Lewis (GA)	Murtha	Sanchez, Loretta
McNerney	Obey	Shuler
Melancon	Pastor (AZ)	Stark
Miller, George	Payne	Wexler
Moran (VA)	Radanovich	Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Two minutes remain in this vote.

□ 2036

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: ''A bill to eliminate an unused lighthouse reservation, provide management consistency by incorporating the rocks and small islands along the coast of Orange County, California, into the California Coastal National Monument managed by the Bureau of Land Management, and meet the original Congressional intent of preserving Orange County's rocks and small islands, and for other purposes.''.

A motion to reconsider was laid on the table.

PERMISSION TO REALLOCATE TIME FOR GENERAL DEBATE DURING CONSIDERATION OF H.R. 4173

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 4173 pursuant to H. Res. 956, the Chair of the Committee on Financial Services be permitted to control 10 minutes of the time allocated to the Chair of the Committee on Energy and Commerce.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that during consideration of H.R. 4173 pursuant to H. Res. 956, the ranking member of the Committee on Financial Services be permitted to control 10 minutes of the time allocated to the Chair of the Committee on Energy and Commerce.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4173 and to insert extraneous material therein.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 956 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4173.

□ 2041

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes, with Mr. TEAGUE in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time and the amendment printed in House Report 111–365 is adopted.

Pursuant to the rule and the earlier orders of the House, general debate shall not exceed 3 hours, with 2 hours and 20 minutes equally divided and controlled by the Chair and ranking minority member of the Committee on Financial Services, 30 minutes equally divided and controlled by the Chair and ranking minority member of the Committee on Agriculture, and 10 minutes equally divided and controlled by the Chair and ranking minority member of the Committee on Energy and Commerce.

The gentleman from Massachusetts (Mr. FRANK) and the gentleman from Alabama (Mr. BACHUS) each will control 1 hour and 10 minutes. The gentleman from Minnesota (Mr. PETERSON) and the gentleman from Oklahoma (Mr. LUCAS) each will control 15 minutes. The gentleman from California (Mr. WAXMAN) and the gentleman from Texas (Mr. BARTON) each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I rise in strong support of H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009. I have long advocated for comprehensive and effective financial regulatory reform. Last year, as the chairman of the Oversight Committee, we held many hearings examining the causes of the financial crisis. Those hearings showed government regulators were asleep at the switch while Wall Street banks drove our economy off a cliff. Change is necessary, and I believe this legislation will strengthen the Federal Government's ability to prevent and respond to future crises.

Consumer protection is a central element of the Energy and Commerce Committee's jurisdiction, and I support the reforms in the bill.

□ 2045

The legislation provides four essential improvements to the operations of the Federal Trade Commission. These improvements allow the FTC to seek civil penalties in enforcement actions against violations of the FTC Act, not just violations of rules and orders, as the FTC Act currently allows; enforce against those who provide substantial assistance to entities that commit fraud; promulgate rules using the Standard Administrative Procedures Act, processes used by virtually all other agencies; and litigate its own cases without delay when it seeks civil penalties against fraudulent actors.

Each of these four provisions will strengthen FTC's consumer protection abilities and enable it to be a powerful partner with the Consumer Financial Protection Agency in protecting consumers from financial fraud.

The Energy and Commerce Committee shares jurisdiction over the new Consumer Financial Protection Agency with the Financial Services Committee, and I am pleased Chairman FRANK and I were able to find a compromise in this area. Under the agreement we have reached, the agency will start off with a single director who can take early leadership in establishing the agency and getting it off the ground. After a period of 2 years, the agency will continue operations with the leadership from a bipartisan commission.

I have also been concerned about the provisions of this legislation relating to the regulation of financial instruments associated with the energy sector. I'm pleased to report that the Agriculture Committee and the Energy and Commerce Committee reached an agreement to address potential regulatory conflicts where the jurisdiction of the Commodity Futures Trading Commission as enhanced by the proposed bill could overlap with the jurisdiction of the Federal Energy Regulatory Commission.

I want to thank Chairman FRANK and his staff for leading this important legislation through Congress. I also want to thank Commerce, Trade, and Consumer Protection Subcommittee Chairman BOBBY RUSH for taking an early lead in examining the CFPA proposal in his subcommittee, and Chairman Emeritus DINGELL for ensuring that we enhance FTC's role. Ranking Member BARTON worked closely with us on our proposal to create a commission to lead the CFPA. And I finally want to thank Chairman PETERSON for working with us to resolve the energy regulatory issues.

I urge all of my colleagues to support this legislation.

I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Chairman, I would yield myself 4 minutes.

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

Mr. BARTON of Texas. First, let me say I rise in strong opposition to this bill. I did support marking it up at the Energy and Commerce Committee to maintain jurisdiction over this agency and other agencies in our committee's jurisdictions, and I did work with

Chairman WAXMAN to make some perfecting changes to the bill that is before us. But having said that, I think that it is a bad bill, it's an unnecessary bill, and it's a bill that will have unintended consequences of a negative fashion if enacted in its current form.

I'm glad that some of the Federal Trade Commission's jurisdiction that was originally stripped from the bill and given to the new agency has been retained and put back with the FTC. I also think, though, that a new agency cobbled together by Congress from existing regulatory structure will not eliminate one of the world's oldest sins. Hucksters and scam artists will not throw up their hands and turn honest because there is a new Federal regulator on the block. They will simply find new ways to cheat the government as it tries to get on its wobbly new feet. Bureaucracies, particularly new ones, don't move at the speed of businesses, especially shady, illegal businesses, and they certainly don't move at the speed of fraudsters.

I want to commend Chairman FRANK for his hard work on a tough issue. Having said that, the outcome of his hard work is an enormous bill and an enormous bureaucracy that, in my opinion, just won't do the job. Having said that, the Obama administration apparently wants this new behemoth, so we're going to get it—at least we're going to attempt to get it through the House on the floor this evening or tomorrow, whenever the vote may occur.

I wish that a superregulator could find and repair the underlying problems with the housing and mortgage markets, but I don't think it can. Empowering a new agency with nearly limitless power to deem almost any product or service of financial activity is questionable at best and tyrannical at worse. This legislation even fails to create a national standard for the superregulator to enforce. Instead, it adds another layer of Federal regulation on top of existing State laws.

Finally, the legislation gives broad, new authority to the FTC that really has nothing to do with the proposed agency and covers everything beyond consumer financial products.

Mr. Chairman, I rise in opposition to the bill, and I would hope that we would defeat it.

With that, I want to yield the balance of my time that I control to the distinguished ranking member of the Financial Services Committee, Congressman BACHUS of Alabama.

The CHAIR. The Chair cannot entertain that request in the Committee of the Whole.

Mr. BARTON of Texas. I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I begin by yielding 4 minutes to one of the Members of the House who has a very significant imprint in this bill, all to the protection of investors and the integrity of our markets, the chairman of the Capital Markets Subcommittee, the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Mr. Chairman, I want to thank the chairman of the full committee for recognizing me and to assert for the record in the full House that although today this huge bill of 1,300 pages or 1,200 pages will be difficult to describe and probably not well understood by either the people watching this proceeding nor all of the Members of the House, I want to say that I am proud to have worked under the tutelage of the chairman, Mr. FRANK, and I think that in years to come, history will look back at this moment and say, when there was need in this country for reformation, it was had in the major part of this bill.

Mr. Chairman, I have had the pleasure of participating in major portions of the bill—Title V, Title VI, and then part of Title I.

