SENSENBRENNER, Calvert and Costello.

From the Committee on Transportation and Infrastructure, for consideration of sections 601, 602, 1060, 1079, and 1080 of the Senate bill, and sections 361, 601, 602, and 3404 of the House amendment, and modifications committed to conference: Messrs. Shuster, Gilchrest and Defazio.

From the Committee on Veterans’ Affairs, for consideration of sections 671-75, 681, 682, 696, 697, 1062, and 1066 of the Senate bill, and modifications committed to conference: Messrs. Bilirakis, Quinn and Filner.

There was no objection.

ANNOUNCEMENT BY CHAIRMAN OF COMMITTEE ON RULES REGARDING AMENDMENT PROCESS FOR H.R. 434, AFRICA GROWTH AND OPPORTUNITY ACT; AND H.R. 1211, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2000 AND 2001

Mr. DREIER. Mr. Speaker, the Committee on Rules is expected to meet the week of July 12 to grant a rule which may limit amendments for consideration of H.R. 434, the Africa Growth and Opportunity Act. The Committee on Rules is also expected to meet the week of July 12 to grant a rule which may limit amendments for consideration of H.R. 1211, the Foreign Relations Authorization Act, Fiscal Years 2000 and 2001.

Any Member contemplating an amendment to H.R. 434 should submit 55 copies of the amendment and a brief explanation of the amendment to the Committee on Rules no later than noon, Tuesday, July 13. Amendments should be drafted to the text of the bill as reported by the Committee on Ways and Means on June 17.

Any Member contemplating an amendment to H.R. 1211 should also submit 55 copies of the amendment and a brief explanation of the amendment to us up in the Committee on Rules no later than 4 p.m. on Tuesday, July 13.

For those who are not aware of it, the Committee on Rules is located in room H-312 in the Capitol. That is right upstairs.

Amendments should be drafted to the text of H.R. 2415, the American Security Act of 1999, as introduced by the gentleman from New Jersey (Mr. Smith) and the gentlewoman from Georgia (Ms. McKinney) on July 1, 1999.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL FRIDAY, JULY 9, 1999, TO FILE PRIVILEGED REPORT ON A BILL MAKING APPROPRIATIONS FOR DEPARTMENT OF INTERIOR AND RELATED AGENCIES FOR FISCAL YEAR 2000

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until Friday, July 9, 1999, to file a privileged report on a bill making appropriations for the Department of Interior and related agencies for the fiscal year 2000, and for other purposes.

The SPEAKER pro tempore (Mr. LaHood). Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL FRIDAY, JULY 9, 1999, TO FILE PRIVILEGED REPORT ON A BILL MAKING APPROPRIATIONS FOR MILITARY CONSTRUCTION, FAMILY HOUSING, AND BASE REALIGNMENT AND CLOSURE FOR THE DEPARTMENT OF DEFENSE FOR FISCAL YEAR 2000

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until Friday, July 9, 1999, to file a privileged report on a bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year 2000, and for other purposes.

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

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

APPOINTMENT OF CONFEREES ON H.R. 10, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2000

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker’s table the bill (H.R. 10) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2000, and for other purposes, with Mrs. Emerson in the minority side, it is more than matched by this Member whose advice was disregarded by the Rules Committee on key amendments. Nonetheless the big picture is that this is a good bill, good for individual citizens and the economy at large. I ask all my colleagues to vote on the quality of the end product, not the process of consideration which I acknowledge has been imperfect.

In this regard, let me stress that the big picture is that financial modernization legislation will save the public approximately $15 billion a year. It will provide increased services to individuals and firms, particularly those in less comprehensively served parts of the country. It will also allow U.S. financial companies to compete more fully abroad.

The economy on a global basis is changing and we must be prepared to lead market developments, rather than lose market share. In this effort, the fundamental precept of the bill is to end the arbitrary constraints on commerce implicit in the 65-year-old Glass-Steagall law. Competition is the American way and enhanced competition is the underlying precept of this bill.

In this regard, I’d like to address the issues of bigness and of privacy. With regard to conglomeration which is proceeding at a pace with which I am...
deeply uncomfortable, it should be under-
stood that the big are getting bigger from the top down, utilizing regulatory fiat. What this bill does is provide a modern regulation framework for change. It empowers all equally. Smaller institutions will be given the same competitive tools that cur-
cently are only available to a few. In-
deed, in a David and Goliath world, H.R. 10 is the community bankers and independent insurance agents’ sling-
shot.

Finally, with regard to privacy, let me stress no financial services bill in modern history has gone to this floor with stronger privacy provisions. Im-
portantly, pretext calling—the idea that someone can call a financial insti-
tution and obtain your financial infor-
mation—is now effectively outlawed; medical records are protected; and indi-
viduals are given powerful new rights to prevent financial institutions from transferring or selling information to third parties.

Here, let me stress, if Congress subse-
quently passes more comprehensive medical records provisions, they will be at least as strong or stronger. These safeguards and if HHS promul-
gates regulations in this area they would augment the provisions of this bill. Nothing in this act is intended to shackle Executive Branch actions in this area.

In conclusion, I would like to thank my Democratic colleagues on the Banking Committee and, in particular, J ohn L aFalce and B ruce V ento, and J ohn D ingell of the Commerce Com-
mittee whose support I have been ap-
preciative in the past and whose dis-
sent I respect today; also my friends T om B liley, M ike O xley, D avid D reier, J ohn B oehner and so many others, i lke M argie R oukema, S ue K ella, P at T ammy and R ick L azio, whose leadership has been so important to bringing this bill to the floor.

The legislation before the House is historic win-win legislation, updating America’s fi-
ancial services for the 21st Century. It’s a win for consumers who will benefit from more convenient and less expensive fi-
ancial services, from major consumer protec-
tion provisions and from the strongest financial and medical privacy protections ever consid-
ered by the Congress.

It’s a win for the American economy by modernizing the financial services industry and savings an estimated $15 billion in unnec-
sesary costs.

And it’s a win for America’s international competition position by allowing U.S. compa-
nies to compete more effectively for business around the world and create more financial services jobs for Americans.

It would be an understatement to say that this has not been easy, nor a quickly-pro-
duced piece of legislation to bring before the House.

For many of the 66 years since the Con-
gress enacted the Glass-Steagall Act in 1933 to separate commercial banking from invest-
ment banking, there have been proposals to repeal the act. The Senate has thrice passed repeal legislation and last year the House ap-
proved the 105th Congress version of H.R. 10.

But, this year it appears that we may be closer than ever before to final passage. The bill before us today is the result of months and months of tough negotiation and compromise; among different congressional committees, dif-
erent political parties, different industrial groupings and different regulators. No single individual has been as much of what it wanted. Equity and the public interest have prevailed.

It should be remembered that while the work of Congress inevitably involves adju-
dicating regulatory turf battles or refereeing in-
dustry groupings and protection for consumers. In-
ving oversight of the operations of insur-
er and low-income community economic develop-
mr, the principal work of Congress is the work of the people—to ensure that citizens have ac-
cess to the widest range of products at the lowest possible price; that taxpayers are not put at risk; that large institutions are able to compete against their larger international ri-
vies; and that small institutions can compete effectively against big ones.

We address this legislation in the shadow of major, ongoing changes in the financial serv-
ices sector, largely the result of decisions by the courts and has stepped forward in place of Congress. Many of us have concern about certain trends in finance. Whether one likes or dislikes what is hap-
pening in the marketplace, the key is to en-
sure that there is fair competition among industry groupings and protection for consumers. In-
this regard, this bill provides for functional reg-
ulation with state and federal bank regulators oversee banking activities, state and fed-
eral securities regulators governing securities activities and the state insurance commis-
sioners looking over the operations of insur-
ance companies.

The benefits to consumers in this bill cannot be stressed more. First, they will gain in im-
proved convenience. This bill allows for one-
stop shopping for financial services with bank-
ing, insurance and securities activities being available under one roof.

Second, consumers will benefit from in-
creased competition and the price advantages that competition produces.

Third, there are increased protections on in-
urance and safety. One required dis-
closure on ATM machines and screens of bank fees and a requirement that the Federal Reserve Board hold public hearings on large financial services merger proposals.

Fourth, the Federal Home Loan Bank reform provisions expand the availability of credit to farmers and small businesses and for rural and low-income community economic develop-
ment projects.

Fifth, the bill also contains major consumer privacy protections making so-called pretext calling illegal. This is one means to obtain private financial information of another person, a federal crime punishable by up to five years in jail and a fine of up to $250,000; would wall off the medical records held by insurance companies from transfer to any other party; and requires banks to dis-
close their privacy policies on customers.

A bipartisan amendment developed by members of the Banking, Commerce and Rules Committee will further enhance these protections and I urge its adoption.

In closing, I’d like to emphasize again the philosophic underpinnings of this legislation. Americans have long held concerns about big-
ness in the economy. As we have seen in other countries, concentration of economic power does not automatically lead to increased competition, innovation or customer service.

But the solution to the problem of con-
centration of economic power is to empower our smaller financial institutions to compete against large institutions, combining the new power granted in this legislation with their personal service and local knowledge in order to maintain and increase their market share.

For many communities, retaining their local, independent bank depends upon granting that bank the power to compete against mega-
banks which are being formed under the current regulatory and legal framework.

H.R. 10 provides community banks with the tools to compete, not only against large mega-
banks but also against new technologies such as Internet banking. Banks which stick with of-
fering the same old accounts and services in the same old ways will find their viability threatened. Those that innovate and adapt under the provisions of this bill will be extraor-
dinarily well positioned to grow and serve their customer base.

Large financial institutions can already offer a variety of services. But community banks are usually not large enough to utilize legal loopholes like Section 20 affiliates or the cre-
ation of a unitary thrift holding company to which large financial institutions—commercial and investment financial—can relate. By bolting the viability of community-
based institutions and providing greater flexi-
bility to them, H.R. 10 increases the percent-
age of dollars retained in local communities. Community institutions are further protected by a small but important provision that prohibits banks from setting up “deposit production of-
ices” which gather up deposits in commun-
ities without lending out money to people in the community.

Additionally, the bill before us strengthens the Community Reinvestment Act by making compliance with the act a condition for a bank to affiliate with a securities firm or securities company. CRA is also expanded to a newly created entity called Wholesale Financial Institu-
tions.

One of the most controversial provisions in H.R. 10 is the provision in Title IV which pro-
hibits commercial entities from establishing thrifts in the future. Under current law, com-
mercial entities are already prohibited from buying or owning commercial banks. This re-
striction between, commercial banking and 
commerce is not only maintained in H.R. 10 but extended to restrict future commercial affil-
itations with savings associations.

The reason this restriction on commerce and banking is being expanded is several fold. First, savings associations that once were ex-
clusively devoted to providing housing loans, have become more like banks, devoting more of their assets to consumer and commercial loans. Hence the appropriateness for com-
parability between the commercial bank and the charter is self-evident.

Second, but this provision must be viewed with the history of past legislative efforts affecting the banking and thrift industries. The S&L in-
dustry has tapped the U.S. Treasury for $140 billion to clean up the 1980s S&L crisis. In 1996, savings associations received a multi-
 billion dollar tax break to facilitate their conver-
sion to a bank charter. Also, in 1996, the S&Ls tapped the banking industry for $6 to $7 billion to help pay over the next 30 years for
their FICO obligations, that part of the S&L bailout costs that remained with the thrift industry.

During this time period, Congress has liberalized the qualified thrift lending test and the restrictions on the Federal savings associations charters. These legislative changes are in addition to the numerous advantages that the industry has historically enjoyed, such as the broad preemption rights over state laws and more liberal branching laws.

H.R. 10 contains the Congressional grant of benefits to the thrift industry by repealing the SAIF special reserve, providing voluntary membership by Federal savings associations in the Federal Home Loan Bank System, allowing state thrifts to keep the term “Federal” in their names, and allowing mutual S&L holding companies to engage in the same activities as stock S&L holding companies.

Opportunities of this provision correctly argue that commercial companies that have acquired thrifts (so-called unitary thrift holding companies) we all know, there are complexities of the 1980s have not, for the most part, caused taxpayer losses. However, the Federal deposit insurance fund that was bailed out by the taxpayers applied to the entire thrift industry including the unitary thrift holding companies. Three $6 billion to $7 billion in thrift industry liabilities left over from cleaning up the S&Ls were transferred to the commercial banking industry with the understanding that sharing liabilities would be matched by ending special provisions. This is another reason to provide comparable regulation.

It is with this history and the assumption that decisions in this bill are made in the context of a legislative continuum that the provision is needed and allows for not opposing the establishment of new unitary thrift holding companies, but also to require that commercial entities may not buy a thrift from an existing grandfathered company without first getting Federal Reserve Board approval.

As there are complex issues involved in this legislation, and there will be differing judgments by Members. One thing we all may agree upon, however, is that Congress needs to reassert its Constitutional role in determining what should be the laws governing financial institutions. It is in the public interest to retain the strongest community re-investment provisions, because we were able to have strong consumer protection before and beyond that, most especially provisions regarding re-lining in the insurance companies that were eroded, so too did a lot of the Congressional support. And that is unfortunate. It is unfortunate.

There are other provisions that we are concerned about, too, and that is not just the issue of the gentleman from Iowa (Mr. GANSKE). I am hopeful that if this bill passes those concerns that we have can be dealt with in conference, and I look forward to a colloquy with the gentleman from Iowa (Mr. GANSKE) regarding his disposition on that.

There are some amendments that have been offered that I do not think should have been allowed that would create severe difficulties for me, in particular, the amendment of the gentleman from Texas (Mr. PAUL), which would eviscerate the ability of law enforcement agencies to enforce our anti-money laundering statutes. The FBI is adamantly opposed to that.

I also am adamantly opposed to the Billey amendment that would be a rip-off for the officers of mutual insurance companies at the expense of policyholders. It would be a Federal intrusion on State law. It would say to insurance officers, disregard your policyholders if they want to convert. They are entitled to all the money, not their policyholders. We must defeat the Billey amendment if this bill is to advance the way I would like it to advance.

I am hopeful that, at the conclusion of the debate on the conclusion of the amendment process, we could advance to conference and then deal with whatever problems are left in conference. But that remains to be seen.

Mr. LAFALCE. Madam Chairman, I yield myself 3 minutes.

Mr. LAFALCE. Madam Chairman, first, I want to thank the Chairman of the Committee on Banking and Financial Services, Gentleman from Iowa (Mr. LEACH), for working collegially with so many of us on the Democratic side of the aisle in order to produce a bipartisan bill out of the Committee on Banking and Financial Services that could be signed by the President and that we could have it transferred to the Senate and take, each side had to make tremendous amount of concessions, but we did in order to advance the public interest and financial services modernization.

We produced a bill with a 51-8 vote, 21-6 on the Democratic side of the aisle. The Democrats voted for it, however, in large part because we were able to retain the strongest community re-investment provisions, because we were able to have strong consumer protection before and beyond that, most especially provisions regarding re-lining in the insurance companies that were eroded, so too did a lot of the Democratic support. And that is unfortunate. It is unfortunate.

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Mr. LAFALCE. Madam Chairman, I yield myself 3 minutes.

Mr. LAFALCE. Madam Chairman, I rise to a point of order.

Mr. BLILEY. Madam Chairman, I rise in the name of the gentleman from Ohio (Mr. OXLEY), chairman of the Subcommittee on Finance and Hazardous Material, the coach of our successful baseball team.

Mr. OXLEY. Madam Chairman, I rise in the name of the gentleman from Ohio (Mr. OXLEY), chairman of the Subcommittee on Finance and Hazardous Material, the coach of our successful baseball team.

Building on the progress we made last year through the help of many people that I see here on the floor, including our good friend, the gentleman from Ohio (Mr. BOEHNER), the gentleman from Virginia (Chairman BLILEY), the gentleman from Iowa (Chairman LEACH), and the gentleman from Michigan (Mr. DINGELL), the gentleman from New York (Mr. Towns) and others, that we passed this bill by one vote in the House.

I suspect this year it will be far different. We have to sell a large vote, because the cause has come for financial services modernization in this Congress and indeed in this country.

We have arrived at a point where just about everybody, including those on the opposite side of specific issues on this subcommittee, agree that the country’s financial regulations crafted during the Depression years of the 1930s need to be brought up to date.

The Glass-Steagall Act has outlived its useful purpose. It now serves only as the cause of inefficiency in the markets as our markets change dramatically.

Madam Chairman, we have had a series of hearings, for example, in my capacity about what is going on with the securities industry and how on-line brokerage has now become the most growing part of the securities industry. That shows how things have changed in technology and in markets and in consumer preference. And yet we continue to rely on a 1930 statute known as Glass-Steagall that simply has outlived its usefulness.

That means legislation that will provide for fair competition among all providers, and also means not only modernizing the marketplace and treating the consumer as the one who makes those kinds of decisions in the marketplace to provide that consumer with a new array of services and products, some products we probably have not even thought of or that financial service institutions have not even thought of yet today will be offered more and more to the consuming public and they are going to be able to offer them, such as they go into this financial institution.

And ultimately it will not make any difference what it says on the door because they are going to be able to buy...
a wide variety of products in that area. And, yes, those functions will be regulated by the regulators who know what that is all about. It is called functional regulation. Or as chairman of the SEC, Arthur Levitt says, commonsense regulation. In our financial markets, it affects the consumer but not to constrict the marketplace so people do not have the ability to make decisions based on what is in their long-term economic interest. It means legislation that will promote, not jeopardize, the long-term stability of our financial markets and the interests of American taxpayers.

Americans are becoming increasingly active participants in our booming securities markets and going on-line and investing, sometimes around the clock, for their families' future, investing for their education, for their children's education, investing for the future that we have tried to encourage.

One of the frustrations, I guess, in our country over the years has been that there has been far too low a quality, in comparison to some of our other competing nations. This will give people the ability to make long-term plans, to work with a financial institution that has the ability for them to buy their own products, to get their securities, their 401(k)s, their savings, their insurance needs, all of those, under one roof dealing with professionals that they trust and that they know can provide them with the kind of economic security that they have come to expect.

The change already taking place in the marketplace may make it impossible for us to try Glass-Steagall reform a 12th time, and I would implore the Members to understand that this may be our last really good shot at bringing our laws up-to-date with what is happening in the marketplace and what is happening with technology, and all of those forces are now moving us so inextricably in that direction.

Because of the leadership of the gentleman from Iowa (Mr. Leach), chairman of the Committee on Banking and Financial Services, because of the leadership of the gentleman from Virginia (Mr. Billey) chairman of the Committee on Commerce, because of participation on the other side of the aisle, it brings us here today.

Let us move forward. Let us support H.R. 10. Let us provide the kind of modern financial institutions that all of us have come to expect.

Mr. DINGELL. Madam Chairman, I yield myself 4 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Madam Chairman, this is a bad bill. We consider it under a bad rule.

George Santayana said something which I thought was very interesting. He said, "He who does not learn from history is doomed to repeat it." It looks like this Congress is setting out to create exactly the same situation which caused the 1929 crash. It looks like this Congress is setting out to create the situation that caused the collapse of the banks in Japan and Thailand by setting up op subs and by setting up monstrous conglomerates which will expose the American taxpayers and American investors to all manner of mishaps and the most assured economic calamity.

The bill is considered under a rule which does not afford either an opportunity to offer all the amendments or to have adequate debate thereof. But what does the bill do, among other things?

First, all it allows megamergers to create monstrous institutions which could engage in almost any sort of financial action. It sets up essentially, devices like the banks in Japan, which are in a state of collapse at this time, banks in Korea and Thailand, which are in a state of collapse, or banks in the United States, which could do anything and which did anything and contributed to the economic collapse of this country in 1929 which was only cleared and cured by World War II.

Some of the special abuses of this particular legislation need to be noted. The bill has stripped out an anti-redlining provision which had been in the law and which is valuable, and it is brazen and outrageous discrimination against women and minorities and it sanctifies such actions by insurance companies and others within the banks' financial holding companies which will be set up hereunder.

It attacks the privacy of American citizens. It allows unauthorized dissemination of their personal financial information and records. It guts the current protections for medical information now under state law. And it hampers the ability of the Secretary of Health and Human Services to adopt meaningful protections.

Every single health group in the United States and the AFL-CIO oppose this provision because it guts the rights of Americans to know that what they tell their doctor and what their doctor tells them is secure.

