

115TH CONGRESS  
1ST SESSION

# S. 881

To reduce risks to the financial system by limiting banks' ability to engage in certain risky activities and limiting conflicts of interest, to reinstate certain Glass-Steagall Act protections that were repealed by the Gramm-Leach-Bliley Act, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 6 (legislative day, APRIL 4), 2017

Ms. WARREN (for herself, Mr. MCCAIN, Ms. CANTWELL, and Mr. KING) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To reduce risks to the financial system by limiting banks' ability to engage in certain risky activities and limiting conflicts of interest, to reinstate certain Glass-Steagall Act protections that were repealed by the Gramm-Leach-Bliley Act, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “21st Century Glass-  
5 Steagall Act of 2017”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

1           (1) in response to a financial crisis and the en-  
2           suing Great Depression, Congress enacted the Bank-  
3           ing Act of 1933, known as the “Glass-Steagall Act”,  
4           to prohibit commercial banks from offering invest-  
5           ment banking and insurance services;

6           (2) a series of deregulatory decisions by the  
7           Board of Governors of the Federal Reserve System  
8           and the Office of the Comptroller of the Currency,  
9           in addition to decisions by Federal courts, permitted  
10          commercial banks to engage in an increasing num-  
11          ber of risky financial activities that had previously  
12          been restricted under the Glass-Steagall Act, and  
13          also vastly expanded the meaning of the “business of  
14          banking” and “closely related activities” in banking  
15          law;

16          (3) in 1999, Congress enacted the “Gramm-  
17          Leach-Bliley Act”, which repealed the Glass-Steagall  
18          Act separation between commercial and investment  
19          banking and allowed for complex cross-subsidies and  
20          interconnections between commercial and investment  
21          banks;

22          (4) former Kansas City Federal Reserve Presi-  
23          dent Thomas Hoenig observed that “with the elimi-  
24          nation of Glass-Steagall, the largest institutions with  
25          the greatest ability to leverage their balance sheets

1 increased their risk profile by getting into trading,  
2 market making, and hedge fund activities, adding  
3 ever greater complexity to their balance sheets.”;

4 (5) the Financial Crisis Inquiry Report issued  
5 by the Financial Crisis Inquiry Commission con-  
6 cluded that, in the years between the passage of the  
7 Gramm-Leach Bliley Act and the global financial  
8 crisis, “regulation and supervision of traditional  
9 banking had been weakened significantly, allowing  
10 commercial banks and thrifts to operate with fewer  
11 constraints and to engage in a wider range of finan-  
12 cial activities, including activities in the shadow  
13 banking system.”. The Commission also concluded  
14 that “[t]his deregulation made the financial system  
15 especially vulnerable to the financial crisis and exac-  
16 erbated its effects.”;

17 (6) a report by the Financial Stability Over-  
18 sight Council pursuant to section 123 of the Dodd-  
19 Frank Wall Street Reform and Consumer Protection  
20 Act (12 U.S.C. 5333) states that increased com-  
21 plexity and diversity of financial activities at finan-  
22 cial institutions may “shift institutions towards more  
23 risk-taking, increase the level of interconnectedness  
24 among financial firms, and therefore may increase  
25 systemic default risk. These potential costs may be

1 exacerbated in cases where the market perceives di-  
2 verse and complex financial institutions as ‘too big  
3 to fail,’ which may lead to excessive risk taking and  
4 concerns about moral hazard.”;

5 (7) the Senate Permanent Subcommittee on In-  
6 vestigations report, “Wall Street and the Financial  
7 Crisis: Anatomy of a Financial Collapse”, states that  
8 repeal of the Glass-Steagall Act “made it more dif-  
9 ficult for regulators to distinguish between activities  
10 intended to benefit customers versus the financial in-  
11 stitution itself. The expanded set of financial serv-  
12 ices investment banks were allowed to offer also con-  
13 tributed to the multiple and significant conflicts of  
14 interest that arose between some investment banks  
15 and their clients during the financial crisis.”;

16 (8) the Senate Permanent Subcommittee on In-  
17 vestigations report, “JPMorgan Chase Whale  
18 Trades: A Case History of Derivatives Risks and  
19 Abuses”, describes how traders at JPMorgan Chase  
20 made risky bets using excess deposits that were  
21 partly insured by the Federal Government;

22 (9) in Europe, the Vickers Independent Com-  
23 mission on Banking (for the United Kingdom) and  
24 the Liikanen Report (for the Euro area) have both  
25 found that there is no inherent reason to bundle “re-

1 tail banking” with “investment banking” or other  
2 forms of relatively high risk securities trading, and  
3 European countries are set on a path of separating  
4 various activities that are currently bundled together  
5 in the business of banking;

6 (10) private sector actors prefer having access  
7 to underpriced public sector insurance, whether ex-  
8 plicit (for insured deposits) or implicit (for “too big  
9 to fail” financial institutions), to subsidize dan-  
10 gerous levels of risk-taking, which, from a broader  
11 social perspective, is not an advantageous arrange-  
12 ment; and

13 (11) the financial crisis, and the regulatory re-  
14 sponse to the crisis, has led to more mergers be-  
15 tween financial institutions, creating greater finan-  
16 cial sector consolidation and increasing the domi-  
17 nance of a few large, complex financial institutions  
18 that are generally considered to be “too big to fail”,  
19 and therefore are perceived by the markets as hav-  
20 ing an implicit guarantee from the Federal Govern-  
21 ment to bail them out in the event of their failure.