What we tried to do, in essence, so that the viewing public can understand, is to recognize some of the problems, not all of the problems, but some of the problems that we were facing as a result of the actions of last year of the capital markets of the United States.

First and foremost, we had discovered that there were great irregularities in transparency and accountability in the rating agencies as they acted to evaluate various sets of securities in the world markets. And when we examined the rating agencies in great detail and through hearings and examination, we found that these entities were poorly—not really regulated at all but certainly poorly accounting for their own responsibilities in the system. We found they were enticing investors throughout the world to buy securities that were rated AAA when, in fact, some of those securities weren't even of B class quality. As a result, millions of people around the world and billions of dollars came in to the purchase of these securitized—or these securities, and as a result, when the market failed, they failed. And there was an impression around the world created that the American Government, the United States of America, stood behind these rating agencies when, in fact, we didn't, and that there was a great compromise.

Some of these rating agencies, because of the internal conflicts within the agencies, were taking great liberty in evaluating and analyzing the values of certain securities to the extent that, because they were paid by the individuals that were issuing the agency, there was an internal conflict. Whether that conflict caused, to a large extent, a scandal or caused failure in the system, one will probably never know, but certainly the aspects of the operations of the rating agencies have been called into question, were called into question at the time, and certainly have been since our examination.

So what have we done? We have developed a set of principles and rules to account for accountability and transparency in the rating agencies in the United States. Will that cure the problem? No. We're going to have to watch very closely, monitor very closely that these rating agencies do not stray from the straight path. If they do, we will have to come back and impose greater restrictions on them and take extraordinary actions in the future if necessary.

But we will have rating agencies now that can be sued when they could never be sued before. We will have rating agencies that will have the responsibility to provide disclosure, will have the responsibility of showing their methodologies and explanations to the buying public of the securities they rate and analyze. To that extent, we hope the public will be protected.

Next, we looked at who is accounted for in our system, and we found, as we've all known, that some 10, 12 years ago, hedge funds were denied the examination of the Securities and Exchange Commission. We have now formed what is known as the Private-Funded Investment Advisors Registration Act, which is Title V of this act, part A, and that provides that all advisers that want to play in the capital markets must register and must disclose certain information so that knowledge of what capital is doing, where it is and in what amounts will be known by our regulators. That is the first time in the history of the United States that that will prevail. It should go a long way of having inside information in the role of the regulators of the United States as to what is at risk.

Then, finally, we created an Investors Protection Act. The Investors Protection Act has done so many things it's almost impossible to enumerate, but the SEC gave recommendations which were incorporated in the bill.

The CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield an additional 1 minute.

Mr. KANJORSKI. Authorities that they lacked, they were given. With that inclusion, I think we have one of the finest investment protection acts that ever existed.

Finally, we have something new we created. We created the Federal insurance office that will, for the first time, will encompass information encompassing the insurance industry in the United States.

Finally, I'm proud to say I had a major part in putting together an amendment to the act, the first provision of the act, part one, that allows ''too big to fail'' protection in the United States. For the first time, the regulators in the United States will have the opportunity to analyze the structure of corporations and the financial service industry that either may be too large, interconnected, or too large in scope or too inexperienced in management or some other condition that may, in the future, cause them to be of systemic risk to the economic system of the United States. And we've empowered the regulators to move in and require changes, controls,

and regulations to prevent that occurrence so that never again, we hope, the ''too large to fail,'' in fact, will be, in fact, too large not to fail.

So with that, I recommend to all of my colleagues on both the Democrat side and the Republican side, stop for a moment and think what we've done.

May I call the attention of the Republican side, three of the eight bills that we passed through our committee went through with significant bipartisan support.

Mr. Chair, over the next few days this body will have the opportunity to consider sweeping, meaningful reforms to protect American investors, safeguard consumers on Main Street, and fundamentally change the way Wall Street and large financial institutions operate. For roughly two years, we have endured a severe crisis that exposed vulnerabilities in our system for overseeing the financial sector and demonstrated the perils of deregulation.

During this calamity, Americans have unfortunately lost trillions of dollars in personal wealth and retirement savings, millions of families have lost their homes, and far too many workers have lost their jobs. Last year, in order to save the financial system itself, we had to act courageously and pass the Troubled Asset Relief Program, despite considerable criticism. This law has worked to stabilize our system, but public faith in our financial markets has also nearly vanished. We therefore must now take bold steps to restore trust in the financial services industry by significantly modifying its regulation. H.R. 4173, the Wall Street Reform and Consumer Protection Act, will do just that.

While this broad, comprehensive legislation encompasses substantial reforms in many areas—from the regulation of complex financial derivatives to the creation of a Consumer Financial Protection Agency—I want to focus my comments on the proposals that I worked to develop and incorporate into this package. These reforms include investor protection improvements, the registration of hedge fund advisers, changes to credit rating agency oversight, and the creation of a Federal insurance office. I also want to discuss how this legislation will rein in ''too-big-to-fail'' financial institutions.

The failure to detect the massive $65 billion Madoff Ponzi scheme, the problematic securities lending program of American International Group, the freezing up of the auction-rate securities market, and the ''breaking of the buck'' by Reserve Primary Fund each demonstrated the need for comprehensive investor protection reform. In response, the Investor Protection Act of 2009—a key part of H.R. 4173—contains more than six dozen provisions aimed at strengthening the oversight of U.S. securities markets and closing regulatory loopholes.

For the first time, every professional who offers investment advice about a securities product will have a fiduciary duty to their customer. For the first time, we will create a bounty program to encourage tipsters to come forward with information about securities fraud. For the first time, we will regulate municipal financial advisers. Moreover, by doubling the budget of the U.S. Securities and Exchange Commission and by requiring a comprehensive study to fundamentally reform the way the agency operates, this bill lays the foundation for us to put in place a superior securities regulatory system going forward.

We also need to regulate everyone who plays in our capital markets. By mandating the registration of hedge fund advisers and others who currently operate in the shadows of our markets and subjecting them to recordkeeping and disclosure requirements, for the first time regulators will have the information needed to better understand exactly how these entities operate and whether their actions pose a threat to the financial system as a whole.

Without question, the actions of Moody's, Standard and Poor's, and Fitch exacerbated this financial crisis. In response, H.R. 4173 takes strong steps to reduce conflicts of interest, stem market reliance on credit rating agencies, and impose accountability on rating agencies by increasing liability. As gatekeepers to our markets, credit rating agencies must be held to higher standards. We need to incentivize them to do their jobs correctly and effectively, and there must be repercussions if they fall short.

Insurance also plays a vital role in the smooth and efficient functioning of our economy, but the credit crisis highlighted the lack of expertise within the Federal Government on the industry, especially during the collapse of American International Group and last year's turmoil in the bond insurance industry. I have long championed the need to establish a place within the Federal Government to collect information and build expertise on this sizable industry. The Federal Government needs a fundamental knowledge base on these matters, and for the first time we will have such a repository because of this bill.

Finally, I am pleased that H.R. 4173 includes my amendment addressing companies that have become too big to fail. This bill will empower Federal regulators to rein in and dismantle financial firms that are so large, interconnected, or risky that their collapse would put at risk the entire American economic system, even if those firms currently appear to be well-capitalized and healthy. By ensuring that financial companies cannot become so big that their failure would pose a threat to economic stability, we will protect American taxpayers from future bailouts. By outlining clear and objective standards for regulators to examine financial companies, we will also reduce the level of risk their activities pose to our financial stability and our economy.

