

FEDERAL RESERVE REFORM ACT OF 2018

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JANUARY 2, 2019.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed  
\_\_\_\_\_

Mr. HENSARLING, from the Committee on Financial Services,  
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 6741]

The Committee on Financial Services, to whom was referred the bill (H.R. 6741) to amend the Federal Reserve Act to increase monetary policy transparency and accountability and to make reforms to the Federal Reserve System, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(a) **SHORT TITLE.**—This Act may be cited as the “Federal Reserve Reform Act of 2018”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Monetary policy transparency and accountability.
- Sec. 3. Independence from credit policy.
- Sec. 4. Congressional accountability for emergency lending programs.
- Sec. 5. Interest rates on balances maintained at a Federal Reserve Bank by depository institutions established by Federal Open Market Committee.
- Sec. 6. Membership of Federal Open Market Committee.
- Sec. 7. Bringing the non-monetary policy related functions of the Board of Governors of the Federal Reserve System into the appropriations process.
- Sec. 8. Amendment to appointment of presidents of Federal Reserve Banks.
- Sec. 9. Federal Open Market Committee blackout period.
- Sec. 10. Salaries, financial disclosures, and office staff of the Board of Governors of the Federal Reserve System.
- Sec. 11. Vice Chairman for Supervision report requirement.

**SEC. 2. MONETARY POLICY TRANSPARENCY AND ACCOUNTABILITY.**

Section 12A of the Federal Reserve Act (12 U.S.C. 263) is amended—

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

(2) by inserting after subsection (a) the following new subsections:

“(b) POLICY TRANSPARENCY.—

“(1) MONETARY POLICY STRATEGY.—

“(A) IN GENERAL.—The Committee shall annually establish exactly 1 monetary policy strategy, which shall serve as a non-technical public communication of the Committee’s consensus expectation for the conduct of monetary policy during that calendar year.

“(B) REQUIREMENTS.—Each monetary policy strategy of the Committee shall include the following:

“(i) A plain English description of how the Committee would adjust each of the following monetary policy instruments in reaction to changes in a small and well-defined set of publicly available economic indicators:

“(I) Short-term interest rate targets established by the Committee.

“(II) Open-market operations authorized under section 14.

“(III) Earnings on balances maintained at a Federal reserve bank by or on behalf of a depository institution under section 19(b)(12).

“(ii) An identification of 1 monetary policy instrument from the list in clause (i) that the Committee expects to use as the primary instrument for implementing the monetary policy strategy described under subparagraph (A).

“(2) REFERENCE MONETARY POLICY RULES.—In addition to the monetary policy strategy required under paragraph (1), the Committee shall annually adopt at least 1 and not more than 3 reference monetary policy rules, each of which shall mathematically express how the primary monetary policy instrument identified under paragraph (1)(B)(ii) reacts to changes in a small and well-defined set of publicly available economic indicators.

“(3) DEVIATIONS.—Nothing in this subsection shall be construed to prevent the Committee from setting short-term interest rate targets, conducting open-market operations, or paying earnings on balances pursuant to section 19(b)(12) in a manner that deviates from a monetary policy strategy or any reference monetary policy rules established under this subsection.

“(c) TESTIMONY AND REPORTS OF THE CHAIRMAN.—The Chairman shall, concurrent with each semi-annual hearing required under section 2B, submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives, containing—

“(1) a statement as to whether the monetary policy strategy established under subsection (b)(1) qualitatively differs from any of the reference monetary policy rules required under subsection (b)(2) and, if applicable, a full and non-technical explanation of any such difference;

“(2) a statement as to whether the Committee’s conduct of monetary policy since the previous report quantitatively differs from any reference monetary policy rule and, if applicable, a full and non-technical explanation of any such differences; and

“(3) a description of—

“(A) the circumstances under which the Committee’s monetary policy strategy may be amended from year to year; and

“(B) a full and non-technical explanation of any such actual amendment.”.

**SEC. 3. INDEPENDENCE FROM CREDIT POLICY.**

(a) RETURNING TO A MONETARY POLICY BALANCE SHEET.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act—

(A) the Board of Governors of the Federal Reserve System shall transfer to the Department of the Treasury all covered assets that are neither gold stock, Treasury currency, nor direct obligations of the United States, foreign central banks, or the International Monetary Fund; and

(B) the Secretary of the Treasury shall transfer to the Federal reserve banks direct obligations of the United States of equivalent market value to such covered assets.

(2) COVERED ASSETS DEFINED.—In this subsection, the term “covered assets” means all assets—

(A) purchased through open-market operations by the Federal reserve banks; or

(B) acquired through transactions under the following sections of the Federal Reserve Act (12 U.S.C. 221 et seq.):

(i) Section 10A before the date of the enactment of this Act.

(ii) Section 10B.

- (iii) Section 13.
- (iv) Section 13A.
- (v) Section 24.

(b) OPEN MARKET ASSET PURCHASES.—Section 14(b) (12 U.S.C. 355) of the Federal Reserve Act (relating to “Purchase and sale of obligations of United States, States, counties, etc.”) is amended to read as follows:

“(b) To buy and sell in the open market, at home or abroad, under the direction and regulations of the Federal Open Market Committee, gold stock, Treasury currency, or direct obligations of the United States, foreign central banks, or the International Monetary Fund. Nothing in this subsection shall be construed to limit advances under section 10B, or discount loans under sections 13, 13A, or 24.”.

(c) MAINTAINING A MONETARY POLICY BALANCE SHEET.—

(1) ASSETS ACQUIRED UNDER EMERGENCY LENDING.—Section 13(3) of the Federal Reserve Act (12 U.S.C. 343(3)) is amended by adding at the end the following new subparagraph:

“(F) Not later than 1 year after a Federal reserve bank acquires any assets under this paragraph that are neither gold nor direct obligations of the United States, foreign central banks, or the International Monetary Fund—

“(i) the Board shall transfer such assets of the Federal reserve bank to the Department of the Treasury; and

“(ii) the Secretary of the Treasury shall transfer to the Federal reserve banks direct obligations of the United States of equivalent market value to the assets described in clause (i).”.

(2) REPEAL OF AUTHORITY TO PROVIDE EMERGENCY ADVANCES TO GROUPS OF MEMBER BANKS.—Section 10A of the Federal Reserve Act is repealed.

(3) ASSETS ACQUIRED THROUGH ADVANCES TO MEMBER BANKS.—The second undesignated paragraph of subsection (a) of section 10B of the Federal Reserve Act is amended—

(A) by inserting “not” before “secured by mortgage loans”; and

(B) by striking “lowest discount rate” and inserting “highest discount rate”.

#### SEC. 4. CONGRESSIONAL ACCOUNTABILITY FOR EMERGENCY LENDING PROGRAMS.

Section 13(3) of the Federal Reserve Act (12 U.S.C. 343(3)), as amended by section 3, is further amended—

(1) in subparagraph (A)—

(A) by inserting “that pose a threat to the financial stability of the United States” after “unusual and exigent circumstances”; and

(B) by striking “the affirmative vote of not less than five members” and inserting “the prior approval of the Secretary of the Treasury and not less than  $\frac{2}{3}$  of the members of the Federal Open Market Committee”;

(2) in subparagraph (B)—

(A) by moving such subparagraph 4 ems to the left;

(B) in clause (i), by inserting at the end the following: “Federal reserve banks may not accept equity securities issued by the recipient of any loan or other financial assistance under this paragraph as collateral. Not later than 6 months after the date of the enactment of this sentence, the Board shall, by rule, establish—

“(I) a method for determining the sufficiency of the collateral required under this paragraph;

“(II) acceptable classes of collateral;

“(III) the amount of any discount on the value of the collateral that the Federal reserve banks will apply for purposes of calculating the sufficiency of collateral under this paragraph; and

“(IV) a method for obtaining independent appraisals of the value of collateral the Federal reserve banks receive.”;

(C) in clause (ii)—

(i) by striking the second sentence; and

(ii) by inserting after the first sentence the following: “A borrower shall not be eligible to borrow from any emergency lending program or facility unless the Board and all Federal banking regulators with jurisdiction over the borrower certify that, at the time the borrower initially borrows under the program or facility, the borrower is not insolvent.”; and

(D) by striking clause (iv);

(3) by inserting “financial institution” before “participant” each place such term appears;

(4) in subparagraph (D)(i), by inserting “financial institution” before “participants”; and

(5) by adding at the end the following new subparagraphs:

“(G) JOINT RESOLUTION OF APPROVAL.—

“(i) IN GENERAL.—A program or facility created under subparagraph (A) shall terminate on the date that is 30 calendar days after the date on which Congress receives a report described in subparagraph (C) unless there is enacted into law a joint resolution approving the program or facility not later than 30 calendar days after the date on which the report is received. Any loan offered through the program or facility that is outstanding as of the date on which the program or facility is terminated shall be repaid in full not later than 30 calendar days after the date on which the program or facility is terminated.

“(ii) CONTENTS OF JOINT RESOLUTION.—For the purpose of this subparagraph, the term ‘joint resolution’ means only a joint resolution—

“(I) that is introduced not later than 3 calendar days after the date on which the report described in subparagraph (C) is received by Congress;

“(II) that does not have a preamble;

“(III) the title of which is as follows: ‘Joint resolution relating to the approval of a program or facility created by the Board of Governors of the Federal Reserve System’; and

“(IV) the matter after the resolving clause of which is as follows: ‘That Congress approves the program or facility created by the Board of Governors of the Federal Reserve System on \_\_\_\_\_.’ (The blank space being appropriately filled in).

“(iii) FAST TRACK CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

“(I) RECONVENING.—Upon receipt of a report under subparagraph (C), the Speaker, if the House would otherwise be adjourned, shall notify the Members of the House that, pursuant to this subparagraph, the House shall convene not later than the second calendar day after receipt of such report.

“(II) REPORTING AND DISCHARGE.—Any committee of the House of Representatives to which a joint resolution is referred shall report it to the House not later than 5 calendar days after the date of receipt of the report described in subparagraph (C). If a committee fails to report the joint resolution within that period, the committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be referred to the appropriate calendar.

“(III) PROCEEDING TO CONSIDERATION.—After each committee authorized to consider a joint resolution reports it to the House or has been discharged from its consideration, it shall be in order, not later than the sixth day after Congress receives the report described in subparagraph (C), to move to proceed to consider the joint resolution in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

“(IV) CONSIDERATION.—The joint resolution shall be considered as read. All points of order against the joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except 2 hours of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote on passage of the joint resolution shall not be in order.

“(iv) FAST TRACK CONSIDERATION IN SENATE.—

“(I) RECONVENING.—Upon receipt of a report under subparagraph (C), if the Senate has adjourned or recessed for more than 2 days, the majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate that, pursuant to this subparagraph, the Senate shall convene not later than the second calendar day after receipt of such report.

“(II) PLACEMENT ON CALENDAR.—Upon introduction in the Senate, the joint resolution shall be placed immediately on the calendar.

“(III) FLOOR CONSIDERATION.—

“(aa) IN GENERAL.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the fourth day after the date on which Congress receives a report described in subparagraph (C) and ending on the sixth day after the date on which Congress receives the report (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of.

“(bb) DEBATE.—Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

“(cc) VOTE ON PASSAGE.—The vote on passage shall occur immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

“(dd) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

“(v) COORDINATION WITH ACTION BY OTHER HOUSE.—

“(I) IN GENERAL.—If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

“(aa) The joint resolution of the other House shall not be referred to a committee.

“(bb) With respect to a joint resolution of the House receiving the resolution—

“(AA) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

“(BB) the vote on passage shall be on the joint resolution of the other House.

“(II) TREATMENT OF JOINT RESOLUTION OF OTHER HOUSE.—If one House fails to introduce or consider a joint resolution under this section, the joint resolution of the other House shall be entitled to expedited floor procedures under this section.

“(III) CONSIDERATION AFTER PASSAGE.—If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

“(IV) VETOES.—If the President vetoes the joint resolution, the period beginning on the date the President vetoes the joint resolution and ending on the date the Congress receives the veto message with respect to the joint resolution shall be disregarded in computing the 30-calendar day period described in clause (i) and debate on a veto message in the Senate under this section shall be 1 hour equally divided between the majority and minority leaders or their designees.

“(V) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subparagraph is enacted by Congress—

“(aa) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

“(bb) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

“(H) PENALTY RATE.—

“(i) IN GENERAL.—Not later than 6 months after the date of enactment of this subparagraph, the Board shall, with respect to a recipient of any loan or other financial assistance under this paragraph, establish by rule a minimum interest rate on the principal amount of any loan or other financial assistance.

“(ii) MINIMUM INTEREST RATE DEFINED.—In this subparagraph, the term ‘minimum interest rate’ shall mean the sum of—

“(I) the average of the secondary discount rate of all Federal reserve banks over the most recent 90-day period; and

“(II) the average of the difference between a distressed corporate bond yield index (as defined by rule of the Board) and a bond yield index of debt issued by the United States (as defined by rule of the Board) over the most recent 90-day period.

“(I) FINANCIAL INSTITUTION PARTICIPANT DEFINED.—For purposes of this paragraph, the term ‘financial institution participant’—

“(i) means a company that is predominantly engaged in financial activities (as defined in section 102(a) of the Financial Stability Act of 2010 (12 U.S.C. 5311(a))); and

“(ii) does not include an agency described in subparagraph (W) of section 5312(a)(2) of title 31, United States Code, or an entity controlled or sponsored by such an agency.”.

**SEC. 5. INTEREST RATES ON BALANCES MAINTAINED AT A FEDERAL RESERVE BANK BY DEPOSITORY INSTITUTIONS ESTABLISHED BY FEDERAL OPEN MARKET COMMITTEE.**

Subparagraph (A) of section 19(b)(12) of the Federal Reserve Act (12 U.S.C. 461(b)(12)(A)) is amended by inserting “established by the Federal Open Market Committee” after “rate or rates”.

**SEC. 6. MEMBERSHIP OF FEDERAL OPEN MARKET COMMITTEE.**

Section 12A(a) of the Federal Reserve Act (12 U.S.C. 263(a)) is amended—

(1) in the first sentence, by striking “five representatives of the Federal Reserve banks to be selected as hereinafter provided” and inserting “one representative from each of the Federal Reserve banks”;

(2) in the second sentence, by striking “and, beginning” and all that follows through “San Francisco”; and

(3) by striking the third and fourth sentences.

**SEC. 7. BRINGING THE NON-MONETARY POLICY RELATED FUNCTIONS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM INTO THE APPROPRIATIONS PROCESS.**

(a) IN GENERAL.—The Federal Reserve Act is amended by inserting after section 11B the following:

**“SEC. 11C. APPROPRIATIONS REQUIREMENT FOR NON-MONETARY POLICY RELATED ADMINISTRATIVE COSTS.**

“(a) APPROPRIATIONS REQUIREMENT.—

“(1) RECOVERY OF COSTS OF ANNUAL APPROPRIATION.—The Board of Governors of the Federal Reserve System and the Federal reserve banks shall collect assessments and other fees, as provided under this Act, that are designed to recover the costs to the Government of the annual appropriation to the Board of Governors of the Federal Reserve System by Congress. The Board of Governors of the Federal Reserve System and the Federal reserve banks may only incur obligations or allow and pay expenses with respect to non-monetary policy related administrative costs pursuant to an appropriations Act.

“(2) OFFSETTING COLLECTIONS.—Assessments and other fees described under paragraph (1) for any fiscal year—

“(A) shall be deposited and credited as offsetting collections to the account providing appropriations to the Board of Governors of the Federal Reserve System; and

“(B) shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.

“(3) LIMITATION.—This subsection shall only apply to the non-monetary policy related administrative costs of the Board of Governors of the Federal Reserve System.

“(b) DEFINITIONS.—For purposes of this section:

“(1) MONETARY POLICY.—The term ‘monetary policy’ means a strategy for producing a generally acceptable exchange medium that supports the productive employment of economic resources by reliably serving as both a unit of account and store of value.

“(2) NON-MONETARY POLICY RELATED ADMINISTRATIVE COSTS.—The term ‘non-monetary policy related administrative costs’ means administrative costs not related to the conduct of monetary policy, and includes—

“(A) direct operating expenses for supervising and regulating entities supervised and regulated by the Board of Governors of the Federal Reserve System, including conducting examinations, conducting stress tests, communicating with the entities regarding supervisory matters and laws, and regulations;

“(B) operating expenses for activities integral to carrying out supervisory and regulatory responsibilities, such as training staff in the supervisory function, research and analysis functions including library subscription services, and collecting and processing regulatory reports filed by supervised institutions; and

“(C) support, overhead, and pension expenses related to the items described under subparagraphs (A) and (B).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to expenses paid and fees collected on or after October 1, 2018.

