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Part 1

INCREASING FINANCIAL REGULATORY ACCOUNTABILITY AND TRANSPARENCY ACT

DECEMBER 4, 2024.—Ordered to be printed

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

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3556]

The Committee on Financial Services, to whom was referred the bill (H.R. 3556) to amend the Federal financial laws to increase financial regulatory accountability and transparency, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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59–006

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 "Increasing Financial Regulatory Accountability and Transparency Act".

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

TITLE I—ENHANCING FDIC TRANSPARENCY

SEC. 101. FEDERAL DEPOSIT INSURANCE CORPORATION TRANSPARENCY.

Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended—

(1) in paragraph (1)(C), by inserting after "taken" the following: "after notification to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and";

(2) in paragraph (4)—

(A) in subparagraph (B)(i)(I), by striking "a present-value" and inserting "an expected present-value"; and

(B) in subparagraph (G)—

(i) in clause (i)—

(I) by inserting "after notification to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and" before "upon the"; and

(II) in subclause (II), by striking "would" and inserting "that can be shown to";

(ii) in clause (iii)(I), by inserting before the semicolon the following: ", including documentation of factors, empirical analyses, and data that gave rise to the determination"; and

(iii) by adding at the end the following:

"(vi) ADDITIONAL REPORTS TO CONGRESS ON EMERGENCY DETERMINATIONS.—

"(I) IN GENERAL.—With respect to each determination under clause (i), the Board of Directors, the Board of Governors of the Federal Reserve System, and the Secretary of the Treasury shall each provide to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate—

"(aa) not later than 3 days after such determination, all documentation related to such determination, including staff analyses and memoranda; and

"(bb) not later than 30 days after such determination, any analyses undertaken to justify such determination, including data, metrics used, and quantitative analyses undertaken.

"(II) INFORMATION REQUESTED BY COMMITTEES.—The Secretary of the Treasury shall provide the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate with such additional information related to a determination under clause (i) as the committees may request. The Secretary of the Treasury may submit, with such information, a written request and justification for the committees to treat the information confidentially."; and

(3) in paragraph (8)(B), after "in writing" by inserting ", shall include details of factors that led to the determination and analyses of those factors and their implications".

TITLE II—ENHANCING FEDERAL RESERVE TRANSPARENCY

SEC. 201. FEDERAL RESERVE TRANSPARENCY.

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

(1) in section 11—

(A) in the first subsection (s) (related to "Federal Reserve Transparency")—

(i) in paragraph (2)(B), by striking "eighth" and inserting "fourth";

(ii) in paragraph (5), by striking "24-month" and inserting "12-month"; and

(iii) in paragraph (7)—

(I) by striking "This subsection" and inserting the following:

"(A) IN GENERAL.—This subsection";

(II) by inserting "public" before "disclosure"; and

(III) by adding at the end the following:

"(B) CONGRESSIONAL ACCESS TO INFORMATION.—

"(i) IN GENERAL.—The Board shall, upon request, make the nonpublic personal information described under subparagraph (A) available to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

"(ii) CONFIDENTIALITY.—With respect to a request described under clause (i), if the Chairman of the Board determines that any part of the requested information needs to remain confidential and provides written notice of such determination to the committee making such request, the Board shall only make that part of the requested information available to the chair and ranking member of the committee."; and

(B) by redesignating the second subsection (s) (relating to "Assessments, Fees, and Other Charges") as subsection (t); and

(2) in section 13(3), by adding at the end the following:

"(F) CONGRESSIONAL ACCESS TO INFORMATION.—

"(i) IN GENERAL.—The Board shall make available to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate information requested by such committees related to any credit facility established by or on behalf of the Federal Reserve System or a Federal reserve bank and authorized by the Board under this paragraph.

"(ii) CONFIDENTIALITY.—With respect to a request described under clause (i), if the Chairman of the Board determines that any part of the requested information needs to remain confidential and provides written notice of such determination to the committee making such request, the Board shall only make that part of the requested information available to the chair and ranking member of the committee.".

(b) DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.—Title XI of the Dodd-Frank Wall Street Reform and Consumer Protection Act is amended—

(1) in section 1104 (12 U.S.C. 5611)—

(A) in subsection (a)(2)—

(i) in subparagraph (A), by striking "and" at the end;

(ii) by redesignating subparagraph (B) as subparagraph (C); and

(iii) by inserting after subparagraph (A) the following:

"(B) be transmitted to the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate; and";

(B) in subsection (b), by inserting after "consent of the Secretary" the following: "and notification to Congress";

(C) in subsection (c)(2), in the heading, by striking "GOA" inserting "CONGRESSIONAL REVIEW AND GAO"; and

(D) by striking subsection (d);

(2) in section 1105 (12 U.S.C. 5612)—

(A) in subsection (c)—

(i) in paragraph (1)—

(I) by inserting "and upon notification to Congress" after "with the President";

(II) by striking "President may" and inserting "President shall"; and

(III) by striking "amount and a request" and inserting "amount, and include in such report the expected cost to taxpayers and a detailed description of the assumptions made and analytical tools used to calculate such expected cost, and a request"; and

(ii) in paragraph (2), by inserting "and upon notification to Congress" after "with the President"; and

(B) in subsection (g), by amending paragraph (3) to read as follows:

"(3) LIQUIDITY EVENT.—The term 'liquidity event' shall have the definition given such term, jointly, by the Board of Governors, the Corporation, and the Secretary, by rule pursuant to notice and comment.".

(c) TITLE 31.—Section 714(f)(3) of title 31, United States Code, is amended—

(1) in subparagraph (B), by striking "legislative or"; and

(2) in subparagraph (C)(i), by striking ", including to Congress,".

TITLE III—ENHANCING FINANCIAL STABILITY OVERSIGHT COUNCIL TRANSPARENCY

SEC. 301. FSOC TRANSPARENCY.

(a) FINANCIAL STABILITY ACT OF 2010.—The Financial Stability Act of 2010 (12 U.S.C. 5311 et seq.) is amended—

(1) in section 111—

(A) in subsection (b)(1)—

(i) in subparagraph (I), by striking "and" at the end;

(ii) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(K) an independent member appointed by the President, by and with the advice and consent of the Senate, and not of the same political party as the President.";

(B) in subsection (c)—

(i) in paragraph (1), by striking "independent member" and inserting "independent members"; and

(ii) in paragraph (4)—

(I) in the heading, by striking "INDEPENDENT MEMBER" and inserting "INDEPENDENT MEMBERS"; and

(II) by striking "subsection (b)(1)(J)" and inserting "subparagraph (J) or (K) of subsection (b)(1)";

(C) by striking subsection (d);

(D) by redesignating subsections (e) through (j) as subsections (d) through (i), respectively;

(E) in subsection (d), as so redesignated, by adding at the end the following:

"(3) NOTICE TO CONGRESS.—The Chairperson shall notify the chair and ranking members of the Committee on Financial Services of the House of Representatives and the chair and ranking members of the Committee on Banking, Housing, and Urban Affairs of the Senate of a meeting at the same time as the meeting participants are notified.";

(F) in subsection (f), as so redesignated, by striking ", or to any special advisory, technical, or professional committee appointed by the Council, except that, if an advisory, technical, or professional committee has one or more members who are not employees of or affiliated with the United States Government, the Council shall publish a list of the names of the members of such committee";

(G) in subsection (g), as so redesignated, by inserting before the period at the end the following: ", but if such services, funds, facilities, staff, or other support services are provided with respect to any Council program or activity that has, or is planned to have, duration of greater than 90 days, the Council shall notify Congress of such provision"; and

(H) in subsection (i), as so redesignated, by adding at the end the following: "The Council shall report on such detailed employees on a monthly basis to Congress.";

(2) in section 112—

(A) in subsection (a)(2)—

(i) in subparagraph (A), by inserting after "system" the following: "and only after notifying Congress";

(ii) by striking subparagraphs (D) and (I);

(iii) by redesignating subparagraphs (E), (F), (G), (H), (J), (K), (L), (M), and (N) as subparagraphs (D) through (L), respectively;

(iv) in subparagraph (D), as so redesignated, by striking "agencies and" and inserting "agencies, Congress, and";

(v) in subparagraph (E), as so redesignated, by inserting after "to the member agencies" the following: ", the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate";

(vi) in subparagraph (G), as so redesignated, by striking "may";

(vii) in subparagraph (H), as so redesignated, by inserting before the semicolon the following: ", and notify the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate of such identifications";

(viii) in subparagraph (I), as so redesignated, by inserting after "primary financial regulatory agencies to apply" the following: "primary financial regulatory agencies, the chair and ranking member of the Committee on Financial Services of the House of Representatives, and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate on the costs and benefits of applying"; and

(ix) in subparagraph (J), as so redesignated, by inserting "the Congress and" before "the Commission";

(B) in subsection (c), by inserting "no later than 60 days" after "hearing,"; and

(C) in subsection (d)—

(i) in paragraph (1)—

(I) by striking "as necessary" and all that follows through "to monitor" and inserting "as necessary to monitor";

(II) by striking "; or" and inserting a period; and

(III) by striking subparagraph (B);

(ii) in paragraph (2), by inserting before the period at the end the following: "and to Congress";

(iii) in paragraph (3), by adding at the end the following:

"(D CONGRESSIONAL NOTIFICATION.—The Council may not require the submission of periodic and other reports under this paragraph until 30 days after the Council has notified the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate of the Council's intention to require such submission.";

(iv) in paragraph (4), by inserting after "Council may" the following: ", after notifying the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate,"; and

(v) in paragraph (5)(A), by inserting before the period at the end the following: ", except that Congress may request any such confidential data, information, or reports";

(3) in section 113—

(A) in subsection (a)(2)—

(i) in subparagraph (I), by adding "and" at the end;

(ii) in subparagraph (J), by striking "; and" and inserting a period; and

(iii) by striking subparagraph (K);

(B) in subsection (b)(2)—

(i) in subparagraph (I), by adding "and" at the end;

(ii) in subparagraph (J), by striking "; and" and inserting a period; and

(iii) by striking subparagraph (K);

(C) by striking subsection (f);

(D) by redesignating subsections (g), (h), and (i) as subsections (f), (g), and (h), respectively;

(E) in subsection (g), as so redesignated, by striking "subsection (d)(2), (e)(3), or (f)(5)" and inserting "subsection (d)(2) or (e)(3)"; and

(F) by adding at the end the following:

"(i) CONGRESSIONAL REVIEW.—

"(1) NOTIFICATION.—If the Council makes a determination under this section, the Council shall immediately notify Congress of such determination.

"(2) EFFECTIVENESS OF DETERMINATION.—A determination made by the Council under this section—

"(A) may not take effect until the end of the 60-day period beginning on the date that the Council notifies the Congress of such determination; and

"(B) shall have no force or effect if disapproved, as provided under this subsection.

"(3) CONGRESSIONAL DISAPPROVAL PROCEDURE.—

"(A) JOINT RESOLUTION DEFINED.—For purposes of this paragraph, the term 'joint resolution' means only a joint resolution introduced during the 60-day period described under paragraph (2)(A), the matter after the resolving clause of which is as follows: 'That Congress disapproves the determination of the Financial Stability Oversight Council submitted in a notification to Congress on _____, and such determination shall have no force or effect.' (The blank space being filled in with the appropriate date.).

"(B) TREATMENT IN SENATE.—

"(i) In the Senate, if the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of the 20-day period beginning on the date Congress is notified of a determination, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

"(ii) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under clause (i)) from further consideration of a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion 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 is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. 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 joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(iii) In the Senate, 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 those favoring and those opposing the joint resolution. 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.

"(iv) In the Senate, 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, the vote on final passage of the joint resolution shall occur.

"(v) In the Senate, appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution shall be decided without debate.

"(vi) In the Senate, the procedure specified in this subparagraph shall not apply to the consideration of a joint resolution after the end of the 60-day period described under paragraph (2)(A).

"(4) TREATMENT OF JOINT RESOLUTION RECEIVED FROM THE OTHER HOUSE.—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:

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

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

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

"(ii) the vote on final passage shall be on the joint resolution of the other House.

"(5) TREATMENT OF THIS PARAGRAPH.—This paragraph is enacted by Congress—

"(A) 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

"(B) 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.";

(4) in section 115—

(A) in subsection (a)(1), by inserting after "recommendations to" the following: "the chair and ranking member of the Committee on Financial Services of the House of Representatives, the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate, and";

(B) in subsection (c)(3), by inserting after "recommendations to" the following: "the chair and ranking member of the Committee on Financial Services of the House of Representatives, the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate, and";

(C) in subsection (d)—

(i) in paragraph (1), by inserting after "make recommendations to the Board of Governors" the following: ", if the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate are notified of such recommendations,"; and

(ii) in paragraph (2), by inserting after "make recommendations to the Board of Governors" the following: ", if the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate are notified of such recommendations,";

(D) in subsection (e), by inserting after "make recommendations to the Board of Governors" the following: ", if the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate are notified of such recommendations,";

(E) in subsection (f), by inserting after "make recommendations to the Board of Governors" the following: ", if the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate are notified of such recommendations,"; and

(F) in subsection (g), by inserting after "make recommendations to the Board of Governors" the following: ", if the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate are notified of such recommendations,";

(5) in section 116(a), by inserting after "may" the following: ", after notifying the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate,";

(6) in section 120—

(A) in subsection (a), by inserting after "regulatory agencies" the following: ", if the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate are notified of such recommendations,";

(B) in subsection (b)—

(i) in paragraph (1), by inserting after "to the public" the following: "and Congress"; and

(ii) in paragraph (2)(A), by inserting before the semicolon the following: ", and the notice required under paragraph (1) shall contain data, methodology, and analysis detailing such costs";

(C) in subsection (c)(2), by inserting after "recommended by the Council" the following: ", after notifying the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair

and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate of such imposition,";

(D) in subsection (e)(2)(A), by inserting before the period at the end the following: ", and notify the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate of such determination and the factors, data, and analysis leading to such determination"; and

(E) by adding at the end the following:

"(f) DELAY IN IMPLEMENTATION.—A primary financial regulatory agency may not implement a recommendation made by the Council under subsection (a) until the end of the 90-day period beginning on the date such recommendation is issued.";

(7) in section 121—

(A) in subsection (d), by inserting after "Governors may" the following: ", after notifying the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate,"; and

(B) by adding at the end the following:

"(e) NOTICE TO CONGRESS; DELAY IN IMPLEMENTATION.—The Board of Governors—

"(1) shall notify the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate of an intention to take an action described under paragraph (1) through (5) of subsection (a); and

"(2) may not take such an action until the end of the 60-day period beginning on the date of such notification.";

(8) in section 122—

(A) in subsection (a), by striking "may audit" and inserting "shall annually audit"; and

(B) in subsection (b)(2)—

(i) by striking "The Comptroller" and inserting "The chair and ranking member of the Committee on Financial Services of the House of Representatives, the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Comptroller"; and

(ii) by striking "as the Comptroller General" and inserting "as the chair, ranking member, or Comptroller General, as applicable";

(9) in section 152(e), by adding at the end the following: "The Office shall report on such detailed employees on a monthly basis to Congress.";

(10) in section 153—

(A) in subsection (a)—

(i) in paragraph (3), by striking "essential";

(ii) by striking paragraph (5);

(iii) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively; and

(iv) in paragraph (5), as so redesignated, by inserting before the semicolon the following: ", the chair and ranking member of the Committee on Financial Services of the House of Representatives, and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate";

(B) in subsection (b)—

(i) in paragraph (1)—

(I) by inserting after "with the Council," the following: "the chair and ranking member of the Committee on Financial Services of the House of Representatives, the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate,"; and

(II) in subparagraph (B), by inserting before the semicolon the following: "and without prior notice of such sharing being provided to the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate";

(ii) in paragraph (2), by inserting before the semicolon the following: ", after providing notice to the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate of such research projects";

(iii) in paragraph (3), by inserting before the period at the end the following: ", after providing notice to the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate of such assistance"; and

(C) in subsection (f)(1), by striking "but only" and inserting "but not earlier than 60 days after the Director notifies the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the requirement to produce such data and only";

(11) in section 154—

(A) in subsection (b)—

(i) in paragraph (1)(B)(i), by inserting after "with the Council," the following: "after notifying the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate,"; and

(ii) in paragraph (2), by adding at the end the following:

"(C) REVIEW AND REPORT ON THE COST OF THE DATABASES.—The Data Center shall review and report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate annually on the cost to the Government and the cost to private sector entities of maintaining the financial company reference database and the financial instrument reference database, relative to a detailed quantification of benefits.";

(B) in subsection (c)(1)(E), by inserting before the semicolon the following: "or Congress"; and

(C) in subsection (d)(2)—

(i) in subparagraph (B), by striking "and" at the end;

(ii) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(D) evidence of inefficient, ineffective, or burdensome regulations."; and

(12) in section 155(d)—

(A) by striking "Beginning" and inserting the following:

"(1) IN GENERAL.—Beginning"; and

(B) by adding at the end the following:

"(2) MAXIMUM ASSESSMENT AMOUNT.—The aggregate amount of assessments collected pursuant to paragraph (1) may not exceed the aggregate amount of assessments collected in the most recently completed fiscal year ending before the date of enactment of this paragraph, as such aggregate amount is adjusted annually by the Director of the Office to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.".

(b) CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking "Independent Member of the Financial Stability Oversight Council (1)" and inserting "Independent Members of the Financial Stability Oversight Council (2)".

TITLE IV—ESTABLISHING FEDERAL RESERVE VICE CHAIR FOR SUPERVISION EXPERIENCE REQUIREMENT

SEC. 401. ESTABLISHMENT OF REQUIREMENTS TO BE VICE CHAIRMAN FOR SUPERVISION.

(a) IN GENERAL.—The second undesignated paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) is amended—

(1) by inserting the following after the third sentence: "In designating the Vice Chairman for Supervision, the President shall designate an individual with demonstrated primary experience working in, or supervising, insured depository institutions, bank holding companies, or savings and loan holding companies."; and

(2) in the fourth sentence—

(A) by inserting after "supervised by the Board" the following: "(with any such recommendations being provided to the Board with ample and sufficient time for review prior to the Vice Chairman making the recommendation public)"; and

(B) by inserting after "regulation of such firms" the following: ", subject to such oversight and control of the Board as the Board determines necessary and appropriate".

(b) RULE OF APPLICATION.—The amendment made by subsection (a) shall apply to individuals who are designated by the President on or after the date of enactment of this Act to serve as the Vice Chairman for Supervision.

TITLE V—BANKING REGULATOR ACCOUNTABILITY

SEC. 501. REPORTS AND TESTIMONY TO CONGRESS ON SUPERVISION.

(a) TESTIMONY AND REPORTS TO CONGRESS ON FEDERAL RESERVE SYSTEM SUPERVISION.—Section 2B of the Federal Reserve Act (12 U.S.C. 225b) is amended by adding at the end the following:

"(d) SEMI-ANNUAL TESTIMONY AND REPORT TO CONGRESS ON SUPERVISION.—

"(1) IN GENERAL.—The Vice Chairman for Supervision shall submit a semi-annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives 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.

"(2) MINIMUM CONTENTS.—At a minimum, each report under paragraph (1) shall include—

"(A) conditions of financial firms, including examination or inspection ratings, on an aggregate basis by firm asset size;

"(B) granular data on outstanding material supervisory determinations by type of determination, including the types of risks covered, on an aggregate basis by firm asset size;

"(C) changes in the number and types of outstanding material supervisory determinations over the previous 5 years;

"(D) aggregate data on the ratings of financial firms over the previous 3 years;

"(E) the number of informal and formal enforcement actions, by type of enforcement order and showing changes in the last 3 years, against supervised financial firms on an aggregate basis by firm asset size; and

"(F) a description of the organization of the supervisory functions of the Board with respect to financial firms, including information on roles, responsibilities, accountability, and talent management.

"(3) CONFIDENTIAL REPORT.—Concurrent with each report under paragraph (1), the Vice Chairman for Supervision shall submit a confidential report to the chair and ranking member of each committee described under paragraph (1) identifying—

"(A) each supervised financial firm with less than satisfactory examination or inspection ratings; and

"(B) each supervised financial firm with an active formal or informal enforcement action, and the status of each provision of each enforcement action.".

(b) TESTIMONY AND REPORTS TO CONGRESS ON FEDERAL DEPOSIT INSURANCE CORPORATION SUPERVISION.—Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following:

"(h) SEMI-ANNUAL TESTIMONY AND REPORT TO CONGRESS ON SUPERVISION.—

"(1) APPEARANCES BEFORE CONGRESS.—The Chairman of the Corporation shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at semi-annual hearings regarding the efforts, activities, objectives, and plans of the Corporation with respect to the conduct of supervision and regulation of depository institutions supervised by the Corporation.

"(2) REPORT TO CONGRESS.—

"(A) IN GENERAL.—The Chairman of the Corporation shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives semi-annual reports regarding the efforts, activities, objectives, and plans of the Corporation with respect to the conduct of supervision and regulation of depository institutions supervised by the Corporation.

"(B) MINIMUM CONTENTS.—At a minimum, each report under subparagraph (A) shall include—

"(i) conditions of depository institutions, including examination or inspection ratings, on an aggregate basis by institution asset size;

"(ii) granular data on outstanding material supervisory determinations by type of determination, including the types of risks covered, on an aggregate basis by institution asset size;

"(iii) changes in the number and types of outstanding material supervisory determinations over the previous 5 years;

"(iv) aggregate data on the ratings of depository institutions over the previous 3 years;

"(v) the number of informal and formal enforcement actions, by type of enforcement order and showing changes in the last 3 years, against supervised depository institutions on an aggregate basis by institution asset size; and

"(vi) a description of the organization of the supervisory functions of the Corporation with respect to depository institutions, including information on roles, responsibilities, accountability, and talent management.

"(C) CONFIDENTIAL REPORT.—Concurrent with each report under subparagraph (A), the Chairman of the Corporation shall submit a confidential report to the chair and ranking member of each committee described under subparagraph (A) identifying—

"(i) each supervised depository institution with less than satisfactory examination or inspection ratings; and

"(ii) each supervised depository institution with an active formal or informal enforcement action, and the status of each provision of each enforcement action.".

(c) TESTIMONY AND REPORTS TO CONGRESS ON COMPTROLLER OF THE CURRENCY SUPERVISION.—The second section 333 of the Revised Statutes of the United States (12 U.S.C. 14; relating to the annual report) is amended—

(1) by striking "Sec. 333." and all that follows through "The Comptroller" and inserting the following:

"SEC. 333. REPORT OF COMPTROLLER.

"(a) ANNUAL REPORT.—The Comptroller"; and

(2) by adding at the end the following:

"(b) SEMI-ANNUAL TESTIMONY AND REPORT TO CONGRESS ON SUPERVISION.—

"(1) APPEARANCES BEFORE CONGRESS.—The Comptroller of the Currency shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at semi-annual hearings regarding the efforts, activities, objectives, and plans of the Office of the Comptroller of the Currency with respect to the conduct of supervision and regulation of national banks and other financial firms supervised by the Office of the Comptroller of the Currency.

"(2) REPORT TO CONGRESS.—

"(A) IN GENERAL.—The Comptroller of the Currency shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives semi-annual reports regarding the efforts, activities, objectives, and plans of the Office of the Comptroller of the Currency with respect to the conduct of supervision and regulation of national banks and other financial firms supervised by the Office of the Comptroller of the Currency.

"(B) MINIMUM CONTENTS.—At a minimum, each report under subparagraph (A) shall include—

"(i) conditions of national banks and other financial firms, including examination or inspection ratings, on an aggregate basis by asset size;

"(ii) granular data on outstanding material supervisory determinations by type of determination, including the types of risks covered, on an aggregate basis by asset size;

"(iii) changes in the number and types of outstanding material supervisory determinations over the previous 5 years;

"(iv) aggregate data on the ratings of national banks and other financial firms over the previous 3 years;

"(v) the number of informal and formal enforcement actions, by type of enforcement order and showing changes in the last 3 years, against supervised national banks and other financial firms on an aggregate basis by firm asset size; and

"(vi) a description of the organization of the supervisory functions of the Office of the Comptroller of the Currency with respect to national

banks and other financial firms, including information on roles, responsibilities, accountability, and talent management.

"(C) CONFIDENTIAL REPORT.—Concurrent with each report under subparagraph (A), the Comptroller of the Currency shall submit a confidential report to the chair and ranking member of each committee described under subparagraph (A) identifying—

"(i) each supervised national bank or other financial firms with less than satisfactory examination or inspection ratings; and

"(ii) each supervised national bank or other financial firms with an active formal or informal enforcement action, and the status of each provision of each enforcement action.".

(d) TESTIMONY AND REPORTS TO CONGRESS ON NATIONAL CREDIT UNION ADMINISTRATION SUPERVISION.—Section 102 of the Federal Credit Union Act (12 U.S.C. 1752a) is amended by adding at the end the following:

"(g) SEMI-ANNUAL TESTIMONY AND REPORT TO CONGRESS ON SUPERVISION.—

"(1) APPEARANCES BEFORE CONGRESS.—The Chairman of the Board shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at semi-annual hearings regarding the efforts, activities, objectives, and plans of the Administration with respect to the conduct of supervision and regulation of credit unions supervised by the Administration.

"(2) REPORT TO CONGRESS.—

"(A) IN GENERAL.—The Chairman of the Board shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives semi-annual reports regarding the efforts, activities, objectives, and plans of the Administration with respect to the conduct of supervision and regulation of credit unions supervised by the Administration.

"(B) MINIMUM CONTENTS.—At a minimum, each report under subparagraph (A) shall include—

"(i) conditions of credit unions, including examination or inspection ratings, on an aggregate basis by credit union asset size;

"(ii) granular data on outstanding material supervisory determinations by type of determination, including the types of risks covered, on an aggregate basis by credit union asset size;

"(iii) changes in the number and types of outstanding material supervisory determinations over the previous 5 years;

"(iv) aggregate data on the ratings of credit unions over the previous 3 years;

"(v) the number of informal and formal enforcement actions, by type of enforcement order and showing changes in the last 3 years, against supervised credit unions on an aggregate basis by credit union asset size; and

"(vi) a description of the organization of the supervisory functions of the Board with respect to credit unions, including information on roles, responsibilities, accountability, and talent management.