In sum, I want to thank the Members of the Financial Services Committee for their hard work and their support of my efforts to better protect investors, advance credit rating agency accountability, register hedge fund advisers, establish a knowledge base on insurance, and curb too-big-to-fail companies. I especially want to congratulate the Chairman of our Committee, the gentleman from Massachusetts (Mr. FRANK), for his tireless efforts in pulling this comprehensive package together during the last year. I urge all of my colleagues to support this landmark bill.

Mr. BARTON of Texas. May I inquire how much time I still control, Mr. Chairman?

The CHAIR. The gentleman has 2 minutes remaining.

Mr. BARTON of Texas. I yield 2 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Thank you.

The gentleman from California referred to the Wild West earlier. No two institutions better fit that description than the government-sponsored enterprises Fannie Mae and Freddie Mac.

Over the years, some of us pleaded for additional regulation. You may recall, in 2005, we tried to pass strong legislation to fix this problem and bring reforms to the government-sponsored enterprises. I brought an amendment to this floor to give the regulator the ability to rein in their mortgage portfolios that were spiraling out of control. The Federal Reserve came to us and said, These institutions at the heart of the U.S. mortgage market pose a systemic threat to our economy.

That is why I offered my amendment, which was defeated, as were others, that would have provided stronger regulation. That is why Senator Chuck Hagel offered similar legislation which passed the Senate Banking Committee on a party-line vote but was blocked by the Senate Democrats from coming to the floor.

We understood the risks posed by those government companies, especially when it came to the affordable housing goals the Democratic-controlled Congress mandated in 1992. Those affordable housing goals led the GSEs into the subprime Alt-A market, and they ultimately led to their collapse.

Former President Bill Clinton understands this epic blunder. Last September, the former President said in an interview, ''I think the responsibility that the Democrats have may rest more in resisting any efforts by Republicans in the Congress, or by me when I was President, to put some standards and tighten up a little on Fannie Mae and Freddie Mac.''

□ 2100

This is one of the main reasons why our economy is where it is today. And this is why we must reform the GSEs, which this bill does not do. Instead, this bill creates a perpetual bailout fund and ensures that the ''too big to fail'' doctrine is with us definitely.

For the first time in its history, Washington will officially become the center of our financial system.

The CHAIR. The time of the gentleman has expired.

Mr. BACHUS. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. ROYCE. Regulators will be able to rescue certain companies and liquidate others. They will be able to pay off some creditors and counterparties and not others, and keep failed or failing companies operating and competing in the market for years. They will even be able to dismantle a healthy institution that they believe may pose a risk.

If there is any doubt that this type of authority will be abused, look at how the administration handled the Chrysler bankruptcy earlier this year. It was their desire to do away with the clearly defined rules of the road found in the bankruptcy code in order to reward their political allies. Those rules of the

road that were so easily dismissed by the administration have acted as the bedrock of our capital markets for decades. They differentiate us from much of the world and serve to attract capital from all corners of the globe. This bill throws that model out the window. It replaces objectivity with subjectivity, market discipline with political pull.

What is the likely outcome of all of this? The larger, politically connected institutions will have the edge over their competitors.

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

I rise today in support of H.R. 4173 and of the Peterson-Frank amendment to this legislation, which will be considered at a later time. I want to thank Chairman FRANK and his staff for working with us and our staff over the last few months on the amendment and on the provisions in the underlying bill that affect both of our committees. Mr. Chairman, passage of this bill is necessary to improve the financial regulatory structure in America.

The House Agriculture Committee has played a significant role in contributing to this legislation, and while I may not agree with every provision in this bill, I support the goals of increased oversight, more transparency, and an end to taxpayer bailouts of large financial institutions.

Mr. Chairman, our committee has spent over 2 years examining various elements of derivatives markets, and we have focused for the last year specifically on their contribution to this financial meltdown, most notably the prevalence of unregulated, heavily traded bilateral swaps used by large financial institutions that either collapsed or received taxpayer bailouts.

Now derivatives, in and of themselves, were not the cause of the financial meltdown in the second half of last year, but they did play a role. Had the provisions of the Peterson-Frank amendment that we will consider later been in place last year, financial institutions like AIG would have never gotten themselves into a position where they needed billions of taxpayer dollars just to keep them solvent.

The derivatives reforms in the Peterson-Frank amendment and the resolution authority provided for in the underlying bill will mean large financial institutions, and not the taxpayers, will be financially responsible for their own undoing.

I also want to thank Chairman FRANK for the work he did with our committee on ensuring that this legislation does not have unintended consequences for the Farm Credit System, a network of rural lenders that support local agricultural producers, utilities and businesses. So Mr. Chairman, Farm Credit had nothing to do with the financial crisis, and in fact, the strong underwriting, capital, security, appraisal, and repayment statutory standards that we put in place after farm country went through its own stressful credit period have resulted in a more stable financing network. The Treasury Department agreed with this assessment when they said it was not their intention to bring Farm Credit into the regulatory reform discussion, and I thank Chairman FRANK for recognizing this.

With that said, Mr. Chairman, I still have some concerns with some parts of the underlying bill, particularly the establishment of a systemic risk regulator and the empowerment of the Federal Reserve to take a leading role.

I am concerned that the real power resides in the Federal Reserve instead of the Financial Services Oversight Council established by this bill, particularly the ability to impose whatever prudential standards it sees fit. And there does not seem to be any mechanism for the Council to check the power of the Federal Reserve if it believes the Fed is going too far.

While I think the systemic risk language needs much more refinement, I will not let these concerns deter my support for the underlying bill and the much-needed Peterson-Frank amendment that will finally shine light on the previously dark markets for over-the-counter derivatives and ensure that we will never again threaten the stability of our financial system.

Mr. Chairman, I urge my colleagues to support the bill.

I reserve the balance of my time.

Mr. LUCAS. Mr. Chairman, I yield myself what time I might consume.

Mr. Chairman, I must rise today in opposition to H.R. 4173. Regulatory reform of our financial system is indeed needed. However, rather than using this opportunity to enact meaningful reform that creates financial stability and encourages economic growth, the majority has constructed a massive piece of legislation that will restrict credit availability and does little to address the real problems in the financial industry.

In addition to dramatically expanding the power of the Federal Reserve and establishing what is, in effect, a ''credit czar'' who will have virtually unlimited authority to restrict consumer choices, this bill will create a permanent bailout, some would call slush fund, for so-called ''too big to fail'' companies funded by a $150 billion tax on financial institutions. This tax will reduce available capital for lending and will most certainly be passed on to consumers in the form of higher fees.

As the ranking member of the Agriculture Committee, I also rise in opposition to title III, the OTC derivatives title, that is currently in H.R. 4173. This is the same title that was adopted by the Financial Services Committee. I opposed this title in the committee, where I'm also a member, because it makes it too costly for end-users to manage risk and unnecessarily ties up capital that could otherwise be used to create jobs and grow their businesses.

However, Chairman PETERSON and Chairman FRANK will bring an amendment to the floor that will strike and replace this derivatives title. This Peterson-Frank amendment is the product of negotiations between our two committees. I prefer, I must admit, the version reported by the Agriculture Committee, but this compromise is significantly better than the current title in the bill, and I will support its inclusion. But, I support its inclusion only if the other secondary amendments that may be offered by my friends on the other side of the aisle are defeated, save one.