If we want to protect the security of our own financial records, we should tremble at this bill. It contains laughable financial privacy protections that tell a bank that it only has to disclose its privacy policy if it happens to have one. Tell other words, if they are going to give them the shaft, they should tell them. But they can do anything they want in terms of the financial information which they give them and which can be used to hurt them in their personal affairs.

The bill wipes out more than 1,700 essential State insurance laws across the country. It creates no Federal regulator to fill the void. So, as a result, their protections when they buy insurance are ripped away.

Alan Greenspan, the chairman of the Federal Reserve, is properly worried, and that should count for a lot. Let me read to my colleagues what he said to the Committee on Commerce this year.

"I and my colleagues are firmly of the view that the long-term stability of U.S. financial markets and the interests of the American taxpayer would be better served by no financial modernization bill rather than one that allows the proposed new activities to be conducted by the bank." And he goes on to state that he and his colleagues believe strongly that the operating structure we presently have with its damage competition in and the vitality of our financial services industry and poses serious risks for the American taxpayer.

He noted that it creates a situation where banks and other financial activities will be made too big to fail and that the taxpayers then will be compelled to come in and bail them out.

So if my colleagues enjoyed the outrage of what the Committee on Banking and Financial Services did to us on the savings and loan reform, this, they should know, is a perfection of that. That cost us about $500 billion. This, my colleagues can be assured, will cost us a lot more.

I urge my colleagues to vote against this abominable legislation.

In case my colleagues have any questions about my views, I want to clearly state for the record that I regard this bill as a terrible piece of legislation and should cause Americans to quake at the prospect of its passing.

If you value your civil rights, you should worry about this bill. The Rules Committee stripped out an anti-redlining provision, offered by our colleague Ms. Lee and agreed to by the Banking Committee. This brazen act allows discrimination against women and minorities by insurance companies within the bill's financial holding companies.

If you have had cancer or diabetes or depression or any other medical condition that could affect your employment or lead to discrimination against you, you should fear this bill. It contains a medical privacy provision that allows discrimination against women and minorities and it sanctifies such actions by insurance companies and others within the banks' financial holding companies.

If you have had cancer or diabetes or any other medical condition that could affect your employment or lead to discrimination against you, you should fear this bill. It contains a medical privacy provision that allows discrimination against women and minorities by insurance companies within the bill's financial holding companies.

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markets and the interests of the American taxpayer would be better served by no financial modernization bill rather than one that allows the proposed new activities to be conducted.

He reiterated these views to me on June 28 in a letter which I intend to put into the RECORD, but I want to read just one part:

I and my colleagues on the Board believe strongly that the operating subsidiary approach would damage competition in the vitality of our financial services industry and poses serious risks for the American taxpayer. We have no doubt that the holding company approach, adopted by the house last year, passed by the Senate this year, and supported by each previous Treasury and Administration for nearly 20 years, is the prudent and safest way to modernize our financial authorization laws and does not sacrifice any of the benefits of financial reform.

This bill greatly expands the authority of political appointees and bureaucrats over banking and monetary policy. That worries Alan Greenspan. It should worry all Americans.

In the earlier debate on the rule, several of my Republican colleagues labeled our concerns as “partisan.” So be it! If the Republicans want to accuse Democrats of caring about equal rights and protection from discrimination under the Constitution, I’ll proudly stand with Democratic colleagues. If the Republicans want to accuse Democrats of standing for full and fair protection of Americans’ privacy rights, I’ll proudly stand under that banner as well.

What I won’t stand for is this abominable legislation. I support responsible financial modernization. I do not support this bill. It is a terrible piece of legislation and I urge the House to defeat it so we can go back to the drawing board and write a good bill.

In closing, I would like to address an important technical matter and explain the purpose of the Section 303 “Functional Regulation of Insurance” reference to Section 13 of the Federal Reserve Act. That reference is included to ensure that everyone that engages in the business of insurance—including national banks selling insurance as agents under the small-business of insurance—will be subject to the preemption rules set forth in Section 104. Indeed, that is why there is a specific reference to the preemption rules set forth in Section 104. Numerous members of the Senate have expressed support for the Barnett Bank opinion and even specifically cites that case.

Section 92—“Section 92”—are subject to state regulation in the Barnett Bank case. I want to make clear that this statement is correct to the extent that the Commerce Committee intended that all state functional regulation of the insurance activities of financial institutions would be subject to the preemption rules set forth in Section 104. Indeed, that is why there is a specific reference to the preemption standard at the end of Section 303. And Section 104 incorporates the preemption standard articulated by the Supreme Court in the Barnett Bank case and even specifically cites that case.

The statement, however, is incorrect to the extent that it implies that the Comptroller of the Currency remains free to issue his own set of rules and regulations to govern small-town national bank insurance sales activities. Although—as the Barnett Bank opinion recognizes—Section 92 specifically authorizes the Comptroller to issue such regulations, Section 303 makes clear that States are now the paramount authority in the regulation of small-town national bank insurance sales activities. Under Section 303, all state regulations of insurance sales activities apply to small-town national bank insurance sales activities under Section 92 unless those regulations are prohibited under the Section 104 preemption standard.

Organizations Opposed to the Medical Records Provisions in H.R. 10

Physician Organizations
- American Medical Association
- American Psychiatric Association
- American College of Surgeons
- American College of Physicians
- American Society of Internal Medicine
- American Academy of Family Physicians
- American Psychological Association

Nursing Organizations
- American Nurses Association
- American Association of Occupational Health Nurses

Patient Organizations
- National Organization for Rare Disorders
- National Mental Health Association
- Myositis Association
- Infectious Disease Society
- Privacy/Civil Rights Organizations
- Consumer Coalition for Health Privacy
- American Civil Liberties Union
- Center for Democracy and Technology

Labor Organizations
- AFL-CIO
- American Federation of State, County, and Municipal Employees
- Service Employees International Union
- Senior and Family Organizations
- American Association of Retired Persons
- National Senior Citizens Law Center
- Planned Parenthood Federation of America, Inc.
- National Partnership for Women and Families
- American Family Foundation

Other Organizations
- American Association for Psychosocial Rehabilitation
- American Counseling Association
- American Lung Association
- American Occupational Therapy Association
- American Osteopathic Association
- American Psychosomatic Association
- American Society of Cataract and Refractive Surgery
- American Society of Clinical Psychopharmacology
- American Society for Gastrointestinal Endoscopy
- American Society of Plastic and Reconstructive Surgeons
- American Thoracic Society
- Anxiety Disorders Association of America
- Association for the Advancement of Psychology
- Association for Ambulatory Behavioral Health
- Center for Women Policy Studies
- Children & Adults with Attention-Deficit/Hyperactivity Disorder
- Corporation for the Advancement of Psychiatry

The provision allows financial institutions to provide medical records, including genetic information, for purposes of underwriting. As a result, customers could find themselves being uninsurable, or facing enormous rate increases for health insurance, based upon their genetic information, or health records. In addition, the information may be inaccurate, but the customer cannot correct it. The provision allows financial institutions to provide medical records for “research
projects.” This term is undefined, and could include marketing research, or nearly anything else. For example, a customer’s prescription drug information could be provided to a data marketing company for research on candidates for a new related drug.

Moreover, the provision establishes no requirements for federally funded research. Analogous requirements apply to clinical trials conducted pursuant to the FDA’s product approval procedures. The Common Rule typically contains no new requirements that are not already contemplated by an entity that specifically examines whether the potential benefits of the study outweigh the potential intrusion into an individual’s privacy. The provision, however, includes strong safeguards to protect the confidentiality of those records. Two weeks ago at a hearing before the Health and Environment Subcommittee of the Committee on Commerce, Science, and Transportation, the Senate committee on which I serve, I expressed concern that this provision does not. In fact, as is the case with all other disclosures in this provision, the common or general knowledge of medical research would not be protected. The provision allows the disclosure of confidential medical records “in connection with” a laundry list of transactions, most of which have nothing to do with medical records. The provision does not define who can receive the records, but instead allows disclosure to anyone “in connection with” a transaction. There was no explanation at the markup why medical records should be disclosed in connection with “the transfer of receivables, dividends,” or “interest therein.” There is no definition of “fraud protection” or “risk control” for which the provision also authorizes disclosure. The provision gives carte blanche to financial institutions to disclose confidential medical records for “account administration” or for “reporting, investigating, or preventing fraud.” Reporting to whom? An investigation by whom?

While most laws protecting medical records provide for disclosure in compliance with criminal investigations, those laws provide safeguards to permit the individual the opportunity to raise legal issues. This provision does not. In fact, as is the case with all other disclosures in this provision, the consumer would not even be informed that the information has been disclosed. Thus, a customer’s medical records could be disclosed to an operating subsidiary without a civil action without the customer even knowing it.

Within hours of passage of this provision, we began learning from patient groups and others who have fought to improve the privacy rights of individuals that this provision is seriously flawed. These concerns demonstrate why Congress should comprehensively address the issue of medical confidentiality, not in a slapdash amendment that has received no scrutiny. The Health and Environment Subcommittee of the Commerce Committee has already held a hearing on medical privacy, and a Senate committee has held multiple hearings on the subject. We look forward to enacting real medical information privacy provisions that will truly protect individuals. Unfortunately, this premature move by the Committee will actually set back decades of work to craft medical information privacy rights of all Americans.


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losses from new activities—as well as the risks from the bank’s direct activities—on the bank itself. Thus, the operating subsidiary structure leads to precisely the type of organization that inspires too-big-to-fail concerns.

Some argue that H.R. 10 does nothing more than preserve freedom of choice of management and ownership for private enterprise. Rational management will inevitably choose the operating subsidiary because it allows the maximum exploitation of the cheaper funding ability of the bank. Because this so-called “choice” involves the use of the sovereign credit of the United States, it is a decision that should rest with Congress.

It is also noteworthy that the holding company approach does not in any way diminish the powers or attractiveness of the national bank charter. The national bank charter has flourished in recent years even though national banks are not authorized today to conduct through operating subsidiaries the broad new powers permitted in H.R. 10. Nor does the holding company approach diminish the influence of the Treasury over bank policy. The Treasury continues to play a significant and appropriate role through its oversight of all national banks and thrifts.

On the other hand, the operating subsidiary approach would damage the Federal Reserve’s ability to address systemic concerns in our financial system. This will occur as the holding company structure atrophies because the advantage the operating subsidiary derives from the federal safety net.

And my colleagues are especially concerned because there is no reason to take the risks associated with the operating subsidiary approach. The holding company framework achieves all the public and consumer protections contemplated by H.R. 10 without the dangers of the operating subsidiary approach.

The Board has been a strong supporter of financial modernization legislation for nearly 20 years. We are seriously concerned, however, about the destructive effects of the operating subsidiary approach for the long-term health of the national economy and the taxpayer.

Sincerely, Alan Greenspan.

Madam Chairman, I reserve the balance of my time.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Ms. ROUKEMA) the distinguished chairperson of the Subcommittee on Financial Institutions, whose work on this bill is the most important of any Member of this body, and I very very much appreciate her friendship and leadership.

Ms. ROUKEMA. Madam Chairman, I thank the chair for yielding me the time.

I certainly rise in support, strong support, of H.R. 10 and associate myself with the commentary of the chairman at the beginning of this discussion and completely disagree with the gentleman we just heard.

I have worked on this issue for a long time, and really it is very clear. We are going beyond the 1930 laws, Glass-Steagall, far out-of-date. Technology and the net force have broken down the barriers here, and over the years we have just been letting the regulators and the courts and creative industries deal with this.

It is now the time for us to catch up with the modern financial world both domestically and globally and do what the Constitution requires us to do and not abrogate our responsibility to the courts and other Federal regulators.

I am most interested in saying that is it a perfect bill? No. Can it be after all these years of negotiation? Maybe not. Maybe. But, on the other hand, only not perfect because we cannot get all these industries to agree on every single thing. But we have compromises that are embodied in this bill, that strongly protect the fundamental principles that we should have, and that is preserving the safety and soundness of the financial system.

They are protected here. The Federal deposit system and the rest of the Federal safety net. If we abandon this now, we are just saying it is just going to evolve as the regulators or the courts would like them to, without any statutory responsibility.

Do we provide for fair and equal competition? I believe we do in the real world of financial institutions.

I believe strongly that we have protected the consumers and enhanced their choices in this bill. The new holding company structure that is in this bill will be overseen by the Federal Reserve Board. H.R. 10 includes new consumer protections that are embodied on the floor that will increase the consumer privacy that is in this bill and close any of the loopholes that we can see.

I urge strong support for this bill, Madam Chairman. I rise in strong support of H.R. 10, the Financial Services Act and associate myself with the commentary of our Chairman, Representative LEACH, and urge my colleagues to support this landmark legislation.

As many of my colleagues know, I have long been a supporter of financial modernization legislation. Markets are changing every day. Technology and market forces have broken down the barriers between insurance, securities and banking. Mega-mergers and acquisitions are happening at a rapid pace.

We need to replace the outdated Glass-Steagall Act of the 1930s. Glass-Steagall did its part in its day, but the financial world has changed and we must have a financial system that is able to compete in the modern world.

Our current statutory framework has remained stuck in the ‘30s because of Congress’s reluctance to act, hampering the ability of our financial institutions to compete. In the absence of congressional action, federal agencies, the courts and the industry have been forced to find loopholes and novel interpretations of the law to allow financial institutions to adapt to an ever-changing marketplace. Unfortunately, this has resulted in piecemeal regulatory reform that may not be in the best interest of the U.S. financial services industry as a whole.

As elected representatives of Congress, it is our constitutional duty to make the important policy decisions that determine the structure and legal authority under which our financial institutions will operate. For Congress to not act today would be a serious abdication of our responsibility.

Throughout this process, I have based my support for this bill on some very fundamental principles:

It must:

(1) Preserve the safety and soundness of the financial system—including the federal deposit system and the rest of the federal safety net.

(2) Provide for fair and equal competition; and

(3) Protect consumers and enhance their choices.

H.R. 10 maintains these fundamental principles.

Much like the bill we passed last year, H.R. 10 creates a new holding company structure under which entities that are financial in nature can directly affiliate.

This new holding company will be overseen by the Federal Reserve Board, but each affiliate will be regulated by its own “functional” regulator.

H.R. 10 includes important new consumer privacy provisions requiring banking institutions to tell customers their policies for sharing their financial information with third parties for marketing purposes. It would also mandate “pre-text calling” notices.

In addition, the bill prohibits all insurance companies (including companies not affiliated under a Financial Holding Company) from disclosing medical information to third parties—without prior consent. In addition to these important privacy provisions, my colleagues and I will later be offering an amendment that further enhances privacy protection.

Finally, we have included legislation that I introduced which provides important consumer ATM disclosures. These provisions mandate clear ATM fee disclosures and guarantees the consumers rights to opt out of a transaction before a fee is charged.

This legislation also includes language I proposed to allow new Financial Holding Companies to retain or acquire commercial entities that are “complimentary” to their current or future financial activities. It is prudent to provide flexibility for companies to engage in activities which may not meet the definition of financial but are complimentary to the financial activities. This provision stipulates that the investment in the complimentary activity must remain small, and will be subject to Federal Reserve review.

For those of us that serve on the Banking Committee, we are painfully aware of how controversial the issues surrounding the financial services industry can be. To say the least, various sectors of the financial services industry have had different and often conflicting views on how best to go about modernization, but H.R. 10 includes many compromises between all of the interested parties, and it deserves our support.

Did everyone get everything they wanted? No, they did not. In fact, I strongly oppose the operating subsidiary approach in this bill. We must work to improve this regulatory structure in conference. In addition, while I support the provisions in the bill that would
close the unitary thrift loophole. I do not support permitting the transferability of unitary thrift holding companies to commercial entities. The unitary thrift provisions included in this bill today do not prohibit transfers to commercial entities.

In order to allow the transferability of unitary thrifts to commercial entities in the same as allowing full banking and commerce, I do not support full banking and commerce and believe it could pose serious safety and soundness risks to the deposit insurance fund. We need to clarify that the operating subsidiary, of which I am concerned that losses and other operating subsidiaries could ultimately affect the parent bank.

A case in point is the First Options/Continental Illinois problems in the late 1980s—Continental Illinois lost considerable more than its investment in First Options. While there are firewalls in place that limit the amount of bank investment, in times of stress, firewalls melt. Such was the case with First Options/Continental Illinois where Continental Illinois injected millions of dollars to prevent the failure of First Options.

Furthermore, the likely result of allowing bank operating subsidiaries is that an independent securities industry will become a thing of the past. The advantage that the U.S. economy has enjoyed is that the credit and capital markets have grown up separately and are strong with having a great deal of depth.

Not having an independent securities industry will seriously undermine these vital important markets. Innovation will be stifled and these markets will become less competitive.

And importantly, it will make it much harder on the U.S. economy to address economic downturns because the securities system will become directly tied to the health of the banking system. Any stresses on the banking system will affect all of the capital markets. I, for one, do not want to see that result, particularly because the simple answer is to allow banks and securities firms to become sister companies through a holding company which means that the securities industry will not be tied directly to the banking industry.

For these reasons I will continue to work to change the subsidiary and unitary thrift provisions included in H.R. 10 as this bill moves through conference. However, despite the problems I have with these specific provisions, I believe that we must act today to pass this landmark legislation. There is far too much in this bill that warrants our support. We have come too far to turn back now.

If we fail to act today, we will lose the opportunity to reform our financial system in a meaningful, rational way. It's now or never.

Years of good faith negotiation and compromise are in this bill.

Support the passage of H.R. 10.

Mr. LAFALCE. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota (Mr. VENTO) the ranking Democrat on the Subcommittee on Financial Institutions and Consumer Credit.

Mr. VENTO. Madam Chairman, I rise in strong support of H.R. 10. This is a good work product. This is a legislative product that finally brings our statutory provisions of law in line with the current developments in financial entities and the future policy path that is necessary to in fact fully engage our economy and our financial institutions in serving our enterprise and serving the consumers of this Nation.

The fact is that I think it is due to a lot of hard work on the part of the gentleman from Iowa (Mr. LEACH) and the gentleman from Virginia (Mr. BLILEY) and other members such as Mr. LAFAULCE, so too the work of the gentleman from Michigan (Mr. DINGELL) who is in dissent today.

Nevertheless, I think it follows a tradition and a path that will, in fact, put us in chart 1 situation that we probably will not work ourselves out of a job with this measure. There is much to do in many, many aspects of it, but it does for the first time through the work with the various enterprises, the industry, the banks, the securities firms and the insurance firms that are already affiliated today under court and under regulatory practices, it finally puts a statutory policy path that Congress stipulates in place and one that is effective. Of course there is a claim that it is north of saving that inures to the benefit of our economy in terms of some of the streamlining that takes place with this policy and law.

Do we want big banks and big financial institutions? Probably not. But the fact is that the global marketplace that we compete in and that we participate in today is actually bringing these together and about this is happening in the absence of this law. But at stake is the fact that we try to put in place a legal framework to put back some consumer voice, some public policy voice in that process that affects consumers.

This bill has strengthened Community Reinvestment Act provisions. This bill when the amendment on privacy is adopted, I think the banks will have about the strongest privacy policy of any of the financial entities commercial or otherwise that we have responsible, the government for or, for that matter, even at the State level. We know how important that issue is. The privacy provisions that will finally be written into this bill are stronger than those that were in the Commerce bill, stronger than those that were in the Banking provision of H.R. 10.

Beyond that, I think that the bill provides many opportunities to deal with antitrust issues, other issues such as superintendents for mergers, mandatory ATM fee disclosure. It provides the opportunity for posted privacy policies. Some medical privacy. I think we are going to have some debate about that today. Some would have us believe that no policy is better than the policy that we have in this bill, but we are trying to, in fact, do the right thing.

As I said, it deals with antitrust concentration.

As far as the operating subsidiary goes, I think it is a good thing that Mr. Greenspan's comments because he pointed out in 1997 that operating subsidiaries pose no safety soundness problem in terms of their operation. As a matter of fact, the Chairman of the Federal Reserve Board regulates just such operating subsidiaries in the States and in the foreign bank operation. These are safe, they are sound, and I think this bill addresses the bank ancillary. H.R. 10 represents the changes in law that we need to catch up with reality by mapping a path of true modernization for financial institutions in the financial services marketplace for today and tomorrow. We need to enhance the competitiveness of our financial services sector and to move forward with predictable, certain, logical, and uniform regulation.

