by such a savings association.”.

11 **SEC. 205. MODERNIZING STATUTORY AUTHORITY FOR**
12 **TRUST OWNERSHIP OF SAVINGS ASSOCIA-**
13 **TIONS.**

14 (a) IN GENERAL.—Section 10(a)(1)(C) of the Home
15 Owners’ Loan Act (12 U.S.C. 1467a(a)(1)(C)) is amend-
16 ed—

17 (1) by striking “trust,” and inserting “business
18 trust,”; and

19 (2) by inserting “or any other trust unless by
20 its terms it must terminate within 25 years or not
21 later than 21 years and 10 months after the death
22 of individuals living on the effective date of the
23 trust,” after “or similar organization,”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
2 Section 10(a)(3) of the Home Owners' Loan Act (12
3 U.S.C. 1467a(a)(3)) is amended—

4 (1) by striking “does not include—” and all
5 that follows through “any company by virtue” where
6 such term appears in subparagraph (A) and insert-
7 ing “does not include any company by virtue”;

8 (2) by striking “; and” at the end of subpara-
9 graph (A) and inserting a period; and

10 (3) by striking subparagraph (B).

11 **SEC. 206. REPEAL OF OVERLAPPING RULES GOVERNING**
12 **PURCHASED MORTGAGE SERVICING RIGHTS.**

13 Section 5(t) of the Home Owners' Loan Act (12
14 U.S.C. 1464(t)) is amended—

15 (1) by striking paragraph (4) and inserting the
16 following new paragraph:

17 “(4) [Repealed.]”; and

18 (2) in paragraph (9)(A), by striking “intangible
19 assets, plus” and all that follows through the period
20 at the end and inserting “intangible assets.”.

1 **SEC. 207. RESTATEMENT OF AUTHORITY FOR FEDERAL**
2 **SAVINGS ASSOCIATIONS TO INVEST IN SMALL**
3 **BUSINESS INVESTMENT COMPANIES.**

4 Subparagraph (D) of section 5(c)(4) of the Home
5 Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended to
6 read as follows:

7 “(D) SMALL BUSINESS INVESTMENT COM-
8 PANIES.—Any Federal savings association may
9 invest in 1 or more small business investment
10 companies, or in any entity established to invest
11 solely in small business investment companies
12 formed under the Small Business Investment
13 Act of 1958, except that the total amount of in-
14 vestments under this subparagraph may not at
15 any time exceed the amount equal to 5 percent
16 of capital and surplus of the savings associa-
17 tion.”.

18 **SEC. 208. REMOVAL OF LIMITATION ON INVESTMENTS IN**
19 **AUTO LOANS.**

20 (a) IN GENERAL.—Section 5(c)(1) of the Home Own-
21 ers' Loan Act (12 U.S.C. 1464(c)(1)) is amended by add-
22 ing at the end the following new subparagraph:

23 “(V) AUTO LOANS.—Loans and leases for
24 motor vehicles acquired for personal, family, or
25 household purposes.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT RE-
2 LATING TO QUALIFIED THRIFT INVESTMENTS.—Section
3 10(m)(4)(C)(ii) of the Home Owners’ Loan Act (12
4 U.S.C. 1467a(m)(4)(C)(ii)) is amended by adding at the
5 end the following new subclause:

6 “(VIII) Loans and leases for
7 motor vehicles acquired for personal,
8 family, or household purposes.”.

9 **SEC. 209. SELLING AND OFFERING OF DEPOSIT PRODUCTS.**

10 Section 15(h) of the Securities Exchange Act of
11 1934 (15 U.S.C. 78o(h)) is amended by adding at
12 the end the following new paragraph:

13 “(4) SELLING AND OFFERING OF DEPOSIT
14 PRODUCTS.—No law, rule, regulation, or order, or
15 other administrative action of any State or political
16 subdivision thereof shall directly or indirectly require
17 any individual who is an agent of 1 Federal savings
18 association (as such term is defined in section 2(5)
19 of the Home Owners’ Loan Act (12 U.S.C. 1462(5))
20 in selling or offering deposit (as such term is defined
21 in section 3 of the Federal Deposit Insurance Act
22 (12 U.S.C. 1813(l)) products issued by such associa-
23 tion to qualify or register as a broker, dealer, associ-
24 ated person of a broker, or associated person of a

1 dealer, or to qualify or register in any other similar
2 status or capacity, if the individual does not—

3 “(A) accept deposits or make withdrawals
4 on behalf of any customer of the association;

5 “(B) offer or sell a deposit product as an
6 agent for another entity that is not subject to
7 supervision and examination by a Federal bank-
8 ing agency (as defined in section 3(z) of the
9 Federal Deposit Insurance Act (12 U.S.C.
10 1813(z)), the National Credit Union Adminis-
11 tration, or any officer, agency, or other entity
12 of any State which has primary regulatory au-
13 thority over State banks, State savings associa-
14 tions, or State credit unions;

15 “(C) offer or sell a deposit product that is
16 not an insured deposit (as defined in section
17 3(m) of the Federal Deposit Insurance Act (12
18 U.S.C. 1813(m)));

19 “(D) offer or sell a deposit product which
20 contains a feature that makes it callable at the
21 option of such Federal savings association; or

22 “(E) create a secondary market with re-
23 spect to a deposit product or otherwise add en-
24 hancements or features to such product inde-
25 pendent of those offered by the association.”.

1 **SEC. 210. FUNERAL- AND CEMETERY-RELATED FIDUCIARY**
2 **SERVICES.**

3 Section 5(n) of the Home Owners' Loan Act (12
4 U.S.C. 1464(n)) is amended by adding at the end the fol-
5 lowing new paragraph:

6 “(11) FUNERAL- AND CEMETERY-RELATED FI-
7 DUCIARY SERVICES.—

8 “(A) IN GENERAL.—A funeral director or
9 cemetery operator, when acting in such capac-
10 ity, (or any other person in connection with a
11 contract or other agreement with a funeral di-
12 rector or cemetery operator) may engage any
13 Federal savings association, regardless of where
14 the association is located, to act in any fidu-
15 ciary capacity in which the savings association
16 has the right to act in accordance with this sec-
17 tion, including holding funds deposited in trust
18 or escrow by the funeral director or cemetery
19 operator (or by such other party), and the sav-
20 ings association may act in such fiduciary ca-
21 pacity on behalf of the funeral director or ceme-
22 tery operator (or such other person).

23 “(B) DEFINITIONS.—For purposes of this
24 paragraph, the following definitions shall apply:

25 “(i) CEMETERY.—The term ‘ceme-
26 tery’ means any land or structure used, or

1 intended to be used, for the interment of
2 human remains in any form.

3 “(ii) CEMETERY OPERATOR.—The
4 term ‘cemetery operator’ means any person
5 who contracts or accepts payment for mer-
6 chandise, endowment, or perpetual care
7 services in connection with a cemetery.

8 “(iii) FUNERAL DIRECTOR.—The term
9 ‘funeral director’ means any person who
10 contracts or accepts payment to provide or
11 arrange—

12 “(I) services for the final disposi-
13 tion of human remains; or

14 “(II) funeral services, property,
15 or merchandise (including cemetery
16 services, property, or merchandise).”.

17 **SEC. 211. REPEAL OF QUALIFIED THRIFT LENDER RE-**
18 **QUIREMENT WITH RESPECT TO OUT-OF-**
19 **STATE BRANCHES.**

20 Section 5(r)(1) of the Home Owners’ Loan Act (12
21 U.S.C. 1464(r)(1)) is amended by striking the last sen-
22 tence.

1 **SEC. 212. SMALL BUSINESS AND OTHER COMMERCIAL**
2 **LOANS.**

3 (a) ELIMINATION OF LENDING LIMIT ON SMALL
4 BUSINESS LOANS.—Section 5(c)(1) of the Home Owners’
5 Loan Act (12 U.S.C. 1464(c)(1)) is amended by inserting
6 after subparagraph (V) (as added by section 208 of this
7 title) the following new subparagraph:

8 “(W) SMALL BUSINESS LOANS.—Small
9 business loans, as defined in regulations which
10 the Director shall prescribe.”.

11 (b) INCREASE IN LENDING LIMIT ON OTHER BUSI-
12 NESS LOANS.—Section 5(c)(2)(A) of the Home Owners’
13 Loan Act (12 U.S.C. 1464(c)(2)(A)) is amended by strik-
14 ing “, and amounts in excess of 10 percent” and all that
15 follows through “by the Director”.

16 **SEC. 213. CLARIFYING CITIZENSHIP OF FEDERAL SAVINGS**
17 **ASSOCIATIONS FOR FEDERAL COURT JURIS-**
18 **DICTION.**

19 Section 5 of the Home Owners’ Loan Act (12 U.S.C.
20 1464) is amended by adding at the end the following new
21 subsection:

22 “(x) HOME STATE CITIZENSHIP.—In determining
23 whether a Federal court has diversity jurisdiction over a
24 case in which a Federal savings association is a party, the
25 Federal savings association shall be considered to be a cit-

1 ized only of the State in which such savings association
 2 has its home office.”.

3 **TITLE III—CREDIT UNION**
 4 **PROVISIONS**

5 **SEC. 301. PRIVATELY INSURED CREDIT UNIONS AUTHOR-**
 6 **IZED TO BECOME MEMBERS OF A FEDERAL**
 7 **HOME LOAN BANK.**

8 (a) IN GENERAL.—Section 4(a) of the Federal Home
 9 Loan Bank Act (12 U.S.C. 1424(a)) is amended by adding
 10 at the end the following new paragraph:

11 “(5) CERTAIN PRIVATELY INSURED CREDIT
 12 UNIONS.—

13 “(A) IN GENERAL.—A credit union which
 14 has been determined, in accordance with section
 15 43(e)(1) of the Federal Deposit Insurance Act
 16 and subject to the requirements of subpara-
 17 graph (B), to meet all eligibility requirements
 18 for Federal deposit insurance shall be treated
 19 as an insured depository institution for pur-
 20 poses of determining the eligibility of such cred-
 21 it union for membership in a Federal home loan
 22 bank under paragraphs (1), (2), and (3).

23 “(B) CERTIFICATION BY APPROPRIATE SU-
 24 Pervisor.—

1 “(i) IN GENERAL.—For purposes of
2 this paragraph and subject to clause (ii), a
3 credit union which lacks Federal deposit
4 insurance and which has applied for mem-
5 bership in a Federal home loan bank may
6 be treated as meeting all the eligibility re-
7 quirements for Federal deposit insurance
8 only if the appropriate supervisor of the
9 State in which the credit union is char-
10 tered has determined that the credit union
11 meets all the eligibility requirements for
12 Federal deposit insurance as of the date of
13 the application for membership.

14 “(ii) CERTIFICATION DEEMED
15 VALID.—If, in the case of any credit union
16 to which clause (i) applies, the appropriate
17 supervisor of the State in which such cred-
18 it union is chartered fails to make a deter-
19 mination pursuant to such clause by the
20 end of the 6-month period beginning on
21 the date of the application, the credit
22 union shall be deemed to have met the re-
23 quirements of clause (i).

24 “(C) SECURITY INTERESTS OF FEDERAL
25 HOME LOAN BANK NOT AVOIDABLE.—Notwith-

1 standing any provision of State law authorizing
2 a conservator or liquidating agent of a credit
3 union to repudiate contracts, no such provision
4 shall apply with respect to—

5 “(i) any extension of credit from any
6 Federal home loan bank to any credit
7 union which is a member of any such bank
8 pursuant to this paragraph; or

9 “(ii) any security interest in the as-
10 sets of such credit union securing any such
11 extension of credit.”

12 (b) COPIES OF AUDITS OF PRIVATE INSURERS OF
13 CERTAIN DEPOSITORY INSTITUTIONS REQUIRED TO BE
14 PROVIDED TO SUPERVISORY AGENCIES.—Section
15 43(a)(2) of the Federal Deposit Insurance Act (12 U.S.C.
16 1831t(a)(2)) is amended—

17 (1) by striking “and” at the end of subpara-
18 graph (A)(i);

19 (2) by striking the period at the end of clause
20 (ii) of subparagraph (A) and inserting a semicolon;

21 (3) by inserting the following new clauses at the
22 end of subparagraph (A):

23 “(iii) in the case of depository institu-
24 tions described in subsection (f)(2)(A) the
25 deposits of which are insured by the pri-

1 vate insurer, the National Credit Union
2 Administration, not later than 7 days after
3 that audit is completed; and

4 “(iv) in the case of depository institu-
5 tions described in subsection (f)(2)(A) the
6 deposits of which are insured by the pri-
7 vate insurer which are members of a Fed-
8 eral home loan bank, the Federal Housing
9 Finance Board, not later than 7 days after
10 that audit is completed.”; and

11 (4) by adding at the end the following new sub-
12 paragraph:

13 “(C) CONSULTATION.—The appropriate
14 supervisory agency of each State in which a pri-
15 vate deposit insurer insures deposits in an insti-
16 tution described in subsection (f)(2)(A) which—

17 “(i) lacks Federal deposit insurance;

18 and

19 “(ii) has become a member of a Fed-
20 eral home loan bank,

21 shall provide the National Credit Union Admin-
22 istration, upon request, with the results of any
23 examination and reports related thereto con-
24 cerning the private deposit insurer to which
25 such agency may have in its possession.”.

1 **SEC. 302. LEASES OF LAND ON FEDERAL FACILITIES FOR**
2 **CREDIT UNIONS.**

3 (a) IN GENERAL.—Section 124 of the Federal Credit
4 Union Act (12 U.S.C. 1770) is amended—

5 (1) by striking “Upon application by any credit
6 union” and inserting “Notwithstanding any other
7 provision of law, upon application by any credit
8 union”;

9 (2) by inserting “on lands reserved for the use
10 of, and under the exclusive or concurrent jurisdiction
11 of, the United States or” after “officer or agency of
12 the United States charged with the allotment of
13 space”;

14 (3) by inserting “lease land or” after “such of-
15 ficer or agency may in his or its discretion”; and

16 (4) by inserting “or the facility built on the
17 lease land” after “credit union to be served by the
18 allotment of space”.

19 (b) CLERICAL AMENDMENT.—The heading for sec-
20 tion 124 is amended by inserting “OR FEDERAL LAND”
21 after “BUILDINGS”.

