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S. 156

To prevent conflicts of interest that stem from executive branch employees receiving bonuses or other compensation arrangements from non-Government sources, from the revolving door that raises concerns about the independence of executive branch employees, and from the revolving door that casts aspersions over the awarding of Government contracts and other financial benefits.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2019

Ms. BALDWIN introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To prevent conflicts of interest that stem from executive branch employees receiving bonuses or other compensation arrangements from non-Government sources, from the revolving door that raises concerns about the independence of executive branch employees, and from the revolving door that casts aspersions over the awarding of Government contracts and other financial benefits.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Executive Branch Con-
3 flict of Interest Act”.

4 **SEC. 2. RESTRICTIONS ON PRIVATE SECTOR PAYMENT FOR**
5 **GOVERNMENT SERVICE.**

6 Section 209 of title 18, United States Code, is
7 amended—

8 (1) in subsection (a)—

9 (A) by striking “any salary” and inserting
10 “any bonus or salary”; and

11 (B) by striking “his services” and inserting
12 “services rendered or to be rendered”; and

13 (2) in subsection (b)—

14 (A) by inserting “(1)” after “(b)”; and

15 (B) by adding at the end the following:

16 “(2) For purposes of paragraph (1), a pension, retire-
17 ment, group life, health or accident insurance, profit-shar-
18 ing, stock bonus, or other employee welfare or benefit plan
19 that makes payment of compensation contingent on ac-
20 cepting a position in the Federal Government shall not
21 be considered bona fide.

22 “(3) For purposes of paragraph (2), compensation in-
23 cludes a retention award or bonus, severance pay, and any
24 other payment linked to future service in the Federal Gov-
25 ernment in any way.”.

1 **SEC. 3. REQUIREMENTS RELATING TO SLOWING THE RE-**
 2 **VOLVING DOOR AMONG CERTAIN EXECUTIVE**
 3 **BRANCH EMPLOYEES.**

4 (a) IN GENERAL.—The Ethics in Government Act of
 5 1978 (5 U.S.C. App.) is amended by adding at the end
 6 the following:

7 **“TITLE VI—SPECIAL REQUIRE-**
 8 **MENTS FOR CERTAIN EXECU-**
 9 **TIVE BRANCH EMPLOYEES**

10 **“SEC. 601. DEFINITIONS.**

11 “(a) IN GENERAL.—In this title, the terms ‘des-
 12 ignated agency ethics official’ and ‘executive branch’ have
 13 the meanings given those terms under section 109.

14 “(b) OTHER DEFINITIONS.—In this title:

15 “(1) COVERED AGENCY.—The term ‘covered
 16 agency’—

17 “(A) means—

18 “(i) an Executive agency;

19 “(ii) the Postal Service; and

20 “(iii) the Postal Rate Commission;

21 “(B) includes the Executive Office of the
 22 President; and

23 “(C) does not include the Government Ac-
 24 countability Office or the government of the
 25 District of Columbia.

1 “(2) COVERED EMPLOYEE.—The term ‘covered
2 employee’ means an officer or employee described in
3 section 207(c)(2) of title 18, United States Code.

4 “(3) DIRECTOR.—The term ‘Director’ means
5 the Director of the Office of Government Ethics.

6 “(4) EXECUTIVE AGENCY.—The term ‘Execu-
7 tive agency’ has the meaning given the term in sec-
8 tion 105 of title 5, United States Code.

9 “(5) FORMER CLIENT.—The term ‘former cli-
10 ent’—

11 “(A) means a person for whom a covered
12 employee served personally as an agent, attor-
13 ney, or consultant during the 2-year period end-
14 ing on the date (after such service) on which
15 the covered employee begins service in the Fed-
16 eral Government; and

17 “(B) does not include—

18 “(i) a person for whom a covered em-
19 ployee served as described in subparagraph
20 (A) if the service provided was limited to
21 a speech or similar appearance; or

22 “(ii) a client of the former employer
23 of the covered employee to whom the cov-
24 ered employee did not personally provide
25 services described in subparagraph (A).