As my colleagues are by now painfully aware, there are many Democrats, some of whom supported the bill in the Banking Committee, who can no longer feel comfortable supporting this legislation. Despite the partisan gamesmanship of the past 24 hours, I remain committed to achieving comprehensive financial modernization through the enactment of H.R. 10 into law, and thus hope that we can pass this bill at the end of the day. I have put a great amount of time and energy working with my Democratic colleague and my colleagues from across the aisle. We have been laboring together for many years—three Congresses on this particular version—crafting and perfecting a compromise on financial services modernization that congressional imprint on modernization. Our Chairman, Mr. LEACH, and the Ranking Member, Mr. LAFALCE were able to work together with Members such as myself and Mrs. ROUKEMA to put together a bill. The Administration, which was opposed to the bill passed last year, was supportive of our Banking Committee product.

We have accomplished much of which we should be proud.

Back in March, the House Banking and Financial Services Committee approved H.R. 10 on a strong bi-partisan basis, 51–8 with 21 Democratic votes cast in support of the bill. Much of this Banking Committee product has been carried forward in the product before us today.

Some important provisions are lacking or inadequate. We do not have complete parity, for example, for affiliation between banks and insurance and securities firms with regard to commercial activities. I would prefer to have gone a little further on limiting Unitary Thrift Holding Companies—indeed, we could have merged the bank and thrift charters. I would have also hoped that we could have included fair housing compliance on affiliates, low-cost banking accounts and application of Community Reinvestment Act-like requirements on products that are similar to bank products, such as mortgages product sold and issued through affiliates.

On the main, however, we have a product that will remove the rusted chains of Glass-Steagall, providing in its place a new financial services infrastructure to keep U.S. companies competitive in the global marketplace, while ensuring consumers the quality services and protections they deserve. We remove the barriers preventing affiliation. We provide financial services firms the choice of conducting certain financial activities in bank holding company affiliates or in subsidiaries of banks on a safe and sound basis.

Some today may say that the operating subsidiary is too risky. That is just not the case.
Outgoing Treasury Secretary Robert Rubin, the Federal Deposit Insurance Corporation, and four past Chairs of the FDIC have all explained how the subsidiary structure protects the public interest as well as the affiliate structure—and provides greater protection for the FDIC and bank safety and soundness. Even Chairman Greenspan, the foremost opponent of subsidiaries—acknowledged in 1997 testimony that the subsidiary approach posed no safety and soundness problems.

By requiring bank to be well-capitalized even after investing capital in a subsidiary, we are providing a proper cushion that would not have withstood the S&L crisis all over again. Our national banks have been and should remain a source of economic strength and a solid foundation to construct an economic framework of growth. This bill will keep them vigorous and viable, with or without a holding company structure and does not change the balance between the national bank and state bank dual banking charters, and regulation structure.

As I said earlier today, the focus of the lengthy and seemingly endless public debate over this issue has been the opening of the financial services marketplace to new competition and the reduction of barriers between financial services providers. It is equally important that this bill is a positive step for our constituents and the communities in which they live and work.

In general, there are inherent benefits of being able to provide streamlined, one-stop shopping with comprehensive services choices for consumers. According to the Treasury Department, financial services modernization could mean as much as $5 billion annually in savings to consumers.

There are additional, specific and key positive consumer and community provisions in the base text.

We have modernized the Community Reinvestment Act (CRA) in a positive manner. And I am pleased that this bill will not contain provisions that move us back in time for CRA. The CRA was enacted by Congress in 1977 to combat discrimination. The CRA encourages federally-insured financial institutions to help meet the credit needs of their entire communities by providing credit and deposit services in the communities they serve on a safe and sound basis. According to the National Community Reinvestment Coalition, the law has helped bring more than $1 trillion in commitments to these communities since its enactment. Groups like LISC, Enterprise, Neighborhood Housing Services, and others too plentiful to mention them all, use CRA to work with their local financial institutions to make their communities better places to live.

CRA has come a long way as a result of the effective partnership of municipal leaders, local development advocacy organizations, and community-minded financial institutions. By creating such partnerships, the CRA has proven that local investment is not only good for business, but critical to improving the quality of life for low- and moderate-income constituents in the communities financial institutions serve.

Importantly, H.R. 10 ensures CRA will remain of central relevance in a changing financial marketplace. It furthers the goals of the Community Reinvestment Act by requiring that all holding company’s subsidiary depository institutions have at least a “satisfactory” CRA rating in order to affiliate as a Financial Holding Company and in order to maintain that affiliation, including appropriate enforcement. In addition, H.R. 10 extends the CRA to the newly created Wholesale Financial Institutions (“Woofies”). These provisions represent substantial progress and a critical contribution to the overall balance reflected in this bill.

Other provisions included in the requirement that institutions ensure that consumers are not focused on new financial products along with strong anti-tying the anti-discrimination provisions governing the marketing of financial products; super notices to customers that non-deposit financial products are not insured by the Federal Deposit Insurance Corporation (FDIC) like traditional bank accounts are insured; the requirement to maintain market-related data and to produce an annual report on concentration of financial resources to assure that community credit needs are being met; and the disclosure to consumers of ATM fees, not only on the computer screen, but also on the ATM machine itself. Additionally, when issuing ATM cards, banks must issue a warning that surcharges may be imposed by other parties.

As I noted earlier in my statement, I am pleased that this bill will not contain provisions that move us back in time for CRA. The bill has many provisions that would allow financial holding companies to clearly and conspicuously disclose to their customers their privacy policies, specifying what their policies are with regard to a customer’s information. While an amendment today will today will make vast improvements for consumer privacy, with this provision, customers can learn what a financial institution’s policies are and could be clearly informed of their rights under the Fair Credit Reporting Act to choose not to have their information shared among companies.

Frankly, in this way, customers would be able to choose whether they want to do business with institutions that have privacy policies with which they disagree. If they don’t like affiliate sharing or other parts of the privacy policy that an institution has, they have the benefit of living in a country with thousands of small community banks and with other institutions even offering banking on the Internet.

I do want to note something on the medical privacy provisions in Title III of the bill. Mindful of the views of my colleagues on the Commerce Committee and many other outside the Congress, I want to state that we do not want to preempt any comprehensive medical privacy provision. We do not want to create loopholes or set up consumers to be forced to disclose private data just to get insurance coverage. Neither, however, do we want to leave wide open the possibility that within the confines of this new affiliated structure this bill creates allowing insurance, banking, and securities firms to join, that they can learn private medical or genetic information to base credit decisions upon.

I would hope that we will have an opportunity in time to appropriately fix this provision and that if means limiting it to situations where insurance and banks affiliate—so that within these confines insurance companies which affiliate with a bank will keep confidential customer’s health and medical information. This represents an initial effort to assure that health information cannot be used to determine eligibility for credit or other financial services. It was not our intent to underact, circumvention of weaknesses—but rather to enhance and protect, so let us work together in Conference to improve this if the amendment sought by Mr. WAXMAN and Mr. CONDIT cannot be a part of the process here today.

As I noted earlier in my statement, I had hoped that we could have included a Banking committee reported provision to condition affiliation of insurance companies with banks based on compliance with an existing law—The Privacy Act of 1974. This provision that more than suggests that companies who seek to expand their opportunities are meeting the needs of communities and following the law by not discriminating.

There have been settlement agreements and consent decrees between the Department of Housing and Urban Development, the Department of Justice and insurance entities that resulted from alleged violations of the Fair Housing Act. What has resulted is changes in underwriting guidelines and changes eliminating “year the dwelling the built” or “minimum dollar amounts of coverage” or not denying coverage SOLELY on the basis of information contained in credit reports) that will better ensure the homeowners are not denied insurance—and quite possibly the opportunity to become homeowners—because of discrimination.

It is indeed unfortunate that neither the base text has not did the rule allow as an amendment a provision to strengthen fair housing and Fair Credit Reporting Act. It is a provision that more than suggests that companies who seek to expand their opportunities are meeting the needs of communities and following the law by not discriminating.

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Mr. GILLMOR. Madam Chairman, I thank the gentleman for yielding me this time and I thank him for his leadership on this issue. I rise in support of the bill.

Madam Chairman, this bill makes the most fundamental change in the laws covering financial institutions in 60 years. It deals with a broad scope of services, banking, insurance, securities. It also recognizes the changes that have taken place in the economy over that period of time and also the dramatic change in technology which has made possible the offering of services now which would not have been possible before.

The financial combinations authorized by this bill can result in significant savings in the delivery of financial services. But as institutions are combined and as they become larger, it is essential that there be safeguards for safety and soundness to protect both consumers and taxpayers. This bill for the most part contains those safeguards.

I am also happy that the bill before us contains several provisions I sponsored in the Committee on Commerce. Among those was the requirement that the Federal Reserve consider before approving mergers whether the merged institution would be “too big to fail.” Mergers that are so big that failure would result in the government or taxpayers bailing them out should not be permitted.

The bill also contains a provision I introduced to prevent discrimination against certain banks in the sale of title insurance, and those regulatory restrictions I sponsored in last year’s bill have stayed in here called “Fed Lite.”

Regrettably, it does not include some of the provisions I introduced in the Committee on Commerce, which the committee approved, to protect the privacy of customers of merged institutions. But I am happy that those privacy provisions were made in order in the amendment to be offered by the gentleman from Ohio (Mr. OXLEY) later in this bill.

I urge the support of that amendment and I urge the support of the bill.

Madam Chairman, I rise in support of the bill.

This bill makes the most fundamental change in the laws covering financial institutions in 60 years. It deals with the broad scope of services—banking, insurance and securities. It recognizes the changes which have taken place in the economy in that time, and also the dramatic change in technology which has made possible the offering of services now which would not have been possible before.

This bill has the potential of expanding financial services to consumers and creating more competition. The financial combinations authorized by this bill can result in substantial savings in the delivery of financial services. However, as institutions are combined, and as they become larger, it is essential that there be safeguards for safety and soundness to protect both consumers and taxpayers. The bill for the most part contains those safeguards.

Two years ago as H.R. 10 was being considered in the previous Congress, I was concerned with the broad expansion of certain regulatory powers. My amendment in the Commerce Committee two years ago, which was included in the current bill, created the functional regulation framework for financial holding companies. The purpose of this “Fed Lite” regulatory framework is to parallel the financial services affiliate structure envisioned under this legislation. This parallel regulatory structure studies and burdens the development and burden of responsibilities on businesses not engaged in banking activities, and importantly, preserves the role of the Federal Reserve as the prudential supervisor over businesses that have access to taxpayer guarantees and the federal safety net.

Besides numerous consumer protections, H.R. 10 also includes important taxpayer protections. I am happy that the bill before us contains certain provisions that I sponsored before the Commerce Committee. Among those was the requirement that the Federal Reserve consider before approving mergers whether the merged company will be “too big to fail.” Mergers that are so big that failure would result in the government or taxpayers bailing them out should not be permitted.

We are in the age of mega-mergers, and the creation of increasingly large financial institutions. To give you an idea of how big, consider that the recent merger of Citicorp and Travelers created a company with $690 billion in assets. The merger of Bank of America and Nations Bank left an institution with $614 billion. To put those figures in perspective, the budget for the entire federal government is $1.8 trillion, or one thousand eight hundred billion.

There are clearly economic benefits to be gained from consolidation. But the larger the potential for economic benefits, the larger the potential costs become to the financial system, and the American taxpayers, should the combined entity fail. Any substantial disruption in the institution’s operations would likely have a serious effect on the financial markets.

There is currently no statutory requirement that the Fed explicitly examine whether a combined entity would be too big to fail. The too big to fail provision does not focus on limiting megamergers, but instead maximizes the prudential managed large financial institutions, which will benefit financial consumers and the American taxpayers.

The bill before us also contains the provision I introduced to prevent discrimination against certain banks in the sale of title insurance, and those regulatory restrictions I sponsored in last year’s bill have stayed in here called “Fed Lite.”

Regrettably, this bill does not include all the provisions I introduced in the Commerce Committee, and which the committee approved, to protect the privacy of customers of these merged institutions. However, I am pleased that most of my privacy protections were made into order in order to be offered in an amendment later in the bill.

This amendment which I offered in committee was an important step forward in protecting individual privacy. It protected consumer privacy by regulating the disclosure and sharing of customer information by financial institutions to third parties. My amendment, which the committee adopted, required that a financial institution not disclose to a customer its policy about the transfer of non-public personal information about the customer to a third party, it also requires that the customer have the opportunity to opt-out of having personal information disclosed to a third party.

Privacy is more of a concern than it was in the past. George Washington didn’t have the privacy threats that face even the average individual today. To obtain George Washington’s private information you would probably have had to break into Mount Vernon, and then have had enough to find the right papers in his desk or strong box. It is now much easier to get anyone’s personal information.

The simple reason for the much greater threat to privacy today is the astounding growth in the technology and information gathering. The tremendous new human benefits that have come from these advances also carry with them unprecedented new threats to personal privacy. Personal privacy needs reasonable protections, because personal privacy is an important part of individual freedom.

Personal information is much more accessible now, even without the person whose privacy is being invaded ever knowing. The sale and transfer of personal information, without the individual’s knowledge or consent, is both widespread and growing.

Individual privacy is in danger from government, from business, and even from individuals sitting at home with a computer. My amendment recognizes those changes by providing in the area of financial institutions reasonable and realistic protections, without unduly interfering with the normal and reasonable conduct of business.

Mr. DINGELL. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Madam Chairman, I thank the gentleman for yielding me this time.
The banking modernization bill could be a good bill, but I oppose the selling out of your and my personal privacy. I oppose compromising my privacy. Democrats oppose the selling of the privacy of all Americans. All Democratic amendments on privacy have been rejected. And why? Let us take a look at the Los Angeles Times editorial dated today, “No Pre-
scription for Privacy,” and I quote: “The defeat legislation that would allow health insurers to sell medical records to other insurers with-
out the consent or even knowledge of the patients. “Legislators usually become angry and defensive when ulterior motives are ascribed to legislation. But if vot-
ers are to believe that this measure is unrelated to the fact that the insurance industry was the single largest soft-money donor to Republicans in 1997-98, cannot have it. Are they going to recall it? Are they going to recall it? Are they going to tell every person, every business to recall the information? Plus once it is paid for, you think businesses are not going to increase privacy protections. You can tell your bank, “No, I would rather not have that information released.” Fi-
ally, these two things: It will increase competitive ability against the world and the global market, our financial firms, it will in-
crease convenience for Americans, and it will increase competition, lowering the cost of insurance, mortgages and all financial services.
I urge the Members to vote “yes” on final passage and get us out of the bi-
plane, steam engine age. 1933. There were no interstate highways. In fact, there were no four-lane limited-access highways in America. Most of our U.S. high-
ways were gravel; a few were dirt. In 1933 steam engines pulled trains along America’s railroads. Diesels were still a dec-
ade away. Today’s college graduates have never seen a steam engine in revenue service on America’s railroads. You had to buy a steam engine. You had better take a quick trip to the third world or remote areas of China, for instance, because the last few in service are rapidly disappearing. 1933. Take a trip on a jet airplane. Hardly. They were decades away. To get from city to city, you probably traveled by ship. And that was a big job! You might climb aboard a tri-engine wood-framed biplane. Today you can see that very aircraft of 1933 in the Smithsonian. Not even my generation saw them in service. However, such is not the case for our finan-
cial services laws. The law which regulates the business by today’s airlines. Imagine wanting to find out on privacy that had been adopted in Banking and Financial Services. The House Committee on Rules hijacked this bill. They stripped out the Lee anti-redlining amendment that had been adopted in Banking and the Markay amendment was stripped out because it violated the antitrust laws. It is a bill that has been several years since Walt Disney died. But our 1933 financial services laws of that day live on today. Yes, like the memory of Calvin Coolidge’s funeral they are dog-
ed and worn. And every bit as inefficient as a steam engine would be on today’s railroad tracks or a tri-engine wood-frame biplane in service by today’s airlines. Imagine wanting to travel across country and finding not only no controlled access highways, but only gravel-
topped or dirt-topped highways. What an ineff-
iciency. What an inconvenience. What a cost to the American. This is ex-
actly what America’s financial services com-
pany has to contend with today. The law is no more intended for today’s market than a Model T Ford. This is true of today’s outdated financial services laws. It is time to bring finan-
cial modernization laws not only into the late 20th Century but revamp them for the fast-ap-
proaching 21st Century. H.R. 10 is such a law. But H.R. 10 is more than just an updated or modern approach to banking. It’s an improve-
ment over existing laws. All Americans today would benefit from H.R. 10 in the following ways:
Greater efficiency in competition will drive down prices of financial services (loan rates, insurance premiums, etc.). Savings are esti-
mated at $15 billion a year. Seeing what com-
petition can do in sports and other businesses, it is time to find out in financial services.
Imagine our American financial firms having to compete effectively in international markets regulated by laws of yesteryear. In a global economy the ability of American financial firms to compete effectively internationally is mand-
datory. They can only do so under modern laws such as H.R. 10. Let’s increase their ef-
fectiveness to compete internationally. It is past due.
Americans not only love competition and low prices, but also convenience. H.R. 10 promises better convenience and access to fi-
nancial products, more choices in both urban and rural America. Time is money and con-
venience is paramount in today’s fast-moving society. After years of trying and failing, isn’t it time this Congress finally offered the con-
venience of modern banking to American con-
sumers? Convenience and more choices.
Not only does H.R. 10 offer improved ability for our companies to compete in the world market, but more competition for the American public, but it also promises in-
creased privacy protections. Under an amend-
ment to be offered today, which I support, the American banking customer can tell his local bank, “I’d rather you did not show that infor-
mation outside the bank.” Americans love their privacy and what it protected.
For all of these reasons, it’s time, no it’s past time, to modernize our financial services laws. Accomplish this and preserve American financial leadership for the 21st Century by voting yes on final passage of the Financial Services Act of 1999.
Mr. LAFalCE. Madam Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Ms. WA-
TERS).
Ms. WAterS. Madam Chairman, I rise in opposition to H.R. 10, the Finan-
cial Services Act of 1999. I must oppose this legislation because it distorts the intent of the members of the House Committee on Banking and Financial Services. The amendment submitted by the gentleman from Iowa (Mr. GASNSKE) that would ban the sale of personal financial information to banks and credit card companies.
Instead of respecting the bipartisan work of the House Committees on Banking and Financial Services and Commerce, the House Committee on Rules hijacked this bill. They stripped out the Lee anti-redlining amendment that had been adopted in Banking and the Markay amendment was stripped out because it violated the antitrust laws adopted in Commerce. I have never seen this before. You vote, you get an amend-
ment passed, and then the Committee on Rules literally takes it out without a vote! The Committee on Rules then denied us the right to have a debate on pri-
vacy. And of course, they denied my amendment on lifeline banking for low-income consumers who do not have bank accounts with traditional bank-
ing institutions.
The House Committee on Rules fur-
ther added a dangerous amendment by the gentleman from Iowa (Mr. GASNSKE) that allows private medical record in-
formation to be given to subsidiaries
and sold to others. Then, to add insult to injury, the Committee on Rules made in order an amendment by the gentleman from Texas (Mr. Paul), the gentleman from Georgia (Mr. Barr) and the gentleman from California (Mr. Camp). It might only be identified as the Dope Dealers and Money Launderers Act of 1999. The Paul amendment adjusts the currency transaction reporting requirement from $10,000 to $25,000, making it easier for drug dealers to spend and launder drug proceeds.

Let us go a little bit further. The gentleman from Virginia (Mr. Bliley) will have Members believe that he is doing something about domestic violence and protecting the victims. It is a trick. He is allowing these mutual insurance companies to move out of their States that do not allow them to take their proceeds away from the policyholders and put them in the hands of the officers. He is trying to make Members believe that he is doing something for women. Members do not want their fingerprints on this bill. This is a bad one.

Mr. BLILEY. Madam Chairman, I yield 3 minutes to the gentleman from New York (Mr. Lazio), a member of the Committee on Commerce and a member of the Committee on Banking and Financial Services.

Mr. LAZIO. Madam Chairman, let me begin by congratulating and thanking the gentleman from Virginia (Mr. Bliley) and the gentleman from Iowa (Mr. Leach) for their leadership in the fundamentally important piece of legislation for the American economy, having persevered through a number of different discussions and bringing this to the verge of passing as an historic piece of legislation.

Let us go back for a moment to the early 1930s. The stock market collapsed, the SEC did not exist, and there were few Federal securities laws. In 3 years between 1931 and 1933, 8,000 banks went bankrupt and American families lost $5 billion in deposits, an enormous sum at the time.