22 **SEC. 303. INVESTMENTS IN SECURITIES BY FEDERAL CRED-**
23 **IT UNIONS.**

24 Section 107 of the Federal Credit Union Act (12
25 U.S.C. 1757) is amended—

1 (1) in the matter preceding paragraph (1) by
2 striking “A Federal credit union” and inserting “(a)
3 IN GENERAL.—Any Federal credit union”; and

4 (2) by adding at the end the following new sub-
5 section:

6 “(b) ADDITIONAL INVESTMENT AUTHORITY.—

7 “(1) IN GENERAL.—In addition to any invest-
8 ments otherwise authorized, a Federal credit union
9 may purchase and hold for its own account such in-
10 vestment securities of investment grade as the
11 Board may authorize by regulation, subject to such
12 limitations and restrictions as the Board may pre-
13 scribe in the regulations.

14 “(2) PERCENTAGE LIMITATIONS.—

15 “(A) SINGLE OBLIGOR.—In no event may
16 the total amount of investment securities of any
17 single obligor or maker held by a Federal credit
18 union for the credit union’s own account exceed
19 at any time an amount equal to 10 percent of
20 the net worth of the credit union.

21 “(B) AGGREGATE INVESTMENTS.—In no
22 event may the aggregate amount of investment
23 securities held by a Federal credit union for the
24 credit union’s own account exceed at any time

1 an amount equal to 10 percent of the assets of
2 the credit union.

3 “(3) INVESTMENT SECURITY DEFINED.—

4 “(A) IN GENERAL.—For purposes of this
5 subsection, the term ‘investment security’
6 means marketable obligations evidencing the in-
7 debtedness of any person in the form of bonds,
8 notes, or debentures and other instruments
9 commonly referred to as investment securities.

10 “(B) FURTHER DEFINITION BY BOARD.—

11 The Board may further define the term ‘invest-
12 ment security’.

13 “(4) INVESTMENT GRADE DEFINED.—The term
14 ‘investment grade’ means with respect to an invest-
15 ment security purchased by a credit union for its
16 own account, an investment security that at the time
17 of such purchase is rated in one of the 4 highest rat-
18 ing categories by at least 1 nationally recognized
19 statistical rating organization.

20 “(5) CLARIFICATION OF PROHIBITION ON
21 STOCK OWNERSHIP.—No provision of this subsection
22 shall be construed as authorizing a Federal credit
23 union to purchase shares of stock of any corporation
24 for the credit union’s own account, except as other-
25 wise permitted by law.”.

1 **SEC. 304. INCREASE IN GENERAL 12-YEAR LIMITATION OF**
2 **TERM OF FEDERAL CREDIT UNION LOANS TO**
3 **15 YEARS.**

4 Section 107(a)(5) of the Federal Credit Union Act
5 (12 U.S.C. 1757(5)) (as so designated by section 303 of
6 this title) is amended—

7 (1) in the matter preceding subparagraph (A),
8 by striking “to make loans, the maturities of which
9 shall not exceed twelve years except as otherwise
10 provided herein” and inserting “to make loans, the
11 maturities of which shall not exceed 15 years or any
12 longer maturity as the Board may allow, in regula-
13 tions, except as otherwise provided in this Act”;

14 (2) in subparagraph (A)—

15 (A) by striking clause (ii);

16 (B) by redesignating clauses (iii) through
17 (x) as clauses (ii) through (ix), respectively; and

18 (C) by inserting “and” after the semicolon
19 at the end of clause (viii) (as so redesignated).

20 **SEC. 305. INCREASE IN 1 PERCENT INVESTMENT LIMIT IN**
21 **CREDIT UNION SERVICE ORGANIZATIONS.**

22 Section 107(a)(7)(I) of the Federal Credit Union Act
23 (12 U.S.C. 1757(7)(I)) (as so designated by section 303
24 of this title) is amended by striking “up to 1 per centum
25 of the total paid” and inserting “up to 3 percent of the
26 total paid”.

1 **SEC. 306. MEMBER BUSINESS LOAN EXCLUSION FOR LOANS**
2 **TO NONPROFIT RELIGIOUS ORGANIZATIONS.**

3 Section 107A(a) of the Federal Credit Union Act (12
4 U.S.C. 1757a(a)) is amended by inserting “, excluding
5 loans made to nonprofit religious organizations,” after
6 “total amount of such loans”.

7 **SEC. 307. CHECK CASHING AND MONEY TRANSFER SERV-**
8 **ICES OFFERED WITHIN THE FIELD OF MEM-**
9 **BERSHIP.**

10 Paragraph (12) of section 107(a) of the Federal
11 Credit Union Act (12 U.S.C. 1757(12)) (as so designated
12 by section 303 of this title) is amended to read as follows:

13 “(12) in accordance with regulations prescribed
14 by the Board—

15 “(A) to sell, to persons in the field of
16 membership, negotiable checks (including trav-
17 elers checks), money orders, and other similar
18 money transfer instruments (including elec-
19 tronic fund transfers); and

20 “(B) to cash checks and money orders and
21 receive electronic fund transfers for persons in
22 the field of membership for a fee;”.

23 **SEC. 308. VOLUNTARY MERGERS INVOLVING MULTIPLE**
24 **COMMON-BOND CREDIT UNIONS.**

25 Section 109(d)(2) of the Federal Credit Union Act
26 (12 U.S.C. 1759(d)(2)) is amended—

1 (1) by striking “or” at the end of clause (ii) of
2 subparagraph (B);

3 (2) by striking the period at the end of sub-
4 paragraph (C) and inserting “; or”; and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(D) a merger involving any such Federal
8 credit union approved by the Board on or after
9 August 7, 1998.”.

10 **SEC. 309. CONVERSIONS INVOLVING COMMON-BOND CRED-**
11 **IT UNIONS.**

12 Section 109(g) of the Federal Credit Union Act (12
13 U.S.C. 1759(g)) is amended by inserting after paragraph
14 (2) the following new paragraph:

15 “(3) CRITERIA FOR CONTINUED MEMBERSHIP
16 OF CERTAIN MEMBER GROUPS IN COMMUNITY CHAR-
17 TER CONVERSIONS.—In the case of a voluntary con-
18 version of a common-bond credit union described in
19 paragraph (1) or (2) of subsection (b) into a com-
20 munity credit union described in subsection (b)(3),
21 the Board shall prescribe, by regulation, the criteria
22 under which the Board may determine that a mem-
23 ber group or other portion of a credit union’s exist-
24 ing membership, that is located outside the well-de-
25 fined local community, neighborhood, or rural dis-

1 trict that shall constitute the community charter,
2 can be satisfactorily served by the credit union and
3 remain within the community credit union’s field of
4 membership.”.

5 **SEC. 310. CREDIT UNION GOVERNANCE.**

6 (a) **EXPULSION OF MEMBERS FOR JUST CAUSE.—**

7 Subsection (b) of section 118 of the Federal Credit Union
8 Act (12 U.S.C. 1764(b)) is amended to read as follows:

9 “(b) **POLICY AND ACTIONS OF BOARDS OF DIREC-**
10 **TORS OF FEDERAL CREDIT UNIONS.—**

11 “(1) **EXPULSION OF MEMBERS FOR NON-**
12 **PARTICIPATION OR FOR JUST CAUSE.—**The board of
13 directors of a Federal credit union may, by majority
14 vote of a quorum of directors, adopt and enforce a
15 policy with respect to expulsion from membership,
16 by a majority vote of such board of directors, based
17 on just cause, including disruption of credit union
18 operations, or on nonparticipation by a member in
19 the affairs of the credit union.

20 “(2) **WRITTEN NOTICE OF POLICY TO MEM-**
21 **BERS.—**If a policy described in paragraph (1) is
22 adopted, written notice of the policy as adopted and
23 the effective date of such policy shall be provided
24 to—

1 “(A) each existing member of the credit
2 union not less than 30 days prior to the effec-
3 tive date of such policy; and

4 “(B) each new member prior to or upon
5 applying for membership.”.

6 (b) **TERM LIMITS AUTHORIZED FOR BOARD MEM-**
7 **BERS OF FEDERAL CREDIT UNIONS.**—Section 111(a) of
8 the Federal Credit Union Act (12 U.S.C. 1761(a)) is
9 amended by adding at the end the following new sentence:
10 “The bylaws of a Federal credit union may limit the num-
11 ber of consecutive terms any person may serve on the
12 board of directors of such credit union.”.

13 (c) **REIMBURSEMENT FOR LOST WAGES DUE TO**
14 **SERVICE ON CREDIT UNION BOARD NOT TREATED AS**
15 **COMPENSATION.**—Section 111(c) of the Federal Credit
16 Union Act (12 U.S.C. 1761(c)) is amended by inserting
17 “, including lost wages,” after “the reimbursement of rea-
18 sonable expenses”.

19 **SEC. 311. PROVIDING THE NATIONAL CREDIT UNION AD-**
20 **MINISTRATION WITH GREATER FLEXIBILITY**
21 **IN RESPONDING TO MARKET CONDITIONS.**

22 Section 107(a)(5)(A)(vi)(I) of the Federal Credit
23 Union Act (12 U.S.C. 1757(5)(A)(vi)(I)) (as so designated
24 by section 303 of this title) is amended by striking “six-
25 month period and that prevailing interest rate levels” and

1 inserting “6-month period or that prevailing interest rate
2 levels”.

3 **SEC. 312. EXEMPTION FROM PRE-MERGER NOTIFICATION**

4 **REQUIREMENT OF THE CLAYTON ACT.**

5 Section 7A(c)(7) of the Clayton Act (15 U.S.C.
6 18a(c)(7)) is amended by inserting “section 205(b)(3) of
7 the Federal Credit Union Act (12 U.S.C. 1785(b)(3)),”
8 before “or section 3”.

9 **SEC. 313. TREATMENT OF CREDIT UNIONS AS DEPOSITORY**

10 **INSTITUTIONS UNDER SECURITIES LAWS.**

11 (a) DEFINITION OF BANK UNDER THE SECURITIES
12 EXCHANGE ACT OF 1934.—Section 3(a)(6) of the Securi-
13 ties Exchange Act of 1934 (15 U.S.C. 78c(a)(6)) (as
14 amended by section 201(a)(1) of this Act) is amended—

15 (1) by striking “this title, and (D) a receiver”
16 and inserting “this title, (D) an insured credit union
17 (as defined in section 101(7) of the Federal Credit
18 Union Act) but only for purposes of paragraphs (4)
19 and (5) of this subsection and only for activities oth-
20 erwise authorized by applicable laws to which such
21 credit unions are subject, and (E) a receiver”; and

22 (2) in subparagraph (E) (as so redesignated by
23 paragraph (1) of this subsection) by striking “(A),
24 (B), or (C)” and inserting “(A), (B), (C), or (D)”.

1 (b) DEFINITION OF BANK UNDER THE INVESTMENT
2 ADVISERS ACT OF 1940.—Section 202(a)(2) of the In-
3 vestment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(2))
4 (as amended by section 201(b)(1) of this Act) is amend-
5 ed—

6 (1) by striking “this title, and (D) a receiver”
7 and inserting “this title, (D) an insured credit union
8 (as defined in section 101(7) of the Federal Credit
9 Union Act) but only for activities otherwise author-
10 ized by applicable laws to which such credit unions
11 are subject, and (E) a receiver”; and

12 (2) in subparagraph (E) (as so redesignated by
13 paragraph (1) of this subsection) by striking “(A),
14 (B), or (C)” and inserting “(A), (B), (C), or (D)”.

15 (c) DEFINITION OF APPROPRIATE FEDERAL BANK-
16 ING AGENCY.—Section 210A(c) of the Investment Advis-
17 ers Act of 1940 (15 U.S.C. 80b–10a(c)) is amended by
18 inserting “and includes the National Credit Union Admin-
19 istration Board, in the case of an insured credit union (as
20 defined in section 101(7) of the Federal Credit Union
21 Act)” before the period at the end.

1 **TITLE IV—DEPOSITORY**
2 **INSTITUTION PROVISIONS**

3 **SEC. 401. EASING RESTRICTIONS ON INTERSTATE BRANCH-**
4 **ING AND MERGERS.**

5 (a) DE NOVO INTERSTATE BRANCHES OF NATIONAL
6 BANKS.—

7 (1) IN GENERAL.—Section 5155(g)(1) of the
8 Revised Statutes of the United States (12 U.S.C.
9 36(g)(1)) is amended by striking “maintain a
10 branch if—” and all that follows through the end of
11 subparagraph (B) and inserting “maintain a
12 branch.”.

13 (2) CLERICAL AMENDMENT.—The heading for
14 subsection (g) of section 5155 of the Revised Stat-
15 utes of the United States is amended by striking
16 “STATE ‘OPT-IN’ ELECTION TO PERMIT”.

17 (b) DE NOVO INTERSTATE BRANCHES OF STATE
18 NONMEMBER BANKS.—

19 (1) IN GENERAL.—Section 18(d)(4)(A) of the
20 Federal Deposit Insurance Act (12 U.S.C.
21 1828(d)(4)(A)) is amended by striking “maintain a
22 branch if—” and all that follows through the end of
23 clause (ii) and inserting “maintain a branch.”.

24 (2) INTERSTATE BRANCHING BY SUBSIDIARIES
25 OF COMMERCIAL FIRMS PROHIBITED.—Section

1 18(d)(3)) of the Federal Deposit Insurance Act (12
2 U.S.C. 1828(d)(3)) is amended by adding at the end
3 the following new subparagraph:

4 “(C) INTERSTATE BRANCHING BY SUBSIDI-
5 ARIES OF COMMERCIAL FIRMS PROHIBITED.—

6 “(i) IN GENERAL.—If the appropriate
7 State bank supervisor of the home State of
8 any industrial loan company, industrial
9 bank, or other institution described in sec-
10 tion 2(c)(2)(H) of the Bank Holding Com-
11 pany Act of 1956, or the appropriate State
12 bank supervisor of any host State with re-
13 spect to such company, bank, or institu-
14 tion, determines that such company, bank,
15 or institution is controlled, directly or indi-
16 rectly, by a commercial firm, such com-
17 pany, bank, or institution may not acquire,
18 establish, or operate a branch in such host
19 State.

20 “(ii) COMMERCIAL FIRM DEFINED.—
21 For purposes of this subsection, the term
22 ‘commercial firm’ means any entity at least
23 15 percent of the annual gross revenues of
24 which on a consolidated basis, including all
25 affiliates of the entity, were derived from

1 engaging, on an on-going basis, in activi-
2 ties that are not financial in nature or inci-
3 dental to a financial activity during at
4 least 3 of the prior 4 calendar quarters.