"(C) CONFIDENTIAL REPORT.—Concurrent with each report under subparagraph (A), the Chairman of the Board shall submit a confidential report to the chair and ranking member of each committee described under subparagraph (A) identifying—

"(i) each supervised credit union with less than satisfactory examination or inspection ratings; and

"(ii) each supervised credit union with an active formal or informal enforcement action, and the status of each provision of each enforcement action.".

PURPOSE AND SUMMARY

Introduced on May 22, 2023, by Representative Andy Barr, H.R. 3556, the *Increasing Financial Regulatory Accountability and Transparency Act*, enhances transparency and accountability of banking regulators, provides for increased reporting requirements on the Federal Reserve, Federal Deposit Insurance Corporation (FDIC), and the Financial Stability Oversight Committee (FSOC), especially when emergency actions are taken when threats to financial stability arise. The bill also provides for the establishment

of requirements for the position of Vice Chairman for Supervision at the Federal Reserve.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3556 contains parts of the following pieces of legislation:

- H.R. 3555, the *Banking Regulator Accountability Act*, introduced by Representative Monica De La Cruz.
- H.R. 3465, a *bill to enhance FDIC transparency*, introduced by Representative Andy Barr.
- H.R. 3467, a *bill to enhance Federal Reserve transparency*, introduced by Representative Andy Barr.
- H.R. 3466, a *bill to enhance Financial Stability Oversight Council transparency*, introduced by Representative Andy Barr.
- H.R. 3558, the *Vice Chair of Supervision Banking Experience Requirement Act*, introduced by Representative Scott Fitzgerald.

Title I: Enhancing FDIC Transparency

Title I would enhance and expand reporting requirements for the FDIC's receivership and resolution activities. The recent bank failures have highlighted deficiencies in the Federal banking agencies' authorities and duties surrounding emergency activities. This title would ensure prompt notification and reporting to the House Financial Services Committee and Senate Banking Committee to increase transparency and accountability and to facilitate proper Congressional oversight.

Title II: Enhancing Federal Reserve Transparency

Title II would enhance the transparency and accountability around the Federal Reserve's emergency lending authorities when used in "unusual and exigent circumstances" under section 13(3) of the Federal Reserve Act. The bill does not affect monetary policy independence. The recent bank failures have highlighted the opacity of the Federal Reserve's emergency lending authorities. This title would require prompt notification and robust reporting to the House Financial Services Committee and Senate Banking Committee to increase transparency and accountability and facilitate proper Congressional oversight.

Title III: Enhancing Financial Stability Oversight Council Transparency

Title III would enhance transparency surrounding activities of FSOC. The recent bank failures have highlighted the closed nature of the FSOC proceedings to Congress and the public. This title would ensure prompt notification and reporting to the House Financial Services Committee and Senate Banking Committee to increase transparency and accountability and facilitate proper Congressional oversight.

Title IV: Establishing Federal Reserve Vice Chair for Supervision Experience Requirement

Title IV would require that the Vice Chairman for Supervision have experience working in or supervising banking organizations. As with other experience and expertise requirements for certain financial regulatory positions, the Vice Chairman for Supervision at

the Federal Reserve Board of Governors should have relevant "real world" experience to help successfully conduct the duties of the role. Currently, the Federal Reserve Board of Governors has only one member with experience running or supervising a banking organization, which is required by the Federal Reserve Act in relation to community bank experience. The other members provide perspectives from academia and non-supervision related government service.

Title V: Banking Regulatory Accountability

Title V would require the heads of the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), and the National Credit Union Administration (NCUA) (the "Federal banking agencies") to testify semi-annually before the House Financial Services Committee and Senate Banking Committee. Currently, only the Vice Chairman of Supervision of the Federal Reserve Board is required to provide semi-annual testimony. The title would also expand the reporting requirements for each Federal banking agency, including the Vice Chairman for Supervision of the Federal Reserve Board, relating to supervisory activities, including providing confidential reports to the Chair and Ranking Member of the House Financial Services Committee and Senate Banking Committee.

The *Dodd-Frank Act* created the position of Vice Chairman for Supervision for the Federal Reserve Board and requires the Vice Chairman for Supervision to testify before the House Financial Services Committee and Senate Banking Committee at semi-annual hearings. The Federal Reserve Supervision and Regulation Report summarizes banking conditions and the Federal Reserve's supervision and regulation activities and is issued in conjunction with the Vice Chairman's semiannual testimony before Congress. The FDIC, the OCC, and the NCUA do not have similar statutory testimony requirements. The expanded reporting requirements will help Congress to further understand the condition of the financial institutions the federal banking agencies supervise on an aggregate basis.

HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearings were used to develop H.R. 3556: The Subcommittee on Financial Institutions and Monetary Policy of the Committee on Financial Services held a hearing on May 10, 2023, titled "Federal Responses to Recent Bank Failures."

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on May 24, 2023, and ordered H.R. 3556 to be reported favorably to the House as amended by a recorded vote of 26 ayes to 22 nays (Record vote no. FC–65), a quorum being present. Before the question was called to order the bill favorably reported, the Committee adopted an amendment in the nature of a substitute offered by Mr. Barr 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 order to report legislation and amendments thereto. H.R. 3556 was ordered reported favorably to the House as amended by a recorded vote of 26 ayes to 22 nays (Record vote no. FC–65), a quorum being present.

An amendment offered by Mr. Lynch, no. 1, was not agreed to by a recorded en bloc vote of 22 ayes to 26 nays (Record vote no. FC–64).

An amendment offered by Mr. Sherman, no. 2, was not agreed to by voice vote.

An amendment offered by Mr. Casten, no. 3, was not agreed to by a recorded vote of 21 ayes to 26 nays (Record vote no. FC–59).

An amendment offered by Mr. Sherman, no. 4, was not agreed to by voice vote.

An amendment offered by Mr. Green, no. 5, was not agreed to by a recorded en bloc vote of 22 ayes to 26 nays (Record vote no. FC–64).

An amendment offered by Ms. Pettersen, no. 6, was not agreed to by a recorded en bloc vote of 22 ayes to 26 nays (Record vote no. FC–64).

An amendment offered by Ms. Waters, no. 7, was not agreed to by a recorded vote of 22 ayes to 26 nays (Record vote no. FC–61).

An amendment offered by Ms. Tlaib, no. 8, was not agreed to by a recorded en bloc vote of 22 ayes to 26 nays (Record vote no. FC–64).

An amendment offered by Ms. Waters, no. 9, was not agreed to by a recorded vote 22 ayes to 26 nays (Record vote no. FC–62).

An amendment offered by Mr. Green, no. 10, was not agreed to by a recorded vote of 22 ayes to 26 nays (Record vote no. FC–63).

Record vote no. FC- 65

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. McHenry	X	____	____	Ms. Waters	____	X	____
Mr. Hill	X	____	____	Mrs. Velázquez	____	X	____
Mr. Lucas	X	____	____	Mr. Sherman	____	X	____
Mr. Sessions	X	____	____	Mr. Meeks	____	X	____
Mr. Posey	X	____	____	Mr. Scott	____	X	____
Mr. Luetkemeyer	X	____	____	Mr. Lynch	____	X	____
Mr. Huizenga	X	____	____	Mr. Green	____	X	____
Mrs. Wagner	X	____	____	Mr. Cleaver	____	X	____
Mr. Barr	X	____	____	Mr. Himes	____	X	____
Mr. Williams (TX)	X	____	____	Mr. Foster	____	X	____
Mr. Emmer	____	____	____	Mrs. Beatty	____	X	____
Mr. Loudermilk	X	____	____	Mr. Vargas	____	____	____
Mr. Mooney	____	____	____	Mr. Gottheimer	____	X	____
Mr. Davidson	X	____	____	Mr. Gonzalez	____	X	____
Mr. Rose	X	____	____	Mr. Casten	____	X	____
Mr. Steil	X	____	____	Ms. Pressley	____	X	____
Mr. Timmons	X	____	____	Mr. Horsford	____	X	____
Mr. Norman	X	____	____	Ms. Tlaib	____	X	____
Mr. Meuser	X	____	____	Mr. Torres	____	X	____
Mr. Fitzgerald	X	____	____	Ms. Garcia	____	X	____
Mr. Garbarino	X	____	____	Ms. Williams (GA)	____	X	____
Mrs. Kim	X	____	____	Mr. Nichol	____	X	____
Mr. Donalds	X	____	____	Ms. Pettersen	____	X	____
Mr. Flood	X	____	____				
Mr. Lawler	X	____	____				
Mr. Nunn	X	____	____				
Ms. De La Cruz	X	____	____				
Mrs. Houchin	X	____	____				
Mr. Ogles	____	____	____				

Record vote no. FC- 59

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. McHenry	____	X	____	Ms. Waters	X	____	____
Mr. Hill	____	X	____	Mrs. Velázquez	X	____	____
Mr. Lucas	____	X	____	Mr. Sherman	X	____	____
Mr. Sessions	____	X	____	Mr. Meeks	X	____	____
Mr. Posey	____	X	____	Mr. Scott	X	____	____
Mr. Luetkemeyer	____	X	____	Mr. Lynch	X	____	____
Mr. Huizenga	____	X	____	Mr. Green	X	____	____
Mrs. Wagner	____	X	____	Mr. Cleaver	X	____	____
Mr. Barr	____	X	____	Mr. Himes	X	____	____
Mr. Williams (TX)	____	X	____	Mr. Foster	X	____	____
Mr. Emmer	____	____	____	Mrs. Beatty	X	____	____
Mr. Loudermilk	____	X	____	Mr. Vargas	____	____	____
Mr. Mooney	____	____	____	Mr. Gottheimer	____	____	____
Mr. Davidson	____	X	____	Mr. Gonzalez	X	____	____
Mr. Rose	____	X	____	Mr. Casten	X	____	____
Mr. Steil	____	X	____	Ms. Pressley	X	____	____
Mr. Timmons	____	X	____	Mr. Horsford	X	____	____
Mr. Norman	____	X	____	Ms. Tlaib	X	____	____
Mr. Meuser	____	X	____	Mr. Torres	X	____	____
Mr. Fitzgerald	____	X	____	Ms. García	X	____	____
Mr. Garbarino	____	X	____	Ms. Williams (GA)	X	____	____
Mrs. Kim	____	X	____	Mr. Nickel	X	____	____
Mr. Donalds	____	X	____	Ms. Pettersen	X	____	____
Mr. Flood	____	X	____				
Mr. Lawler	____	X	____				
Mr. Nunn	____	X	____				
Ms. De La Cruz	____	X	____				
Mrs. Houchin	____	X	____				
Mr. Ogles	____	____	____				

Record vote no. FC- 61

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. McHenry	____	X	____	Ms. Waters	X	____	____
Mr. Hill	____	X	____	Mrs. Velázquez	X	____	____
Mr. Lucas	____	X	____	Mr. Sherman	X	____	____
Mr. Sessions	____	X	____	Mr. Meeks	X	____	____
Mr. Posey	____	X	____	Mr. Scott	X	____	____
Mr. Luetkemeyer	____	X	____	Mr. Lynch	X	____	____
Mr. Huizenga	____	X	____	Mr. Green	X	____	____
Mrs. Wagner	____	X	____	Mr. Cleaver	X	____	____
Mr. Barr	____	X	____	Mr. Himes	X	____	____
Mr. Williams (TX)	____	X	____	Mr. Foster	X	____	____
Mr. Emmer	____	____	____	Mrs. Beatty	X	____	____
Mr. Loudermilk	____	X	____	Mr. Vargas	____	____	____
Mr. Mooney	____	____	____	Mr. Gottheimer	X	____	____
Mr. Davidson	____	X	____	Mr. Gonzalez	X	____	____
Mr. Rose	____	X	____	Mr. Casten	X	____	____
Mr. Steil	____	X	____	Ms. Pressley	X	____	____
Mr. Timmons	____	X	____	Mr. Horsford	X	____	____
Mr. Norman	____	X	____	Ms. Tlaib	X	____	____
Mr. Meuser	____	X	____	Mr. Torres	X	____	____
Mr. Fitzgerald	____	X	____	Ms. Garcia	X	____	____
Mr. Garbarino	____	X	____	Ms. Williams (GA)	X	____	____
Mrs. Kim	____	X	____	Mr. Nickel	X	____	____
Mr. Donalds	____	X	____	Ms. Pettersen	X	____	____
Mr. Flood	____	X	____				
Mr. Lawler	____	X	____				
Mr. Nunn	____	X	____				
Ms. De La Cruz	____	X	____				
Mrs. Houchin	____	X	____				
Mr. Ogles	____	____	____				

Record vote no. FC- 62

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. McHenry	____	X	____	Ms. Waters	X	____	____
Mr. Hill	____	X	____	Mrs. Velázquez	X	____	____
Mr. Lucas	____	X	____	Mr. Sherman	X	____	____
Mr. Sessions	____	X	____	Mr. Meeks	X	____	____
Mr. Posey	____	X	____	Mr. Scott	X	____	____
Mr. Luetkemeyer	____	X	____	Mr. Lynch	X	____	____
Mr. Huizenga	____	X	____	Mr. Green	X	____	____
Mrs. Wagner	____	X	____	Mr. Cleaver	X	____	____
Mr. Barr	____	X	____	Mr. Himes	X	____	____
Mr. Williams (TX)	____	X	____	Mr. Foster	X	____	____
Mr. Emmer	____	____	____	Mrs. Beatty	X	____	____
Mr. Loudermilk	____	X	____	Mr. Vargas	____	____	____
Mr. Mooney	____	____	____	Mr. Gottheimer	X	____	____
Mr. Davidson	____	X	____	Mr. Gonzalez	X	____	____
Mr. Rose	____	X	____	Mr. Casten	X	____	____
Mr. Steil	____	X	____	Ms. Pressley	X	____	____
Mr. Timmons	____	X	____	Mr. Horsford	X	____	____
Mr. Norman	____	X	____	Ms. Tlaib	X	____	____
Mr. Meuser	____	X	____	Mr. Torres	X	____	____
Mr. Fitzgerald	____	X	____	Ms. Garcia	X	____	____
Mr. Garbarino	____	X	____	Ms. Williams (GA)	X	____	____
Mrs. Kim	____	X	____	Mr. Nickel	X	____	____
Mr. Donalds	____	X	____	Ms. Pettersen	X	____	____
Mr. Flood	____	X	____				
Mr. Lawler	____	X	____				
Mr. Nunn	____	X	____				
Ms. De La Cruz	____	X	____				
Mrs. Houchin	____	X	____				
Mr. Ogles	____	____	____				

Record vote no. FC- 63

Representative	Yea	Nay	Present
Mr. McHenry	____	X	____
Mr. Hill	____	X	____
Mr. Lucas	____	X	____
Mr. Sessions	____	X	____
Mr. Posey	____	X	____
Mr. Luetkemeyer	____	X	____
Mr. Huizenga	____	X	____
Mrs. Wagner	____	X	____
Mr. Barr	____	X	____
Mr. Williams (TX)	____	X	____
Mr. Emmer	____	____	____
Mr. Loudermilk	____	X	____
Mr. Mooney	____	____	____
Mr. Davidson	____	X	____
Mr. Rose	____	X	____
Mr. Steil	____	X	____
Mr. Timmons	____	X	____
Mr. Norman	____	X	____
Mr. Meuser	____	X	____
Mr. Fitzgerald	____	X	____
Mr. Garbarino	____	X	____
Mrs. Kim	____	X	____
Mr. Donalds	____	X	____
Mr. Flood	____	X	____
Mr. Lawler	____	X	____
Mr. Nunn	____	X	____
Ms. De La Cruz	____	X	____
Mrs. Houchin	____	X	____
Mr. Ogles	____	____	____

Representative	Yea	Nay	Present
Ms. Waters	X	____	____
Mrs. Velázquez	X	____	____
Mr. Sherman	X	____	____
Mr. Meeks	X	____	____
Mr. Scott	X	____	____
Mr. Lynch	X	____	____
Mr. Green	X	____	____
Mr. Cleaver	X	____	____
Mr. Himes	X	____	____
Mr. Foster	X	____	____
Mrs. Beatty	X	____	____
Mr. Vargas	____	____	____
Mr. Gottheimer	X	____	____
Mr. Gonzalez	X	____	____
Mr. Casten	X	____	____
Ms. Pressley	X	____	____
Mr. Horsford	X	____	____
Ms. Tlaib	X	____	____
Mr. Torres	X	____	____
Ms. Garcia	X	____	____
Ms. Williams (GA)	X	____	____
Mr. Nickel	X	____	____
Ms. Pettersen	X	____	____

Record vote no. FC- 64

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. McHenry	____	X	____	Ms. Waters	X	____	____
Mr. Hill	____	X	____	Mrs. Velázquez	X	____	____
Mr. Lucas	____	X	____	Mr. Sherman	X	____	____
Mr. Sessions	____	X	____	Mr. Meeks	X	____	____
Mr. Posey	____	X	____	Mr. Scott	X	____	____
Mr. Luetkemeyer	____	X	____	Mr. Lynch	X	____	____
Mr. Huizenga	____	X	____	Mr. Green	X	____	____
Mrs. Wagner	____	X	____	Mr. Cleaver	X	____	____
Mr. Barr	____	X	____	Mr. Himes	X	____	____
Mr. Williams (TX)	____	X	____	Mr. Foster	X	____	____
Mr. Emmer	____	____	____	Mrs. Beatty	X	____	____
Mr. Loudermilk	____	X	____	Mr. Vargas	____	____	____
Mr. Mooney	____	____	____	Mr. Gottheimer	X	____	____
Mr. Davidson	____	X	____	Mr. Gonzalez	X	____	____
Mr. Rose	____	X	____	Mr. Casten	X	____	____
Mr. Steil	____	X	____	Ms. Pressley	X	____	____
Mr. Timmons	____	X	____	Mr. Horsford	X	____	____
Mr. Norman	____	X	____	Ms. Tlaib	X	____	____
Mr. Meuser	____	X	____	Mr. Torres	X	____	____
Mr. Fitzgerald	____	X	____	Ms. Garcia	X	____	____
Mr. Garbarino	____	X	____	Ms. Williams (GA)	X	____	____
Mrs. Kim	____	X	____	Mr. Nickel	X	____	____
Mr. Donalds	____	X	____	Ms. Pettersen	X	____	____
Mr. Flood	____	X	____				
Mr. Lawler	____	X	____				
Mr. Nunn	____	X	____				
Ms. De La Cruz	____	X	____				
Mrs. Houchin	____	X	____				
Mr. Ogles	____	____	____				

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c) 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 goal of H.R. 3556 is to ensure the SEC has a better understanding of regulatory costs on small entities and modernizes its criteria for defining "small entities."

CONGRESSIONAL BUDGET OFFICE ESTIMATES

The Committee has requested but not received a cost estimate from the Director of the Congressional Budget Office. However, pursuant to clause 3(d)(1) of House rule XIII, the Committee will adopt as its own the cost estimate by the Director of the Congressional Budget Office once it has been prepared.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

The Committee has requested but not received an estimate from the Director of the Congressional Budget Office. However, pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, once an estimate has been prepared by the Director of the Congressional Budget Office, as required by section 402 of the Congressional Budget Act of 1973, the Committee will adopt as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues.

FEDERAL MANDATES STATEMENT

The Committee has requested but not received from the Director of the Congressional Budget Office an estimate of the Federal mandates pursuant to section 423 of the Unfunded Mandates Reform Act. The Committee will adopt the estimate once it has been prepared by the Director.

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 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 a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of the Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title; table of contents

This section cites H.R. 3556 as the *Increasing Financial Regulatory Accountability and Transparency Act.*

TITLE I—ENHANCING FDIC TRANSPARENCY

Sec. 101. Federal Deposit Insurance Corporation transparency

This section would require the FDIC to notify the House Financial Services Committee and the Senate Banking Committee whenever the FDIC, pursuant to an FDIC systemic risk determination, makes loans to, makes deposits in, purchases the assets or securities of, assumes the liabilities of, or makes contributions to insured depository institutions.

This section would require the FDIC, when determining the best manner of securing a least cost resolution (least cost to the FDIC Deposit Insurance Fund) of a failed depository institution, to use an expected present-value analysis.

This section would require notification of the two relevant congressional committees of FDIC's proposed systemic risk determination prior to or concurrent with the FDIC's request for approval from two-thirds of the FDIC Board of Directors, two-thirds of the Board of Governors of the Federal Reserve System, and the Secretary of the Treasury in consultation with the President. Prompt information provision to Congress helps facilitate necessary Congressional oversight of actions taken by regulators and the Administration.

This section would require the Secretary of the Treasury to document in greater detail the factors, empirical analyses, and data that gave rise to a systemic risk determination, ensuring that documentation of factors behind emergency actions taken is necessary to facilitate proper Congressional oversight and can help inform legislation, if legislation is needed, to improve financial regulation following emergency regulatory actions.

This section would require the FDIC, the Federal Reserve, and the Secretary of the Treasury to provide documentation to the two relevant congressional committees of the immediate discussions surrounding a systemic risk determination at the time it was made, including staff analyses and memoranda, within three days of the systemic risk determination, and would require the FDIC, the Federal Reserve, and the Secretary of the Treasury to provide more in-depth documentation of data, metrics, and quantitative

analyses used to justify the systemic risk determination within 30 days of the systemic risk determination.

This section would grant the relevant congressional committees additional abilities to exercise Congressional oversight and review requests for information from the Secretary of the Treasury regarding a systemic risk determination while safeguarding the confidentiality of the information by allowing the Secretary of the Treasury to submit a written request and justification for such confidentiality.

This section would require the FDIC to make public via the Federal Register the factors that led to the systemic risk determination and analyses of those factors and their implications.

TITLE II—ENHANCING FEDERAL RESERVE TRANSPARENCY

Sec. 201. Federal Reserve transparency

This section would require that the Federal Reserve provide to the House Financial Services Committee and the Senate Banking Committee information relating to broad-based credit facilities created pursuant to the Federal Reserve's 13(3) unusual and exigent circumstances lending authorities while safeguarding confidentiality of the information by allowing the Federal Reserve to determine information that should remain confidential other than disclosure to the chair and ranking member of the committee requesting such information.

This section would shorten the timeline for public reporting of transaction details and identifying information of discount window borrowers, 13(3) credit facility borrowers, and open market operations participants to four quarters from the current eight quarters.

This section would shorten the automatic termination date of 13(3) credit facilities to 12 months after the credit facilities' last loan made instead of the current 24 months.

This section would require, upon request from the relevant congressional committees, that the Federal Reserve disclose to those committees the identifying information of non-borrower, non-participating, or non-counterparty third parties named in collateral or assets used in discount window lending, 13(3) credit facilities, or open market operations while safeguarding confidentiality of the information by allowing the Federal Reserve to determine information that should remain confidential other than disclosure to the chair and ranking member of the relevant congressional committee making a request for such information.

This section would require the Secretary of the Treasury to notify the relevant congressional committees prior to or at the same time that the Secretary, in conjunction with the two-thirds votes of the FDIC Board of Directors and the two-thirds vote of the Federal Reserve Board of Governors, makes a determination that a liquidity event exists that requires the FDIC to create a widely available program to guarantee the obligations of solvent insured depository institutions and makes a conforming change by deleting a provision that required a report to the relevant congressional committees within 30 days of a liquidity event determination allowing the FDIC to guarantee such obligations.

This section would require that when the Secretary of the Treasury, in consultation with the President, makes a liquidity event determination, the Secretary must notify Congress prior to or concurrent with the determination, and requires that the President provide Congress a written report on the FDIC's plan to exercise its authority to create a widely available program to guarantee the obligations of solvent insured depository institutions and requires a report containing an enumeration of the amount of guarantees to be extended, the expected cost to taxpayers, and a detailed description of the assumptions and analyses used to calculate that expected cost.

This section would require that the FDIC, the Federal Reserve, and the Secretary of the Treasury publish a rule for notice and comment defining the term "liquidity event" to provide a referential baseline for those agencies to compare future circumstances to in order to provide clarity, predictability, and accountability for future uses of the FDIC's extraordinary authority to guarantee obligations of solvent insured depository institutions. The existing definition of a "liquidity event" provided in the Dodd-Frank Act is confusing and allows too much discretion for suboptimal decision making by the FDIC.

This section would require that when GAO conducts an audit of Federal Reserve 13(3) credit facilities, that GAO only make non-legislative recommendations regarding such facilities, and that GAO make available to Congress, upon request, the identifying details of 13(3) credit facility participants and transaction details.

TITLE III—ENHANCING FINANCIAL STABILITY OVERSIGHT COUNCIL TRANSPARENCY

Sec. 301. FSOC transparency

This section would require that the Financial Stability Oversight Council (FSOC) have an independent voting member appointed by the President and confirmed by the Senate who is a not a member of the same political party as the President with a term of six years. This would provide additional checks and balances within the FSOC governance structure.

This section would eliminate FSOC's in-house advisory, technical, and professional advisory committees that function as an insular and duplicative set of bodies to those already housed within the federal financial regulatory agencies themselves.

This section would require the chair of FSOC—the Secretary of the Treasury—to notify the House Financial Services Committee and the Senate Banking Committee of FSOC meetings while FSOC members are notified of such meetings.

This section would require that the Federal Advisory Committee Act apply to FSOC special advisory committees as it does other advisory committees of federal agencies, allowing transparency and public involvement through open meetings and publication of reports, transcripts, and other materials.

This section would require that FSOC notify Congress any time it receives assistance from other federal agencies for FSOC programs with a duration of 90 days or more and would require monthly notification to Congress regarding employees detailed from other federal agencies to FSOC.

This section would require notification to Congress whenever FSOC directs the Office of Financial Research (OFR) to collect information from bank holding companies and non-bank financial companies.

This section would eliminate the purview of FSOC to monitor and make recommendations to Congress regarding domestic and international financial regulatory proposals and developments, and to make recommendations to the Federal Reserve regarding prudential financial regulations for bank holding companies and non-bank financial companies regulated by the Federal Reserve. This section will help preserve independence of Federal Reserve policy-making.

This section would require that FSOC make the same recommendations to the relevant congressional committees regarding financial supervisory priorities and principles as it currently does to the federal financial regulatory agencies.

This section would clarify that FSOC can only require that the Federal Reserve supervise non-bank financial companies that actually pose financial stability risks instead of the current subjective discretion given to FSOC to require the Federal Reserve to do so.

This section would require FSOC to notify the chair and ranking members of the relevant congressional committees when it identifies systemically important financial market utilities and payment, clearing, and settlement activities and of any recommendations FSOC makes to federal financial regulatory agencies regarding new or heightened standards and safeguards that FSOC believes necessary to prevent systemic risk in U.S. financial markets posed by these utilities or activities.