22 (b) PURPOSES.—The purposes of this Act are—

23 (1) to reduce risks to the financial system by  
24 limiting the ability of banks to engage in activities  
25 other than socially valuable core banking activities;

1           (2) to protect taxpayers and reduce moral haz-  
2           ard by removing explicit and implicit government  
3           guarantees for high-risk activities outside of the core  
4           business of banking; and

5           (3) to eliminate any conflict of interest that  
6           arises from banks engaging in activities from which  
7           their profits are earned at the expense of their cus-  
8           tomers or clients.

9 **SEC. 3. DEFINITIONS.**

10        In this Act—

11           (1) the term “bank holding company” has the  
12           meaning given the term in section 2 of the Bank  
13           Holding Company Act of 1956 (12 U.S.C. 1841);  
14           and

15           (2) the terms “insurance company”, “insured  
16           depository institution”, “securities entity”, and  
17           “swaps entity” have the meanings given those terms  
18           in section 18(s)(6)(D) of the Federal Deposit Insur-  
19           ance Act, as added by section 4(a) of this Act.

20 **SEC. 4. SAFE AND SOUND BANKING.**

21        (a) **INSURED DEPOSITORY INSTITUTIONS.**—Section  
22 18(s) of the Federal Deposit Insurance Act (12 U.S.C.  
23 1828(s)) is amended by adding at the end the following:

24           “(6) **LIMITATIONS ON BANKING AFFILI-**  
25           **ATIONS.**—

1           “(A) PROHIBITION ON AFFILIATIONS WITH  
2           NONDEPOSITORY ENTITIES.—An insured depos-  
3           itory institution may not—

4                   “(i) be or become an affiliate of any  
5                   insurance company, securities entity, or  
6                   swaps entity;

7                   “(ii) be in common ownership or con-  
8                   trol with any insurance company, securities  
9                   entity, or swaps entity; or

10                   “(iii) engage in any activity that  
11                   would cause the insured depository institu-  
12                   tion to qualify as an insurance company,  
13                   securities entity, or swaps entity.

14           “(B) INDIVIDUALS ELIGIBLE TO SERVE ON  
15           BOARDS OF DEPOSITORY INSTITUTIONS.—

16                   “(i) IN GENERAL.—An individual who  
17                   is an officer, director, partner, or employee  
18                   of any securities entity, insurance com-  
19                   pany, or swaps entity may not serve at the  
20                   same time as an officer, director, employee,  
21                   or other institution-affiliated party of any  
22                   insured depository institution.

23                   “(ii) EXCEPTION.—Clause (i) shall  
24                   not apply with respect to service by any in-  
25                   dividual which is otherwise prohibited

1 under clause (i), if the appropriate Federal  
2 banking agency determines, by regulation  
3 with respect to a limited number of cases,  
4 that service by such an individual as an of-  
5 ficer, director, employee, or other institu-  
6 tion-affiliated party of an insured deposi-  
7 tory institution would not unduly influ-  
8 ence—

9 “(I) the investment policies of  
10 the depository institution; or

11 “(II) the advice that the institu-  
12 tion provides to customers.

13 “(iii) TERMINATION OF SERVICE.—  
14 Subject to a determination under clause  
15 (i), any individual described in clause (i)  
16 who, as of the date of enactment of the  
17 21st Century Glass-Steagall Act of 2017,  
18 is serving as an officer, director, employee,  
19 or other institution-affiliated party of any  
20 insured depository institution shall termi-  
21 nate such service as soon as is practicable  
22 after such date of enactment, and in no  
23 event, later than the end of the 60-day pe-  
24 riod beginning on that date of enactment.



1                   “(C) TERMINATION OF EXISTING AFFILI-  
2                   ATIONS AND ACTIVITIES.—

3                   “(i) ORDERLY TERMINATION OF EX-  
4                   ISTING AFFILIATIONS AND ACTIVITIES.—  
5                   Any affiliation, common ownership or con-  
6                   trol, or activity of an insured depository in-  
7                   stitution with any securities entity, insur-  
8                   ance company, swaps entity, or any other  
9                   person, as of the date of enactment of the  
10                  21st Century Glass-Steagall Act of 2017,  
11                  which is prohibited under subparagraph  
12                  (A) shall be terminated as soon as is prac-  
13                  ticable, and in no event later than the end  
14                  of the 5-year period beginning on that date  
15                  of enactment.

16                  “(ii) EARLY TERMINATION.—The ap-  
17                  propriate Federal banking agency, at any  
18                  time after opportunity for hearing, may  
19                  order termination of an affiliation, common  
20                  ownership or control, or activity prohibited  
21                  by clause (i) before the end of the 5-year  
22                  period described in clause (i), if the agency  
23                  determines that such action—

24                               “(I) is necessary to prevent  
25                               undue concentration of resources, de-

1           creased or unfair competition, con-  
2           flicts of interest, or unsound banking  
3           practices; and

4           “(II) is in the public interest.

5           “(iii) EXTENSION.—Subject to a de-  
6           termination under clause (ii), an appro-  
7           priate Federal banking agency may extend  
8           the 5-year period described in clause (i) as  
9           to any particular insured depository insti-  
10          tution for not more than an additional 6  
11          months at a time, if—

12           “(I) the agency certifies that  
13           such extension would promote the  
14           public interest and would not pose a  
15           significant threat to the stability of  
16           the banking system or financial mar-  
17           kets in the United States; and

18           “(II) such extension, in the ag-  
19           gregate, does not exceed 1 year for  
20           any single insured depository institu-  
21           tion.