5 “(iii) GRANDFATHERED INSTITU-
6 TIONS.—Clause (i) shall not apply with re-
7 spect to any industrial loan company, in-
8 dustrial bank, or other institution de-
9 scribed in section 2(c)(2)(H) of the Bank
10 Holding Company Act of 1956—

11 “(I) which became an insured de-
12 pository institution before October 1,
13 2003 or pursuant to an application
14 for deposit insurance which was ap-
15 proved by the Corporation before such
16 date; and

17 “(II) with respect to which there
18 is no change in control, directly or in-
19 directly, of the company, bank, or in-
20 stitution after September 30, 2003,
21 that requires an application under
22 subsection (c), section 7(j), section 3
23 of the Bank Holding Company Act of
24 1956, or section 10 of the Home
25 Owners’ Loan Act.

1 “(iv) TRANSITION PROVISION.—Any
2 divestiture required under this subpara-
3 graph of a branch in a host State shall be
4 completed as quickly as is reasonably pos-
5 sible.

6 “(v) CORPORATE REORGANIZATIONS
7 PERMITTED.—The acquisition of direct or
8 indirect control of the company, bank, or
9 institution referred to in clause (iii)(II)
10 shall not be treated as a ‘change in con-
11 trol’ for purposes of such clause if the
12 company acquiring control is itself directly
13 or indirectly controlled by a company that
14 was an affiliate of such company, bank, or
15 institution on the date referred to in clause
16 (iii)(II), and remained an affiliate at all
17 times after such date.”.

18 (3) TECHNICAL AND CONFORMING AMEND-
19 MENTS.—Section 18(d)(4) of the Federal Deposit
20 Insurance Act (12 U.S.C. 1828(d)(4)) is amended—

21 (A) in subparagraph (A) by striking “Sub-
22 ject to subparagraph (B)” and inserting “Sub-
23 ject to subparagraph (B) and paragraph
24 (3)(C)”; and

1 (B) in subparagraphs (D) and (E), by
2 striking “The term” and inserting “For pur-
3 poses of this subsection, the term”.

4 (4) CLERICAL AMENDMENT.—The heading for
5 paragraph (4) of section 18(d) of the Federal De-
6 posit Insurance Act is amended by striking “STATE
7 ‘OPT-IN’ ELECTION TO PERMIT INTERSTATE” and in-
8 serting “INTERSTATE”.

9 (c) DE NOVO INTERSTATE BRANCHES OF STATE
10 MEMBER BANKS.—The 3rd undesignated paragraph of
11 section 9 of the Federal Reserve Act (12 U.S.C. 321) is
12 amended by adding at the end the following new sen-
13 tences: “A State member bank may establish and operate
14 a de novo branch in a host State (as such terms are de-
15 fined in section 18(d) of the Federal Deposit Insurance
16 Act) on the same terms and conditions and subject to the
17 same limitations and restrictions as are applicable to the
18 establishment of a de novo branch of a national bank in
19 a host State under section 5155(g) of the Revised Statutes
20 of the United States or are applicable to an insured State
21 nonmember bank under section 18(d)(3) of the Federal
22 Deposit Insurance Act” after “Revised Statutes of the
23 United States”. Such section 5155(g) shall be applied for
24 purposes of the preceding sentence by substituting ‘Board
25 of Governors of the Federal Reserve System’ for ‘Comp-

1 troller of the Currency’ and ‘State member bank’ for ‘na-
2 tional bank’.”.

3 (d) INTERSTATE MERGER OF BANKS.—

4 (1) MERGER OF INSURED BANK WITH ANOTHER
5 DEPOSITORY INSTITUTION OR TRUST COMPANY.—

6 Section 44(a)(1) of the Federal Deposit Insurance
7 Act (12 U.S.C. 1831u(a)(1)) is amended—

8 (A) by striking “Beginning on June 1,
9 1997, the” and inserting “The”; and

10 (B) by striking “insured banks with dif-
11 ferent home States” and inserting “an insured
12 bank and another insured depository institution
13 or trust company with a different home State
14 than the resulting insured bank”.

15 (2) NATIONAL BANK TRUST COMPANY MERGER
16 WITH OTHER TRUST COMPANY.—Subsection (b) of
17 section 4 of the National Bank Consolidation and
18 Merger Act (12 U.S.C. 215a–1(b)) is amended to
19 read as follows:

20 “(b) MERGER OF NATIONAL BANK TRUST COMPANY
21 WITH ANOTHER TRUST COMPANY.—A national bank that
22 is a trust company may engage in a consolidation or merg-
23 er under this Act with any trust company with a different
24 home State, under the same terms and conditions that

1 would apply if the trust companies were located within the
2 same State.”.

3 (e) INTERSTATE FIDUCIARY ACTIVITY.—Section
4 18(d) of the Federal Deposit Insurance Act (12 U.S.C.
5 1828(d)) is amended by adding at the end the following
6 new paragraph:

7 “(5) INTERSTATE FIDUCIARY ACTIVITY.—

8 “(A) AUTHORITY OF STATE BANK SUPER-
9 VISOR.—The State bank supervisor of a State
10 bank may approve an application by the State
11 bank, when not in contravention of home State
12 or host State law, to act as trustee, executor,
13 administrator, registrar of stocks and bonds,
14 guardian of estates, assignee, receiver, com-
15 mittee of estates of lunatics, or in any other fi-
16 duciary capacity in a host State in which State
17 banks or other corporations which come into
18 competition with national banks are permitted
19 to act under the laws of such host State.

20 “(B) NONCONTRAVENTION OF HOST STATE
21 LAW.—Whenever the laws of a host State au-
22 thorize or permit the exercise of any or all of
23 the foregoing powers by State banks or other
24 corporations which compete with national
25 banks, the granting to and the exercise of such

1 powers by a State bank as provided in this
2 paragraph shall not be deemed to be in con-
3 travention of host State law within the meaning
4 of this paragraph.

5 “(C) STATE BANK INCLUDES TRUST COM-
6 PANIES.—For purposes of this paragraph, the
7 term ‘State bank’ includes any State-chartered
8 trust company (as defined in section 44(g)).

9 “(D) OTHER DEFINITIONS.—For purposes
10 of this paragraph, the term ‘home State’ and
11 ‘host State’ have the meanings given such
12 terms in section 44.”.

13 (f) TECHNICAL AND CONFORMING AMENDMENTS.—

14 (1) Section 44 of the Federal Deposit Insurance
15 Act (12 U.S.C. 1831u) is amended—

16 (A) in subsection (a)—

17 (i) by striking paragraph (4) and in-
18 serting the following new paragraph:

19 “(4) TREATMENT OF BRANCHES IN CONNEC-
20 TION WITH CERTAIN INTERSTATE MERGER TRANS-
21 ACTIONS.—In the case of an interstate merger
22 transaction which involves the acquisition of a
23 branch of an insured depository institution or trust
24 company without the acquisition of the insured de-
25 pository institution or trust company, the branch

1 shall be treated, for purposes of this section, as an
2 insured depository institution or trust company the
3 home State of which is the State in which the
4 branch is located.”; and

5 (ii) by striking paragraphs (5) and (6)

6 and inserting the following new paragraph:

7 “(5) APPLICABILITY TO INDUSTRIAL LOAN
8 COMPANIES.—No provision of this section shall be
9 construed as authorizing the approval of any trans-
10 action involving a industrial loan company, indus-
11 trial bank, or other institution described in section
12 2(c)(2)(H) of the Bank Holding Company Act of
13 1956, or the acquisition, establishment, or operation
14 of a branch by any such company, bank, or institu-
15 tion, that is not allowed under section 18(d)(3).”.

16 (B) in subsection (b)—

17 (i) by striking “bank” each place such
18 term appears in paragraph (2)(B)(i) and
19 inserting “insured depository institution”;

20 (ii) by striking “banks” where such
21 term appears in paragraph (2)(E) and in-
22 sserting “insured depository institutions or
23 trust companies”;

24 (iii) by striking “bank affiliate” each
25 place such term appears in that portion of

1 paragraph (3) that precedes subparagraph
2 (A) and inserting “insured depository insti-
3 tution affiliate”;

4 (iv) by striking “any bank” where
5 such term appears in paragraph (3)(B)
6 and inserting “any insured depository in-
7 stitution”;

8 (v) by striking “bank” where such
9 term appears in paragraph (4)(A) and in-
10 sserting “insured depository institution and
11 trust company”; and

12 (vi) by striking “all banks” where
13 such term appears in paragraph (5) and
14 inserting “all insured depository institu-
15 tions and trust companies”;

16 (C) in subsection (d)(1), by striking “any
17 bank” and inserting “any insured depository in-
18 stitution or trust company”;

19 (D) in subsection (e)—

20 (i) by striking “1 or more banks” and
21 inserting “1 or more insured depository in-
22 stitutions”; and

23 (ii) by striking “paragraph (2), (4), or
24 (5)” and inserting “paragraph (2)”;

1 (E) by striking clauses (i) and (ii) of sub-
2 section (g)(4)(A) and inserting the following
3 new clauses:

4 “(i) with respect to a national bank or
5 Federal savings association, the State in
6 which the main office of the bank or sav-
7 ings association is located; and

8 “(ii) with respect to a State bank,
9 State savings association, or State-char-
10 tered trust company, the State by which
11 the bank, savings association, or trust
12 company is chartered; and”;

13 (F) by striking paragraph (5) of subsection
14 (g) and inserting the following new paragraph:

15 “(5) HOST STATE.—The term ‘host State’
16 means—

17 “(A) with respect to a bank, a State, other
18 than the home State of the bank, in which the
19 bank maintains, or seeks to establish and main-
20 tain, a branch; and

21 “(B) with respect to a trust company and
22 solely for purposes of section 18(d)(5), a State,
23 other than the home State of the trust com-
24 pany, in which the trust company acts, or seeks
25 to act, in 1 or more fiduciary capacities.”;

1 (G) in subsection (g)(10), by striking “sec-
2 tion 18(c)(2)” and inserting “paragraph (1) or
3 (2) of section 18(c), as appropriate,”; and

4 (H) in subsection (g), by adding at the end
5 the following new paragraph:

6 “(12) TRUST COMPANY.—The term ‘trust com-
7 pany’ means—

8 “(A) any national bank;

9 “(B) any savings association; and

10 “(C) any bank, banking association, trust
11 company, savings bank, or other banking insti-
12 tution which is incorporated under the laws of
13 any State,

14 that is authorized to act in 1 or more fiduciary ca-
15 pacities but is not engaged in the business of receiv-
16 ing deposits other than trust funds (as defined in
17 section 3(p)).”.

18 (2) Section 3(d) of the Bank Holding Company
19 Act of 1956 (12 U.S.C. 1842(d)) is amended—

20 (A) in paragraph (1)—

21 (i) by striking subparagraphs (B) and
22 (C); and

23 (ii) by redesignating subparagraph
24 (D) as subparagraph (B); and

1 (B) in paragraph (5), by striking “sub-
2 paragraph (B) or (D)” and inserting “subpara-
3 graph (B)”.

4 (3) Subsection (c) of section 4 of the National
5 Bank Consolidation and Merger Act (12 U.S.C.
6 215a–1(c)) is amended to read as follows:

7 “(c) DEFINITIONS.—For purposes of this section, the
8 terms ‘home State’, ‘out-of-State bank’, and ‘trust com-
9 pany’ each have the same meaning as in section 44(g) of
10 the Federal Deposit Insurance Act.”.

11 (g) CLERICAL AMENDMENTS.—

12 (1) The heading for section 44(b)(2)(E) of the
13 Federal Deposit Insurance Act (12 U.S.C.
14 1831u(b)(2)(E)) is amended by striking “BANKS”
15 and inserting “INSURED DEPOSITORY INSTITUTIONS
16 AND TRUST COMPANIES”.

17 (2) The heading for section 44(e) of the Fed-
18 eral Deposit Insurance Act (12 U.S.C. 1831u(e)) is
19 amended by striking “BANKS” and inserting “IN-
20 SURED DEPOSITORY INSTITUTIONS”.

21 **SEC. 402. STATUTE OF LIMITATIONS FOR JUDICIAL REVIEW**
22 **OF APPOINTMENT OF A RECEIVER FOR DE-**
23 **POSITORY INSTITUTIONS.**

24 (a) NATIONAL BANKS.—Section 2 of the National
25 Bank Receivership Act (12 U.S.C. 191) is amended—

1 (1) by striking “SECTION 2. The Comptroller of
2 the Currency” and inserting the following:

3 **“SEC. 2. APPOINTMENT OF RECEIVER FOR A NATIONAL**
4 **BANK.**

5 “(a) IN GENERAL.—The Comptroller of the Cur-
6 rency”; and

7 (2) by adding at the end the following new sub-
8 section:

9 “(b) JUDICIAL REVIEW.—If the Comptroller of the
10 Currency appoints a receiver under subsection (a), the na-
11 tional bank may, within 30 days thereafter, bring an ac-
12 tion in the United States district court for the judicial dis-
13 trict in which the home office of such bank is located, or
14 in the United States District Court for the District of Co-
15 lumbia, for an order requiring the Comptroller of the Cur-
16 rency to remove the receiver, and the court shall, upon
17 the merits, dismiss such action or direct the Comptroller
18 of the Currency to remove the receiver.”.

19 (b) INSURED DEPOSITORY INSTITUTIONS.—Section
20 11(c)(7) of the Federal Deposit Insurance Act (12 U.S.C.
21 1821(c)(7)) is amended to read as follows:

22 “(7) JUDICIAL REVIEW.—If the Corporation is
23 appointed (including the appointment of the Cor-
24 poration as receiver by the Board of Directors) as
25 conservator or receiver of a depository institution

1 under paragraph (4), (9), or (10), the depository in-
2 stitution may, within 30 days thereafter, bring an
3 action in the United States district court for the ju-
4 dicial district in which the home office of such de-
5 pository institution is located, or in the United
6 States District Court for the District of Columbia,
7 for an order requiring the Corporation to be re-
8 moved as the conservator or receiver (regardless of
9 how such appointment was made), and the court
10 shall, upon the merits, dismiss such action or direct
11 the Corporation to be removed as the conservator or
12 receiver.”.

13 (c) EXPANSION OF PERIOD FOR CHALLENGING THE
14 APPOINTMENT OF A LIQUIDATING AGENT.—Subpara-
15 graph (B) of section 207(a)(1) of the Federal Credit
16 Union Act (12 U.S.C. 1787(a)(1)) is amended by striking
17 “10 days” and inserting “30 days”.

18 (d) EFFECTIVE DATE.—The amendments made by
19 subsections (a), (b), and (c) shall apply with respect to
20 conservators, receivers, or liquidating agents appointed on
21 or after the date of the enactment of this Act.