To restore American confidence in our banks, Glass-Steagall erected a wall between commercial banks and securities firms. Deposit insurance was created so American families knew their financial nest egg was safe. Glass-Steagall made sense, 80 years ago. Yet, 60 years later, we have kept the risk of their savings in banks, earning low rates of interest. Today, families invest in the stock market and 43 percent of adults own a piece of the market because Americans in the 1990s seek higher returns on their investments.

Consumer behavior changed because stocks and mutual funds achieved superior long-term results, people began managing their own retirement funds through retirement accounts, 401(k) plans and Keogh plans. In short, Americans are no longer hiding their savings in their mattresses.

Today we stand at the center of an electronic revolution. On line brokerage businesses are growing. Three securities legions teamed up to create a rival to the New York Stock Exchange. Money moves from Tokyo and back in an instant. A consumer can see and speak to a live teller via the Internet. We simply no longer live in a depression era that gave birth to Glass-Steagall.

With this bill, working families will have more choices. Do my colleagues want an account with no commissions and pricing based on household assets? Do my colleagues want to carry a credit card that has no ATM fees for transactions worldwide? Do my colleagues want a e-commerce link that has a rewards point program? With this bill, small businesses will have a greater array of products and services from which to choose. Do my colleagues want convenient Internet access to their checking, savings and investment activities? Do my colleagues want a discount for goods purchased online? Do my colleagues want global market intelligence and unified accounting reporting?

This bill breaks the chains of Glass-Steagall that no longer serve the interests of America without sweeping us away in a tide of economic euphoria. This bill intends to keep us as the caretakers of a senior citizen's nest egg and to ensure that the life savings of working families are not lost in the economic turbulence.

Congress should break down these barriers and encourage competition, creating an environment for more innovative products and better prices. I urge my colleagues, Democrats and Republicans, to let American banking step into the 21st century. Support the Financial Services Act.

Mr. DINGELL. Madam Chairman, I yield 1½ minutes to the distinguished gentleman from California (Mrs. CAPPS).

Mrs. CAPPS. Madam Chairman, I commend the ranking member, the gentleman from Michigan (Mr. Dingell) and the gentleman from Florida (Mr. Bliley) for their leadership on this bill. H.R. 10 would be a much more efficient financial service bill, bringing greater choices and lower prices for consumers, and that is a good thing. But this bill has serious flaws that must be corrected. Most important, the language regarding privacy of medical information is strengthened.

The American Nurses Association says this about H.R. 10: The proposed language would, in fact, facilitate the broad sharing of sensitive health and medical information without the consent of the consumer. H.R. 10, as it is now written, will allow an insurance company to sell consumers personal health information. That is wrong. Patients should be ensured the privacy of their doctors, nurses, and therapists, all their health information. No diagnosis or treatment is complete without it. But if patients cannot be sure that this sensitive and personal information will be kept confidential, they will not be so forthcoming, and that will hurt patient care and stifle research projects.

Let us be clear. Privacy must never take a back seat to profits. We must fix these provisions and then pass an outstanding financial services bill.

Mr. LEACH. Madam Chairman, I yield 1 minute to my great friend, the gentleman from Nebraska (Mr. Bereuter).

Mr. BEREUTER asked and was given permission to revise and extend his remarks.

Mr. BEREUTER. Madam Chairman, today marks a positive and long sought milestone along the long journey to financial modernization. I commend the chairman and the ranking member, the gentleman from New York (Mr. Lacey) and the Committee on Commerce leadership also for their involvement in this legislation.

This bill is necessary to keep the United States in its preeminent position in the world's financial marketplace. There are a number of reasons to support. I am going to list just a few:

First, this bill will have a distinct positive effect on consumers. Fourth, the bill allows for no mixing of banking commerce through a commercial basket.

Fifth, this measure will necessarily restrict unitary thrifts.

Sixth, the bill will avoid the threat of presidential veto by placing the integrated financial activities in the operating subsidiary structure. Seventh, it balances the interests of a State in regulating insurance with that ability of a national bank to sell insurance.

And Number 8, it strikes an equilibrium on the issue of securities.

My colleagues, I urge strong support for this legislation. It is a long time coming. It is worth the effort.

First, a Federal statutory change in financial law is imperative because Congress must call a halt to the recent trend of ad hoc financial modernization through regulatory fiat and judicial consent. Instead we need to modernize the nation's banking laws through statute. Moreover, for the first time in history, the Banking Committee consideration of financial modernization legislation in 1998, during the 105th Congress, this Member stated: "Once more, we start an effort to modernize our financial institutions structure. It is an effort we have tried before and must begin someplace. It should begin in the House, and I commend you, Chairman Leach, for launching this effort. We need to do this. We need to face up to our responsibilities as a legislative body. There is no doubt about that.

Second, this Member supports H.R. 10 as it will allow financial companies to offer a diverse number of financial products to their consumers.

Third, this bill will have a distinct positive effect on consumers.

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Second, this Member supports H.R. 10 as it will allow financial companies to offer a diverse number of financial services to the consumer. This bill removes the legislative barriers within the Glass-Steagall Act of 1933 and
the 1956 Bank Holding Company Act. As a result, H.R. 10 will allow financial companies to offer a broad spectrum of financial services to their customers, including banking, insurance, securities, and other financial products through either a financial holding company or through an operating subsidiary. Banks, securities firms, and insurance companies will be able to affiliate one another through this financial holding company model. These entities will be able to engage in those activities which are defined to be "financial in nature" which include; lending, other traditional bank activities, insurance underwriting, financial and investment services, securities underwriting and dealing, merchant banking, and other activities.

In order for banks to be able to engage in the new financial activities, the banks affiliated under the holding company or through an operating subsidiary have to be well-capitalized, well-managed, and have at least a satisfactory Community Reinvestment Act rating.

Third, this Member supports H.R. 10 because it is very pro-consumer. It will increase choices for the consumer in the financial services marketplace by creating an environment of greater competition. As a result, financial modernization will allow consumers to be able to choose from a variety of services from the same, convenient, financial institution. Financial modernization will give consumers more options.

Whether it be in rural Nebraska, or in New York City, consumers of financial products all across the United States deserve additional competitive options. Moreover, under the current system, many rural communities are under-served in regards to their access to a broad array of financial services. Financial modernization will help ensure that the financial sector keeps pace with the ever-changing needs and desires of the all-important consumer.

In addition, H.R. 10 will also allow financial institutions to provide more affordable services to the consumer. Financial modernization will result in additional competition and in efficiency which in turn should result in lower prices for the services to the consumer.

Fourth, this Member has been a fervent advocate of keeping banking and commerce separate. In fact, this Member is quite pleased that H.R. 10 does not contain a "commercial market basket" which would have allowed the very dangerous mix of commerce and banking—equity positions by commercial banks. We must avoid the problems that the Japanese have lately experienced because of such a dangerously volatile mixture of commerce and banking in their banking institutions.

An amendment that was initially filed, but not offered, in the House Banking Committee in the 106th Congress which would have allowed for the mixing of banking and commerce in a five percent market basket. However, this Member believes in large part because of expressed strong opposition, including vocal and effective opposition of this Member, this amendment was withdrawn for consideration in the Committee.

Fifth, the issues of the unitary thrift charter is of significant importance to Nebraska commercial banks. One of the reasons this Member is unequivocally opposed to the existence of this unitary thrift charter is because of its mixing of thrift activities with commercial ventures. However, this is not the sole reason—it also results in an extremely powerful variety of financial institutions that has an uncompellent advantage over other types of financial institutions. At the H.R. 10, Banking Committee markup in the 106th Congress, I expressed my desire to completely closing the unitary thrift loophole.

Financial modernization, H.R. 10, allows for no new unitary thrifts; indeed it restricts commercial entities from purchasing grand-fathered, existing thrifts. There was a compromise in the legislation before us which establishes an application process whereby the federal banking regulator and the Office of Thrift Supervision will determine whether an existing unitary thrift holding company may be sold to a commercial firm. This Member wants that grandfather loophole closed altogether. This Member also believes that the provisions on unitary thrifts in H.R. 10 are better than the status quo which allows both new unitary thrifts as well the un federized transfer-ability of existing thrifts to commercial entities. A very recent example is Walmart’s recent application with the Office of Thrift Supervision to acquire a commercial bank. Again, this Member wishes that H.R. 10 would go one step further and prohibit the transferability of existing unitary thrifts to commercial entities. If H.R. 10 passes, this Member is hopeful that such a prohibition could be considered and supported in any House-Senate conference on H.R. 10. This Member would reiterate that his concerns about unitary thrifts transferability remains as a major concern regarding H.R. 10.

Sixth, this Member believes that, in order to avoid the President’s veto of H.R. 10, the operating subsidiary structure for these integrated financial activities is the preferred financial structure to adopt. As is well known among the Members of this body, the Treasury Department desires the operating subsidiary structure. However, the Federal Reserve Board desires the affiliate structure. Both sides of this issue make compelling arguments for their positions on this matter. However, among other important reasons, because of the threat of a veto, this Member believes that the operating subsidiary is the best structure for these integrated financial activities.

Seventh, this Member supports H.R. 10 because, it balances the interest of a state in regulating insurance with that of the interests of a national bank to sell insurance. At the outset, this Member notes that he has a strong record of supporting states rights, especially in the area of insurance regulation.

In that respect it is important to note that H.R. 10 preserves state rights by providing that the state insurance regulator is the appropriate regulator for insurance sales. Whether insurance is sold by an independent agent or through a national bank, the state, and only the state, is the functional regulator of insurance in both instances. Moreover, H.R. 10 also does not unduly burden the ability of national banks to be able to offer a full range of financial products.

Eighth, this Member supports H.R. 10 as it strikes an equilibrium between the interests of securities firms with those banks that will be allowed to sell securities under H.R. 10. This measure amends the 1934 Securities Exchange Act to provide functional regulation of bank securities activities. As a general rule, securities activities under H.R. 10 will continue to be regulated by the Securities and Exchange Commission.

Financial modernization, H.R. 10, repeals the "broker" and "dealer" exemptions that banks have under Federal law, which subject banks to the same regulation as all securities firms. In addition, H.R. 10 replaces the "broker" and "dealer" exemptions with other exemptions which allow banks to be able to participate in their current activities involving securities.

Lastly, this Member supports H.R. 10 as its passage is necessary to keep the United States in its preeminent position in the world, financial marketplace. U.S. financial institutions are among the most competitive providers of financial products in the world. However, the financial marketplace is currently undergoing three changes which are altering the financial landscape of the world. The first of those changes involves a technological revolution including the internet through electronic banking. Technology is blurring the distinction between financial products. The other two changes include innovations in capital markets, and the globalization of the financial services industry.

Financial modernization is the proper, appropriate step in this ever-changing financial marketplace. Consequently, in order to maintain American's financial institutions’ competitive and innovative position abroad, H.R. 10 needs to be enacted into law. In the absence of H.R. 10, the American banking system could suffer irreparable harm in the world market as we will allow our foreign competitors to overtake U.S. financial institutions in terms of innovative products and services. We must simply not allow this to happen.

Therefore, for all these reasons, and many more than have been addressed today by this Member’s colleagues, we must, and will pass H.R. 10. This Member urges his colleagues to support H.R. 10, the Financial Modernization bill.

Mr. LaFalce. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Vermont (Mr. Sanders).

Mr. Sanders. Madam Chairman, I rise in strong opposition to this bill. I support financial modernization if financial modernization means more choices for consumers, more competition, greater safety and soundness, stopping unfair bank fees and protecting consumers and underserved communities. But Madam Chairman, I believe this legislation in its current form will do more harm than good. It will lead to fewer banks and financial service providers, increased charges in fees for individual consumers and small businesses, diminishing jobs for rural America and taxpayer exposure to potential losses should a financial conglomerate fail. It will lead to more megamergers, a small number of corporations dominating the financial service industry and further concentration of economic power in this country.

It is no secret, Madam Chairman, that far bigger financial institutions lead to bigger fees which total more than $18 billion last year. The U.S. Public Interest Research Group and the Federal Reserve Bank have conducted studies and confirm that bigger banks charge larger fees, and there is no question in my mind that if this bill is
passed, that process will be accelerated.

This bill is in fact, however, good for big banks, but the big banks are doing just fine without this bill. Government-insured banks earned a record $18 billion in the first 3 months of this year—$2.1 billion more than they earned in the same period last year. At a time of increasing bank fees, increasing ATM surcharges, increasing credit card fees, increasing minimum balance requirements, it is time for the Congress to stop doing what's good for big banks and let the small banks do fine. Let us protect the consumers. Let us vote no on this legislation.

Madam Chairman, I rise in opposition to the bill. I support financial modernization—if modernization means more choices for consumers; more competition; greater safety and soundness; stopping unfair bank fees; and protecting consumers and under-served communities.

But Madam Chairman, I believe this legislation, in its current form, will do more harm than good. It will lead to fewer banks and financial service providers; increased charges and fees for individual consumers and small businesses; diminished credit for rural America; and an increase in exposure to potential losses should a financial conglomerate fail. It will lead to more mega-mergers; and small number of corporations dominating the financial service industry; and further concentration of economic power in our country.

The public interest is currently involved in some of the largest mergers in history. Four of the top ten mergers last year involved bank deals totaling almost $200 billion. Today, three-quarters of all domestic bank assets are held by 100 large banks. And this bill, if passed in its current form, will further accelerate the consolidation of banking and financial assets that we have seen in recent years.

It is no secret, Madam Chairman, that bigger financial institutions lead to bigger fees—which totaled more than $18 billion last year. The U.S. Public Interest Research Group and the Federal Reserve Bank have conducted studies and confirmed that bigger banks charge higher fees than smaller banks and credit unions. The Public Interest Research Group’s 1997 study of deposit account fees at over 400 banks found that big banks charge fees that are 15 percent higher than fees at small banks. Credit union fees, by comparison, were half those of big banks. And the Public Interest Research Group’s 1998 ATM surcharge study showed that big banks charge higher fees than smaller banks.

This bill is certainly good for the big banks of America, but the big banks are doing fine even without this bill. Government-insured banks earned a record $18 billion in just the first three months of this year—$2.1 billion more than they earned in the same period last year. Bank profits were also up $1.9 billion in the first three months of this year—beating the previous record set in 1998. And, according to the Federal Deposit Insurance Corporation, the increase in earnings was led by the largest banks while smaller banks saw their earnings decline.

This bill has everything the big banks want, but it has little or nothing for consumers. It does not modernize the Community Reinvestment Act (CRA) by applying CRA requirements to new financial conglomerates. It does not stop ATM surcharges. It does not safeguard stronger consumer protection laws passed by the various States. It does not provide the strong privacy provisions that will be needed as financial conglomerates—service conglomerates. It does not require that banks serve low- and moderate-income consumers by offering basic, lifeline accounts. And it does not even include provisions to protect women and minorities from discrimination in financial service conglomerates.

These anti-discrimination provisions were included in the version of the bill that was reported out the Banking Committee, but they mysteriously disappeared from the bill when it came out of the Rules Committee. At a time of increasing bank fees, ATM surcharges, credit card fees, increasing minimum balance requirements, discrimination against women and minorities, and the loss of many locally-owned banks to large, multi-billion dollar corporate institutions, Congress should consider legislation to directly address those problems. But this bill is not good for consumers, or small businesses, or taxpayers, or under-served communities. I urge my colleagues to reject this bill.

Mr. BLiley. Madam Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. Ganske), my friend and colleague.

Mr. GANske. Madam Chairman, I yield to the gentleman from New York (Mr. LaFalce), my friend and colleague.

Mr. LaFalC. Madam Chairman, I and many, many others have tremendous concerns about the gentleman’s amendment, two in particular.

Number one, we want to make sure that it does not in any way preclude the authority of the Secretary of HHS to promulgate medical privacy regulations subsequent to August 21, and it is imperative that that be made explicit in conference.

Secondly, there are so many health provider organizations, the AMA, the Nurses Association that have concerns primarily because of the exceptions in the gentleman’s amendment, and I want my colleague’s assurance that he will work for specific statutory language in conference that will deal with both those problems.

Mr. GANske. Madam Chairman, I want to assure my friend that it was not the intent of the language in this bill to preclude the Secretary from being able to issue her regulations in August, and I will work with the gentleman in conference to make that explicitly clear in language, that nothing in this would preclude her from doing that.

Madam Chairman, I yield to the gentleman from Washington (Mr. Baird).

Mr. BAIrd. Madam Chairman, as a clinical psychologist myself and in the gentleman’s role as a physician I know that we are both concerned about protecting the confidentiality of individual medical information. I also know of the gentleman’s hard work to craft language that would limit the sharing of information between financial industry entities and their subsidy areas.

However, it is my concern and the concern of other Members about the confidentiality of sensitive health and medical information under the listed financial services. However, if we address those concerns I would like to ask my colleague and good friend if he would agree to support at conference inclusion of language to allow the exchange of general economic and clinical information by large service conglomerates. These anti-discrimination provisions were included in the version of the bill that was reported out the Banking Committee, but they mysteriously disappeared from the bill when it came out of the Rules Committee.

At a time of increasing bank fees, ATM surcharges, credit card fees, increasing minimum balance requirements, discrimination against women and minorities, and the loss of many locally-owned banks to large, multi-billion dollar corporate institutions, Congress should consider legislation to directly address those problems. But this bill is not good for consumers, or small businesses, or taxpayers, or under-served communities. I urge my colleagues to reject this bill.

Mr. DIngell. Madam Chairman, I yield 4 minutes to the gentleman from Massachusetts (Mr. Markey).

Mr. Markey. Madam Chairman, the gentleman from Michigan (Mr. Dingell), myself, many Members of this body over the last 14 years for me have worked to produce this financial modernization bill. Many times I have brought it out here on the floor. I can remember our final meeting with President Bush and Secretary Baker back in 1990 where it just came down to one final detail. We have been here many times before. It is an important bill. But it is only half a bill because as the financial revolution speeded up by the global telecommunications revolution, hits our country, we need to provide protections for ordinary people as well.

Yes, this bill gives ordinary Americans a window on Wall Street, but simultaneously it gives Wall Street a window on each one of our living rooms. The problem with the Republican bill is that it says that if their checks, and let us just say for the sake of this discussion, they you have had their checks in the same bank for the last 25 years, every check my colleagues have written for your family. Now, after this bill passes, that bank can now buy a brokerage or an insurance affiliate. This legislation says that they can hand over all of my colleagues checks for the last 25 years to the 300 or 400 brokers in their new affiliate even though they have got a broker down the street who has been their broker for the last 25 years. So every one of the checks that my colleagues have written are now in the hands of 300 brokers and to tell my colleagues do not want to go through everything that they have done financially for the last 25 years.
Mr. ROYCE. Madam Chairman, we are going to give people notification that we are going to compromise their privacy. That is like a burglar leaving behind a note saying what they have stolen, giving notice, but my colleagues have no right to stop it.

Now, my colleagues, here is how the American people feel about this issue. Question, AARP: “Would you mind if a company did business with your information about you to another company?” Ninety-two percent of Americans would mind. I do not know who the other 7 percent are, but 92 percent would mind.

Now let us go to the next poll. The next poll is just as bad. Here is the question: “In the future banks, insurance companies, and investment firms may be able to merge into a single company. If they do, would you support or oppose these narrowly merged companies from internally sharing information about your accounts or your insurance policy?” Eighty percent would oppose sharing. Eleven percent would support it.

Eighty percent oppose. They want the right. This is the AARP.

And the final chart: Here is what a typical bank’s policy says quite simply: “Even if you request to be excluded from affiliate sharing of information, we will share this other information about you and your products and services with each other to the extent permitted by law.” We determine what the law is. If we do not pass a law, they are sharing that information.

Madam Chairman, the world breaks into three categories, the information keepers, and they are out there; now, with the new technology, the information mining reapers who use these electronic technologies to gather all parts of our life, medical, financial, checking; it is ironic again that we made in the operating language, allowing banks to decide what model they want to have, whether a national bank or a holding company. I think this is very much appreciative that we have included the operating language, allowing banks to decide what model they want to have, whether a national bank or a holding company. I think this is very much appreciative.

One of my colleagues mentioned that the chairman of the Federal Reserve even said that there was no safety and soundness issue; at least 2 years ago he said that. Then he entered into a turf battle and changed his position, but he has been known to change his position before.