22           “(iv) REQUIREMENTS FOR ENTITIES  
23           RECEIVING AN EXTENSION.—Upon receipt  
24           of an extension under clause (iii), the in-  
25           sured depository institution shall notify

1           shareholders of the insured depository in-  
2           stitution and the general public that it has  
3           failed to comply with the requirements of  
4           clause (i).

5           “(D) DEFINITIONS.—For purposes of this  
6           paragraph, the following definitions shall apply:

7                   “(i) INSURANCE COMPANY.—The term  
8                   ‘insurance company’ has the meaning given  
9                   the term in section 2(q) of the Bank Hold-  
10                  ing Company Act of 1956 (12 U.S.C.  
11                  1841(q)).

12                  “(ii) INSURED DEPOSITORY INSTITU-  
13                  TION.—The term ‘insured depository insti-  
14                  tution’—

15                   “(I) has the meaning given the  
16                   term in section 3(c)(2); and

17                   “(II) does not include a savings  
18                   association controlled by a savings  
19                   and loan holding company, as de-  
20                   scribed in section 10(c)(9)(C) of the  
21                   Home Owners’ Loan Act (12 U.S.C.  
22                   1467a(c)(9)(C)).

23                  “(iii) SECURITIES ENTITY.—The term  
24                  ‘securities entity’—

1 “(I) includes any entity engaged  
2 in—

3 “(aa) the issue, flotation,  
4 underwriting, public sale, or dis-  
5 tribution of stocks, bonds, deben-  
6 tures, notes, or other securities;

7 “(bb) market making;

8 “(cc) activities of a broker  
9 or dealer, as those terms are de-  
10 fined in section 3(a) of the Secu-  
11 rities Exchange Act of 1934 (15  
12 U.S.C. 78c(a));

13 “(dd) activities of a futures  
14 commission merchant;

15 “(ee) activities of an invest-  
16 ment adviser or investment com-  
17 pany, as those terms are defined  
18 in section 202(a) of the Invest-  
19 ment Advisers Act of 1940 (15  
20 U.S.C. 80b-2(a)) and section  
21 3(a)(1) of the Investment Com-  
22 pany Act of 1940 (15 U.S.C.  
23 80a-3(a)(1)), respectively; or

24 “(ff) hedge fund or private  
25 equity investments in the securi-

1                   ties of either privately or publicly  
2                   held companies; and

3                   “(II) does not include a bank  
4                   that, pursuant to its authorized trust  
5                   and fiduciary activities—

6                   “(aa) purchases and sells in-  
7                   vestments for the account of its  
8                   customers; or

9                   “(bb) provides financial or  
10                  investment advice to its cus-  
11                  tomers.

12                  “(iv) SWAPS ENTITY.—The term  
13                  ‘swaps entity’ means any swap dealer, se-  
14                  curity-based swap dealer, major swap par-  
15                  ticipant, or major security-based swap par-  
16                  ticipant, that is registered under—

17                  “(I) the Commodity Exchange  
18                  Act (7 U.S.C. 1 et seq.); or

19                  “(II) the Securities Exchange  
20                  Act of 1934 (15 U.S.C. 78a et seq.).”.

21                  (b) LIMITATION ON BANKING ACTIVITIES.—Section  
22                  21 of the Banking Act of 1933 (12 U.S.C. 378) is amend-  
23                  ed by adding at the end the following:

24                  “(c) BUSINESS OF RECEIVING DEPOSITS.—For pur-  
25                  poses of this section, the term ‘business of receiving depos-

1 its' includes the establishment and maintenance of any  
2 transaction account (as defined in section 19(b)(1)(C) of  
3 the Federal Reserve Act (12 U.S.C. 461(b)(1)(C))).”.

4 (c) PERMITTED ACTIVITIES OF NATIONAL BANKS.—

5 The paragraph designated as “Seventh” of section 24 of  
6 the Revised Statutes (12 U.S.C. 24) is amended to read  
7 as follows:

8 “Seventh. (A) To exercise by its board of direc-  
9 tors or duly authorized officers or agents, subject to  
10 law, all such powers as are necessary to carry on the  
11 business of banking.

12 “(B) As used in this paragraph, the term ‘busi-  
13 ness of banking’ shall be limited to the following  
14 core banking services:

15 “(i) RECEIVING DEPOSITS.—A national  
16 banking association may engage in the business  
17 of receiving deposits.

18 “(ii) EXTENSIONS OF CREDIT.—A national  
19 banking association may—

20 “(I) extend credit to individuals, busi-  
21 nesses, not for profit organizations, and  
22 other entities;

23 “(II) discount and negotiate promis-  
24 sory notes, drafts, bills of exchange, and  
25 other evidences of debt; and

1                   “(III) loan money on personal secu-  
2                   rity.

3                   “(iii) PAYMENT SYSTEMS.—A national  
4                   banking association may participate in payment  
5                   systems, defined as instruments, banking proce-  
6                   dures, and interbank funds transfer systems  
7                   that ensure the circulation of money.

8                   “(iv) COIN AND BULLION.—A national  
9                   banking association may buy, sell, and exchange  
10                  coin and bullion.

11                  “(v) INVESTMENTS IN SECURITIES.—

12                  “(I) IN GENERAL.—A national bank-  
13                  ing association may invest in investment  
14                  securities, defined as marketable obliga-  
15                  tions evidencing indebtedness of any per-  
16                  son, copartnership, association, or corpora-  
17                  tion in the form of bonds, notes, or deben-  
18                  tures (commonly known as ‘investment se-  
19                  curities’), obligations of the Federal Gov-  
20                  ernment, or any State or subdivision there-  
21                  of, and includes the definition of ‘invest-  
22                  ment securities’, as may be jointly pre-  
23                  scribed by regulation by—

24                                 “(aa) the Comptroller of the Cur-  
25                                 rency;

1                   “(bb) the Federal Deposit Insur-  
2                   ance Corporation; and

3                   “(cc) the Board of Governors of  
4                   the Federal Reserve System.