1 “(6) FORMER EMPLOYER.—The term ‘former
2 employer’—

3 “(A) means a person for whom a covered
4 employee served as an employee, officer, direc-
5 tor, trustee, or general partner during the 2-
6 year period ending on the date (after such serv-
7 ice) on which the covered employee begins serv-
8 ice in the Federal Government; and

9 “(B) does not include—

10 “(i) an entity in the Federal Govern-
11 ment, including an Executive agency;

12 “(ii) a State or local government; or

13 “(iii) an Indian tribe, as defined in
14 section 4 of the Indian Self-Determination
15 and Education Assistance Act (25 U.S.C.
16 5304).

17 “(7) STATE.—The term ‘State’ has the mean-
18 ing given the term in section 3 of the Lobbying Dis-
19 closure Act of 1995 (2 U.S.C. 1602).

20 **“SEC. 602. CONFLICT OF INTEREST AND ELIGIBILITY**
21 **STANDARDS FOR COVERED EMPLOYEES.**

22 “(a) IN GENERAL.—A covered employee shall not
23 make, participate in making, or in any way attempt to
24 use the official position of the covered employee to influ-
25 ence a particular matter that provides a direct and sub-

1 stantial pecuniary benefit for a former employer or former
2 client of the covered employee.

3 “(b) RECUSAL.—A covered employee shall recuse
4 himself or herself from any official action that would vio-
5 late subsection (a).

6 “(c) WAIVER.—

7 “(1) IN GENERAL.—The head of the covered
8 agency employing a covered employee, in consulta-
9 tion with the Director, may grant a written waiver
10 of the restrictions under subsection (a) if, and to the
11 extent that, the head of the covered agency certifies
12 in writing that—

13 “(A) the application of the restriction to
14 the particular matter is inconsistent with the
15 purposes of the restriction; or

16 “(B) it is in the public interest to grant
17 the waiver.

18 “(2) PUBLICATION.—The Director shall make
19 each waiver granted under paragraph (1) publicly
20 available on the website of the Office of Government
21 Ethics.

22 **“SEC. 603. NEGOTIATING FUTURE PRIVATE SECTOR EM-**
23 **PLOYMENT.**

24 “(a) PROHIBITION.—Except as provided in sub-
25 section (c), and notwithstanding any other provision of

1 law, a covered employee may not participate in any par-
2 ticular matter that involves, to the knowledge of the cov-
3 ered employee, an individual or entity with whom the cov-
4 ered employee is in negotiations of future employment or
5 has an arrangement concerning prospective employment.

6 “(b) DISCLOSURE OF EMPLOYMENT NEGOTIA-
7 TIONS.—

8 “(1) IN GENERAL.—If a covered employee be-
9 gins any negotiations of future employment with an-
10 other individual or entity, or an agent or inter-
11 mediary of another individual or entity, or other dis-
12 cussion or communication with another individual or
13 entity, or an agent or intermediary of another indi-
14 vidual or entity, mutually conducted with a view to-
15 ward reaching an agreement regarding possible em-
16 ployment of the covered employee, the covered em-
17 ployee shall notify the designated agency ethics offi-
18 cial of the covered agency employing the covered em-
19 ployee regarding the negotiations, discussions, or
20 communications.

21 “(2) INFORMATION.—A designated agency eth-
22 ics official receiving notice under paragraph (1),
23 after consultation with the Director, shall inform the
24 covered employee of any potential conflicts of inter-
25 est involved in any negotiations, discussions, or com-

1 munications with the other individual or entity and
 2 the applicable prohibitions.

3 “(c) WAIVERS ONLY WHEN EXCEPTIONAL CIR-
 4 CUMSTANCES EXIST.—

5 “(1) IN GENERAL.—The head of a covered
 6 agency may only grant a waiver of the prohibition
 7 under subsection (a) if—

8 “(A) the head of the covered agency deter-
 9 mines that exceptional circumstances exist; and

10 “(B) the Director reviews the cir-
 11 cumstances relating to the waiver and the de-
 12 termination of the head of the covered agency
 13 under subparagraph (A) and determines that
 14 exceptional circumstances exist.