I think this is overall a good bill. There are a couple of problems with it. Unfortunately, I think we are going backwards in putting restrictions on thrifts. We are bringing the Federal Reserve into regulation of unitary thrifts where they have never been before. I offered amendments in committee that would have addressed that in a proper way, either with the FDIC, which has regulatory authority, or bringing the OTS in. Unfortunately, the committee did not accept it.

It is ironic again that we made in order the Burr amendment which goes the other direction for certain entities but we take it away from thrifts.

Madam Chairman, thank you for giving me this opportunity to discuss H.R. 10, financial modernization legislation. As a member of the House Banking Committee, I strongly support this legislation and urge my colleagues to support it. I believe that this comprehensive banking reform legislation will bring new benefits to consumers by encouraging competition between banking, securities, and insurance firms to create a “one-stop” shopping for consumers.

Our markets today in the United States are the strongest financial markets in the world and provide a robust market system for consumers. Yet, our system has been restrained...
that the Federal Reserve will not be required to provide a written record for their reasoning related to reviews.

I filed three amendments in the House Rules Committee that would have corrected this inequity. Unfortunately, the House Rules Committee did not allow all of these amendments to be considered today. My first amendment, which is also jointly supported by Representatives ROYCE, INSLEE, and WELLER would strike the Federal Reserve Board review process and restore the language to the amendment that was adopted by the Housing Banking Committee by a roll-call vote. I believe that this is the best option and would ensure that transfers are reviewed by the Office of Thrift Supervision.

The second amendment which is also sponsored by Representatives ROYCE and INSLEE and WELLER would substitute the Federal Deposit Insurance Corporation as the secondary reviewer in cases of unitary thrift holding companies mergers. I believe that the FDIC is better equipped to review these mergers, because they already have enforcement authority over federal insured thrifts and have worked well with thrifts. This amendment would also require that the review process should consider reasonable criteria related to these reviews and that the final decisions should be written so that parties would understand the reasoning behind any decisions made.

The third amendment which was also sponsored by Representatives ROYCE and INSLEE would add the Office of Thrift Supervision to the current Federal Reserve review process. This joint review would help to ensure that grandfathered unitary thrift holding companies mergers have a fair hearing of their cases and that all final decisions would be written. I believe that the OTS, as the principal regulatory for unitary thrifts, should be part of the final decision to approve such mergers. In a case where OTS and the Federal Reserve do not agree, this amendment would ensure that all final decisions would be written and would permit owners to apply for judicial review of any decisions made.

I believe that all of my amendments would improve the current Federal Reserve review included in this bill.

Unitary thrift holding companies have existed for more than 30 years. During the thrift crisis of the 1980’s, Congress acted to encourage commercial companies to purchase insolvent thrifts. As a result, for instance, Ford Motor Company infused more than $3 billion in one thrift to prevent their failure. However, the evidence does not bear this out. A total of 55 firms or 73 percent is currently in the insurance and securities businesses and therefore could not obtain a bank charter under current law. However, under H.R. 10, these firms would be eligible to convert a bank charter. Indeed, the Travelers-Citigroup merger suggests that the bank charter would be preferable and that travel would transfer profits to this broader bank charter is available. Bankers actually gave up their unitary thrift holding company status in favor of becoming a bank holding company and in the expectation of financial services reform legislation.

Finally, it is a question of equity. Congress allowed for the creation and growth of the unitary thrift charter in the 1960s. To retroactively close the market for those who have “played by the rules” and pose no threat to safety and soundness of the Nation’s federally insured lending does not seem fair. And while H.R. 10 may provide a new financial model we should at least hold harmless those already in the program and not legislatively deprecate their value. Congress has been down that road before with limited success. Such a course deviates from the concepts of increased competition, economic vibrancy and consumer choice that inspired the pending bills.

Finally, with respect to the issue of privacy, I believe that we have structured strong, bipartisan financial privacy language which goes far beyond existing law. For the first time transfer of specific account information to third parties would be prohibited, and the “opt-out” of other third party transfers and financial institutions would be required to establish a financial privacy standard for its customers. And while some questions remain with respect to the language on medical privacy, this bill still goes far beyond current law. Passing this bill does far more than doing nothing.

While this bill is not perfect, I strongly believe that we must act to promote more competition and provide new products for consumers. I strongly urge my colleagues to vote for H.R. 10.
important, very start-of-the-debate important, issues for protecting the cus-
tomers of the insurance industry, the banking industry and the securities indus-
tries.

One of the most important provisions of this bill is this privacy information. Now, during consideration of this measure in the House Committee on Commerce, many of us know the gentle-
tleman from Iowa (Mr. GANSKE) offered an amendment in this bill that on confidentiality, a lot of debate on it. We had a lot of debate on it. We talked about it, but all of us felt that this was just the start. If we did nothing, if we could not even get this debate started and we defeat this bill today, then we are going to have no privacy.

So I think we should not let this small debate that we are having on pri-
vacy stall the entire bill, because in the end we can amend and we can work through it and put in place more privacy and perhaps more to everyone's liking.

Think about it. If we allow a bank, an insurance company, to work to-
gether and the insurance company does a check on a person's health records, how does one know that those health records could not end up in a bank? Or perhaps the bank, when applying for a loan, would use some of the informa-
tion in a person's health records. That is why I think what we offered in the full committee was important.

I was also able to have an amend-
ment that offered the word genetic in-
formation to include in that privacy information that is already helping many on that side of the aisle, I think gen-
etic information is something that also should be protected.

Now, there are a lot of people that say we are going to stop the Secretary of Health and Human Services from issuing regulations on this issue as re-
quired under the Health Insurance Portability and Accountability Act that we passed in 1996.

Needless to say, this bill says noth-
ing to stop the Secretary of HHS from issuing regulations on this matter. In fact, Madam Chairman, the cite refer-
ence in the bill, which is 264(c)(1), if we go to look at it, is the very lan-
guage, the very language that gives au-
thority to Health and Human Services to issue the regulations.

So, Madam Chairman, I think we should all come together. We have looked at H.R. 10 until we are blue in the face. But we must talk about this. Members should not let this be defeated today, trying to talk about just the privacy. I think it is a first step, so I look for-
ward to our continuing discussion on this, and we can go back after we have passed this bill. We can talk about medical records and confidentiality with a sep-
rerate piece of legislation.

So, in the meantime, I support the language we have in the bill today pro-
tecting all Americans, consumers, so that their information is not inappro-
priately shared.

Mr. DINGELL. Madam Chairman, I yield 3 minutes to the distinguished

gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Madam Chairman, I thank the ranking member, the very dis-
guished ranking member of the House Committee on Commerce, the gentle-
tleman from Michigan (Mr. DINGELL), for yielding me this time.

Madam Chairman, I think I am going to leave my printed copy just on the stand here because really I think ev-
everyone in the Chamber has their minds made up about what kind of vote they are going to cast on this bill.

We are here as representatives for the American people. So my message to the American people, whomever is tuned in, is what is it that we are de-
bating? What is it that we are fighting and arguing about which is so im-
portant in this bill?

First of all, this is a bill to reshape financial services and how they are de-
ivered in our great Nation. It is an overhaul of laws that need to be over-
hauling because it has not been touched really since the Great Depres-
sion. So we know that there is a timel-
erness to this effort and an importance attached to it.

I want to raise something to the American people, and the reason why I come to the floor in my disappoint-
ment is because when I cast my votes in the House Committee on Commerce I had every intention of supporting this financial services bill.

This is not an excuse on my part, American people. I feel very strongly about this.

What brings me to the floor is the issue of privacy, financial privacy.

Now, if someone asks Mrs. Smith how much is in her money market ac-
count, her first reaction is, why should I say? It is not anyone's business.

Financial dealings and how we con-
duct our finances is very, very private. Who we write our checks to, where we go, whether it is to a doctor, should the bank manager know more or as much as our personal physicians? I think not. It is the responsi-
ibility of the House of Representatives, the House of the people, the people that are out there, to protect their per-
sonal financial privacy.

That is what I am raising in this. Re-
gardless of what anyone else says, and whomever rises, when one reads the print, it says, we will protect their fi-
nancial privacy, dot, dot, dot, with all of these following exceptions. I do not think this is good enough. I know we can do better.

I think the American consumer de-
serves this kind of protection. In fact, I think there is going to be like a prai-
rie fire of objection that moves across the country on this issue, because no one would believe that their elected representative would not stand be-
tween them, the constituent, and what-
ever happens from Michigan (are out there). We need them to do business with. But that our personal, private fi-
nancial information be sold and dealt away and possibly used against us?

Come on. We can do better than this. I would say thanks to Mr. and Mrs. America. This is what brought me to the floor.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. BOEHNER), who has worked on this legislation more than any noncommittee member in the history of the Congress. To him I am grateful.

Mr. BOEHNER. Madam Chairman, I rise today in support of this landmark piece of legislation. In one great cas-
cade, it washes over the sense of obsolete, law, congressional inattention and reg-
ulatory creep to give us a modern and prudent legislative framework for one of our most important and dynamic indus-
tries. I believe it is the most im-
portant bill that we will debate in this Congress this year, and I strongly urge its passage.

In a bill this complex, it is easy to miss the forest for the trees, but the big picture is the least important. Our Nation's financial serv-
ices sector is the irrigation system for our economy. If we remove outdated obstacles to innovation and greater ef-
ciciency in the financial services indus-
try, it will help our entire economy become more competitive, more vi-
brant and healthier.

It is important to recognize addi-
tional benefits of this legislation. By putting in place a regulatory system that actually makes sense, we will have financial services bill.

I want to raise something to the American people, and the reason why I come to the floor in my disappointment is because when I cast my votes in the House Committee on Commerce I had every intention of supporting this financial services bill.

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tween them, the constituent, and what-
ever happens from Michigan (are out there). We need them to do business with. But that our personal, private fi-
nancial information be sold and dealt away and possibly used against us?
I rise today in support of H.R. 10, which, in fact, is good for the ordinary citizen and, in fact, does provide more privacy protection than they have ever had before. This bill uses the House banking bill as its text base, which passed out of the House Financial Services Committee. It has the support of Democrats, Republicans and the administration, who took painstaking work on this particular piece of legislation to strike a compromise that is also supported by a diverse sector of the financial services industry and rural communities and encompasses important consumer protections.

While we may hear otherwise today, this bill has good privacy measures in it. Today we have the opportunity to support an amendment that would make those privacy sections even better. With the passage of a strong privacy measure, I urge my colleagues to vote yes on H.R. 10.

Madam Chairman, this bill strengthens the safety and soundness of our financial institutions. This bill gives consumers one-stop shopping. This bill gives consumers better privacy protection. This bill saves consumers money. This bill is good for the economy. Let us pass this amendment. Let us put the ball over the goal and pass H.R. 10 today.

Mr. BLILEY. Madam Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. LEACH) for purposes of control.

Mr. DINGELL. Madam Chairman, I yield 3 minutes to the distinguished gentleman from California (Mr. WAXMAN).

(Mr. WAXMAN asked and was given permission to revise and extend his remarks.)

Mr. WAXMAN. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, the proponents of this bill say they have increased privacy protection for health records, but in fact, every independent expert that has reviewed the legislation has reached exactly the opposite conclusion.

The medical record provisions in H.R. 10 are opposed by physician organizations like the American Medical Association and the American Psychiatric Association. They are opposed by nurses' organizations, like the American Nurses' Association. They are opposed by patients' groups, like the National Association of People with AIDS and the Consortium for Citizens With Disabilities, and they are opposed by privacy experts, like the Consumer Coalition for Health Privacy and the ACLU.

Why have they reached that conclusion, when the other side on this issue say they have put something in the bill to protect medical privacy? They have a provision saying an organization cannot give out information without the consent or the direction of the customer, but then they have this huge exception.

They can, however, give it without ever asking the customer to insurance companies, who can then keep a whole database on a lot of people's medical records. They can also participate in research projects. It does not say it is a scientific research project. Anybody could say they have a research project and therefore they get the medical data, and these groups can then turn around and sell it. There is no restriction on them whatsoever from further disseminating our personal medical records.

This idea that we have to give our consent is not very convincing when an insurance company can say to us that in order to get insurance, we have to sign a waiver that will allow them to do whatever they want with our medical records, or we go without insurance.

I feel that this provision is a step backwards. The proponents say they are following a democratic process. In fact, they snuck the medical records provision into the legislation like a midnight prowler, to use the words of the Los Angeles Times. There have been no hearings on the implications of what we are doing.

In fact, we are not even allowed to offer amendments to this provision. Under the rule, the gentleman from California, who has been working on health privacy issues for 10 years, was even denied a motion to strike.

It would be better to strike all the medical provisions, privacy provisions that cause the legislation to do such a disservice to the idea that we are protecting people's privacy.

In 1949 George Orwell wrote a chilling novel called 1984 about a society that denied its citizens privacy. It is 15 years later than Mr. Orwell predicted, but today 1984 is becoming a reality. Doublespeak reigns in this House, and Big Brother in the form of all-knowing financial conglomerates is being brought to life.

I urge my colleagues to vote against the bill because of this provision alone.

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Madam Chairman, we have heard that we should not make the perfect the enemy of the good. We have some people, I believe, who would like to make the perfect the enemy of the very, very, very good.

We are not here to set history here. This body has attempted to pass and enact into law reform of our financial services industry for I understand a decade and a half, and we have a product that the vast majority of stakeholders agree on.

The medical privacy provisions happen to be something that I am very interested in as a physician, and I believe the language in this bill is pretty good. I believe it is better. Yes, in matters of fact, we have put provisions in the language that say if the administration passes regulations that are stronger, these provisions expire. We have language in there that says if this body enacts legislation signed by the President, that is stronger, these provisions expire.

So to oppose this bill now, at this point, when we have an extremely good product here, a very, very good product on this to me is a tremendous disservice. I believe that all of our colleagues on both sides of the aisle should support this, because this is extremely good for America.

Mr. LAFLARCE. Madam Chairman, I yield 1 minute to the gentleman from Florida (Mr. SANDLIN).

(Mr. SANDLIN asked and was given permission to revise and extend his remarks.)

Mr. SANDLIN. Madam Chairman, financial modernization is already occurring in this country, and it is here to stay. However, burdensome regulatory barriers are hindering the efforts of our financial institutions to compete globally through the development and delivery of new financial products. This does only exacerbates or makes worse the problems within the financial services industry.

The bottom line is simple: Financial modernization is necessary and will continue in this country as a result of market forces, even in the absence of any sort of legislation. However, the success of American firms and ultimately the strength of our economy is going to depend upon passing a good bill, one that will ensure that financial modernization occurs in a efficient, defensible manner, and protects the interests of consumers as well as the safety and soundness of our financial industries.

But as we debate these important issues, we must remember community banks. People trust community banks. They know their community bankers. We have recognized these institutions as an integral part of rural America. We must not overlook them or jeopardize their future in any way as we undertake this monumental legislation.

I believe this bill addresses the needs of Main Street as much as Wall Street, and I urge Members to cast their vote in support of this important legislation.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY), who has worked so diligently on this bill.

Mrs. KELLY. Madam Chairman, I thank my good friend, the gentleman from Iowa (Mr. LEACH) for yielding time to me.

Madam Chairman, I rise in strong support of H.R. 10. I would like to take
just a minute to talk about the provision in H.R. 10 regarding NARAB, the National Association of Registered Agents and Brokers.

Under the NARAB subtitle of Title III, states would be encouraged to streamline insurance agent and broker licensing laws—creating reciprocity, uniformity, and eliminating protectionist residency barriers. The NARAB provisions have been designed to bring true modernization to insurance licensing, and it is something that I believe we really do need to have in the United States of America today.

It is for the commonsense provisions in H.R. 10 like NARAB that we all must join together in support of H.R. 10.

Madam Chairman, I rise in strong support of H.R. 10. We have been hearing the debates so far mostly focus on the more controversial sections of the bill. Many of the benefits of H.R. 10 have been heralded here today because they represent breakthroughs on issues that have been contentious and seemingly irreconcilable for many years. Yet they are not the only provisions which are extremely valuable, but have not been highly publicized because they have been essentially non-controversial. I'd like to specifically point to the provisions regarding NARAB—the National Association of Registered Agents and Brokers.

Under the NARAB subtitle of Title III, states would be encouraged to streamline insurance agent and broker licensing laws—creating reciprocity, uniformity, and eliminating protectionist residency barriers. A majority of states fail to enact reciprocal licensing laws within three years of enactment of this legislation. NARAB would be created as a uniform, agent/broker licensing clearinghouse governed by state insurance regulators.

I'd like to thank the bipartisan leadership of both the Banking and Commerce Committees for including this provision in H.R. 10. Since I raised this issue in the Banking Committee in 1997, the National Association of Insurance Commissioners and individual states have significantly ratcheted up their efforts to achieve licensing reform. For many years, there were attempts to ease the burden and unnecessary costs associated with multi-state licensing. But those attempts failed to keep pace with consolidations in the insurance industry, and with increasing financial services consolidation and globalization of the insurance markets. The NARAB provisions have been designed to bring true modernization to insurance licensing laws, in keeping with functional state insurance regulations.

Perhaps the most gratifying development on the licensing front in recent months has been the increasing acceptance of NARAB by the NAIC as a good incentive for licensing reform. NAIC President George Reider, Kentucky Commissioner George Nichols, North Dakota Commissioner Glenn Pomeroy and others have been doing a superb job in elevating uniform and reciprocal licensing on the agendas of individual state legislatures. They understand that barriers to competition from out-of-state insurance agents and brokers is incompatibale with today's integrated financial institutions marketplace. Their commitment to reform is real, and NARAB will be the assurance their efforts will ultimately succeed.

Currently, there is no counterpart NARAB provision in the financial services bill approved by the other body, and I look forward to working with congressional conferees to ensure that these important licensing reforms can be achieved in the context of broad modernization legislation.

It is for these common sense provisions that we all must join together in support of H.R. 10. I want to take a moment to thank Chairman Leach for his superior leadership in steering H.R. 10 through committee. It was because of his patience, thoroughness and considerable knowledge of the insurance industry that this legislation has come to the floor with a strong bipartisan support it now has. The gentleman from Iowa has also had the assistance of an excellent staff at his side to assist his considerable efforts. Just to name a few, Tony Cole, Gary Parker, Laurie Schaffer and Alison Watson. There are so many more but I haven't the time to name them all. Chairman Leach really does have the highest standards for his staff and they have all lived up to those standards set by the Chairman.

Secretary Rubin estimates that passage of this legislation will save consumers $15 billion a year. The efficiencies created by this legislation will allow financial institutions to stop wasting time and money complying with out of date laws written in the 1930's and enable them to better serve their customers in the 21st century. H.R. 10 comes before us with the strong support of both parties and the administration. Let's join together in ensuring that we preserve this agreement by passing this rule with a strong bipartisan vote. I thank the gentleman from California and his colleagues on the Rules Committee for their good work on the rule and ask all of my colleagues from both sides of the aisle to join me in voting for legislation in the making that will improve the lives of all Americans, H.R. 10.

Mr. LAFALCE. Madam Chairman, I yield 1.5 minutes to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Madam Chairman, I would like to thank the ranking member for yielding me the time to engage the chairman of the committee, the gentleman from Iowa (Mr. LEACH) in a colloquy.

Madam Chairman, I would like the chairman's clarification with respect to the section of the medical information confidentiality provisions. The rule report on page 371, line 1, subparagraphs 1, 2, and 3, I read each as several separate clauses, and that following clause 1 and before clause 2 there is an implied "or" that indicates that each of these is to be read as separate clauses.

Mr. LEACH. Madam Chairman, will the gentlewoman yield?

Ms. CARSON. I yield to the gentleman from Iowa.

Mr. LEACH. The gentlewoman has raised a very important point. I fully concur in her interpretation. That is exactly correct. I think it is an important clarification in the RECORD. Ms. CARSON, Madam Chairman, I appreciate the gentleman's comment.

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from New York (Mr. SWEENEY).

(Mr. SWEENEY asked and was given permission to revise and extend his remarks.)
Mr. Chairman and Mr. ranking member, I first want to express my appreciation to you for the hard work that you and your colleagues have put into the drafting of this complex and necessary piece of legislation.

I am a member of the Committee on Banking and Financial Services, and I am well acquainted with the difficulties that have to be overcome just to bring a financial services modernization bill to this floor. I do have a concern, however, that I hope the gentlemen will spend some time addressing before bringing a conference report back to the House.