5                   “(II) LIMITATIONS.—The business of  
6                   dealing in securities and stock by the asso-  
7                   ciation shall be limited to—

8                   “(aa) purchasing and selling such  
9                   securities and stock without recourse,  
10                  solely upon the order, and for the ac-  
11                  count of, customers, and in no case  
12                  for its own account, and the associa-  
13                  tion shall not underwrite any issue of  
14                  securities or stock; and

15                  “(bb) purchasing for its own ac-  
16                  count investment securities under  
17                  such limitations and restrictions as  
18                  the Comptroller of the Currency, the  
19                  Federal Deposit Insurance Corpora-  
20                  tion, and the Board of Governors of  
21                  the Federal Reserve System may  
22                  jointly prescribe, by regulation.

23                  “(III) PROHIBITION ON AMOUNT OF  
24                  INVESTMENT.—In no event shall the total  
25                  amount of the investment securities of any



1 single obligor or maker, held by the asso-  
2 ciation for its own account, exceed 10 per-  
3 cent of its capital stock actually paid in  
4 and unimpaired and 10 percent of its  
5 unimpaired surplus fund, except that such  
6 limitation shall not require any association  
7 to dispose of any securities lawfully held by  
8 it on August 23, 1935.

9 “(C) PROHIBITION AGAINST TRANSACTIONS IN-  
10 VOLVING STRUCTURED OR SYNTHETIC PRODUCTS.—

11 A national banking association may not—

12 “(i) invest in a structured or synthetic  
13 product, a financial instrument in which a re-  
14 turn is calculated based on the value of, or by  
15 reference to the performance of, a security,  
16 commodity, swap, other asset, or an entity, or  
17 any index or basket composed of securities,  
18 commodities, swaps, other assets, or entities,  
19 other than customarily determined interest  
20 rates; or

21 “(ii) otherwise engage in the business of  
22 receiving deposits or extending credit for trans-  
23 actions involving structured or synthetic prod-  
24 ucts.”.

1 (d) PERMITTED ACTIVITIES OF FEDERAL SAVINGS  
2 ASSOCIATIONS.—Section 5(c)(1) of the Home Owners’  
3 Loan Act (12 U.S.C. 1464(c)(1)) is amended—

4 (1) by striking subparagraph (Q); and  
5 (2) by redesignating subparagraphs (R)  
6 through (U) as subparagraphs (Q) through (T), re-  
7 spectively.

8 (e) CLOSELY RELATED ACTIVITIES.—Section 4(c) of  
9 the Bank Holding Company Act of 1956 (12 U.S.C.  
10 1843(c)) is amended—

11 (1) in paragraph (8), by striking “had been de-  
12 termined” and all that follows through the end and  
13 inserting the following: “are so closely related to  
14 banking so as to be a proper incident thereto, as  
15 provided under this paragraph or any rule or regula-  
16 tion issued by the Board under this paragraph, pro-  
17 vided that for purposes of this paragraph, closely re-  
18 lated shall not be considered to include—

19 “(A) serving as an investment adviser (as  
20 defined in section 2(a) of the Investment Com-  
21 pany Act of 1940 (15 U.S.C. 80a–2(a))) to an  
22 investment company registered under that Act,  
23 including sponsoring, organizing, and managing  
24 a closed-end investment company;

1           “(B) agency transactional services for cus-  
2           tomer investments, except that this subpara-  
3           graph may not be construed as prohibiting pur-  
4           chases and sales of investments for the account  
5           of customers conducted by a bank (or sub-  
6           sidiary thereof) pursuant to the bank’s trust  
7           and fiduciary powers;

8           “(C) investment transactions as principal,  
9           except for activities specifically allowed by para-  
10          graph (14); and

11          “(D) management consulting and coun-  
12          seling activities;”;

13          (2) in paragraph (13), by striking “or” at the  
14          end;

15          (3) by redesignating paragraph (14) as para-  
16          graph (15); and

17          (4) by inserting after paragraph (13) the fol-  
18          lowing:

19                 “(14) purchasing, as an end user, any swap, to  
20                 the extent that—

21                         “(A) the purchase of any such swap occurs  
22                         contemporaneously with the underlying hedged  
23                         item or hedged transaction;

1           “(B) there is formal documentation identi-  
2           fying the hedging relationship with particularity  
3           at the inception of the hedge; and

4           “(C) the swap is being used to hedge  
5           against exposure to—

6                   “(i) changes in the value of an indi-  
7                   vidual recognized asset or liability or an  
8                   identified portion thereof that is attrib-  
9                   utable to a particular risk;

10                   “(ii) changes in interest rates; or

11                   “(iii) changes in the value of currency;  
12                   or”.