This section would require that FSOC notify Congress any time it reviews and submits comments to the SEC, PCAOB, and other standards-setting bodies regarding financial accounting principles, standards, or procedures.

This section would require that the Chair of FSOC—the Secretary of the Treasury—appear before the relevant congressional committees in the Secretary's role as Chair of the FSOC each year within 60 days of publication of FSOC's Annual Report.

This section would require FSOC member agencies, the OFR, and the Federal Insurance Office (FIO) to submit the same information to Congress as they do to FSOC and would require that the chairs and ranking members of the relevant congressional committees be notified 30 days before FSOC requires FSOC member agencies, the OFR, or the FIO to make periodic submissions of reports and other information to FSOC.

This section would require FSOC to notify the chairs and ranking members of the relevant congressional committees before requesting that the Federal Reserve conduct an examination of a non-bank financial company that FSOC cannot itself determine does or does not pose a threat to the financial stability of the U.S.

This section would require FSOC, OFR, and FSOC member agencies to make available to Congress, upon request, confidential data, information, and reports.

This section would require that FSOC, when determining and voting on whether or not to subject a U.S. or foreign non-bank financial company to Federal Reserve supervision, must only consider numerically quantifiable metrics for such a determination in-

stead of also allowing subjective considerations of any other risk-related factors that FSOC deems appropriate as is the case now.

This section would eliminate the ability of FSOC to deny or modify the right to a hearing for a non-bank financial company subject to a determination that they should be subject to Federal Reserve supervision. This section would help fortify due process for private-sector entities.

This section would require that when FSOC makes a determination to subject a non-bank financial company to Federal Reserve supervision that it immediately notify Congress and that the determination may not have force or effect for 60 days beginning from the date that FSOC notifies Congress, and allows Congress, within that 60 day period, to pass a joint resolution through the House and Senate that disapproves FSOC's determination and deprives it of any force or effect, and sets out procedures for consideration of such joint resolution by the House and the Senate.

This section would require that FSOC notify the chairs and ranking members of the relevant congressional committees of any recommendations it makes to the Federal Reserve regarding the Federal Reserve's prudential standards and reporting requirements for non-bank financial companies.

This section would require that FSOC notify the chairs and ranking members of the relevant congressional committees of any recommendations FSOC makes to the Federal Reserve regarding contingent convertible capital requirements for bank holding companies and non-bank financial companies subject to Federal Reserve supervision.

This section would require that FSOC notify the chairs and ranking members of the relevant congressional committees of any recommendations FSOC makes to the Federal Reserve regarding orderly resolution plan requirements for bank holding companies subject to Federal Reserve supervision.

This section would require that FSOC notify the chairs and ranking members of the relevant congressional committees of any recommendations FSOC makes to the Federal Reserve regarding periodic reporting of counterparty credit exposures that Federal Reserve-supervised bank holding companies and non-bank financial companies have to other significant bank holding companies and other significant non-bank financial companies.

This section would require that FSOC notify the chairs and ranking members of the relevant congressional committees of any recommendations that FSOC makes to the Federal Reserve regarding Enhanced Prudential Standards that the Federal Reserve applies to large bank holding companies and non-bank financial companies it supervises.

This section would require that FSOC notify the chairs and ranking members of the relevant congressional committees of recommendations it makes to the Federal Reserve for enhanced public disclosure of information on Federal Reserve-supervised bank holding companies and non-bank financial companies about their risk profile, capital adequacy, and risk management capabilities for the purpose of supporting market-based evaluations thereof.

This section would require that FSOC notify the chairs and ranking members of the relevant congressional committees of recommendations it makes to the Federal Reserve for limits on allow-

able short-term debt held by bank holding companies and non-bank financial companies subject to Federal Reserve supervision.

This section would require that FSOC notify the chairs and ranking members of the relevant congressional committees of instances in which it requires Federal Reserve supervised bank holding companies and non-bank financial companies to submit certified reports to OFR regarding those entities' financial condition, risk monitoring frameworks, transactions with depository institution subsidiaries, and the financial stability risks thereof.

This section would require that FSOC notify the chairs and ranking members of the relevant congressional committees of recommendations it makes to federal financial regulatory agencies regarding financial activities FSOC deems a risk to the financial stability of the United States.

This section would require that FSOC notify Congress of any recommendations it and the federal financial regulatory agencies propose to be publicly offered for notice and comment regarding financial activities that FSOC and the federal financial regulatory agencies deem a risk to the financial stability of the United States and requires that such proposals offered for notice and comment provide the data, methodology, and analyses used to determine the economic costs of such proposals.

This section would require that the federal financial regulatory agencies notify the chairs and ranking members of the relevant congressional committees of their adoption or rejection of FSOC recommendations regarding regulation of certain financial activities at the same time they notify FSOC of such adoption or rejection.

This section would require that the federal financial regulatory agencies notify the chairs and ranking members of the relevant congressional committees when that regulatory agency determines that a financial activity-based regulation should remain in effect despite FSOC's determination that such financial activities no longer pose a risk to financial stability in the United States.

This section requires that any FSOC recommendations made to federal financial regulatory agencies regarding financial activities FSOC deems a risk to the financial stability of the United States cannot take effect until 90 days after the date the recommendation was issued.

This section would require that the Federal Reserve notify the chair and ranking member of the relevant congressional committees of any regulations it proposes for Federal Reserve supervised foreign bank holding companies and foreign non-bank financial companies that would require limitations on mergers and acquisitions, limitations on offerings of certain financial products, limitations on certain financial activities, and divestiture of assets of such foreign entities if the Federal Reserve determines those foreign entities or their activities pose risks to the financial stability of the United States.

This section would require that the Federal Reserve notify the chair and ranking member of the relevant congressional committees of its intention to require limitations on mergers and acquisitions, limitations on offerings of certain financial products, limitations on certain financial activities, and divestiture of assets of domestic U.S. bank holding companies and non-bank financial compa-

nies due to the Federal Reserve's determination that these domestic entities pose risks to the financial stability of the United States and would require that no such determination by the Federal Reserve may take effect until 60 days after the determination is notified to the relevant congressional committees.

This section would require that the Comptroller General of the United States annually audit FSOC, its activities, and any person or entity acting on behalf of FSOC, and that copies of the records that the Comptroller General receives from FSOC and any person or entity acting on behalf of FSOC shall also be made available to the chair and ranking member of the relevant congressional committees.

This section would require that OFR report to Congress monthly any employees on detail to OFR from other federal government departments and agencies.

This section would require that OFR research be limited to data collection, data standardization, applied research, long-term research, development of risk measurement and monitoring tools, and no longer include vague or subjective lines of research only tangentially related to financial markets and financial stability that may easily be used as a partisan policy vehicle by OFR staff, principals, or other actors. This section would require that OFR research be made available to the chair and ranking member of the relevant congressional committees.

This section would require that OFR share with the chair and ranking member of the relevant congressional committees any data, information, or software developed by OFR and that such materials may not be shared with individuals or entities outside of FSOC without notification to the chair and ranking member of the relevant congressional committees.

This section would require that OFR notify the chair and ranking member of the relevant congressional committees of any research projects it is conducting or sponsoring or any analyses that OFR conducts on behalf of federal government agencies that are not members of FSOC.

This section would require that the Director of OFR notify the relevant congressional committees of any subpoenas OFR plans to issue to obtain data from financial companies and may not issue such subpoenas until 60 days after the Director has notified the relevant congressional committees.

This section would require that OFR notify the chair and ranking member of the relevant congressional committees before it requires submission of periodic or other reports from financial companies to the OFR Data Center purported to provide OFR information to assess the risk that a financial activity or financial market poses a risk to the financial stability of the U.S.

This section would require that the OFR Data Center review and report to the relevant congressional committees annually on the cost to maintain financial company and instrument reference databases relative to the benefit such databases confer.

This section would require that the OFR Research and Analysis Center maintain and provide expertise in financial policy areas upon request by Congress.

This section would require that OFR include in its reports to Congress any evidence of inefficient, ineffective, or burdensome financial regulations.

This section would require that assessments OFR makes to fund itself, by levying assessments upon Federal Reserve supervised bank holding companies and non-bank financial companies, may not be higher than the aggregate amount of assessments levied by OFR in FY 2010 adjusted for inflation by the Consumer Price Index for All Urban Consumers (CPI–U).

TITLE IV—ESTABLISHING FEDERAL RESERVE VICE CHAIR FOR SUPERVISION EXPERIENCE REQUIREMENT

Sec. 401. Establishment of requirements to be Vice Chairman for Supervision

This section would require that the President, in designating the Vice Chair of the Federal Reserve for Supervision, select an individual with demonstrated primary experience working for or supervising insured depository institutions, bank holding companies, or savings and loan holding companies.

This section would require that any policy, regulatory, or other recommendations made to the Board of Governors by the Vice Chair for Supervision be provided to the Board of Governors with ample and sufficient time for the Board of Governors to review the recommendations before they are made public.

This section would require that the Vice Chair for Supervision be subject to the oversight and control of the Board of Governors to the extent that the Board of Governors deems necessary and appropriate. This section applies to the incumbent Vice Chair for Supervision on the date of its enactment and all Vice Chairs for Supervision thereafter.

TITLE V—BANKING REGULATOR ACCOUNTABILITY

Sec. 501. Reports and testimony to Congress on supervision

This section would require that the heads of the federal financial regulatory agencies semiannually submit testimony and appear before the House Financial Services Committee and Senate Banking Committee for hearings on efforts, activities, and plans of the agencies with respect to the supervision and regulation of the financial firms the agencies oversee.

This section would require that the heads of the federal financial regulatory agencies submit semiannual reports to the relevant congressional committees regarding the efforts, activities, and plans of the agencies with respect to the supervision and regulation of the financial firms they oversee with the reports containing at minimum: the condition of those financial firms, including on an aggregate basis the examination and inspection ratings of regulated firms by firm asset size; granular data on outstanding material supervisory determinations; changes in the number and types of material supervisory determinations over the previous five years; aggregate data on the regulated firms over the previous three years; the aggregate number of formal and informal enforcement actions by action-type against regulated firms by firm asset size; and a description of the regulator's supervisory functions' organization with respect to financial firms with specific information on roles, respon-

sibilities, accountability, and talent management of the regulator's personnel.

This section would require an additional confidential report from each regulator to the chair and ranking member of the relevant congressional committees containing information on each regulated firm with less than satisfactory examination or inspection ratings and each regulated firm with active formal or informal enforcement actions and the current status of each provision within such enforcement actions.

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 italics, and existing law in which no change is proposed is shown in roman):

FEDERAL DEPOSIT INSURANCE ACT

* * * * * * *

SEC. 13. (a) INVESTMENT OF CORPORATION'S FUNDS.—

(1) AUTHORITY.—Funds held in the Deposit Insurance Fund or the FSLIC Resolution Fund, that are not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

(2) LIMITATION.—The Corporation shall not sell or purchase any obligations described in paragraph (1) for its own account, at any one time aggregating in excess of $100,000, without the approval of the Secretary of the Treasury. The Secretary may approve a transaction or class of transactions subject to the provisions of this paragraph under such conditions as the Secretary may determine.

(b) The depository accounts of the Corporation shall be kept with the Treasurer of the United States, or, with the approval of the Secretary of the Treasury, with a Federal Reserve bank, or with a depository institution designated as a depositary or fiscal agent of the United States: *Provided,* That the Secretary of the Treasury may waive the requirements of this subsection under such conditions as he may determine: *And provided further,* That this subsection shall not apply to the establishment and maintenance in any depository institution for temporary purposes of depository accounts not in excess of $50,000 in any one depository institution, or to the establishment and maintenance in any depository institution of any depository accounts to facilitate the payment of insured desposits, or the making of loans to, or the purchase of assets of, insured depository institutions. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depositary of public moneys, except receipts from customs, under such regulations as may be prescribed by the said Secretary, and may also be employed as a financial agent of the Government. It shall perform all such reasonable duties as depositary of public moneys and financial agent of the Government as may be required of it.

(c)(1) The Corporation is authorized, in its sole discretion and upon such terms and conditions as the Board of Directors may prescribe, to make loans to, to make deposits in, to purchase the assets or securities of, to assume the liabilities of, or to make contributions to, any insured depository institution—

(A) if such action is taken to prevent the default of such insured depository institution;

(B) if, with respect to an insured bank in default, such action is taken to restore such insured bank to normal operation; or

(C) if, when severe financial conditions exist which threaten the stability of a significant number of insured depository institutions or of insured depository institutions possessing significant financial resources, such action is taken *after notification to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and* in order to lessen the risk to the Corporation posed by such insured depository institution under such threat of instability.

(2)(A) In order to facilitate a merger or consolidation of another insured depository institution described in subparagraph (B) with another insured depository institution or the sale of any or all of the assets of such insured depository institution or the assumption of any or all of such insured depository institution's liabilities by another insured depository institution, or the acquisition of the stock of such insured depository institution, the Corporation is authorized, in its sole discretion and upon such terms and conditions as the Board of Directors may prescribe—

(i) to purchase any such assets or assume any such liabilities;

(ii) to make loans or contributions to, or deposits in, or purchase the securities of, such insured institution or the company which controls or will acquire control of such insured institution;

(iii) to guarantee such insured institution or the company which controls or will acquire control of such insured institution against loss by reason of such insured institution's merging or consolidating with or assuming the liabilities and purchasing the assets of such insured depository institution or by reason of such company acquiring control of such insured depository institution; or

(iv) to take any combination of the actions referred to in subparagraphs (i) through (iii).

(B) For the purpose of subparagraph (A), the insured depository institution must be an insured depository institution—

(i) which is in default;

(ii) which, in the judgment of the Board of Directors, is in danger of default; or

(iii) which, when severe financial conditions exist which threaten the stability of a significant number of insured depository institutions or of insured depository institutions possessing significant financial resources, is determined by the Corporation, in its sole discretion, to require assistance under subparagraph (A) in order to lessen the risk to the Corporation posed by such insured depository institution under such threat of instability.

(C) Any action to which the Corporation is or becomes a party by acquiring any asset or exercising any other authority set forth in this section shall be stayed for a period of 60 days at the request of the Corporation.

(3) The Corporation may provide any person acquiring control of, merging with, consolidating with or acquiring the assets of an insured depository institution under subsection (f) or (k) of this section with such financial assistance as it could provide an insured institution under this subsection.

(4) LEAST-COST RESOLUTION REQUIRED.—

(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Corporation may not exercise any authority under this subsection or subsection (d), (f), (h), (i), or (k) with respect to any insured depository institution unless—

(i) the Corporation determines that the exercise of such authority is necessary to meet the obligation of the Corporation to provide insurance coverage for the insured deposits in such institution; and

(ii) the total amount of the expenditures by the Corporation and obligations incurred by the Corporation (including any immediate and long-term obligation of the Corporation and any direct or contingent liability for future payment by the Corporation) in connection with the exercise of any such authority with respect to such institution is the least costly to the Deposit Insurance Fund of all possible methods for meeting the Corporation's obligation under this section.

(B) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible cost to the Deposit Insurance Fund, the Corporation shall comply with the following provisions:

(i) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

(I) evaluate alternatives on [a present-value] *an expected present-value* basis, using a realistic discount rate;

(II) document that evaluation and the assumptions on which the evaluation is based, including any assumptions with regard to interest rates, asset recovery rates, asset holding costs, and payment of contingent liabilities; and

(III) retain the documentation for not less than 5 years.

(ii) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the Deposit Insurance Fund.

(C) TIME OF DETERMINATION.—

(i) GENERAL RULE.—For purposes of this subsection, the determination of the costs of providing any assistance under paragraph (1) or (2) or any other provision of this section with respect to any depository institution shall be made as of the date on which the Cor-

poration makes the determination to provide such assistance to the institution under this section.

(ii) RULE FOR LIQUIDATIONS.—For purposes of this subsection, the determination of the costs of liquidation of any depository institution shall be made as of the earliest of—

(I) the date on which a conservator is appointed for such institution;

(II) the date on which a receiver is appointed for such institution; or

(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to such institution.

(D) LIQUIDATION COSTS.—In determining the cost of liquidating any depository institution for the purpose of comparing the costs under subparagraph (A) (with respect to such institution), the amount of such cost may not exceed the amount which is equal to the sum of the insured deposits of such institution as of the earliest of the dates described in subparagraph (C), minus the present value of the total net amount the Corporation reasonably expects to receive from the disposition of the assets of such institution in connection with such liquidation.

(E) DEPOSIT INSURANCE FUND AVAILABLE FOR INTENDED PURPOSE ONLY.—

(i) IN GENERAL.—After December 31, 1994, or at such earlier time as the Corporation determines to be appropriate, the Corporation may not take any action, directly or indirectly, with respect to any insured depository institution that would have the effect of increasing losses to the Deposit Insurance Fund by protecting—

(I) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

(II) creditors other than depositors.

(ii) DEADLINE FOR REGULATIONS.—The Corporation shall prescribe regulations to implement clause (i) not later than January 1, 1994, and the regulations shall take effect not later than January 1, 1995.

(iii) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this subparagraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the insurance fund does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

(F) DISCRETIONARY DETERMINATIONS.—Any determination which the Corporation may make under this para-

graph shall be made in the sole discretion of the Corporation.

(G) SYSTEMIC RISK.—

(i) EMERGENCY DETERMINATION BY SECRETARY OF THE TREASURY.—Notwithstanding subparagraphs (A) and (E), if, *after notification to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and* upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that—

(I) the Corporation's compliance with subparagraphs (A) and (E) with respect to an insured depository institution for which the Corporation has been appointed receiver would have serious adverse effects on economic conditions or financial stability; and

(II) any action or assistance under this subparagraph [would] *that can be shown to* avoid or mitigate such adverse effects,

the Corporation may take other action or provide assistance under this section for the purpose of winding up the insured depository institution for which the Corporation has been appointed receiver as necessary to avoid or mitigate such effects.

(ii) REPAYMENT OF LOSS.—

(I) IN GENERAL.—The Corporation shall recover the loss to the Deposit Insurance Fund arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) from 1 or more special assessments on insured depository institutions, depository institution holding companies (with the concurrence of the Secretary of the Treasury with respect to holding companies), or both, as the Corporation determines to be appropriate.

(II) TREATMENT OF DEPOSITORY INSTITUTION HOLDING COMPANIES.—For purposes of this clause, sections 7(c)(2) and 18(h) shall apply to depository institution holding companies as if they were insured depository institutions.

(III) REGULATIONS.—The Corporation shall prescribe such regulations as it deems necessary to implement this clause. In prescribing such regulations, defining terms, and setting the appropriate assessment rate or rates, the Corporation shall establish rates sufficient to cover the losses incurred as a result of the actions of the Corporation under clause (i) and shall consider: the types of entities that benefit from any action taken or assistance

provided under this subparagraph; economic conditions, the effects on the industry, and such other factors as the Corporation deems appropriate and relevant to the action taken or the assistance provided. Any funds so collected that exceed actual losses shall be placed in the Deposit Insurance Fund.

(iii) DOCUMENTATION REQUIRED.—The Secretary of the Treasury shall—

(I) document any determination under clause (i), *including documentation of factors, empirical analyses, and data that gave rise to the determination*; and

(II) retain the documentation for review under clause (iv).

(iv) GAO REVIEW.—The Comptroller General of the United States shall review and report to the Congress on any determination under clause (i), including—

(I) the basis for the determination;

(II) the purpose for which any action was taken pursuant to such clause; and

(III) the likely effect of the determination and such action on the incentives and conduct of insured depository institutions and uninsured depositors.

(v) NOTICE.—

(I) IN GENERAL.—Not later than 3 days after making a determination under clause (i), the Secretary of the Treasury shall provide written notice of any determination under clause (i) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(II) DESCRIPTION OF BASIS OF DETERMINATION.—The notice under subclause (I) shall include a description of the basis for any determination under clause (i).

(vi) ADDITIONAL REPORTS TO CONGRESS ON EMERGENCY DETERMINATIONS.—

(I) IN GENERAL.—With respect to each determination under clause (i), the Board of Directors, the Board of Governors of the Federal Reserve System, and the Secretary of the Treasury shall each provide to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate—

(aa) not later than 3 days after such determination, all documentation related to such determination, including staff analyses and memoranda; and

(bb) not later than 30 days after such determination, any analyses undertaken to justify

such determination, including data, metrics used, and quantitative analyses undertaken.

(II) INFORMATION REQUESTED BY COMMITTEES.—The Secretary of the Treasury shall provide the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate with such additional information related to a determination under clause (i) as the committees may request. The Secretary of the Treasury may submit, with such information, a written request and justification for the committees to treat the information confidentially.

(H) RULE OF CONSTRUCTION.—No provision of law shall be construed as permitting the Corporation to take any action prohibited by paragraph (4) unless such provision expressly provides, by direct reference to this paragraph, that this paragraph shall not apply with respect to such action.

(5) The Corporation may not use its authority under this subsection to purchase the voting or common stock of an insured depository institution. Nothing in the preceding sentence shall be construed to limit the ability of the Corporation to enter into and enforce covenants and agreements that it determines to be necessary to protect its financial interest.

(6)(A) During any period in which an insured depository institution has received assistance under this subsection and such assistance is still outstanding, such insured depository institution may defer the payment of any State or local tax which is determined on the basis of the deposits held by such insured depository institution or of the interest or dividends paid on such deposits.

(B) When such insured depository institution no longer has any outstanding assistance, such insured depository institution shall pay all taxes which were deferred under subparagraph (A). Such payments shall be made in accordance with a payment plan established by the Corporation, after consultation with the applicable State and local taxing authorities.

(7) The transfer of any assets or liabilities associated with any trust business of an insured depository institution in default under subparagraph (2)(A) shall be effective without any State or Federal approval, assignment, or consent with respect thereto.

(8) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

(A) IN GENERAL.—Subject to the least-cost provisions of paragraph (4), the Corporation shall consider providing direct financial assistance under this section for depository institutions before the appointment of a conservator or receiver for such institution only under the following circumstances:

(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

(I) grounds for the appointment of a conservator or receiver exist or likely will exist in the future unless the depository institution's capital levels are increased; and

(II) it is unlikely that the institution can meet all currently applicable capital standards without assistance.

(ii) OTHER CRITERIA.—The depository institution meets the following criteria:

(I) The appropriate Federal banking agency and the Corporation have determined that, during such period of time preceding the date of such determination as the agency or the Corporation considers to be relevant, the institution's management has been competent and has complied with applicable laws, rules, and supervisory directives and orders.

(II) The institution's management did not engage in any insider dealing, speculative practice, or other abusive activity.

(B) PUBLIC DISCLOSURE.—Any determination under this paragraph to provide assistance under this section shall be made in writing*, shall include details of factors that led to the determination and analyses of those factors and their implications* and published in the Federal Register.

(9) Any assistance provided under this subsection may be in subordination to the rights of depositors and other creditors.

(10) In its annual report to the Congress, the Corporation shall report the total amount it has saved, or estimates it has saved, by exercising the authority provided in this subsection.

(11) UNENFORCEABILITY OF CERTAIN AGREEMENTS.—No provision contained in any existing or future standstill, confidentiality, or other agreement that, directly or indirectly—

(A) affects, restricts, or limits the ability of any person to offer to acquire or acquire,

(B) prohibits any person from offering to acquire or acquiring, or

(C) prohibits any person from using any previously disclosed information in connection with any such offer to acquire or acquisition of,

all or part of any insured depository institution, including any liabilities, assets, or interest therein, in connection with any transaction in which the Corporation exercises its authority under section 11 or 13, shall be enforceable against or impose any liability on such person, as such enforcement or liability shall be contrary to public policy.

(d) SALE OF ASSETS TO CORPORATION.—

(1) IN GENERAL.–Any conservator, receiver, or liquidator appointed for any insured depository institution in default, including the Corporation acting in such capacity, shall be entitled to offer the assets of such depository institutions for sale to the Corporation or as security for loans from the Corporation.

(2) PROCEEDS.—The proceeds of every sale or loan of assets to the Corporation shall be utilized for the same purposes and in the same manner as other funds realized from the liquidation of the assets of such depository institutions.

(3) RIGHTS AND POWERS OF CORPORATION.—

(A) IN GENERAL.—With respect to any asset acquired or liability assumed pursuant to this section, the Corporation shall have all of the rights, powers, privileges, and authorities of the Corporation as receiver under sections 11 and 15(b).

(B) RULE OF CONSTRUCTION.—Such rights, powers, privileges, and authorities shall be in addition to and not in derogation of any rights, powers, privileges, and authorities otherwise applicable to the Corporation.

(C) FIDUCIARY RESPONSIBILITY.—In exercising any right, power, privilege, or authority described in subparagraph (A), the Corporation shall continue to be subject to the fiduciary duties and obligations of the Corporation as receiver to claimants against the insured depository institution in receivership.

(D) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority described in subparagraph (A) regarding the sale or disposition of assets sold to the Corporation pursuant to paragraph (1), the Corporation shall conduct its operations in a manner which—

(i) maximizes the net present value return from the sale or disposition of such assets;

(ii) minimizes the amount of any loss realized in the resolution of cases;

(iii) ensures adequate competition and fair and consistent treatment of offerors;

(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.

(4) LOANS.—The Corporation, in its discretion, may make loans on the security of or may purchase and liquidate or sell any part of the assets of an insured depository institution which is now or may hereafter be in default.

(e) AGREEMENTS AGAINST INTERESTS OF CORPORATION.—

(1) IN GENERAL.—No agreement which tends to diminish or defeat the interest of the Corporation in any asset acquired by it under this section or section 11, either as security for a loan or by purchase or as receiver of any insured depository institution, shall be valid against the Corporation unless such agreement—

(A) is in writing,

(B) was executed by the depository institution and any person claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the depository institution,

(C) was approved by the board of directors of the depository institution or its loan committee, which approval shall be reflected in the minutes of said board or committee, and

(D) has been, continuously, from the time of its execution, an official record of the depository institution.

(2) EXEMPTIONS FROM CONTEMPORANEOUS EXECUTION REQUIREMENT.—An agreement to provide for the lawful collateralization of—

(A) deposits of, or other credit extension by, a Federal, State, or local governmental entity, or of any depositor referred to in section 11(a)(2), including an agreement to provide collateral in lieu of a surety bond;

(B) bankruptcy estate funds pursuant to section 345(b)(2) of title 11, United States Code;

(C) extensions of credit, including any overdraft, from a Federal reserve bank or Federal home loan bank; or

(D) one or more qualified financial contracts, as defined in section 11(e)(8)(D),

shall not be deemed invalid pursuant to paragraph (1)(B) solely because such agreement was not executed contemporaneously with the acquisition of the collateral or because of pledges, delivery, or substitution of the collateral made in accordance with such agreement.