15 “(2) PUBLICATION.—For any waiver granted
 16 under paragraph (1), the Director shall make pub-
 17 licly available on the website of the Office of Govern-
 18 ment Ethics the waiver, which shall include—

19 “(A) the name of each private individual or
 20 entity involved in the negotiations or arrange-
 21 ment concerning prospective employment; and

22 “(B) the date on which the negotiations or
 23 arrangements commenced.

24 “(d) SCOPE.—For purposes of this section, the term
 25 ‘negotiations of future employment’ is not limited to dis-

1 discussions of specific terms or conditions of employment in
2 a specific position.

3 **“SEC. 604. RECORDKEEPING.**

4 “The Director shall—

5 “(1) receive all employment histories, recusal
6 and waiver records, and other disclosure records for
7 covered employees necessary for monitoring compli-
8 ance with this title;

9 “(2) not later than 180 days after the date of
10 enactment of this title and in consultation with the
11 Director of the Office of Personnel Management and
12 the Attorney General, promulgate rules and regula-
13 tions to implement this title;

14 “(3) when appropriate, provide guidance and
15 assistance to facilitate compliance with this title;

16 “(4) review advice provided by designated agen-
17 cy ethics officials, and, when necessary, assist des-
18 ignated agency ethics officials in providing advice, to
19 covered employees regarding compliance with this
20 title; and

21 “(5) if the Director determines that a violation
22 of this title may have occurred, the Director shall,
23 in consultation with the designated agency ethics of-
24 ficial of the covered agency employing the covered
25 employee alleged to have violated this title and the

1 Counsel to the President, refer the compliance case
2 to the United States Attorney for the District of Co-
3 lumbia for enforcement action.

4 **“SEC. 605. PENALTIES AND INJUNCTIONS.**

5 “(a) CRIMINAL PENALTIES.—

6 “(1) IN GENERAL.—Any person who violates
7 section 602 or 603 shall be fined under title 18,
8 United States Code, imprisoned for not more than
9 1 year, or both.

10 “(2) WILLFUL VIOLATIONS.—Any person who
11 willfully violates section 602 or 603 shall be fined
12 under title 18, United States Code, imprisoned for
13 not more than 5 years, or both.

14 “(b) CIVIL ENFORCEMENT.—

15 “(1) IN GENERAL.—The Attorney General may
16 bring a civil action in an appropriate district court
17 of the United States against any person who vio-
18 lates, or whom the Attorney General has reason to
19 believe is engaging in conduct that violates, section
20 602 or 603.

21 “(2) CIVIL PENALTY.—

22 “(A) IN GENERAL.—Upon proof by a pre-
23 ponderance of the evidence that a person vio-
24 lated section 602 or 603, the court shall impose

1 a civil penalty of not more than the greater
2 of—

3 “(i) \$100,000 for each violation; or

4 “(ii) the amount of compensation the
5 person received or was offered for the con-
6 duct constituting the violation.

7 “(B) RULE OF CONSTRUCTION.—A civil
8 penalty under this subsection shall be in addi-
9 tion to any other criminal or civil statutory,
10 common law, or administrative remedy available
11 to the United States or any other person.

12 “(3) INJUNCTIVE RELIEF.—

13 “(A) IN GENERAL.—In a civil action
14 brought under paragraph (1) against a person,
15 the Attorney General may petition the court for
16 an order prohibiting the person from engaging
17 in conduct that violates section 602 or 603.

18 “(B) STANDARD.—The court may issue an
19 order under subparagraph (A) if the court finds
20 by a preponderance of the evidence that the
21 conduct of the person violates section 602 or
22 603.

23 “(C) RULE OF CONSTRUCTION.—The filing
24 of a petition seeking injunctive relief under this
25 paragraph shall not preclude any other remedy

1 that is available by law to the United States or
2 any other person.”.