The National Association of Insurance Commissioners and North Carolina’s Insurance Commissioner, Jim Long, have expressed to me a concern with section 104 of this bill. This is a section that describes under what circumstances State insurance law should be preempted in order to ensure that financial institutions are not discriminated against.

I know there are differing interpretations of this section as to whether sort of State protection would be preempted. For example, North Carolina just passed a Patients’ Bill of Rights. This is legislation that is very important to our citizens. I hope the gentlemen can assure me that it is not the Committee’s intention in this bill to allow financial institutions that provide insurance products to be exempted from this law or other important consumer protection statutes.

If there are remaining problems or ambiguities that need to be cleared up, I hope the gentlemen will work during the conference to clarify in what situations State insurance law should and should not be preempted by this bill, and to make sure that functional regulation and vital consumer protections are not compromised.

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. PRICE of North Carolina. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, let me say to the gentleman that the major intent of this law is to maintain functionality and, at the major intent of the law is to have State regulation and law apply without discrimination.

Mr. LAFAULCE. Madam Chairman, will the gentleman yield?

Mr. PRICE of North Carolina. I yield to the gentleman from New York.

Mr. LAFAULCE. Madam Chairman, I share the judgment of the chairman on this particular question. That certainly is our intent, to prohibit discriminatory action and to preserve the maximum amount of consumer protection.

With respect to a State’s Patients’ Bill of Rights, I strongly support a Federal Patients’ Bill of Rights, and to the extent that the State has acted similarly or more strongly, we would want to give deference to such a bill of rights.

Certainly to the extent that it might need clarification, I am not sure that it does, we would attempt to clarify that.

Mr. PRICE of North Carolina. I appreciate the gentlemen’s assurances, both the chairman and the ranking member, that it is not the intent of this bill as drafted to compromise these essential consumer protections, many of them administered by State insurance commissioners, and that if there is any remaining ambiguity, that will be attended to in conference.

Mr. BLILEY. Madam Chairman, I yield 1 minute to the gentleman from Texas (Mr. Paul), one of the most thoughtful philosophers of the United States. I yield back.

Mr. BLILEY. Madam Chairman, I yield myself the balance of my time.

Mr. DINGELL. Madam Chairman, I continue to reserve the balance of my time.

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from New York (Mr. LAFAULCE), the ranking member, for their leadership.

Many of these changes are inappropriate and wrong, such as the medical privacy provision, and they should be changed in conference. While I will vote for this bill so that it can go to conference, my final vote will be contingent on a bill that has strong privacy provisions.

Also, we should be cognizant that the President will veto any bill that does not contain strong CRA provisions, which I also fully support, and are in the House bill.

Mr. BLILEY. Madam Chairman, I yield myself the balance of my time.

Mr. PAUL. Madam Chairman, I want to take a moment first to recognize the hours and hours of hard work contributed by my finance staff team, Linda Rich, David Cavicke, Robert Gordon, Brian McCullough, and the trustee clerks, Robert Simson and Mike Flood.

They were joined by diligent efforts of the minority staff, Consuela Washington and Bruce Gwynn. These professionals performed above and beyond the call of duty, and the committee is in their debt.

Glass-Steagall, Madam Chairman, was passed in 1933 in reaction to the financial markets crash in the Great Depression. Those were extreme times, and the American people demanded extreme measures to rescue them from continuing economic crisis.

J ust two years after Glass-Steagall was enacted, the law’s primary architect, the gentleman from Virginia named Carter Glass, realized that Congress had gone too far, and he began an effort to undo the damage that had been done.

Carter Glass may have been the first Congressman who tried to reform Glass-Steagall, but he was not the last. In just the last 20 years, there have been 11 efforts to modernize these archaic laws.

Last term, the Committee on Commerce Republicans and Democrats worked with the Republican leadership of the Committee on Banking and Financial Services to pass Glass-Steagall on the House floor for the first time ever. I strongly supported that bill and was disappointed that it faltered in the waning days of the Senate.

Today is a historic day. We join together here in the House to approve legislation that is long overdue, and we are in a stronger position than ever before to achieve our goal of modernizing financial regulation in America.
Every step of the way we were opposed by lobbyists and special interest groups who said it could not be done. But we heard the concerns of the American people about all of these megamergers. We heard the concerns of the American people about all of these megamergers. We heard the concerns of the American people about all of these megamergers. The legislation protects American investors by ensuring that the rules for securities sales will be the same for everybody, no matter where the securities activities take place. That means that investors will be assured of the protections of the Federal securities laws and, in the case of existing thrifts, to raise capital from the commercial markets. This is an important win for American homebuyers who have relied on the thrift industry to realize their American dream of homeownership.

This bill provides a better structure for regulating the financial marketplace in the 21st Century. I look forward to further strengthening that structure as we go to conference, by eliminating the operating subsidiary structure and improving insurance consumer protections.

Our financial system has not been modernized since the Great Depression. Federal regulators have been forced to invent an unmanageable and unauthorized make-shift regulations to try and shoehorn an archaic legal system into the modern world. It must be fixed. It must be fixed by Congress, not some unelected special interest regulators.

H.R. 10 is the solution, and I am proud we are at the bridge of achieving another historic accomplishment for the American people.

Beginning with the seminal efforts from Ohio (Mr. Oxley), the chairman (Mr. Bliley), the chairman of the Committee on Banking and Financial Services, and holding the archaic Glass-Steagall restrictions. We heard from the Federal and State financial regulators who emphasized the need to protect consumers and preserve the safety and stability of our financial system.

It is a testament to the will of the American people that we have heard their concerns and are here today to pass legislation to protect the future.

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amendment that was drafted with the gentlewoman from Ohio (Ms. Pryce), the gentleman from Texas (Mr. Frost), myself, the gentleman from Iowa (Mr. Leach) and others, and that a motion to recommit that will be offered that will move this body won't move this bill on and then simply takes the Markey-Barton amendment and a provision striking the medical privacy provisions that my colleague is concerned about, and that will be in the motion to recommit. So the gentleman will have an opportunity to vote on exactly what he expressed concern about.

Mr. Barton of Texas. Madam Chairman, I look forward to that opportunity.

Mr. LaFalce. Madam Chairman, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. Kanjorski), the distinguished ranking member of the Subcommittee on Capital Markets, Securities, and Government Sponsored Enterprises.

(Kanjorski asked and was given permission to revise and extend his remarks.

Mr. Kanjorski. Madam Chairman, I thank the ranking member for yielding me this time.

Madam Chairman, I will take just one second to congratulate the gentleman from Iowa (Chairman Leach) and the gentleman from New York (Mr. LaFalce), the ranking member, on a job well done, a number of years that everybody slaved over this. It is not a perfect bill, but I think we should support the bill and move it on to conference.

Now, I would like to engage in a colloquy with the gentleman from Louisiana (Mr. Baker). Madam Chairman, I rise to engage in a colloquy with him about the Federal Home Loan Bank Board and the gentleman from New York (Mr. LaFalce), the ranking member, on a job well done, a number of years that everybody slaved over this. It is not a perfect bill, but I think we should support the bill and move it on to conference.

Madam Chairman, I yield to the gentleman from Louisiana (Mr. Baker).

Mr. Baker. Madam Chairman, I certainly appreciate the gentleman's interest and wish to express my full cooperation on these matters and others that will be before us on the Federal Home Loan Bank. I congratulate the gentleman from Pennsylvania and thank him for all his courtesies and cooperation over the year in making this a reality.

Mr. Kanjorski. Madam Chairman, I want to thank the gentleman from Louisiana (Mr. Baker) for his commitment to address these issues in conference.

Mr. Leach. Madam Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. Bereuter).

Mr. Bereuter. Madam Chairman, I thank the gentleman for yielding me this time, and in this colloquy with the chairman I would just say that it is this Member's understanding that H.R. 10 would not alter the definition of a diversified savings and loan holding company. Is this correct?

Mr. Leach. Madam Chairman, will the gentleman yield?

Mr. Bereuter. I yield to the gentleman from Iowa.

Mr. Leach. The answer to the gentleman's question is, yes, that is correct.

Mr. Bereuter. I thank the chairman. In particular, it is this Member's understanding that under H.R. 10 insurance revenues will still be deemed to be banking related for the purposes of determining whether a savings and loan holding company qualifies as diversified.

Mr. Leach. If the gentleman will continue to yield, the answer to that question is also yes, that is correct, sir.

Mr. Bereuter. Madam Chairman, I thank the chairman. In the base stock amendments (Mr. LaFalce. Madam Chairman, I yield 1 minute to the gentleman from New York (Mr. Crowley).

(Mr. Crowley asked and was given permission to revise and extend his remarks.

Mr. Crowley. Madam Chairman, as a freshman congressman representing the financial capital of the U.S., I rise today in support of H.R. 10.

Madam Chairman, currently our financial services industry is governed by outdated laws and regulations which are costly and inconvenient to consumers and which have put the industry at a competitive disadvantage in the global marketplace. Modernizing these outdated laws is needed to bring about the real benefits available to the millions of Americans who use financial services and to allow U.S. financial firms to remain the predominant force in global markets.

Madam Chairman, this legislation strikes a critical, unprecedented balance by providing a new financial services infrastructure aimed at keeping the United States competitive in the global marketplace while ensuring quality services and protections for consumers around the world.

Madam Chairman, I know many of my colleagues are disappointed that stronger privacy language was not included to protect the confidential medical and financial information of consumers. I understand and agree with their disappointment that the Committee on Rules did not rule in order many Democratic-sponsored amendments to protect consumers.

The underlying Banking Committee version is a good bill. Let us not lose sight of what we are trying to do.

Madam Chairman, I simply cannot afford to wait any longer to create a modern framework for U.S. financial corporations and our Nation's capital markets.

Failure to act now on financial services reform would send a terrible message to global financial markets, and constitute a clear danger to U.S. economic leadership in the world and so I strongly urge my colleagues to support passage of H.R. 10.

Mr. Leach. Madam Chairman, I yield 1 minute to the gentleman from Delaware (Mr. Castle), the former chairman of the Subcommittee on Domestic and International Monetary Policy.

Mr. Castle. Madam Chairman, let me just congratulate the gentleman from Iowa and the gentleman from New York for the wonderful and extraordinary work they have done on this. I rise in strong support of H.R. 10, the Financial Services Modernization Act of 1999, and I urge my colleagues to seize the opportunity to pass this historic legislation.

This legislation is not just years overdue. It is decades overdue. H.R. 10 will allow the marketplace to give American consumers more products and better choices to build a better financial future for them and their families. H.R. 10 will give American banks, insurance companies, and securities firms the opportunity to compete fairly in the international marketplace.

We are finally close to achieving the overdue goal of financial modernization. The President is ready to work with us to enact a law. We cannot fail now. This legislation will benefit American families and American business and maintain sound regulation. Seize this great opportunity. Pass H.R. 10. Let us move our financial laws out of the 1930s and into the next century. Vote "yes" on H.R. 10. It means a better future for our Nation.

To say that this legislation is long-overdue is a tremendous understatement. It is not just years overdue. It is decades overdue. Past attempts to pass financial services reform often failed because one industry group or another felt that past bills put them at a disadvantage.

While this legislative struggle has been going on, our constituencies have been looking for new, efficient and affordable products to give their families financial security. We are long past the days when people were satisfied with a simple savings account or life insurance policy. Most Americans want to maximize their earnings and to find products that will give them the best return.

The financial services marketplace has been struggling to meet consumers needs within a regulatory structure that was created in the 1930s and 1950s.

Our Nation's banking, securities and insurance laws must be updated to face the challenges of the next century. Over the past three years, Congress has moved ever closer to the goal of legislation that will benefit consumers and fairly balance the divergent interests of banks, insurance companies, insurance agents, and securities firms, as well as the federal and state regulators that oversee these industries.

As a member of the House Banking Committee, I have been directly involved in the work to modernize our financial services laws
since I came to Congress in 1993. I have to tell you it has been a difficult struggle to balance the competing interests of the banking, securities and insurance industries.

The legislation before us today, while not perfect, has finally won the endorsement of all major industry groups.

Now is the time to act. We must do this to benefit consumers who need a variety of financial products to help them plan for their economic futures. In addition, we must update these laws to allow our financial services providers to compete effectively in the next century.

The most important reason for supporting this legislation is that it will benefit every American seeking to improve their family's financial security by saving and investing more. This legislation will help them achieve that goal by making more savings and investment products available in one-stop shopping at competitive prices. In addition, the bill contains important disclosure and sales standards to protect consumers as they shop for these products.

This legislation will help consumers, but it will also benefit the businesses seeking to provide these financial products. It will enable banks, insurance companies and securities firms to affiliate and operate more competitively on a level playing field. It will expand the products and services financial services firms can offer to their customers, while maintaining adequate regulation to preserve the safety and soundness of the system.

Madam Chairman, as part of the long deliberations seeking to treat all financial services providers fairly, I have been particularly interested in assuring that national banks are permitted to compete fairly in selling and underwriting insurance products. Bank sales and underwriting of insurance will be good for competition and good for American consumers.

To be candid, the provisions in this legislation regarding banking and insurance are not perfect. I am sure representatives of the banking and insurance industries will argue that they are perfect. I am sure representatives of the bank's customers had no idea their financial security was in jeopardy. Of course, the bank had no idea its customers confidential information was being threatened and compromised. But they are creating an entirely new species of financial services that we will not protect consumers.

Madam Chairman, H.R. 10 will allow our nation's financial institutions, securities and insurance industries to compete in the global marketplace. I am pleased that the Committee on Banking and Financial Services and the Committee on Commerce overwhelmingly approved this legislation. I expect many snags can be worked out in the near future, and I urge the support of the whole House.

Madam Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Madam Chairman, I thank the gentleman for yielding me this time; and I rise in the near future, and I urge the support of the House.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Madam Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from New York has 3½ minutes remaining.
I urge support of this bill. I personally believe that we can go forth. To the degree there are nuances that need to be corrected, I assure my colleagues they will be.

Ms. STABENOW. Madam Chairman, I rise today to support the Bliley amendment to H.R. 10, the Financial Services Act of 1999. While I support the efforts of my colleague, Mr. BILEY, to add new protections for victims of domestic violence, I object to the second provision in his amendment regarding mutual insurance companies.

One of my top priorities as a legislator here in the House and when I served in both the Michigan House and Senate, has been to help the victims of domestic violence. Last year I introduced two bills to help victims of domestic abuse, H.R. 3901, Arrest Policies for Domestic Violence and H.R. 3902, Court Appointed Special Advocates for Victims of Child Abuse.

I strongly support the first provision in the Bliley amendment that would prohibit banks from discriminating against victims of domestic violence in providing insurance. This provision expresses the sense of Congress that all states should enact laws prohibiting such discrimination. This kind of discrimination must be stopped so that victims of domestic violence take the necessary steps toward financial and personal freedom. Had I been given this opportunity to vote on this provision of the amendment separately, I would have voted in favor.

Unfortunately, I was compelled to vote against the Bliley amendment due to the language in the second provision regarding mutual insurance companies. This language would permit mutual insurance companies to relocate from one state to another and to reorganize into a mutual holding company or stock company. This would permit some companies to operate outside the important safety net of state regulation. Therefore, in an effort to protect consumers, I voted against the Bliley amendment.

Mr. POMEROY. Madam Chairman, I am reluctantly voting yes on H.R. 10. It needs work—a lot of work—in conference committee to fully establish functional regulation of insurance in state insurance departments.

In light of assurances I have received from the Banking Committee Chairman and Ranking Member to revisit the concerns I have advanced in this regard I will vote for the bill to keep the process moving forward.

We desperately need financial services modernization, but it is vitally important the legislation establishing these reforms get it done right.

Mrs. CAPPS. Madam Chairman, tonight I will vote against H.R. 10. I do this with great disappointment because I truly believe that we must modernize our woefully out-of-date financial service laws.

Modernizing these laws would create a more efficient financial service industry and bring greater choice and lower prices for consumers.

But I cannot in good conscience support this legislation. The so-called medical privacy provision endangers consumer privacy protection by allowing their sensitive health information to be sold.

I hope to work with my colleagues to tighten these provisions during conference so I can support a financial services bill that does not endanger patient privacy.
Mr. GONZALEZ. Madam Chairman, I am disappointed that the Rules Committee did not allow me the opportunity to offer on the floor the amendment on title insurance. I hoped to be able to explain the treatment of title insurance in the bill and ensure the protection of Texas consumers.

The title insurance section of H.R. 10—Section 305—generally prohibits national banks from underwriting or selling title insurance, either directly or through a subsidiary. There is a grandfather clause (Section 305(c)) that enables any national bank or national bank subsidiary currently engaged in title insurance sales activities to continue to engage in those activities. National banks would remain free, however, to underwrite and sell title insurance products through affiliates. The core prohibition on national bank and national bank subsidiary title insurance sales activities is based on the idea that there are problems associated with bank sales of title insurance. These are real problems, and I thought that the best way to address them was to limit bank-related title insurance activities to their affiliates. This was why I voted against the amendment that was adopted by the House Banking Committee to require that title insurance sales be done only through affiliates.

Section 305(b) of this bill has a “parity” exception that grants national banks parity with state-chartered banks in the sale of title insurance. The intent is to grant national banks in a State the power to sell title insurance products in the same manner and to the same extent as state-chartered banks that we actually and lawfully engaged in title insurance sales activities as of August 15, 1997. My amendment would simply have made it clear that Section 305(b) was a true parity provision. It would have made clear that national banks could sell title insurance products in a State only if state-chartered banks are actively and lawfully engaged in title insurance activity on the date of enactment. Alternatively, national banks could sell title insurance if a State expressly authorizes bank title insurance sales for national banks.

Therefore, if the State legislature has not expressly authorized title insurance sales as a lawful power for its State banks, but has some other statutory provision that might be interpreted as an authorization (but does not explicitly do so), that other general provision would not trigger parity rights for national banks. I thought this clarification was necessary because it is only in states where state legislatures had actually considered these problems that the unique problems associated with bank title insurance sales activities have been addressed.

Texas State insurance law is very important to me, and I hope this clarification can still be made at some point during the consideration of the bill.

Mr. PAYNE. Madam Chairman, I rise to express my strong support for the Community Reinvestment Act which has helped ensure fair and equal access to capital and credit. We all strive for the American dream of home ownership and many of us aspire to start our own businesses. But that dream is out of reach for some in our society because there are financial institutions which discriminate against minorities living in working class neighborhoods.

Fortunately, blatant discrimination in lending is declining, and homeownership and small business opportunities are on the rise. Much of this progress against so-called “redlining” can be attributed to the Community Reinvestment Act. Under CRA, federal banking agencies grade lending institutions on how well they meet the credit and capital needs of all the communities in which they are chartered and from which they take deposits.

In my own district, CRA has helped provide more than $8 billion in discounted mortgages, discounted home improvement loans, loans to small businesses owned by women and minorities and loans and investments for community economic development. It’s my strong support for the Community Reinvestment Act.

Madam Chairman, let’s make the American Dream a reality for millions of Americans by continuing to support a strong CRA. Ms. ROYBAL-ALLARD. Madam Chairman, I rise in opposition to H.R. 1. Rather than updating our antiquated banking system and bringing the United States financial system into the 21st century, H.R. 10 will leave consumers and our communities more vulnerable than ever before.

Why should we allow for the unprecedented conglomeration of banks, securities firms, and insurance companies while at the same time we ignore the most modest provisions to protect our consumers?

I am opposed to H.R. 10 for a number of reasons:

H.R. 10 is missing important community re-investment provisions. Specifically, the bill fails to extend the Community Reinvestment Act (CRA)—the banking activities of non-bank financial institutions that seek to affiliate with banks. In other words, if credit card companies, securities firms or insurers would like to offer traditional banking products such as checking accounts or loans, they should be subject to the CRA. Why should we make it easier for banks, brokers and insurance companies to merge without simultaneously modernizing and expanding the CRA?

The CRA has averaged billions of dollars of investment into communities such as mine, where unemployment levels are still well above the national average. Low-income families, small businesses and small farmers have all benefited from the CRA through increased opportunities to purchase a home, and obtain start-up and business expansion loans. Let’s strengthen it, not weaken it.

H.R. 10 fails to crack down on insurance redlining. Missing from this bill is a modest, consumer-friendly provision, authored by my colleague BARBARA Lee, which would combat misleading language used by insurance companies.