**SEC. 8. AMENDMENT TO APPOINTMENT OF PRESIDENTS OF FEDERAL RESERVE BANKS.**

The fifth subparagraph of the fourth undesignated paragraph of section 4 of the Federal Reserve Act (12 U.S.C. 341) is amended by striking “Class B and Class C directors” and inserting “board of directors”.

**SEC. 9. FEDERAL OPEN MARKET COMMITTEE BLACKOUT PERIOD.**

Section 12A of the Federal Reserve Act (12 U.S.C. 263), as amended by section 2, is further amended by adding at the end the following new subsection:

“(f) BLACKOUT PERIOD.—

“(1) IN GENERAL.—During a blackout period, the only public communications that may be made by members and staff of the Committee with respect to macroeconomic or financial developments or about current or prospective monetary policy issues are the following:

“(A) The dissemination of published data, surveys, and reports that have been cleared for publication by the Board of Governors of the Federal Reserve System.

“(B) Answers to technical questions specific to a data release.

“(C) Communications with respect to the prudential or supervisory functions of the Board of Governors.

“(2) BLACKOUT PERIOD DEFINED.—For purposes of this subsection, and with respect to a meeting of the Committee described under subsection (a), the term ‘blackout period’ means the time period that—

“(A) begins immediately after midnight on the day that is one week prior to the date on which such meeting takes place; and

“(B) ends at midnight on the day after the date on which such meeting takes place.

“(3) EXEMPTION FOR CHAIRMAN OF THE BOARD OF GOVERNORS.—Nothing in this section shall prohibit the Chairman of the Board of Governors of the Federal Reserve System from participating in or issuing public communications.”.

**SEC. 10. SALARIES, FINANCIAL DISCLOSURES, AND OFFICE STAFF OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.**

(a) IN GENERAL.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended—

(1) by redesignating the second subsection (s) (relating to “Assessments, Fees, and Other Charges for Certain Companies”) as subsection (t); and

(2) by adding at the end the following new subsections:

“(u) PROHIBITED AND RESTRICTED FINANCIAL INTERESTS AND TRANSACTIONS.—The members and employees of the Board of Governors of the Federal Reserve System shall be subject to the provisions under section 4401.102 of title 5, Code of Federal Regulations, to the same extent as such provisions apply to an employee of the Securities and Exchange Commission.

“(v) DISCLOSURE OF STAFF SALARIES AND FINANCIAL INFORMATION.—The Board of Governors of the Federal Reserve System shall make publicly available, on the website of the Board of Governors, a searchable database that contains the names of all members, officers, and employees of the Board of Governors who receive an annual salary in excess of the annual rate of basic pay for GS–15 of the General Schedule, and—

“(1) the yearly salary information for such individuals, along with any non-salary compensation received by such individuals; and  
“(2) any financial disclosures required to be made by such individuals.”.

(b) OFFICE STAFF FOR EACH MEMBER OF THE BOARD OF GOVERNORS.—Subsection (1) of section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following: “Each member of the Board of Governors of the Federal Reserve System may employ, at a minimum, 2 individuals, with such individuals selected by such member and the salaries of such individuals set by such member. A member may employ additional individuals as determined necessary by the Board of Governors.”.

**SEC. 11. VICE CHAIRMAN FOR SUPERVISION REPORT REQUIREMENT.**

Paragraph (12) of section 10 of the Federal Reserve Act (12 U.S.C. 247b) is amended—

(1) by redesignating such paragraph as paragraph (11); and

(2) in such paragraph—

(A) by striking “shall appear” and inserting “shall provide written testimony and appear”; and

(B) by adding at the end the following: “If, at the time of any appearance described in this paragraph, the position of Vice Chairman for Supervision is vacant, the Chairman or their designee shall appear instead and provide the required written testimony.”.

PURPOSE AND SUMMARY

On September 7, 2018, Representative Andy Barr introduced H.R. 6741, the “Federal Reserve Reform Act of 2018” to provide for a reduction in monetary policy uncertainty, an orderly return to a more conventional monetary policy balance sheet; and hold Congress accountable for America’s credit policy instead of ceding responsibility to the Federal Reserve for unconventional asset purchases. Given that interest on reserves now regularly serves as a monetary policy rate, H.R. 6741 also provides for the Federal Reserve’s full monetary policy committee—the Federal Open Market Committee or FOMC, not just the Board of Governors—to vote on those rates. It also provides for a more fully informed monetary policy by expanding FOMC voting membership to all Federal Reserve banks for each meeting. H.R. 6741 also provides greater accountability for bank supervision and regulation by requiring an appropriation for non-monetary policy related costs, and returns the authority for each class of Federal Reserve bank directors to contribute to the search and hiring process for District Bank presidents. H.R. 6741 reforms the “blackout period” that governs when Federal Reserve Governors and employees may publicly speak on certain matters; requires the Federal Reserve to disclose the salaries of highly paid employees; and provides for the Federal Reserve Chair or a designee to testify in the event that the Vice Chair for Supervision is vacant.

BACKGROUND AND NEED FOR LEGISLATION

If monetary policy does not work, then our economy cannot work. H.R. 6741, the Federal Reserve Reform Act of 2018, thus provides for a more growth-oriented and less politically prone monetary policy. It does so, in important part, by

(1) reducing growth-killing uncertainty that undercuts the efficacy of monetary policies;

(2) unwinding the Fed’s non-monetary policy assets; and

(3) holding Congress accountable for America’s credit policies instead of relying on the Fed to initiate off-budget spending.



Better communication may sound boring. But it is key to reducing growth-killing policy uncertainty that, according to Federal Reserve research, creates a significant drag on our economy.<sup>1</sup> The Committee's legislation brings greater transparency to how monetary policy reacts to economic changes so that households and businesses have the information they need to make productive decisions.

The Federal Open Market Committee (FOMC) has characterized its conduct of monetary policy as, quote, "data dependent." In doing so, however, it leaves households and businesses uncertain about what data matter and how they matter. By providing for the annual adoption of both a plain English policy strategy and a small set of comparison policy rules of the FOMC's own choosing, H.R. 6741 reduces that uncertainty to provide for a more reliable allocation of real goods and services to their most promising economic opportunities.

Adopting the best of proposals from both sides of the aisle, this framework promises to reliably support a stronger economy that works for everyone. Testifying before our monetary policy subcommittee, Dr. Joseph Gagnon from the Peterson Institute shared the following observation:<sup>2</sup>

The best strategy is for the Fed to use various rules in assessing the stance of policy. Whenever it deviates noticeably from popular rules, the Fed should explain clearly why it is doing so.

The Federal Reserve Reform Act of 2018 provides for exactly the type of framework that Dr. Gagnon and other highly regarded witnesses from both sides of the aisle have advocated during extensive Committee hearings.

In addition, monetary policy loses its independence when it extends into politically sensitive credit markets. Almost half of today's Federal Reserve balance sheet continues to reflect the Fed's emergency expedition into favoring some asset prices at the expense of others.<sup>3</sup> In addition to distorting the price of credit and thus compromising efficiency in the real economy, the Fed's decade-old maintenance of this expedition (with little if any end in sight) continues to put monetary policy independence at undue risk. The Federal Reserve Reform Act of 2018 thus provides for an asset swap facility that leaves the Fed with the assets it needs to conduct monetary policy and requiring our government's fiscal principals—Congress—to decide in a more accountable manner when and where American households and businesses fund the public coffers.

Monetary policy works best when it simply helps goods and services readily find their most promising opportunities. To be sure, re-

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<sup>1</sup>A recent study by Federal Reserve Board economists finds that "uncertainty about monetary policy robustly raise credit spreads and reduce output." Source: Lucas Husted, John Rogers, and Bo Sun (2017). "Monetary Policy Uncertainty," International Finance Discussion Papers 1215. Available at <https://doi.org/10.17016/IFDP.2017.1215>.

<sup>2</sup>Monetary Policy and Trade Subcommittee hearing entitled "The Fed Turns 100: Lessons Learned Over a Century of Central Banking," September 11, 2013. Quoted from page 11 of the printed hearing, available at <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=347585>.

<sup>3</sup>Federal Reserve Statistical Release (H.4.1), "Factors Affecting Reserve Balances," October 26, 2017. Accessed October 27, 2017 at Board of Governors, *Recent Balance Sheet Trends*, available at <https://www.federalreserve.gov/releases/h41/current/h41.htm>.

alizing this ideal is hard, even under favorable conditions. It becomes harder still when central banks step beyond their monetary policy roles and into the political realm of favoring some credit prices over others (as the Fed has done, for example, by purchasing almost \$2 trillion of MBS during and after the Financial Crisis).<sup>4</sup>

Economists of different stripes shared strong concerns to the Committee about this unfortunate development. Testifying as a minority witness before the monetary policy subcommittee, MIT Professor Simon Johnson observed that:<sup>5</sup>

we’re all agreeing . . . that fiscal policy infrastructure is the responsibility of the fiscal authority, which is that Congress in the United States . . . it is not the responsibility, and should not become the responsibility of the Federal Reserve.

The Federal Reserve Reform Act of 2018 provides for an orderly return of the Fed’s balance sheet to what former Federal Reserve Board Chair Yellen called “a primarily treasury-only portfolio,”<sup>6</sup> and thus promotes both a more resilient financial system and more productive allocation of credit in the real economy.

H.R. 6741 also provides for a long-overdue framework that holds Congress to account for extending emergency credit to distressed banks. Time and again, Americans have watched their Federal Reserve stretch its mandates beyond the breaking point, with the predictable result of increased financial fragility and decreased economic opportunity.

Politicians and advocacy groups from both sides of the aisle agree that doing better requires a brighter line between conventional monetary policy and emergency credit policy. Following the introduction of Warren-Vitter, the President and CEO of Better Markets warned that:<sup>7</sup>

While the much smaller \$700 billion TARP program received widespread scrutiny, the Fed’s trillions in bailouts did not. In fact, the public and even its elected officials in Congress were mostly kept in the dark about these bailouts. That was wrong. The Dodd-Frank Wall Street Reform and Consumer Protection Act made some modest changes to limit the Fed’s ability to bailout Wall Street in the future, but more needs to be done if taxpayers are to be protected, bailouts are to be limited, too big to fail is to be ended and market discipline is to apply to Wall Street like the rest of America’s banks and businesses.

By drawing a bright line of accountability between monetary and credit policy, the Federal Reserve Reform Act of 2018 provides for both a more productive monetary policy and less distortionary cred-

<sup>4</sup>As of October 26, 2017, the Federal Reserve banks own almost \$1.8 trillion of Federal agency debt securities and Mortgage-backed securities. Source: <https://www.federalreserve.gov/releases/h41/current/h41.htm>.

<sup>5</sup>See the MPT Subcommittee hearing entitled “Unconventional monetary policy,” December 7, 2016. Archived webcast available at <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=401201>.

<sup>6</sup>Full-Committee hearing entitled “Monetary Policy and the State of the Economy,” July 12, 2017. Archived webcast available at <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=402098>.

<sup>7</sup>Dennis Kelleher, “Better Markets Statement on the Introduction of the Bailout Prevention Act,” May 13, 2015. Accessed at <https://bettermarkets.com/newsroom/better-markets-statement-introduction-bailout-prevention-act>.

it policy, and does so in a manner that Americans for Financial Reform<sup>8</sup> characterized as aligning “not only with the intent of the Dodd-Frank Act, but with traditional principles of central bank lending that go back centuries.”<sup>9</sup>

The Dodd-Frank Act’s post crisis regime rewarded the Federal Reserve with the greatest expansion of regulatory power in its history.<sup>10</sup> The Federal Reserve, separate and apart from monetary policy, can now impose “heightened prudential standards” on any large financial institution deemed “systemically important.”<sup>11</sup> Figuratively, and in some reported cases literally, the Federal Reserve has now taken a seat in bank board rooms where it can alarmingly influence, if not outright veto, mergers, acquisitions, and dividend distributions among other corporate actions.<sup>12</sup> This unchecked power should concern us all. The “Federal Reserve Reform Act” makes a needed change by bifurcating the Fed’s budget to separate the funding of the Federal Reserve’s monetary policy function from its prudential regulator function. Monetary policy independence should not be an escape hatch from Congressional regulatory accountability, particularly as the Fed exercises its newly acquired powers to regulate an alarming share of our nation’s economy.

Regardless of the exigencies of 2008, monetary policy is not and can never be a substitute for sound fiscal policy. The nation needs a prudent path to a more normal Fed balance sheet in size and composition where interest rates are once again market based. Forays into credit allocation, fiscal policy and bank management threaten the Federal Reserve’s monetary policy independence, not to mention checks and balances. Although a strong and independent Federal Reserve remains critical, we cannot afford to one day awake only to find our central bankers have become our central planners and long-term economic growth is harmed.<sup>13</sup>

American economic opportunity depends on monetary policy doing what it can and only what it can—that is, maintaining an efficient exchange medium so that real goods and services (which

<sup>8</sup>“About AFR: Americans for Financial Reform is a nonpartisan and nonprofit coalition of more than 200 civil rights, consumer, labor, business, investor, faith-based, and civic and community groups. Formed in the wake of the 2008 crisis, we are working to lay the foundation for a strong, stable, and ethical financial system—one that serves the economy and the nation as a whole. AFR has been called “the leading voice for Wall Street accountability” in Washington (by Zach Carter of the Huffington Post).” (Source: <http://ourfinancialsecurity.org/about/>)

<sup>9</sup>Quoted from Senator Elizabeth Warren, “Warren, Vitter Introduced Bailout Prevention Act,” May 13, 2015. Press release available at [https://www.warren.senate.gov/?p=press\\_release&id=818](https://www.warren.senate.gov/?p=press_release&id=818).

<sup>10</sup>“If anything, the major change in the post-crisis financial regulatory system is an increasingly powerful Federal Reserve.” Source: <http://www.hblr.org/2011/06/why-the-federal-reserve-is-dodd-franks-big-winner/>; “The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act increased the powers of the Board of Governors of the Federal Reserve System along almost all dimensions pertaining to the supervision and operation of systemically important financial institutions, available at <https://piie.com/publications/policy-briefs/governing-federal-reserve-system-after-dodd-frank-act>.

<sup>11</sup>See for example Dodd-Frank Act, Section 112. Council authority, Section 115. Enhanced supervision and prudential standard for nonbank financial companies supervised by the Board of Governors and certain bank holding companies, Section 120. Additional standards applicable to activities or practices for financial stability purposes, and Section 121. Mitigation of risks to financial stability, available at <https://www.govtrack.us/congress/bills/111/hr4173/text>.

<sup>12</sup>See for example: Committee on Financial Services, April 17, 2018, hearing entitled, “Semi-Annual Testimony on the Federal Reserve’s Regulation and Supervision of the Financial System,” available at: <https://financialservices.house.gov/calendar/eventsingle.aspx?EventID=403293>; see also “Quarles Defends Fed Moves on Bank Regulation”, available at: <https://thehill.com/policy/finance/383601-quarles-defends-feds-moves-on-bank-regulation-supervision>.

<sup>13</sup>See <https://taxnews.ey.com/news/2017-1120-house-financial-services-committee-questions-federal-reserve-chair-janet-yellen>.

include labor) can freely engage their most promising opportunities. The Federal Reserve Reform Act of 2018 does just that, by reducing policy uncertainty, facilitating an orderly exit from distortionary Fed credit policies, holding Congress to account for risking taxpayers' money through emergency loans, providing for more deliberative and better informed monetary policies, and increasing accountability for bank supervision and regulation.

#### HEARINGS

The Subcommittee on Monetary Policy and Trade held eight hearings to consider matters relating to H.R. 6741 on March 17, 2017; April 4, 2017; April 26, 2017; April 28, 2017; June 28, 2017; July 20, 2017; November 7, 2017; and January 10, 2018.

#### COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on September 13, 2018, and ordered H.R. 6741 to be reported favorably to the House, as amended by a recorded vote of 30 yeas to 21 nays (recorded vote no. FC-212), a quorum being present. An amendment in the nature of a substitute, offered by Rep. Barr, was agreed to by voice vote.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The sole recorded vote was on a motion by Chairman Hensarling to report the bill favorably to the House without amendment. The motion was agreed to by a recorded vote of 30 yeas to 21 nays (Record vote no. FC-212), a quorum being present.