I would be remiss if I didn't thank Chairman PETERSON for working with Agriculture Committee Republicans in a process that started back in February when our committee reported out H.R. 977. Chairman PETERSON worked in good faith to address issues our members brought to the table, and we learned together the concerns of all of the participants in the over-the-counter derivatives markets. Although we were able to address some of these concerns, many still remain unresolved.

We were able to improve areas most important to end-users; the manufacturers, the energy companies and food processors that use swap agreements to manage price risk so they can provide consumers with the lowest-cost products. End-users should not be regulated as though they were major financial houses residing on Wall Street. They did not cause the financial collapse. They should not be regulated like they did.

I would have preferred language that would have made clear that only those entities that can have a significant adverse impact on the U.S. financial system be regulated as major swap participants. Similarly, I don't understand why market makers that only deal in cleared products need to have additional capital and margin requirements imposed upon them by the Federal Government.

Finally, we should not forget that new opportunities, innovative products and services, and ultimately economic growth are born from people willing and able to take risk and invest. We should not attempt to regulate risk out of existence. As it stands now, the Peterson-Frank amendment allows the appropriate financial regulator to closely monitor market trends and market participants who may generate too much risk for a healthy and robust financial system. This amendment also gives the regulator the appropriate tools to reduce risk before it can negatively affect our economy. The Peterson-Frank amendment isn't perfect, but it is a marked improvement over other legislative efforts either proposed or considered.

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

Mr. Chairman, my Republican colleagues are in the throes of regret that things that they would like to have denounced are not in this bill. There will

be a certain amount of fantasy tonight on the floor of the House as they lament the existence of things that are not here.

One of the major bailout instruments, section 13.3 of the Federal Reserve Act, was used during the Bush years to bail out not the institution, but the creditors of Bear Stearns, but then it was used by a unilateral decision by the Federal Reserve with no congressional input in September during the Bush year of 2008 to provide substantial amounts of money to AIG. The bill before us today wipes that power out. There will be no more use of section 13.3 to provide funds to any existing institution.

There will be, as the Republican bill also said, instead, the ability to fund an instrument to which companies can apply if they are solvent in the midst of a national liquidity crisis. But there will be nothing like AIG.

There is a fund in here for the FDIC to use if a financial institution has to be put out of existence because it had become too indebted and unable to meet its debts, and it was big enough so that its failure would cause the kind of systemic negative consequences that we saw from Lehman Brothers.

Last year, the problem was Lehman Brothers went under, and the Bush administration felt they couldn't pay anybody, and there was a crisis. So then AIG went under, and the Bush administration said, well, we better pay everybody because we don't have the legal authority to pick and choose. We now end that dilemma. We say, and this is absolutely crystal clear in the bill, it says if an institution gets to the point where it cannot pay its debts, and it is of such size that those debts threaten systemic negative consequences reverberating throughout the economy, it dies. There is no bailout. There is no continuation of that entity. It's a dissolution fund. It is put into receivership.

There is a fund raised, it is true, by assessments on the financial institutions, and my Republican colleagues are far more solicitous than I of those institutions. They don't want to restrain their compensation, and they don't want them to have to contribute to expenses that may be incurred by their own irresponsibility. That is clearly a difference between us.

We say that if the Federal agency that is putting this out of business and takes it over, and, yeah, there's a takeover of failing institutions who threaten, by the size and complexity of their indebtedness, to threaten the stability of the country, we take them over to put them out of business. The shareholders are wiped out, the boards of directors. These are all absolute conditions that have to be met.

And it may be that in winding them down, some money has to be spent. You don't just walk in the next day and say, okay, the door is closed. That is irresponsible. We say it may take some money to wind them down. So we assess the business community that caused these problems in the whole for that. And we do say if there is a need and there's a shortfall before, if one of these things happens before the fund is built up, money will be borrowed from the Treasury with an absolute requirement of repayment in this fund. There are no taxpayer dollars that will be used. They will be lent, in some cases, as has been lent in other cases, but they must be repaid, and there must be a repayment schedule.

□ 2115

The assessments will continue until they are repaid.

Now, one of the odd things is, and I apologize to my colleagues, the bill is too big. I don't know whether that means it was too much to read or too heavy to carry, or some really short ones can't see over it when they are sitting down. I don't know what the problem was. This notion that the value of a piece of legislation is inversely related to its size is rather odd.

But let me tell you how they managed to slim down—which I would like to do, now that I am through with all of that, but I will have to start my diet next week. How do they slim it down? They don't do anything in their bill about executive compensation.

I agree, we spent some pages saying that the kind of bonuses and large payments to take risks and not be penalized if they fail, we have language in here to stop that. They don't. Save some pages.

We say, let's ban the kind of subprime loans that got this country into so much trouble. We have a lot of language in here to ban subprime loans. They don't. Save some more pages.

We do regulation in other ways that they don't do. They don't have registration of hedge funds. They don't have requirements on private advisers. They don't have anything about a whole lot of things. It is true if you avoid subjects, you shrink the size of the bill.

By the way, as to the size of the bill, this didn't come—one of the things, you know, sometimes it's what's not said that you open—you haven't heard any complaints today, and I appreciate that, about the process. We began marking up the elements of this bill before the summer recess. We have had a large number of hearings. We have spent over 50 hours in actual markup debate on this bill.

There have been hundreds of amendments offered, dozens of amendments accepted from both the Republican and Democratic sides in many days of markups. It has been very thoroughly vetted. It was made public and available.

I am sorry that they had to read a lot of pages about things they didn't want to read about. They don't like to be reminded of compensation abuses. They don't want to hear about subprime, but we do. We want to stop it.

There is no bailout fund. The bailouts of AIG and Bear Stearns, not possible, illegal under this bill. If a company fails, it will be put to death. Yes, we have death panels, but they got the death panels in the wrong bill. The death panels are in this bill. We will spend money to get rid of them in ways that will minimize damage, money that will come from the financial community.

Now, we heard that it's going to have a restriction on credit. Well, it's true, many of them were opposed to the credit card bill. Many voted for it. The National Federation of Independent Business supported the credit card bill. They say there is a credit czar. That one is too odd to put any meaning behind. I would like them to point to the sections that do it. Maybe, if it's too much to read all at once, they could divide it up. Like there are 177, if they each read 8 pages, I think they could get the whole bill done. Maybe they could then find a credit czar in there. I can't.

We do say that if you are identified by the systemic risk council as overleveraged, and you are big, we will step in and tell you, as the gentleman from Pennsylvania's amendment said, you are too big, raise your capital. Maybe that's a credit czar.

Maybe when someone would have told AIG a couple of years ago, stop selling those credit default swaps that you can't back up, because mortgages that you are ensuring against loss can lose money, maybe they think that's a credit czar if you tell AIG don't do it, because nothing in that bill, nothing, zero in that bill would have interfered with AIG's recklessness. There's not a word in here that would have done that in terms of the overleveraging of AIG, nor of the subprime loans that were there.

Yes, the lack of regulation over many years allowed big problems to grow up. It takes a fairly comprehensive bill to do it. We have been working on this bill for literally months. We have had days and days of hearings. We have voted on it; we have amended it. It's been available.

I would hope they would stop complaining about the size. I would hope they would deal with the substance. But the real substance of this bill, not a bailout that does not exist, I want someone to read me the sections that show there is taxpayer money that can go to keep a failing institution going. There absolutely is not. I would like them to tell me, do they think we should ever do anything about subprime loans, anything about executive compensation, anything about subprime hedge funds, about any of these other things?

Yes, here is the situation. Years of an absence of regulation, both an absence of war and an absence of will to regulate—mostly under Republican rule but some with Democratic complicity—led to the largest crisis in recent memory since the Depression.