22 **SEC. 403. REPORTING REQUIREMENTS RELATING TO IN-**
23 **SIDER LENDING.**

24 (a) REPORTING REQUIREMENTS REGARDING LOANS
25 TO EXECUTIVE OFFICERS OF MEMBER BANKS.—Section

1 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is
 2 amended—

3 (1) by striking paragraphs (6) and (9); and

4 (2) by redesignating paragraphs (7), (8), and
 5 (10) as paragraphs (6), (7), and (8), respectively.

6 (b) REPORTING REQUIREMENTS REGARDING LOANS
 7 FROM CORRESPONDENT BANKS TO EXECUTIVE OFFI-
 8 CERS AND SHAREHOLDERS OF INSURED BANKS.—Section
 9 106(b)(2) of the Bank Holding Company Act Amend-
 10 ments of 1970 (12 U.S.C. 1972(2)) is amended—

11 (1) by striking subparagraph (G); and

12 (2) by redesignating subparagraphs (H) and (I)
 13 as subparagraphs (G) and (H), respectively.

14 **SEC. 404. AMENDMENT TO PROVIDE AN INFLATION AD-**
 15 **JUSTMENT FOR THE SMALL DEPOSITORY IN-**
 16 **STITUTION EXCEPTION UNDER THE DEPOSI-**
 17 **TORY INSTITUTION MANAGEMENT INTER-**
 18 **LOCKS ACT.**

19 Section 203(1) of the Depository Institution Manage-
 20 ment Interlocks Act (12 U.S.C. 3202(1)) is amended by
 21 striking “\$20,000,000” and inserting “\$100,000,000”.

22 **SEC. 405. ENHANCING THE SAFETY AND SOUNDNESS OF IN-**
 23 **SURED DEPOSITORY INSTITUTIONS.**

24 (a) CLARIFICATION RELATING TO THE ENFORCE-
 25 ABILITY OF AGREEMENTS AND CONDITIONS.—The Fed-

1 eral Deposit Insurance Act (12 U.S.C. 1811 et seq.) is
2 amended by adding at the end the following new section:

3 **“SEC. 49. ENFORCEMENT OF AGREEMENTS.**

4 “(a) IN GENERAL.—Notwithstanding clause (i) or
5 (ii) of section 8(b)(6)(A) or section 38(e)(2)(E)(i), an ap-
6 propriate Federal banking agency may enforce, under sec-
7 tion 8, the terms of—

8 “(1) any condition imposed in writing by the
9 agency on a depository institution or an institution-
10 affiliated party (including a bank holding company)
11 in connection with any action on any application, no-
12 tice, or other request concerning a depository insti-
13 tution; or

14 “(2) any written agreement entered into be-
15 tween the agency and an institution-affiliated party
16 (including a bank holding company).

17 “(b) RECEIVERSHIPS AND CONSERVATORSHIPS.—
18 After the appointment of the Corporation as the receiver
19 or conservator for any insured depository institution, the
20 Corporation may enforce any condition or agreement de-
21 scribed in paragraph (1) or (2) of subsection (a) involving
22 such institution or any institution-affiliated party (includ-
23 ing a bank holding company), through an action brought
24 in an appropriate United States district court.”.

1 (b) PROTECTION OF CAPITAL OF INSURED DEPOSI-
2 TORY INSTITUTIONS.—Paragraph (1) of section 18(u) of
3 the Federal Deposit Insurance Act (12 U.S.C. 1828(u))
4 is amended by striking subparagraph (B) and by redesi-
5 gnating subparagraph (C) as subparagraph (B).

6 **SEC. 406. INVESTMENTS BY INSURED SAVINGS ASSOCIA-**
7 **TIONS IN BANK SERVICE COMPANIES AU-**
8 **THORIZED.**

9 (a) IN GENERAL.—Sections 2 and 3 of the Bank
10 Service Company Act (12 U.S.C. 1862, 1863) are each
11 amended by striking “insured bank” each place such term
12 appears and inserting “insured depository institution”.

13 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

14 (1) Section 1(b)(4) of the Bank Service Com-
15 pany Act (12 U.S.C. 1861(b)(4)) is amended—

16 (A) by inserting “, except when such term
17 appears in connection with the term ‘insured
18 depository institution’,” after “means”; and

19 (B) by striking “Federal Home Loan Bank
20 Board” and inserting “Director of the Office of
21 Thrift Supervision”.

22 (2) Section 1(b) of the Bank Service Company
23 Act (12 U.S.C. 1861(b)) is amended—

24 (A) by striking paragraph (5) and insert-
25 ing the following new paragraph:

1 “(5) INSURED DEPOSITORY INSTITUTION.—The
2 term ‘insured depository institution’ has the mean-
3 ing given the term in section 3(c) of the Federal De-
4 posit Insurance Act;”;

5 (B) by striking “and” at the end of para-
6 graph (7);

7 (C) by striking the period at the end of
8 paragraph (8) and inserting “; and”; and

9 (D) by adding at the end the following new
10 paragraph:

11 “(9) the terms ‘State depository institution’,
12 ‘Federal depository institution’, ‘State savings asso-
13 ciation’ and ‘Federal savings association’ have the
14 meanings given the terms in section 3 of the Federal
15 Deposit Insurance Act.”.

16 (3) The 1st sentence of section 5(c)(4)(B) of
17 the Home Owners’ Loan Act (12 U.S.C.
18 1464(c)(4)(B)) is amended by striking “by savings
19 associations of such State and by Federal associa-
20 tions” and inserting “by State and Federal depository
21 institutions”.

22 (4) Subparagraph (A)(ii) and subparagraph
23 (B)(ii) of section 1(b)(2) of the Bank Service Com-
24 pany Act (12 U.S.C. 1861(b)(2)) are each amended

1 by striking “insured banks” and inserting “insured
2 depository institutions”.

3 (5) Section 1(b)(8) of the Bank Service Com-
4 pany Act (12 U.S.C. 1861(b)(8)) is further amend-
5 ed—

6 (A) by striking “insured bank” and insert-
7 ing “insured depository institution”;

8 (B) by striking “insured banks” each place
9 such term appears and inserting “insured de-
10 pository institutions”; and

11 (C) by striking “the bank’s” and inserting
12 “the depository institution’s”.

13 (6) Section 2 of the Bank Service Company Act
14 (12 U.S.C. 1862) is amended by inserting “or sav-
15 ings associations, other than the limitation on the
16 amount of investment by a Federal savings associa-
17 tion contained in section 5(e)(4)(B) of the Home
18 Owners’ Loan Act” after “relating to banks”.

19 (7) Section 4(e) of the Bank Service Company
20 Act (12 U.S.C. 1864(e)) is amended by inserting “or
21 State savings association” after “State bank” each
22 place such term appears.

23 (8) Section 4(d) of the Bank Service Company
24 Act (12 U.S.C. 1864(d)) is amended by inserting

1 “or Federal savings association” after “national
2 bank” each place such term appears.

3 (9) Section 4(e) of the Bank Service Company
4 Act (12 U.S.C. 1864(e)) is amended to read as fol-
5 lows:

6 “(e) A bank service company may perform—

7 “(1) only those services that each depository in-
8 stitution shareholder or member is otherwise author-
9 ized to perform under any applicable Federal or
10 State law; and

11 “(2) such services only at locations in a State
12 in which each such shareholder or member is author-
13 ized to perform such services.”.

14 (10) Section 4(f) of the Bank Service Company
15 Act (12 U.S.C. 1864(f)) is amended by inserting “or
16 savings associations” after “location of banks”.

17 (11) Section 5 of the Bank Service Company
18 Act (12 U.S.C. 1865) is amended—

19 (A) in subsection (a)—

20 (i) by striking “insured bank” and in-
21 sserting “insured depository institution”;
22 and

23 (ii) by striking “bank’s” and inserting
24 “institution’s”.

1 (B) in subsection (b), by striking “insured
2 bank” and inserting “insured depository insti-
3 tution”; and

4 (C) in subsection (c)—

5 (i) by striking “the bank or banks”
6 and inserting “any depository institution”;
7 and

8 (ii) by striking “capability of the
9 bank” and inserting “capability of the de-
10 pository institution”.

11 (12) Section 7 of the Bank Service Company
12 Act (12 U.S.C. 1867) is amended—

13 (A) in subsection (b), by striking “insured
14 bank” and inserting “insured depository insti-
15 tution”; and

16 (B) in subsection (c)—

17 (i) by striking “a bank” each place
18 such term appears and inserting “a depository
19 institution”; and

20 (ii) by striking “the bank” each place
21 such term appears and inserting “the de-
22 pository institution”.

1 **SEC. 407. CROSS GUARANTEE AUTHORITY.**

2 Subparagraph (A) of section 5(e)(9) of the Federal
3 Deposit Insurance Act (12 U.S.C. 1815(e)(9)(A)) is
4 amended to read as follows:

5 “(A) such institutions are controlled by the
6 same company; or”.

7 **SEC. 408. GOLDEN PARACHUTE AUTHORITY AND NONBANK**
8 **HOLDING COMPANIES.**

9 Subsection (k) of section 18 of the Federal Deposit
10 Insurance Act (12 U.S.C. 1828(k)) is amended—

11 (1) in paragraph (2)(A), by striking “or deposi-
12 tory institution holding company” and inserting “or
13 covered company”;

14 (2) by striking subparagraph (B) of paragraph
15 (2) and inserting the following new subparagraph:

16 “(B) Whether there is a reasonable basis
17 to believe that the institution-affiliated party is
18 substantially responsible for—

19 “(i) the insolvency of the depository
20 institution or covered company;

21 “(ii) the appointment of a conservator
22 or receiver for the depository institution; or

23 “(iii) the depository institution’s trou-
24 bled condition (as defined in the regula-
25 tions prescribed pursuant to section
26 32(f)).”;

1 (3) in paragraph (2)(F), by striking “depository
2 institution holding company” and inserting “covered
3 company,”;

4 (4) in paragraph (3) in the matter preceding
5 subparagraph (A), by striking “depository institu-
6 tion holding company” and inserting “covered com-
7 pany”;

8 (5) in paragraph (3)(A), by striking “holding
9 company” and inserting “covered company”;

10 (6) in paragraph (4)(A)—

11 (A) by striking “depository institution
12 holding company” each place such term appears
13 and inserting “covered company”; and

14 (B) by striking “holding company” each
15 place such term appears (other than in connec-
16 tion with the term referred to in subparagraph
17 (A)) and inserting “covered company”;

18 (7) in paragraph (5)(A), by striking “depository
19 institution holding company” and inserting “covered
20 company”;

21 (8) in paragraph (5), by adding at the end the
22 following new subparagraph:

23 “(D) COVERED COMPANY.—The term ‘cov-
24 ered company’ means any depository institution
25 holding company (including any company re-

1 required to file a report under section 4(f)(6) of
2 the Bank Holding Company Act of 1956), or
3 any other company that controls an insured de-
4 pository institution.”; and

5 (9) in paragraph (6)—

6 (A) by striking “depository institution
7 holding company” and inserting “covered com-
8 pany,”; and

9 (B) by striking “or holding company” and
10 inserting “or covered company”.

11 **SEC. 409. AMENDMENTS RELATING TO CHANGE IN BANK**
12 **CONTROL.**

13 Section 7(j) of the Federal Deposit Insurance Act (12
14 U.S.C. 1817(j)) is amended—

15 (1) in paragraph (1)(D)—

16 (A) by striking “is needed to investigate”
17 and inserting “is needed—

18 “(i) to investigate”;

19 (B) by striking “United States Code.” and
20 inserting “United States Code; or”; and

21 (C) by adding at the end the following new
22 clause:

23 “(ii) to analyze the safety and sound-
24 ness of any plans or proposals described in

1 paragraph (6)(E) or the future prospects
2 of the institution.”; and

3 (2) in paragraph (7)(C), by striking “the finan-
4 cial condition of any acquiring person” and inserting
5 “either the financial condition of any acquiring per-
6 son or the future prospects of the institution”.

7 **TITLE V—DEPOSITORY INSTITU-**
8 **TION AFFILIATES PROVI-**
9 **SIONS**

10 **SEC. 501. CLARIFICATION OF CROSS MARKETING PROVI-**
11 **SION.**

12 Section 4(n)(5) of the Bank Holding Company Act
13 of 1956 (12 U.S.C. 1843(n)(5)) is amended—

14 (1) in subparagraph (B), by striking “sub-
15 section (k)(4)(I)” and inserting “subparagraph (H)
16 or (I) of subsection (k)(4)”; and

17 (2) by adding at the end the following new sub-
18 paragraph:

19 “(C) THRESHOLD OF CONTROL.—Subpara-
20 graph (A) shall not apply with respect to a
21 company described or referred to in clause (i)
22 or (ii) of such subparagraph if the financial
23 holding company does not own or control 25
24 percent or more of the total equity or any class
25 of voting securities of such company.”.

1 **SEC. 502. AMENDMENT TO PROVIDE THE FEDERAL RE-**
2 **SERVE BOARD WITH DISCRETION CON-**
3 **CERNING THE IMPUTATION OF CONTROL OF**
4 **SHARES OF A COMPANY BY TRUSTEES.**

5 Section 2(g)(2) of the Bank Holding Company Act
6 of 1956 (12 U.S.C. 1841(g)(2)) is amended by inserting
7 “, unless the Board determines that such treatment is not
8 appropriate in light of the facts and circumstances of the
9 case and the purposes of this Act” before the period at
10 the end.

11 **SEC. 503. ELIMINATING GEOGRAPHIC LIMITS ON THRIFT**
12 **SERVICE COMPANIES.**

13 (a) IN GENERAL.—The 1st sentence of section
14 5(c)(4)(B) of the Home Owners’ Loan Act (12 U.S.C.
15 1464(c)(4)(B)) (as amended by section 406(b)(3) of this
16 Act) is amended—

17 (1) by striking “corporation organized” and all
18 that follows through “is available for purchase” and
19 inserting “company, if the entire capital of the com-
20 pany is available for purchase”; and

21 (2) by striking “having their home offices in
22 such State”.

23 (b) TECHNICAL CORRECTIONS.—

24 (1) The heading for subparagraph (B) of sec-
25 tion 5(c)(4) of the Home Owners’ Loan Act (12

1 U.S.C. 1464(c)(4)(B)) is amended by striking “COR-
2 PORATIONS” and inserting “COMPANIES”.

3 (2) The 2nd sentence of section 5(n)(1) of the
4 Home Owners’ Loan Act (12 U.S.C. 1464(n)(1)) is
5 amended by striking “service corporations” and in-
6 serting “service companies”.

7 (3) Section 5(q)(1) of the Home Owners’ Loan
8 Act (12 U.S.C. 1464(q)(1)) is amended by striking
9 “service corporation” each place such term appears
10 in subparagraphs (A), (B), and (C) and inserting
11 “service company”.