## Record vote no. FC-213

| Representative          | Yea | Nay | Present | Representative                     | Yea | Nay | Present |
|-------------------------|-----|-----|---------|------------------------------------|-----|-----|---------|
| Mr. Hensarling .....    | X   |     |         | Ms. Maxine Waters (CA) .....       |     | X   |         |
| Mr. McHenry .....       | X   |     |         | Mrs. Carolyn B. Maloney (NY) ..... |     | X   |         |
| Mr. King .....          |     | X   |         | Ms. Velázquez .....                |     | X   |         |
| Mr. Royce (CA) .....    |     |     |         | Mr. Sherman .....                  |     | X   |         |
| Mr. Lucas .....         | X   |     |         | Mr. Meeks .....                    |     |     |         |
| Mr. Pearce .....        |     |     |         | Mr. Capuano .....                  |     |     |         |
| Mr. Posey .....         | X   |     |         | Mr. Clay .....                     |     |     |         |
| Mr. Luetkemeyer .....   | X   |     |         | Mr. Lynch .....                    |     | X   |         |
| Mr. Huizenga .....      | X   |     |         | Mr. David Scott (GA) .....         |     | X   |         |
| Mr. Duffy .....         | X   |     |         | Mr. Al Green (TX) .....            |     | X   |         |
| Mr. Stivers .....       | X   |     |         | Mr. Cleaver .....                  |     |     |         |
| Mr. Hultgren .....      | X   |     |         | Ms. Moore .....                    |     | X   |         |
| Mr. Ross .....          | X   |     |         | Mr. Ellison .....                  |     |     |         |
| Mr. Pittenger .....     |     |     |         | Mr. Perlmutter .....               |     | X   |         |
| Mrs. Wagner .....       | X   |     |         | Mr. Himes .....                    |     | X   |         |
| Mr. Barr .....          | X   |     |         | Mr. Foster .....                   |     | X   |         |
| Mr. Rothfus .....       | X   |     |         | Mr. Kildee .....                   |     | X   |         |
| Mr. Messer .....        | X   |     |         | Mr. Delaney .....                  |     | X   |         |
| Mr. Tipton .....        | X   |     |         | Ms. Sinema .....                   |     | X   |         |
| Mr. Williams .....      | X   |     |         | Mrs. Beatty .....                  |     | X   |         |
| Mr. Poliquin .....      | X   |     |         | Mr. Heck .....                     |     | X   |         |
| Mrs. Love .....         | X   |     |         | Mr. Vargas .....                   |     | X   |         |
| Mr. Hill .....          | X   |     |         | Mr. Gottheimer .....               |     |     |         |
| Mr. Emmer .....         | X   |     |         | Mr. Gonzalez (TX) .....            |     | X   |         |
| Mr. Zeldin .....        | X   |     |         | Mr. Crist .....                    |     | X   |         |
| Mr. Trott .....         | X   |     |         | Mr. Kihuen .....                   |     | X   |         |
| Mr. Loudermilk .....    | X   |     |         |                                    |     |     |         |
| Mr. Mooney (WV) .....   | X   |     |         |                                    |     |     |         |
| Mr. MacArthur .....     | X   |     |         |                                    |     |     |         |
| Mr. Davidson .....      | X   |     |         |                                    |     |     |         |
| Mr. Budd .....          | X   |     |         |                                    |     |     |         |
| Mr. Kustoff (TN) .....  | X   |     |         |                                    |     |     |         |
| Ms. Tenney .....        | X   |     |         |                                    |     |     |         |
| Mr. Hollingsworth ..... | X   |     |         |                                    |     |     |         |

#### COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 6741 will strengthen Federal Reserve System's ability to provide for efficient and effective monetary policies and supervisory services.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

#### NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

The Committee has not received an estimate of new budget authority contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to Sec. 402 of the Congressional Budget Act of 1974. In compliance with clause 3(c)(2) of rule XIII of the Rules of the House, the Committee opines that H.R. 6741 will not establish any new budget or entitlement authority or create any tax expenditures.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATES

The cost estimate prepared by the Director of the Congressional Budget Office pursuant to Sec. 402 of the Congressional Budget Act of 1974 was not submitted timely to the Committee.

#### FEDERAL MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995. The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or

accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

#### EARMARK IDENTIFICATION

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

#### DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

#### DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(i) of H. Res. 5 (115th Congress), the following statement is made concerning directed rule makings: The Committee estimates that the bill requires no directed rule makings within the meaning of such section.

#### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

##### *Section 1. Short title*

This Section cites H.R. 6741 as the “Federal Reserve Reform Act of 2018.”

##### *Section 2. Monetary policy transparency and accountability*

This section provides for the Committee to annually establish a non-technical monetary policy strategy, as well as a small set of reference rules to increase policy transparency.

##### *Section 3. Independence from credit policy*

This section provides for timely asset swaps between the Federal Reserve System and Department of the Treasury so as to ensure that assets on the Federal Reserve’s balance sheet exclude those that are not gold stock, Treasury currency, or direct obligations of the United States, foreign central banks, or the International Monetary Fund.

##### *Section 4. Congressional accountability for emergency lending*

This section provides for the ratification of emergency loans via a Joint Resolution, and thus allow Federal Reserve banks to continue their origination of Section 13(3) lending facilities, while returning Article I responsibility for associated fiscal consequences to Congress, and thus strengthening both fiscal policy accountability and monetary policy independence.

*Section 5. Interest rates on balances maintained at a Federal Reserve bank by depository institutions established by the Federal Open Market Committee*

This section provides for the Federal Open Market Committee (FOMC) to participate in the establishment of interest rates on balances maintained at a Federal Reserve Bank by depository institutions.

*Section 6. Membership of Federal Open Market Committee*

This section provides for every District Bank to vote on the Fed's policy directive during every Federal Open Market Committee (FOMC) meeting.

*Section 7. Bringing the non-monetary policy related functions of the board of governors of the Federal Reserve system into the appropriations process*

This section provides for the on-budget funding of the Federal Reserve's non-monetary policy administrative costs.

*Section 8. Amendment to appointment of presidents of Federal Reserve banks*

This section provides for each class of Federal Reserve District bank directors to participate in the process of hiring their District bank presidents.

*Section 9. Federal Open Market Committee blackout period*

This section provides for more clarity about timing of blackout periods associated with FOMC meetings.

*Section 10. Salaries, financial disclosures, and office staff of the board of governors of the Federal Reserve system*

This section provides for greater transparency to Federal Reserve compensation policies.

*Section 11. Vice Chairman for Supervision report requirement*

This section provides for the Federal Reserve Board Chair, or the Chair's designee, to appear before Congress, in the event that the Vice Chairman for Supervision has not been confirmed.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):



**FEDERAL RESERVE ACT**

\* \* \* \* \*

## FEDERAL RESERVE BANKS.

SEC. 4. When the organization committee shall have established Federal reserve districts as provided in section two of this Act, a certificate shall be filed with the Comptroller of the Currency showing the geographical limits of such districts and the Federal reserve city designated in each of such districts. The Comptroller of the Currency shall thereupon cause to be forwarded to each national bank located in each district, and to such other banks declared to be eligible by the organization committee which may apply therefor, an application blank in form to be approved by the organization committee, which blank shall contain a resolution to be adopted by the board of directors of each bank executing such application, authorizing a subscription to the capital stock of the Federal reserve bank organizing in that district in accordance with the provisions of this Act. (Omitted from U.S. Code)

When the minimum amount of capital stock prescribed by this Act for the organization of any Federal reserve bank shall have been subscribed and allotted, the organization committee shall designate any five banks of those whose applications have been received, to execute a certificate of organization, and thereupon the banks so designated shall, under their seals, make an organization certificate which shall specifically state the name of such Federal reserve bank, the territorial extent of the district over which the operations of such Federal reserve bank are to be carried on, the city and State in which said bank is to be located, the amount of capital stock and the number of shares into which the same is divided, the name and place of doing business of each bank executing such certificate, and of all banks which have subscribed to the capital stock of such Federal reserve bank and the number of shares subscribed by each, and the fact that the certificate is made to enable those banks executing same, and all banks which have subscribed or may thereafter subscribe to the capital stock of such Federal reserve bank, to avail themselves of the advantages of this Act. (Omitted from U.S. Code)

The said organization certificate shall be acknowledged before a judge of some court of record or notary public; and shall be, together with the acknowledgment thereof, authenticated by the seal of such court, or notary, transmitted to the Comptroller of the Currency, who shall file, record and carefully preserve the same in his office. (Omitted from U.S. Code)

Upon the filing of such certificate with the Comptroller of the Currency as aforesaid, the said Federal reserve bank shall become a body corporate and as such, and in the name designated in such organization certificate, shall have power—

First. To adopt and use a corporate seal.

Second. To have succession after the approval of this Act until dissolved by Act of Congress or until forfeiture of franchise for violation of law.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law or equity.

Fifth. To appoint by its board of directors a president, vice presidents, and such officers and employees as are not otherwise provided for in this Act, to define their duties, require bonds for them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. The president shall be the chief executive officer of the bank and shall be appointed by the [Class B and Class C directors] *board of directors* of the bank, with the approval of the Board of Governors of the Federal Reserve System, for a term of 5 years; and all other executive officers and all employees of the bank shall be directly responsible to the president. The first vice president of the bank shall be appointed in the same manner and for the same term as the president, and shall, in the absence or disability of the president or during a vacancy in the office of president, serve as chief executive officer of the bank. Whenever a vacancy shall occur in the office of the president or the first vice president, it shall be filled in the manner provided for original appointments; and the person so appointed shall hold office until the expiration of the term of his predecessor.

Sixth. To prescribe by its board of directors, by-laws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

Seventh. To exercise by its board of directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this Act and such incidental powers as shall be necessary to carry on the business of banking within the limitations prescribed by this Act.

Eighth. Upon deposit with the Treasurer of the United States of any bonds of the United States in the manner provided by existing law relating to national banks, to receive from the Secretary of the Treasury circulating notes in blank, registered and countersigned as provided by law, equal in amount to the par value of the bonds so deposited, such notes to be issued under the same conditions and provisions of law as relate to the issue of circulating notes of national banks secured by bonds of the United States bearing the circulating privilege, except that the issue of such notes shall not be limited to the capital stock of such Federal reserve bank.

But no Federal reserve bank shall transact any business except such as is incidental and necessarily preliminary to its organization until it has been authorized by the Comptroller of the Currency to commence business under the provisions of this Act.

Every Federal reserve bank shall be conducted under the supervision and control of a board of directors.

The board of directors shall perform the duties usually appertaining to the office of directors of banking associations and all such duties as are prescribed by law.

Said board of directors shall administer the affairs of said bank fairly and impartially and without discrimination in favor of or against any member bank or banks and may, subject to the provisions of law and the orders of the Board of Governors of the Federal Reserve System, extend to each member bank such discounts, advancements, and accommodations as may be safely and reasonably made with due regard for the claims and demands of other member banks, the maintenance of sound credit conditions, and the accommodation of commerce, industry, and agriculture. The Board

of Governors of the Federal Reserve System may prescribe regulations further defining within the limitations of this Act the conditions under which discounts, advancements, and the accommodations may be extended to member banks. Each Federal reserve bank shall keep itself informed of the general character and amount of the loans and investments of its member banks with a view to ascertaining whether undue use is being made of bank credit for the speculative carrying of or trading in securities, real estate, or commodities, or for any other purpose inconsistent with the maintenance of sound credit conditions; and, in determining whether to grant or refuse advances, rediscounts or other credit accommodations, the Federal reserve bank shall give consideration to such information. The chairman of the Federal reserve bank shall report to the Board of Governors of the Federal Reserve System any such undue use of bank credit by any member bank, together with his recommendation. Whenever, in the judgment of the Board of Governors of the Federal Reserve System, any member bank is making such undue use of bank credit, the Board may, in its discretion, after reasonable notice and an opportunity for a hearing, suspend such bank from the use of the credit facilities of the Federal Reserve System and may terminate such suspension or may renew it from time to time.

Such board of directors shall be selected as hereinafter specified and shall consist of nine members, holding office for three years, and divided into three classes, designated as classes A, B, and C.

Class A shall consist of three members, without discrimination on the basis of race, creed, color, sex, or national origin, who shall be chosen by and be representative of the stock-holding banks.

Class B shall consist of three members, who shall represent the public and shall be elected without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.

Class C shall consist of three members who shall be designated by the Board of Governors of the Federal Reserve System. They shall be elected to represent the public, without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers. When the necessary subscriptions to the capital stock have been obtained for the organization of any Federal reserve bank, the Board of Governors of the Federal Reserve System shall appoint the class C directors and shall designate one of such directors as chairman of the board to be selected. Pending the designation of such chairman, the organization committee shall exercise the powers and duties appertaining to the office of chairman in the organization of such Federal reserve bank. (Partially incorporated in 12 U.S.C. 302)

No Senator or Representative in Congress shall be a member of the Board of Governors of the Federal Reserve System or an officer or a director of a Federal reserve bank.

No director of class B shall be an officer, director, or employee of any bank.

No director of class C shall be an officer, director, employee, or stockholder of any bank.

Directors of Class A and Class B shall be chosen in the following manner:

The Board of Governors of the Federal Reserve System shall classify the member banks of the district into three general groups or divisions, designating each group by number. Each group shall consist as nearly as may be of banks of similar capitalization. Each member bank shall be permitted to nominate to the chairman of the board of directors of the Federal reserve bank of the district one candidate for director of Class A and one candidate for director of Class B. The candidates so nominated shall be listed by the chairman, indicating by whom nominated, and a copy of said list shall, within fifteen days after its completion, be furnished by the chairman to each member bank. Each member bank by a resolution of the board or by an amendment to its by-laws shall authorize its president, cashier, or some other to cast the vote of the member bank in the elections of Class A and Class B directors: *Provided*, That whenever any member banks within the same Federal Reserve district are subsidiaries of the same bank holding company within the meaning of the Bank Holding Company Act of 1956, participation in any such nomination or election by such member banks, including such bank holding company if it is also a member bank, shall be confined to one of such banks, which may be designated for the purpose by such holding company.

Within fifteen days after receipt of the list of candidates the duly authorized officer of a member bank shall certify to the chairman his first, second, and other choices for director of Class A and Class B, respectively, upon a preferential ballot upon a form furnished by the Chairman of the Board of directors of the Federal reserve bank of the district. Each such officer shall make a cross opposite the name of the first second, and other choices for a director of Class A and for a director of Class B, but shall not vote more than one choice for any one candidate. No officer or director of a member bank shall be eligible to serve as a Class A director unless nominated and elected by banks which are members of the same group as the member bank of which he is an officer or director.

Any person who is an officer or director of more than one member bank shall not be eligible for nominations as a Class A director except by banks in the same group as the bank having the largest aggregate resources of any of those of which such person is an officer or director.

Any candidate having a majority of all votes cast in the column of first choice shall be declared elected. If no candidate have a majority of all the votes in the first column, then there shall be added together the votes cast by the electors for such candidates in the second column and the votes cast for the several candidates in the first column. The candidate then having a majority of the electors voting and the highest number of combined votes shall be declared elected. If no candidate have a majority of electors voting and the highest number of votes when the first and second choices shall have been added, then the votes cast in the third column for other choices shall be added together in like manner, and the candidate then having the highest number of votes shall be declared elected. An immediate report of election shall be declared.

Class C directors shall be appointed by the Board of Governors of the Federal Reserve System. They shall have been for at least

two years residents of the district for which they are appointed, one of whom shall be designated by said board as chairman of the board of directors of the Federal reserve bank and as "Federal reserve agent." He shall be a person of tested banking experience, and in addition to his duties as chairman of the board of directors of the Federal reserve bank he shall be required to maintain, under regulations to be established by the Board of Governors of the Federal Reserve System, a local office of said board on the premises of the Federal reserve bank. He shall make regular reports to the Board of Governors of the Federal Reserve System and shall act as its official representative for the performance of the functions conferred upon it by this Act. He shall receive an annual compensation to be fixed by the Board of Governors of the Federal Reserve System and paid monthly by the Federal reserve bank to which he is designated. One of the directors of class C shall be appointed by the Board of Governors of the Federal Reserve System as deputy chairman to exercise the powers of the chairman of the board when necessary. In case of the absence of the chairman and deputy chairman, the third class C director shall preside at meetings of the board.

Subject to the approval of the Board of Governors of the Federal Reserve System, the Federal reserve agent shall appoint one or more assistants. Such assistants, who shall be persons of tested banking experience, shall assist the Federal reserve agent in the performance of his duties and shall also have power to act in his name and stead during his absence or disability. The Board of Governors of the Federal Reserve System shall require such bonds of the assistant Federal reserve agents as it may deem necessary for the protection of the United States. Assistants to the Federal reserve agent shall receive an annual compensation, to be fixed and paid in the same manner as that of the Federal reserve agent.

Directors of Federal reserve banks shall receive, in addition to any compensation otherwise provided, a reasonable allowance for necessary expenses in attending meetings of their respective boards, which amounts shall be paid by the respective Federal reserve banks. Any compensation that may be provided by boards of directors of Federal reserve banks for directors, officers or employees shall be subject to the approval of the Board of Governors of the Federal Reserve System.