3 **SEC. 4. PROHIBITION OF PROCUREMENT OFFICERS AC-**
4 **CEPTING EMPLOYMENT FROM GOVERNMENT**
5 **CONTRACTORS.**

6 (a) EXPANSION OF PROHIBITION ON ACCEPTANCE
7 BY FORMER OFFICIALS OF COMPENSATION FROM CON-
8 TRACTORS.—Section 2104 of title 41, United States Code,
9 is amended—

10 (1) in subsection (a)—

11 (A) in the matter preceding paragraph

12 (1)—

13 (i) by striking “or consultant” and in-

14 serting “consultant, lawyer, or lobbyist”;

15 and

16 (ii) by striking “one year” and insert-

17 ing “2 years”; and

18 (B) in paragraph (3), in the matter pre-

19 ceding subparagraph (A), by striking “person-

20 ally made for the Federal agency” and inserting

21 “participated personally and substantially in”;

22 and

23 (2) by striking subsection (b) and inserting the

24 following:

1 “(b) PROHIBITION ON COMPENSATION FROM AFFILI-
 2 ATES AND SUBCONTRACTORS.—A former official of a Fed-
 3 eral agency responsible for a Government contract re-
 4 ferred to in paragraph (1), (2), or (3) of subsection (a)
 5 may not accept compensation from any division, affiliate,
 6 or subcontractor of the contractor during the 2-year pe-
 7 riod beginning on the last date on which the former official
 8 was employed by the Federal agency.”.

9 (b) REQUIREMENT FOR PROCUREMENT OFFICERS
 10 TO DISCLOSE JOB OFFERS MADE ON BEHALF OF REL-
 11 ATIVES.—Section 2103(a) of title 41, United States Code,
 12 is amended in the matter preceding paragraph (1) by in-
 13 serting after “that official” the following: “, or for a rel-
 14 ative (as defined in section 3110 of title 5) of that offi-
 15 cial,”.

16 (c) REQUIREMENT ON AWARD OF GOVERNMENT
 17 CONTRACTS TO FORMER EMPLOYERS.—

18 (1) IN GENERAL.—Chapter 21 of title 41,
 19 United States Code, is amended—

20 (A) by redesignating section 2107 as sec-
 21 tion 2108; and

22 (B) by inserting after section 2106 the fol-
 23 lowing:

1 **“§ 2107. Prohibition on involvement by certain**
 2 **former contractor employees in procure-**
 3 **ments**

4 “An employee of the Federal Government may not
 5 be personally and substantially involved with any award
 6 of a contract to, or the administration of a contract award-
 7 ed to, a contractor that is a former employer of the em-
 8 ployee during the 2-year period beginning on the date on
 9 which the employee leaves the employment of the con-
 10 tractor.”.

11 (2) TECHNICAL AND CONFORMING AMEND-
 12 MENT.—The table of sections for chapter 21 of title
 13 41, United States Code, is amended by striking the
 14 item relating to section 2107 and inserting the fol-
 15 lowing:

“2107. Prohibition on involvement by certain former contractor employees in
 procurements.
 “2108. Savings provisions.”.

16 (d) REGULATIONS.—The Administrator for Federal
 17 Procurement Policy and the Director of the Office of Man-
 18 agement and Budget shall, with respect to chapter 21 of
 19 title 41, United States Code, as amended by this section—

20 (1) not later than 180 days after the date of
 21 enactment of this Act and in consultation with the
 22 Director of the Office of Personnel Management and
 23 the Counsel to the President, promulgate regulations

1 to carry out and ensure the enforcement of that
2 chapter; and

3 (2) in consultation with designated agency eth-
4 ics officials (as defined in section 601 of the Ethics
5 in Government Act of 1978 (5 U.S.C. App.), as
6 added by section 3 of this Act), monitor compliance
7 with that chapter by individuals and agencies.

8 **SEC. 5. REVOLVING DOOR RESTRICTIONS ON CERTAIN**
9 **COVERED EMPLOYEES MOVING INTO THE**
10 **PRIVATE SECTOR.**

11 (a) IN GENERAL.—Section 207 of title 18, United
12 States Code, is amended—

13 (1) by redesignating subsections (e) through (l)
14 as subsections (f) through (m), respectively; and

15 (2) by inserting after subsection (d) the fol-
16 lowing:

17 “(e) RESTRICTIONS ON EMPLOYMENT FOR COVERED
18 EMPLOYEES.—

19 “(1) DEFINITIONS.—In this subsection—

20 “(A) the term ‘covered employee’ has the
21 meaning given the term in section 601 of the
22 Ethics in Government Act of 1978 (5 U.S.C.
23 App.); and

24 “(B) the terms ‘lobbying activities’ and
25 ‘lobbyist’ have the meanings given those terms

1 in section 3 of the Lobbying Disclosure Act of
2 1995 (2 U.S.C. 1602).