13           (f) PROHIBITED ACTIVITIES.—Section 4(a) of the  
14 Bank Holding Company Act of 1956 (12 U.S.C. 1843(a))  
15 is amended—

16                   (1) in paragraph (1), by striking “, or” and in-  
17                   serting a semicolon;

18                   (2) in paragraph (2), by striking the “require-  
19                   ments of this Act.” and inserting “requirements of  
20                   this Act; or”; and

21                   (3) by inserting before the undesignated matter  
22                   following paragraph (2) the following:

23                   “(3) with the exception of the activities per-  
24                   mitted under subsection (c), engage in the business  
25                   of a ‘securities entity’ or a ‘swaps entity’, as those

1 terms are defined in section 18(s)(6)(D) of the Fed-  
2 eral Deposit Insurance Act (12 U.S.C.  
3 1828(s)(6)(D)), including dealing or making mar-  
4 kets in securities, repurchase agreements, exchange  
5 traded and over-the-counter swaps, as defined by the  
6 Commodity Futures Trading Commission and the  
7 Securities and Exchange Commission, or structured  
8 or synthetic products, as defined in the paragraph  
9 designated as ‘Seventh’ of section 24 of the Revised  
10 Statutes (12 U.S.C. 24), or any other over-the-  
11 counter securities, swaps, contracts, or any other  
12 agreement that derives its value from, or takes on  
13 the form of, such securities, derivatives, or contracts;

14 “(4) engage in proprietary trading, as provided  
15 by section 13, or any rule or regulation under that  
16 section;

17 “(5) own, sponsor, or invest in a hedge fund, or  
18 private equity fund, or any other fund, as provided  
19 by section 13, or any rule or regulation under that  
20 section, or any other fund that exhibits the charac-  
21 teristics of a fund that takes on proprietary trading  
22 activities or positions;

23 “(6) hold ineligible securities or derivatives;

24 “(7) engage in market-making; or

25 “(8) engage in prime brokerage activities.”.

1 (g) ANTI-EVASION.—

2 (1) IN GENERAL.—Any attempt to structure  
3 any contract, investment, instrument, or product in  
4 such a manner that the purpose or effect of such  
5 contract, investment, instrument, or product is to  
6 evade or attempt to evade the prohibitions described  
7 in section 18(s)(6) of the Federal Deposit Insurance  
8 Act (12 U.S.C. 1828(s)(6)), section 21(e) of the  
9 Banking Act of 1933 (12 U.S.C. 378(c)), the para-  
10 graph designated as “Seventh” of section 24 of the  
11 Revised Statutes (12 U.S.C. 24), section 5(c)(1) of  
12 the Home Owners’ Loan Act (12 U.S.C.  
13 1464(e)(1)), or section 4(a) of the Bank Holding  
14 Company Act of 1956 (12 U.S.C. 1843(a)), as  
15 added or amended by this section, shall be consid-  
16 ered a violation of the Federal Deposit Insurance  
17 Act (12 U.S.C. 1811 et seq.), the Banking Act of  
18 1933 (Public Law 73–66; 48 Stat. 162), section 24  
19 of the Revised Statutes (12 U.S.C. 24), the Home  
20 Owners’ Loan Act (12 U.S.C. 1461 et seq.), and the  
21 Bank Holding Company Act of 1956 (12 U.S.C.  
22 1841 et seq.), respectively.

23 (2) TERMINATION.—

24 (A) IN GENERAL.—Notwithstanding any  
25 other provision of law, if a Federal agency has

1 reasonable cause to believe that an insured de-  
2 pository institution, securities entity, swaps en-  
3 tity, insurance company, bank holding company,  
4 or other entity over which that Federal agency  
5 has regulatory authority has made an invest-  
6 ment or engaged in an activity in a manner  
7 that functions as an evasion of the prohibitions  
8 described in paragraph (1) (including through  
9 an abuse of any permitted activity) or otherwise  
10 violates such prohibitions, the Federal agency  
11 shall—

12 (i) order, after due notice and oppor-  
13 tunity for hearing, the entity to terminate  
14 the activity and, as relevant, dispose of the  
15 investment;

16 (ii) order, after the procedures de-  
17 scribed in clause (i), the entity to pay a  
18 penalty equal to 10 percent of the entity's  
19 net profits, averaged over the previous 3  
20 years, into the Treasury of the United  
21 States; and

22 (iii) initiate proceedings described in  
23 section 8(e) of the Federal Deposit Insur-  
24 ance Act (12 U.S.C. 1818(e)) for individ-

1           uals involved in evading the prohibitions  
2           described in paragraph (1).

3           (B) CONSTRUCTION.—Nothing in this  
4           paragraph shall be construed to limit the inher-  
5           ent authority of any Federal agency or State  
6           regulatory authority to further restrict any in-  
7           vestments or activities under otherwise applica-  
8           ble provisions of law.

9           (3) REPORTING REQUIREMENT.—

10           (A) IN GENERAL.—Not later than 1 year  
11           after the date of enactment of this Act, and  
12           every year thereafter, each Federal agency hav-  
13           ing regulatory authority over any entity de-  
14           scribed in paragraph (2)(A) shall submit to the  
15           Committee on Banking, Housing, and Urban  
16           Affairs of the Senate and the Committee on Fi-  
17           nancial Services of the House of Representa-  
18           tives and make available to the public a report,  
19           which shall identify—

20           (i) the number and character of any  
21           activities that took place in the preceding  
22           year that function as an evasion of the  
23           prohibitions described in paragraph (1);

24           (ii) the names of the particular enti-  
25           ties engaged in those activities; and



1 (iii) the actions of the Federal agency  
2 taken under paragraph (2).

3 (h) ATTESTATION.—Section 4 of the Bank Holding  
4 Company Act of 1956 (12 U.S.C. 1843), as amended by  
5 section 4(a)(1) of this Act, is amended by adding at the  
6 end the following:

7 “(k) ATTESTATION.—Executives of any bank holding  
8 company or its affiliate shall attest in writing, under pen-  
9 alty of perjury, that the bank holding company or affiliate  
10 is not engaged in any activity that is prohibited under sub-  
11 section (a), except to the extent that such activity is per-  
12 mitted under subsection (c).”.