The Reserve Bank Organization Committee may, in organizing Federal reserve banks, call such meetings of bank directors in the several districts as may be necessary to carry out the purposes of this Act, and may exercise the functions herein conferred upon the chairman of the board of directors of each Federal reserve bank pending the complete organization of such bank. (Omitted from U.S. Code)

At the first meeting of the full board of directors of each Federal reserve bank, it shall be the duty of the directors of classes A, B and C, respectively, to designate one of the members of each class whose term of office shall expire in one year from the first of January nearest to date of such meeting, one whose term of office shall expire at the end of two years from said date, and one whose term of office shall expire at the end of three years from said date. Thereafter every director of a Federal reserve bank chosen as hereinbefore provided shall hold office for a term of three years.

Vancancies that may occur in the several classes of directors of Federal reserve banks may be filled in the manner provided for the original selection of such directors, such appointees to hold office for the unexpired terms of their predecessors.

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BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

SEC. 10. The Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board") shall be composed of seven members, to be appointed by the President, by and with the advice and consent of the Senate, after the date of enactment of the Banking Act of 1935, for terms of fourteen years except as hereinafter provided, but each appointive member of the Federal Reserve Board in office on such date shall continue to serve as a member of the Board until February 1, 1936, and the Secretary of the Treasury and the Comptroller of the Currency shall continue to serve as members of the Board until February 1, 1936. In selecting the members of the Board, not more than one of whom shall be selected from any one Federal Reserve district, the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country. In selecting members of the Board, the President shall appoint at least 1 member with demonstrated primary experience working in or supervising community banks having less than \$10,000,000,000 in total assets. The members of the Board shall devote their entire time to the business of the Board and shall each receive and annual salary of \$15,000, payable monthly, together with actual necessary traveling expenses.

The members of the Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any member bank, except that this restriction shall not apply to a member who has served the full term for which he was appointed. Upon the expiration of the term of any appointive member of the Federal Reserve Board in office on the date of enactment of the Banking Act of 1935, the President shall fix the term of the successor to such member at not to exceed fourteen years, as designated by the President at the time of nomination, but in such manner as to provide for the expiration of the term of not more than one member in any two-year period, and thereafter each member shall hold office for a term of fourteen years from the expiration of the term of his predecessor, unless sooner removed for cause by the President. Of the persons thus appointed, 1 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of 4 years, and 2 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairmen of the Board, each for a term of 4 years, 1 of whom shall serve in the absence of the Chairman, as provided in the fourth undesignated paragraph of this section, and 1 of whom shall be designated Vice Chairman for Supervision. The Vice Chairman for Supervision shall develop policy recommendations for the Board regarding supervision and regulation of depository institution holding companies and other financial firms supervised by the Board, and shall oversee the supervision and regulation of such

firms. The chairman of the Board, subject to its supervision, shall be its active executive officer. Each member of the Board shall within fifteen days after notice of appointment make and subscribe to the oath of office. Upon the expiration of their terms of office, members of the Board shall continue to serve until their successors are appointed and have qualified. Any person appointed as a member of the Board after the date of enactment of the Banking Act of 1935 shall not be eligible for reappointment as such member after he shall have served a full term of fourteen years.

The Board of Governors of the Federal Reserve System shall have power to levy semiannually upon the Federal reserve banks, in proportion to their capital stock and surplus, an assessment sufficient to pay its estimated expenses and the salaries of its members and employees for the half year succeeding the levying of such assessment, together with any deficit carried forward from the preceding half year, and such assessments may include amounts sufficient to provide for the acquisition by the Board in its own name of such site or building in the District of Columbia as in its judgment alone shall be necessary for the purpose of providing suitable and adequate quarters for the performance of its functions. After September 1, 2000, the Board may also use such assessments to acquire, in its own name, a site or building (in addition to the facilities existing on such date) to provide for the performance of the functions of the Board. After approving such plans, estimates, and specifications as it shall have caused to be prepared, the Board may, notwithstanding any other provision of law, cause to be constructed on any site so acquired by it a building or buildings suitable and adequate in its judgment for its purposes and proceed to take all such steps as it may deem necessary or appropriate in connection with the construction, equipment, and furnishing of such building or buildings. The Board may maintain, enlarge, or remodel any building or buildings so acquired or constructed and shall have sole control of such building or buildings and space therein.

The principal offices of the Board shall be in the District of Columbia. At meetings of the Board the chairman shall preside, and, in his absence, the vice chairman shall preside. In the absence of the chairman and the vice chairman, the Board shall elect a member to act as chairman pro tempore. The Board shall determine and prescribe the manner in which its obligations shall be incurred and its disbursements and expenses allowed and paid, and may leave on deposit in the Federal Reserve banks the proceeds of assessments levied upon them to defray its estimated expenses and the salaries of its members and employees, whose employment, compensation, leave, and expenses shall be governed solely by the provisions of this Act, specific amendments thereof, and rules and regulations of the Board not inconsistent therewith; and funds derived from such assessments shall not be construed to be Government funds or appropriated moneys. No member of the Board of Governors of the Federal Reserve System shall be an officer or director of any bank, banking institution, trust company, or Federal Reserve bank or hold stock in any bank, banking institution, or trust company; and before entering upon his duties as a member of the Board of Governors of the Federal Reserve System he shall certify under oath that he has complied with this requirement, and such

certification shall be filed with the secretary of the Board. Whenever a vacancy shall occur, other than by expiration of term, among the six members of the Board of Governors of the Federal Reserve System appointed by the President as above provided, a successor shall be appointed by the President, by and with the advice and consent of the Senate, to fill such vacancy, and when appointed he shall hold office for the unexpired term of his predecessor.

The President shall have power to fill all vacancies that may happen on the Board of Governors of the Federal Reserve System during the recess of the Senate by granting commissions which shall expire with the next session of the Senate.

Nothing in this Act contained shall be construed as taking away any powers heretofore vested by law in the Secretary of the Treasury which relate to the supervision, management, and control of the Treasury Department and bureaus under such department, and wherever any power vested by this Act in the Board of Governors of the Federal Reserve System or the Federal reserve agent appears to conflict with the powers of the Secretary of the Treasury, such powers shall be exercised subject to the supervision and control of the Secretary.

The Board of Governors of the Federal Reserve System shall annually make a full report of its operations to the Speaker of the House of Representatives, who shall cause the same to be printed for the information of the Congress. The report required under this paragraph shall include the reports required under section 707 of the Equal Credit Opportunity Act, section 18(f)(7) of the Federal Trade Commission Act, section 114 of the Truth in Lending Act, and the tenth undesignated paragraph of this section.

No Federal Reserve bank may authorize the acquisition or construction of any branch building, or enter into any contract or other obligation for the acquisition or construction of any branch building, without the approval of the Board.

The Board of Governors of the Federal Reserve System shall keep a complete record of the action taken by the Board and by the Federal Open Market Committee upon all questions of policy relating to open-market operations and shall record therein the votes taken in connection with the determination of open-market policies and the reasons underlying the action of the Board and the Committee in each instance. The Board shall keep a similar record with respect to all questions of policy determined by the Board, and shall include in its annual report to the Congress a full account of the action so taken during the preceding year with respect to open-market policies and operations and with respect to the policies determined by it and shall include in such report a copy of the records required to be kept under the provisions of this paragraph.

[(12)] (11) APPEARANCES BEFORE CONGRESS.—The Vice Chairman for Supervision [shall appear] *shall provide written testimony and appear* before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives and at semi-annual hearings regarding the efforts, activities, objectives, and plans of the Board with respect to the conduct of supervision and regulation of depository institution holding companies and other financial firms supervised by the Board. *If, at the time of any appearance described in this paragraph, the po-*



*sition of Vice Chairman for Supervision is vacant, the Chairman or their designee shall appear instead and provide the required written testimony.*

【SEC. 10A. Upon receiving the consent of not less than five members of the Board of Governors of the Federal Reserve System, any Federal Reserve bank may make advances, in such amount as the board of directors of such Federal Reserve bank may determine, to groups of five or more member banks within its district, a majority of them independently owned and controlled, upon their time or demand promissory notes, provided the bank or banks which receive the proceeds of such advances as herein provided have no adequate amounts of eligible and acceptable assets available to enable such bank or banks to obtain sufficient credit accommodations from the Federal Reserve bank through rediscounts or advances other than as provided in section 10(b). The liability of the individual banks in each group must be limited to such proportion of the total amount advanced to such group as the deposit liability of the respective banks bears to the aggregate deposit liability of all banks in such group, but such advances may be made to a lesser number of such member banks if the aggregate amount of their deposit liability constitutes at least 10 per centum of the entire deposit liability of the member banks within such district. Such banks shall be authorized to distribute the proceeds of such loans to such of their number and in such amount as they may agree upon, but before so doing they shall require such recipient banks to deposit with a suitable trustee, representing the entire group, their individual notes made in favor of the group protected by such collateral security as may be agreed upon. Any Federal Reserve bank making such advance shall charge interest or discount thereon at a rate not less than 1 per centum above its discount rate in effect at the time of making such advance. No such note upon which advances are made by a Federal Reserve bank under this section shall be eligible under section 16 of this Act as collateral security for Federal Reserve notes.

【No obligations of any foreign government, individual, partnership, association, or corporation organized under the laws thereof shall be eligible as collateral security for advances under this section.

【Member banks are authorized to obligate themselves in accordance with the provisions of this section.】

SEC. 10B. (a) IN GENERAL.—Any Federal Reserve bank, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, may make advances to any member bank on its time or demand notes having maturities of not more than four months and which are secured to the satisfaction of such Federal Reserve bank.

Notwithstanding the foregoing, any Federal Reserve bank, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, may make advances to any member bank on its time notes having such maturities as the Board may prescribe and which are *not* secured by mortgage loans covering a one-to-four family residence. Such advances shall bear interest at a rate equal to the 【lowest discount rate】 *highest discount rate* in effect at such Federal Reserve bank on the date of such note.

(b) LIMITATIONS ON ADVANCES.—

(1) LIMITATION ON EXTENDED PERIODS.—Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

(2) VIABILITY EXCEPTION.—

(A) IN GENERAL.—If—

(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is viable; or

(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is viable,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

(B) EXTENSIONS OF PERIOD.—The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

(C) AUTHORITY TO ISSUE A CERTIFICATE OF VIABILITY MAY NOT BE DELEGATED.—The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

(D) EXTENDED ADVANCES SUBJECT TO PARAGRAPH (3).—Notwithstanding paragraph (1), an undercapitalized depository institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

(i) such institution as critically undercapitalized under paragraph (3); and

(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

(A) LIABILITY FOR INCREASED LOSS.—Notwithstanding any other provision of this section, if—

(i) in the case of any critically undercapitalized depository institution—

(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a critically undercapitalized depository institution; or

(II) any new advance is made to such institution under this section after the end of such period; and

(ii) after the end of that 5-day period, the Deposit Insurance Fund of the Federal Deposit Insurance Corporation incurs a loss exceeding the loss that the Cor-

poration would have incurred if it had liquidated that institution as of the end of that period, the Board shall, subject to the limitations in subparagraph (B), be liable to the Federal Deposit Insurance Corporation for the excess loss, without regard to the terms of the advance or any collateral pledged to secure the advance.

(B) **LIMITATION ON EXCESS LOSS.**—The liability of the Board under subparagraph (A) shall not exceed the lesser of the following:

(i) The amount of the loss the Board or any Federal Reserve bank would have incurred on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) if those increased advances had been unsecured.

(ii) The interest received on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A).

(C) **FEDERAL RESERVE TO PAY OBLIGATION.**—The Board shall pay the Federal Deposit Insurance Corporation the amount of any liability of the Board under subparagraph (A).

(D) **REPORT.**—The Board shall report to the Congress on any excess loss liability it incurs under subparagraph (A), as limited by subparagraph (B)(i), and the reasons therefore, not later than 6 months after incurring the liability.

(4) **NO OBLIGATION TO MAKE ADVANCES.**—A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

(5) **DEFINITIONS.**—

(A) **APPROPRIATE FEDERAL BANKING AGENCY.**—The term “appropriate Federal banking agency” has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(B) **CRITICALLY UNDERCAPITALIZED.**—The term “critically undercapitalized” has the same meaning as in section 38 of the Federal Deposit Insurance Act.

(C) **DEPOSITORY INSTITUTION.**—The term “depository institution” has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(D) **UNDERCAPITALIZED DEPOSITORY INSTITUTION.**—The term “undercapitalized depository institution” means any depository institution which—

(i) is undercapitalized, as defined in section 38 of the Federal Deposit Insurance Act; or

(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

(E) **VIABLE.**—A depository institution is “viable” if the Board or the appropriate Federal banking agency determines, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution—

(i) is not critically undercapitalized;

(ii) is not expected to become critically undercapitalized; and

(iii) is not expected to be placed in conservatorship or receivership.

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SEC. 11. The Board of Governors of the Federal Reserve System shall be authorized and empowered:

(a)(1) To examine at its discretion the accounts, books and affairs of each Federal reserve bank and of each member bank and to require such statements and reports as it may deem necessary. The said board shall publish once each week a statement showing the condition of each Federal reserve bank and a consolidated statement for all Federal reserve banks. Such statements shall show in detail the assets and liabilities of the Federal reserve banks, single and combined, and shall furnish full information regarding the character of the money held as reserve and the amount, nature and maturities of the paper and other investments owned or held by Federal reserve banks.

(2) To require any depository institution specified in this paragraph to make, at such intervals as the Board may prescribe, such reports of its liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. Such reports shall be made (A) directly to the Board in the case of member banks and in the case of other depository institutions whose reserve requirements under section 19 of this Act exceed zero, and (B) for all other reports to the Board through the (i) Federal Deposit Insurance Corporation in the case of insured State savings associations that are insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), State non-member banks, savings banks, and mutual savings banks, (ii) National Credit Union Administration Board in the case of insured credit unions, (iii) the Comptroller of the Currency in the case of any Federal savings association which is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or which is a member as defined in section 2 of the Federal Home Loan Bank Act, and (iv) such State officer or agency as the Board may designate in the case of any other type of bank, savings association, or credit union. The Board shall endeavor to avoid the imposition of unnecessary burdens on reporting institutions and the duplication of other reporting requirements. Except as otherwise required by law, any data provided to any department, agency, or instrumentality of the United States pursuant to other reporting requirements shall be made available to the Board. The Board may classify depository institutions for the purposes of this paragraph and may impose different requirements on each such class.

(b) To permit, or, on the affirmative vote of at least five members of the Board of Governors of the Federal Reserve System to require Federal reserve banks to rediscount the discounted paper of other Federal reserve banks at rates of interest to be fixed by the Board of Governors of the Federal Reserve System.

(c) To suspend for a period not exceeding thirty days, and from time to time to renew such suspension for periods not exceeding fifteen days, any reserve requirements specified in this Act.

(d) To supervise and regulate through the Secretary of the Treasury the issue and retirement of Federal reserve notes, except for the cancellation and destruction, and accounting with respect to such cancellation and destruction, of notes unfit for circulation, and to prescribe rules and regulations under which such notes may be delivered by the Secretary of the Treasury to the Federal reserve agents applying therefor.

(e) To add to the number of cities classified as Reserve cities under existing law in which national banking associations are subject to the Reserve requirements set forth in section twenty of this Act; or to reclassify existing Reserve cities or to terminate their designation as such.

(f) To suspend or remove any officer or director of any Federal reserve bank, the cause of such removal to be forthwith communicated in writing by the Board of Governors of the Federal Reserve System to the removed officer or director and to said bank.

(g) To require the writing off of doubtful or worthless assets upon the books and balance sheets of Federal reserve banks.

(h) To suspend, for the violation of any of the provisions of this Act, the operations of any Federal reserve bank, to take possession thereof, administer the same during the period of suspension, and, when deemed advisable, to liquidate or reorganize such bank.

(i) To require bonds of Federal reserve agents, to make regulations for the safeguarding of all collateral, bonds, Federal reserve notes, money or property of any kind deposited in the hands of such agents, and said board shall perform the duties, functions, or services specified in this Act, and make all rules and regulations necessary to enable said board effectively to perform the same.

(j) To exercise general supervision over said Federal reserve banks.

(k) To delegate, by published order or rule and subject to the Administrative Procedure Act, any of its functions, other than those relating to rulemaking or pertaining principally to monetary and credit policies, to one or more administrative law judges, members or employees of the Board, or Federal Reserve banks. The assignment of responsibility for the performance of any function that the Board determines to delegate shall be a function of the Chairman. The Board shall, upon the vote of one member, review action taken at a delegated level within such time and in such manner as the Board shall by rule prescribe. The Board of Governors may not delegate to a Federal reserve bank its functions for the establishment of policies for the supervision and regulation of depository institution holding companies and other financial firms supervised by the Board of Governors.

(l) To employ such attorneys, experts, assistants, clerks, or other employees as may be deemed necessary to conduct the business of the board. All salaries and fees shall be fixed in advance by said board and shall be paid in the same manner as the salaries of the members of said board. All such attorneys, experts, assistants, clerks, and other employees shall be appointed without regard to the provisions of the Act of January sixteenth, eighteen hundred and eighty-three (volume twenty-two, United States Statutes at Large, page four hundred and three), and amendments thereto, or any rule or regulation made in pursuance thereof: *Provided*, That nothing herein shall prevent the President from placing said em-

ployees in the classified service. *Each member of the Board of Governors of the Federal Reserve System may employ, at a minimum, 2 individuals, with such individuals selected by such member and the salaries of such individuals set by such member. A member may employ additional individuals as determined necessary by the Board of Governors.*

(n) To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act.