(f) ASSISTED EMERGENCY INTERSTATE ACQUISITIONS.—(1) This subsection shall apply only to an acquisition of an insured bank or a holding company by an out-of-State bank savings association or out-of-State holding company for which the Corporation provides assistance under subsection (c).

(2)(A) Whenever an insured bank with total assets of $500,000,000 or more (as determined from its most recent report of condition) is in default, the Corporation, as receiver, may, in its discretion and upon such terms and conditions as the Corporation may determine, arrange the sale of assets of the closed bank and the assumption of the liabilities of the closed bank, including the sale of such assets to and the assumption of such liabilities by an insured depository institution located in the State where the closed bank was chartered but established by an out-of-State bank or holding company. Where otherwise lawfully required, a transaction under this subsection must be approved by the primary Federal or State supervisor of all parties thereto.

(B)(i) Before making a determination to take any action under subparagraph (A), the Corporation shall consult the State bank supervisor of the State in which the insured bank in default was chartered.

(ii) The State bank supervisor shall be given a reasonable opportunity, and in no event less than forty-eight hours, to object to the use of the provisions of this paragraph. Such notice may be provided by the Corporation prior to its appointment as receiver, but in anticipation of an impending appointment.

(iii) If the State supervisor objects during such period, the Corporation may use the authority of this paragraph only by a vote of 75 percent of the Board of Directors. The Board of Directors shall provide to the State supervisor, as soon as practicable, a written certification of its determination.

(3) EMERGENCY INTERSTATE ACQUISITIONS OF INSURED BANKS IN DANGER OF DEFAULT.—

(A) ACQUISITION OF INSURED BANKS IN DANGER OF DEFAULT.—One or more out-of-State banks or out-of-State holding companies may acquire and retain all or part of the shares or assets of, or otherwise acquire and retain—

(i) an insured bank in danger of default which has total assets of $500,000,000 or more; or

(ii) 2 or more affiliated insured banks in danger of default which have aggregate total assets of $500,000,000 or more, if the aggregate total assets of such banks is equal to or greater than 33 percent of the aggregate total assets of all affiliated insured banks.

(B) ACQUISITION OF A HOLDING COMPANY OR OTHER BANK AFFILIATE.—If one or more out-of-State banks or out-of-State holding companies acquire 1 or more affiliated insured banks under subparagraph (A) the aggregate total assets of which is equal to or greater than 33 percent of the aggregate total assets of all affiliated insured banks, any such out-of-State bank or out-of-State holding company may also, as part of the same transaction, acquire and retain the shares or assets of, or otherwise acquire and retain—

(i) the holding company which controls the affiliated insured banks so acquired; or

(ii) any other affiliated insured bank.

(C) REQUEST FOR ASSISTANCE BY CORPORATE BOARD OF DIRECTORS.—The Corporation may assist an acquisition or merger authorized under subparagraph (A) only if the board of directors or trustees of each insured bank in danger of default which is being acquired has requested in writing that the Corporation assist the acquisition or merger.

(D) CERTAIN ACQUISITIONS AUTHORIZED AFTER ASSISTANCE IS PROVIDED.—Notwithstanding paragraph (1), if—

(i) at any time after the date of the enactment of the Financial Institutions Emergency Acquisitions Amendments of 1987, the Corporation provides any assistance under subsection (c) to an insured bank; and

(ii) at the time such assistance is granted, the insured bank, the holding company which controls the insured bank (if any), or any affiliated insured bank is eligible to be acquired by an out-of-State bank or out-of-State holding company under this paragraph,

the insured bank, the holding company, and such other affiliated insured bank shall remain eligible, subject to such terms and conditions as the Corporation (in the Corporation's discretion) may impose, to be acquired by an out-of-State bank or out-of-State holding company under this paragraph as long as any portion of such assistance remains outstanding.

(E) STATE BANK SUPERVISOR APPROVAL.—The Corporation may take no final action in connection with any acquisition under this paragraph unless the State bank supervisor of the State in which the bank in danger of default is located approves the acquisition.

(F) OTHER REQUIREMENTS NOT AFFECTED.—This paragraph does not affect any other requirement under Federal or State law for regulatory approval of an acquisition under this paragraph.

(G) ACQUISITION MAY BE CONDITIONED ON RECEIPT OF CONSIDERATION FOR CORPORATION'S ASSISTANCE.—Any acquisition described in subparagraph (D) may be conditioned on the re-

ceipt of such consideration for the Corporation's assistance as the Board of Directors deems appropriate.

(4)(A) ACQUISITIONS NOT SUBJECT TO CERTAIN OTHER LAWS.—Section 3(d) of the Bank Holding Company Act of 1956, any provision of State law, and section 408(e)(3) of the National Housing Act shall not apply to prohibit any acquisition under paragraph (2) or (3), except that an out-of-State bank may make such an acquisition only if such ownership is otherwise specifically authorized.

(B) Any subsidiary created by operation of this subsection may retain and operate any existing branch or branches of the institution merged with or acquired under paragraph (2) or (3), but otherwise shall be subject to the conditions upon which a national bank may establish and operate branches in the State in which such insured institution is located.

(C) No insured institution acquired under this subsection shall after it is acquired move its principal office or any branch office which it would be prohibited from moving if the institution were a national bank.

(D) SUBSEQUENT NONEMERGENCY INTERSTATE ACQUISITIONS SUBJECT TO STATE LAW.—

(i) IN GENERAL.—Any out-of-State bank holding company which acquires control of an insured bank in any State under paragraph (2) or (3) may acquire any other insured bank and establish branches in such State to the same extent as a bank holding company whose insured bank subsidiaries' operations are principally conducted in such State may acquire any other insured bank or establish branches.

(ii) DELAYED DATE OF APPLICABILITY.—Clause (i) shall not apply with respect to any out-of-State bank holding company referred to in such clause before the earlier of—

(I) the end of the 2-year period beginning on the date the acquisition referred to in such clause with respect to such company is consummated; or

(II) the end of any period established under State law during which such out-of-State bank holding company may not be treated as a bank holding company whose insured bank subsidiaries' operations are principally conducted in such State for purposes of acquiring other insured banks or establishing bank branches.

(iii) DETERMINATION OF PRINCIPALLY CONDUCTED.—For purposes of this subparagraph, the State in which the operations of a holding company's insured bank subsidiaries are principally conducted is the State determined under section 3(d) of the Bank Holding Company Act of 1956 with respect to such holding company.

(E) CERTAIN STATE INTERSTATE BANKING LAWS INAPPLICABLE.—Any holding company which acquires control of any insured bank or holding company under paragraph (2) or (3) or subparagraph (D) of this paragraph shall not, by reason of such acquisition, be required under the law of any State to divest any other insured bank or be prevented from acquiring any other bank or holding company.

(5) In determining whether to arrange a sale of assets and assumption of liabilities or an acquisition or a merger under the authority of paragraph (2) or (3), the Corporation may solicit such offers or proposals as are practicable from any prospective pur-

chasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring the assets and liabilities of the bank in default or the bank in danger of default.

(6)(A) If, after receiving offers, the offer presenting the lowest expense to the Corporation, that is in a form and with conditions acceptable to the Corporation (hereinafter referred to as the "lowest acceptable offer"), is from an offeror that is not an existing in-State bank of the same type as the bank that is in default or is in danger of default (or, where the bank is an insured bank other than a mutual savings bank, the lowest acceptable offer is not from an in-State holding company), the Corporation shall permit the offeror which made the initial lowest acceptable offer and each offeror who made an offer the estimated cost of which to the Corporation was within 15 per centum or $15,000,000, whichever is less, of the initial lowest acceptable offer to submit a new offer.

(B) In considering authorizations under this subsection, the Corporation shall give consideration to the need to minimize the cost of financial assistance and to the maintenance of specialized depository institutions. The Corporation shall authorize transactions under this subsection considering the following priorities:

(i) First, between depository institutions of the same type within the same State.

(ii) Second, between depository institutions of the same type—

(I) in different States which by statute specifically authorize such acquisitions; or

(II) in the absence of such statutes, in different States which are contiguous.

(iii) Third, between depository institutions of the same type in different States other than the States described in clause (ii).

(iv) Fourth, between depository institutions of different types in the same State.

(v) Fifth, between depository institutions of different types—

(I) in different States which by statute specifically authorize such acquisitions; or

(II) in the absence of such statutes, in different States which are contiguous.

(vi) Sixth, between depository institutions of different types in different States other than the States described in clause (v).

(C) MINORITY BANK PRIORITY.—In the case of a minority-controlled bank, the Corporation shall seek an offer from other minority-controlled banks before proceeding with the bidding priorities set forth in subparagraph (B).

(D) In determining the cost of offers and reoffers, the Corporation's calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers and reoffers.

(7) No sale may be made under the provisions of paragraph (2) or (3)—

(A) which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States;

(B) whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Corporation finds that the anticompetitive effects of the proposed transactions are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served; or

(C) if in the opinion of the Corporation the acquisition threatens the safety and soundness of the acquirer or does not result in the future viability of the resulting depository institution.

(8) As used in this subsection—

(A) the term "in-State depository institution or in-State holding company" means an existing insured depository institution currently operating in the State in which the bank in default or the bank in danger of default is chartered or a company that is operating an insured depository institution subsidiary in the State in which the bank in default or the bank in danger of default is chartered;

(B) the term "acquire" means to acquire, directly or indirectly, ownership or control through—

(i) an acquisition of shares;

(ii) an acquisition of assets or assumption of liabilities;

(iii) a merger or consolidation; or

(iv) any similar transaction;

(C) the term "affiliated insured bank" means—

(i) when used in connection with a reference to a holding company, an insured bank which is a subsidiary of such holding company; and

(ii) when used in connection with a reference to 2 or more insured banks, insured banks which are subsidiaries of the same holding company; and

(D) the term "subsidiary" has the meaning given to such term in section 2(d) of the Bank Holding Company Act of 1956.

(9) NO ASSISTANCE AUTHORIZED FOR CERTAIN SUBSIDIARIES OF HOLDING COMPANIES.—

(A) IN GENERAL.—The Corporation shall not provide any assistance to a subsidiary, other than a subsidiary that is an insured depository institution, of a holding company in connection with any acquisition under this subsection.

(B) INTERMEDIATE HOLDING COMPANY PERMITTED.—This paragraph does not prohibit an intermediate holding company or an affiliate of an insured depository institution from being a conduit for assistance ultimately intended for an insured bank.

(10) ANNUAL REPORT.—

(A) REQUIRED.—In its annual report to Congress the Corporation shall include a report on the acquisitions under this subsection during the preceding year.

(B) CONTENTS.—The report required under subparagraph (A) shall contain the following information:

(i) The number of acquisitions under this subsection.

(ii) A brief description of each such acquisition and the circumstances under which such acquisition occurred.

(11) DETERMINATION OF TOTAL ASSETS.—For purposes of this subsection, the total assets of any insured bank shall be determined on the basis of the most recent report of condition of such bank which is available at the time of such determination.

(12) ACQUISITION OF MINORITY BANK BY MINORITY BANK HOLDING COMPANY WITHOUT REGARD TO ASSET SIZE.—

(A) IN GENERAL.—For the purpose of ensuring continued minority control of a minority-controlled bank, paragraphs (2) and (3) shall apply with respect to the acquisition of a minority-controlled bank by an out-of-State minority-controlled depository institution or depository institution holding company without regard to the fact that the total assets of such minority-controlled bank are less than $500,000,000.

(B) DEFINITIONS.—For purposes of this paragraph:

(i) MINORITY BANK.—The term "minority bank" means any depository institution described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act—

(I) more than 50 percent of the ownership or control of which is held by one or more minority individuals; and

(II) more than 50 percent of the net profit or loss of which accrues to minority individuals.

(ii) MINORITY.—The term "minority" means any Black American, Native American, Hispanic American, or Asian American.

(g) Prior to July 1, 1951, the Corporation shall pay out of its capital account to the Secretary of the Treasury an amount equal to 2 per centum simple interest per annum on amounts advanced to the Corporation on stock subscriptions by the Secretary of the Treasury and the Federal Reserve banks, from the time of such advances until the amounts thereof were repaid. The amount payable hereunder shall be paid in two equal installments, the first installment to be paid prior to December 31, 1950.

(h) The powers conferred on the Board of Directors and the Corporation by this section to take action to reopen an insured depository institution in default or to avert the default of an insured depository institution may be used with respect to an insured branch of a foreign bank if, in the judgment of the Board of Directors, the public interest in avoiding the closing of such branch substantially outweighs any additional risk of loss to the Deposit Insurance Fund which the exercise of such powers would entail.

(j) LOAN LOSS AMORTIZATION FOR CERTAIN BANKS.—

(1) ELIGIBILITY.—The appropriate Federal banking agency shall permit an agricultural bank to take the actions referred to in paragraph (2) if it finds that—

(A) there is no evidence that fraud or criminal abuse on the part of the bank led to the losses referred to in paragraph (2); and

(B) the agricultural bank has a plan to restore its capital, not later than the close of the amortization period established under paragraph (2), to a level prescribed by the appropriate Federal banking agency.

(2) SEVEN-YEAR LOSS AMORTIZATION.—(A) Any loss on any qualified agricultural loan that an agricultural bank would otherwise be required to show on its annual financial statement for any year between December 31, 1983, and January 1, 1992, may be amortized on its financial statements over a period of not to exceed 7 years, as provided in regulations issued by the appropriate Federal banking agency.

(B) An agricultural bank may reappraise any real estate or other property, real or personal, that it acquired coincident to the making of a qualified agricultural loan and that it owned on January 1, 1983, and any such additional property that it acquires prior to January 1, 1992. Any loss that such bank would otherwise be required to show on its annual financial statements as the result of any such reappraisal may be amortized on its financial statements over a period of not to exceed 7 years, as provided in regulations issued by the appropriate Federal banking agency.

(3) REGULATIONS.—Not later than 90 days after the date of enactment of this subsection, the appropriate Federal banking agency shall issue regulations implementing this subsection with respect to banks that it supervises, including regulations implementing the capital restoration requirement of paragraph (1)(B).

(4) DEFINITIONS.—As used in this subsection—

(A) the term "agricultural bank" means a bank—

(i) the deposits of which are insured by the Federal Deposit Insurance Corporation;

(ii) which is located in an area the economy of which is dependent on agriculture;

(iii) which has assets of $100,000,000 or less; and

(iv) which has—

(I) at least 25 percent of its total loans in qualified agricultural loans; or

(II) fewer than 25 percent of its total loans in qualified agricultural loans but which the appropriate Federal banking agency or State bank commissioner recommends to the Corporation for eligibility under this section, or which the Corporation, on its motion, deems eligible; and

(B) the term "qualified agricultural loan" means a loan made to finance the production of agricultural products or livestock in the United States, a loan secured by farmland or farm machinery, or such other category of loans as the appropriate Federal banking agency may deem eligible.

(5) MAINTENANCE OF PORTFOLIO.—As a condition of eligibility under this subsection, the agricultural bank must agree to maintain in its loan portfolio a percentage of agricultural loans which is not lower than the percentage of such loans in its loan portfolio on January 1, 1986.

(k) EMERGENCY ACQUISITIONS.—

(1) IN GENERAL.—

(A) ACQUISITIONS AUTHORIZED.—

(i) TRANSACTIONS DESCRIBED.—Notwithstanding any provision of State law, upon determining that severe financial conditions threaten the stability of a signifi-

cant number of savings associations, or of savings associations possessing significant financial resources, the Corporation, in its discretion and if it determines such authorization would lessen the risk to the Corporation, may authorize—

(I) a savings association that is eligible for assistance pursuant to subsection (c) to merge or consolidate with, or to transfer its assets and liabilities to, any other savings association or any insured bank,

(II) any other savings association to acquire control of such savings association, or

(III) any company to acquire control of such savings association or to acquire the assets or assume the liabilities thereof.

The Corporation may not authorize any transaction under this subsection unless the Corporation determines that the authorization will not present a substantial risk to the safety or soundness of the savings association to be acquired or any acquiring entity.

(ii) TERMS OF TRANSACTIONS.—Mergers, consolidations, transfers, and acquisitions under this subsection shall be on such terms as the Corporation shall provide.

(iii) APPROVAL BY APPROPRIATE AGENCY.—Where otherwise required by law, transactions under this subsection must be approved by the appropriate Federal banking agency of every party thereto.

(iv) ACQUISITIONS BY SAVINGS ASSOCIATIONS.—Any Federal savings association that acquires another savings association pursuant to clause (i) may, with the concurrence of the Comptroller of the Currency, hold that savings association as a subsidiary notwithstanding the percentage limitations of section 5(c)(4)(B) of the Home Owners' Loan Act.S

(v) DUAL SERVICE.—Dual service by a management official that would otherwise be prohibited under the Depository Institution Management Interlocks Act may, with the approval of the Corporation, continue for up to 10 years.

(vi) CONTINUED APPLICABILITY OF CERTAIN STATE RESTRICTIONS.—Nothing in this subsection overrides or supersedes State laws restricting or limiting the activities of a savings association on behalf of another entity.

(B) CONSULTATION WITH STATE OFFICIAL.—

(i) CONSULTATION REQUIRED.—Before making a determination to take any action under subparagraph (A), the Corporation shall consult the State official having jurisdiction of the acquired institution.

(ii) PERIOD FOR STATE RESPONSE.—The official shall be given a reasonable opportunity, and in no event less than 48 hours, to object to the use of the provisions of this paragraph. Such notice may be provided by the Corporation prior to its appointment as re-

ceiver, but in anticipation of an impending appointment.

(iii) APPROVAL OVER OBJECTION OF STATE OFFICIAL.—If the official objects during such period, the Corporation may use the authority of this paragraph only by a vote of 75 percent or more of the voting members of the Board of Directors. The Corporation shall provide to the official, as soon as practicable, a written certification of its determination.

(2) SOLICITATION OF OFFERS.—

(A) IN GENERAL.—In considering authorizations under this subsection, the Corporation may solicit such offers or proposals as are practicable from any prospective purchasers or merger partners it determines, in its sole discretion, are both qualified and capable of acquiring the assets and liabilities of the savings association.

(B) MINORITY-CONTROLLED INSTITUTIONS.—In the case of a minority-controlled depository institution, the Corporation shall seek an offer from other minority-controlled depository institutions before seeking an offer from other persons or entities.

(3) DETERMINATION OF COSTS.—In determining the cost of offers under this subsection, the Corporation's calculations and estimations shall be determinative. The Corporation may set reasonable time limits on offers.

(4) BRANCHING PROVISIONS.—

(A) IN GENERAL.—If a merger, consolidation, transfer, or acquisition under this subsection involves a savings association eligible for assistance and a bank or bank holding company, a savings association may retain and operate any existing branch or branches or any other existing facilities. If the savings association continues to exist as a separate entity, it may establish and operate new branches to the same extent as any savings association that is not affiliated with a bank holding company and the home office of which is located in the same State.

(B) RESTRICTIONS.—

(i) IN GENERAL.—Notwithstanding subparagraph (A), if—

(I) a savings association described in such subparagraph does not have its home office in the State of the bank holding company bank subsidiary, and

(II) such association does not qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986, or does not meet the asset composition test imposed by subparagraph (C) of that section on institutions seeking so to qualify,

such savings association shall be subject to the conditions upon which a bank may retain, operate, and establish branches in the State in which the savings association is located.

(ii) TRANSITION PERIOD.—The Corporation, for good cause shown, may allow a savings association up to 2 years to comply with the requirements of clause (i).

(5) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

(A) ASSISTANCE PROPOSALS.—The Corporation shall consider proposals by savings associations for assistance pursuant to subsection (c) before grounds exist for appointment of a conservator or receiver for such member under the following circumstances:

(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

(I) that grounds for appointment of a conservator or receiver exist or likely will exist in the future unless the member's tangible capital is increased;

(II) that it is unlikely that the member can achieve positive tangible capital without assistance; and

(III) that providing assistance pursuant to the member's proposal would be likely to lessen the risk to the Corporation.

(ii) OTHER CRITERIA.—The member meets the following criteria:

(I) Before enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the member was solvent under applicable regulatory accounting principles but had negative tangible capital.

(II) The member's negative tangible capital position is substantially attributable to its participation in acquisition and merger transactions that were instituted by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for supervisory reasons.

(III) The member is a qualified thrift lender (as defined in section 10(m) of the Home Owners' Loan Act) or would be a qualified thrift lender if commercial real estate owned and nonperforming commercial loans acquired in acquisition and merger transactions that were instituted by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for supervisory reasons were excluded from the member's total assets.

(IV) The appropriate Federal banking agency has determined that the member's management is competent and has complied with applicable laws, rules, and supervisory directives and orders.

(V) The member's management did not engage in insider dealing or speculative practices or other activities that jeopardized the member's safety and soundness or contributed to its impaired capital position.

(VI) The member's offices are located in an economically depressed region.

(B) CORPORATION CONSIDERATION OF ASSISTANCE PROPOSAL.—If a member meets the requirements of clauses (i) and (ii) of subparagraph (A), the Corporation shall consider providing direct financial assistance.

(C) ECONOMICALLY DEPRESSED REGION DEFINED.—For purposes of this paragraph, the term "economically depressed region" means any geographical region which the Corporation determines by regulation to be a region within which real estate values have suffered serious decline due to severe economic conditions, such as a decline in energy or agricultural values or prices.

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SEC. 17. (a) ANNUAL REPORTS ON THE DEPOSIT INSURANCE FUND AND THE FSLIC RESOLUTION FUND.—

(1) IN GENERAL.—The Corporation shall annually submit a full report of its operations, activities, budget, receipts, and expenditures for the preceding 12-month period. The report shall include, with respect to the Deposit Insurance Fund and the FSLIC Resolution Fund, an analysis by the Corporation of—

(A) the current financial condition of each such fund;

(B) the purpose, effect, and estimated cost of each resolution action taken for an insured depository institution during the preceding year;

(C) the extent to which the actual costs of assistance provided to, or for the benefit of, an insured depository institution during the preceding year exceeded the estimated costs of such assistance reported in a previous year under paragraph (A);

(D) the exposure of the Deposit Insurance Fund to changes in those economic factors most likely to affect the condition of that fund;

(E) a current estimate of the resources needed for the Deposit Insurance Fund or the FSLIC Resolution Fund to achieve the purposes of this Act; and

(F) any findings, conclusions, and recommendations for legislative and administrative actions considered appropriate to future resolution activities by the Corporation.

(2) MANNER OF SUBMISSION.—Such report shall be submitted to the President of the Senate and the Speaker of the House of Representatives, who shall cause the same to be printed for the information of Congress, and the President as soon as practicable after the first day of January each year.

(3) COORDINATION WITH OTHER REPORT REQUIREMENTS.—The report required under this subsection shall include the report required under section 18(f)(7) of the Federal Trade Commission Act.

(b) QUARTERLY REPORTS TO TREASURY.—

(1) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal quarter, the Corporation shall provide to the Secretary of the Treasury a copy of the Corporation's financial operating plans and forecasts.

(2) FINANCIAL CONDITION AND REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal quarter, the

Corporation shall submit to the Secretary of the Treasury a copy of the report of the Corporation's financial condition as of the end of such fiscal quarter and the results of the Corporation's operations during such fiscal quarter.

(3) ITEMS TO BE INCLUDED.—The plans, forecasts, and reports required under this subsection shall reflect the estimates required to be made under section 15(b) of the liabilities and obligations of the Corporation described in such section.

(4) RULE OF CONSTRUCTION.—The requirement to provide plans, forecasts, and reports to the Secretary of the Treasury under this subsection may not be construed as implying any obligation on the part of the Corporation to obtain the consent or approval of such Secretary with respect to such plans, forecasts, and reports.

(c) REPORTS TO OMB.—

(1) FINANCIAL INFORMATION.—The Corporation shall continue to provide to the Director of the Office of Management and Budget financial information consistent with that contained in the reports that were being provided to the Director immediately prior to the effective date of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) FINANCIAL OPERATING PLANS AND FORECASTS.—The Corporation shall also provide to the Director copies of the Corporation's financial operating plans and forecasts as prepared by the Corporation in the ordinary course of its operations, and copies of the quarterly reports of the Corporation's financial condition and results of operations as prepared by the Corporation in the ordinary course of its operations.

(3) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the Corporation to consult with or obtain the consent or approval of the Director with respect to any reports, plans, forecasts, or other information referred to in paragraph (1) or (2) or any jurisdiction or oversight over the affairs or operations of the Corporation.

(d) AUDIT.—

(1) AUDIT REQUIRED.—The Comptroller General shall audit annually the financial transactions of the Corporation the Deposit Insurance Fund and the FSLIC Resolution Fund in accordance with generally accepted government auditing standards.

(2) ACCESS TO BOOKS AND RECORDS.—All books, records, accounts, reports, files, and property belonging to or used by the Corporation, the Bank Insurance Fund, the Savings Association Insurance Fund, and the FSLIC Resolution Fund, or by an independent certified public accountant retained to audit the Fund's financial statements, shall be made available to the Comptroller General.

(e) The financial transactions of the Corporation shall be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representatives of the General Accounting Of-

fice shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers and property of the Corporation shall remain in possession and custody of the Corporation. The audit shall begin with financial transactions occurring on and after August 31, 1948. The Corporation shall be audited at least once in every three years.

(f) A report of each audit conducted under subsection (b) of this section shall be made by the Comptroller General to the Congress not later than six and one-half months following the close of the last year covered by such audit. The report to the Congress shall set forth the scope of the audit and shall include a statement of assets and liabilities and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expenses; a statement of sources and application of funds and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as the Comptroller General may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary of the Treasury, and to the Corporation at the time submitted to the Congress.

(g) For the purpose of conducting such audit the Comptroller General is authorized in his discretion to employ by contract, without regard to section 3709 of the Revised Statutes, professional services of firms and organizations of certified public accountants, with the concurrence of the Corporation, for temporary periods or for special purposes. The Corporation shall reimburse the General Accounting Office for the cost of any such audit as billed therefor by the Comptroller General, and the General Accounting Office shall deposit the sums so reimbursed into the Treasury as miscellaneous receipts.