They talk about job loss. As I said before, what a terrible day January 21 was. Apparently, we had a wonderful economy up until January 20. Barack Obama took power and millions of jobs disappeared retroactively. A deficit sprung up that had not been there. Bailouts were retroactively pushed back to September.

The major factor in jobs loss was this terrible crisis. What we do for jobs is to say you will not be allowed, once again, the financial irresponsibility of some in that community to get us into trouble.

The Republican proposal is very clear. Do not interfere with the ability of an AIG, Lehman Brothers, Citicorp, Countrywide or any of those other financial entities. Do not prevent them from doing again what they did before. If and when they have done such a bad job that they are collapsing, then let them go bankrupt and don't do anything to deal with the consequences. Let's have another Lehman Brothers.

We say ''no.'' Let's try to stop them from getting there. If they do get there, yes, we will put them out of business, but in a more orderly way.

I reserve the balance of my time.

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

Mr. Chairman, this is a great country, and I think we are all proud of our country. It is no small tribute to our country that people all over the world dream about coming to America. Our forefathers, they were either born here or they dreamed of coming to America.

America is not just a country; it's an idea, and that idea is about the individual. That's the basis of our country. It's not about the government. It's about the individual, it's about the citizen, it's about freedom, it's about choice.

Mr. Chairman, the problem with this bill isn't the size of the bill. The problem with this bill is that it goes right to the heart and strikes a wound against the character of our country. It's the character and the culture of this legislation that is so wrong, and not the size.

Individuals in this country ought to have the right to choose. They ought to have the right to choose their health care provider, their doctor. They ought to be able to make choices, health care choices, treatment choices between themselves, their doctor, their family, not the government.

We see with health care that this idea of the individual, this idea of choice, this idea of freedom to make those choices is under attack. We found that with energy that not the individual, the country, but the government determined that we weren't going to use coal, our most abundant source. We weren't going to use oil, that we were going to tax, that we were going to tax energy, we were going to discourage that. We are taxing health care in the health care bill.

In this bill we levy taxes. We have sanctions. People may still be able to make choices, but they will be discouraged or they will be taxed when they make those choices.

The decision about seeking the doctor of your choice or the decision about borrowing money or the choice about lending money or the choice about the terms of that loan, those ought to be choices between individuals; those should not be managed by the government.

Now, the chairman has brought this legislation before, and it is his legislation. I mean, his image and his imprint is clear on each and every page of this legislation.

I have not really seen such an individual drive legislation since perhaps the first lady, Hillary Clinton, brought her government-managed health care to the floor in the early 1990s. This is just simply another way of an attempt on the part of, really—and I think the chairman really has faith in the government and the government's ability to manage and the government's ability to make decisions, that he actually has a sincere faith.

In fact, members of this committee, members of this committee on TV this morning, and Democratic members, actually made references to Europe, the way they do things in Europe, the fact that the government is making these decisions in Europe. We are the greatest, as I said, the greatest country on the face of the Earth, and we didn't get there through government management. We didn't get there through government management of health care. We won't get there by government management of creditor or of lending or of other financial services. It won't happen.

We are the largest economy in the world. It's not the British economy, it's not the French economy, it's not the Chinese economy, it's not the Japanese economy. It's the American economy. How did we get to be the largest economy in the world, three times larger than the next largest economy, the Japanese economy, bigger than the Chinese economy, the Japanese economy, the British economy and the French economy put together? We got there with faith in the individual, not in the government.

That is what's wrong with this bill. You can clearly look, and nowhere is it more evident than in this bill that not only do we not have faith in the individual and in individual responsibility and an individual's right, sometimes, to take risk, but we also give individuals the right in this country to succeed. But when you do that, unlike in other countries, you give them the right to fail.

This bill clearly establishes a bailout fund. It says when the largest companies in this country, when the largest companies in this country, when they fail, we are going to establish a $150 billion fund, a permanent fund, a permanent TARP.

The Democratic gentleman from California, Mr. BRAD SHERMAN, said TARP on steroids, and where do you get this money from? Well, actually, it's 200 billion, 150 you get, not from the companies that are failing, but from their competitors who are succeeding. You transfer that money to those companies that have taken risk they shouldn't have taken. You take it from those companies that didn't take those risks. That's not competition; that's socialism.

Now, you can call it what you want to, but it's socialism. It's government managed. It's not what America is about.

This is not about a crisis that occurred last September. This is not about the continuing bailouts that started with the Federal Reserve, an independent body, but continued and have grown in intensity under the Obama administration. But there is enough fault to go around.

But can we not agree on one thing, that it is time that we allow people in this country to succeed, and we allow them to fail? Isn't it time in this country that we decide that there is no more ''too big to fail,'' because if you make that determination, you make the determination, as we have over the past year, that there are thousands of small businesses and medium-sized businesses and companies that were too small to save.

That's not fair. That's not what America is about. It is not about taking from people who pay their mortgage.

No matter what the circumstances of those who failed to pay their mortgage, it's not about transferring money from one to the other. That's not about America. It might be about charity, it might be about neighbor helping neighbor, but that is not what this country was established about.

□ 2130

So let's not use the crisis that we have experienced this past year to create the calamity of a government-managed country where the individual, where freedom, where choice is a thing of the past.

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

Mr. PETERSON. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. BOCCIERI), a member of our committee.

Mr. BOCCIERI. Mr. Chairman, in this season of yule tidings, gift gifting, and silver and gold, just what are my colleagues on the Republican side attempting to give Americans with their opposition to this bill?

My colleagues who oppose this bill would rather give gold to the big executive corporate execs at Goldman Sachs rather than put a little silver and gold under the Christmas tree of ordinary Americans. Bah humbug.

My friends on the other side of the aisle would rather stand with corporate executives and their thousand dollar suits than stand with those who are in the unemployment line. Bah humbug.

They'd rather bail out the big banks on Wall Street than help Americans try to keep their homes on Main Street. Bah humbug.

My colleagues who oppose this bill would rather give bonuses to big corporate executives than protect the pensions of millions of middle class Americans. Bah humbug.

They'd rather stand with hedge fund managers, predatory lenders who are betting on the price of oil going up, betting on the price of food going up, and betting on Americans failing to pay their mortgages rather than helping those families who are now standing in the line at food banks this holiday season. Bah humbug.

This bill will end taxpayer bailouts so that Americans are never again on the hook for Wall Street's risky behavior and bad bets. It protects families and retirement funds and college savings and small businesses' financial futures from the unnecessary risks by Wall Street lenders and speculators and high-paid execs. It brings transparency and accountability to a financial system that has run amok. This bill is about instituting commonsense reforms, holding Wall Street and big banks accountable.

Now, Republican leaders would rather vote to rescue big banks on Wall Street than find it in their hearts to help struggling Americans on Main Street.

Don't be a Scrooge this Christmas and vote against this bill. Help our people, or surely you're going to be visited by the ghosts of Christmas past.

Mr. LUCAS. Mr. Chairman, I yield 2½ minutes to the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Chairman, I rise this evening, as one might expect, in my opposition to H.R. 4173 certainly as written, as the gentleman from Massachusetts says, this massive financial regulation bill.

Once again we have 1,200-plus pages, a so-called ''reform'' bill before the House of Representatives that would dramatically increase government involvement in our economy. If this Congress is serious about economic recovery, then we should be reducing burdensome regulations, not increasing them.