13 **SEC. 5. REPEAL OF GRAMM-LEACH-BLILEY ACT PROVI-**  
14 **SIONS.**

15 (a) TERMINATION OF FINANCIAL HOLDING COM-  
16 PANY DESIGNATION.—

17 (1) IN GENERAL.—Section 4 of the Bank Hold-  
18 ing Company Act of 1956 (12 U.S.C. 1843) is  
19 amended by striking subsections (k), (l), (m), (n),  
20 and (o).

21 (2) TRANSITION.—

22 (A) ORDERLY TERMINATION OF EXISTING  
23 AFFILIATION.—In the case of a bank holding  
24 company which, pursuant to the amendments  
25 made by paragraph (1), is no longer authorized

1 to control or be affiliated with any entity that  
2 was permissible for a financial holding company  
3 on the day before the date of enactment of this  
4 Act, any affiliation, ownership or control, or ac-  
5 tivity by the bank holding company that is not  
6 permitted for a bank holding company shall be  
7 terminated as soon as is practicable, and in no  
8 event later than the end of the 5-year period  
9 beginning on the date of enactment of this Act.

10 (B) EARLY TERMINATION.—The Board of  
11 Governors of the Federal Reserve System (in  
12 this section referred to as the “Board”), after  
13 opportunity for hearing, at any time, may ter-  
14minate an affiliation prohibited by subpara-  
15graph (A) before the end of the 5-year period  
16described in subparagraph (A) if the Board de-  
17termines that such action—

18 (i) is necessary to prevent undue con-  
19centration of resources, decreased or unfair  
20competition, conflicts of interest, or un-  
21sound banking practices; and

22 (ii) is in the public interest.

23 (C) EXTENSION.—Subject to a determina-  
24tion under subparagraph (B), the Board may  
25extend the 5-year period described in subpara-

1 graph (A), as to any particular bank holding  
2 company, for not more than an additional 6  
3 months at a time, if—

4 (i) the Board certifies that such ex-  
5 tension would promote the public interest  
6 and would not pose a significant risk to  
7 the stability of the banking system or fi-  
8 nancial markets of the United States; and

9 (ii) such extension, in the aggregate,  
10 does not exceed 1 year for any single bank  
11 holding company.

12 (D) REQUIREMENTS FOR ENTITIES RE-  
13 CEIVING AN EXTENSION.—Upon receipt of an  
14 extension under subparagraph (C), a bank hold-  
15 ing company shall notify the shareholders of the  
16 bank holding company and the general public  
17 that the bank holding company has failed to  
18 comply with the requirements of subparagraph  
19 (A).

20 (b) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS  
21 DISALLOWED.—

22 (1) IN GENERAL.—Section 5136A of the Re-  
23 vised Statutes (12 U.S.C. 24a) is repealed.

24 (2) TRANSITION.—

1           (A) ORDERLY TERMINATION OF EXISTING  
2 AFFILIATION.—In the case of a national bank  
3 which, pursuant to the amendment made by  
4 paragraph (1), is no longer authorized to con-  
5 trol or be affiliated with a financial subsidiary  
6 as of the date of enactment of this Act, such af-  
7 filiation, ownership or control, or activity shall  
8 be terminated as soon as is practicable, and in  
9 no event later than the end of the 5-year period  
10 beginning on the date of enactment of this Act.

11           (B) EARLY TERMINATION.—The Comp-  
12 troller of the Currency (in this section referred  
13 to as the “Comptroller”), after opportunity for  
14 hearing, at any time, may terminate an affili-  
15 ation prohibited by subparagraph (A) before the  
16 end of the 5-year period described in subpara-  
17 graph (A) if the Comptroller determines, having  
18 due regard for the purposes of this Act, that  
19 such action—

20                   (i) is necessary to prevent undue con-  
21 centration of resources, decreased or unfair  
22 competition, conflicts of interest, or un-  
23 sound banking practices; and

24                   (ii) is in the public interest.

1           (C) EXTENSION.—Subject to a determina-  
2           tion under subparagraph (B), the Comptroller  
3           may extend the 5-year period described in sub-  
4           paragraph (A) as to any particular national  
5           bank for not more than an additional 6 months  
6           at a time, if—

7                   (i) the Comptroller certifies that such  
8                   extension would promote the public inter-  
9                   est and would not pose a significant risk to  
10                  the stability of the banking system or fi-  
11                  nancial markets of the United States; and

12                   (ii) such extension, in the aggregate,  
13                  does not exceed 1 year for any single na-  
14                  tional bank.

15           (D) REQUIREMENTS FOR ENTITIES RE-  
16           CEIVING AN EXTENSION.—Upon receipt of an  
17           extension under subparagraph (C), a national  
18           bank shall notify the shareholders of the na-  
19           tional bank and the general public that the na-  
20           tional bank has failed to comply with the re-  
21           quirements described in subparagraph (A).

22           (3) CLERICAL AMENDMENT.—The table of sec-  
23           tions for chapter one of title LXII of the Revised  
24           Statutes is amended by striking the item relating to  
25           section 5136A.

1 (c) REPEAL OF PROVISION RELATING TO FOREIGN  
2 BANKS FILING AS FINANCIAL HOLDING COMPANIES.—  
3 Section 8(c) of the International Banking Act of 1978 (12  
4 U.S.C. 3106(c)) is amended by striking paragraph (3).