12 (4) Section 10(m)(4)(C)(iii)(II) of the Home
13 Owners’ Loan Act (12 U.S.C.
14 1467a(m)(4)(C)(iii)(II)) is amended by striking
15 “service corporation” each place such term appears
16 and inserting “service company”.

17 **SEC. 504. CLARIFICATION OF SCOPE OF APPLICABLE RATE**
18 **PROVISION.**

19 Section 44(f) of the Federal Deposit Insurance Act
20 (12 U.S.C. 1831u(f)) is amended by adding at the end
21 the following new paragraphs:

22 “(3) OTHER LENDERS.—In the case of any
23 other lender doing business in the State described in
24 paragraph (1), the maximum interest rate or
25 amount of interest, discount points, finance charges,

1 or other similar charges that may be charged, taken,
2 received, or reserved from time to time in any loan,
3 discount, or credit sale made, or upon any note, bill
4 of exchange, financing transaction, or other evidence
5 of debt issued to or acquired by any other lender
6 shall be equal to not more than the greater of the
7 rates described in subparagraph (A) or (B) of para-
8 graph (1).

9 “(4) OTHER LENDER DEFINED.—For purposes
10 of paragraph (3), the term ‘other lender’ means any
11 person engaged in the business of selling or financ-
12 ing the sale of personal property (and any services
13 incidental to the sale of personal property) in such
14 State, except that, with regard to any person or en-
15 tity described in such paragraph, such term does not
16 include—

17 “(A) an insured depository institution; or

18 “(B) any person or entity engaged in the
19 business of providing a short-term cash advance
20 to any consumer in exchange for—

21 “(i) a consumer’s personal check or
22 share draft, in the amount of the advance
23 plus a fee, where presentment or negotia-
24 tion of such check or share draft is de-

1 ferred by agreement of the parties until a
2 designated future date; or

3 “(ii) a consumer authorization to
4 debit the consumer’s transaction account,
5 in the amount of the advance plus a fee,
6 where such account will be debited on or
7 after a designated future date.”.

8 **TITLE VI—BANKING AGENCY** 9 **PROVISIONS**

10 **SEC. 601. WAIVER OF EXAMINATION SCHEDULE IN ORDER** 11 **TO ALLOCATE EXAMINER RESOURCES.**

12 Section 10(d) of the Federal Deposit Insurance Act
13 (12 U.S.C. 1820(d)) is amended—

14 (1) by redesignating paragraphs (5), (6), (7),
15 (8), (9), and (10) as paragraphs (6), (7), (8), (9),
16 (10), and (11), respectively;

17 (2) by inserting after paragraph (4), the fol-
18 lowing new paragraph:

19 “(5) WAIVER OF SCHEDULE WHEN NECESSARY
20 TO ACHIEVE SAFE AND SOUND ALLOCATION OF EX-
21 AMINER RESOURCES.—Notwithstanding paragraphs
22 (1), (2), (3), and (4), an appropriate Federal bank-
23 ing agency may make adjustments in the examina-
24 tion cycle for an insured depository institution if
25 necessary to allocate available resources of exam-

1 iners in a manner that provides for the safety and
2 soundness of, and the effective examination and su-
3 pervision of, insured depository institutions.”; and

4 (3) in paragraphs (8) and (9), as so redesignig-
5 nated, by striking “paragraph (6)” and inserting
6 “paragraph (7)”.

7 **SEC. 602. INTERAGENCY DATA SHARING.**

8 (a) FEDERAL BANKING AGENCIES.—Section 7(a)(2)
9 of the Federal Deposit Insurance Act (12 U.S.C.
10 1817(a)(2)) is amended by adding at the end the following
11 new subparagraph:

12 “(C) DATA SHARING WITH OTHER AGEN-
13 CIES AND PERSONS.—In addition to reports of
14 examination, reports of condition, and other re-
15 ports required to be regularly provided to the
16 Corporation (with respect to all insured deposit-
17 tory institutions, including a depository institu-
18 tion for which the Corporation has been ap-
19 pointed conservator or receiver) or an appro-
20 priate State bank supervisor (with respect to a
21 State depository institution) under subpara-
22 graph (A) or (B), a Federal banking agency
23 may, in the agency’s discretion, furnish any re-
24 port of examination or other confidential super-
25 visory information concerning any depository

1 institution or other entity examined by such
2 agency under authority of any Federal law,
3 to—

4 “(i) any other Federal or State agen-
5 cy or authority with supervisory or regu-
6 latory authority over the depository institu-
7 tion or other entity;

8 “(ii) any officer, director, or receiver
9 of such depository institution or entity;
10 and

11 “(iii) any other person the Federal
12 banking agency determines to be appro-
13 priate.”.

14 (b) NATIONAL CREDIT UNION ADMINISTRATION.—
15 Section 202(a) of the Federal Credit Union Act (12
16 U.S.C. 1782(a)) is amended by adding at the end the fol-
17 lowing new paragraph:

18 “(8) DATA SHARING WITH OTHER AGENCIES
19 AND PERSONS.—In addition to reports of examina-
20 tion, reports of condition, and other reports required
21 to be regularly provided to the Board (with respect
22 to all insured credit unions, including a credit union
23 for which the Corporation has been appointed con-
24 servator or liquidating agent) or an appropriate
25 State commission, board, or authority having super-

1 vision of a State-chartered credit union, the Board
2 may, in the Board’s discretion, furnish any report
3 of examination or other confidential supervisory in-
4 formation concerning any credit union or other enti-
5 ty examined by the Board under authority of any
6 Federal law, to—

7 “(A) any other Federal or State agency or
8 authority with supervisory or regulatory author-
9 ity over the credit union or other entity;

10 “(B) any officer, director, or receiver of
11 such credit union or entity; and

12 “(C) any other institution-affiliated party
13 of such credit union or entity the Board deter-
14 mines to be appropriate.”.

15 **SEC. 603. PENALTY FOR UNAUTHORIZED PARTICIPATION**
16 **BY CONVICTED INDIVIDUAL.**

17 Section 19 of the Federal Deposit Insurance Act (12
18 U.S.C. 1829) is amended by adding at the end the fol-
19 lowing new subsection:

20 “(c) **NONINSURED BANKS.**—Subsections (a) and (b)
21 shall apply to a noninsured national bank and a non-
22 insured State member bank, and any agency or non-
23 insured branch (as such terms are defined in section 1(b)
24 of the International Banking Act of 1978) of a foreign
25 bank as if such bank, branch, or agency were an insured

1 depository institution, except such subsections shall be ap-
 2 plied for purposes of this subsection by substituting the
 3 agency determined under the following paragraphs for
 4 ‘Corporation’ each place such term appears in such sub-
 5 sections:

6 “(1) The Comptroller of the Currency, in the
 7 case of a noninsured national bank or any Federal
 8 agency or noninsured Federal branch of a foreign
 9 bank.

10 “(2) The Board of Governors of the Federal
 11 Reserve System, in the case of a noninsured State
 12 member bank or any State agency or noninsured
 13 State branch of a foreign bank.”.

14 **SEC. 604. AMENDMENT PERMITTING THE DESTRUCTION OF**
 15 **OLD RECORDS OF A DEPOSITORY INSTITU-**
 16 **TION BY THE FDIC AFTER THE APPOINTMENT**
 17 **OF THE FDIC AS RECEIVER.**

18 Section 11(d)(15)(D) of the Federal Deposit Insur-
 19 ance Act (12 U.S.C. 1821(d)(15)(D)) is amended—

20 (1) by striking “RECORDKEEPING REQUIRE-
 21 MENT.—After the end of the 6-year period” and in-
 22 serting “RECORDKEEPING REQUIREMENT.—

23 “(i) IN GENERAL.—Except as pro-
 24 vided in clause (ii), after the end of the 6-
 25 year period”; and

1 (2) by adding at the end the following new
2 clause:

3 “(ii) OLD RECORDS.—In the case of
4 records of an insured depository institution
5 which are at least 10 years old as of the
6 date the Corporation is appointed as the
7 receiver of such depository institution, the
8 Corporation may destroy such records in
9 accordance with clause (i) any time after
10 such appointment is final without regard
11 to the 6-year period of limitation contained
12 in such clause.”.

13 **SEC. 605. MODERNIZATION OF RECORDKEEPING REQUIRE-**
14 **MENT.**

15 Subsection (f) of section 10 of the Federal Deposit
16 Insurance Act (12 U.S.C. 1820(f)) is amended to read as
17 follows:

18 “(f) PRESERVATION OF AGENCY RECORDS.—

19 “(1) IN GENERAL.—A Federal banking agency
20 may cause any and all records, papers, or documents
21 kept by the agency or in the possession or custody
22 of the agency to be—

23 “(A) photographed or microphotographed
24 or otherwise reproduced upon film; or

1 “(B) preserved in any electronic medium
2 or format which is capable of—

3 “(i) being read or scanned by com-
4 puter; and

5 “(ii) being reproduced from such elec-
6 tronic medium or format by printing or
7 any other form of reproduction of elec-
8 tronically stored data.

9 “(2) TREATMENT AS ORIGINAL RECORDS.—Any
10 photographs, microphotographs, or photographic
11 film or copies thereof described in paragraph (1)(A)
12 or reproduction of electronically stored data de-
13 scribed in paragraph (1)(B) shall be deemed to be
14 an original record for all purposes, including intro-
15 duction in evidence in all State and Federal courts
16 or administrative agencies and shall be admissible to
17 prove any act, transaction, occurrence, or event
18 therein recorded.

19 “(3) AUTHORITY OF THE FEDERAL BANKING
20 AGENCIES.—Any photographs, microphotographs, or
21 photographic film or copies thereof described in
22 paragraph (1)(A) or reproduction of electronically
23 stored data described in paragraph (1)(B) shall be
24 preserved in such manner as the Federal banking
25 agency shall prescribe and the original records, pa-

1 pers, or documents may be destroyed or otherwise
2 disposed of as the Federal banking agency may di-
3 rect.”.

4 **SEC. 606. CLARIFICATION OF EXTENT OF SUSPENSION, RE-**
5 **MOVAL, AND PROHIBITION AUTHORITY OF**
6 **FEDERAL BANKING AGENCIES IN CASES OF**
7 **CERTAIN CRIMES BY INSTITUTION-AFFILI-**
8 **ATED PARTIES.**

9 (a) INSURED DEPOSITORY INSTITUTION.—

10 (1) IN GENERAL.—Section 8(g)(1) of the Fed-
11 eral Deposit Insurance Act (12 U.S.C. 1818(g)(1))
12 is amended—

13 (A) in subparagraph (A), by striking “the
14 depository” each place such term appears and
15 inserting “any depository”;

16 (B) in subparagraph (B)(i), by inserting
17 “of which the subject of the order is an institu-
18 tion-affiliated party” before the period at the
19 end;

20 (C) in subparagraph (C), by striking “the
21 depository” each place such term appears and
22 inserting “any depository”;

23 (D) in subparagraph (D)(i), by inserting
24 “of which the subject of the order is an institu-

1 tion-affiliated party” after “upon the depository
2 institution”; and

3 (E) by adding at the end the following new
4 subparagraph:

5 “(E) CONTINUATION OF AUTHORITY.—A
6 Federal banking agency may issue an order
7 under this paragraph with respect to an indi-
8 vidual who is an institution-affiliated party at a
9 depository institution at the time of an offense
10 described in subparagraph (A) without regard
11 to—

12 “(i) whether such individual is an in-
13 stitution-affiliated party at any depository
14 institution at the time the order is consid-
15 ered or issued by the agency; or

16 “(ii) whether the depository institu-
17 tion at which the individual was an institu-
18 tion-affiliated party at the time of the of-
19 fense remains in existence at the time the
20 order is considered or issued by the agen-
21 cy.”.

22 (2) CLERICAL AMENDMENT.—Section 8(g) of
23 the Federal Deposit Insurance Act (12 U.S.C.
24 1818(g)) is amended by striking “(g)” and inserting
25 the following new subsection heading:

1 “(g) SUSPENSION, REMOVAL, AND PROHIBITION
2 FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN
3 CRIMINAL OFFENSES.—”.

4 (b) INSURED CREDIT UNIONS.—

5 (1) IN GENERAL.—Section 206(i)(1) of the
6 Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is
7 amended—

8 (A) in subparagraph (A), by striking “the
9 credit union” each place such term appears and
10 inserting “any credit union”;

11 (B) in subparagraph (B)(i), by inserting
12 “of which the subject of the order is, or most
13 recently was, an institution-affiliated party” be-
14 fore the period at the end;

15 (C) in subparagraph (C), by striking “the
16 credit union” each place such term appears and
17 inserting “any credit union”;

18 (D) in subparagraph (D)(i), by striking
19 “upon such credit union” and inserting “upon
20 the credit union of which the subject of the
21 order is, or most recently was, an institution-af-
22 filiated party”; and

23 (E) by adding at the end the following new
24 subparagraph:

1 “(E) CONTINUATION OF AUTHORITY.—The
2 Board may issue an order under this paragraph
3 with respect to an individual who is an institu-
4 tion-affiliated party at a credit union at the
5 time of an offense described in subparagraph
6 (A) without regard to—

7 “(i) whether such individual is an in-
8 stitution-affiliated party at any credit
9 union at the time the order is considered
10 or issued by the Board; or

11 “(ii) whether the credit union at
12 which the individual was an institution-af-
13 filiated party at the time of the offense re-
14 mains in existence at the time the order is
15 considered or issued by the Board.”.

16 (2) CLERICAL AMENDMENT.—Section 206(i) of
17 the Federal Credit Union Act (12 U.S.C. 1786(i)) is
18 amended by striking “(i)” at the beginning and in-
19 serting the following new subsection heading:

20 “(i) SUSPENSION, REMOVAL, AND PROHIBITION
21 FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN
22 CRIMINAL OFFENSES.—”.

1 **SEC. 607. STREAMLINING DEPOSITORY INSTITUTION MERG-**
2 **ER APPLICATION REQUIREMENTS.**

3 (a) IN GENERAL.—Paragraph (4) of section 18(c) of
4 the Federal Deposit Insurance Act (12 U.S.C. 1828(e))
5 is amended to read as follows:

6 “(4) REPORTS ON COMPETITIVE FACTORS.—

7 “(A) REQUEST FOR REPORT.—In the in-
8 terests of uniform standards, before acting on
9 any application for approval of a merger trans-
10 action, the responsible agency, unless the agen-
11 cy finds that it must act immediately in order
12 to prevent the probable failure of a depository
13 institution involved, shall—

14 “(i) request a report on the competi-
15 tive factors involved from the Attorney
16 General; and

17 “(ii) provide a copy of the request to
18 the Corporation (when the Corporation is
19 not the responsible agency).