I have heard from many Kansans about their inability to access credit from their local community-based lending institutions. Small businesses and farmers rely upon these loans to make payroll, expand, and to make their ends meet. Local lending institutions would love nothing more than to make these loans, but the overly broad regulations and the inconsistency with which different examiners enforce those regulations, together with higher FDIC insurance premiums and increased reserve requirements, has greatly restricted family and small business access to capital. This House should be more focused on the credit crunch and helping institutions cut through the bureaucracy and lend money, not creating more layers of regulation.

Among the provisions I oppose within this legislation is the creation of a permanent TARP-like bailout authority. This authority will continue to shield large financial firms from their mistakes and pass those costs of their miscalculations on to the American taxpayer. The legislation takes an overly broad approach, disrupting markets that have performed well and placing more regulatory burdens into places where they are not needed.

One example of these changes that this legislation would make is the commodities futures market known as designated contract markets. These are not the over-the-counter derivatives markets you will hear most Members discuss during this debate. In the wake of last fall's financial collapse, these regulated contract markets performed relatively well under the current core principle regulatory regime. This regime allowed both regulators and exchanges the ability to adapt their regulatory approach to changing market conditions.

Rather than recognize the success, this legislation replaces those core principle regimes with an antiquated rules-based structure that has failed at the SEC. This legislation also redefines the definition of a bona fide hedging transaction in the contract markets so narrowly that it will be difficult for many commercial market participants to properly hedge their risk. These changes will hurt, not help, our economic recovery and introduce more, not less, volatility into the marketplace.

For these and many other reasons, I urge the House to reject this legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 30 seconds to note that with all these assertions that this is going to hurt credit and small banks, the Independent Community Bankers Association, a great representative of small banks, supports this bill. Now, they'll be upset if we do bankruptcy. But as far as the bill is concerned and the provisions we have been talking about now, the Independent Community Bankers Association supports this bill. They believe exactly the opposite about credit.

Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. The ranking member came to the floor and quoted me as describing this bill as ''TARP on steroids.'' That's the phrase I used to describe the original bill submitted to us by the Secretary of the Treasury. This bill is very different.

I want to thank Chairman FRANK for all the changes we have been able to make and declare that this bill is now a step forward in limiting, on balance, the power of the executive branch to put taxpayer money at risk or to bail out private institutions.

The bill does include two provisions that those concerned with bailouts might object to, but these provisions are limited as to amount and purpose, and they are sunsetted in 2013. Finally, while taxpayer money may be put at risk initially, ultimately the cost falls on the industry.

But you cannot call this bill ''TARP on steroids'' and quote me to that effect without noting the major change this bill now makes in section 13(3) of the Federal Reserve Act. That is the most dangerous provision in the U.S. Code, and this bill is a major step toward limiting that section. Code section 13(3) now allows the Federal Reserve to lend, at times of systemic risk that they declare to be in existence, unlimited amounts to just about anyone on whatever terms the Fed thinks is adequately secured. Unlimited amounts. They've already done about $3 trillion, and under current statute they could do $30 trillion. And the Republican alternative does nothing to limit section 13(3). It leaves the giant freeway of bailouts open forever.

In contrast, this bill contains three important limitations. The first was drafted by the chairman, and it says that 13(3) can only be used to put money in the economy in general, not to bail out one or two firms. And I thank the chairman for accepting two of my amendments. One limits section 13(3) to $4 trillion and does not adjust that amount for inflation so that the power of the Fed will decline with inflation over time, which is only fair since it's the Fed that's supposed to be in charge of limiting and eliminating inflation.

The second amendment that was accepted was the idea of requiring the highest possible security for amounts of credit extended under 13(3). This bill is a step toward limiting the power of the executive branch to put money, taxpayer money, at risk. It does contain section 1109 and 1604, both of which are, pursuant to an amendment accepted in committee which I authored, sunsetted in 2013.

Section 1109 replaces 1823 under current statute, so it doesn't expand bailout authority. In fact, it contrasts it, because it's limited to $500 billion, while 1823, which is suspended by this bill, is an unlimited amount. Section 1109 as it will appear in the manager's amendment requires an advance fee so that taxpayers are compensated for any money put at risk and, finally, any losses to be collected from those companies which participate in the section 1109 loan guarantee program.

Section 1604 does provide funds to resolve insolvent institutions, but as the chairman points out, it's a death panel, not a bailout. It's only for institutions that are going to be liquidated.

The CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield the gentleman 1 additional minute.

Mr. SHERMAN. It's limited to $150 billion collected in advance from the same large companies whose creditors could be eligible for relief. And section 1604 is sunsetted in the year 2013.

Taken as a whole, this is antibailout legislation and contrasts with the Republican alternative that does nothing to limit section 13(3), which has already been used chiefly under the Bush administration to put over $3 trillion of taxpayer money at risk. It does provide for section 1109 and 1604, but under the bill these are limited in amount and they're temporary in time. And most importantly, it limits section 13(3) three ways: as to dollar amount, as to the purpose that money is put at risk, and, finally, as to the degree of risk which the Fed is able to take.

What I said about this bill when it was originally proposed may well have been true. The bill now is a step away from the TARP approach, a step away from bailouts.

Mr. BACHUS. Mr. Chairman, I yield 4 minutes to the ranking member of the Subcommittee on Oversight and Investigations, the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. I thank the gentleman for yielding me the time.

There's no question and no disagreement among Members from both sides of the aisle that we need financial reform, for consumers, for the health of our financial services industry, and for the economy. But this bill isn't the answer.

In fairness, you can find some good bipartisan provisions in this bill. For example, Mr. KANJORSKI and I worked out insurance language to bridge the gap in communication among regulators and address problems with multifaceted businesses like AIG. Mr. HINOJOSA and I worked on language to bolster housing counseling efforts at HUD. And the bill contains much-needed credit rating agency reform.

Unfortunately, the good does not outweigh the bad. Today credit is less available than ever, small businesses are struggling to keep their doors open, and a record number of Americans are jobless. According to a report issued yesterday by the U.S. Conference of Mayors, the number of homeless and hungry families is still on the rise.

We need a bill to unfreeze the credit markets so that financing is available to allow U.S. businesses to grow and create jobs. We need a bill to improve regulation. We need a bill to help Americans get back to work so that they can provide for their families and put food on the table.

Instead, Mr. FRANK's bill sets us back. It imposes a new tax on financial institutions, diverts financing away from lending and job creation, and creates a permanent Federal bailout fund, TARP II. Successful businesses and taxpayers will pay in advance for the failings of those that are reckless. And guess what? Taxpayers are on the hook once again if there isn't enough money. Does that sound familiar? Of course, because it's more of the same.

This bill doubles down the government intrusion in the private sector, and it increases fees and Federal spending. Instead of strengthening consumer protections, it creates a giant new Federal bureaucracy. Five D.C. bureaucrats will tell groups across America, anyone involved in financial activities, including churches that provide payment plans for funerals, what products and services they can offer. Did churches cause the financial meltdown? No. Why not address the disconnect among dozens of existing Federal agencies before layering on a new one? Are we creating another agency or another problem?

Finally, we need straightforward, over-the-counter derivatives reform. What we don't need is regulation that charges regulators with creating a one-size-fits-all approach to regulatory compliance, enforces unjustified mandates, and kills jobs.

We must crack down on illegal, unfair, and deceptive activity, eliminate regulatory gaps, and strengthen the effectiveness of enforcement agencies. We should create a culture of transparency and accountability on Wall Street that will discourage, not promote, risky behavior, and never ever, ever again leave taxpayers holding the bag when those deemed ''too big to fail'' cannot meet their obligations.