(h) SEMI-ANNUAL TESTIMONY AND REPORT TO CONGRESS ON SUPERVISION.—

(1) APPEARANCES BEFORE CONGRESS.—The Chairman of the Corporation shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at semi-annual hearings regarding the efforts, activities, objectives, and plans of the Corporation with respect to the conduct of supervision and regulation of depository institutions supervised by the Corporation.

(2) REPORT TO CONGRESS.—

(A) IN GENERAL.—The Chairman of the Corporation shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives semi-annual reports regarding the efforts, activities, objectives, and

plans of the Corporation with respect to the conduct of supervision and regulation of depository institutions supervised by the Corporation.

(B) MINIMUM CONTENTS.—At a minimum, each report under subparagraph (A) shall include—

(i) conditions of depository institutions, including examination or inspection ratings, on an aggregate basis by institution asset size;

(ii) granular data on outstanding material supervisory determinations by type of determination, including the types of risks covered, on an aggregate basis by institution asset size;

(iii) changes in the number and types of outstanding material supervisory determinations over the previous 5 years;

(iv) aggregate data on the ratings of depository institutions over the previous 3 years;

(v) the number of informal and formal enforcement actions, by type of enforcement order and showing changes in the last 3 years, against supervised depository institutions on an aggregate basis by institution asset size; and

(vi) a description of the organization of the supervisory functions of the Corporation with respect to depository institutions, including information on roles, responsibilities, accountability, and talent management.

(C) CONFIDENTIAL REPORT.—Concurrent with each report under subparagraph (A), the Chairman of the Corporation shall submit a confidential report to the chair and ranking member of each committee described under subparagraph (A) identifying—

(i) each supervised depository institution with less than satisfactory examination or inspection ratings; and

(ii) each supervised depository institution with an active formal or informal enforcement action, and the status of each provision of each enforcement action.

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FEDERAL RESERVE ACT

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SEC. 2B. APPEARANCES BEFORE AND REPORTS TO THE CONGRESS.

(a) APPEARANCES BEFORE THE CONGRESS.—

(1) IN GENERAL.—The Chairman of the Board shall appear before the Congress at semi-annual hearings, as specified in paragraph (2), regarding—

(A) the efforts, activities, objectives and plans of the Board and the Federal Open Market Committee with respect to the conduct of monetary policy; and

(B) economic developments and prospects for the future described in the report required in subsection (b).

(2) SCHEDULE.—The Chairman of the Board shall appear—

(A) before the Committee on Banking and Financial Services of the House of Representatives on or about February 20 of even numbered calendar years and on or about July 20 of odd numbered calendar years;

(B) before the Committee on Banking, Housing, and Urban Affairs of the Senate on or about July 20 of even numbered calendar years and on or about February 20 of odd numbered calendar years; and

(C) before either Committee referred to in subparagraph (A) or (B), upon request, following the scheduled appearance of the Chairman before the other Committee under subparagraph (A) or (B).

(b) CONGRESSIONAL REPORT.—The Board shall, concurrent with each semi-annual hearing required by this section, submit a written 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 a discussion of the conduct of monetary policy and economic developments and prospects for the future, taking into account past and prospective developments in employment, unemployment, production, investment, real income, productivity, exchange rates, international trade and payments, and prices.

(c) PUBLIC ACCESS TO INFORMATION.—The Board shall place on its home Internet website, a link entitled "Audit", which shall link to a webpage that shall serve as a repository of information made available to the public for a reasonable period of time, not less than 6 months following the date of release of the relevant information, including—

(1) the reports prepared by the Comptroller General under section 714 of title 31, United States Code;

(2) the annual financial statements prepared by an independent auditor for the Board in accordance with section 11B;

(3) the reports to the Committee on Banking, Housing, and Urban Affairs of the Senate required under section 13(3) (relating to emergency lending authority); and

(4) such other information as the Board reasonably believes is necessary or helpful to the public in understanding the accounting, financial reporting, and internal controls of the Board and the Federal reserve banks.

(d) SEMI-ANNUAL TESTIMONY AND REPORT TO CONGRESS ON SUPERVISION.—

(1) IN GENERAL.—The Vice Chairman for Supervision shall submit a semi-annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives 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.

(2) MINIMUM CONTENTS.—At a minimum, each report under paragraph (1) shall include—

(A) conditions of financial firms, including examination or inspection ratings, on an aggregate basis by firm asset size;

(B) granular data on outstanding material supervisory determinations by type of determination, including the types of risks covered, on an aggregate basis by firm asset size;

(C) changes in the number and types of outstanding material supervisory determinations over the previous 5 years;

(D) aggregate data on the ratings of financial firms over the previous 3 years;

(E) the number of informal and formal enforcement actions, by type of enforcement order and showing changes in the last 3 years, against supervised financial firms on an aggregate basis by firm asset size; and

(F) a description of the organization of the supervisory functions of the Board with respect to financial firms, including information on roles, responsibilities, accountability, and talent management.

(3) CONFIDENTIAL REPORT.—Concurrent with each report under paragraph (1), the Vice Chairman for Supervision shall submit a confidential report to the chair and ranking member of each committee described under paragraph (1) identifying—

(A) each supervised financial firm with less than satisfactory examination or inspection ratings; and

(B) each supervised financial firm with an active formal or informal enforcement action, and the status of each provision of each enforcement action.

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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 re-

striction 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. *In designating the Vice Chairman for Supervision, the President shall designate an individual with demonstrated primary experience working in, or supervising, insured depository institutions, bank holding companies, or savings and loan holding companies.* 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 *(with any such recommendations being provided to the Board with ample and sufficient time for review prior to the Vice Chairman making the recommendation public)*, and shall oversee the supervision and regulation of such firms*, subject to such oversight and control of the Board as the Board determines necessary and appropriate*. 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.

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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) APPEARANCES BEFORE CONGRESS.—The Vice Chairman for Supervision shall 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.

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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 nonmember 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 employees in the classified service.

(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] *fourth* 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] *12-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]

(A) IN GENERAL.—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 *public* 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.

(B) CONGRESSIONAL ACCESS TO INFORMATION.—

(i) IN GENERAL.—The Board shall, upon request, make the nonpublic personal information described under subparagraph (A) available to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(ii) CONFIDENTIALITY.—With respect to a request described under clause (i), if the Chairman of the Board determines that any part of the requested information needs to remain confidential and provides written notice of such determination to the committee making such request, the Board shall only make that part of the requested information available to the chair and ranking member of the committee.

(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 informa-

tion 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 $100,000,000,000 or more;

(B) all savings and loan holding companies having total consolidated assets of $100,000,000,000 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.

(3) TAILORING ASSESSMENTS.—In collecting assessments, fees, or other charges under paragraph (1) from each company described in paragraph (2) with total consolidated assets of between $100,000,000,000 and $250,000,000,000, the Board shall adjust the amount charged to reflect any changes in supervisory and regulatory responsibilities resulting from the Economic Growth, Regulatory Relief, and Consumer Protection Act with respect to each such company.

* * * * * * *

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, the Board of Governors of the Federal Reserve System, by the affirmative vote of not less than five members, 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 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 Re-

serve bank: *Provided,* That before discounting any such note, draft, or bill of exchange, the Federal reserve bank shall obtain evidence that such 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 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.

(ii) The Board shall establish procedures to prohibit borrowing from programs and facilities by borrowers that are 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 participants in an emergency lending program or facility commenced under this paragraph;

(ii) the amounts borrowed by each 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) CONGRESSIONAL ACCESS TO INFORMATION.—

(i) IN GENERAL.—The Board shall make available to the Committee on Financial Services of the House of Represent-

atives and the Committee on Banking, Housing, and Urban Affairs of the Senate information requested by such committees related to any credit facility established by or on behalf of the Federal Reserve System or a Federal reserve bank and authorized by the Board under this paragraph.

(ii) CONFIDENTIALITY.—With respect to a request described under clause (i), if the Chairman of the Board determines that any part of the requested information needs to remain confidential and provides written notice of such determination to the committee making such request, the Board shall only make that part of the requested information available to the chair and ranking member of the committee.

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 sell-

ing 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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DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

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TITLE I—FINANCIAL STABILITY

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Subtitle A—Financial Stability Oversight Council

SEC. 111. FINANCIAL STABILITY OVERSIGHT COUNCIL ESTABLISHED.

(a) ESTABLISHMENT.—Effective on the date of enactment of this Act, there is established the Financial Stability Oversight Council.

(b) MEMBERSHIP.—The Council shall consist of the following members:

(1) VOTING MEMBERS.—The voting members, who shall each have 1 vote on the Council shall be—

(A) the Secretary of the Treasury, who shall serve as Chairperson of the Council;

(B) the Chairman of the Board of Governors;

(C) the Comptroller of the Currency;

(D) the Director of the Bureau;

(E) the Chairman of the Commission;

(F) the Chairperson of the Corporation;

(G) the Chairperson of the Commodity Futures Trading Commission;

(H) the Director of the Federal Housing Finance Agency;

(I) the Chairman of the National Credit Union Administration Board; [and]

(J) an independent member appointed by the President, by and with the advice and consent of the Senate, having insurance expertise[.]*; and*

(K) an independent member appointed by the President, by and with the advice and consent of the Senate, and not of the same political party as the President.

(2) NONVOTING MEMBERS.—The nonvoting members, who shall serve in an advisory capacity as a nonvoting member of the Council, shall be—

(A) the Director of the Office of Financial Research;

(B) the Director of the Federal Insurance Office;

(C) a State insurance commissioner, to be designated by a selection process determined by the State insurance commissioners;

(D) a State banking supervisor, to be designated by a selection process determined by the State banking supervisors; and

(E) a State securities commissioner (or an officer performing like functions), to be designated by a selection process determined by such State securities commissioners.

(3) NONVOTING MEMBER PARTICIPATION.—The nonvoting members of the Council shall not be excluded from any of the proceedings, meetings, discussions, or deliberations of the Council, except that the Chairperson may, upon an affirmative vote of the member agencies, exclude the nonvoting members from any of the proceedings, meetings, discussions, or deliberations of the Council when necessary to safeguard and promote the free exchange of confidential supervisory information.

(c) TERMS; VACANCY.—

(1) TERMS.—The [independent member] *independent members* of the Council shall serve for a term of 6 years, and each nonvoting member described in subparagraphs (C), (D), and (E) of subsection (b)(2) shall serve for a term of 2 years.

(2) VACANCY.—Any vacancy on the Council shall be filled in the manner in which the original appointment was made.

(3) ACTING OFFICIALS MAY SERVE.—In the event of a vacancy in the office of the head of a member agency or department, and pending the appointment of a successor, or during the absence or disability of the head of a member agency or department, the acting head of the member agency or department shall serve as a member of the Council in the place of that agency or department head.

(4) TERM OF [INDEPENDENT MEMBER] *INDEPENDENT MEMBERS*.—Notwithstanding paragraph (1), if a successor to the independent member of the Council serving under [subsection (b)(1)(J)] *subparagraph (J) or (K) of subsection (b)(1)* is not appointed and confirmed by the end of the term of service of such member, such member may continue to serve until the earlier of—

(A) 18 months after the date on which the term of service ends; or

(B) the date on which a successor to such member is appointed and confirmed.

[(d) TECHNICAL AND PROFESSIONAL ADVISORY COMMITTEES.—The Council may appoint such special advisory, technical, or professional committees as may be useful in carrying out the functions of the Council, including an advisory committee consisting of State regulators, and the members of such committees may be members of the Council, or other persons, or both.]

[(e)] *(d)* MEETINGS.—

(1) TIMING.—The Council shall meet at the call of the Chairperson or a majority of the members then serving, but not less frequently than quarterly.

(2) RULES FOR CONDUCTING BUSINESS.—The Council shall adopt such rules as may be necessary for the conduct of the business of the Council. Such rules shall be rules of agency organization, procedure, or practice for purposes of section 553 of title 5, United States Code.

(3) NOTICE TO CONGRESS.—The Chairperson shall notify the chair and ranking members of the Committee on Financial Services of the House of Representatives and the chair and ranking members of the Committee on Banking, Housing, and Urban Affairs of the Senate of a meeting at the same time as the meeting participants are notified.

[(f)] *(e)* VOTING.—Unless otherwise specified, the Council shall make all decisions that it is authorized or required to make by a majority vote of the voting members then serving.

[(g)] *(f)* NONAPPLICABILITY OF CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—Chapter 10 of title 5, United States Code, shall not apply to the Council[, or to any special advisory, technical, or professional committee appointed by the Council, except that, if an advisory, technical, or professional committee has one or more members who are not employees of or affiliated with the United States Government, the Council shall publish a list of the names of the members of such committee].

[(h)] *(g)* ASSISTANCE FROM FEDERAL AGENCIES.—Any department or agency of the United States may provide to the Council and any special advisory, technical, or professional committee appointed by the Council, such services, funds, facilities, staff, and other support services as the Council may determine advisable*, but if such services, funds, facilities, staff, or other support services are provided with respect to any Council program or activity that has, or is planned to have, duration of greater than 90 days, the Council shall notify Congress of such provision*.

[(i)] *(h)* COMPENSATION OF MEMBERS.—

(1) FEDERAL EMPLOYEE MEMBERS.—All members of the Council who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) COMPENSATION FOR NON-FEDERAL MEMBER.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:"Independent Member of the Financial Stability Oversight Council (1).".

[(j)] *(i)* DETAIL OF GOVERNMENT EMPLOYEES.—Any employee of the Federal Government may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege. An employee of the Federal Government detailed to the Council shall report to and be subject to oversight by the Council during the assignment to the Council, and shall be compensated by the department or agency from which the employee was detailed. *The Council shall report on such detailed employees on a monthly basis to Congress.*

SEC. 112. COUNCIL AUTHORITY.

(a) PURPOSES AND DUTIES OF THE COUNCIL.—

(1) IN GENERAL.—The purposes of the Council are—

(A) to identify risks to the financial stability of the United States that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected bank holding companies or nonbank financial companies, or that could arise outside the financial services marketplace;

(B) to promote market discipline, by eliminating expectations on the part of shareholders, creditors, and counter-

parties of such companies that the Government will shield them from losses in the event of failure; and

(C) to respond to emerging threats to the stability of the United States financial system.

(2) DUTIES.—The Council shall, in accordance with this title—

(A) collect information from member agencies, other Federal and State financial regulatory agencies, the Federal Insurance Office and, if necessary to assess risks to the United States financial system *and only after notifying Congress*, direct the Office of Financial Research to collect information from bank holding companies and nonbank financial companies;

(B) provide direction to, and request data and analyses from, the Office of Financial Research to support the work of the Council;

(C) monitor the financial services marketplace in order to identify potential threats to the financial stability of the United States;

[(D) to monitor domestic and international financial regulatory proposals and developments, including insurance and accounting issues, and to advise Congress and make recommendations in such areas that will enhance the integrity, efficiency, competitiveness, and stability of the U.S. financial markets;**]**

[(E)**]** *(D)* facilitate information sharing and coordination among the member **[**agencies and**]** *agencies, Congress, and* other Federal and State agencies regarding domestic financial services policy development, rulemaking, examinations, reporting requirements, and enforcement actions;

[(F)**]** *(E)* recommend to the member agencies*, the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate* general supervisory priorities and principles reflecting the outcome of discussions among the member agencies;

[(G)**]** *(F)* identify gaps in regulation that could pose risks to the financial stability of the United States;

[(H)**]** *(G)* require supervision by the Board of Governors for nonbank financial companies that **[**may**]** pose risks to the financial stability of the United States in the event of their material financial distress or failure, or because of their activities pursuant to section 113;

[(I) make recommendations to the Board of Governors concerning the establishment of heightened prudential standards for risk-based capital, leverage, liquidity, contingent capital, resolution plans and credit exposure reports, concentration limits, enhanced public disclosures, and overall risk management for nonbank financial companies and large, interconnected bank holding companies supervised by the Board of Governors;**]**

[(J)**]** *(H)* identify systemically important financial market utilities and payment, clearing, and settlement activities (as that term is defined in title VIII*), and notify the*

chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate of such identifications;

[(K)] *(I)* make recommendations to primary financial regulatory agencies to apply *primary financial regulatory agencies, the chair and ranking member of the Committee on Financial Services of the House of Representatives, and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate on the costs and benefits of applying* new or heightened standards and safeguards for financial activities or practices that could create or increase risks of significant liquidity, credit, or other problems spreading among bank holding companies, nonbank financial companies, and United States financial markets;

[(L)] *(J)* review and, as appropriate, may submit comments to *the Congress and* the Commission and any standard-setting body with respect to an existing or proposed accounting principle, standard, or procedure;

[(M)] *(K)* provide a forum for—

(i) discussion and analysis of emerging market developments and financial regulatory issues; and

(ii) resolution of jurisdictional disputes among the members of the Council; and

[(N)] *(L)* annually report to and testify before Congress on—

(i) the activities of the Council;

(ii) significant financial market and regulatory developments, including insurance and accounting regulations and standards, along with an assessment of those developments on the stability of the financial system;

(iii) potential emerging threats to the financial stability of the United States;

(iv) all determinations made under section 113 or title VIII, and the basis for such determinations;

(v) all recommendations made under section 119 and the result of such recommendations; and

(vi) recommendations—

(I) to enhance the integrity, efficiency, competitiveness, and stability of United States financial markets;

(II) to promote market discipline; and

(III) to maintain investor confidence.

(b) STATEMENTS BY VOTING MEMBERS OF THE COUNCIL.—At the time at which each report is submitted under subsection (a), each voting member of the Council shall—

(1) if such member believes that the Council, the Government, and the private sector are taking all reasonable steps to ensure financial stability and to mitigate systemic risk that would negatively affect the economy, submit a signed statement to Congress stating such belief; or

(2) if such member does not believe that all reasonable steps described under paragraph (1) are being taken, submit a signed statement to Congress stating what actions such member believes need to be taken in order to ensure that all reasonable steps described under paragraph (1) are taken.

(c) TESTIMONY BY THE CHAIRPERSON.—The Chairperson shall appear before the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at an annual hearing, *no later than 60 days* after the report is submitted under subsection (a)—

(1) to discuss the efforts, activities, objectives, and plans of the Council; and

(2) to discuss and answer questions concerning such report.

(d) AUTHORITY TO OBTAIN INFORMATION.—

(1) IN GENERAL.—The Council may receive, and may request the submission of, any data or information from the Office of Financial Research, member agencies, and the Federal Insurance Office, [as necessary—]

[(A) to monitor] *as necessary to monitor* the financial services marketplace to identify potential risks to the financial stability of the United States[; or].

[(B) to otherwise carry out any of the provisions of this title.]

(2) SUBMISSIONS BY THE OFFICE AND MEMBER AGENCIES.—Notwithstanding any other provision of law, the Office of Financial Research, any member agency, and the Federal Insurance Office, are authorized to submit information to the Council *and to Congress*.

(3) FINANCIAL DATA COLLECTION.—

(A) IN GENERAL.—The Council, acting through the Office of Financial Research, may require the submission of periodic and other reports from any nonbank financial company or bank holding company for the purpose of assessing the extent to which a financial activity or financial market in which the nonbank financial company or bank holding company participates, or the nonbank financial company or bank holding company itself, poses a threat to the financial stability of the United States.

(B) MITIGATION OF REPORT BURDEN.—Before requiring the submission of reports from any nonbank financial company or bank holding company that is regulated by a member agency or any primary financial regulatory agency, the Council, acting through the Office of Financial Research, shall coordinate with such agencies and shall, whenever possible, rely on information available from the Office of Financial Research or such agencies.

(C) MITIGATION IN CASE OF FOREIGN FINANCIAL COMPANIES.—Before requiring the submission of reports from a company that is a foreign nonbank financial company or foreign-based bank holding company, the Council shall, acting through the Office of Financial Research, to the extent appropriate, consult with the appropriate foreign regulator of such company and, whenever possible, rely on information already being collected by such foreign regulator, with English translation.

(D CONGRESSIONAL NOTIFICATION.—The Council may not require the submission of periodic and other reports under this paragraph until 30 days after the Council has notified the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate of the Council's intention to require such submission.

(4) BACK-UP EXAMINATION BY THE BOARD OF GOVERNORS.—If the Council is unable to determine whether the financial activities of a U.S. nonbank financial company pose a threat to the financial stability of the United States, based on information or reports obtained under paragraphs (1) and (3), discussions with management, and publicly available information, the Council may*, after notifying the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate,* request the Board of Governors, and the Board of Governors is authorized, to conduct an examination of the U.S. nonbank financial company for the sole purpose of determining whether the nonbank financial company should be supervised by the Board of Governors for purposes of this title.

(5) CONFIDENTIALITY.—

(A) IN GENERAL.—The Council, the Office of Financial Research, and the other member agencies shall maintain the confidentiality of any data, information, and reports submitted under this title*, except that Congress may request any such confidential data, information, or reports*.

(B) RETENTION OF PRIVILEGE.—The submission of any nonpublicly available data or information under this subsection and subtitle B shall not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State court) to which the data or information is otherwise subject.

(C) FREEDOM OF INFORMATION ACT.—Section 552 of title 5, United States Code, including the exceptions thereunder, shall apply to any data or information submitted under this subsection and subtitle B.

SEC. 113. AUTHORITY TO REQUIRE SUPERVISION AND REGULATION OF CERTAIN NONBANK FINANCIAL COMPANIES.

(a) U.S. NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS.—

(1) DETERMINATION.—The Council, on a nondelegable basis and by a vote of not fewer than ⅔ of the voting members then serving, including an affirmative vote by the Chairperson, may determine that a U.S. nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards, in accordance with this title, if the Council determines that material financial distress at the U.S. nonbank financial company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the U.S. nonbank financial company, could pose a threat to the financial stability of the United States.

(2) CONSIDERATIONS.—In making a determination under paragraph (1), the Council shall consider—

(A) the extent of the leverage of the company;

(B) the extent and nature of the off-balance-sheet exposures of the company;

(C) the extent and nature of the transactions and relationships of the company with other significant nonbank financial companies and significant bank holding companies;

(D) the importance of the company as a source of credit for households, businesses, and State and local governments and as a source of liquidity for the United States financial system;

(E) the importance of the company as a source of credit for low-income, minority, or underserved communities, and the impact that the failure of such company would have on the availability of credit in such communities;

(F) the extent to which assets are managed rather than owned by the company, and the extent to which ownership of assets under management is diffuse;

(G) the nature, scope, size, scale, concentration, interconnectedness, and mix of the activities of the company;

(H) the degree to which the company is already regulated by 1 or more primary financial regulatory agencies;

(I) the amount and nature of the financial assets of the company; *and*

(J) the amount and types of the liabilities of the company, including the degree of reliance on short-term funding**[**; and**]**.

[(K) any other risk-related factors that the Council deems appropriate.**]**

(b) FOREIGN NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS.—

(1) DETERMINATION.—The Council, on a nondelegable basis and by a vote of not fewer than ⅔ of the voting members then serving, including an affirmative vote by the Chairperson, may determine that a foreign nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards, in accordance with this title, if the Council determines that material financial distress at the foreign nonbank financial company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the foreign nonbank financial company, could pose a threat to the financial stability of the United States.

(2) CONSIDERATIONS.—In making a determination under paragraph (1), the Council shall consider—

(A) the extent of the leverage of the company;

(B) the extent and nature of the United States related off-balance-sheet exposures of the company;

(C) the extent and nature of the transactions and relationships of the company with other significant nonbank financial companies and significant bank holding companies;

(D) the importance of the company as a source of credit for United States households, businesses, and State and local governments and as a source of liquidity for the United States financial system;

(E) the importance of the company as a source of credit for low-income, minority, or underserved communities in the United States, and the impact that the failure of such company would have on the availability of credit in such communities;

(F) the extent to which assets are managed rather than owned by the company and the extent to which ownership of assets under management is diffuse;

(G) the nature, scope, size, scale, concentration, interconnectedness, and mix of the activities of the company;

(H) the extent to which the company is subject to prudential standards on a consolidated basis in its home country that are administered and enforced by a comparable foreign supervisory authority;

(I) the amount and nature of the United States financial assets of the company; *and*

(J) the amount and nature of the liabilities of the company used to fund activities and operations in the United States, including the degree of reliance on short-term funding**[**; and**]**.

[(K) any other risk-related factors that the Council deems appropriate.**]**

(c) ANTIEVASION.—

(1) DETERMINATIONS.—In order to avoid evasion of this title, the Council, on its own initiative or at the request of the Board of Governors, may determine, on a nondelegable basis and by a vote of not fewer than ⅔ of the voting members then serving, including an affirmative vote by the Chairperson, that—

(A) material financial distress related to, or the nature, scope, size, scale, concentration, interconnectedness, or mix of, the financial activities conducted directly or indirectly by a company incorporated or organized under the laws of the United States or any State or the financial activities in the United States of a company incorporated or organized in a country other than the United States would pose a threat to the financial stability of the United States, based on consideration of the factors in subsection (a)(2) or (b)(2), as applicable;

(B) the company is organized or operates in such a manner as to evade the application of this title; and

(C) such financial activities of the company shall be supervised by the Board of Governors and subject to prudential standards in accordance with this title, consistent with paragraph (3).

(2) REPORT.—Upon making a determination under paragraph (1), the Council shall submit a report to the appropriate committees of Congress detailing the reasons for making such determination.

(3) CONSOLIDATED SUPERVISION OF ONLY FINANCIAL ACTIVITIES; ESTABLISHMENT OF AN INTERMEDIATE HOLDING COMPANY.—

(A) ESTABLISHMENT OF AN INTERMEDIATE HOLDING COMPANY.—Upon a determination under paragraph (1), the company that is the subject of the determination may establish an intermediate holding company in which the fi-

nancial activities of such company and its subsidiaries shall be conducted (other than the activities described in section 167(b)(2)) in compliance with any regulations or guidance provided by the Board of Governors. Such intermediate holding company shall be subject to the supervision of the Board of Governors and to prudential standards under this title as if the intermediate holding company were a nonbank financial company supervised by the Board of Governors.

(B) ACTION OF THE BOARD OF GOVERNORS.—To facilitate the supervision of the financial activities subject to the determination in paragraph (1), the Board of Governors may require a company to establish an intermediate holding company, as provided for in section 167, which would be subject to the supervision of the Board of Governors and to prudential standards under this title, as if the intermediate holding company were a nonbank financial company supervised by the Board of Governors.

(4) NOTICE AND OPPORTUNITY FOR HEARING AND FINAL DETERMINATION; JUDICIAL REVIEW.—Subsections (d) through (h) shall apply to determinations made by the Council pursuant to paragraph (1) in the same manner as such subsections apply to nonbank financial companies.