20 “(B) FURNISHING OF REPORT.—The re-
21 port requested under subparagraph (A) shall be
22 furnished by the Attorney General to the re-
23 sponsible agency—

24 “(i) not more than 30 calendar days
25 after the date on which the Attorney Gen-
26 eral received the request; or

1 “(ii) not more than 10 calendar days
2 after such date, if the requesting agency
3 advises the Attorney General that an emer-
4 gency exists requiring expeditious action.”.

5 (b) TECHNICAL AND CONFORMING AMENDMENT.—
6 The penultimate sentence of section 18(c)(6) of the Fed-
7 eral Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is
8 amended to read as follows: “If the agency has advised
9 the Attorney General under paragraph (4)(B) of the exist-
10 ence of an emergency requiring expeditious action and has
11 requested a report on the competitive factors within 10
12 days, the transaction may not be consummated before the
13 fifth calendar day after the date of approval by the agen-
14 cy.”.

15 **SEC. 608. INCLUSION OF DIRECTOR OF THE OFFICE OF**
16 **THRIFT SUPERVISION IN LIST OF BANKING**
17 **AGENCIES REGARDING INSURANCE CUS-**
18 **TOMER PROTECTION REGULATIONS.**

19 Section 47(g)(2)(B)(i) of the Federal Deposit Insur-
20 ance Act (12 U.S.C. 1831x(g)(2)(B)(i)) is amended by in-
21 serting “the Director of the Office of Thrift Supervision,”
22 after “Comptroller of the Currency,”.

1 **SEC. 609. PROTECTION OF CONFIDENTIAL INFORMATION**
2 **RECEIVED BY FEDERAL BANKING REGU-**
3 **LATORS FROM FOREIGN BANKING SUPER-**
4 **VISORS.**

5 Section 15 of the International Banking Act of 1978
6 (12 U.S.C. 3109) is amended by adding at the end the
7 following new subsection:

8 “(c) CONFIDENTIAL INFORMATION RECEIVED FROM
9 FOREIGN SUPERVISORS.—

10 “(1) IN GENERAL.—Except as provided in
11 paragraph (3), a Federal banking agency may not be
12 compelled to disclose information received from a
13 foreign regulatory or supervisory authority if—

14 “(A) the foreign regulatory or supervisory
15 authority has, in good faith, determined and
16 represented to such Federal banking agency
17 that public disclosure of the information would
18 violate the laws applicable to that foreign regu-
19 latory or supervisory authority; and

20 “(B) the relevant Federal banking agency
21 obtained such information pursuant to—

22 “(i) such procedures as the Federal
23 banking agency may establish for use in
24 connection with the administration and en-
25 forcement of Federal banking laws; or

1 “(ii) a memorandum of understanding
2 or other similar arrangement between the
3 Federal banking agency and the foreign
4 regulatory or supervisory authority.

5 “(2) TREATMENT UNDER TITLE 5, UNITED
6 STATES CODE.—For purposes of section 552 of title
7 5, United States Code, this subsection shall be treat-
8 ed as a statute described in subsection (b)(3)(B) of
9 such section.

10 “(3) SAVINGS PROVISION.—No provision of this
11 section shall be construed as—

12 “(A) authorizing any Federal banking
13 agency to withhold any information from any
14 duly authorized committee of the House of Rep-
15 resentatives or the Senate; or

16 “(B) preventing any Federal banking
17 agency from complying with an order of a court
18 of the United States in an action commenced by
19 the United States or such agency.

20 “(4) FEDERAL BANKING AGENCY DEFINED.—
21 For purposes of this subsection, the term ‘Federal
22 banking agency’ means the Board, the Comptroller,
23 the Federal Deposit Insurance Corporation, and the
24 Director of the Office of Thrift Supervision.”.

1 **SEC. 610. PROHIBITION ON PARTICIPATION BY CONVICTED**
2 **INDIVIDUAL.**

3 Section 19 of the Federal Deposit Insurance Act (12
4 U.S.C. 1829) is amended by inserting after subsection (c)
5 (as added by section 603 of this title) the following new
6 subsections:

7 “(d) **BANK HOLDING COMPANIES.**—Subsections (a)
8 and (b) shall apply to any bank holding company, any sub-
9 sidiary (other than a bank) of a bank holding company,
10 and any organization organized and operated under sec-
11 tion 25A of the Federal Reserve Act or operating under
12 section 25 of the Federal Reserve Act as if such bank
13 holding company, subsidiary, or organization were an in-
14 sured depository institution, except such subsections shall
15 be applied for purposes of this subsection by substituting
16 ‘Board of Governors of the Federal Reserve System’ for
17 ‘Corporation’ each place such term appears in such sub-
18 sections.

19 “(e) **SAVINGS AND LOAN HOLDING COMPANIES.**—
20 Subsections (a) and (b) shall apply to any savings and
21 loan holding company and any subsidiary (other than a
22 savings association) of a savings and loan holding com-
23 pany as if such savings and loan holding company or sub-
24 sidiary were an insured depository institution, except such
25 subsections shall be applied for purposes of this subsection
26 by substituting ‘Director of the Office of Thrift Super-

1 vision’ for ‘Corporation’ each place such term appears in
2 such subsections.”.

3 **SEC. 611. CLARIFICATION THAT NOTICE AFTER SEPARA-**
4 **TION FROM SERVICE MAY BE MADE BY AN**
5 **ORDER.**

6 (a) IN GENERAL.—Section 8(i)(3) of the Federal De-
7 posit Insurance Act (12 U.S.C. 1818(i)(3)) is amended by
8 inserting “or order” after “notice” each place such term
9 appears.

10 (b) TECHNICAL AND CONFORMING AMENDMENT.—
11 The heading for section 8(i)(3) of the Federal Deposit In-
12 surance Act (12 U.S.C. 1818(i)(3)) is amended by insert-
13 ing “OR ORDER” after “NOTICE”.

14 **SEC. 612. ENFORCEMENT AGAINST MISREPRESENTATIONS**
15 **REGARDING FDIC DEPOSIT INSURANCE COV-**
16 **ERAGE.**

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

20 “(4) FALSE ADVERTISING, MISUSE OF FDIC
21 NAMES, AND MISREPRESENTATION TO INDICATE IN-
22 SURED STATUS.—

23 “(A) PROHIBITION ON FALSE ADVER-
24 TISING AND MISUSE OF FDIC NAMES.—No per-
25 son may—

1 “(i) use the terms ‘Federal Deposit’,
2 ‘Federal Deposit Insurance’, ‘Federal De-
3 posit Insurance Corporation’, any combina-
4 tion of such terms, or the abbreviation
5 ‘FDIC’ as part of the business name or
6 firm name of any person, including any
7 corporation, partnership, business trust,
8 association, or other business entity; or

9 “(ii) use such terms or any other sign
10 or symbol as part of an advertisement, so-
11 licitation, or other document,

12 to represent, suggest or imply that any deposit
13 liability, obligation, certificate or share is in-
14 sured or guaranteed by the Federal Deposit In-
15 surance Corporation, if such deposit liability,
16 obligation, certificate, or share is not insured or
17 guaranteed by the Corporation.

18 “(B) PROHIBITION ON MISREPRESENTA-
19 TIONS OF INSURED STATUS.—No person may
20 knowingly misrepresent—

21 “(i) that any deposit liability, obliga-
22 tion, certificate, or share is federally in-
23 sured, if such deposit liability, obligation,
24 certificate, or share is not insured by the
25 Corporation; or

1 “(ii) the extent to which or the man-
2 ner in which any deposit liability, obliga-
3 tion, certificate, or share is insured by the
4 Federal Deposit Insurance Corporation, if
5 such deposit liability, obligation, certificate,
6 or share is not insured by the Corporation
7 to the extent or in the manner represented.

8 “(C) AUTHORITY OF FDIC.—The Corpora-
9 tion shall have—

10 “(i) jurisdiction over any person that
11 violates this paragraph, or aids or abets
12 the violation of this paragraph; and

13 “(ii) for purposes of enforcing the re-
14 quirements of this paragraph with regard
15 to any person—

16 “(I) the authority of the Cor-
17 poration under section 10(c) to con-
18 duct investigations; and

19 “(II) the enforcement authority
20 of the Corporation under subsections
21 (b), (c), (d) and (i) of section 8,
22 as if such person were a state nonmember in-
23 sured bank.

24 “(D) OTHER ACTIONS PRESERVED.—No
25 provision of this paragraph shall be construed

1 as barring any action otherwise available, under
2 the laws of the United States or any State, to
3 any Federal or State law enforcement agency or
4 individual.”.

5 (b) ENFORCEMENT ORDERS.—Section 8(c) of the
6 Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is
7 amended by adding at the end the following new para-
8 graph:

9 “(4) FALSE ADVERTISING OR MISUSE OF
10 NAMES TO INDICATE INSURED STATUS.—

11 “(A) TEMPORARY ORDER.—

12 “(i) IN GENERAL.—If a notice of
13 charges served under subsection (b)(1) of
14 this section specifies on the basis of par-
15 ticular facts that any person is engaged in
16 conduct described in section 18(a)(4), the
17 Corporation may issue a temporary order
18 requiring—

19 “(I) the immediate cessation of
20 any activity or practice described,
21 which gave rise to the notice of
22 charges; and

23 “(II) affirmative action to pre-
24 vent any further, or to remedy any ex-
25 isting, violation.

1 “(ii) EFFECT OF ORDER.—Any tem-
2 porary order issued under this subpara-
3 graph shall take effect upon service.

4 “(B) EFFECTIVE PERIOD OF TEMPORARY
5 ORDER.—A temporary order issued under sub-
6 paragraph (A) shall remain effective and en-
7 forceable, pending the completion of an admin-
8 istrative proceeding pursuant to subsection
9 (b)(1) in connection with the notice of
10 charges—

11 “(i) until such time as the Corpora-
12 tion shall dismiss the charges specified in
13 such notice; or

14 “(ii) if a cease-and-desist order is
15 issued against such person, until the effec-
16 tive date of such order.

17 “(C) CIVIL MONEY PENALTIES.—Violations
18 of section 18(a)(4) shall be subject to civil
19 money penalties as set forth in subsection (i) in
20 an amount not to exceed \$1,000,000 for each
21 day during which the violation occurs or con-
22 tinues.”.

23 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

24 (1) Section 18(a)(3) of the Federal Deposit In-
25 surance Act (12 U.S.C. 1828(a)) is amended—

1 (A) in the 1st sentence by striking “of this
2 subsection” and inserting “of paragraphs (1)
3 and (2)”;

4 (B) by striking the 2nd sentence; and

5 (C) in the 3rd sentence, by striking “of
6 this subsection” and inserting “of paragraphs
7 (1) and (2)”.

8 (2) The heading for subsection (a) of section 18
9 of the Federal Deposit Insurance Act (12 U.S.C.
10 1828(a)) is amended by striking “INSURANCE
11 LOGO.—” and inserting “REPRESENTATIONS OF DE-
12 POSIT INSURANCE.—”.

13 **SEC. 613. COMPENSATION OF FEDERAL HOME LOAN BANK**
14 **DIRECTORS.**

15 Section 7(i) of the Federal Home Loan Bank Act (12
16 U.S.C. 1427(i)) is amended to read as follows:

17 “(i) DIRECTORS’ COMPENSATION.—

18 “(1) IN GENERAL.—Each Federal home loan
19 bank may pay the directors on the board of directors
20 of the bank reasonable compensation for the time re-
21 quired of such directors, and reasonable expenses in-
22 curred by the directors, in connection with service on
23 the board of directors, in accordance with resolutions
24 adopted by the board of directors and subject to the
25 approval of the board.

1 “(2) ANNUAL REPORT BY THE BOARD.—Infor-
2 mation regarding compensation and expenses paid
3 by the Federal home loan banks to the directors on
4 the boards of directors of the banks shall be included
5 in the annual report submitted to the Congress by
6 the Board pursuant to section 2B(d).”.

7 **SEC. 614. EXTENSION OF TERMS OF FEDERAL HOME LOAN**
8 **BANK DIRECTORS.**

9 (a) IN GENERAL.—Section 7(d) of the Federal Home
10 Loan Bank Act (12 U.S.C. 1427(d)) is amended—

11 (1) in the first sentence, by striking “3 years”
12 and inserting “4 years”; and

13 (2) in the 2nd sentence—

14 (A) by striking “Federal Home Loan Bank
15 System Modernization Act of 1999” and insert-
16 ing “Financial Services Regulatory Relief Act
17 of 2003”; and

18 (B) by striking “1/3” and inserting “1/4”.

19 (b) PROSPECTIVE APPLICATION.—The amendment
20 made by subsection (a) shall not apply to the term of office
21 in which any director of a Federal home loan bank is serv-
22 ing as of the date of the enactment of this Act, including
23 any director elected or appointed to fill a vacancy in any
24 such term of office.

1 **SEC. 615. BIENNIAL REPORTS ON THE STATUS OF AGENCY**
2 **EMPLOYMENT OF MINORITIES AND WOMEN.**

3 (a) IN GENERAL.—Before December 31, 2003, and
4 the end of each 2-year period beginning after such date,
5 each Federal banking agency shall submit a report to the
6 Congress on the status of the employment by the agency
7 of minority individuals and women.

8 (b) FACTORS TO BE INCLUDED.—The report shall
9 include a detailed assessment of each of the following:

10 (1) The extent of hiring of minority individuals
11 and women by the agency as of the time the report
12 is prepared.

13 (2) The successes achieved and challenges faced
14 by the agency in operating minority and women out-
15 reach programs.

16 (3) Challenges the agency may face in finding
17 qualified minority individual and women applicants.

18 (4) Such other information, findings, and con-
19 clusions, and recommendations for legislative or
20 agency action, as the agency may determine to be
21 appropriate to include in the report.

22 (c) DEFINITIONS.—For purposes of this section, the
23 following definitions shall apply:

24 (1) FEDERAL BANKING AGENCY.—The term
25 “Federal banking agency”—

1 (A) has the same meaning as in section
2 3(z) of the Federal Deposit Insurance Act; and

3 (B) includes the National Credit Union
4 Administration.

5 (2) MINORITY.—The term “minority” has the
6 same meaning as in section 1204(c)(3) of the Finan-
7 cial Institutions Reform, Recovery, and Enforcement
8 Act of 1989.