(o) **AUTHORITY TO APPOINT CONSERVATOR OR RECEIVER.**—The Board may appoint the Federal Deposit Insurance Corporation as conservator or receiver for a State member bank under section 11(c)(9) of the Federal Deposit Insurance Act.

(p) **AUTHORITY.**—The Board may act in its own name and through its own attorneys in enforcing any provision of this title, regulations promulgated hereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Board is a party and which involves the Board's regulation or supervision of any bank, bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956), or other entity, or the administration of its operations.

(q) **UNIFORM PROTECTION AUTHORITY FOR FEDERAL RESERVE FACILITIES.**—

(1) Notwithstanding any other provision of law, to authorize personnel to act as law enforcement officers to protect and safeguard the premises, grounds, property, personnel, including members of the Board, of the Board, or any Federal reserve bank, and operations conducted by or on behalf of the Board or a reserve bank.

(2) The Board may, subject to the regulations prescribed under paragraph (5), delegate authority to a Federal reserve bank to authorize personnel to act as law enforcement officers to protect and safeguard the bank's premises, grounds, property, personnel, and operations conducted by or on behalf of the bank.

(3) Law enforcement officers designated or authorized by the Board or a reserve bank under paragraph (1) or (2) are authorized while on duty to carry firearms and make arrests without warrants for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States committed or being committed within the buildings and grounds of the Board or a reserve bank if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony. Such officers shall have access to law enforcement information that may be necessary for the protection of the property or personnel of the Board or a reserve bank.

(4) For purposes of this subsection, the term "law enforcement officers" means personnel who have successfully completed law enforcement training and are authorized to carry firearms and make arrests pursuant to this subsection.

(5) The law enforcement authorities provided for in this subsection may be exercised only pursuant to regulations prescribed by the Board and approved by the Attorney General.

(r)(1) Any action that this Act provides may be taken only upon the affirmative vote of 5 members of the Board may be taken upon the unanimous vote of all members then in office if there are fewer than 5 members in office at the time of the action.

(2)(A) Any action that the Board is otherwise authorized to take under section 13(3) may be taken upon the unanimous vote of all available members then in office, if—

(i) at least 2 members are available and all available members participate in the action;

(ii) the available members unanimously determine that—

(I) unusual and exigent circumstances exist and the borrower is unable to secure adequate credit accommodations from other sources;

(II) action on the matter is necessary to prevent, correct, or mitigate serious harm to the economy or the stability of the financial system of the United States;

(III) despite the use of all means available (including all available telephonic, telegraphic, and other electronic means), the other members of the Board have not been able to be contacted on the matter; and

(IV) action on the matter is required before the number of Board members otherwise required to vote on the matter can be contacted through any available means (including all available telephonic, telegraphic, and other electronic means); and

(iii) any credit extended by a Federal reserve bank pursuant to such action is payable upon demand of the Board.

(B) The available members of the Board shall document in writing the determinations required by subparagraph (A)(ii), and such written findings shall be included in the record of the action and in the official minutes of the Board, and copies of such record shall be provided as soon as practicable to the members of the Board who were not available to participate in the action and to the Chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate and to the Chairman of the Committee on Financial Services of the House of Representatives.

(s) FEDERAL RESERVE TRANSPARENCY AND RELEASE OF INFORMATION.—

(1) IN GENERAL.—In order to ensure the disclosure in a timely manner consistent with the purposes of this Act of information concerning the borrowers and counterparties participating in emergency credit facilities, discount window lending programs, and open market operations authorized or conducted by the Board or a Federal reserve bank, the Board of Governors shall disclose, as provided in paragraph (2)—

(A) the names and identifying details of each borrower, participant, or counterparty in any credit facility or covered transaction;

(B) the amount borrowed by or transferred by or to a specific borrower, participant, or counterparty in any credit facility or covered transaction;

- (C) the interest rate or discount paid by each borrower, participant, or counterparty in any credit facility or covered transaction; and
- (D) information identifying the types and amounts of collateral pledged or assets transferred in connection with participation in any credit facility or covered transaction.
- (2) MANDATORY RELEASE DATE.—In the case of—
- (A) a credit facility, the Board shall disclose the information described in paragraph (1) on the date that is 1 year after the effective date of the termination by the Board of the authorization of the credit facility; and
- (B) a covered transaction, the Board shall disclose the information described in paragraph (1) on the last day of the eighth calendar quarter following the calendar quarter in which the covered transaction was conducted.
- (3) EARLIER RELEASE DATE AUTHORIZED.—The Chairman of the Board may publicly release the information described in paragraph (1) before the relevant date specified in paragraph (2), if the Chairman determines that such disclosure would be in the public interest and would not harm the effectiveness of the relevant credit facility or the purpose or conduct of covered transactions.
- (4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:
- (A) CREDIT FACILITY.—The term “credit facility” has the same meaning as in section 714(f)(1)(A) of title 31, United States Code.
- (B) COVERED TRANSACTION.—The term “covered transaction” means—
- (i) any open market transaction with a nongovernmental third party conducted under the first undesignated paragraph of section 14 or subparagraph (a), (b), or (c) of the 2nd undesignated paragraph of such section, after the date of enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act; and
  - (ii) any advance made under section 10B after the date of enactment of that Act.
- (5) TERMINATION OF CREDIT FACILITY BY OPERATION OF LAW.—A credit facility shall be deemed to have terminated as of the end of the 24-month period beginning on the date on which the credit facility ceases to make extensions of credit and loans, unless the credit facility is otherwise terminated by the Board before such date.
- (6) CONSISTENT TREATMENT OF INFORMATION.—Except as provided in this subsection or section 13(3)(D), or in section 714(f)(3)(C) of title 31, United States Code, the information described in paragraph (1) and information concerning the transactions described in section 714(f) of such title, shall be confidential, including for purposes of section 552(b)(3) of title 5 of such Code, until the relevant mandatory release date described in paragraph (2), unless the Chairman of the Board determines that earlier disclosure of such information would be in the public interest and would not harm the effectiveness of the relevant credit facility or the purpose of conduct of the relevant transactions.



(7) PROTECTION OF PERSONAL PRIVACY.—This subsection and section 13(3)(C), section 714(f)(3)(C) of title 31, United States Code, and subsection (a) or (c) of section 1109 of the Dodd-Frank Wall Street Reform and Consumer Protection Act shall not be construed as requiring any disclosure of nonpublic personal information (as defined for purposes of section 502 of the Gramm-Leach-Bliley Act (12 U.S.C. 6802)) concerning any individual who is referenced in collateral pledged or assets transferred in connection with a credit facility or covered transaction, unless the person is a borrower, participant, or counterparty under the credit facility or covered transaction.

(8) STUDY OF FOIA EXEMPTION IMPACT.—

(A) STUDY.—The Inspector General of the Board of Governors of the Federal Reserve System shall—

(i) conduct a study on the impact that the exemption from section 552(b)(3) of title 5 (known as the Freedom of Information Act) established under paragraph (6) has had on the ability of the public to access information about the administration by the Board of Governors of emergency credit facilities, discount window lending programs, and open market operations; and

(ii) make any recommendations on whether the exemption described in clause (i) should remain in effect.

(B) REPORT.—Not later than 30 months after the date of enactment of this section, the Inspector General of the Board of Governors of the Federal Reserve System shall submit a report on the findings of the study required under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and publish the report on the website of the Board.

(9) RULE OF CONSTRUCTION.—Nothing in this section is meant to affect any pending litigation or lawsuit filed under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act), on or before the date of enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

**[(s)] (t) ASSESSMENTS, FEES, AND OTHER CHARGES FOR CERTAIN COMPANIES.—**

(1) IN GENERAL.—The Board shall collect a total amount of assessments, fees, or other charges from the companies described in paragraph (2) that is equal to the total expenses the Board estimates are necessary or appropriate to carry out the supervisory and regulatory responsibilities of the Board with respect to such companies.

(2) COMPANIES.—The companies described in this paragraph are—

(A) all bank holding companies having total consolidated assets of \$50,000,000,000 or more;

(B) all savings and loan holding companies having total consolidated assets of \$50,000,000,000 or more; and

(C) all nonbank financial companies supervised by the Board under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

(u) *PROHIBITED AND RESTRICTED FINANCIAL INTERESTS AND TRANSACTIONS.*—The members and employees of the Board of Governors of the Federal Reserve System shall be subject to the provisions under section 4401.102 of title 5, Code of Federal Regulations, to the same extent as such provisions apply to an employee of the Securities and Exchange Commission.

(v) *DISCLOSURE OF STAFF SALARIES AND FINANCIAL INFORMATION.*—The Board of Governors of the Federal Reserve System shall make publicly available, on the website of the Board of Governors, a searchable database that contains the names of all members, officers, and employees of the Board of Governors who receive an annual salary in excess of the annual rate of basic pay for GS-15 of the General Schedule, and—

(1) the yearly salary information for such individuals, along with any nonsalary compensation received by such individuals; and

(2) any financial disclosures required to be made by such individuals.

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**SEC. 11C. APPROPRIATIONS REQUIREMENT FOR NON-MONETARY POLICY RELATED ADMINISTRATIVE COSTS.**

(a) *APPROPRIATIONS REQUIREMENT.*—

(1) *RECOVERY OF COSTS OF ANNUAL APPROPRIATION.*—The Board of Governors of the Federal Reserve System and the Federal reserve banks shall collect assessments and other fees, as provided under this Act, that are designed to recover the costs to the Government of the annual appropriation to the Board of Governors of the Federal Reserve System by Congress. The Board of Governors of the Federal Reserve System and the Federal reserve banks may only incur obligations or allow and pay expenses with respect to non-monetary policy related administrative costs pursuant to an appropriations Act.

(2) *OFFSETTING COLLECTIONS.*—Assessments and other fees described under paragraph (1) for any fiscal year—

(A) shall be deposited and credited as offsetting collections to the account providing appropriations to the Board of Governors of the Federal Reserve System; and

(B) shall not be collected for any fiscal year except to the extent provided in advance in appropriation Acts.

(3) *LIMITATION.*—This subsection shall only apply to the non-monetary policy related administrative costs of the Board of Governors of the Federal Reserve System.

(b) *DEFINITIONS.*—For purposes of this section:

(1) *MONETARY POLICY.*—The term “monetary policy” means a strategy for producing a generally acceptable exchange medium that supports the productive employment of economic resources by reliably serving as both a unit of account and store of value.

(2) *NON-MONETARY POLICY RELATED ADMINISTRATIVE COSTS.*—The term “non-monetary policy related administrative costs” means administrative costs not related to the conduct of monetary policy, and includes—

(A) direct operating expenses for supervising and regulating entities supervised and regulated by the Board of Governors of the Federal Reserve System, including con-

ducting examinations, conducting stress tests, communicating with the entities regarding supervisory matters and laws, and regulations;

(B) operating expenses for activities integral to carrying out supervisory and regulatory responsibilities, such as training staff in the supervisory function, research and analysis functions including library subscription services, and collecting and processing regulatory reports filed by supervised institutions; and

(C) support, overhead, and pension expenses related to the items described under subparagraphs (A) and (B).

\* \* \* \* \*

SEC. 12A. (a) There is hereby created a Federal Open Market Committee (hereinafter referred to as the "Committee"), which shall consist of the members of the Board of Governors of the Federal Reserve System and [five representatives of the Federal Reserve banks to be selected as hereinafter provided] *one representative from each of the Federal Reserve banks*. Such representatives shall be presidents or first vice presidents of Federal Reserve banks [and, beginning with the election for the term commencing March 1, 1943, shall be elected annually as follows: One by the board of directors of the Federal Reserve Bank of New York, one by the boards of directors of the Federal Reserve Banks of Boston, Philadelphia, and Richmond, one by the boards of directors of the Federal Reserve Banks of Cleveland and Chicago, one by the boards of directors of the Federal Reserve Banks of Atlanta, Dallas, and St. Louis, and one by the boards of directors of the Federal Reserve Banks of Minneapolis, Kansas City, and San Francisco]. [In such elections each board of directors shall have one vote; and the details of such elections may be governed by regulations prescribed by the committee, which may be amended from time to time. An alternate to serve in the absence of each such representative shall likewise be a president or first vice president of a Federal Reserve bank and shall be elected annually in the same manner.] The meetings of said Committee shall be held at Washington, District of Columbia, at least four times each year upon the call of the chairman of the Board of Governors of the Federal Reserve System or at the request of any three members of the Committee.

(b) *POLICY TRANSPARENCY.*—

(1) *MONETARY POLICY STRATEGY.*—

(A) *IN GENERAL.*—*The Committee shall annually establish exactly 1 monetary policy strategy, which shall serve as a non-technical public communication of the Committee's consensus expectation for the conduct of monetary policy during that calendar year.*

(B) *REQUIREMENTS.*—*Each monetary policy strategy of the Committee shall include the following:*

(i) *A plain English description of how the Committee would adjust each of the following monetary policy instruments in reaction to changes in a small and well-defined set of publicly available economic indicators:*

(I) *Short-term interest rate targets established by the Committee.*

(II) *Open-market operations authorized under section 14.*

(III) *Earnings on balances maintained at a Federal reserve bank by or on behalf of a depository institution under section 19(b)(12).*

(ii) *An identification of 1 monetary policy instrument from the list in clause (i) that the Committee expects to use as the primary instrument for implementing the monetary policy strategy described under subparagraph (A).*

(2) *REFERENCE MONETARY POLICY RULES.—In addition to the monetary policy strategy required under paragraph (1), the Committee shall annually adopt at least 1 and not more than 3 reference monetary policy rules, each of which shall mathematically express how the primary monetary policy instrument identified under paragraph (1)(B)(ii) reacts to changes in a small and well-defined set of publicly available economic indicators.*

(3) *DEVIATIONS.—Nothing in this subsection shall be construed to prevent the Committee from setting short-term interest rate targets, conducting open-market operations, or paying earnings on balances pursuant to section 19(b)(12) in a manner that deviates from a monetary policy strategy or any reference monetary policy rules established under this subsection.*

(c) *TESTIMONY AND REPORTS OF THE CHAIRMAN.—The Chairman shall, concurrent with each semi-annual hearing required under section 2B, submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives, containing—*

(1) *a statement as to whether the monetary policy strategy established under subsection (b)(1) qualitatively differs from any of the reference monetary policy rules required under subsection (b)(2) and, if applicable, a full and non-technical explanation of any such difference;*

(2) *a statement as to whether the Committee's conduct of monetary policy since the previous report quantitatively differs from any reference monetary policy rule and, if applicable, a full and non-technical explanation of any such differences; and*

(3) *a description of—*

(A) *the circumstances under which the Committee's monetary policy strategy may be amended from year to year; and*

(B) *a full and non-technical explanation of any such actual amendment.*

[(b)] (d) *No Federal Reserve bank shall engage or decline to engage in open-market operations under section 14 of this Act except in accordance with the direction of and regulations adopted by the Committee. The Committee shall consider, adopt, and transmit to the several Federal Reserve banks, regulations relating to the open-market transactions of such banks.*

[(c)] (e) *The time, character, and volume of all purchases and sales of paper described in section 14 of this Act as eligible for open-market operations shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.*

(f) *BLACKOUT PERIOD.—*

(1) *IN GENERAL.*—During a blackout period, the only public communications that may be made by members and staff of the Committee with respect to macroeconomic or financial developments or about current or prospective monetary policy issues are the following:

(A) *The dissemination of published data, surveys, and reports that have been cleared for publication by the Board of Governors of the Federal Reserve System.*

(B) *Answers to technical questions specific to a data release.*

(C) *Communications with respect to the prudential or supervisory functions of the Board of Governors.*

(2) *BLACKOUT PERIOD DEFINED.*—For purposes of this subsection, and with respect to a meeting of the Committee described under subsection (a), the term “blackout period” means the time period that—

(A) *begins immediately after midnight on the day that is one week prior to the date on which such meeting takes place; and*

(B) *ends at midnight on the day after the date on which such meeting takes place.*

(3) *EXEMPTION FOR CHAIRMAN OF THE BOARD OF GOVERNORS.*—Nothing in this section shall prohibit the Chairman of the Board of Governors of the Federal Reserve System from participating in or issuing public communications.