(5) COVERED FINANCIAL ACTIVITIES.—For purposes of this subsection, the term "financial activities"—

(A) means activities that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956);

(B) includes the ownership or control of one or more insured depository institutions; and

(C) does not include internal financial activities conducted for the company or any affiliate thereof, including internal treasury, investment, and employee benefit functions.

(6) ONLY FINANCIAL ACTIVITIES SUBJECT TO PRUDENTIAL SUPERVISION.—Nonfinancial activities of the company shall not be subject to supervision by the Board of Governors and prudential standards of the Board. For purposes of this Act, the financial activities that are the subject of the determination in paragraph (1) shall be subject to the same requirements as a nonbank financial company supervised by the Board of Governors. Nothing in this paragraph shall prohibit or limit the authority of the Board of Governors to apply prudential standards under this title to the financial activities that are subject to the determination in paragraph (1).

(d) REEVALUATION AND RESCISSION.—The Council shall—

(1) not less frequently than annually, reevaluate each determination made under subsections (a) and (b) with respect to such nonbank financial company supervised by the Board of Governors; and

(2) rescind any such determination, if the Council, by a vote of not fewer than ⅔ of the voting members then serving, including an affirmative vote by the Chairperson, determines that the nonbank financial company no longer meets the standards under subsection (a) or (b), as applicable.

(e) NOTICE AND OPPORTUNITY FOR HEARING AND FINAL DETERMINATION.—

(1) IN GENERAL.—The Council shall provide to a nonbank financial company written notice of a proposed determination of the Council, including an explanation of the basis of the proposed determination of the Council, that a nonbank financial company shall be supervised by the Board of Governors and shall be subject to prudential standards in accordance with this title.

(2) HEARING.—Not later than 30 days after the date of receipt of any notice of a proposed determination under paragraph (1), the nonbank financial company may request, in writing, an opportunity for a written or oral hearing before the Council to contest the proposed determination. Upon receipt of a timely request, the Council shall fix a time (not later than 30 days after the date of receipt of the request) and place at which such company may appear, personally or through counsel, to submit written materials (or, at the sole discretion of the Council, oral testimony and oral argument).

(3) FINAL DETERMINATION.—Not later than 60 days after the date of a hearing under paragraph (2), the Council shall notify the nonbank financial company of the final determination of the Council, which shall contain a statement of the basis for the decision of the Council.

(4) NO HEARING REQUESTED.—If a nonbank financial company does not make a timely request for a hearing, the Council shall notify the nonbank financial company, in writing, of the final determination of the Council under subsection (a) or (b), as applicable, not later than 10 days after the date by which the company may request a hearing under paragraph (2).

[(f) EMERGENCY EXCEPTION.—

[(1) IN GENERAL.—The Council may waive or modify the requirements of subsection (e) with respect to a nonbank financial company, if the Council determines, by a vote of not fewer than ⅔ of the voting members then serving, including an affirmative vote by the Chairperson, that such waiver or modification is necessary or appropriate to prevent or mitigate threats posed by the nonbank financial company to the financial stability of the United States.

[(2) NOTICE.—The Council shall provide notice of a waiver or modification under this subsection to the nonbank financial company concerned as soon as practicable, but not later than 24 hours after the waiver or modification is granted.

[(3) INTERNATIONAL COORDINATION.—In making a determination under paragraph (1), the Council shall consult with the appropriate home country supervisor, if any, of the foreign nonbank financial company that is being considered for such a determination.

[(4) OPPORTUNITY FOR HEARING.—The Council shall allow a nonbank financial company to request, in writing, an opportunity for a written or oral hearing before the Council to contest a waiver or modification under this subsection, not later than 10 days after the date of receipt of notice of the waiver or modification by the company. Upon receipt of a timely request, the Council shall fix a time (not later than 15 days after

the date of receipt of the request) and place at which the nonbank financial company may appear, personally or through counsel, to submit written materials (or, at the sole discretion of the Council, oral testimony and oral argument).

[(5) NOTICE OF FINAL DETERMINATION.—Not later than 30 days after the date of any hearing under paragraph (4), the Council shall notify the subject nonbank financial company of the final determination of the Council under this subsection, which shall contain a statement of the basis for the decision of the Council.]

[(g)] *(f)* CONSULTATION.—The Council shall consult with the primary financial regulatory agency, if any, for each nonbank financial company or subsidiary of a nonbank financial company that is being considered for supervision by the Board of Governors under this section before the Council makes any final determination with respect to such nonbank financial company under subsection (a), (b), or (c).

[(h)] *(g)* JUDICIAL REVIEW.—If the Council makes a final determination under this section with respect to a nonbank financial company, such nonbank financial company may, not later than 30 days after the date of receipt of the notice of final determination under [subsection (d)(2), (e)(3), or (f)(5)] *subsection (d)(2) or (e)(3)*, bring an action in the United States district court for the judicial district in which the home office of such nonbank financial company is located, or in the United States District Court for the District of Columbia, for an order requiring that the final determination be rescinded, and the court shall, upon review, dismiss such action or direct the final determination to be rescinded. Review of such an action shall be limited to whether the final determination made under this section was arbitrary and capricious.

[(i)] *(h)* INTERNATIONAL COORDINATION.—In exercising its duties under this title with respect to foreign nonbank financial companies, foreign-based bank holding companies, and cross-border activities and markets, the Council shall consult with appropriate foreign regulatory authorities, to the extent appropriate.

(i) CONGRESSIONAL REVIEW.—

(1) NOTIFICATION.—If the Council makes a determination under this section, the Council shall immediately notify Congress of such determination.

(2) EFFECTIVENESS OF DETERMINATION.—A determination made by the Council under this section—

(A) may not take effect until the end of the 60-day period beginning on the date that the Council notifies the Congress of such determination; and

(B) shall have no force or effect if disapproved, as provided under this subsection.

(3) CONGRESSIONAL DISAPPROVAL PROCEDURE.—

(A) JOINT RESOLUTION DEFINED.—For purposes of this paragraph, the term "joint resolution" means only a joint resolution introduced during the 60-day period described under paragraph (2)(A), the matter after the resolving clause of which is as follows: "That Congress disapproves the determination of the Financial Stability Oversight Council submitted in a notification to Congress on _____,

and such determination shall have no force or effect." (The blank space being filled in with the appropriate date.).

(B) TREATMENT IN SENATE.—

(i) In the Senate, if the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of the 20-day period beginning on the date Congress is notified of a determination, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

(ii) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under clause (i)) from further consideration of a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion 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 is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. 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 joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

(iii) In the Senate, 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 those favoring and those opposing the joint resolution. 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.

(iv) In the Senate, 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, the vote on final passage of the joint resolution shall occur.

(v) In the Senate, appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution shall be decided without debate.

(vi) In the Senate, the procedure specified in this subparagraph shall not apply to the consideration of a joint resolution after the end of the 60-day period described under paragraph (2)(A).

(4) TREATMENT OF JOINT RESOLUTION RECEIVED FROM THE OTHER HOUSE.—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:

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

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

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

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

(5) TREATMENT OF THIS PARAGRAPH.—This paragraph is enacted by Congress—

(A) 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

(B) 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.

* * * * * * *

SEC. 115. ENHANCED SUPERVISION AND PRUDENTIAL STANDARDS FOR NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS AND CERTAIN BANK HOLDING COMPANIES.

(a) IN GENERAL.—

(1) PURPOSE.—In order to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress, failure, or ongoing activities of large, interconnected financial institutions, the Council may make recommendations to *the chair and ranking member of the Committee on Financial Services of the House of Representatives, the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate, and* the Board of Governors concerning the establishment and refinement of prudential standards and reporting and disclosure requirements applicable to nonbank financial companies supervised by the Board of Governors and large, interconnected bank holding companies, that—

(A) are more stringent than those applicable to other nonbank financial companies and bank holding companies that do not present similar risks to the financial stability of the United States; and

(B) increase in stringency, based on the considerations identified in subsection (b)(3).

(2) RECOMMENDED APPLICATION OF REQUIRED STANDARDS.—In making recommendations under this section, the Council may—

(A) differentiate among companies that are subject to heightened standards on an individual basis or by cat-

egory, taking into consideration their capital structure, riskiness, complexity, financial activities (including the financial activities of their subsidiaries), size, and any other risk-related factors that the Council deems appropriate; or

(B) recommend an asset threshold that is higher than the applicablethreshold for the application of any standard described in subsections (c) through (g).

(b) DEVELOPMENT OF PRUDENTIAL STANDARDS.—

(1) IN GENERAL.—The recommendations of the Council under subsection (a) may include—

(A) risk-based capital requirements;

(B) leverage limits;

(C) liquidity requirements;

(D) resolution plan and credit exposure report requirements;

(E) concentration limits;

(F) a contingent capital requirement;

(G) enhanced public disclosures;

(H) short-term debt limits; and

(I) overall risk management requirements.

(2) PRUDENTIAL STANDARDS FOR FOREIGN FINANCIAL COMPANIES.—In making recommendations concerning the standards set forth in paragraph (1) that would apply to foreign nonbank financial companies supervised by the Board of Governors or foreign-based bank holding companies, the Council shall—

(A) give due regard to the principle of national treatment and equality of competitive opportunity; and

(B) take into account the extent to which the foreign nonbank financial company or foreign-based bank holding company is subject on a consolidated basis to home country standards that are comparable to those applied to financial companies in the United States.

(3) CONSIDERATIONS.—In making recommendations concerning prudential standards under paragraph (1), the Council shall—

(A) take into account differences among nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), based on—

(i) the factors described in subsections (a) and (b) of section 113;

(ii) whether the company owns an insured depository institution;

(iii) nonfinancial activities and affiliations of the company; and

(iv) any other factors that the Council determines appropriate;

(B) to the extent possible, ensure that small changes in the factors listed in subsections (a) and (b) of section 113 would not result in sharp, discontinuous changes in the prudential standards established under section 165; and

(C) adapt its recommendations as appropriate in light of any predominant line of business of such company, including assets under management or other activities for which particular standards may not be appropriate.

(c) CONTINGENT CAPITAL.—

(1) STUDY REQUIRED.—The Council shall conduct a study of the feasibility, benefits, costs, and structure of a contingent capital requirement for nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), which study shall include—

(A) an evaluation of the degree to which such requirement would enhance the safety and soundness of companies subject to the requirement, promote the financial stability of the United States, and reduce risks to United States taxpayers;

(B) an evaluation of the characteristics and amounts of contingent capital that should be required;

(C) an analysis of potential prudential standards that should be used to determine whether the contingent capital of a company would be converted to equity in times of financial stress;

(D) an evaluation of the costs to companies, the effects on the structure and operation of credit and other financial markets, and other economic effects of requiring contingent capital;

(E) an evaluation of the effects of such requirement on the international competitiveness of companies subject to the requirement and the prospects for international coordination in establishing such requirement; and

(F) recommendations for implementing regulations.

(2) REPORT.—The Council shall submit a report to Congress regarding the study required by paragraph (1) not later than 2 years after the date of enactment of this Act.

(3) RECOMMENDATIONS.—

(A) IN GENERAL.—Subsequent to submitting a report to Congress under paragraph (2), the Council may make recommendations to *the chair and ranking member of the Committee on Financial Services of the House of Representatives, the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate, and* the Board of Governors to require any nonbank financial company supervised by the Board of Governors and any bank holding company described in subsection (a) to maintain a minimum amount of contingent capital that is convertible to equity in times of financial stress.

(B) FACTORS TO CONSIDER.—In making recommendations under this subsection, the Council shall consider—

(i) an appropriate transition period for implementation of a conversion under this subsection;

(ii) the factors described in subsection (b)(3);

(iii) capital requirements applicable to a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), and subsidiaries thereof;

(iv) results of the study required by paragraph (1); and

(v) any other factor that the Council deems appropriate.

(d) RESOLUTION PLAN AND CREDIT EXPOSURE REPORTS.—

(1) RESOLUTION PLAN.—The Council may make recommendations to the Board of Governors*, if the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate are notified of such recommendations,* concerning the requirement that each nonbank financial company supervised by the Board of Governors and each bank holding company described in subsection (a) report periodically to the Council, the Board of Governors, and the Corporation, the plan of such company for rapid and orderly resolution in the event of material financial distress or failure.

(2) CREDIT EXPOSURE REPORT.—The Council may make recommendations to the Board of Governors*, if the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate are notified of such recommendations,* concerning the advisability of requiring each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a) to report periodically to the Council, the Board of Governors, and the Corporation on—

(A) the nature and extent to which the company has credit exposure to other significant nonbank financial companies and significant bank holding companies; and

(B) the nature and extent to which other such significant nonbank financial companies and significant bank holding companies have credit exposure to that company.

(e) CONCENTRATION LIMITS.—In order to limit the risks that the failure of any individual company could pose to nonbank financial companies supervised by the Board of Governors or bank holding companies described in subsection (a), the Council may make recommendations to the Board of Governors*, if the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate are notified of such recommendations,* to prescribe standards to limit such risks, as set forth in section 165.

(f) ENHANCED PUBLIC DISCLOSURES.—The Council may make recommendations to the Board of Governors*, if the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate are notified of such recommendations,* to require periodic public disclosures by bank holding companies described in subsection (a) and by nonbank financial companies supervised by the Board of Governors, in order to support market evaluation of the risk profile, capital adequacy, and risk management capabilities thereof.

(g) SHORT-TERM DEBT LIMITS.—The Council may make recommendations to the Board of Governors*, if the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate are notified of such recommendations,* to require short-term debt limits to mitigate the risks that an over-accumulation of such debt could pose

to bank holding companies described in subsection (a), nonbank financial companies supervised by the Board of Governors, or the financial system.

SEC. 116. REPORTS.

(a) IN GENERAL.—Subject to subsection (b), the Council, acting through the Office of Financial Research, may, *after notifying the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate,* require a bank holding company with total consolidated assets of $250,000,000,000 or greater or a nonbank financial company supervised by the Board of Governors, and any subsidiary thereof, to submit certified reports to keep the Council informed as to—

(1) the financial condition of the company;

(2) systems for monitoring and controlling financial, operating, and other risks;

(3) transactions with any subsidiary that is a depository institution; and

(4) the extent to which the activities and operations of the company and any subsidiary thereof, could, under adverse circumstances, have the potential to disrupt financial markets or affect the overall financial stability of the United States.

(b) USE OF EXISTING REPORTS.—

(1) IN GENERAL.—For purposes of compliance with subsection (a), the Council, acting through the Office of Financial Research, shall, to the fullest extent possible, use—

(A) reports that a bank holding company, nonbank financial company supervised by the Board of Governors, or any functionally regulated subsidiary of such company has been required to provide to other Federal or State regulatory agencies or to a relevant foreign supervisory authority;

(B) information that is otherwise required to be reported publicly; and

(C) externally audited financial statements.

(2) AVAILABILITY.—Each bank holding company described in subsection (a) and nonbank financial company supervised by the Board of Governors, and any subsidiary thereof, shall provide to the Council, at the request of the Council, copies of all reports referred to in paragraph (1).

(3) CONFIDENTIALITY.—The Council shall maintain the confidentiality of the reports obtained under subsection (a) and paragraph (1)(A) of this subsection.

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SEC. 120. ADDITIONAL STANDARDS APPLICABLE TO ACTIVITIES OR PRACTICES FOR FINANCIAL STABILITY PURPOSES.

(a) IN GENERAL.—The Council may provide for more stringent regulation of a financial activity by issuing recommendations to the primary financial regulatory agencies, *if the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate are notified of such recommendations,* to apply new or heightened standards and safeguards, including standards enumerated in section 115, for a fi-

nancial activity or practice conducted by bank holding companies or nonbank financial companies under their respective jurisdictions, if the Council determines that the conduct, scope, nature, size, scale, concentration, or interconnectedness of such activity or practice could create or increase the risk of significant liquidity, credit, or other problems spreading among bank holding companies and nonbank financial companies, financial markets of the United States, or low-income, minority, or underserved communities.

(b) PROCEDURE FOR RECOMMENDATIONS TO REGULATORS.—

(1) NOTICE AND OPPORTUNITY FOR COMMENT.—The Council shall consult with the primary financial regulatory agencies and provide notice to the public *and Congress* and opportunity for comment for any proposed recommendation that the primary financial regulatory agencies apply new or heightened standards and safeguards for a financial activity or practice.

(2) CRITERIA.—The new or heightened standards and safeguards for a financial activity or practice recommended under paragraph (1)—

(A) shall take costs to long-term economic growth into account*, and the notice required under paragraph (1) shall contain data, methodology, and analysis detailing such costs*; and

(B) may include prescribing the conduct of the activity or practice in specific ways (such as by limiting its scope, or applying particular capital or risk management requirements to the conduct of the activity) or prohibiting the activity or practice.

(c) IMPLEMENTATION OF RECOMMENDED STANDARDS.—

(1) ROLE OF PRIMARY FINANCIAL REGULATORY AGENCY.—

(A) IN GENERAL.—Each primary financial regulatory agency may impose, require reports regarding, examine for compliance with, and enforce standards in accordance with this section with respect to those entities for which it is the primary financial regulatory agency.

(B) RULE OF CONSTRUCTION.—The authority under this paragraph is in addition to, and does not limit, any other authority of a primary financial regulatory agency. Compliance by an entity with actions taken by a primary financial regulatory agency under this section shall be enforceable in accordance with the statutes governing the respective jurisdiction of the primary financial regulatory agency over the entity, as if the agency action were taken under those statutes.

(2) IMPOSITION OF STANDARDS.—The primary financial regulatory agency shall impose the standards recommended by the Council*, after notifying the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate of such imposition,* in accordance with subsection (a), or similar standards that the Council deems acceptable, or shall explain in writing to the Council, not later than 90 days after the date on which the Council issues the recommendation, why the agency has determined not to follow the recommendation of the Council.

(d) REPORT TO CONGRESS.—The Council shall report to Congress on—

(1) any recommendations issued by the Council under this section;

(2) the implementation of, or failure to implement, such recommendation on the part of a primary financial regulatory agency; and

(3) in any case in which no primary financial regulatory agency exists for the nonbank financial company conducting financial activities or practices referred to in subsection (a), recommendations for legislation that would prevent such activities or practices from threatening the stability of the financial system of the United States.

(e) EFFECT OF RESCISSION OF IDENTIFICATION.—

(1) NOTICE.—The Council may recommend to the relevant primary financial regulatory agency that a financial activity or practice no longer requires any standards or safeguards implemented under this section.

(2) DETERMINATION OF PRIMARY FINANCIAL REGULATORY AGENCY TO CONTINUE.—

(A) IN GENERAL.—Upon receipt of a recommendation under paragraph (1), a primary financial regulatory agency that has imposed standards under this section shall determine whether such standards should remain in effect*, and notify the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate of such determination and the factors, data, and analysis leading to such determination*.

(B) APPEAL PROCESS.—Each primary financial regulatory agency that has imposed standards under this section shall promulgate regulations to establish a procedure under which entities under its jurisdiction may appeal a determination by such agency under this paragraph that standards imposed under this section should remain in effect.

(f) DELAY IN IMPLEMENTATION.—A primary financial regulatory agency may not implement a recommendation made by the Council under subsection (a) until the end of the 90-day period beginning on the date such recommendation is issued.

SEC. 121. MITIGATION OF RISKS TO FINANCIAL STABILITY.

(a) MITIGATORY ACTIONS.—If the Board of Governors determines that a bank holding company with total consolidated assets of $250,000,000,000 or more, or a nonbank financial company supervised by the Board of Governors, poses a grave threat to the financial stability of the United States, the Board of Governors, upon an affirmative vote of not fewer than ⅔ of the voting members of the Council then serving, shall—

(1) limit the ability of the company to merge with, acquire, consolidate with, or otherwise become affiliated with another company;

(2) restrict the ability of the company to offer a financial product or products;

(3) require the company to terminate one or more activities;

(4) impose conditions on the manner in which the company conducts 1 or more activities; or

(5) if the Board of Governors determines that the actions described in paragraphs (1) through (4) are inadequate to mitigate a threat to the financial stability of the United States in its recommendation, require the company to sell or otherwise transfer assets or off-balance-sheet items to unaffiliated entities.

(b) NOTICE AND HEARING.—

(1) IN GENERAL.—The Board of Governors, in consultation with the Council, shall provide to a company described in subsection (a) written notice that such company is being considered for mitigatory action pursuant to this section, including an explanation of the basis for, and description of, the proposed mitigatory action.

(2) HEARING.—Not later than 30 days after the date of receipt of notice under paragraph (1), the company may request, in writing, an opportunity for a written or oral hearing before the Board of Governors to contest the proposed mitigatory action. Upon receipt of a timely request, the Board of Governors shall fix a time (not later than 30 days after the date of receipt of the request) and place at which such company may appear, personally or through counsel, to submit written materials (or, at the discretion of the Board of Governors, in consultation with the Council, oral testimony and oral argument).

(3) DECISION.—Not later than 60 days after the date of a hearing under paragraph (2), or not later than 60 days after the provision of a notice under paragraph (1) if no hearing was held, the Board of Governors shall notify the company of the final decision of the Board of Governors, including the results of the vote of the Council, as described in subsection (a).

(c) FACTORS FOR CONSIDERATION.—The Board of Governors and the Council shall take into consideration the factors set forth in subsection (a) or (b) of section 113, as applicable, in making any determination under subsection (a).

(d) APPLICATION TO FOREIGN FINANCIAL COMPANIES.—The Board of Governors may*, after notifying the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate,* prescribe regulations regarding the application of this section to foreign nonbank financial companies supervised by the Board of Governors and foreign-based bank holding companies—

(1) giving due regard to the principle of national treatment and equality of competitive opportunity; and

(2) taking into account the extent to which the foreign nonbank financial company or foreign-based bank holding company is subject on a consolidated basis to home country standards that are comparable to those applied to financial companies in the United States.

(e) NOTICE TO CONGRESS; DELAY IN IMPLEMENTATION.—The Board of Governors—

(1) shall notify the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Bank-

ing, Housing, and Urban Affairs of the Senate of an intention to take an action described under paragraph (1) through (5) of subsection (a); and

(2) may not take such an action until the end of the 60-day period beginning on the date of such notification.

SEC. 122. GAO AUDIT OF COUNCIL.

(a) AUTHORITY TO AUDIT.—The Comptroller General of the United States [may audit] *shall annually audit* the activities of—

(1) the Council; and

(2) any person or entity acting on behalf of or under the authority of the Council, to the extent that such activities relate to work for the Council by such person or entity.

(b) ACCESS TO INFORMATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Comptroller General shall, upon request and at such reasonable time and in such reasonable form as the Comptroller General may request, have access to—

(A) any records or other information under the control of or used by the Council;

(B) any records or other information under the control of a person or entity acting on behalf of or under the authority of the Council, to the extent that such records or other information is relevant to an audit under subsection (a); and

(C) the officers, directors, employees, financial advisors, staff, working groups, and agents and representatives of the Council (as related to the activities on behalf of the Council of such agent or representative), at such reasonable times as the Comptroller General may request.

(2) COPIES.—[The Comptroller] *The chair and ranking member of the Committee on Financial Services of the House of Representatives, the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Comptroller* General may make and retain copies of such books, accounts, and other records, access to which is granted under this section, [as the Comptroller General] *as the chair, ranking member, or Comptroller General, as applicable* considers appropriate.

* * * * * * *

Subtitle B—Office of Financial Research

* * * * * * *

SEC. 152. OFFICE OF FINANCIAL RESEARCH ESTABLISHED.

(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Office of Financial Research.

(b) DIRECTOR.—

(1) IN GENERAL.—The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) TERM OF SERVICE.—The Director shall serve for a term of 6 years, except that, in the event that a successor is not nominated and confirmed by the end of the term of service of a Di-

rector, the Director may continue to serve until such time as the next Director is appointed and confirmed.

(3) EXECUTIVE LEVEL.—The Director shall be compensated at Level III of the Executive Schedule.

(4) PROHIBITION ON DUAL SERVICE.—The individual serving in the position of Director may not, during such service, also serve as the head of any financial regulatory agency.

(5) RESPONSIBILITIES, DUTIES, AND AUTHORITY.—The Director shall have sole discretion in the manner in which the Director fulfills the responsibilities and duties and exercises the authorities described in this subtitle.

(c) BUDGET.—The Director, in consultation with the Chairperson, shall establish the annual budget of the Office.

(d) OFFICE PERSONNEL.—

(1) IN GENERAL.—The Director, in consultation with the Chairperson, may fix the number of, and appoint and direct, all employees of the Office.

(2) COMPENSATION.—The Director, in consultation with the Chairperson, shall fix, adjust, and administer the pay for all employees of the Office, without regard to chapter 51 or subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(3) COMPARABILITY.—Section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b(a)) is amended—

(A) by striking "Finance Board," and inserting "Finance Board, the Office of Financial Research, and the Bureau of Consumer Financial Protection"; and

(B) by striking "and the Office of Thrift Supervision,".

(4) SENIOR EXECUTIVES.—Section 3132(a)(1)(D) of title 5, United States Code, is amended by striking "and the National Credit Union Administration;" and inserting "the National Credit Union Administration, the Bureau of Consumer Financial Protection, and the Office of Financial Research;".

(e) ASSISTANCE FROM FEDERAL AGENCIES.—Any department or agency of the United States may provide to the Office and any special advisory, technical, or professional committees appointed by the Office, such services, funds, facilities, staff, and other support services as the Office may determine advisable. Any Federal Government employee may be detailed to the Office without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege. *The Office shall report on such detailed employees on a monthly basis to Congress.*

(f) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for Level V of the Executive Schedule under section 5316 of such title.

(g) POST-EMPLOYMENT PROHIBITIONS.—The Secretary, with the concurrence of the Director of the Office of Government Ethics, shall issue regulations prohibiting the Director and any employee of the Office who has had access to the transaction or position data maintained by the Data Center or other business confidential information about financial entities required to report to the Office from

being employed by or providing advice or consulting services to a financial company, for a period of 1 year after last having had access in the course of official duties to such transaction or position data or business confidential information, regardless of whether that entity is required to report to the Office. For employees whose access to business confidential information was limited, the regulations may provide, on a case-by-case basis, for a shorter period of post-employment prohibition, provided that the shorter period does not compromise business confidential information.

(h) TECHNICAL AND PROFESSIONAL ADVISORY COMMITTEES.—The Office, in consultation with the Chairperson, may appoint such special advisory, technical, or professional committees as may be useful in carrying out the functions of the Office, and the members of such committees may be staff of the Office, or other persons, or both.