9 **SEC. 616. COORDINATION OF STATE EXAMINATION AU-**
10 **THORITY.**

11 Section 10(h) of the Federal Deposit Insurance Act
12 (12 U.S.C. 1820(h)) is amended to read as follows:

13 “(h) COORDINATION OF EXAMINATION AUTHOR-
14 ITY.—

15 “(1) IN GENERAL.—The appropriate State
16 bank supervisor of the home State of an insured
17 State bank has authority to examine and supervise
18 the bank. The State bank supervisor of the home
19 State of an insured State bank shall exercise its au-
20 thority to supervise and examine the branches of the
21 bank in a host State in accordance with the terms
22 of any applicable cooperative agreement between the
23 home State bank supervisor and the State bank su-
24 pervisor of the relevant host State. Except as ex-
25 pressly provided in a cooperative agreement between

1 the State bank supervisors of the home State and
2 host State(s) of an insured State bank, only the
3 State bank supervisor of the home State of an in-
4 sured State bank may levy or charge State super-
5 visory fees on the bank.

6 “(2) HOST STATE EXAMINATION.—With respect
7 to a branch operated in a host State by an out-of-
8 State insured State bank that resulted from an
9 interstate merger transaction approved under section
10 44 or that was established in such State pursuant
11 to section 5155(g) of the Revised Statutes, the third
12 undesignated paragraph of section 9 of the Federal
13 Reserve Act or section 18(d)(4) of this Act, the ap-
14 propriate State bank supervisor of such host State
15 may—

16 “(A) with written notice to the State bank
17 supervisor of the bank’s home State and subject
18 to the terms of any applicable cooperative
19 agreement with the State bank supervisor of
20 such home State, examine such branch for the
21 purpose of determining compliance with host
22 State laws that are applicable pursuant to sec-
23 tion 24(j) of this Act, including those that gov-
24 ern community reinvestment, fair lending, and
25 consumer protection; and

1 “(B) if expressly permitted under and sub-
2 ject to the terms of a cooperative agreement
3 with the State bank supervisor of the bank’s
4 home State or if such out-of-State insured
5 State bank has been determined to be in a trou-
6 bled condition by either the State bank super-
7 visor of the bank’s home State or the bank’s
8 appropriate Federal banking agency, participate
9 in the examination of the bank by the State
10 bank supervisor of the bank’s home State to as-
11 certain that the activities of the branch in such
12 host State are not conducted in an unsafe or
13 unsound manner. The State bank supervisor of
14 the home State of an insured State bank shall
15 notify the State bank supervisor of each host
16 State of the bank if there has been a final de-
17 termination that the bank is in a troubled con-
18 dition. The State bank supervisor of the bank’s
19 home State shall provide such notice as soon as
20 reasonably possible but in all cases within 15
21 business days after the State bank supervisor
22 has made such final determination or has re-
23 ceived written notification of such final deter-
24 mination.

1 “(3) HOST STATE ENFORCEMENT.—If the State
2 bank supervisor of a host State determines that a
3 branch of an out-of-State State insured State bank
4 is violating any law of the host State that is applica-
5 ble to such branch pursuant to section 24(j) of this
6 Act, including a law that governs community rein-
7 vestment, fair lending, or consumer protection, the
8 State bank supervisor of the host State or, to the ex-
9 tent authorized by the law of the host State, a host
10 State law enforcement officer may, with written no-
11 tice to the State bank supervisor of the bank’s home
12 State and subject to the terms of any applicable co-
13 operative agreement with the State bank supervisor
14 of the bank’s home State, undertake such enforce-
15 ment actions and proceedings as would be permitted
16 under the law of the host State as if the branch
17 were a bank chartered by that host State.

18 “(4) COOPERATIVE AGREEMENT.—The State
19 bank supervisors from 2 or more States may enter
20 into cooperative agreements to facilitate State regu-
21 latory supervision of State banks, including coopera-
22 tive agreements relating to the coordination of ex-
23 aminations and joint participation in examinations.
24 For purposes of this subsection (h), the term “coop-
25 erative agreement” means a written agreement that

1 is signed by the home State bank supervisor and
2 host State bank supervisor to facilitate State regu-
3 latory supervision of State banks and includes na-
4 tionwide or multi-state cooperative agreements and
5 cooperative agreements solely between the home
6 State and host State. Except for State bank super-
7 visors, no provision of this subsection (h) relating to
8 such cooperative agreements shall be construed as
9 limiting in any way the authority of home and host
10 State law enforcement officers, regulatory super-
11 visors, or other officials that have not signed such
12 cooperative agreements to enforce host State laws
13 that are applicable to a branch of an out-of-State in-
14 sured State bank located in the host State pursuant
15 to section 24(j) of this Act.

16 “(5) FEDERAL REGULATORY AUTHORITY.—No
17 provision of this subsection shall be construed as
18 limiting in any way the authority of any Federal
19 banking agency.

20 “(6) STATE TAXATION AUTHORITY NOT AF-
21 FECTED.—No provision of this subsection (h) shall
22 be construed as affecting the authority of any State
23 or political subdivision of any State to adopt, apply,
24 or administer any tax or method of taxation to any
25 bank, bank holding company, or foreign bank, or

1 any affiliate of any bank, bank holding company, or
2 foreign bank, to the extent such tax or tax method
3 is otherwise permissible by or under the Constitution
4 of the United States or other Federal law.

5 “(7) DEFINITIONS.—For purpose of this sec-
6 tion, the following definition shall apply:

7 “(A) The terms ‘host State’, ‘home State’,
8 and ‘out-of-State bank’ have the same meanings
9 as in section 44(g).

10 “(B) The term ‘State supervisory fees’
11 means assessments, examination fees, branch
12 fees, license fees, and all other fees that are lev-
13 ied or charged by a State bank supervisor di-
14 rectly upon an insured State bank or upon
15 branches of an insured State bank.

16 “(C) Solely for purposes of subparagraph
17 (2)(B) of this subsection (h), an insured State
18 bank has been determined to be in ‘troubled
19 condition’ if the bank—

20 “(i) has a composite rating, as deter-
21 mined in its most recent report of exam-
22 ination, of 4 or 5 under the Uniform Fi-
23 nancial Institutions Ratings System
24 (UFIRS); or

1 “(ii) is subject to a proceeding initi-
2 ated by the Corporation for termination or
3 suspension of deposit insurance; or

4 “(iii) is subject to a proceeding initi-
5 ated by the State bank supervisor of the
6 bank’s home State to vacate, revoke, or
7 terminate the charter of the bank, or to
8 liquidate the bank, or to appoint a receiver
9 for the bank.

10 “(D) For the purposes of paragraph
11 (2)(B), the term ‘final determination’ means
12 the transmittal of a Report of Examination to
13 the bank or transmittal of official notice of pro-
14 ceedings to the bank.”.

15 **TITLE VII—BUSINESS CHECKING**
16 **FREEDOM**

17 **SEC. 701. SHORT TITLE.**

18 This title may be cited as the “Business Checking
19 Freedom Act of 2004”.

20 **SEC. 702. INTEREST-BEARING TRANSACTION ACCOUNTS**
21 **AUTHORIZED FOR ALL BUSINESSES.**

22 (a) Section 2 of Public Law 93–100 (12 U.S.C. 1832)
23 is amended—

24 (1) by redesignating subsections (b) and (c) as
25 subsections (c) and (d), respectively; and

1 (2) by inserting after subsection (a) the fol-
2 lowing:

3 “(b) Notwithstanding any other provision of law, any
4 depository institution may permit the owner of any deposit
5 or account which is a deposit or account on which interest
6 or dividends are paid and is not a deposit or account de-
7 scribed in subsection (a)(2) to make up to 24 transfers
8 per month (or such greater number as the Board of Gov-
9 ernors of the Federal Reserve System may determine by
10 rule or order), for any purpose, to another account of the
11 owner in the same institution. An account offered pursu-
12 ant to this subsection shall be considered a transaction
13 account for purposes of section 19 of the Federal Reserve
14 Act unless the Board of Governors of the Federal Reserve
15 System determines otherwise.”.

16 (b) Effective at the end of the 2-year period begin-
17 ning on the date of the enactment of this Act, section 2
18 of Public Law 93–100 (12 U.S.C. 1832) is amended—

19 (1) in subsection (a)(1), by striking “but sub-
20 ject to paragraph (2)”;

21 (2) by striking paragraph (2) of subsection (a)
22 and inserting the following new paragraph:

23 “(2) No provision of this section may be con-
24 strued as conferring the authority to offer demand

1 deposit accounts to any institution that is prohibited
2 by law from offering demand deposit accounts.”; and

3 (3) in subsection (b) (as added by subsection
4 (a) of this section) by striking “and is not a deposit
5 or account described in subsection (a)(2)”.

6 **SEC. 703. INTEREST-BEARING TRANSACTION ACCOUNTS**
7 **AUTHORIZED.**

8 (a) **REPEAL OF PROHIBITION ON PAYMENT OF IN-**
9 **TEREST ON DEMAND DEPOSITS.—**

10 (1) **FEDERAL RESERVE ACT.—**Section 19(i) of
11 the Federal Reserve Act (12 U.S.C. 371a) is amend-
12 ed to read as follows:

13 “(i) [Repealed]”.

14 (2) **HOME OWNERS’ LOAN ACT.—**The first sen-
15 tence of section 5(b)(1)(B) of the Home Owners’
16 Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by
17 striking “savings association may not—” and all
18 that follows through “(ii) permit any” and inserting
19 “savings association may not permit any”.

20 (3) **FEDERAL DEPOSIT INSURANCE ACT.—**Sec-
21 tion 18(g) of the Federal Deposit Insurance Act (12
22 U.S.C. 1828(g)) is amended to read as follows:

23 “(g) [Repealed]”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect at the end of the 2-year
3 period beginning on the date of the enactment of this Act.

4 **SEC. 704. PAYMENT OF INTEREST ON RESERVES AT FED-**
5 **ERAL RESERVE BANKS.**

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

9 “(12) EARNINGS ON RESERVES.—

10 “(A) IN GENERAL.—Balances maintained
11 at a Federal reserve bank by or on behalf of a
12 depository institution may receive earnings to
13 be paid by the Federal reserve bank at least
14 once each calendar quarter at a rate or rates
15 not to exceed the general level of short-term in-
16 terest rates.

17 “(B) REGULATIONS RELATING TO PAY-
18 MENTS AND DISTRIBUTION.—The Board may
19 prescribe regulations concerning—

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

22 “(ii) the distribution of such earnings
23 to the depository institutions which main-
24 tain balances at such banks or on whose
25 behalf such balances are maintained; and

1 “(iii) the responsibilities of depository
2 institutions, Federal home loan banks, and
3 the National Credit Union Administration
4 Central Liquidity Facility with respect to
5 the crediting and distribution of earnings
6 attributable to balances maintained, in ac-
7 cordance with subsection (c)(1)(A), in a
8 Federal reserve bank by any such entity on
9 behalf of depository institutions.

10 “(C) DEPOSITORY INSTITUTIONS DE-
11 FINED.—For purposes of this paragraph, the
12 term ‘depository institution’, in addition to the
13 institutions described in paragraph (1)(A), in-
14 cludes any trust company, corporation orga-
15 nized under section 25A or having an agree-
16 ment with the Board under section 25, or any
17 branch or agency of a foreign bank (as defined
18 in section 1(b) of the International Banking Act
19 of 1978).”.

20 (b) AUTHORIZATION FOR PASS THROUGH RESERVES
21 FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Fed-
22 eral Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by
23 striking “which is not a member bank”.

24 (c) CONSUMER BANKING COSTS ASSESSMENT.—

1 (1) IN GENERAL.—The Federal Reserve Act
2 (12 U.S.C. 221 et seq.) is amended—

3 (A) by redesignating sections 30 and 31 as
4 sections 31 and 32, respectively; and

5 (B) by inserting after section 29 the fol-
6 lowing new section:

7 **“SEC. 30. SURVEY OF BANK FEES AND SERVICES.**

8 “(a) ANNUAL SURVEY REQUIRED.—The Board of
9 Governors of the Federal Reserve System shall obtain an-
10 nually a sample, which is representative by type and size
11 of the institution (including small institutions) and geo-
12 graphic location, of the following retail banking services
13 and products provided by insured depository institutions
14 and insured credit unions (along with related fees and
15 minimum balances):

16 “(1) Checking and other transaction accounts.

17 “(2) Negotiable order of withdrawal and sav-
18 ings accounts.

19 “(3) Automated teller machine transactions.

20 “(4) Other electronic transactions.

21 “(b) MINIMUM SURVEY REQUIREMENT.—The annual
22 survey described in subsection (a) shall meet the following
23 minimum requirements:

1 “(1) CHECKING AND OTHER TRANSACTION AC-
2 COUNTS.—Data on checking and transaction ac-
3 counts shall include, at a minimum, the following:

4 “(A) Monthly and annual fees and min-
5 imum balances to avoid such fees.

6 “(B) Minimum opening balances.

7 “(C) Check processing fees.

8 “(D) Check printing fees.

9 “(E) Balance inquiry fees.

10 “(F) Fees imposed for using a teller or
11 other institution employee.

12 “(G) Stop payment order fees.

13 “(H) Nonsufficient fund fees.

14 “(I) Overdraft fees.

15 “(J) Deposit items returned fees.

16 “(K) Availability of no-cost or low-cost ac-
17 counts for consumers who maintain low bal-
18 ances.

19 “(2) NEGOTIABLE ORDER OF WITHDRAWAL AC-
20 COUNTS AND SAVINGS ACCOUNTS.—Data on nego-
21 tiable order of withdrawal accounts and savings ac-
22 counts shall include, at a minimum, the following:

23 “(A) Monthly and annual fees and min-
24 imum balances to avoid such fees.

25 “(B) Minimum opening balances.

1 “(C) Rate at which interest is paid to con-
2 sumers.

3 “(D) Check processing fees for negotiable
4 order of withdrawal accounts.

5 “(E) Fees imposed for using a teller or
6 other institution employee.

7 “(F) Availability of no-cost or low-cost ac-
8 counts for consumers who maintain low bal-
9 ances.

10 “(3) AUTOMATED TELLER TRANSACTIONS.—

11 Data on automated teller machine transactions shall
12 include, at a minimum, the following:

13 “(A) Monthly and annual fees.

14 “(B) Card fees.

15 “(C) Fees charged to customers for with-
16 drawals, deposits, and balance inquiries through
17 institution-owned machines.

18 “(D) Fees charged to customers for with-
19 drawals, deposits, and balance inquiries through
20 machines owned by others.

21 “(E) Fees charged to noncustomers for
22 withdrawals, deposits, and balance inquiries
23 through institution-owned machines.

24 “(F) Point-of-sale transaction fees.