□ 2145

That's what our Republican alternative aims to do.

My Republican colleagues on the Financial Services Committee and I have offered, at every step of the way, solutions for smarter, stronger financial regulations, and yet Mr. FRANK's bill steamrolls ahead, threatening to weaken the economic competitiveness of our markets, tie up capital, tie the hands of businesses, limit consumer choice, and place taxpayers on the hook for Wall Street's mistakes.

This bill is an overreach and an overreaction, and it should be thrown overboard. It will cause irreparable harm. We need bipartisan reform to get our financial system and our country back on track. Americans, consumers, taxpayers, job seekers, the homeless, the hungry, and Main Street businesses deserve financial reform. This bill is not it.

I urge my colleagues to oppose the bill and support the Republican alternative.

Mr. PETERSON. Mr. Chairman, I would like to engage Chairman FRANK in a short colloquy, and then give the rest of our time on our side to Mr. MURPHY, who is our last speaker. So if Mr. FRANK would be willing, I would yield myself as much time as I may consume and would like to enter into a colloquy with my good friend, the chairman of the Financial Services Committee.

Title I of this legislation creates a systemic risk oversight and regulatory structure that enables regulators to raise capital requirements and impose heightened prudential standards on large, interconnected firms that could pose a threat to financial stability. The legislation also empowers the Federal Reserve Board to impose a host of additional requirements on institutions and activities deemed systemically important.

It appears that this new structure is not intended to replace or duplicate regulation of securities or derivative exchanges that are already subject to regulations by the SEC or the CFTC. In looking at the statutory criteria for determining whether a financial company should be subjected to stricter prudential standards, it is hard to visualize the application of these criteria to derivatives and securities exchanges. Exchanges are not the players who perform the trading, but the administrators of the marketplace where such trading occurs.

Do you agree that while derivatives and security exchanges would certainly qualify for the definition of a financial company in Title I, the intent of the legislation is targeted more at the players in the marketplace as opposed to the administration of the marketplace?

Mr. FRANK of Massachusetts. If the gentleman would yield, the answer is yes, I agree completely, as they have operated, as they are almost certainly going to operate, as they are intended to function as marketplaces rather than themselves, it is inconceivable to me that they could be designated in that way.

Mr. PETERSON. I thank the chairman for the clarification of the intent.

I recognize the gentleman from New York (Mr. MURPHY) for the balance of our time, a new member of our committee who has actually got some real world experience in this area and has been a great member in helping us put this together.

Mr. MURPHY of New York. Thank you, Chairman PETERSON, and also thank you to Ranking Member LUCAS.

The work we did on the Ag Committee I think is the kind of commonsense solution that Americans are looking for. We worked together to come up with regulatory reform in the Ag Committee with respect to the derivatives legislation. And we saw overwhelming support from not just Democrats, but Republicans, because people in that committee know what the American public knows: For the last 10 years, Washington has failed to regulate our financial markets. As a result, some of those on Wall Street and at the big financial firms have taken that opportunity to gamble with our money. They have put our future at risk, and they have put the very American dream that so many Americans spend their time hoping and praying for at risk. It is time for us to respond to that.

The failures in Washington and the failures on Wall Street precipitated the worst financial crisis since the Great Depression, and it is our job here and now to come up with solutions to that. Wall Street melted down, and Main Street paid the price. This cannot happen again.

So what do we need to do? We need to regulate what wasn't regulated. So many people now recognize that no one was looking at systemic risk, no one was looking at the AIGs of the world and seeing what they were up to. There were whole sections of the derivatives marketplace that no one was regulating; in fact, by a law that was passed here in Washington, no one was responsible for looking at it. That cannot continue.

There were whole parts of the consumer world that were not regulated—mortgage brokers, payday lenders. This cannot continue. We must regulate what was unregulated to bring everything into the system.

We need to protect our consumers. We talked about payday loans and mortgage brokers and the kind of liar loans that were put out there and passed. No one was responsible strictly for looking at protecting our consumers. This legislation will do that.

With the Consumer Financial Protection Agency, there will be a focus on protecting our consumers. That's something that is common sense. That's something that all Americans want us to do here in Washington.

The last thing that everybody in my district wants—and I think Americans all over this country want—is they want protection from taxpayers having to fund any future bailouts. Nobody thinks that Main Street should be bailing out Wall Street; it shouldn't have happened in the past, and it sure should not happen again in the future. It is critically important that we fix that. The bill that we have in front of us does set up dissolution authority. It is funded by the large financial institutions to help shut down those that fail. That is what needed to happen in the past; that is what needs to happen in the future. That is the kind of commonsense reform that we all need to come behind.

We need to regulate what wasn't regulated, we need to protect our consumers, and we need to make sure that taxpayers never again have to fund a bailout. That's what we are working on here. That's what this legislation would do. And I think it's very important that we come together to pass this and protect America's taxpayers, protect our financial system, and get our economy moving again.

Mr. LUCAS. Mr. Chairman, I yield 2½ minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. I thank the gentleman from Oklahoma for yielding, and I appreciate the debate that we have here tonight.

I am going to stand with the gentleman from Oklahoma and thank the gentlemen from Minnesota for the work that they've done on the credit default swaps and the regulation that is there. I do think it is an improvement, and I am certainly going to support that amendment.

But I think it is important for us, as Members of this Congress, to bring a perspective to this. And the words of Mr. BACHUS from Alabama echo in my ears, Mr. Chairman, and that is, it isn't so much about this stack of the bill that Mr. FRANK says might be too heavy for us all to carry; it's about the culture of the bill that may be too heavy for the American people to carry. It's about the difference between believing the Federal Government can regulate more aspects of our society, more aspects of our economy, and the difference in believing whether people can become and entities can become too big to be allowed to fail, or whether small businesses might be too small to be allowed to succeed. And it's about the difference between a free enterprise economy and a managed and controlled economy. It's about the difference between liberty and the difference between a socialized economy.

I have watched as this economy has spiraled downward over the last 15 or more months. And we've been involved in this, we've been engaged in it intensively. And it comes down to two divergent philosophies; one of those philosophies is echoed in some advice we got from one of our top economic advisers—who will remain nameless—who said to us 2½ years ago at the beginning of the subprime mortgage discussion, what's going on is these large financial institutions are doing what everybody else does. They're doing that because the other people are making money, and they're making money. And their psychology is, if things fall apart and melt down, there is likely to be a bailout; if they do what everybody else does, they will get bailed out like everybody else. That is at the root of this: Whether you can be allowed to fail so that we have a free enterprise system.

There is a stack of immigration cards produced by U.S. Citizenship Immigration Services, glossy flashcards. And you look through those flashcards and it asks, Who is the founder of our country? George Washington. Turn to another one, What is the basis of our economy in the United States? Flip the other side of it, free enterprise capitalism. It is a principal tenet of the American way of life that you must answer that question accurately if you want to become a citizen of the United States, and yet here we are debating whether we're going to have a managed economy or whether we're going to have freedom in free markets. Mr. Chairman, I am going to submit that we have got to be able to take a chance to succeed and fail.

The CHAIR. The time of the gentleman has expired.

Mr. LUCAS. I yield the gentleman an additional 30 seconds.

Mr. KING of Iowa. I thank the gentleman for yielding.