3 “(2) IN GENERAL.—In addition to the restric-
4 tions set forth in subsections (a), (b), (c), and (d),
5 an individual who is a covered employee shall not—

6 “(A) during the 2-year period beginning on
7 the date on which the employment of the indi-
8 vidual as a covered employee ceases—

9 “(i) knowingly act as agent or attor-
10 ney for, or otherwise represent, any other
11 person (except the United States) for com-
12 pensation in any formal or informal ap-
13 pearance before;

14 “(ii) with the intent to influence,
15 make any oral or written communication
16 on behalf of any other person (except the
17 United States) to; or

18 “(iii) knowingly aid, advise, or assist
19 in—

20 “(I) representing any other per-
21 son (except the United States) in any
22 formal or informal appearance before;
23 or

24 “(II) making, with the intent to
25 influence, any oral or written commu-

1 ication on behalf of any other person
2 (except the United States) to,
3 any court of the United States, or any officer
4 or employee thereof, in connection with any ju-
5 dicial or other proceeding that was actually
6 pending under the official responsibility of the
7 individual as a covered employee during the 1-
8 year period ending on the date on which the
9 employment of the individual as a covered em-
10 ployee ceases or in which the individual partici-
11 pated personally and substantially as a covered
12 employee; or

13 “(B) during the 2-year period beginning on
14 the date on which the employment of the indi-
15 vidual as a covered employee ceases—

16 “(i) knowingly act as a lobbyist or
17 agent for, or otherwise represent, any
18 other person (except the United States) for
19 compensation in any formal or informal
20 appearance before;

21 “(ii) with the intent to influence,
22 make any oral or written communication
23 or conduct any lobbying activities on behalf
24 of any other person (except the United
25 States) to; or

1 “(iii) knowingly aid, advise, or assist
2 in—

3 “(I) representing any other per-
4 son (except the United States) in any
5 formal or informal appearance before;
6 or

7 “(II) making, with the intent to
8 influence, any oral or written commu-
9 nication or conduct any lobbying ac-
10 tivities on behalf of any other person
11 (except the United States) to,

12 any department or agency of the executive
13 branch or Congress (including any committee of
14 Congress), or any officer or employee thereof,
15 in connection with any matter that is pending
16 before the department, the agency, or Congress.

17 “(3) PENALTY.—Any person who violates para-
18 graph (2) shall be punished as provided in section
19 216.”.

20 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

21 (1) HONEST LEADERSHIP AND OPEN GOVERN-
22 MENT ACT OF 2007.—Section 103(a) of the Honest
23 Leadership and Open Government Act of 2007 (2
24 U.S.C. 4702(a)) is amended by striking “section

1 207(e)” each place it appears and inserting “section
2 207(f)”.

3 (2) INTERNAL REVENUE CODE OF 1986.—Sec-
4 tion 7802(b)(3)(B) of the Internal Revenue Code of
5 1986 is amended by striking “and (f) of section
6 207” and inserting “and (g) of section 207”.

7 (3) TITLE 18, UNITED STATES CODE.—Section
8 207 of title 18, United States Code, as amended by
9 subsection (a), is amended—

10 (A) in subsection (g), as so redesignated,
11 by striking “or (e)” and inserting “or (f)”;

12 (B) in subsection (j)(1)(B), as so redesign-
13 ated, by striking “subsection (f)” and insert-
14 ing “subsection (g)”; and

15 (C) in subsection (k), as so redesignated—

16 (i) in paragraph (1)(B), by striking
17 “(25 U.S.C. 450i(j))” and inserting “(25
18 U.S.C. 5323(j))”;

19 (ii) in paragraph (2), in the matter
20 preceding subparagraph (A), by striking
21 “and (e)” and inserting “(e), and (f)”;

22 (iii) in paragraph (4), by striking
23 “and (e)” and inserting “(e), and (f)”; and

24 (iv) in paragraph (7)—

1 (I) in subparagraph (A), by strik-
 2 ing “and (e)” and inserting “(e), and
 3 (f)”; and

4 (II) in subparagraph (B)(ii), in
 5 the matter preceding subclause (I), by
 6 striking “subsections (c), (d), or (e)”
 7 and inserting “subsection (c), (d), (e),
 8 or (f)”.