5 **SEC. 6. REPEAL OF BANKRUPTCY PROVISIONS.**

6 Title 11, United States Code, is amended by repeal-  
7 ing sections 555, 559, 560, and 562.

8 **SEC. 7. TECHNICAL AND CONFORMING AMENDMENTS.**

9 (a) BANK HOLDING COMPANY ACT OF 1956.—The  
10 Bank Holding Company Act of 1956 (12 U.S.C. 1841 et  
11 seq.) is amended—

12 (1) in section 2 (12 U.S.C. 1841)—

13 (A) by striking subsection (p); and

14 (B) by redesignating subsection (q) as sub-  
15 section (p); and

16 (2) in section 5 (12 U.S.C. 1844)—

17 (A) in subsection (a), by striking the last  
18 sentence;

19 (B) in subsection (c), by striking para-  
20 graphs (3), (4), and (5); and

21 (C) by striking subsection (g).

22 (b) BANK HOLDING COMPANY ACT AMENDMENTS OF  
23 1970.—Section 106(a) of the Bank Holding Company Act  
24 Amendments of 1970 (12 U.S.C. 1971(a)) is amended by  
25 striking the last sentence.

1 (c) CLAYTON ACT.—Section 7A(c) of the Clayton Act  
2 (15 U.S.C. 18a(c)) is amended—

3 (1) in paragraph (7), by striking “, except  
4 that” and all that follows and inserting a semicolon;  
5 and

6 (2) in paragraph (8), by striking “, except  
7 that” and all that follows and inserting a semicolon.

8 (d) COMMODITY EXCHANGE ACT.—The Commodity  
9 Exchange Act (7 U.S.C. 1 et seq.) is amended—

10 (1) in section 1a(21)(G) (7 U.S.C. 1a(21)(G)),  
11 by striking “(as defined in section 2 of the Bank  
12 Holding Company Act of 1956)”;

13 (2) in section 2(c)(2)(B)(i)(II)(dd) (7 U.S.C.  
14 2(c)(2)(B)(i)(II)(dd)), by striking “(as defined in  
15 section 2 of the Bank Holding Company Act of  
16 1956)”;

17 (3) in section 2(h)(7)(C)(i)(VIII) (7 U.S.C.  
18 2(h)(7)(C)(i)(VIII)), by striking “, as defined in sec-  
19 tion 4(k) of the Bank Holding Company Act of  
20 1956”.

21 (e) COMMUNITY REINVESTMENT ACT OF 1977.—  
22 Section 804 of the Community Reinvestment Act of 1977  
23 (12 U.S.C. 2903) is amended—

24 (1) by striking subsection (e); and

1           (2) by redesignating subsection (d) as sub-  
2           section (c).

3           (f) DODD-FRANK WALL STREET REFORM AND CON-  
4           SUMER PROTECTION ACT.—Section 201(a)(11)(B) of the  
5           Dodd-Frank Wall Street Reform and Consumer Protec-  
6           tion Act (12 U.S.C. 5381(a)(11)(B)) is amended by strik-  
7           ing “for purposes of section 4(k) of the Bank Holding  
8           Company Act of 1956 (12 U.S.C. 1843(k))” each place  
9           that term appears.

10          (g) FEDERAL DEPOSIT INSURANCE ACT.—The Fed-  
11          eral Deposit Insurance Act (12 U.S.C. 1811 et seq.) is  
12          amended—

13                 (1) in section 8(b)(3) (12 U.S.C. 1818(b)(3)),  
14                 by striking “section 50” and inserting “section 48”;

15                 (2) in section 18(u)(1)(B) (12 U.S.C.  
16                 1828(u)(1)(B)), by striking “or section 45 of this  
17                 Act”;

18                 (3) by striking sections 45 and 46 (12 U.S.C.  
19                 1831v and 1831w); and

20                 (4) by redesignating sections 47 through 50 as  
21                 sections 45 through 48, respectively.

22          (h) FEDERAL RESERVE ACT.—The Federal Reserve  
23          Act (12 U.S.C. 221 et seq.) is amended—



1 (1) in the 20th undesignated paragraph of sec-  
2 tion 9 (12 U.S.C. 335), by striking the last sentence;  
3 and

4 (2) in section 23A (12 U.S.C. 371c)—

5 (A) in subsection (b)(11), by striking “sub-  
6 paragraph (H) or (I) of section 4(k)(4) of the  
7 Bank Holding Company Act of 1956 or”;

8 (B) by striking subsection (e); and

9 (C) by redesignating subsection (f) as sub-  
10 section (e).

11 (i) FINANCIAL STABILITY ACT OF 2010.—The Fi-  
12 nancial Stability Act of 2010 (12 U.S.C. 5301 et seq.)  
13 is amended—

14 (1) in section 113(c)(5) (12 U.S.C. 5323(c)(5)),  
15 by striking “(as defined in section 4(k) of the Bank  
16 Holding Company Act of 1956)”;

17 (2) in section 163 (12 U.S.C. 5363)—

18 (A) by striking subsection (b); and

19 (B) in subsection (a), by striking “(a)”  
20 and all that follows through “For purposes”  
21 and inserting “For purposes”;

22 (3) in section 167(b) (12 U.S.C. 5367(b)), by  
23 striking “under section 4(k) of the Bank Holding  
24 Company Act of 1956” each place that term ap-  
25 pears; and

1 (4) in section 171(b) (12 U.S.C. 5371(b))—

2 (A) by striking paragraph (3); and

3 (B) by redesignating paragraphs (4)  
4 through (7) as paragraphs (3) through (6), re-  
5 spectively.