(i) FELLOWSHIP PROGRAM.—The Office, in consultation with the Chairperson, may establish and maintain an academic and professional fellowship program, under which qualified academics and professionals shall be invited to spend not longer than 2 years at the Office, to perform research and to provide advanced training for Office personnel.

(j) EXECUTIVE SCHEDULE COMPENSATION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:"Director of the Office of Financial Research.".

SEC. 153. PURPOSE AND DUTIES OF THE OFFICE.

(a) PURPOSE AND DUTIES.—The purpose of the Office is to support the Council in fulfilling the purposes and duties of the Council, as set forth in subtitle A, and to support member agencies, by—

(1) collecting data on behalf of the Council, and providing such data to the Council and member agencies;

(2) standardizing the types and formats of data reported and collected;

(3) performing applied research and **[**essential**]** long-term research;

(4) developing tools for risk measurement and monitoring;

[(5) performing other related services;**]**

[(6)**]** *(5)* making the results of the activities of the Office available to financial regulatory agencies*, the chair and ranking member of the Committee on Financial Services of the House of Representatives, and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate*; and

[(7)**]** *(6)* assisting such member agencies in determining the types and formats of data authorized by this Act to be collected by such member agencies.

(b) ADMINISTRATIVE AUTHORITY.—The Office may—

(1) share data and information, including software developed by the Office, with the Council, *the chair and ranking member of the Committee on Financial Services of the House of Representatives, the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate,* member agencies, and the Bureau of Economic Analysis, which shared data, information, and software—

(A) shall be maintained with at least the same level of security as is used by the Office; and

(B) may not be shared with any individual or entity without the permission of the Council *and without prior notice of such sharing being provided to the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate*;

(2) sponsor and conduct research projects*, after providing notice to the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate of such research projects*; and

(3) assist, on a reimbursable basis, with financial analyses undertaken at the request of other Federal agencies that are not member agencies*, after providing notice to the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate of such assistance*.

(c) RULEMAKING AUTHORITY.—

(1) SCOPE.—The Office, in consultation with the Chairperson, shall issue rules, regulations, and orders only to the extent necessary to carry out the purposes and duties described in paragraphs (1), (2), and (7) of subsection (a).

(2) STANDARDIZATION.—Member agencies, in consultation with the Office, shall implement regulations promulgated by the Office under paragraph (1) to standardize the types and formats of data reported and collected on behalf of the Council, as described in subsection (a)(2). If a member agency fails to implement such regulations prior to the expiration of the 3-year period following the date of publication of final regulations, the Office, in consultation with the Chairperson, may implement such regulations with respect to the financial entities under the jurisdiction of the member agency. This paragraph shall not supersede or interfere with the independent authority of a member agency under other law to collect data, in such format and manner as the member agency requires.

(d) TESTIMONY.—

(1) IN GENERAL.—The Director of the Office shall report to and testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives annually on the activities of the Office, including the work of the Data Center and the Research and Analysis Center, and the assessment of the Office of significant financial market developments and potential emerging threats to the financial stability of the United States.

(2) NO PRIOR REVIEW.—No officer or agency of the United States shall have any authority to require the Director to submit the testimony required under paragraph (1) or other congressional testimony to any officer or agency of the United States for approval, comment, or review prior to the submission of such testimony. Any such testimony to Congress shall include a statement that the views expressed therein are those

of the Director and do not necessarily represent the views of the President.

(e) ADDITIONAL REPORTS.—The Director may provide additional reports to Congress concerning the financial stability of the United States. The Director shall notify the Council of any such additional reports provided to Congress.

(f) SUBPOENA.—

(1) IN GENERAL.—The Director may require from a financial company, by subpoena, the production of the data requested under subsection (a)(1) and section 154(b)(1), [but only] *but not earlier than 60 days after the Director notifies the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the requirement to produce such data and only* upon a written finding by the Director that—

(A) such data is required to carry out the functions described under this subtitle; and

(B) the Office has coordinated with the relevant primary financial regulatory agency, as required under section 154(b)(1)(B)(ii).

(2) FORMAT.—Subpoenas under paragraph (1) shall bear the signature of the Director, and shall be served by any person or class of persons designated by the Director for that purpose.

(3) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena, the subpoena shall be enforceable by order of any appropriate district court of the United States. Any failure to obey the order of the court may be punished by the court as a contempt of court.

SEC. 154. ORGANIZATIONAL STRUCTURE; RESPONSIBILITIES OF PRIMARY PROGRAMMATIC UNITS.

(a) IN GENERAL.—There are established within the Office, to carry out the programmatic responsibilities of the Office—

(1) the Data Center; and

(2) the Research and Analysis Center.

(b) DATA CENTER.—

(1) GENERAL DUTIES.—

(A) DATA COLLECTION.—The Data Center, on behalf of the Council, shall collect, validate, and maintain all data necessary to carry out the duties of the Data Center, as described in this subtitle. The data assembled shall be obtained from member agencies, commercial data providers, publicly available data sources, and financial entities under subparagraph (B).

(B) AUTHORITY.—

(i) IN GENERAL.—The Office may, as determined by the Council or by the Director in consultation with the Council, *after notifying the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate,* require the submission of periodic and other reports from any financial company for the purpose of assessing the extent to which a financial activity or financial market in which the financial company participates, or the financial company itself,

poses a threat to the financial stability of the United States.

(ii) MITIGATION OF REPORT BURDEN.—Before requiring the submission of a report from any financial company that is regulated by a member agency, any primary financial regulatory agency, a foreign supervisory authority, or the Office shall coordinate with such agencies or authority, and shall, whenever possible, rely on information available from such agencies or authority.

(iii) COLLECTION OF FINANCIAL TRANSACTION AND POSITION DATA.—The Office shall collect, on a schedule determined by the Director, in consultation with the Council, financial transaction data and position data from financial companies.

(C) RULEMAKING.—The Office shall promulgate regulations pursuant to subsections (a)(1), (a)(2), (a)(7), and (c)(1) of section 153 regarding the type and scope of the data to be collected by the Data Center under this paragraph.

(2) RESPONSIBILITIES.—

(A) PUBLICATION.—The Data Center shall prepare and publish, in a manner that is easily accessible to the public—

(i) a financial company reference database;

(ii) a financial instrument reference database; and

(iii) formats and standards for Office data, including standards for reporting financial transaction and position data to the Office.

(B) CONFIDENTIALITY.—The Data Center shall not publish any confidential data under subparagraph (A).

(C) REVIEW AND REPORT ON THE COST OF THE DATABASES.—The Data Center shall review and report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate annually on the cost to the Government and the cost to private sector entities of maintaining the financial company reference database and the financial instrument reference database, relative to a detailed quantification of benefits.

(3) INFORMATION SECURITY.—The Director shall ensure that data collected and maintained by the Data Center are kept secure and protected against unauthorized disclosure.

(4) CATALOG OF FINANCIAL ENTITIES AND INSTRUMENTS.—The Data Center shall maintain a catalog of the financial entities and instruments reported to the Office.

(5) AVAILABILITY TO THE COUNCIL AND MEMBER AGENCIES.—The Data Center shall make data collected and maintained by the Data Center available to the Council and member agencies, as necessary to support their regulatory responsibilities.

(6) OTHER AUTHORITY.—The Office shall, after consultation with the member agencies, provide certain data to financial industry participants and to the general public to increase market transparency and facilitate research on the financial system, to the extent that intellectual property rights are not violated, business confidential information is properly protected,

and the sharing of such information poses no significant threats to the financial system of the United States.

(c) RESEARCH AND ANALYSIS CENTER.—

(1) GENERAL DUTIES.—The Research and Analysis Center, on behalf of the Council, shall develop and maintain independent analytical capabilities and computing resources—

(A) to develop and maintain metrics and reporting systems for risks to the financial stability of the United States;

(B) to monitor, investigate, and report on changes in systemwide risk levels and patterns to the Council and Congress;

(C) to conduct, coordinate, and sponsor research to support and improve regulation of financial entities and markets;

(D) to evaluate and report on stress tests or other stability-related evaluations of financial entities overseen by the member agencies;

(E) to maintain expertise in such areas as may be necessary to support specific requests for advice and assistance from financial regulators *or Congress*;

(F) to investigate disruptions and failures in the financial markets, report findings, and make recommendations to the Council based on those findings;

(G) to conduct studies and provide advice on the impact of policies related to systemic risk; and

(H) to promote best practices for financial risk management.

(d) REPORTING RESPONSIBILITIES.—

(1) REQUIRED REPORTS.—Not later than 2 years after the date of enactment of this Act, and not later than 120 days after the end of each fiscal year thereafter, the Office shall prepare and submit a report to Congress.

(2) CONTENT.—Each report required by this subsection shall assess the state of the United States financial system, including—

(A) an analysis of any threats to the financial stability of the United States;

(B) the status of the efforts of the Office in meeting the mission of the Office; **[**and**]**

(C) key findings from the research and analysis of the financial system by the Office**[**.**]***; and*

(D) evidence of inefficient, ineffective, or burdensome regulations.

SEC. 155. FUNDING.

(a) FINANCIAL RESEARCH FUND.—

(1) FUND ESTABLISHED.—There is established in the Treasury of the United States a separate fund to be known as the "Financial Research Fund".

(2) FUND RECEIPTS.—All amounts provided to the Office under subsection (c), and all assessments that the Office receives under subsection (d) shall be deposited into the Financial Research Fund.

(3) INVESTMENTS AUTHORIZED.—

(A) AMOUNTS IN FUND MAY BE INVESTED.—The Director may request the Secretary to invest the portion of the Financial Research Fund that is not, in the judgment of the Director, required to meet the needs of the Office.

(B) ELIGIBLE INVESTMENTS.—Investments shall be made by the Secretary in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Financial Research Fund, as determined by the Director.

(4) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Financial Research Fund shall be credited to and form a part of the Financial Research Fund.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds obtained by, transferred to, or credited to the Financial Research Fund shall be immediately available to the Office, and shall remain available until expended, to pay the expenses of the Office in carrying out the duties and responsibilities of the Office.

(2) FEES, ASSESSMENTS, AND OTHER FUNDS NOT GOVERNMENT FUNDS.—Funds obtained by, transferred to, or credited to the Financial Research Fund shall not be construed to be Government funds or appropriated moneys.

(3) AMOUNTS NOT SUBJECT TO APPORTIONMENT.—Notwithstanding any other provision of law, amounts in the Financial Research Fund shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or under any other authority, or for any other purpose.

(c) INTERIM FUNDING.—During the 2-year period following the date of enactment of this Act, the Board of Governors shall provide to the Office an amount sufficient to cover the expenses of the Office.

(d) PERMANENT SELF-FUNDING.—[Beginning]

(1) IN GENERAL.—Beginning 2 years after the date of enactment of this Act, the Secretary shall establish, by regulation, and with the approval of the Council, an assessment schedule, including the assessment base and rates, applicable to bank holding companies with total consolidated assets of $250,000,000,000 or greater and nonbank financial companies supervised by the Board of Governors, that takes into account differences among such companies, based on the considerations for establishing the prudential standards under section 115, to collect assessments equal to the total expenses of the Office.

(2) MAXIMUM ASSESSMENT AMOUNT.—The aggregate amount of assessments collected pursuant to paragraph (1) may not exceed the aggregate amount of assessments collected in the most recently completed fiscal year ending before the date of enactment of this paragraph, as such aggregate amount is adjusted annually by the Director of the Office to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

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TITLE XI—FEDERAL RESERVE SYSTEM PROVISIONS

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SEC. 1104. LIQUIDITY EVENT DETERMINATION.

(a) DETERMINATION AND WRITTEN RECOMMENDATION.—

(1) DETERMINATION REQUEST.—The Secretary may request the Corporation and the Board of Governors to determine whether a liquidity event exists that warrants use of the guarantee program authorized under section 1105.

(2) REQUIREMENTS OF DETERMINATION.—Any determination pursuant to paragraph (1) shall—

(A) be written; [and]

(B) be transmitted to the chair and ranking member of the Committee on Financial Services of the House of Representatives and the chair and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate; and

[(B)] *(C)* contain an evaluation of the evidence that—

(i) a liquidity event exists;

(ii) failure to take action would have serious adverse effects on financial stability or economic conditions in the United States; and

(iii) actions authorized under section 1105 are needed to avoid or mitigate potential adverse effects on the United States financial system or economic conditions.

(b) PROCEDURES.—Notwithstanding any other provision of Federal or State law, upon the determination of both the Corporation (upon a vote of not fewer than ⅔ of the members of the Corporation then serving) and the Board of Governors (upon a vote of not fewer than ⅔ of the members of the Board of Governors then serving) under subsection (a) that a liquidity event exists that warrants use of the guarantee program authorized under section 1105, and with the written consent of the Secretary *and notification to Congress*—

(1) the Corporation shall take action in accordance with section 1105(a); and

(2) the Secretary (in consultation with the President) shall take action in accordance with section 1105(c).

(c) DOCUMENTATION AND REVIEW.—

(1) DOCUMENTATION.—The Secretary shall—

(A) maintain the written documentation of each determination of the Corporation and the Board of Governors under this section; and

(B) provide the documentation for review under paragraph (2).

(2) [GAO] *CONGRESSIONAL REVIEW AND GAO* REVIEW.—The Comptroller General of the United States shall review and report to Congress on any determination of the Corporation and the Board of Governors under subsection (a), including—

(A) the basis for the determination; and

(B) the likely effect of the actions taken.

[(d) REPORT TO CONGRESS.—On the earlier of the date of a submission made to Congress under section 1105(c), or within 30 days

of the date of a determination under subsection (a), the Secretary shall provide written notice of the determination of the Corporation and the Board of Governors to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, including a description of the basis for the determination.]

SEC. 1105. EMERGENCY FINANCIAL STABILIZATION.

(a) IN GENERAL.—Upon the written determination of the Corporation and the Board of Governors under section 1104, the Corporation shall create a widely available program to guarantee obligations of solvent insured depository institutions or solvent depository institution holding companies (including any affiliates thereof) during times of severe economic distress, except that a guarantee of obligations under this section may not include the provision of equity in any form.

(b) RULEMAKING AND TERMS AND CONDITIONS.—

(1) POLICIES AND PROCEDURES.—As soon as is practicable after the date of enactment of this Act, the Corporation shall establish, by regulation, and in consultation with the Secretary, policies and procedures governing the issuance of guarantees authorized by this section. Such policies and procedures may include a requirement of collateral as a condition of any such guarantee.

(2) TERMS AND CONDITIONS.—The terms and conditions of any guarantee program shall be established by the Corporation, with the concurrence of the Secretary.

(c) DETERMINATION OF GUARANTEED AMOUNT.—

(1) IN GENERAL.—In connection with any program established pursuant to subsection (a) and subject to paragraph (2) of this subsection, the Secretary (in consultation with the President *and upon notification to Congress*) shall determine the maximum amount of debt outstanding that the Corporation may guarantee under this section, and the [President may] *President shall* transmit to Congress a written report on the plan of the Corporation to exercise the authority under this section to issue guarantees up to that maximum [amount and a request] *amount, and include in such report the expected cost to taxpayers and a detailed description of the assumptions made and analytical tools used to calculate such expected cost, and a request* for approval of such plan. The Corporation shall exercise the authority under this section to issue guarantees up to that specified maximum amount upon passage of the joint resolution of approval, as provided in subsection (d). Absent such approval, the Corporation shall issue no such guarantees.

(2) ADDITIONAL DEBT GUARANTEE AUTHORITY.—If the Secretary (in consultation with the President *and upon notification to Congress*) determines, after a submission to Congress under paragraph (1), that the maximum guarantee amount should be raised, and the Council concurs with that determination, the President may transmit to Congress a written report on the plan of the Corporation to exercise the authority under this section to issue guarantees up to the increased maximum debt guarantee amount. The Corporation shall exercise the authority under this section to issue guarantees up to that speci-

fied maximum amount upon passage of the joint resolution of approval, as provided in subsection (d). Absent such approval, the Corporation shall issue no such guarantees.

(d) RESOLUTION OF APPROVAL.—

(1) ADDITIONAL DEBT GUARANTEE AUTHORITY.—Arequest by the President under this section shall be considered granted by Congress upon adoption of a joint resolution approving such request. Such joint resolution shall be considered in the Senate under expedited procedures.

(2) FAST TRACK CONSIDERATION IN SENATE.—

(A) RECONVENING.—Upon receipt of a request under subsection (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 section, the Senate shall convene not later than the second calendar day after receipt of such message.

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

(C) FLOOR CONSIDERATION.—

(i) 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 4th day after the date on which Congress receives a request under subsection (c), and ending on the 7th day after that date (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.

(ii) 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.

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

(iv) 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.

(3) RULES.—

(A) COORDINATION WITH ACTION BY HOUSE OF REPRESENTATIVES.—If, before the passage by the Senate of a joint resolution of the Senate, the Senate receives a joint resolution, from the House of Representatives, then the following procedures shall apply:

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

(ii) With respect to a joint resolution of the Senate—

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

(II) the vote on passage shall be on the joint resolution of the House of Representatives.

(B) TREATMENT OF JOINT RESOLUTION OF HOUSE OF REPRESENTATIVES.—If the Senate fails to introduce or consider a joint resolution under this section, the joint resolution of the House of Representatives shall be entitled to expedited floor procedures under this subsection.

(C) TREATMENT OF COMPANION MEASURES.—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.

(D) RULES OF THE SENATE.—This subsection is enacted by Congress—

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

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

(4) DEFINITION.—As used in this subsection, the term "joint resolution" means only a joint resolution—

(A) that is introduced not later than 3 calendar days after the date on which the request referred to in subsection (c) is received by Congress;

(B) that does not have a preamble;

(C) the title of which is as follows: "Joint resolution relating to the approval of a plan to guarantee obligations under section 1105 of the Dodd-Frank Wall Street Reform and Consumer Protection Act"; and

(D) the matter after the resolving clause of which is as follows: "That Congress approves the obligation of any amount described in section 1105(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.".

(e) FUNDING.—

(1) FEES AND OTHER CHARGES.—The Corporation shall charge fees and other assessments to all participants in the program established pursuant to this section, in such amounts as are necessary to offset projected losses and administrative expenses, including amounts borrowed pursuant to paragraph (3), and such amounts shall be available to the Corporation.

(2) EXCESS FUNDS.—If, at the conclusion of the program established under this section, there are any excess funds collected from the fees associated with such program, the funds shall be deposited in the General Fund of the Treasury.

(3) AUTHORITY OF CORPORATION.—The Corporation—

(A) may borrow funds from the Secretary of the Treasury and issue obligations of the Corporation to the Secretary for amounts borrowed, and the amounts borrowed shall be available to the Corporation for purposes of carrying out a program established pursuant to this section, including the payment of reasonable costs of administering the program, and the obligations issued shall be repaid in full with interest through fees and charges paid by participants in accordance with paragraphs (1) and (4), as applicable; and

(B) may not borrow funds from the Deposit Insurance Fund established pursuant to section 11(a)(4) of the Federal Deposit Insurance Act.

(4) BACKUP SPECIAL ASSESSMENTS.—To the extent that the funds collected pursuant to paragraph (1) are insufficient to cover any losses or expenses, including amounts borrowed pursuant to paragraph (3), arising from a program established pursuant to this section, the Corporation shall impose a special assessment solely on participants in the program, in amounts necessary to address such insufficiency, and which shall be available to the Corporation to cover such losses or expenses.

(5) AUTHORITY OF THE SECRETARY.—The Secretary may purchase any obligations issued under paragraph (3)(A). For such purpose, the Secretary may use the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under that chapter 31 are extended to include such purchases, and the amount of any securities issued under that chapter 31 for such purpose shall be treated in the same manner as securities issued under section 208(n)(5)(E).

(f) RULE OF CONSTRUCTION.—For purposes of this section, a guarantee of deposits held by insured depository institutions in non-interest-bearing transaction accounts may be treated as a debt guarantee program.

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

(1) COMPANY.—The term "company" means any entity other than a natural person that is incorporated or organized under Federal law or the laws of any State.

(2) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term "depository institution holding company" has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

[(3) LIQUIDITY EVENT.—The term "liquidity event" means—

[(A) an exceptional and broad reduction in the general ability of financial market participants—

[(i) to sell financial assets without an unusual and significant discount; or

[(ii) to borrow using financial assets as collateral without an unusual and significant increase in margin; or

[(B) an unusual and significant reduction in the ability of financial market participants to obtain unsecured credit.]

(3) LIQUIDITY EVENT.—The term "liquidity event" shall have the definition given such term, jointly, by the Board of Governors, the Corporation, and the Secretary, by rule pursuant to notice and comment.

(4) SOLVENT.—The term "solvent" means that the value of the assets of an entity exceed its obligations to creditors.

(h) APPROVAL OF GUARANTEE PROGRAM DURING THE COVID–19 CRISIS.—

(1) IN GENERAL.—For purposes of the congressional joint resolution of approval provided for in subsections (c)(1) and (2) and (d), notwithstanding any other provision of this section, the Federal Deposit Insurance Corporation is approved upon enactment of this Act to establish a program provided for in subsection (a), provided that any such program and any such guarantee shall terminate not later than December 31, 2020.

(2) MAXIMUM AMOUNT.—Any debt guarantee program authorized by this subsection shall include a maximum amount of outstanding debt that is guaranteed.

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TITLE 31, UNITED STATES CODE

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SUBTITLE I—GENERAL

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CHAPTER 7—GOVERNMENT ACCOUNTABILITY OFFICE

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SUBCHAPTER II—GENERAL DUTIES AND POWERS

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§ 714. Audit of Financial Institutions Examination Council, Federal Reserve Board, Federal reserve banks, Federal Deposit Insurance Corporation, and Office of Comptroller of the Currency

(a) In this section, "agency" means the Financial Institutions Examination Council, the Board of Governors of the Federal Reserve System (in this section referred to as the "Board"), Federal reserve banks, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

(b) Under regulations of the Comptroller General, the Comptroller General shall audit an agency, but may carry out an onsite examination of an open insured bank or bank holding company only if the appropriate agency has consented in writing. Audits of the Board and Federal reserve banks may not include—

(1) transactions for or with a foreign central bank, government of a foreign country, or nonprivate international financing organization;

(2) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;

(3) transactions made under the direction of the Federal Open Market Committee; or

(4) a part of a discussion or communication among or between members of the Board and officers and employees of the Federal Reserve System related to clauses (1)–(3) of this subsection.

(c)(1) Except as provided in this subsection, an officer or employee of the Government Accountability Office may not disclose information identifying an open bank, an open bank holding company, or a customer of an open or closed bank or bank holding company. The Comptroller General may disclose information related to the affairs of a closed bank or closed bank holding company identifying a customer of the closed bank or closed bank holding company only if the Comptroller General believes the customer had a controlling influence in the management of the closed bank or closed bank holding company or was related to or affiliated with a person or group having a controlling influence.

(2) An officer or employee of the Office may discuss a customer, bank, or bank holding company with an official of an agency and may report an apparent criminal violation to an appropriate law enforcement authority of the United States Government or a State.

(3) Except as provided under paragraph (4), an officer or employee of the Government Accountability Office may not disclose to any person outside the Government Accountability Office information obtained in audits or examinations conducted under subsection (e) and maintained as confidential by the Board or the Federal reserve banks.

(4) This subsection shall not—

(A) authorize an officer or employee of an agency to withhold information from any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee; or

(B) limit any disclosure by the Government Accountability Office to any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee.

(d)(1) To carry out this section, all records and property of or used by an agency, including samples of reports of examinations of a bank or bank holding company the Comptroller General considers statistically meaningful and workpapers and correspondence related to the reports shall be made available to the Comptroller General. The Comptroller General shall have access to the officers, employees, contractors, and other agents and representatives of an agency and any entity established by an agency at any reasonable

time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate. The Comptroller General shall give an agency a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out an audit.

(2) The Comptroller General shall prevent unauthorized access to records, copies of any record, or property of or used by an agency or any person or entity described in paragraph (3)(A) that the Comptroller General obtains during an audit.

(3)(A) For purposes of conducting audits and examinations under subsection (e) or (f), the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things or property belonging to or in use by—

(i) any entity established by any action taken by the Board or the Federal Reserve banks described under subsection (e) or (f);

(ii) any entity participating in or receiving assistance from any action taken by the Board or the Federal Reserve banks described under subsection (e) or (f), to the extent that the access and request relates to that assistance; and

(iii) the officers, directors, employees, independent public accountants, financial advisors and any and all representatives of any entity described under clause (i) or (ii); to the extent that the access and request relates to that assistance;

(B) The Comptroller General shall have access as provided under subparagraph (A) at such time as the Comptroller General may request. The Comptroller General may make and retain copies of books, accounts, and other records provided under subparagraph (A) as the Comptroller General deems appropriate. The Comptroller General shall provide to any person or entity described in subparagraph (A) a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out a audit or examination under this subsection.

(C) Each contract, term sheet, or other agreement between the Board or any Federal reserve bank (or any entity established by the Board or any Federal reserve bank) and an entity receiving assistance from any action taken by the Board described under subsection (e) or (f) shall provide for access by the Comptroller General in accordance with this paragraph.

(e) Notwithstanding subsection (b), the Comptroller General may conduct audits, including onsite examinations when the Comptroller General determines such audits and examinations are appropriate, of any action taken by the Board under the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343); with respect to a single and specific partnership or corporation.

(f) AUDITS OF CREDIT FACILITIES OF THE FEDERAL RESERVE SYSTEM.—

(1) DEFINITIONS.—In this subsection, the following definitions shall apply:

(A) CREDIT FACILITY.—The term "credit facility" means a program or facility, including any special purpose vehicle or other entity established by or on behalf of the Board of Governors of the Federal Reserve System or a Federal reserve bank, authorized by the Board of Governors under section 13(3) of the Federal Reserve Act (12 U.S.C. 343), that is not subject to audit under subsection (e).

(B) COVERED TRANSACTION.—The term "covered transaction" means any open market transaction or discount window advance that meets the definition of "covered transaction" in section 11(s) of the Federal Reserve Act.