9 (4) TITLE 49, UNITED STATES CODE.—Section
 10 106(p)(6)(I)(ii) of title 49, United States Code, is
 11 amended by striking “and (f) of section 207” and
 12 inserting “and (g) of section 207”.

13 (5) TRADE ACT OF 1974.—Section 141(b)(4) of
 14 the Trade Act of 1974 (19 U.S.C. 2171(b)(4)) is
 15 amended by striking “section 207(f)(3)” and insert-
 16 ing “207(g)(3)”.

17 (6) USEC PRIVATIZATION ACT.—Section
 18 3105(c) of the USEC Privatization Act (42 U.S.C.
 19 2297h–3(c)) is amended by striking “and (d)” and
 20 inserting “(d), and (e)”.

21 **SEC. 6. RESTRICTIONS ON FEDERAL EXAMINERS AND SU-**
 22 **PERVISORS OF FINANCIAL INSTITUTIONS.**

23 (a) IN GENERAL.—Section 10(k) of the Federal De-
 24 posit Insurance Act (12 U.S.C. 1820(k)) is amended—

25 (1) in the subsection heading—

1 (A) by striking “ONE-YEAR” and inserting
2 “TWO-YEAR”; and

3 (B) by striking “EXAMINERS” and insert-
4 ing “EXAMINERS AND SUPERVISORS”;

5 (2) in paragraph (1)—

6 (A) by striking subparagraph (B) and in-
7 serting the following:

8 “(B) served—

9 “(i) not less than 2 months during the
10 final 12 months of the employment of the
11 person with that agency or entity as the
12 senior examiner (or a functionally equiva-
13 lent position) of a depository institution or
14 depository institution holding company
15 with continuing, broad responsibility for
16 the examination (or inspection) of that de-
17 pository institution or depository institu-
18 tion holding company on behalf of the rel-
19 evant agency or Federal reserve bank; or

20 “(ii) as a supervisor of the senior ex-
21 aminer with responsibility for managing
22 the oversight of not more than 5 deposi-
23 tory institutions or depository institution
24 holding companies on behalf of the rel-

1 evant agency or Federal reserve bank;
2 and”; and

3 (B) in subparagraph (C)—

4 (i) in the matter preceding clause (i),
5 by striking “1 year” and inserting “2
6 years”;

7 (ii) in clause (i)—

8 (I) by striking “other company”
9 and inserting “other company, firm,
10 or association”; and

11 (II) by striking “or” at the end;

12 (iii) in clause (ii), by striking the pe-
13 riod at the end and inserting “; or”; and

14 (iv) by adding at the end the fol-
15 lowing:

16 “(iii) a business entity, firm, or asso-
17 ciation that represents the depository insti-
18 tution or depository institution holding
19 company for compensation.”;

20 (3) by redesignating paragraphs (2) through
21 (6) as paragraphs (3) through (7), respectively;

22 (4) by inserting after paragraph (1) the fol-
23 lowing:

24 “(2) APPLICATION OF PENALTIES FOR SUPER-
25 VISORS.—A supervisor of a covered financial services

1 regulator, or a supervisor of a senior examiner de-
 2 scribed in paragraph (1)(B)(i), shall be subject to
 3 the penalties described in paragraph (7) if the su-
 4 pervisor knowingly accepts compensation during the
 5 2-year period beginning on the date on which the
 6 service of the supervisor is terminated—

7 “(A) as—

8 “(i) an employee;

9 “(ii) an officer;

10 “(iii) a director; or

11 “(iv) a consultant; and

12 “(B) from—

13 “(i) a depository institution;