#### POWERS OF FEDERAL RESERVE BANKS.

SEC. 13. Any Federal reserve bank may receive from any of its member banks or other depository institutions, and from the United States, deposits of current funds in lawful money, national-bank notes, Federal reserve notes, or checks, and drafts, payable upon presentation or other items, and also, for collection, maturing notes and bills; or, solely for purposes of exchange or of collection, may receive from other Federal reserve banks deposits of current funds in lawful money, national-bank notes, or checks upon other Federal reserve banks, and checks and drafts, payable upon presentation within its district or other items, and maturing notes and bills payable within its district; or, solely for the purposes of exchange or of collection, may receive from any nonmember bank or trust company or other depository institution deposits of current funds in lawful money, national-bank notes, Federal reserve notes, checks and drafts payable upon presentation or other items, or maturing notes and bills: *Provided*, Such nonmember bank or trust company or other depository institution maintains with the Federal reserve bank of its district a balance in such amount as the Board determines taking into account items in transit, services provided by the Federal Reserve bank, and other factors as the Board may deem appropriate: *Provided further*, That nothing in this or any other section of this Act shall be construed as prohibiting a member or nonmember bank or other depository institution from making reasonable charges, to be determined and regulated by the Board of Governors of the Federal Reserve System, but in no case to exceed 10 cents per \$100 or fraction thereof, based on the total of checks and drafts presented at any one time, for collection or payment of checks and drafts and remission therefor by exchange

or otherwise; but no such charges shall be made against the Federal reserve banks.

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice and protest by such bank as to its own indorsement exclusively, any Federal reserve bank may discount notes, drafts, and bills of exchange arising out of actual commercial transactions; that is, notes, drafts, and bills of exchange issued or drawn for agricultural, industrial, or commercial purposes, or the proceeds of which have been used, or are to be used, for such purposes, the Board of Governors of the Federal Reserve System to have the right to determine or define the character of the paper thus eligible for discount, within the meaning of this Act. Nothing in this Act contained shall be construed to prohibit such notes, drafts, and bills of exchange, secured by staple agricultural products, or other goods, wares, or merchandise from being eligible for such discount, and the notes, drafts, and bills of exchange of factors issued as such making advances exclusively to producers of staple agricultural products in their raw state shall be eligible for such discount; but such definition shall not include notes, drafts, or bills covering merely investments or issued or drawn for the purpose of carrying or trading in stocks, bonds, or other investment securities, except bonds and notes of the Government of the United States. Notes, drafts, and bills admitted to discount under the terms of this paragraph must have a maturity at the time of discount of not more than 90 days, exclusive of grace.

(3)(A) In unusual and exigent circumstances *that pose a threat to the financial stability of the United States*, the Board of Governors of the Federal Reserve System, by [the affirmative vote of not less than five members] *the prior approval of the Secretary of the Treasury and not less than  $\frac{2}{3}$  of the members of the Federal Open Market Committee*, may authorize any Federal reserve bank, during such periods as the said board may determine, at rates established in accordance with the provisions of section 14, subdivision (d), of this Act, to discount for any *financial institution* participant in any program or facility with broad-based eligibility, notes, drafts, and bills of exchange when such notes, drafts, and bills of exchange are indorsed or otherwise secured to the satisfaction of the Federal Reserve bank: *Provided*, That before discounting any such note, draft, or bill of exchange, the Federal reserve bank shall obtain evidence that such *financial institution* participant in any program or facility with broad-based eligibility is unable to secure adequate credit accommodations from other banking institutions. All such discounts for any *financial institution* participant in any program or facility with broad-based eligibility shall be subject to such limitations, restrictions, and regulations as the Board of Governors of the Federal Reserve System may prescribe.

(B)(i) As soon as is practicable after the date of enactment of this subparagraph, the Board shall establish, by regulation, in consultation with the Secretary of the Treasury, the policies and procedures governing emergency lending under this paragraph. Such policies and procedures shall be designed to ensure that any emergency lending program or facility is for the purpose of providing liquidity to the financial system, and not to aid a failing financial company, and that the security for emergency loans is sufficient to protect taxpayers from losses and that any such program is terminated in

a timely and orderly fashion. The policies and procedures established by the Board shall require that a Federal reserve bank assign, consistent with sound risk management practices and to ensure protection for the taxpayer, a lendable value to all collateral for a loan executed by a Federal reserve bank under this paragraph in determining whether the loan is secured satisfactorily for purposes of this paragraph. *Federal reserve banks may not accept equity securities issued by the recipient of any loan or other financial assistance under this paragraph as collateral. Not later than 6 months after the date of the enactment of this sentence, the Board shall, by rule, establish—*

*(I) a method for determining the sufficiency of the collateral required under this paragraph;*

*(II) acceptable classes of collateral;*

*(III) the amount of any discount on the value of the collateral that the Federal reserve banks will apply for purposes of calculating the sufficiency of collateral under this paragraph; and*

*(IV) a method for obtaining independent appraisals of the value of collateral the Federal reserve banks receive.*

(ii) The Board shall establish procedures to prohibit borrowing from programs and facilities by borrowers that are insolvent. A borrower shall not be eligible to borrow from any emergency lending program or facility unless the Board and all Federal banking regulators with jurisdiction over the borrower certify that, at the time the borrower initially borrows under the program or facility, the borrower is not insolvent. [Such procedures may include a certification from the chief executive officer (or other authorized officer) of the borrower, at the time the borrower initially borrows under the program or facility (with a duty by the borrower to update the certification if the information in the certification materially changes), that the borrower is not insolvent.] A borrower shall be considered insolvent for purposes of this subparagraph, if the borrower is in bankruptcy, resolution under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or any other Federal or State insolvency proceeding.

(iii) A program or facility that is structured to remove assets from the balance sheet of a single and specific company, or that is established for the purpose of assisting a single and specific company avoid bankruptcy, resolution under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or any other Federal or State insolvency proceeding, shall not be considered a program or facility with broad-based eligibility.

[(iv) The Board may not establish any program or facility under this paragraph without the prior approval of the Secretary of the Treasury.]

(C) The Board shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

(i) not later than 7 days after the Board authorizes any loan or other financial assistance under this paragraph, a report that includes—

(I) the justification for the exercise of authority to provide such assistance;

(II) the identity of the recipients of such assistance;

(III) the date and amount of the assistance, and form in which the assistance was provided; and

(IV) the material terms of the assistance, including—

(aa) duration;

(bb) collateral pledged and the value thereof;

(cc) all interest, fees, and other revenue or items of value to be received in exchange for the assistance;

(dd) any requirements imposed on the recipient with respect to employee compensation, distribution of dividends, or any other corporate decision in exchange for the assistance; and

(ee) the expected costs to the taxpayers of such assistance; and

(ii) once every 30 days, with respect to any outstanding loan or other financial assistance under this paragraph, written updates on—

(I) the value of collateral;

(II) the amount of interest, fees, and other revenue or items of value received in exchange for the assistance; and

(III) the expected or final cost to the taxpayers of such assistance.

(D) The information required to be submitted to Congress under subparagraph (C) related to—

(i) the identity of the *financial institution* participants in an emergency lending program or facility commenced under this paragraph;

(ii) the amounts borrowed by each *financial institution* participant in any such program or facility;

(iii) identifying details concerning the assets or collateral held by, under, or in connection with such a program or facility,

shall be kept confidential, upon the written request of the Chairman of the Board, in which case such information shall be made available only to the Chairpersons or Ranking Members of the Committees described in subparagraph (C).

(E) If an entity to which a Federal reserve bank has provided a loan under this paragraph becomes a covered financial company, as defined in section 201 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, at any time while such loan is outstanding, and the Federal reserve bank incurs a realized net loss on the loan, then the Federal reserve bank shall have a claim equal to the amount of the net realized loss against the covered entity, with the same priority as an obligation to the Secretary of the Treasury under section 210(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

(F) *Not later than 1 year after a Federal reserve bank acquires any assets under this paragraph that are neither gold nor direct obligations of the United States, foreign central banks, or the International Monetary Fund—*



(i) the Board shall transfer such assets of the Federal reserve bank to the Department of the Treasury; and

(ii) the Secretary of the Treasury shall transfer to the Federal reserve banks direct obligations of the United States of equivalent market value to the assets described in clause (i).

(G) JOINT RESOLUTION OF APPROVAL.—

(i) IN GENERAL.—A program or facility created under subparagraph (A) shall terminate on the date that is 30 calendar days after the date on which Congress receives a report described in subparagraph (C) unless there is enacted into law a joint resolution approving the program or facility not later than 30 calendar days after the date on which the report is received. Any loan offered through the program or facility that is outstanding as of the date on which the program or facility is terminated shall be repaid in full not later than 30 calendar days after the date on which the program or facility is terminated.

(ii) CONTENTS OF JOINT RESOLUTION.—For the purpose of this subparagraph, the term “joint resolution” means only a joint resolution—

(I) that is introduced not later than 3 calendar days after the date on which the report described in subparagraph (C) is received by Congress;

(II) that does not have a preamble;

(III) the title of which is as follows: “Joint resolution relating to the approval of a program or facility created by the Board of Governors of the Federal Reserve System”; and

(IV) the matter after the resolving clause of which is as follows: “That Congress approves the program or facility created by the Board of Governors of the Federal Reserve System on \_\_\_\_\_.” (The blank space being appropriately filled in).

(iii) FAST TRACK CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

(I) RECONVENING.—Upon receipt of a report under subparagraph (C), the Speaker, if the House would otherwise be adjourned, shall notify the Members of the House that, pursuant to this subparagraph, the House shall convene not later than the second calendar day after receipt of such report.

(II) REPORTING AND DISCHARGE.—Any committee of the House of Representatives to which a joint resolution is referred shall report it to the House not later than 5 calendar days after the date of receipt of the report described in subparagraph (C). If a committee fails to report the joint resolution within that period, the committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be referred to the appropriate calendar.

(III) PROCEEDING TO CONSIDERATION.—After each committee authorized to consider a joint resolution reports it to the House or has been discharged from its consideration, it shall be in order, not later than the

sixth day after Congress receives the report described in subparagraph (C), to move to proceed to consider the joint resolution in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(IV) CONSIDERATION.—The joint resolution shall be considered as read. All points of order against the joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except 2 hours of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote on passage of the joint resolution shall not be in order.

(iv) FAST TRACK CONSIDERATION IN SENATE.—

(I) RECONVENING.—Upon receipt of a report under subparagraph (C), if the Senate has adjourned or recessed for more than 2 days, the majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate that, pursuant to this subparagraph, the Senate shall convene not later than the second calendar day after receipt of such report.

(II) PLACEMENT ON CALENDAR.—Upon introduction in the Senate, the joint resolution shall be placed immediately on the calendar.

(III) FLOOR CONSIDERATION.—

(aa) IN GENERAL.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the fourth day after the date on which Congress receives a report described in subparagraph (C) and ending on the sixth day after the date on which Congress receives the report (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of.

(bb) DEBATE.—Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more

than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

(cc) VOTE ON PASSAGE.—The vote on passage shall occur immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

(dd) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(v) COORDINATION WITH ACTION BY OTHER HOUSE.—

(I) IN GENERAL.—If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(aa) The joint resolution of the other House shall not be referred to a committee.

(bb) With respect to a joint resolution of the House receiving the resolution—

(AA) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(BB) the vote on passage shall be on the joint resolution of the other House.

(II) TREATMENT OF JOINT RESOLUTION OF OTHER HOUSE.—If one House fails to introduce or consider a joint resolution under this section, the joint resolution of the other House shall be entitled to expedited floor procedures under this section.

(III) CONSIDERATION AFTER PASSAGE.—If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

(IV) VETOES.—If the President vetoes the joint resolution, the period beginning on the date the President vetoes the joint resolution and ending on the date the Congress receives the veto message with respect to the joint resolution shall be disregarded in computing the 30-calendar day period described in clause (i) and debate on a veto message in the Senate under this section shall be 1 hour equally divided between the majority and minority leaders or their designees.

(V) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subparagraph is enacted by Congress—

(aa) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules

of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(bb) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(H) PENALTY RATE.—

(i) IN GENERAL.—Not later than 6 months after the date of enactment of this subparagraph, the Board shall, with respect to a recipient of any loan or other financial assistance under this paragraph, establish by rule a minimum interest rate on the principal amount of any loan or other financial assistance.

(ii) MINIMUM INTEREST RATE DEFINED.—In this subparagraph, the term “minimum interest rate” shall mean the sum of—

(I) the average of the secondary discount rate of all Federal reserve banks over the most recent 90-day period; and

(II) the average of the difference between a distressed corporate bond yield index (as defined by rule of the Board) and a bond yield index of debt issued by the United States (as defined by rule of the Board) over the most recent 90-day period.

(I) FINANCIAL INSTITUTION PARTICIPANT DEFINED.—For purposes of this paragraph, the term “financial institution participant”—

(i) means a company that is predominantly engaged in financial activities (as defined in section 102(a) of the Financial Stability Act of 2010 (12 U.S.C. 5311(a))); and

(ii) does not include an agency described in subparagraph (W) of section 5312(a)(2) of title 31, United States Code, or an entity controlled or sponsored by such an agency.

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice, and protest by such bank as to its own indorsement exclusively, and subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, any Federal reserve bank may discount or purchase bills of exchange payable at sight or on demand which grow out of the domestic shipment or the exportation of nonperishable, readily marketable agricultural and other staples and are secured by bills of lading or other shipping documents conveying or securing title to such staples: *Provided*, That all such bills of exchange shall be forwarded promptly for collection, and demand for payment shall be made with reasonable promptness after the arrival of such staples at their destination: *Provided further*, That no such bill shall in any event be held by or for the account of a Federal reserve bank for a period in excess of ninety days. In discounting such bills Federal reserve banks may compute the interest to be deducted on the basis of the estimated life of each bill and

adjust the discount after payment of such bills to conform to the actual life thereof.

The aggregate of notes, drafts, and bills upon which any person, copartnership, association, or corporation is liable as maker, acceptor, indorser, drawer, or guarantor, rediscounted for any member bank, shall at no time exceed the amount for which such person, copartnership, association, or corporation may lawfully become liable to a national banking association under the terms of section 5200 of the Revised Statutes, as amended: *Provided, however,* That nothing in this paragraph shall be construed to change the character or class of paper now eligible for rediscount by Federal reserve banks.

Any Federal reserve bank may discount acceptances of the kinds hereinafter described, which have a maturity at the time of discount of not more than 90 days' sight, exclusive of days of grace, and which are indorsed by at least one member bank: *Provided,* That such acceptances if drawn for an agricultural purpose and secured at the time of acceptance by warehouse receipts or other such documents conveying or securing title covering readily marketable staples may be discounted with a maturity at the time of discount of not more than six months' sight exclusive of days of grace.

(7)(A) Any member bank and any Federal or State branch or agency of a foreign bank subject to reserve requirements under section 7 of the International Banking Act of 1978 (hereinafter in this paragraph referred to as "institutions"), may accept drafts or bills of exchange drawn upon it having not more than six months' sight to run, exclusive of days of grace—

(i) which grow out of transactions involving the importation or exportation of goods;

(ii) which grow out of transactions involving the domestic shipment of goods; or

(iii) which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title covering readily marketable staples.

(B) Except as provided in subparagraph (C), no institution shall accept such bills, or be obligated for a participation share in such bills, in an amount equal at any time in the aggregate to more than 150 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H).

(C) The Board, under such conditions as it may prescribe, may authorize, by regulation or order, any institution to accept such bills, or be obligated for a participation share in such bills, in an amount not exceeding at any time in the aggregate 200 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H).

(D) Notwithstanding subparagraphs (B) and (C), with respect to any institution, the aggregate acceptances, including obligations for a participation share in such acceptances, growing out of domestic transactions shall not exceed 50 per centum of the aggregate of all acceptances, including obligations for a participation share in such acceptances, authorized for such institution under this paragraph.

(E) No institution shall accept bills, or be obligated for a participation share in such bills, whether in a foreign or domestic transaction, for any one person, partnership, corporation, association or other entity in an amount equal at any time in the aggregate to more than 10 per centum of its paid up and unimpaired capital stock and surplus, or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H), unless the institution is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance.

(F) With respect to an institution which issues an acceptance, the limitations contained in this paragraph shall not apply to that portion of an acceptance which is issued by such institution and which is covered by a participation agreement sold to another institution.

(G) In order to carry out the purposes of this paragraph, the Board may define any of the terms used in this paragraph, and, with respect to institutions which do not have capital or capital stock, the Board shall define an equivalent measure to which the limitations contained in this paragraph shall apply.

(H) Any limitation or restriction in this paragraph based on paid-up and unimpaired capital stock and surplus of an institution shall be deemed to refer, with respect to a United States branch or agency of a foreign bank, to the dollar equivalent of the paid-up capital stock and surplus of the foreign bank, as determined by the Board, and if the foreign bank has more than one United States branch or agency, the business transacted by all such branches and agencies shall be aggregated in determining compliance with the limitation or restriction.