6 (j) GRAMM-LEACH-BLILEY ACT.—The Gramm-  
7 Leach-Bliley Act (Public Law 106–102; 113 Stat. 1338)  
8 is amended—

9 (1) by striking section 115 (12 U.S.C. 1820a);

10 (2) in section 307(f) (15 U.S.C. 6715(f)), by  
11 amending paragraph (2) to read as follows:

12 “(2) BOARD.—The term ‘Board’ has the mean-  
13 ing given the term in section 2 of the Bank Holding  
14 Company Act of 1956 (12 U.S.C. 1841).”;

15 (3) in section 505(c) (15 U.S.C. 6805(c))—

16 (A) by striking “section 47(g)(2)(B)(iii) of  
17 the Federal Deposit Insurance Act” and insert-  
18 ing “section 45(g)(2)(B)(iii) of the Federal De-  
19 posit Insurance Act”; and

20 (B) by striking “section 47(a)” and insert-  
21 ing “section 45(a)”; and

22 (4) in section 509(3)(A) (15 U.S.C.  
23 6809(3)(A)), by striking “as described in section  
24 4(k) of the Bank Holding Company Act of 1956”.

1 (k) HOME OWNERS' LOAN ACT.—Section 10(c) of  
2 the Home Owners' Loan Act (12 U.S.C. 1467a(c)) is  
3 amended—

4 (1) in paragraph (2), by striking subparagraph  
5 (H); and

6 (2) in paragraph (9)(A), by striking “per-  
7 mitted” and all that follows and inserting “per-  
8 mitted under paragraph (1)(C) or (2) of this sub-  
9 section.”.

10 (l) INTERNAL REVENUE CODE.—Section  
11 864(f)(4)(C)(ii) of the Internal Revenue Code of 1986 is  
12 amended by striking “(within the meaning of section 2(p)  
13 of the Bank Holding Company Act of 1956 (12 U.S.C.  
14 1841(p))”.

15 (m) PAYMENT, CLEARING, AND SETTLEMENT SU-  
16 PERVISION ACT OF 2010.—Section 803(5)(A) of the Pay-  
17 ment, Clearing, and Settlement Supervision Act of 2010  
18 (12 U.S.C. 5462(5)(A)) is amended—

19 (1) in clause (viii), by adding “and” at the end;

20 (2) in clause (ix), by striking “; and” and in-  
21 serting a period; and

22 (3) by striking clause (x).

23 (n) SECURITIES EXCHANGE ACT OF 1934.—The Se-  
24 curities Exchange Act of 1934 (15 U.S.C. 78a et seq.)  
25 is amended—

1           (1) in section 3(a)(4)(B)(vi)(II) (15 U.S.C.  
2       78c(a)(4)(B)(vi)(II)), by striking “other than” and  
3       all that follows and inserting “other than a reg-  
4       istered broker or dealer.”; and

5           (2) in section 3C(g)(3)(A) (15 U.S.C. 78c-  
6       3(g)(3)(A))—

7           (A) in clause (vi), by adding “and” at the  
8       end;

9           (B) in clause (vii), by striking the semi-  
10       colon and inserting a period; and

11          (C) by striking clause (viii).

12       (o) TITLE 11.—Title 11, United States Code, is  
13       amended—

14           (1) in section 101—

15           (A) in paragraph (25)(E), by striking “,  
16       measured in accordance with section 562”;

17           (B) in paragraph (47)(A)(v), by striking “,  
18       measured in accordance with section 562 of this  
19       title”; and

20           (C) in paragraph (53B)(A)(vi), by striking  
21       “, measured in accordance with section 562”;

22           (2) in section 103(a), by striking “555 through  
23       557, and 559 through 562” and inserting “556,  
24       557, and 561”;

25           (3) in section 362(b)—

1 (A) in paragraph (6), by striking “555 or”  
2 each place that term appears;

3 (B) in paragraph (7), by striking “(as de-  
4 fined in section 559)” each place that term ap-  
5 pears;

6 (C) in paragraph (17), by striking “(as de-  
7 fined in section 560)” each place that term ap-  
8 pears; and

9 (D) in paragraph (27), by striking “(as de-  
10 fined in section 555, 556, 559, or 560)” each  
11 place that term appears and inserting “(as de-  
12 fined in section 556)”;

13 (4) in section 502(g)—

14 (A) by striking “(1)” before “A claim”;  
15 and

16 (B) by striking paragraph (2);

17 (5) in section 553—

18 (A) in subsection (a)—

19 (i) in paragraph (2)(B)(ii), by striking  
20 “555, 556, 559, 560, or 561” and insert-  
21 ing “556 or 561”; and

22 (ii) in paragraph (3)(C), by striking  
23 “555, 556, 559, 560, or 561” and insert-  
24 ing “556 or 561”; and

- 1 (B) in subsection (b)(1), by striking “555,  
2 556, 559, 560, 561” and inserting “556, 561”;  
3 (6) in section 561(b)(1), by striking “555, 556,  
4 559, or 560” and inserting “556”;  
5 (7) in section 741(7)(A)(xi), by striking “,  
6 measured in accordance with section 562”;  
7 (8) in section 761(4)(J), by striking “, meas-  
8 ured in accordance with section 562”; and  
9 (9) in section 901(a), by striking “555, 556,  
10 557, 559, 560, 561, 562” and inserting “556, 557,  
11 561”.

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