Excluding this provision will once again leave vast segments of our urban and rural communities vulnerable to discriminatory lending practices by some unscrupulous insurance companies.

H.R. 10 isn’t friendly to our thrifts and severely limits their viability. The bill grants the Federal Reserve significant and perhaps unwarranted new regulatory authority over unitary thrift holding companies. Thrifts have been critically important in serving the financial needs of low income and minority communities, providing mortgage financing. Threats to the thrift charter would, therefore, disproportionately impact low income and minority communities.

H.R. 10 permits the unprecedented preemption of stronger consumer-friendly state laws thereby undermining state authority and harming consumers. Under H.R. 10, progres-

sive State banking laws such as those requiring low-cost checking accounts or prohibiting ATM surcharges would be weakened.

H.R. 10 fails to provide strong financial and medical privacy protections. If we’re going to allow H.R. 10 to accelerate mergers, create mega one-stop centers with access to information about millions of customers, we need to stop information from being disclosed to third parties and affiliates. Anything less is unacceptable.

Certainly, we need to preserve America’s financial leadership as we approach the 21st century.

Certainly, we need to update our archaic laws so that U.S. companies are not at a competitive disadvantage in the global marketplace.

Certainly, we should promote convenient and affordable one-stop shopping for consumers in order to meet all of their financial needs.

But not at the expense of consumer privacy. Nor at the expense of the Community Reinvestment Act.

I am not willing to trade the so-called perks of financial modernization—efficiency, choice, convenience, one-stop shopping—for the decline of privacy rights and community reinvestment. It’s that simple.

Our nations consumers should be our number one priority as we contemplate the merits of H.R. 10. Unfortunately, H.R. 10 doesn’t even reach the threshold. I urge my colleagues to oppose this bill.

Ms. MCCARTHY of Missouri. Madam Chairman, I rise today in opposition to this measure, H.R. 10, as put forth by the Rules Committee. I support financial modernization, but the current bill fails to achieve the goals set out by both the Banking and Commerce Committees. We can do better than the measure that we are considering this evening. The committee efforts were solid and established a procedure for consensus. The Rules Committee refused to allow the consideration of key amendments vital to financial modernization so that opportunities for investment and savings continue fairly, and fair pricing practices and misuse of private information essential to consumers are assured.

In the Commerce Committee on which I serve, agreement was achieved on issues such as consumer privacy, state regulatory authority, and the Community Reinvestment Act (CRA). The bipartisan resolution was altered by the Rules Committee to preempt any and all competition to independent insurance companies.

H.R. 10 permits the unprecedented preemption of state laws that prohibit unfair lending, ATM surcharges, and check cashing charges. Further, the measure now preempts essential state insurance laws across the country, including requirements that insurance companies pay legitimate claims in a timely manner, invest premiums paid by insurance consumers in a prudent and safe manner, and contribute to state funds established to guarantee the solvency of insurers.

The measure before us no longer includes full disclosure requirements allowing consumers to control how their financial information will be used, transferred, and shared. Consumers should have confidence that personal information shared with their insurance company will be kept confidential. To achieve this goal, the
need to safeguard consumers' personal and medical information must be balanced with the need to allow financial institutions, including insurance companies, to efficiently provide services to consumers.

The measure under consideration does not proactively address the issue of insurance redlining, allowing banks and insurance companies to discriminate against consumers for any reason is unacceptable. Violating fair housing practices should be addressed—this is a glaring omission in the bill.

Finally, as written, this measure will sanction the ability of the Comptroller of the Currency (OCC) to override state consumer laws and allow national banks to ignore essential consumer protections, such as unnecessarily high prices on checking accounts and prepayment penalties when consumers sell their homes and pay off their mortgages. Further, we must address the issue of operating subsidiaries. Consumers are easily confused and unfairly targeted when subsidiaries are allowed to co-exist with traditional banking services. Further, the Securities Exchange Commission (SEC) and the Comptroller should regulate these entities, to ensure that consumers are properly protected. The OCC's focus is on the safety and soundness of investments, while the SEC focuses on consumer protection.

Each of our lives is impacted daily by financial transactions—when we write a check, have our paychecks directly deposited, pay our bills, buy something over the Internet, purchase a house, or invest for our retirement. We must successfully address and modernize the procedures to safeguard consumer rights and prevent the inappropriate use of personal information.

I will continue my advocacy for the proper balance between consumer privacy and economic growth and hope the measure improves so that I can support passage following Conference Committee efforts.

Mr. WEYGAND. Madam Chairman, I rise in support of H.R. 10, the Financial Services Act of 1999.

I believe the House Banking Committee, of which I am a member, has done an admirable job at sorting the many differing views and opinions on how to structure financial services reform. I commend Chairman LEACH, Ranking Member LAFAULCE, and their staffs for all their hard work in bringing what I believe is a balanced approach to financial services reform to the floor.

Mr. Speaker, I have previously stated that there are two fundamental questions to ask when considering the type of financial services overreach we are debating. First, what effect will this legislation have on consumers? Second, what effect will the same legislation have on U.S. financial institutions' ability to compete in an ever increasing global marketplace?

In my view, this bill that makes significant progress on a number of consumer issues.

First, the bill we have before us preserves the integrity of the Community Reinvestment Act (CRA). In fact, as a requirement of affiliation, a financial holding company must have and maintain at least a satisfactory CRA rating. Additionally, this bill extends CRA requirements to any newly created Wholesale Financial Institution. This language will ensure that financial institutions continue to invest in insurance redlined communities from which they take deposits. This investment is crucial in order to meet the credit and lending needs of traditionally under

Mr. BLUMENAUER. Madam Chairman, I support the modernization principles in this long overdue financial legislation. It has been years in the making and this legislation is about as good as it is going to get. On balance, it will improve the competitiveness of our financial system and provide more choices for consumers.

There has emerged a growing concern about protecting the privacy rights of Americans. These concerns are independent, but related to financial services. Privacy is a major issue in business practices generally and in the health care system in particular. I am disappointed that the Republican Leadership did not allow several provisions to be discussed that would have strengthened consumer protections and I believe they would have made H.R. 10 a better bill. Nonetheless, these concerns are not going to go away. They will be a part of the Patients' Bill of Rights legislation and may be the subject of a comprehensive stand-alone bill that will spell out what protections Americans can expect from their government regarding sensitive and personal data.

Even though we were denied an opportunity to deal with these issues in connection with H.R. 10, I hope the attention and the concerns raised about this issue will spurt follow-up and that we will not adjourn until we provide a vehicle for understanding the rights and responsibility surrounding individual privacy.

Mr. EWING. Madam Chairman, I rise today in support of H.R. 10. While many of us have reservations about some sections of H.R. 10, I believe that the House needs to pass this legislation to begin the process of modernizing outdated, Depression-era laws that separate the financial services industry. These changes are long overdue.

I would hope that the conference takes a hard look at the so-called parity provision that was added to Section 305 by the Commerce Committee. This parity provision would grant title insurance sales authority to any national bank or its subsidiary located in a state in which state-chartered banks have such authority. I believe that the adoption of any such parity provision is unwarranted.

For instance, individual consumers purchasing homes and refinancing their mortgages will have to pay for title insurance, and the current language in this bill, will pay a bank-owned agency to insure the bank and basically your home. A national bank should be prohibited from engaging in title insurance sales activities in a State unless the state-chartered banks in that State are explicitly authorized to engage in title insurance sales activities. H.R. 10 should require that subsequent to enactment of the bill, states must explicitly authorize state banks to sell title insurance.

Congress has always set the parameters for the exercise of national bank powers and there is no reason to depart from that traditional approach in this context. Moreover, adopting such an approach would ignore the unique issues related to bank sales of title insurance that mandate the confinement of such activities to bank-affiliated companies. Simply stated, I recognize we should leave it up to the individual States to decide what best suits their banking and title insurance agents and not Washington, D.C. There is a very unique relationship that currently exists and this provision would significantly endanger the title insurance agents.

I am also concerned that the unique needs of independent bankers are not fully accounted for by H.R. 10. This issue should be
resolved in conference, so that independent bankers will be able to continue to provide their crucial services to their communities.

In conclusion, I would like to express my support of H.R. 10, and urge my colleagues on both sides of the aisle to support the passage of this legislation.

Mr. DAVIS of Illinois. Madam Chairman, I take this opportunity to express my support for H.R. 10, although reluctantly. In spite of and notwithstanding the good premises of this bill, I am apprehensive that it does not go far enough in its protection and/or expansion of Community Reinvestment. I represent one of the most diverse districts in the nation, the 7th District of Illinois. It contains many of the very wealthy and many of the very poor. Moderately stable, upscale and lower-income neighborhoods, sixty-eight percent of all public housing in Chicago. Community Reinvestment requirements have been a pipeline and a lifesaver for the inner-city south and westside of my District. It has saved communities and revitalized neighborhoods; the CRA has been instrumental in revitalizing low income communities and revitalized neighborhood banks. If H.R. 10 does not go far enough in its protection and/or expansion of Community Reinvestment, it represents a major revision of the Act.

In my district, where nearly 175,000 individuals live at or below the poverty level, CRA has been the most effective means by which they have been able to purchase their home, or start their own business. But now, as a result of CRA's enactment, banks and thrifts hold 2 1/2% of all financial assets. This is a serious problem, and the CRA's financial base has the possibility to threaten the future of the Act's effectiveness. Today, the specter of reduced CRA effectiveness looms over H.R. 10. This bill could allow banks to move their money into their securities and insurance affiliates where the CRA cannot reach.

In conclusion, I would like to express my support of H.R. 10 and urge my colleagues on both sides of the aisle to support the passage of this legislation.
Now the August deadline for action set three years ago by the Health Insurance Portability and Accountability Act is fast approaching. It is my hope that a coalition of members who work together to produce medical confidentiality legislation that is at least as strong as the 1997 recommendations developed by the HHS Secretary—with one notable exception. The Secretary’s recommendations proposed no additional restraints on access to medical data by law enforcement officials in the form of a subpoena or court order requirement. That is a position with which I strongly disagree.

It is not too late to enact sound medical privacy legislation that puts federal protections in place for consumers across the country, while leaving stronger state laws in place and allowing states the flexibility to add additional protections for those customers of the future who find themselves afflicted with as-yet-unknown disorders, and who, as a result, also suffer discrimination.

Enactment of H.R. 10’s medical privacy provisions would not only eradicate many existing medical privacy protections, but also hinder the HHS Secretary’s ability to promulgate regulations under HIPAA if Congress does not act by next month.

Madam Chairman, we must not do this. The consequences for consumers are far too grave.

Mr. FALEOMAVAEGA. Madam Chairman, H.R. 10 is about as complex a bill as we address in this house. The bill has been in the making for years, and at times it seemed impossible to get a majority of the Banking Committee, let alone the full House, to agree on its contents.

Mr. Speaker, I know H.R. 10 remains a controversy bill, with supporters on both sides of many issues. Without getting into the more controversial issues, I do wish to comment on Section 162 contained in the subtitle entitled “Federal Home Loan Bank System Modernization.” Among other technical amendments, this section adds American Samoa and the Commonwealth of the Northern Mariana Islands to the provisions of the Federal Home Loan Bank Act.

The condition of much of the private housing in American Samoa is deplorable. Too many homes are forced to live without electricity and running water, and many structures could not withstand gale-force winds, let alone the hurricane-force winds which blow through Samoa on a regular basis. With an annual per capita income barely over $3,000, and interest rates on commercial home loans in the 13–14% range, there is very little new construction or refurbishment of housing in American Samoa.

To partially address this problem, Public Law 103-354 created a pilot program through which Native American Samoan veterans, and other Native American veterans, could obtain home loans at moderate rates, and the response in American Samoa has been overwhelming. Unfortunately, this pilot program is available only to a small segment of the population residing in American Samoa.

During the first five-year authorization of the VA pilot program, to the best of my knowledge, no loan went into default and needed to be assumed by the Department of Veterans Affairs. I believe there is now a sufficient track record for private lenders to feel comfortable in making residential loans in American Samoa.

There is interest within the banking industry in American Samoa to be included in the Federal Home Loan Bank program. The Amerika Samoa Bank, a local bank, is on record in support of including American Samoa in this federal housing program and is looking forward to obtaining access to a source of long-term, low-interest funding to make home loans.

The number of complaints I receive from constituents in American Samoa concerning the cost of home loans will further attest to the need for loans at affordable interest rates in this remote, rural area.

Last year, the Federal Housing Finance Board issued a final rule including American Samoa within its regulations. I am appreciative of the willingness and efforts of the Federal Housing Finance Board to include American Samoa and the Commonwealth of the Northern Mariana Islands within its regulations, and that administrative action has been working well; however, this statutory amendment will ensure a more permanent solution.

In the 105th Congress I introduced H.R. 904, a bill which would clarify that American Samoa is included in the Federal Home Loan Bank Act. That provision is a part of Section 162 of H.R. 10, and I strongly support that provision.

Mr. SANDLIN. Madam Chairman, I rise today in support of this bill. Financial modernization is already occurring. Innovation and technological advances are allowing financial services firms to offer customers a wide range of new products and thus increasing competition and benefitting consumers. These changes are occurring globally and dramatically changing how financial services providers operate and deliver their products. In the United States, however, some regulatory barriers are hindering the efforts of our financial institutions to compete globally through the development and delivery of new financial products.

The bottom line is simple, financial modernization is necessary, and will continue as a result of market forces, even in the absence of legislation. However, the success of American firms, and ultimately, the strength of the American economy, depend on a good bill—one that will ensure that financial modernization does not increase the burdens of the American people, increase the costs of customers as well as the safety and soundness of our financial system.

But as we debate these important issues and work to modernize the way our financial services firms do business, we must remember our community banks. In East Texas, people trust their community banks and know their local bankers. We have recognized that these institutions are an integral part of rural America and that we must not overlook them or become complacent as we undertake this monumental legislation. I believe that this bill addresses these needs—the needs of Main Street as much as Wall Street—and I urge you to cast your vote in support.

Mr. REY. Madam Chairman, I rise today in support of H.R. 10. The Financial Services Modernization Bill of 1999. As a supporter of this bill, I want to send a message to the Office of the Comptroller of the Currency, on behalf of the Members who worked so hard to obtain passage of this much-needed legislation.

This bill for the first time allows the true marriage of insurance, banking and securities. The principle behind the bill is functional regulation, the activities of any entity should be regulated by function. So when a bank engages in insurance activities, those activities should be regulated by insurance regulators, not banking regulators. The same holds true for insurance activities.

The bill seeks to craft a balance between Congress’ authority to grant banks certain powers and the States’ authority to regulate certain activities. This balance is particularly delicate in the context of state regulation of insurance sales activities of banks and their affiliates. Section 104 of the bill sets up a fairly complex scheme, designed to allow states to regulate insurance activities without substantially interfering with banks’ ability to sell insurance. While the bill affords states a certain amount of certainty, regarding what is permissible regulation, through a creation of safe harbor, it leaves much to potential challenge. As the bill makes clear, our creation of a safe harbor is not intended to establish any kind of interference regarding the permissibility of state insurance laws that fall outside the safe harbor.

As a result of this legislation, federal banking regulators and state insurance regulators will work together cooperatively in the best interests of consumers. The public- private relationship should be given an opportunity to develop. What we do not want to see is aggressive moves on the part of the OCC, or other federal banking regulators, to displace state insurance laws and regulations applied to banks. This legislation is designed to allow the OCC’s opportunity to do that. Mr. PACKARD. Madam Chairman, I would like to issue my support for H.R. 10, the Financial Services Act of 1999. This legislation will allow citizens more control of their own money, not Washington bureaucrats.

H.R. 10 enhances competition in the banking and financial service markets. As the law stands today, the financial sector has to comply with regulations set up after the Great Depression. This has to change. The Financial Services Act will allow American companies to enter the new millennium on an equal standing with financial businesses around the world. The Financial Services Act will benefit each individual who uses a financial institute. In-creasing free trade inside the financial sector ensures higher quality services and lower prices. The government is already far too involved in the lives of private citizens. This legislation will increase choices and services for the American people.

Mr. Speaker, the Financial Services Act will ensure that American companies continue to lead the world in the financial sector. I urge my colleagues to support its passage.

Mr. BONILLA. Madam Chairman, I rise today in support of CRA reform. Every America’s banker serves their communities whether it’s through lending to home buyers, supporting small businesses or even softball sponsorships. Still, if their actions don’t fit into the guidelines of the Community Reinvestment Act, banks are strapped with large fines and their good deeds go unnoticed.

Banks are the primary engines for small business lending everywhere. Banks, especially small banks, invest in their communities and reflect their communities. If they don’t, they simply do not survive. The rising tide of CRA threats to put these community leaders out of business. The
CRA has gone far, far beyond its original intent of ensuring fair lending. Banks are now forced to have employees whose entire job is devoted to CRA compliance. Instead of working for their communities, these folks are working for CRA bureaucratic nightmares. Instead of helping families buy their first home, bankers are living in fear of their next CRA review.

Our colleagues in the Senate have already approved much-needed changes in CRA. Let's end the bureaucratic nightmare of CRA and give bankers a chance to truly serve their communities.

Mr. HYDE. Madam Chairman, I rise in support of H.R. 10, the “Financial Services Act of 1999.” For many years, we have been trying to repeal the outdated restrictions that keep banks, securities firms, and insurance companies from getting into one another’s businesses. After all the debate, I think we have finally come up with something in this bill that will open up a whole new world of competition.

Financial services are becoming increasingly interrelated, increasing competition, and increasingly seamless. Banking laws passed during the Depression simply will not do in the 21st century. I wish that we could maintain a world where everyone knew their banker on a first name basis and loans were made on a handshake, and I think in the new world that we provide there will be more service to those who demand it. But we need not have laws that limit us to that kind of service, as desirable as it may seem. Everyone is better off if the market decides what kinds of services financial firms will offer.

Just as we have made progress we have made in the past ten years. When I was a child, only the wealthy owned stocks. Now, with the growth of the mutual fund industry and self-directed retirement funds, millions and millions of average Americans not only own stocks, but make their own investment decisions. These developments create wealth, increase the wealth of average Americans not only own stocks, but make their own investment decisions.

I was talking about my friends Jim Leach, chairman of the Banking Committee, and Tom Bliley, chairman of the Commerce Committee. They have done an excellent job of putting this package together. I commend them for their work in bringing this bill to the floor in a very difficult and contentious environment.

I especially want to commend them for working with me on the bank merger provisions of the bill and the bankruptcy provisions relating to wholesale financial institutions. Under the old rules, mergers are now increasingly computerized, and increasingly seamless. Banking laws passed during the Depression simply will not do in the 21st century. I wish that we could maintain a world where everyone knew their banker on a first name basis and loans were made on a handshake, and I think in the new world that we provide there will be more service to those who demand it. But we need not have laws that limit us to that kind of service, as desirable as it may seem. Everyone is better off if the market decides what kinds of services financial firms will offer.

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non-preemption of the McCarran-Ferguson Act); §122 (amending Title 18 to create crime for misrepresentations regarding financial institution liability for obligations of affiliates); §126 (to the extent that it deals with the treatment of wholesale financial institutions under the Bank Merger Act and the Bankruptcy Code in the new §9B(b)(5) & (e)(3) of the Federal Reserve Act); §136(d) (dealing with amendments to the Bankruptcy Code for wholesale financial institutions); §136(e) (to the extent that it deals with the treatment under the Bankruptcy Code of corporations organized under §25A of the Federal Reserve Act); §134–44 (dealing with the antitrust review mergers in the financial services industry); §206(b) & (d) (dealing with administrative procedures for the Securities and Exchange Commission outside the Administrative Procedure Act); §214 (to the extent that it creates a new crime under the Investment Company Act); §301 (as organized in the continued viability of the McCarran-Ferguson Act); §306 (dealing with expedited dispute resolution for disputes between state and federal regulators); §324(a) (dealing with court jurisdiction over litigation concerning reciprocity or uniformity determinations); §335 (dealing with judicial review over litigation concerning the National Association of Registered Agents and Brokers). In addition, there are at least two provisions of the bill as reported by the Banking Committee over which the Judiciary Committee has jurisdiction: §199 (creating new criminal and civil liability for violations of new privacy requirements) and §193 (to the extent that it limits the claims of bankruptcy trustees).

The foregoing list is intended to be as comprehensive as possible, but any inadvertent omission of a provision in either the introduced or reported versions of the bill that the Committee would otherwise have jurisdiction over does not waive that jurisdiction. The Committee has not yet been able to obtain a copy of the bill as ordered reported by the Commerce Committee, and it reserves its rights with respect to any additional provisions that may be included therein.