Any Federal reserve bank may make advances for periods not exceeding fifteen days to its member banks on their promissory notes secured by the deposit or pledge of bonds, notes, certificates of indebtedness or Treasury bills of the United States, or by the deposit or pledge of debentures or other such obligations of Federal intermediate credit banks which are eligible for purchase by Federal reserve banks under section 13 (a) of this Act, or by the deposit or pledge of bonds issued under the provisions of subsection (c) of section 4 of the Home Owners' Loan Act of 1933, as amended; and any Federal reserve bank may make advances for periods not exceeding ninety days to its member banks on their promissory notes secured by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible for rediscount or for purchase by Federal reserve banks under the provisions of this Act, or secured by such obligations as are eligible for purchase under section 14(b) of this Act. All such advances shall be made at rates to be established by such Federal reserve banks, such rates to be subject to the review and determination of the Board of Governors of the Federal Reserve System. If any member bank to which any such advance has been made shall, during the life or continuance of such advance, and despite an official warning of the reserve bank of the district or of the Board of Governors of the Federal Reserve System to the contrary, increase its outstanding loans secured by collateral in the form of stocks, bonds, debentures, or other such obligations, or loans made to members of any organized stock exchange, investment house, or dealer in securities, upon any obligation, note, or bill, secured or unsecured, for the purpose of purchasing and/or carrying stocks,

bonds, or other investment securities (except obligations of the United States) such advance shall be deemed immediately due and payable, and such member bank shall be ineligible as a borrower at the reserve bank of the district under the provisions of this paragraph for such period as the Board of Governors of the Federal Reserve System shall determine: *Provided*, That no temporary carrying or clearance loans made solely for the purpose of facilitating the purchase or delivery of securities offered for public subscription shall be included in the loans referred to in this paragraph.

The discount and rediscount and the purchase and sale by any Federal reserve bank of any bills receivable and of domestic and foreign bills of exchange, and of acceptances authorized by this Act, shall be subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System. (Omitted from U.S. Code)

That in addition to the powers not vested by law in national banking associations organized under the laws of the United States any such association located and doing business in any place the population of which does not exceed five thousand inhabitants, as shown by the last preceding decennial census, may, under such rules and regulations as may be prescribed by the Comptroller of the Currency, act as the agent for any fire, life, or other insurance company authorized by the authorities of the State in which said bank is located to do business in said State, by soliciting and selling insurance and collecting premiums on policies issued by such company; and may receive for services so rendered such fees or commissions as may be agreed upon between the said association and the insurance company for which it may act as agent: *Provided, however*, That no such bank shall in any case assume or guarantee the payment of any premium on insurance policies issued through its agency by its principal: *And provided further*, That the bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance.

Any member bank may accept drafts or bills of exchange drawn upon it having not more than three months' sight to run, exclusive of days of grace, drawn under regulations to be prescribed by the Board of Governors of the Federal Reserve System by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies, or insular possessions. Such drafts or bills may be acquired by Federal reserve banks in such amounts and subject to such regulations, restrictions, and limitations as may be prescribed by the Board of Governors of the Federal Reserve System: *Provided, however*, That no member bank shall accept such drafts or bills of exchange referred to this paragraph for any one bank to an amount exceeding in the aggregate ten per centum of the paid-up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security: *Provided further*, That no member bank shall accept such drafts or bills in an amount exceeding at any time the aggregate of one-half of its paid-up and unimpaired capital and surplus. (Omitted from U.S. Code)

Subject to such limitations, restrictions and regulations as the Board of Governors of the Federal Reserve System may prescribe, any Federal reserve bank may make advances to any individual, partnership or corporation on the promissory notes of such individual, partnership or corporation secured by direct obligations of the United States or by any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by, any agency of the United States. Such advances shall be made for periods not exceeding 90 days and shall bear interest at rates fixed from time to time by the Federal reserve bank, subject to the review and determination of the Board of Governors of the Federal Reserve System.

Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch or agency is maintaining reserves with such Reserve bank pursuant to section 7 of the International Banking Act of 1978. In exercising any such powers with respect to any such branch or agency, each Federal Reserve bank shall give due regard to account balances being maintained by such branch or agency with such Reserve bank and the proportion of the assets of such branch or agency being held as reserves under section 7 of the International Banking Act of 1978. For the purposes of this paragraph, the terms "branch," "agency," and "foreign bank" shall have the same meanings assigned to them in section 1 of the International Banking Act of 1978.

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#### OPEN-MARKET OPERATIONS

SEC. 14. Any Federal reserve bank may, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, purchase and sell in the open market, at home or abroad, either from or to domestic or foreign banks, firms, corporations, or individuals, cable transfers and bankers' acceptances and bills of exchange of the kinds and maturities by this Act made eligible for rediscount, with or without the indorsement of a member bank.

Every Federal reserve bank shall have power:

(a) To deal in gold coin and bullion at home or abroad, to make loans thereon, exchange Federal reserve notes for gold, gold coin, or gold certificates, and to contract for loans of gold coin or bullion, giving therefor, when necessary, acceptable security, including the hypothecation of United States bonds or other securities which Federal reserve banks are authorized to hold;

[(b)(1) To buy and sell, at home or abroad, bonds and notes of the United States, bonds issued under the provisions of subsection (c) of section 4 of the Home Owners' Loan Act of 1933, as amended, and having maturities from date of purchase of not exceeding six months, and bills, notes, revenue bonds, and warrants with a maturity from date of purchase of not exceeding six months, issued in anticipation of the collection of taxes or in anticipation of the receipt of assured revenues by any State, county, district, political



subdivision, or municipality in the continental United States, including irrigation, drainage and reclamation districts, and obligations of, or fully guaranteed as to principal and interest by, a foreign government or agency thereof, such purchases to be made in accordance with rules and regulations prescribed by the Board of Governors of the Federal Reserve System. Notwithstanding any other provision of this Act, any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities but only in the open market.

【(2) To buy and sell in the open market, under the direction and regulations of the Federal Open Market Committee, any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by, any agency of the United States. 】

*(b) To buy and sell in the open market, at home or abroad, under the direction and regulations of the Federal Open Market Committee, gold stock, Treasury currency, or direct obligations of the United States, foreign central banks, or the International Monetary Fund. Nothing in this subsection shall be construed to limit advances under section 10B, or discount loans under sections 13, 13A, or 24.*

(c) To purchase from member banks and to sell, with or without its indorsement, bills of exchange arising out of commercial transactions, as hereinbefore defined;

(d) To establish from time to time, subject to review and determination of the Board of Governors of the Federal Reserve System, rates of discount to be charged by the Federal reserve bank for each class of paper, which shall be fixed with a view of accommodating commerce and business; but each such bank shall establish such rates every fourteen days, or oftener if deemed necessary by the Board;

(e) To establish accounts with other Federal reserve banks for exchange purposes and, with the consent or upon the order and direction of the Board of Governors of the Federal Reserve System and under regulations to be prescribed by said board, to open and maintain accounts in foreign countries, appoint correspondents, and establish agencies in such countries wheresoever it may be deemed best for the purpose of purchasing, selling, and collecting bills of exchange, and to buy and sell, with or without its indorsement, through such correspondents or agencies, bills of exchange (or acceptances) arising out of actual commercial transactions which have not more than ninety days to run, exclusive of days of grace, and which bear the signature of two or more responsible parties, and, with the consent of the Board of Governors of the Federal Reserve System, to open and maintain banking accounts for such foreign correspondents or agencies, or for foreign banks or bankers, or for foreign states as defined in section 25 (b) of this Act. Whenever any such account has been opened or agency or correspondent has been appointed by a Federal reserve bank, with the consent of or under the order and direction of the Board of Governors of the Federal Reserve System, any other Federal reserve bank may, with the consent and approval of the Board of Governors of the Federal Reserve System, be permitted to carry on or conduct, through the Federal reserve bank opening such account or appointing such

agency or correspondent, any transaction authorized by this section under rules and regulations to be prescribed by the board.

(f) To purchase and sell in the open market, either from or to domestic banks, firms, corporations, or individuals, acceptances of Federal Intermediate Credit Banks and of National Agricultural Credit Corporations, whenever the Board of Governors of the Federal Reserve System shall declare that the public interest so requires.

(g) The Board of Governors of the Federal Reserve System shall exercise special supervision over all relationships and transactions of any kind entered into by any Federal reserve bank with any foreign bank or banker, or with any group of foreign banks or bankers, and all such relationships and transactions shall be subject to such regulations, conditions, and limitations as the Board may prescribe. No officer or other representative of any Federal reserve bank shall conduct negotiations of any kind with the officers or representatives of any foreign bank or banker without first obtaining the permission of the Board of Governors of the Federal Reserve System. The Board of Governors of the Federal Reserve System shall have the right, in its discretion, to be represented in any conference or negotiations by such representative or representatives as the Board may designate. A full report of all conferences or negotiations, and all understandings or agreements arrived at or transactions agreed upon, and all other material facts appertaining to such conferences or negotiations, shall be filed with the Board of Governors of the Federal Reserve System in writing by a duly authorized officer of each Federal reserve bank which shall have participated in such conferences or negotiations.

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SEC. 19. (a) The Board is authorized for the purposes of this section to define the terms used in this section, to determine what shall be deemed a payment of interest, to determine what types of obligations, whether issued directly by a member bank or indirectly by an affiliate of a member bank or by other means, and regardless of the use of the proceeds, shall be deemed a deposit, and to prescribe such regulations as it may deem necessary to effectuate the purposes of this section and to prevent evasions thereof.

(b) RESERVE REQUIREMENTS.—

(1) DEFINITIONS.—The following definitions and rules apply to this subsection, subsection (c), section 11A, the first paragraph of section 13, and the second, thirteenth, and fourteenth paragraphs of section 16:

(A) The term “depository institution” means—

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(iv) any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act;

(v) any member as defined in section 2 of the Federal Home Loan Bank Act;

(vi) any savings association (as defined in section 3 of the Federal Deposit Insurance Act) which is an insured depository institution (as defined in such Act) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act; and

(vii) for the purpose of section 13 and the fourteenth paragraph of section 16, any association or entity which is wholly owned by or which consists only of institutions referred to in clauses (i) through (vi).

(B) The term “bank” means any insured or noninsured bank, as defined in section 3 of the Federal Deposit Insurance Act, other than a mutual savings bank or a savings bank as defined in such section.

(C) The term “transaction account” means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.

(D) The term “nonpersonal time deposits” means a transferable time deposit or account or a time deposit or account representing funds deposited to the credit of, or in which any beneficial interest is held by, a depositor who is not a natural person.

(E) The term “reservable liabilities” means transaction accounts, nonpersonal time deposits, and all net balances, loans, assets, and obligations which are, or may be, subject to reserve requirements under paragraph (5).

(F) In order to prevent evasions of the reserve requirements imposed by this subsection, after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board, the Board of Governors of the Federal Reserve System is authorized to determine, by regulation or order, that an account or deposit is a transaction account if such account or deposit may be used to provide funds directly or indirectly for the purpose of making payments or transfers to third persons or others.

(2) RESERVE REQUIREMENTS.—(A) Each depository institution shall maintain reserves against its transaction accounts as the Board may prescribe by regulation solely for the purpose of implementing monetary policy—

(i) in a ratio of not greater than 3 percent (and which may be zero) for that portion of its total transaction accounts of \$25,000,000 or less, subject to subparagraph (C); and

(ii) in the ratio of 12 per centum, or in such other ratio as the Board may prescribe not greater than 14 per centum (and which may be zero), for that portion of its total transaction accounts in excess of \$25,000,000, subject to subparagraph (C).

(B) Each depository institution shall maintain reserves against its nonpersonal time deposits in the ratio of 3 per centum, or in such other ratio not greater than 9 per centum and not less than zero per centum as the Board may prescribe by regulation solely for the purpose of implementing monetary policy.

(C) Beginning in 1981, not later than December 31 of each year the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount which is contained in subparagraph (A) or which was last determined pursuant to this subparagraph for the purpose of such subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total transaction accounts of all depository institutions. The increase in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the preceding calendar year from the amount of such accounts on June 30 of the calendar year involved. In the case of any such 12-month period in which there has been a decrease in the total transaction accounts of all depository institutions, the Board shall issue such a regulation decreasing for the next succeeding calendar year such dollar amount by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage decrease in the total transaction accounts of all depository institutions. The decrease in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the calendar year involved from the amount of such accounts on June 30 of the previous calendar year.

(D) Any reserve requirement imposed under this subsection shall be uniformly applied to all transaction accounts at all depository institutions. Reserve requirements imposed under this subsection shall be uniformly applied to nonpersonal time deposits at all depository institutions, except that such requirements may vary by the maturity of such deposits.

(3) WAIVER OF RATIO LIMITS IN EXTRAORDINARY CIRCUMSTANCES.—Upon a finding by at least 5 members of the Board that extraordinary circumstances require such action, the Board, after consultation with the appropriate committees of the Congress, may impose, with respect to any liability of depository institutions, reserve requirements outside the limitations as to ratios and as to types of liabilities otherwise prescribed by paragraph (2) for a period not exceeding 180 days, and for further periods not exceeding 180 days each by affirmative action by at least 5 members of the Board in each instance. The Board shall promptly transmit to the Congress a

report of any exercise of its authority under this paragraph and the reasons for such exercise of authority.

(4) SUPPLEMENTAL RESERVES.—(A) The Board may, upon the affirmative vote of not less than 5 members, impose a supplemental reserve requirement on every depository institution of not more than 4 per centum of its total transaction accounts. Such supplemental reserve requirement may be imposed only if—

(i) the sole purpose of such requirement is to increase the amount of reserves maintained to a level essential for the conduct of monetary policy;

(ii) such requirement is not imposed for the purpose of reducing the cost burdens resulting from the imposition of the reserve requirements pursuant to paragraph (2);

(iii) such requirement is not imposed for the purpose of increasing the amount of balances needed for clearing purposes; and

(iv) on the date on which the supplemental reserve requirement is imposed, except as provided in paragraph (11), the total amount of reserves required pursuant to paragraph (2) is not less than the amount of reserves that would be required if the initial ratios specified in paragraph (2) were in effect.

(B) The Board may require the supplemental reserve authorized under subparagraph (A) only after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board. The Board shall promptly transmit to the Congress a report with respect to any exercise of its authority to require supplemental reserves under subparagraph (A) and such report shall state the basis for the determination to exercise such authority.

(C) If a supplemental reserve under subparagraph (A) has been required of depository institutions for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need, if any, for continuing the supplemental reserve.

(D) Any supplemental reserve imposed under subparagraph (A) shall terminate at the close of the first 90-day period after such requirement is imposed during which the average amount of reserves required under paragraph (2) are less than the amount of reserves which would be required during such period if the initial ratios specified in paragraph (2) were in effect.

(5) RESERVES RELATED TO FOREIGN OBLIGATIONS OR ASSETS.—Foreign branches, subsidiaries, and international banking facilities of nonmember depository institutions shall maintain reserves to the same extent required by the Board of foreign branches, subsidiaries, and international banking facilities of member banks. In addition to any reserves otherwise required to be maintained pursuant to this subsection, any depository institution shall maintain reserves in such ratios as the Board may prescribe against—

(A) net balances owed by domestic offices of such depository institution in the United States to its directly related foreign offices and to foreign offices of nonrelated depository institutions;

(B) loans to United States residents made by overseas offices of such depository institution if such depository institution has one or more offices in the United States; and

(C) assets (including participations) held by foreign offices of a depository institution in the United States which were acquired from its domestic offices.

(6) EXEMPTION FOR CERTAIN DEPOSITS.—The requirements imposed under paragraph (2) shall not apply to deposits payable only outside the States of the United States and the District of Columbia, except that nothing in this subsection limits the authority of the Board to impose conditions and requirements on member banks under section 25 of this Act or the authority of the Board under section 7 of the International Banking Act of 1978.

(7) DISCOUNT AND BORROWING.—Any depository institution in which transaction accounts or nonpersonal time deposits are held shall be entitled to the same discount and borrowing privileges as member banks. In the administration of discount and borrowing privileges, the Board and the Federal Reserve banks shall take into consideration the special needs of savings and other depository institutions for access to discount and borrowing facilities consistent with their long-term asset portfolios and the sensitivity of such institutions to trends in the national money markets.

(8) TRANSITIONAL ADJUSTMENTS.—

(A) Any depository institution required to maintain reserves under this subsection which was engaged in business on July 1, 1979, but was not a member of the Federal Reserve System on or after that date, shall maintain reserves against its deposits during the first twelve-month period following the effective date of this paragraph in amounts equal to one-eighth of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to one-fourth of those otherwise required, during the third such twelve-month period in amounts equal to three-eighths of those otherwise required, during the fourth twelve-month period in amounts equal to one-half of those otherwise required, and during the fifth twelve-month period in amounts equal to five-eighths of those otherwise required, during the sixth twelve-month period in amounts equal to three-fourths of those otherwise required, and during the seventh twelve-month period in amounts equal to seven-eighths of those otherwise required. This subparagraph does not apply to any category of deposits or accounts which are first authorized pursuant to Federal law in any State after April 1, 1980.