So I will point this out: We had a chance, and we should continue forward, to repeal the Community Reinvestment Act. We should regulate Fannie Mae and Freddie Mac. We ought to require them to meet the same standards of every other financial institution in the United States. We should let people fail, though, so that others can succeed. And AIG should be split up. This is the seventh Federal agency when we have already too many. We need to have free enterprise succeed.

Mr. FRANK of Massachusetts. First, I yield myself 15 seconds to invite Members to show me the part of the bill where there is a bailout that goes to failed institutions and keeps them going. I will read the parts that make it very clear that that's not the case, but maybe there is something I didn't read. So anybody who tells me there is a bailout that goes to continuing business institutions——

Mr. GARRETT of New Jersey. Will the gentleman yield?

The CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield myself 2 more minutes and yield to the gentleman.

Mr. GARRETT of New Jersey. I appreciate the gentleman yielding.

The language of the bill says that——

Mr. FRANK of Massachusetts. What page? Give me the page or we can't have a serious discussion, obviously.

Mr. GARRETT of New Jersey. The language of the bill gives the authority to set up a bailout——

Mr. FRANK of Massachusetts. I take back my time. If the gentleman will point to the page. I'm not interested in their misconceptions; I'm interested in actual language. The gentleman rose voluntarily, I would assume he would have the language.

Mr. GARRETT of New Jersey. Page 3 of the Judiciary Committee's self-executing amendment.

Mr. FRANK of Massachusetts. And it says what?

Mr. GARRETT of New Jersey. It says, on page 291, after line 4, Insert the following new subsections: Conversion to Bankruptcy (1) Conversion: The corporation may at any time, with the approval of the Secretary—meaning the Treasury Secretary—and after consulting with the council, convert the receivership of a covered financial company to a proceeding under chapter 7 or chapter 11 of title 11, United States Code, by filing a petition against the covered financial company under section 303(m) of such title. The corporation may serve as the trustee for the covered financial company.

Basically, what you have established here is a political decision by the Treasury Secretary to take an institution that they decide they are going to put into receivership—which you said before would be the end game—and allow them to convert back into 7 or 11 bankruptcy.

So your statement before—and this goes to my opening comment, which you responded to, why are we so concerned with such a large bill? The reason we are so concerned with such a large bill is because obviously the Chair and Members of your side of the

aisle have not read the entire bill. The reason we presented a much smaller bill was because obviously you have not read our bill either. I know our opening comment——

Mr. FRANK of Massachusetts. I will take back my time.

Mr. GARRETT of New Jersey. You yielded it to me, so I am responding.

Mr. FRANK of Massachusetts. I yielded to you—and I want to respond to the response.

Mr. GARRETT of New Jersey. You yielded me 2 minutes, I believe.

The CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I took 2 minutes for myself, and then yielded to the gentleman.

Mr. GARRETT of New Jersey. I'm sorry, I thought you wanted a response.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 30 seconds just to explain to the gentleman from New Jersey, who misunderstands the rules, I yielded myself 2 minutes so we could have a conversation. He then used up the 2 minutes. So it was not within my power to continue it.

Mr. GARRETT of New Jersey. Hopefully I answered the gentleman's question.

Mr. FRANK of Massachusetts. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. AL GREEN of Texas) having assumed the chair, Mr. TEAGUE, Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. PERLMUTTER, from the Committee on Rules, submitted a privileged report (Rept. No. 111–369) on the resolution (H. Res. 962) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

WALL STREET REFORM AND CONSUMER PROTECTION ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 956 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4173.

□ 2200

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes, with Mr. TEAGUE in the chair.

The Clerk read the title of the bill.

The CHAIR. When the Committee of the Whole rose earlier today, 108¼ minutes remained in general debate.

The gentleman from Massachusetts (Mr. FRANK) has 46¾ minutes remaining, the gentleman from Alabama (Mr. BACHUS) has 56½ minutes remaining, and the gentleman from Oklahoma (Mr. LUCAS) has 5 minutes remaining.

Who yields time?

Mr. FRANK of Massachusetts. I will yield 4 minutes to the gentleman from Illinois (Mr. GUTIERREZ), the chairman of the Subcommittee on Financial Institutions, who's done a great deal to help small banks in this bill.

Mr. GUTIERREZ. Mr. Chairman, in spite of the words of the other side of the aisle, I rise in strong support of H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009. This is legislation that is vital to making our financial institutions better capitalized, our consumers safe from predatory practices, and our economy stronger so that we can emerge from the recession that was caused by the very financial institutions that we are now fighting tooth and nail to defeat this legislation.

I was proud to work with the chairman to include my amendment. And I understand that my parents came to this country and they didn't speak English, and so the first 5 years before they sent me to school I spoke another language other than English. But I've had the bill thoroughly examined by those who do speak the English language and have only spoken the English language all of their lives, and they cannot find the bailout fund in the bill.

Now, I've worked with the chairman, I wrote the dissolution fund, I wrote the fund and I put it in the bill. It's my amendment. Now, the ex-ante fund means that firms that could ultimately be dissolved by this fund would have to pay at least.

But what my friends on the other side said, they said, and they finally used it, Mr. Chairman, in all of the committee hearings, they didn't call us socialists. They waited to get to the House floor before they used the dreaded word of socialism. And what did they say? They said, the socialists, that means us, the Democrats, created a bill in which, and this is Mr. BACHUS, and he can go and check his words, he said, they created a bill and they made all the institutions pay into it. And he said, that's socialism. And then when one of them fails and doesn't do something right, all of those people that paid into the funds have to pay for the wrongs of that person.

Well, I guess Geico is socialist. State Farm is socialist. Allstate is socialist. Indeed, any insurance fund is socialist, because when I drive my car and never have an accident, I pay into the insurance fund so that maybe when some Member on the other side of the aisle gets into an accident, I pay with my funds for his mistakes. That's insurance. Now, what they won't tell you is that, unlike everybody in this room who has to go out and take out an insurance policy to drive a car, they want Wall Street and Goldman Sachs to be able to drive our economy into the ground without paying a cent of insurance in case they act recklessly.

And all we're saying, as Democrats, is it's simple: if you want to do business in America, and you threaten the economic stability of our country, then you've got to pay into an insurance fund. But let me tell you, it's not the kind of insurance fund that you get into an accident and you take your car and they fix and they give it kind of back to you new. No, no. In our insurance fund, you know what happens? We chop up your car into pieces and sell it, and then we pay back the fund with the pieces. That's our fund. Read the bill. It's a funeral fund.

You guys loved to talk about the death and death and death when it came to health care insurance. Why don't you talk about our death panels now? Oh, you don't want to talk about our death panels now, because you want to know why? Because yesterday they had 100 lobbyists out here in Washington, DC meeting with them. One hundred.

How many of those lobbyists do you think met with the other side of the aisle and said, we're here to make sure that our small farm is protected against Goldman Sachs? How many of those lobbyists do you think came here and said to my friends on the other side of the aisle, tomorrow can you make sure that that bill protects my 401(k)? How many of those lobbyists do you think they met with yesterday said, make sure it protects my home, make sure it protects my small business. I don't think any of those lobbyists came to ask my friends on the other side——

The CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield the gentleman another minute.

Mr. GUTIERREZ. So let's be clear. This side of the aisle wants to make sure there are no longer situations of ''too big to fail.'' Now, if you believe that the men and women at Goldman Sachs tonight and tomorrow and into the future, when they make an economic decision, they say to themselves, well, this might harm homeowners and put them on the street, we shouldn't do that—I'm sure Goldman Sachs they're really worried about