(2) AUTHORITY FOR AUDITS AND EXAMINATIONS.—Subject to paragraph (3), and notwithstanding any limitation in subsection (b) on the auditing and oversight of certain functions of the Board of Governors of the Federal Reserve System or any Federal reserve bank, the Comptroller General of the United States may conduct audits, including onsite examinations, of the Board of Governors, a Federal reserve bank, or a credit facility, if the Comptroller General determines that such audits are appropriate, solely for the purposes of assessing, with respect to a credit facility or a covered transaction—

(A) the operational integrity, accounting, financial reporting, and internal controls governing the credit facility or covered transaction;

(B) the effectiveness of the security and collateral policies established for the facility or covered transaction in mitigating risk to the relevant Federal reserve bank and taxpayers;

(C) whether the credit facility or the conduct of a covered transaction inappropriately favors one or more specific participants over other institutions eligible to utilize the facility; and

(D) the policies governing the use, selection, or payment of third-party contractors by or for any credit facility or to conduct any covered transaction.

(3) REPORTS AND DELAYED DISCLOSURE.—

(A) REPORTS REQUIRED.—A report on each audit conducted under paragraph (2) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such audit is completed.

(B) CONTENTS.—The report under subparagraph (A) shall include a detailed description of the findings and conclusions of the Comptroller General with respect to the matters described in paragraph (2) that were audited and are the subject of the report, together with such recommendations for [legislative or] administrative action relating to such matters as the Comptroller General may determine to be appropriate.

(C) DELAYED RELEASE OF CERTAIN INFORMATION.—

(i) IN GENERAL.—The Comptroller General shall not disclose to any person or entity[, including to Congress,] the names or identifying details of specific participants in any credit facility or covered transaction, the amounts borrowed by or transferred by or to spe-

cific participants in any credit facility or covered transaction, or identifying details regarding assets or collateral held or transferred by, under, or in connection with any credit facility or covered transaction, and any report provided under subparagraph (A) shall be redacted to ensure that such names and details are not disclosed.

(ii) DELAYED RELEASE.—The nondisclosure obligation under clause (i) shall expire with respect to any participant on the date on which the Board of Governors, directly or through a Federal reserve bank, publicly discloses the identity of the subject participant or the identifying details of the subject assets, collateral, or transaction.

(iii) GENERAL RELEASE.—The Comptroller General shall release a nonredacted version of any report on a credit facility 1 year after the effective date of the termination by the Board of Governors of the authorization for the credit facility. For purposes of this clause, a credit facility shall be deemed to have terminated 24 months after 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 of Governors.

(iv) EXCEPTIONS.—The nondisclosure obligation under clause (i) shall not apply to the credit facilities Maiden Lane, Maiden Lane II, and Maiden Lane III.

(v) RELEASE OF COVERED TRANSACTION INFORMATION.—The Comptroller General shall release a nonredacted version of any report regarding covered transactions upon the release of the information regarding such covered transactions by the Board of Governors of the Federal Reserve System, as provided in section 11(s) of the Federal Reserve Act.

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TITLE 5, UNITED STATES CODE

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PART III—EMPLOYEES

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SUBPART D—PAY AND ALLOWANCES

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

Solicitor General of the United States.

Under Secretary of Commerce, Under Secretary of Commerce for Economic Affairs, Under Secretary of Commerce for Industry and Security, Under Secretary of Commerce for Travel and Tourism, and Under Secretary of Commerce for Minority Business Development.

Under Secretaries of State (6).

Under Secretaries of the Treasury (3).

Administrator of General Services.

Administrator of the Small Business Administration.

Deputy Administrator, Agency for International Development.

Chairman of the Merit Systems Protection Board.

Chairman, Federal Communications Commission.

Chairman, Board of Directors, Federal Deposit Insurance Corporation.

Chairman, Federal Energy Regulatory Commission.

Chairman, Federal Trade Commission.

Chairman, Surface Transportation Board.

Chairman, National Labor Relations Board.

Chairman, Securities and Exchange Commission.

Chairman, National Mediation Board.

Chairman, Railroad Retirement Board.

Chairman, Federal Maritime Commission.

Comptroller of the Currency.

Commissioner of Internal Revenue.

Under Secretary of Defense for Research and Engineering.

Under Secretary of Defense for Acquisition and Sustainment.

Under Secretary of Defense for Policy.

Under Secretary of Defense (Comptroller).

Under Secretary of Defense for Personnel and Readiness.

Under Secretary of Defense for Intelligence and Security.

Under Secretary of the Air Force.

Under Secretary of the Army.

Under Secretary of the Navy.

Deputy Administrator of the National Aeronautics and Space Administration.

Deputy Director of the Central Intelligence Agency.

Director of the Office of Emergency Planning.

Director of the Peace Corps.

Deputy Director, National Science Foundation.

President of the Export-Import Bank of Washington.

Members, Nuclear Regulatory Commission.

Members, Defense Nuclear Facilities Safety Board.

Director of the Federal Bureau of Investigation, Department of Justice.

Administrator of the National Highway Traffic Safety Administration.

Administrator of the Federal Motor Carrier Safety Administration.

Administrator, Federal Railroad Administration.
Chairman, National Transportation Safety Board.
Chairman of the National Endowment for the Arts the incumbent of which also serves as Chairman of the National Council on the Arts.
Chairman of the National Endowment for the Humanities.
Director of the Federal Mediation and Conciliation Service.
Chairman, Postal Regulatory Commission.
Chairman, Occupational Safety and Health Review Commission.
Governor of the Farm Credit Administration.
Chairman, Equal Employment Opportunity Commission.
Chairman, Consumer Product Safety Commission.
Under Secretaries of Energy (3).
Chairman, Commodity Futures Trading Commission.
Deputy United States Trade Representatives (3).
Chief Agricultural Negotiator, Office of the United States Trade Representative.
Chief Innovation and Intellectual Property Negotiator, Office of the United States Trade Representative.
Chairman, United States International Trade Commission.
Under Secretary of Commerce for Oceans and Atmosphere, the incumbent of which also serves as Administrator of the National Oceanic and Atmospheric Administration.
Under Secretary of Commerce for Standards and Technology, who also serves as Director of the National Institute of Standards and Technology.
Associate Attorney General.
Chairman, Federal Mine Safety and Health Review Commission.
Chairman, National Credit Union Administration Board.
Deputy Director of the Office of Personnel Management.
Under Secretary of Agriculture for Farm Production and Conservation.
Under Secretary of Agriculture for Trade and Foreign Agricultural Affairs.
Under Secretary of Agriculture for Food, Nutrition, and Consumer Services.
Under Secretary of Agriculture for Natural Resources and Environment.
Under Secretary of Agriculture for Research, Education, and Economics.
Under Secretary of Agriculture for Food Safety.
Under Secretary of Agriculture for Marketing and Regulatory Programs.
Director, Institute for Scientific and Technological Cooperation.
Under Secretary of Agriculture for Rural Development.
Administrator, Maritime Administration.
Executive Director Property Review Board.
Deputy Administrator of the Environmental Protection Agency.
Archivist of the United States.
Executive Director, Federal Retirement Thrift Investment Board.

Principal Deputy Under Secretary of Defense for Acquisition, Technology, and Logistics.
Director, Trade and Development Agency.
Under Secretary for Health, Department of Veterans Affairs.
Under Secretary for Benefits, Department of Veterans Affairs.
Under Secretary for Memorial Affairs, Department of Veterans Affairs.
Under Secretaries, Department of Homeland Security.
Director of the Bureau of Citizenship and Immigration Services.
Director of the Office of Government Ethics.
Administrator for Federal Procurement Policy.
Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.
Director of the Office of Thrift Supervision.
Chairperson of the Federal Housing Finance Board.
Executive Secretary, National Space Council.
Controller, Office of Federal Financial Management, Office of Management and Budget.
Administrator, Office of the Assistant Secretary for Research and Technology of the Department of Transportation.
Deputy Director for Demand Reduction, Office of National Drug Control Policy.
Deputy Director for Supply Reduction, Office of National Drug Control Policy.
Deputy Director for State and Local Affairs, Office of National Drug Control Policy.
Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.
Register of Copyrights.
Commissioner of U.S. Customs and Border Protection, Department of Homeland Security.
Under Secretary of Education
Administrator of the Centers for Medicare & Medicaid Services.
Administrator of the Office of Electronic Government.
Administrator, Pipeline and Hazardous Materials Safety Administration.
Director, Pension Benefit Guaranty Corporation.
Deputy Administrators, Federal Emergency Management Agency.
Deputy Administrator, Transportation Security Administration.
Chief Executive Officer, International Clean Energy Foundation.
[Independent Member of the Financial Stability Oversight Council (1)] *Independent Members of the Financial Stability Oversight Council (2).*
Director of the Office of Financial Research.
Director of the National Reconnaissance Office.
Special Counsel of the Office of Special Counsel.

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REVISED STATUTES OF THE UNITED STATES

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TITLE VII. DEPARTMENT OF THE TREASURY.

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CHAPTER NINE—THE COMPTROLLER OF THE CURRENCY.

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[SEC. 333.]

SEC. 333. REPORT OF COMPTROLLER.

(a) ANNUAL REPORT.—The Comptroller of the Currency shall make an annual report to Congress. The report required under this section shall include the report required under section 18(f)(7) of the Federal Trade Commission Act.

(b) SEMI-ANNUAL TESTIMONY AND REPORT TO CONGRESS ON SUPERVISION.—

(1) APPEARANCES BEFORE CONGRESS.—The Comptroller of the Currency shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at semi-annual hearings regarding the efforts, activities, objectives, and plans of the Office of the Comptroller of the Currency with respect to the conduct of supervision and regulation of national banks and other financial firms supervised by the Office of the Comptroller of the Currency.

(2) REPORT TO CONGRESS.—

(A) IN GENERAL.—The Comptroller of the Currency shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives semi-annual reports regarding the efforts, activities, objectives, and plans of the Office of the Comptroller of the Currency with respect to the conduct of supervision and regulation of national banks and other financial firms supervised by the Office of the Comptroller of the Currency.

(B) MINIMUM CONTENTS.—At a minimum, each report under subparagraph (A) shall include—

(i) conditions of national banks and other financial firms, including examination or inspection ratings, on an aggregate basis by asset size;

(ii) granular data on outstanding material supervisory determinations by type of determination, including the types of risks covered, on an aggregate basis by asset size;

(iii) changes in the number and types of outstanding material supervisory determinations over the previous 5 years;

(iv) aggregate data on the ratings of national banks and other financial firms over the previous 3 years;

(v) the number of informal and formal enforcement actions, by type of enforcement order and showing changes in the last 3 years, against supervised national

banks and other financial firms on an aggregate basis by firm asset size; and

(vi) a description of the organization of the supervisory functions of the Office of the Comptroller of the Currency with respect to national banks and other financial firms, including information on roles, responsibilities, accountability, and talent management.

(C) CONFIDENTIAL REPORT.—Concurrent with each report under subparagraph (A), the Comptroller of the Currency shall submit a confidential report to the chair and ranking member of each committee described under subparagraph (A) identifying—

(i) each supervised national bank or other financial firms with less than satisfactory examination or inspection ratings; and

(ii) each supervised national bank or other financial firms with an active formal or informal enforcement action, and the status of each provision of each enforcement action.

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FEDERAL CREDIT UNION ACT

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TITLE I—FEDERAL CREDIT UNIONS

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CREATION OF ADMINISTRATION

SEC. 102. (a) There is hereby established in the executive branch of the Government an independent agency to be known as the National Credit Union Administration. The Administration shall be under the management of a National Credit Union Administration Board.

(b) MEMBERSHIP AND APPOINTMENT OF BOARD.—

(1) IN GENERAL.—The Board shall consist of three members, who are broadly representative of the public interest, appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be members of the same political party.

(2) APPOINTMENT CRITERIA.—

(A) EXPERIENCE IN FINANCIAL SERVICES.—In considering appointments to the Board under paragraph (1), the President shall give consideration to individuals who, by virtue of their education, training, or experience relating to a broad range of financial services, financial services regulation, or financial policy, are especially qualified to serve on the Board.

(B) LIMIT ON APPOINTMENT OF CREDIT UNION OFFICERS.—Not more than one member of the Board may be appointed to the Board from among individuals who, at the time of

the appointment, are, or have recently been, involved with any insured credit union as a committee member, director, officer, employee, or other institution-affiliated party.

(c) The term of office of each member of the Board shall be six years, except that the terms of the two members, other than the Chairman, initially appointed shall expire one upon the expiration of two years after the date of appointment, and the other upon the expiration of four years after the date of appointment. Board members shall not be appointed to succeed themselves except the initial members appointed for less than a six-year term may be reappointed for a full six-year term and future members appointed to fill unexpired terms may be reappointed for a full six-year term. Any Board member may continue to serve as such after the expiration of said member's term until a successor has qualified.

(d) The management of the Administration shall be vested in the Board. The Board shall adopt such rules as it sees fit for the transaction of its business and shall keep permanent and complete records and minutes of its acts and proceedings. A majority of the Board shall constitute a quorum. Not later than April 1 of each calendar year, and at such other times as the Congress shall determine, the Board shall make a report to the President and to the Congress. Such a report shall summarize the operations of the Administration and set forth such information as is necessary for the Congress to review the financial program approved by the Board.

(e) The Chairman of the Board shall be the spokesman for the Board and shall represent the Board and the National Credit Union Administration in its official relations with other branches of the Government. The Chairman shall determine each Board member's area of responsibility and shall review such assignments biennially. It shall be the Chairman's responsibility to direct the implementation of the adopted policies and regulations of the Board.

(f) The financial transactions of the Administration shall be subject to audit by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Administration are kept.

(g) SEMI-ANNUAL TESTIMONY AND REPORT TO CONGRESS ON SUPERVISION.—

(1) APPEARANCES BEFORE CONGRESS.—The Chairman of the Board shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at semi-annual hearings regarding the efforts, activities, objectives, and plans of the Administration with respect to the conduct of supervision and regulation of credit unions supervised by the Administration.

(2) REPORT TO CONGRESS.—

(A) IN GENERAL.—The Chairman of the Board shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives semi-annual reports regarding the efforts, activities, objectives, and

plans of the Administration with respect to the conduct of supervision and regulation of credit unions supervised by the Administration.

(B) MINIMUM CONTENTS.—At a minimum, each report under subparagraph (A) shall include—

(i) conditions of credit unions, including examination or inspection ratings, on an aggregate basis by credit union asset size;

(ii) granular data on outstanding material supervisory determinations by type of determination, including the types of risks covered, on an aggregate basis by credit union asset size;

(iii) changes in the number and types of outstanding material supervisory determinations over the previous 5 years;

(iv) aggregate data on the ratings of credit unions over the previous 3 years;

(v) the number of informal and formal enforcement actions, by type of enforcement order and showing changes in the last 3 years, against supervised credit unions on an aggregate basis by credit union asset size; and

(vi) a description of the organization of the supervisory functions of the Board with respect to credit unions, including information on roles, responsibilities, accountability, and talent management.

(C) CONFIDENTIAL REPORT.—Concurrent with each report under subparagraph (A), the Chairman of the Board shall submit a confidential report to the chair and ranking member of each committee described under subparagraph (A) identifying—

(i) each supervised credit union with less than satisfactory examination or inspection ratings; and

(ii) each supervised credit union with an active formal or informal enforcement action, and the status of each provision of each enforcement action.

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Committee on Rules
U.S. House of Representatives
H-312 The Capitol
Washington, DC 20515-6269

May 6, 2024

The Honorable Patrick McHenry
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman McHenry:

On May 24, 2023, the Committee on Financial Services ordered H.R. 3556, the Increasing Financial Regulatory Accountability and Transparency Act, reported to the House. As you know, the Committee on Rules was granted an additional referral upon the bill's introduction pursuant to the Committee's jurisdiction under rule X of the Rules of the House of Representatives over the rules of the House.

Because of your willingness to consult with my committee regarding this matter, I will waive consideration of the bill by the Committee on Rules. By agreeing to waive its consideration of the bill, the Committee on Rules does not waive its jurisdiction over H.R. 3556. In addition, the Committee reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction during any House-Senate conference that may be convened on this legislation. I ask your commitment to support any request by the Committee on Rules for conferees on H.R. 3556 or related legislation.

I also request that you include our exchange of letters on this matter in the committee report to accompany H.R. 3556 and in the *Congressional Record* during consideration of this legislation on the House floor. Thank you for your attention to these matters.

Sincerely,

Michael Burgess
Chairman

cc: The Honorable Mike Johnson, Speaker, U.S. House of Representatives
The Honorable James P. McGovern, Ranking Member, Committee on Rules
The Honorable Maxine Waters, Ranking Member, Committee on Financial Services
The Honorable Jason Smith, Parliamentarian

PATRICK McHENRY, NC
CHAIRMAN

MAXINE WATERS, CA
RANKING MEMBER

United States House of Representatives
One Hundred Eighteenth Congress
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

May 6, 2024

The Honorable Michael Burgess
Chairman
Committee on Rules
U.S. House of Representatives
United States Capitol, H-132
Washington, DC 20515

Dear Chairman Burgess:

Thank you for agreeing to be discharged from further consideration of H.R. 3556, the *Increasing Financial Regulatory Accountability and Transparency Act,* so that it may proceed expeditiously to the House Floor. I agree that by foregoing consideration of H.R. 3556 at this time, you do not waive any jurisdiction over the subject matter contained in this or similar legislation, and that you will be appropriately consulted and involved on this or similar legislation as it moves forward.

As discussed, I will seek to place a copy of our exchange of letters on this bill in the *Congressional Record* during floor consideration thereof.

Sincerely,

Patrick McHenry
Chairman
Committee on Financial Services

cc: The Honorable Maxine Waters, Ranking Member, Committee on Financial Services
The Honorable James P. McGovern, Ranking Member, Committee on Rules
The Honorable Mike Johnson, Speaker of the House
The Honorable Jason Smith, Parliamentarian

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MINORITY VIEWS

H.R. 3556 would make it much harder for financial regulators to respond to future banking crises and otherwise address risks to financial stability by creating layers of new requirements to various emergency stabilization and financial stability tools, including the ones that regulators recently utilized to respond to recent bank failures.

Specifically, this bill would make it harder to promptly invoke a systemic risk exception (SRE) to the Federal Deposit Insurance Corporation's (FDIC) least cost resolution test by requiring new and extensive analyses of an SRE in a fast-moving crisis. This SRE was quickly utilized by federal regulators to protect depositors of Silicon Valley Bank and Signature Bank, including many small businesses that could have otherwise been unable to make payroll the Monday after both banks failed. The bill also limits the effectiveness of the Fed's emergency lending authorities, by requiring, for example, disclosures revealing borrower information earlier than is currently required that may create a chilling effect on the use of such facilities. There already is a concern that borrowing from the Fed's discount window on a two-year lag discourages banks from accessing it, so requiring disclosures sooner could cause enhance this chilling effect, rendering these emergency lending authorities less helpful in a crisis.

Further, the bill engages in an unscrupulous political attack on the current Fed's Vice Chair of Supervision by making an individual with his experience and expertise ineligible to serve in his current role. Republicans are focused on this political attack in spite of the fact that the Fed's report, *Review of the Federal Reserve's Supervision and Regulation of Silicon Valley Bank*,[1] makes regulatory recommendations that the Majority's own witnesses agree are sensible reforms. Additionally, the bill would slash the funding of the Financial Stability Oversight Council (FSOC) and the Office of Financial Research (OFR), which are specifically charged with looking across regulatory silos to prevent a future financial crisis. The bill also eliminates FSOC's Climate-related Financial Risk Advisory Committee (CFRAC), along with FSOC's ability to establish any other expert committee to advise FSOC in the furtherance of its mission to combat systemic risk and promote financial stability.

Unfortunately, while verbalizing support for a number of reform ideas offered as amendments by Committee Democrats, Committee Republicans voted to reject every Democratic amendment, all of which would have provided meaningful policy changes to respond to the recent bank failures. These amendments include:

[1] Federal Reserve, *Review of the Federal Reserve's Supervision and Regulation of Silicon Valley Bank* (Apr. 2023).

• Waters Amendment on Executive Accountability: This amendment would enhance FDIC's ability to clawback compensation from executives of failed banks, fine them, and bar them from serving in the industry going forward, similar to existing authority FDIC has for other situations. The Biden Administration has urged Congress to address clawback authority in response to the bank failures, and this amendment incorporated the feedback of the FDIC, NEC and Treasury. Rep. Waters subsequently introduced this amendment as H.R. 4208, the Failed Bank Executives Accountability and Consequences Act. H.R. 4208 is similar to S. 2190, the Recovering Executive Compensation Obtained from Unaccountable Practices (RECOUP) Act, sponsored by Senate Banking Committee Chairman Sherrod Brown (D–OH), which the Senate Banking Committee approved with broad bipartisan support by a 21–2 vote on June 21, 2023.

• Waters Amendment to Close Enhanced Prudential Standard Loophole: This amendment would ensure that Dodd-Frank's enhanced prudential standards—including enhanced capital and liquidity requirements, stress testing, resolution planning, risk management, etc.—apply to large banks, including those banks that do not have a bank holding company. This amendment closes a loophole that allowed Signature Bank and First Republic Bank to escape Dodd-Frank's enhanced prudential standards that apply to other large banks of the same size. Rep. Waters subsequently introduced this amendment as H.R. 4210, the Closing the Enhanced Prudential Standards Loophole Act.

• Green Amendment Systemic Risk Exception Reporting: This amendment would require, whenever a systemic risk exception (SRE) is authorized going forward, that bank regulators produce the same kind of self-assessment reports that the Federal Reserve and FDIC recently did with SVB and Signature Bank, disclosing relevant confidential supervisory information as well. Moreover, GAO would also be required to do a comprehensive study of related bank failures, similar to what Chair McHenry and Ranking Member Waters requested. Regulators and GAO would have to produce an initial report within 60 days, and a more comprehensive report after 6 months. Rep. Green subsequently introduced this amendment as H.R. 4116, the Systemic Risk Authority Transparency Act.

• Green Amendment on Community Bank Exemption from Special Assessments: This amendment would support community bank calls to ensure that they are not included in the special assessments charged to recoup losses sustained by the FDIC's Deposit Insurance Fund related to protecting uninsured depositors when the systemic risk exception was invoked. Similar to FDIC's proposal, the amendment would exempt banks with less than $5 billion in assets (which the FDIC can raise to a higher threshold) and require any assessment for banks between $5 billion and $50 billion to be relatively small compared to assessments charged to the largest banks. Rep. Green subsequently introduced this amendment as H.R. 4204, the

Shielding Community Banks from Systemic Risk Assessments Act.

• Lynch Amendment to Promote Competition in Purchasing Failing Banks: This amendment would ensure more banks can purchase failed banks by directing the FDIC to only consider the bids of a megabank with more than 10% of total U.S. deposits if no other institutions that bid on a failed bank meets FDIC's least cost test. Rep. Lynch subsequently introduced this amendment as H.R. 3914, the Failing Bank Acquisition Fairness Act. H.R. 3914 is similar to an amendment offered by Sen. J.D. Vance (R–OH) that was included in S. 2190, the Recovering Executive Compensation Obtained from Unaccountable Practices (RECOUP) Act, which the Senate Banking Committee approved with broad bipartisan support by a 21–2 vote on June 21, 2023.

• Casten Amendment on Chief Risk Officer Requirements: The amendment would codify regulatory requirements that large banks have a Chief Risk Officer (CRO), along with a risk committee. The amendment would further require that within 24 hours of a large bank's CRO role becoming vacant, the bank must notify their federal and, if applicable, state prudential regulator of such vacancy. Within 7 days, they must submit a plan to their regulator on how they would search for and promptly hire a well-qualified CRO when there is a vacancy. After 60 days, if the vacancy remains, the bank shall notify the public that their CRO role is vacant and automatically subject the bank to a cap on their asset growth until such vacancy is cured. Rep. Casten subsequently introduced this amendment as H.R. 4062, the Chief Risk Officer Enforcement and Accountability Act.

• Tlaib Amendment on Deferred Compensation: This amendment would require large banks to have portion of their executive compensation placed into a deferred compensation pool that would get paid out after 6 to 8 years. In the case of a bank failure and/or executive misconduct, the fund would be used to cover the costs of resolving the bank or pay any fines. This idea was proposed by former New York Fed Bank President Dudley, and it would supplement the rulemaking pursuant to Section 956 of Dodd-Frank on incentive-based compensation that the Fed, FDIC, OCC, NCUA, SEC, and FHFA must jointly complete. Rep. Tlaib subsequently introduced an expanded version of this amendment as H.R. 4200, the Fostering Accountability in Remuneration Fund Act (FAIR Fund Act) of 2023.

• Pettersen Amendment on Bonus Freeze: This amendment would automatically restrict discretionary bonus payments to executives of large banks with more than $50 billion in total assets whenever the bank receives a Matter Requiring Immediate Attention (MRIA) or other serious supervisory citations from bank supervisors, until such time that the matter is addressed by the bank to the regulators' satisfaction. This provides an incentive to bank management to promptly address problems flagged by supervisors before they rise to an MRIA, similar to an executive bonus restriction when large banks

don't meet certain capital requirements. Rep. Pettersen subsequently introduced this amendment as H.R. 4207, the Stopping Bonuses for Unsafe and Unsound Banking Act.

- Sherman Amendment on Improving Stress Testing: This amendment would require the bank regulators to expand their stress testing requirements. Specifically, rather than doing two stress test scenarios, the bill would require five scenarios, and ensure that the Federal Reserve does stress tests for situations when interest rates are rising or falling. Rep. Sherman subsequently introduced this amendment as H.R. 3992, the Effective Bank Regulation Act.
- Sherman Amendment on Capital Requirements for Securities Portfolios with Unrealized Losses: This amendment would prevent large banks from opting out of the requirement to recognize Accumulated Other Comprehensive Income (AOCI) in regulatory capital, which primarily reflects the kind of unrealized losses Silicon Valley Bank had with its securities portfolio. This would address a problem with SVB's common equity Tier 1 capital ratio artificially appearing 2% better capitalized than it ended up being. Rep. Sherman subsequently introduced this amendment as H.R. 4206, the Bank Safety Act.

Nothing in H.R. 3556 would address the root causes of the recent bank failures. Instead, this bill meddles unnecessarily with regulators' tools and flexibility to respond in an emergency despite the fact that regulators have gone out of their way to make confidential supervisory information available and be forthright about what happened and what they are doing in response. For these reasons, the Minority opposes H.R. 3556.

MAXINE WATERS,
Ranking Member.
NYDIA M. VELÁZQUEZ,
BRAD SHERMAN,
STEPHEN F. LYNCH,
JOYCE BEATTY,
JUAN VARGAS,
SEAN CASTEN,
RASHIDA TLAIB,
SYLVIA R. GARCIA,
NIKEMA WILLIAMS,
Members of Congress.

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