(B) With respect to any bank which was a member of the Federal Reserve System during the entire period beginning on July 1, 1979, and ending on the effective date of the Monetary Control Act of 1980, the amount of required re-

serves imposed pursuant to this subsection on and after the effective date of such Act that exceeds the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied may, at the discretion of the Board and in accordance with such rules and regulations as it may adopt, be reduced by 75 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 25 per centum during the third year.

(C)(i) With respect to any bank which is a member of the Federal Reserve System on the effective date of the Monetary Control Act of 1980, the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied that exceeds the amount of required reserves imposed pursuant to this subsection shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

(ii) If a bank becomes a member bank during the four-year period beginning on the effective date of the Monetary Control Act of 1980, and if the amount of reserves which would have been required of such bank, determined as if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied, and as if such bank had been a member during such period, exceeds the amount of reserves required pursuant to this subsection, the amount of reserves required to be maintained by such bank beginning on the date on which such bank becomes a member of the Federal Reserve System shall be the amount of reserves which would have been required of such bank if it had been a member on the day before such effective date, except that the amount of such excess shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

(D)(i) Any bank which was a member bank on July 1, 1979, and which withdrew from membership in the Federal Reserve System during the period beginning on July 1, 1979, and ending on March 31, 1980, shall maintain reserves during the first twelve-month period beginning on the date of enactment of this clause in amounts equal to one-half of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to two-thirds of those otherwise required, and during the third such twelve-month period in amounts equal to five-sixths of those otherwise required.

(ii) Any bank which withdraws from membership in the Federal Reserve System on or after the date of enactment of the Depository Institutions Deregulation and Monetary

Control Act of 1980 shall maintain reserves in the same amount as member banks are required to maintain under this subsection, pursuant to subparagraphs (B) and (C)(i).

(E) This subparagraph applies to any depository institution that, on August 1, 1978, (i) was engaged in business as a depository institution in a State outside the continental limits of the United States, and (ii) was not a member of the Federal Reserve System at any time on or after such date. Such a depository institution shall not be required to maintain reserves against such deposits held or maintained at its offices located in a State outside the continental limits of the United States until the first day of the sixth calendar year which begins after the effective date of the Monetary Control Act of 1980. Such a depository institution shall maintain reserves against such deposits during the sixth calendar year which begins after such effective date in an amount equal to one-eighth of that otherwise required by paragraph (2), during the seventh such year in an amount equal to one-fourth of that otherwise required, during the eighth such year in an amount equal to three-eighths of that otherwise required, during the ninth such year in an amount equal to one-half of that otherwise required, during the tenth such year in an amount equal to five-eighths of that otherwise required, during the eleventh such year in an amount equal to three-fourths of that otherwise required, and during the twelfth such year in an amount equal to seven-eighths of that otherwise required.

(9) EXEMPTION.—This subsection shall not apply with respect to any financial institution which—

(A) is organized solely to do business with other financial institutions;

(B) is owned primarily by the financial institutions with which it does business; and

(C) does not do business with the general public.

(10) WAIVERS.—In individual cases, where a Federal supervisory authority waives a liquidity requirement, or waives the penalty for failing to satisfy a liquidity requirement, the Board shall waive the reserve requirement, or waive the penalty for failing to satisfy a reserve requirement, imposed pursuant to this subsection for the depository institution involved when requested by the Federal supervisory authority involved.

(11) ADDITIONAL EXEMPTIONS.—(A)(i) Notwithstanding the reserve requirement ratios established under paragraphs (2) and (5) of this subsection, a reserve ratio of zero per centum shall apply to any combination of reservable liabilities, which do not exceed \$2,000,000 (as adjusted under subparagraph (B)), of each depository institution.

(ii) Each depository institution may designate, in accordance with such rules and regulations as the Board shall prescribe, the types and amounts of reservable liabilities to which the reserve ratio of zero per centum shall apply, except that transaction accounts which are designated to be subject to a reserve ratio of zero per centum shall be accounts which would other-



wise be subject to a reserve ratio of 3 per centum under paragraph (2).

(iii) The Board shall minimize the reporting necessary to determine whether depository institutions have total reservable liabilities of less than \$2,000,000 (as adjusted under subparagraph (B)). Consistent with the Board's responsibility to monitor and control monetary and credit aggregates, depository institutions which have reserve requirements under this subsection equal to zero per centum shall be subject to less overall reporting requirements than depository institutions which have a reserve requirement under this subsection that exceeds zero per centum.

(B)(i) Beginning in 1982, not later than December 31 of each year, the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount specified in subparagraph (A), as previously adjusted under this subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total reservable liabilities of all depository institutions.

(ii) The increase in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the preceding calendar year from the amount of total reservable liabilities on June 30 of the calendar year involved. In the case of any such twelve-month period in which there has been a decrease in the total reservable liabilities of all depository institutions, no adjustment shall be made. A decrease in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the calendar year involved from the amount of total reservable liabilities on June 30 of the previous calendar year.

(12) EARNINGS ON BALANCES.—

(A) IN GENERAL.—Balances maintained at a Federal Reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal Reserve bank at least once each calendar quarter, at a rate or rates *established by the Federal Open Market Committee* not to exceed the general level of short-term interest rates.

(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTIONS.—The Board may prescribe regulations concerning—

(i) the payment of earnings in accordance with this paragraph;

(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks, or on whose behalf such balances are maintained; and

(iii) the responsibilities of depository institutions, Federal Home Loan Banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal Reserve bank by any such entity on behalf of depository institutions.

(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term “depository institution”, in addition to the institutions described in paragraph (1)(A), in-

cludes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).

(c)(1) Reserves held by a depository institution to meet the requirements imposed pursuant to subsection (b) shall, subject to such rules and regulations as the Board shall prescribe, be in the form of—

(A) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account, except that (i) the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves in the form of vault cash, except that any portion so permitted shall be identical for all depository institutions, and (ii) vault cash may be used to satisfy any supplemental reserve requirement imposed pursuant to subsection (b)(4), except that all such vault cash shall be excluded from any computation of earnings pursuant to subsection (b); and

(B) balances maintained by a depository institution in a depository institution which maintains required reserve balances at a Federal Reserve bank, in a Federal Home Loan Bank, or in the National Credit Union Administration Central Liquidity Facility, if such depository institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances received by a depository institution from a second depository institution and used to satisfy the reserve requirement imposed on such second depository institution by this section shall not be subject to the reserve requirements of this section imposed on such first depository institution, and shall not be subject to assessments or reserves imposed on such first depository institution pursuant to section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817), section 404 of the National Housing Act (12 U.S.C. 1727), or section 202 of the Federal Credit Union Act (12 U.S.C. 1782).

(2) The balances maintained to meet the reserve requirements of subsection (b) by a depository institution in a Federal Reserve bank or passed through a Federal Home Loan Bank or the National Credit Union Administration Central Liquidity Facility or another depository institution to a Federal Reserve bank may be used to satisfy liquidity requirements which may be imposed under other provisions of Federal or State law.

(d) No member bank shall act as the medium or agent of any nonbanking corporation, partnership, association, business trust, or individual in making loans on the security of stocks, bonds, and other investment securities to brokers or dealers in stocks, bonds, and other investment securities. Every violation of this provision by any member bank shall be punishable by a fine of not more than \$100 per day during the continuance of such violation; and such fine may be collected, by suit or otherwise, by the Federal reserve bank of the district in which such member bank is located.

(e) No member bank shall keep on deposit with any depository institution which is not authorized to have access to Federal Reserve advances under section 10(b) of this Act a sum in excess of 10 per centum of its own paid-up capital and surplus. No member bank shall act as the medium or agent of a nonmember bank in applying for or receiving discounts from a Federal reserve bank under the provisions of this Act, except by permission of the Board of Governors of the Federal Reserve System.

(f) The required balance carried by a member bank with a Federal reserve bank may, under the regulations and subject to such penalties as may be prescribed by the Board of Governors of the Federal Reserve System, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities.

(g) In estimating the reserve balances required by this Act, member banks may deduct from the amount of their gross demand deposits the amounts of balances due from other banks (except Federal Reserve banks and foreign banks) and cash items in process of collection payable immediately upon presentation in the United States, within the meaning of these terms as defined by the Board of Governors of the Federal Reserve System.

(h) National banks, or banks organized under local laws, located in a dependency or insular possession or any part of the United States outside the continental United States may remain nonmember banks, and shall in that event maintain reserves and comply with all the conditions now provided by law regulating them; or said banks may, with the consent of the Board of Governors of the Federal Reserve System, become member banks of any one of the reserve districts, and shall in that event take stock, maintain reserves, and be subject to all the other provisions of this Act.

(j) The Board may from time to time, after consulting with the Board of Directors of the Federal Deposit Insurance Corporation and the Director of the Office of Thrift Supervision, prescribe rules governing the payment and advertisement of interest on deposits, including limitations on the rates of interest which may be paid by member banks on time and savings deposits. The Board may prescribe different rate limitations for different classes of deposits, for deposits of different amounts or with different maturities or subject to different conditions regarding withdrawal or repayment, according to the nature or location of member banks or their depositors, or according to such other reasonable bases as the Board may deem desirable in the public interest. No member bank shall pay any time deposit before its maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the said Board, or waive any requirement of notice before payment of any savings deposit except as to all savings deposits having the same requirement: *Provided*, That the provisions of this paragraph shall not apply to any deposit which is payable only at an office of a member bank located outside of the States of the United States and the District of Columbia. During the period commencing on October 15, 1962, and ending on October 15, 1968, the provisions of this paragraph shall not apply to the rate of interest which may be paid by member banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.

(1) CIVIL MONEY PENALTY.—

(1) FIRST TIER.—Any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who, violates any provision of this section, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than \$5,000 for each day during which such violation continues.

(2) SECOND TIER.—Notwithstanding paragraph (1), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who—

(A)(i) commits any violation described in paragraph (1);  
(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such member bank; or

(iii) breaches any fiduciary duty;

(B) which violation, practice, or breach—

(i) is part of a pattern of misconduct;

(ii) causes or is likely to cause more than a minimal loss to such member bank; or

(iii) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than \$25,000 for each day during which such violation, practice, or breach continues.

(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who—

(A) knowingly—

(i) commits any violation described in paragraph (1);

(ii) engages in any unsafe or unsound practice in conducting the affairs of such member bank; or

(iii) breaches any fiduciary duty; and

(B) knowingly or recklessly causes a substantial loss to such member bank or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph

(4) for each day during which such violation, practice, or breach continues.

(4) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

(A) in the case of any person other than a member bank, an amount not to exceed \$1,000,000; and

(B) in the case of a member bank, an amount not to exceed the lesser of—

(i) \$1,000,000; or

(ii) 1 percent of the total assets of such member bank.

(5) ASSESSMENT; ETC.—Any penalty imposed under paragraph (1), (2), or (3) may be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

(6) HEARING.—The member bank or other person against whom any penalty is assessed under this subsection shall be afforded an agency hearing if such member bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

(7) DISBURSEMENT.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

(8) VIOLATE DEFINED.—For purposes of this section, the term “violate” includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(9) REGULATIONS.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.

(m) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such bank (whether such date occurs before, on, or after the date of the enactment of this subsection).

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## MINORITY VIEWS

H.R. 6741 would make significant and detrimental changes to the Federal Reserve System, severely limiting its discretion to conduct monetary policy and supervision of bank holding companies. Collectively, the bill would expand the voice of commercial banks, undermine the independence of the Federal Reserve, and destabilize the housing market.

*Expanding the voice of commercial banks.* H.R. 6741 would empower commercial banks by giving them influence over the selection of members of the Federal Open Markets Committee (FOMC) and strengthening the authority of those members to make a larger number of monetary policy decisions on the FOMC. Class A directors, who are representatives of commercial banks, would be able to select the president of each Reserve Bank, which explicitly rolls back a key reform included in the Dodd-Frank Act that eliminated the role of these directors in selecting Reserve Bank presidents. Dodd-Frank eliminated the role of Class A directors to avoid the conflict of interest between member banks selecting a person who could influence when and how they could receive assistance from the Fed, which is their lender of last resort.

H.R. 6741 would also expand the membership of the FOMC to allow one representative of each of the 12 Federal Reserve Banks to serve in a voting capacity on the Committee. Today, the FOMC is comprised of 12 members, seven of which (or a majority) are the Federal Reserve Governors, who are presidentially-appointed and Senate-confirmed, and the other five are Reserve Bank Presidents. By more than doubling the voting power of the Federal Reserve Banks, the bill would shift the balance of power away from the seven Governors in favor of the presidents of the 12 Reserve Banks. Reserve Banks and their presidents lack the same level of accountability as members of the Board of Governors. Not only are Reserve Bank presidents selected through a largely non-public process that lacks transparency, such institutions are considered private corporate entities (despite their public functions) and are therefore not covered by the Freedom of Information Act (FOIA). Reserve Banks also lack inspector general offices to monitor and correct wrongdoing.

The bill would also transfer important monetary policy functions from the Board of Governors to the FOMC. For example, the FOMC would be authorized to set the interest rate paid on reserves held by member banks at the Federal Reserve. As a result, private bankers would have a much stronger voice to advocate for policy decisions that would directly benefit their bottom line. In addition, emergency financial decisions would now need a super majority of the FOMC putting difficult decisions like whether or not to assist the financial industry during a crisis in the hands of FOMC members chosen directly by the industry needing the assistance.

Importantly, this influence could have powerful repercussions for the conduct of monetary policy and the vigor with which the Federal Reserve pursues its full employment mandate. Although low interest rates tend to promote employment, commercial banks tend not to prefer extended periods of low rates because they can erode their profits. In other words, if bankers are empowered to influence monetary policy decisions, such influence may favor bank profits at the expense of US workers.

*Undermining the independence of the Federal Reserve.* H.R. 6741 would also subject the nonmonetary policy functions of the Fed to the annual Congressional appropriations process. This would politicize the Fed's supervision and enforcement through the threat of budget riders and funding cuts and undermine the Fed's independent oversight of financial markets. In addition, because the Fed's oversight of bank holding companies and certain other financial institutions informs its conduct of monetary policy, subjecting its oversight to the appropriations process could also negatively affect the conduct of monetary policy.

The bill would impose further limits on the discretion of the Federal Reserve, by requiring it to formally adopt "exactly one" monetary policy strategy and between one and three reference policy rules annually. These reference rules not only further restrict the central bank's discretion to set monetary policy in the best interests of the economy, but illogically treat interest rate targeting as a separate monetary policy instrument from other open-market operations and the payment on interest on reserves, even though the latter two activities are a means of accomplishing the interest rate target. Former Fed Chair Yellen has said that it "would be a grave mistake for the Federal Reserve to commit to conduct monetary policy according to a mathematical rule."

*Destabilizing the Housing Market.* Finally, H.R. 6741 would threaten the housing market as it recovers from the worst crisis since the Great Depression by undermining the Federal Reserve's work to stabilize the market. The bill requires, within a year from enactment, the Federal Reserve to transfer its portfolio of agency (i.e., Government Sponsored Enterprise) mortgage-backed securities (MBS) and other obligations that it purchased during and after the 2008 financial crisis to the Treasury. Treasury, in return, must transfer the assets to U.S. bonds of equivalent market value. Additionally, the bill restricts the Federal Reserve from making such purchases in the future. The bill further amends the Fed's emergency authority under Section 13(3) of the Federal Reserve Act to require that any extraordinary assets purchased pursuant to that authority be similarly exchanged with the Treasury for a similarly valued U.S. bond no later than one year after acquisition. Lastly, the bill also strikes the Fed's ability to provide certain emergency advances to bank.

Even though the Federal Reserve's asset purchase program—which added \$1.7 trillion in agency MBS to the Fed's \$4.5 trillion balance sheet—succeeded in driving down long-term rates, including 30-year mortgage rates, critics have nonetheless argued that such purchases would lead to a period of high inflation, which has not proven true. Given that the mortgage finance sector was one of the hardest hit sectors during the 2008 crisis, the Federal Re-

serve sought to provide targeted relief to prevent further illiquidity-induced price declines. If enacted, the inability to purchase or hold agency securities may put upward pressure on MBS yields and mortgage rates, even today. The fire sale of MBS called for under the bill would also likely have significant adverse effects in financial markets. Notably, for the proposed transfer of existing assets to take place, there would have to be a large increase in the federal debt limit, a requirement that the legislation fails to contemplate.

Generally, H.R. 6741 would harm the ability and mission of the Federal Reserve to promote stable interest rates and full employment, by empowering private commercial bankers to make monetary policy decisions, curtailing the independence of the institution and stripping the institution of its authority to respond appropriately to unforeseen financial crises. For the above reasons, we oppose the legislation.

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