14 “(ii) a depository institution holding
 15 company that is designated by the Finan-
 16 cial Stability Oversight Council as a sys-
 17 temically important financial market utility
 18 under section 804 of the Payment, Clear-
 19 ing, and Settlement Supervision Act of
 20 2010 (12 U.S.C. 5463); or

21 “(iii) a business entity, firm, or asso-
 22 ciation that represents an institution de-
 23 scribed in clause (ii) for compensation.”;

24 (5) in paragraph (3), as so redesignated—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (C) and (D), respectively; and

(B) by inserting before subparagraph (C), as so redesignated, the following:

“(A) the term ‘covered financial services agency’—

“(i) means a primary financial regulatory agency (as defined in section 2 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301)); and

“(ii) includes—

“(I) the Board of Governors of the Federal Reserve System;

“(II) the Office of the Comptroller of the Currency;

“(III) the Federal Deposit Insurance Corporation;

“(IV) the National Credit Union Administration;

“(V) the Securities and Exchange Commission;

“(VI) the Federal Housing Finance Agency;

1 “(VII) the Bureau of Consumer
2 Financial Protection;

3 “(VIII) the Commodity Futures
4 Trading Commission;

5 “(IX) the Department of the
6 Treasury;

7 “(X) the National Economic
8 Council; and

9 “(XI) the Council of Economic
10 Advisers;

11 “(B) the term ‘covered financial services
12 regulator’ means an officer or employee of a
13 covered financial services agency who occu-
14 pies—

15 “(i) a supervisory position classified
16 above GS–15 of the General Schedule;

17 “(ii) in the case of a position not
18 under the General Schedule, a supervisory
19 position for which the rate of basic pay is
20 not less than 120 percent of the minimum
21 rate of basic pay for GS–15 of the General
22 Schedule; or

23 “(iii) any other supervisory position
24 determined to be of equal classification as
25 a position described in clause (i) by the Di-

1 rector of the Office of Government Eth-
2 ics;”;

3 (6) in paragraph (4), as so redesignated, by
4 striking “or other company” each place it appears
5 and inserting “or other company, firm, or associa-
6 tion”; and

7 (7) in paragraph (7), as so redesignated—

8 (A) in subparagraph (A)—

9 (i) in the matter preceding clause (i),
10 by striking “other company” and inserting
11 “other company, firm, or association”; and

12 (ii) in clause (i)(I), by striking “other
13 company” and inserting “other company,
14 firm, or association”; and

15 (B) in subparagraph (C), by striking “a
16 company” and inserting “a company, firm, or
17 association”.

18 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

19 Section 10(k) of the Federal Deposit Insurance Act (12
20 U.S.C. 1820(k)) is amended—

21 (1) in paragraph (1), in the matter preceding
22 subparagraph (A), by striking “paragraph (6)” and
23 inserting “paragraph (7)”;

1 (2) in paragraph (5)(A), as so redesignated, by
 2 striking “paragraph (1)(B)” and inserting “para-
 3 graphs (1)(B) and (2)”; and

4 (3) in paragraph (7), as so redesignated—

5 (A) in subparagraph (A)—

6 (i) by striking “subject to paragraph
 7 (1)” and inserting “subject to paragraph
 8 (1) or (2)”; and

9 (ii) by striking “paragraph (1)(C)”
 10 and inserting “paragraph (1)(C) or (2)”;
 11 and

12 (B) in subparagraph (C)—

13 (i) by striking “person described in
 14 paragraph (1)” and inserting “person de-
 15 scribed in paragraph (1) or (2)”; and

16 (ii) by striking “the functions de-
 17 scribed in paragraph (1)(B)” and inserting
 18 “the functions or duties described in para-
 19 graph (1)(B) or (2)”.

20 **SEC. 7. SEVERABILITY.**

21 If any provision of this Act or any amendment made
 22 by this Act, or any application of such provision or amend-
 23 ment to any person or circumstance, is held to be uncon-
 24 stitutional, the remainder of the provisions of this Act and
 25 the amendments made by this Act and the application of

- 1 the provision or amendment to any other person or cir-
- 2 cumstance shall not be affected.