1 “(4) OTHER ELECTRONIC TRANSACTIONS.—

2 Data on other electronic transactions shall include,
3 at a minimum, the following:

4 “(A) Wire transfer fees.

5 “(B) Fees related to payments made over
6 the Internet or through other electronic means.

7 “(5) OTHER FEES AND CHARGES.—Data on
8 any other fees and charges that the Board of Gov-
9 ernors of the Federal Reserve System determines to
10 be appropriate to meet the purposes of this section.

11 “(6) FEDERAL RESERVE BOARD AUTHORITY.—
12 The Board of Governors of the Federal Reserve Sys-
13 tem may cease the collection of information with re-
14 gard to any particular fee or charge specified in this
15 subsection if the Board makes a determination that,
16 on the basis of changing practices in the financial
17 services industry, the collection of such information
18 is no longer necessary to accomplish the purposes of
19 this section.

20 “(c) ANNUAL REPORT TO CONGRESS REQUIRED.—

21 “(1) PREPARATION.—The Board of Governors
22 of the Federal Reserve System shall prepare a report
23 of the results of each survey conducted pursuant to
24 subsections (a) and (b) of this section and section
25 136(b)(1) of the Consumer Credit Protection Act.

1 “(2) CONTENTS OF THE REPORT.—In addition
2 to the data required to be collected pursuant to sub-
3 sections (a) and (b), each report prepared pursuant
4 to paragraph (1) shall include a description of any
5 discernible trend, in the Nation as a whole, in a rep-
6 resentative sample of the 50 States (selected with
7 due regard for regional differences), and in each
8 consolidated metropolitan statistical area (as defined
9 by the Director of the Office of Management and
10 Budget), in the cost and availability of the retail
11 banking services, including those described in sub-
12 sections (a) and (b) (including related fees and min-
13 imum balances), that delineates differences between
14 institutions on the basis of the type of institution
15 and the size of the institution, between large and
16 small institutions of the same type, and any engage-
17 ment of the institution in multistate activity.

18 “(3) SUBMISSION TO CONGRESS.—The Board
19 of Governors of the Federal Reserve System shall
20 submit an annual report to the Congress not later
21 than June 1, 2005, and not later than June 1 of
22 each subsequent year.

23 “(d) DEFINITIONS.—For purposes of this section, the
24 term ‘insured depository institution’ has the meaning
25 given such term in section 3 of the Federal Deposit Insur-

1 ance Act, and the term ‘insured credit union’ has the
2 meaning given such term in section 101 of the Federal
3 Credit Union Act.”.

4 (2) CONFORMING AMENDMENT.—

5 (A) IN GENERAL.—Paragraph (1) of sec-
6 tion 136(b) of the Truth in Lending Act (15
7 U.S.C. 1646(b)(1)) is amended to read as fol-
8 lows:

9 “(1) COLLECTION REQUIRED.—The Board shall
10 collect, on a semiannual basis, from a broad sample
11 of financial institutions which offer credit card serv-
12 ices, credit card price and availability information
13 including—

14 “(A) the information required to be dis-
15 closed under section 127(c) of this chapter;

16 “(B) the average total amount of finance
17 charges paid by consumers; and

18 “(C) the following credit card rates and
19 fees:

20 “(i) Application fees.

21 “(ii) Annual percentage rates for cash
22 advances and balance transfers.

23 “(iii) Maximum annual percentage
24 rate that may be charged when an account
25 is in default.

1 “(iv) Fees for the use of convenience
2 checks.

3 “(v) Fees for balance transfers.

4 “(vi) Fees for foreign currency con-
5 versions.”.

6 (B) EFFECTIVE DATE.—The amendment
7 made by subparagraph (A) shall take effect on
8 January 1, 2004.

9 (3) REPEAL OF OTHER REPORT PROVISIONS.—
10 Section 1002 of Financial Institutions Reform, Re-
11 covery, and Enforcement Act of 1989 and section
12 108 of the Riegle-Neal Interstate Banking and
13 Branching Efficiency Act of 1994 are hereby re-
14 pealed.

15 (d) TECHNICAL AND CONFORMING AMENDMENTS.—
16 Section 19 of the Federal Reserve Act (12 U.S.C. 461)
17 is amended—

18 (1) in subsection (b)(4) (12 U.S.C. 461(b)(4)),
19 by striking subparagraph (C) and redesignating sub-
20 paragraphs (D) and (E) as subparagraphs (C) and
21 (D), respectively; and

22 (2) in subsection (c)(1)(A) (12 U.S.C.
23 461(c)(1)(A)), by striking “subsection (b)(4)(C)”
24 and inserting “subsection (b)”.

1 **SEC. 705. INCREASED FEDERAL RESERVE BOARD FLEXI-**
2 **BILITY IN SETTING RESERVE REQUIRE-**
3 **MENTS.**

4 Section 19(b)(2)(A) of the Federal Reserve Act (12
5 U.S.C. 461(b)(2)(A)) is amended—

6 (1) in clause (i), by striking “the ratio of 3 per
7 centum” and inserting “a ratio not greater than 3
8 percent (and which may be zero)”; and

9 (2) in clause (ii), by striking “and not less than
10 8 per centum,” and inserting “(and which may be
11 zero),”.

12 **SEC. 706. TRANSFER OF FEDERAL RESERVE SURPLUSES.**

13 (a) IN GENERAL.—Section 7(b) of the Federal Re-
14 serve Act (12 U.S.C. 289(b)) is amended by adding at
15 the end the following new paragraph:

16 “(4) ADDITIONAL TRANSFERS TO COVER IN-
17 TEREST PAYMENTS FOR FISCAL YEARS 2003
18 THROUGH 2007.—

19 “(A) IN GENERAL.—In addition to the
20 amounts required to be transferred from the
21 surplus funds of the Federal reserve banks pur-
22 suant to subsection (a)(3), the Federal reserve
23 banks shall transfer from such surplus funds to
24 the Board of Governors of the Federal Reserve
25 System for transfer to the Secretary of the
26 Treasury for deposit in the general fund of the

1 Treasury, such sums as are necessary to equal
2 the net cost of section 19(b)(12) in each of the
3 fiscal years 2003 through 2007.

4 “(B) ALLOCATION BY FEDERAL RESERVE
5 BOARD.—Of the total amount required to be
6 paid by the Federal reserve banks under sub-
7 paragraph (A) for fiscal years 2003 through
8 2007, the Board of Governors of the Federal
9 Reserve System shall determine the amount
10 each such bank shall pay in such fiscal year.

11 “(C) REPLENISHMENT OF SURPLUS FUND
12 PROHIBITED.—During fiscal years 2003
13 through 2007, no Federal reserve bank may re-
14 plenish such bank’s surplus fund by the amount
15 of any transfer by such bank under subpara-
16 graph (A).”.

17 (b) TECHNICAL AND CONFORMING AMENDMENT.—
18 Section 7(a) of the Federal Reserve Act (12 U.S.C.
19 289(a)) is amended by adding at the end the following
20 new paragraph:

21 “(3) PAYMENT TO TREASURY.—During fiscal
22 years 2003 through 2007, any amount in the sur-
23 plus fund of any Federal reserve bank in excess of
24 the amount equal to 3 percent of the paid-in capital
25 and surplus of the member banks of such bank shall

1 be transferred to the Secretary of the Treasury for
2 deposit in the general fund of the Treasury.”.

3 **SEC. 707. RULE OF CONSTRUCTION.**

4 In the case of an escrow account maintained at a de-
5 pository institution in connection with a real estate trans-
6 action—

7 (1) the absorption, by the depository institution,
8 of expenses incidental to providing a normal banking
9 service with respect to such escrow account;

10 (2) the forbearance, by the depository institu-
11 tion, from charging a fee for providing any such
12 banking function; and

13 (3) any benefit which may accrue to the holder
14 or the beneficiary of such escrow account as a result
15 of an action of the depository institution described
16 in subparagraph (1) or (2) or similar in nature to
17 such action,

18 shall not be treated as the payment or receipt of interest
19 for purposes of this Act and any provision of Public Law
20 93–100, the Federal Reserve Act, the Home Owners’ Loan
21 Act, or the Federal Deposit Insurance Act relating to the
22 payment of interest on accounts or deposits at depository
23 institutions, provided, however, that nothing herein shall
24 be construed so as to require a depository institution that
25 maintains an escrow account in connection with a real es-

1 tate transaction to pay interest on such escrow account
 2 or to prohibit such institution from paying interest on
 3 such escrow account. Nor shall anything herein be con-
 4 strued to preempt the provisions of law of any State deal-
 5 ing with the payment of interest on escrow accounts main-
 6 tained in connection with real estate transactions.

7 **TITLE VIII—CLERICAL AND**
 8 **TECHNICAL AMENDMENTS**

9 **SEC. 801. CLERICAL AMENDMENTS TO THE HOME OWNERS’**
 10 **LOAN ACT.**

11 (a) AMENDMENT TO TABLE OF CONTENTS.—The
 12 table of contents in section 1 of the Home Owners’ Loan
 13 Act (12 U.S.C. 1461) is amended by striking the items
 14 relating to sections 5 and 6 and inserting the following
 15 new items:

“Sec. 5. Savings associations.

“Sec. 6. [Repealed.]”.

16 (b) CLERICAL AMENDMENTS TO HEADINGS.—

17 (1) The heading for section 4(a) of the Home
 18 Owners’ Loan Act (12 U.S.C. 1463(a)) is amended
 19 by striking “(a) FEDERAL SAVINGS ASSOCIA-
 20 TIONS.—” and inserting “(a) GENERAL RESPON-
 21 SIBILITIES OF THE DIRECTOR.—”.

22 (2) The section heading for section 5 of the
 23 Home Owners’ Loan Act (12 U.S.C. 1464) is
 24 amended to read as follows:

1 **“SEC. 5. SAVINGS ASSOCIATIONS.”.**

2 **SEC. 802. TECHNICAL CORRECTIONS TO THE FEDERAL**
3 **CREDIT UNION ACT.**

4 The Federal Credit Union Act (12 U.S.C. 1751 et
5 seq.) is amended as follows:

6 (1) In section 101(3), strike “and” after the
7 semicolon.

8 (2) In section 101(5), strike the terms “account
9 account” and “account accounts” each place any
10 such term appears and insert “account”.

11 (3) In section 107(a)(5)(E) (as so designated
12 by section 303 of this Act), strike the period at the
13 end and insert a semicolon.

14 (4) In paragraphs (6) and (7) of section 107(a)
15 (as so designated by section 303 of this Act), strike
16 the period at the end and insert a semicolon.

17 (5) In section 107(a)(7)(D) (as so designated
18 by section 303 of this Act), strike “the Federal Sav-
19 ings and Loan Insurance Corporation or”.

20 (6) In section 107(a)(7)(E) (as so designated
21 by section 303 of this Act), strike “the Federal
22 Home Loan Bank Board,” and insert “the Federal
23 Housing Finance Board,”.

24 (7) In section 107(a)(9) (as so designated by
25 section 303 of this Act), strike “subchapter III” and
26 insert “title III”.

1 (8) In section 107(a)(13) (as so designated by
2 section 303 of this Act), strike the “and” after the
3 semicolon at the end.

4 (9) In section 109(e)(2)(A)(i), strike “(12
5 U.S.C. 4703(16))”.

6 (10) In section 120(h), strike “under the Act
7 approved July 30, 1947 (6 U.S.C., secs. 6–13),” and
8 insert “chapter 93 of title 31, United States Code,”.

9 (11) In section 201(b)(5), strike “section 116
10 of”.

11 (12) In section 202(h)(3), strike “section
12 207(c)(1)” and insert “section 207(k)(1)”.

13 (13) In section 204(b), strike “such others pow-
14 ers” and insert “such other powers”.

15 (14) In section 206(e)(3)(D), strike “and” after
16 the semicolon at the end.

17 (15) In section 206(f)(1), strike “subsection
18 (e)(3)(B)” and insert “subsection (e)(3)”.

19 (16) In section 206(g)(7)(D), strike “and sub-
20 section (1)”.

21 (17) In section 206(t)(2)(B), insert “regula-
22 tions” after “as defined in”.

23 (18) In section 206(t)(2)(C), strike “material
24 affect” and insert “material effect”.

1 (19) In section 206(t)(4)(A)(ii)(II), strike “or”
2 after the semicolon at the end.

3 (20) In section 206A(a)(2)(A), strike “regulator
4 agency” and insert “regulatory agency”.

5 (21) In section 207(c)(5)(B)(i)(I), insert “and”
6 after the semicolon at the end.

7 (22) In section 207(c)(8)(D)(ii)(I), insert a
8 closing parenthesis after “Act of 1934”.

9 (23) In the heading for subparagraph (A) of
10 section 207(d)(3), strike “TO” and insert “WITH”.

11 (24) In section 207(f)(3)(A), strike “category
12 or claimants” and insert “category of claimants”.

13 (25) In section 209(a)(8), strike the period at
14 the end and insert a semicolon.

15 (26) In section 216(n), insert “any action” be-
16 fore “that is required”.

17 (27) In section 304(b)(3), strike “the affairs or
18 such credit union” and insert “the affairs of such
19 credit union”.

20 (28) In section 310, strike “section 102(e)” and
21 insert “section 102(d)”.

22 **SEC. 803. OTHER TECHNICAL CORRECTIONS.**

23 (a) Section 1306 of title 18, United States Code, is
24 amended by striking “5136A” and inserting “5136B”.

1 (b) Section 5239 of the Revised Statutes of the
2 United States (12 U.S.C. 93) is amended by redesignating
3 the second of the 2 subsections designated as subsection
4 (d) (as added by section 331(b)(3) of the Riegle Commu-
5 nity Development and Regulatory Improvement Act of
6 1994) as subsection (e).

7 **SEC. 804. REPEAL OF OBSOLETE PROVISIONS OF THE BANK**
8 **HOLDING COMPANY ACT OF 1956.**

9 (a) IN GENERAL.—Section 2 of the Bank Holding
10 Company Act of 1956 (12 U.S.C. 1841) is amended—

11 (1) in subsection (c)(2), by striking subpara-
12 graphs (I) and (J); and

13 (2) by striking subsection (m) and inserting the
14 following new subsection:

15 “(m) [Repealed]”.

16 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
17 Paragraphs (1) and (2) of section 4(h) of the Bank Hold-
18 ing Company Act of 1956 (12 U.S.C. 1843(h)) are each
19 amended by striking “(G), (H), (I), or (J) of section
20 2(c)(2)” and inserting “(G), or (H) of section 2(c)(2)”.

Passed the House of Representatives March 18,
2004.

Attest:

JEFF TRANDAHL,

Clerk.