As you know, I have several relatively minor concerns with the language of these provisions, and my staff has been working with yours to resolve them. I am confident that we will resolve these in the near future. For that reason, I am willing to waive the Committee’s right to a sequential referral of H.R. 10 subject to the good faith commitment of all concerned that these minor concerns will be addressed to our satisfaction either in the base text made in order under the rule or a manager’s amendment which H.R. 10 goes to the floor.

However, my doing so does not constitute any waiving of the Committee’s jurisdiction over these provisions and does not prejudice its rights in any future legislation relating to these provisions or any other similar provisions. For that reason, I am making that request Speaker Hastert today.

I appreciate your consideration of my views on this issue. Please let me know if you need any further information.

Sincerely,
HENRY J. HYDE,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,

Hon. Henry Hyde, Chairman, Committee on the Judiciary,
Washington, D.C.

Dear Henry: Thank you for your letter regarding the Committee on the Judiciary’s jurisdictional interest in H.R. 10, the “Financial Services Act of 1999.”

I acknowledge the Judiciary Committee jurisdictional interest in a number of provisions in H.R. 10. The Committee on Commerce has included your proposed revision to the antitrust subtitle in its consideration of the legislation. It will work with you to address any waiver issues in Section 10 of this Act or as part of a manager’s amendment on the House floor.

I would not oppose Members of the Judiciary Committee being named as conferees for provisions within your Committee’s jurisdiction.

Thank you for foregoing a request for a sequential referral of this important legislation. I appreciate your willingness to work with me.

Sincerely,
TOM BLILEY,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING AND FINANCIAL SERVICES,

Hon. Henry Hyde, Chairman, Committee on the Judiciary,
Washington, D.C.

Dear Henry: Thank you for your letter regarding the Judiciary Committee’s jurisdictional interest in H.R. 10, the “Financial Services Act of 1999.”

I recognize that the Committee on the Judiciary has jurisdictional claims to those provisions in H.R. 10 which affect the Bankruptcy Code, criminal sanctions, antitrust laws, the McCarran-Ferguson Act, administrative procedures and the court system. Your willingness to waive the Committee’s right to a sequential referral of this legislation so that we may move it to the floor expeditiously is appreciated. As outlined in your letter, I will continue to work with you in good faith to see that the thrust of the Judiciary Committee’s concerns will be addressed as H.R. 10 goes to the floor. In addition, I agree with you that on the provisions within the Judicial Committee’s jurisdiction in H.R. 10, the “Financial Services Act of 1999.”

I recognize that the Committee on the Judiciary has jurisdictional claims to those provisions in H.R. 10 which affect the Bankruptcy Code, criminal sanctions, antitrust laws, the McCarran-Ferguson Act, administrative procedures and the court system. Your willingness to waive the Committee’s right to a sequential referral of this legislation so that we may move it to the floor expeditiously is appreciated. As outlined in your letter, I will continue to work with you in good faith to see that the thrust of the Judiciary Committee’s concerns will be addressed as H.R. 10 goes to the floor. In addition, I agree with you that on the provisions within the Judicial Committee’s jurisdiction in H.R. 10, the “Financial Services Act of 1999.”

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute of a constituent consisting of the text of the Committee on Rules print dated June 24, 1999, is considered as an original bill for the purpose of amendment under the 5-minute rule and is considered read.

The text of the amendment in the nature of a substitute is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE: PURPOSES; TABLE OF CONTENTS.
(a) SHORT TITLE.—This Act may be cited as the “Financial Services Act of 1999.”
(b) PURPOSES.—The purposes of this Act are as follows:

(1) To enhance competition in the financial services industry, in order to foster innovation and efficiency.
(2) To ensure the continued safety and soundness of depository institutions.
(3) To provide necessary and appropriate protections for investors and ensure fair and honest markets in the delivery of financial services.
(4) To avoid duplicative, potentially conflicting, and overly burdensome regulatory requirements through the creation of a regulatory framework for financial holding companies that respects the divergent requirements of each of the component businesses of the holding company, and that is based upon appropriate presumption of strong functional regulation and enhanced regulatory coordination.
(5) To reduce and, to the maximum extent practicable, to eliminate the legal barriers preventing affiliation among depository institutions, securities firms, insurance companies, and other financial service providers and to provide a prudential framework for achieving that result.
(6) To enhance the availability of financial services to citizens of all economic circumstances and in all geographic areas.
(7) To create a competitive federal and commercially available financial services industry.
(8) To facilitate the competitiveness of United States financial service providers internationally.
(9) To ensure compliance by depository institutions with the provisions of the Community Reinvestment Act of 1977 and enhance the ability of depository institutions to meet the capital and credit needs of all citizens and communities, including underserved communities and populations.
(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:
Sec. 1. Short title; purposes; table of contents.
Sec. 101. Glass-Steagall Act reformed.
Sec. 102. Activity restrictions applicable to bank holding companies which are not financial holding companies.
Sec. 103. Financial holding companies.
Sec. 104. Operation of State law.
Sec. 105. Mutual bank holding companies authorized.
Sec. 105A. Public meetings for large bank acquisitions and mergers.
Sec. 106. Prohibition on deposit production offices.
Sec. 107. Clarification of branch closure requirements.
Sec. 108. Amendments relating to limited purpose banks.
Sec. 109. GAO study of economic impact on community banks, other small financial institutions, insurance agents, and consumers.
Sec. 110. Responsiveness to community needs for financial services.
Sec. 111. Streamlining the submission of financial holding companies.
Sec. 112. Elimination of application requirements for financial holding companies.
Sec. 113. Authority of State insurance regulators and Securities and Exchange Commission.
Sec. 114. Prudential safeguards.
Sec. 115. Examination of investment companies.
Sec. 116. Limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board.
Sec. 133. Conforming amendments.
Sec. 136. Wholesale financial institutions.
Sec. 132. Authorization to release reports.
Sec. 131. Wholesale financial holding companies established.
Sec. 122. Safety and soundness firewalls between banks and their financial subsidiaries.
Sec. 123. Misrepresentations regarding depository institution liability for obligations of affiliates.
Sec. 124. Repeal of stock loan limit in Federal Reserve Act.
Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions
Chapter I—Wholesale Financial Holding Companies
Sec. 131. Wholesale financial holding companies established.
Sec. 132. Authorization to release reports.
Sec. 133. Conforming amendments.
Sec. 136. Wholesale financial institutions.
Sec. 137. Conforming amendments.
Sec. 131. Wholesale financial holding companies established.
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Sec. 137. Conforming amendments.
Sec. 131. Wholesale financial holding companies established.
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Sec. 122. Safety and soundness firewalls between banks and their financial subsidiaries.
Sec. 123. Misrepresentations regarding depository institution liability for obligations of affiliates.
Sec. 124. Repeal of stock loan limit in Federal Reserve Act.
"(8) shares of any company the activities of which has been determined by the Board by regulation or order under this paragraph as of the day before the date of the enactment of the Financial Services Act of 1999, to be so closely related to banking as to be a proper incident thereto (subject to such terms and conditions contained in such regulation or order, unless modified by the Board).")(b) CONFORMING CHANGES TO OTHER STATUTES.—(1) AMENDMENT TO THE BANK HOLDING COMPANY ACT AMENDMENTS OF 1990.—Section 105 of the Bank Holding Company Act Amendment of 1990 (12 U.S.C. 1850) is amended by striking "subparagraph (A), (B), and (C)."
(2) AMENDMENT TO THE BANK SERVICE COMPANY ACT.—Section 4(f) of the Bank Service Company Act (12 U.S.C. 1846f) is amended by striking the period and adding at the end the following: "as of the day before the date of enactment of the Financial Services Act of 1999."

SEC. 103. FINANCIAL HOLDING COMPANIES. (a) IN GENERAL.—The Bank Holding Company Act of 1956 is amended by inserting after section 5 (12 U.S.C. 1844) the following new section:

"SEC. 6. FINANCIAL HOLDING COMPANIES.—(a) FINANCIAL HOLDING COMPANY DEFINED.—For purposes of this section, the term "financial holding company" means a bank holding company which meets the requirements of subsection (b).
(b) ELIGIBILITY REQUIREMENTS FOR FINANCIAL HOLDING COMPANIES.—(1) IN GENERAL.—No bank holding company may engage in any activity directly or indirectly acquire or retain shares of any company under this section unless the bank holding company meets the following requirements:

"(A) All of the subsidiary depositary institutions of the bank holding company are well capitalized.

"(B) All of the subsidiary depositary institutions of the bank holding company are well managed.

"(C) All of the subsidiary depositary institutions of the bank holding company have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution by the appropriate Federal banking agency.

"(D) The company has filed with the Board a declaration that the company elects to be a financial holding company and certifying that the company meets the requirements of subparagraphs (A), (B), and (C).

"(E) FOREIGN BANKS AND COMPANIES.—For purposes of paragraphs (1), (2), and (3), the Board shall establish standards comparable to the standards applicable to a foreign bank."

"(2) FAC TORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to financial activities, the Board shall determine whether to initiate a public rulemaking proposing that the subject recommended activity be found to be financial in nature or incidental to a financial activity under this subsection, and shall notify the Secretary of the Treasury in writing of the determination of the Board and, in the event that the Board determines not to seek public comment on the proposal, the reasons for that determination.

"(3) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution acquired by a bank holding company during the 12-month period preceding the submission of a notice under paragraph (1)(D) and any depository institution acquired by the bank holding company after the submission of such notice may be excluded for purposes of paragraph (1)(C) during the 12-month period beginning on the date of such acquisition if—

"(A) the bank has submitted an affirmative plan to the appropriate Federal banking agency to take such action as may be necessary in order for such institution to achieve a rating of 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution by the appropriate Federal banking agency; and

"(B) the plan has been accepted by such agency.

"(c) ENGAGING IN ACTIVITIES THAT ARE FINANCIAL IN NATURE.—"(1) FINANCIAL ACTIVITIES.—

"(A) IN GENERAL.—Notwithstanding section 4(a), a financial holding company may engage in any activity, and acquire and retain the shares of any company engaged in any activity, that the Board has determined by regulation or order and in accordance with subparagraphs (B), (C), and (D), to be financial in nature or incidental to such financial activities;

"(B) financial in nature or incidental to such financial activities; or

"(ii) complementary to activities authorized under this subsection to the extent that the amount of such complementary activities remains small.

"(2) COORDINATION BETWEEN THE BOARD AND THE SECRETARY OF THE TREASURY.—

"(i) PROPOSALS RAISED BEFORE THE BOARD.—

"(1) CONSULTATION.—The Board shall notify the Secretary of the Treasury of, and consult with the Secretary concerning, any request, proposal, or application under this subsection, including a regulation or order under paragraph (a), for a determination of whether an activity is financial in nature or incidental to such a financial activity.

"(2) TREASURY VIEW.—The Board shall not determine that any activity is financial in nature or incidental to a financial activity under this subsection if the Secretary of the Treasury notifies the Board in writing, not later than 30 days after the date of receipt of the notice described in clause (i) (or such longer period as the Secretary under subclause (I) (or such longer period as the Secretary of the Treasury determines by order or regulation that is in effect on the date of enactment of the Financial Services Act of 1999, to be so closely related to banking or managing or controlling banks as to be a proper incident thereto (subject to the same terms and conditions contained in such order or regulation, unless modified by the Board).

"(G) ENGAGING, IN THE UNITED STATES, IN ANY ACTIVITY THAT—

"(i) a bank holding company may engage in outside the United States; and

"(ii) the Board has determined, under regulations issued pursuant to section 4(c)(13) of this Act (as in effect on the day before the date of enactment of the Financial Services Act of 1999) to be usual in connection with the transaction of banking or other financial operations abroad.

"(H) DIRECTLY OR INDIRECTLY ACQUIRING OR CONTROLLING, WHETHER AS PRINCIPAL, ON BEHALF OF 1 OR MORE ENTITIES INCLUDING ENTITIES, OTHER THAN A DEPOSITORY INSTITUTION, THAT THE COMPANY DETERMINES TO BE A PROPER INCIDENT TO A financial activity, the Board shall determine whether to initiate a public rulemaking proposing that the subject recommended activity be found to be financial in nature or incidental to a financial activity under this subsection, and shall notify the Secretary of the Treasury in writing of the determination of the Board and, in the event that the Board determines not to seek public comment on the proposal, the reasons for that determination.

"(1) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to financial activities, the Board shall take into account—

"(A) the purposes of this Act and the Financial Services Act of 1999;

"(B) changes or reasonably expected changes in the marketplace in which bank holding companies compete; and

"(C) reasonably expected changes in the technology for delivering financial services; and

"(D) whether such activity is necessary or appropriate given the size, structure, and nature of the bank holding company and the affiliates of a bank holding company to—

"(ii) compete effectively with any company seeking to provide financial services in the United States;

"(ii) use any available or emerging technological means, including necessary to protect the security or efficacy of systems for the transmission of data or financial transactions, in providing financial services; and

"(iii) offer customers any available or emerging technological means for using financial services.

"(2) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—The following activities shall be considered to be financial in nature:

"(A) Lending, transferring, investing, or otherwise engaging in activities, including investment banking, underwriting activities, or an affiliate of such broker or dealer, as part of a bona fide underwriting or investment banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;

"(ii) such shares, assets, or ownership interests are acquired and held by an affiliate of the bank holding company that is a registered broker or dealer that is engaged in securities underwriting activities, or an affiliate of such broker or dealer, as part of a bona fide underwriting or investment banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;

"(iii) such shares, assets, or ownership interests are held only for such a period of time as will permit the sale or disposition thereof on a reasonable basis consistent with the nature of the activities described in clause (i) and (ii) during the period such shares, assets, or ownership interests are held, the bank
holding company does not actively participate in the day to day management or operation of such company or entity, except insofar as necessary to achieve the objectives of clauses (A) and (B).

``(I) Directly or indirectly acquiring, controlling, whether as principal, on behalf of 1 or more entities (including entities, other than the institution subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

``(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or a subsidiary of a depository institution;

``(ii) such shares, assets, or ownership interests are acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property and casualty insurance (other than credit-related insurance) or providing and issuing annuities;

``(iii) such shares, assets, or ownership interests represent an investment made in the ordinary course of business by the parent company in accordance with relevant State law governing such investments; and

``(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not directly or indirectly participate in the day-to-day management or operation of the company or entity except as necessary to achieve the objectives of clauses (ii) and (iii).

``(4) AUTHORIZATION OF NEW FINANCIAL ACTIVITIES.—The Board shall, by regulation or order and in accordance with paragraph (1)(B), define, consistent with the purposes of this Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to activities which are financial in nature:

``(A) Lending, exchanging, transferring, in-fusing for others, or safeguarding financial instruments or funds;

``(B) Providing any device or other instrument for transferring money or other financial assets or securities, partnership interests, trust certificates or other instruments representing ownership made in the ordinary course of business by the parent company in accordance with relevant State law governing such investments; and

``(C) Arranging, effecting, or facilitating financial holding company activities of any functionally regulated nondepository institution, for the protection of the company and the subsidiaries of such company, adequately to manage operational risks within the company, and with all relevant Federal and State regulations and wholesale financial institutions; and

``(2) the holding company has reasonable cause to believe that a failure to correct the conditions on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances, and

``(B) the appropriate Federal banking agency may impose such limitations on the conduct or activities of an affiliated depository institution or subsidiary of a depository institution as the appropriate Federal banking agency determines to be appropriate under the circumstances.

``(A) F A C T O R S F O R C O N S ID E R A T I O N .—In reviewing any prior notice filed under this paragraph, the Board shall take into consideration—

``(i) whether the company is in compliance with all applicable criteria set forth in subsection (b) and the provisions of subsection (d);

``(ii) whether the proposed combination represents an undue aggregation of resources;

``(iii) whether the proposed combination poses a risk to the deposit insurance system;

``(iv) whether the proposed combination poses a risk to State insurance guaranty funds;

``(v) whether the proposed combination can reasonably be expected to further the purposes of this Act and produce benefits to the public; and

``(vi) whether, and to the extent to which, the proposed combination poses an undue aggregation of risk to the stability of the financial system in the United States.

``(C) R E Q U I R E D I N F O R M A T I O N .—The Board may, by regulation or order and in accordance with paragraph (1)(B), require any person to furnish to the Board such information as the Board determines to be relevant to the Board's consideration of the proposed combination.

``(2) A G R E E M E N T T O C O R R E C T C O N D I T I O N S R E Q U I R E D .—Within 45 days of receipt by a financial holding company of a notice given under paragraph (1) or such additional period as the Board may permit), the company shall execute an agreement acceptable to the Board to comply with the requirements applicable to a financial holding company.

``(3) A U T H O R I T Y T O R E T A I N L I M I T E D N O N - F I N A N C I A L A C T I V I T I E S A N D A F F I L I A T I O N S .—Until the conditions described in a notice to a financial holding company under paragraph (1) are corrected—

``(A) the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances; and

``(B) the appropriate Federal banking agency may impose such limitations on the conduct or activities of an affiliated depository institution or subsidiary of a depository institution as the appropriate Federal banking agency determines to be appropriate under the circumstances.

``(A) I N G E N E R A L .—If, after receiving a notice under paragraph (1), a financial holding company does not—

``(A) execute and implement an agreement in accordance with paragraph (2);

``(B) comply with any limitations imposed under paragraph (3); and

``(C) in the case of a notice of failure to comply with subparagraphs (B) or (C) of subsection (b)(1), restore each depository institution subsidiary to well capitalized status before the end of the 180-day period beginning on the date such notice is received by the company (or such other period permitted by the Board); or

``(D) in the case of a notice of failure to comply with subparagraph (B) or (C) of subsection (b)(1), restore compliance with any such subparagraph by the date the next examination of the depository institution subsidiary is completed or by the end of such other period as the Board determines to be appropriate,

the Board may require such company, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the Board's discretion, to divest control of any depository institution subsidiary or, at the election of the financial holding company, instead to cease to engage in any activity conducted by such company or its subsidiaries pursuant to this section.

``(B) S U B S I D I A R Y S F O R B A N K S U B S I D I A R I E S .—A financial holding company shall assure that—

``(1) the procedures of the holding company for identifying and managing identified and operational risks within the company, and the subsidiaries of such company, adequately protect the subsidiaries of such company which are insured depository institutions or wholesale financial institution from such risks;

``(2) the holding company has reasonable policies and procedures to separate corporate identity and limited liability of such company and the subsidiaries of such company, for the protection of the company's subsidiary insured depository institutions and wholesale financial institutions; and

``(3) the holding company complies with this section and the Board shall examine the activities of any depository institution subsidiary of such company to determine if such institution is maintaining adequate controls over the activities of such depository institution subsidiary.
or indirect ownership or control of shares of a company engaged in any activity if—

"(A) the holding company lawfully was en-
gaged in the activity or held the shares of a
company on September 30, 1985; or

"(B) the holding company is predomin-
antly engaged in financial activities as de-
defined in paragraph (2); and

"(C) the activity engaged in such activity
continues to engage only in the same activi-
ties that such company conducted on Sep-
tember 30, 1985, and other activities permis-
sible under subsection (e).

"(2) Predominantly financial.—For pur-
poses of this subsection, a company is pre-
dominantly engaged in financial activities if
the annual gross revenues derived by the
holding company and all subsidiaries of the
holding company (excluding revenues de-
erved from subsidiary depository institu-
tions), on a consolidated basis, from engag-
ing in activities that are financial in nature
or incidental to activities that are financial
in nature under subsection (c) represent at
least 85 percent of the consolidated annual
gross revenues of the company.

"(3) No expansion of grandfath-
ered commercial activities.—Notwithstand-
ing any other provision of this sub-
section or subparagraph (H) or (I) of sub-
section (c), no holding company that
engages in activities that are financial in
nature or incidental to activities that are
financial in nature under subsection (c) may,
in any arrangement, by or through any
company described in subparagraph (A), or
permit any of its products or services to be
offered or marketed, directly or through
any arrangement, by or through any
company described in subparagraph (A). If
the holding company engages in any activity
that has not been declared to be financial in
nature or incidental to activities that are
financial in nature under subsection (c), the
holding company shall engage in any ac-

tivity only if it is determined to be financial in
nature or incidental to activities that are
financial in nature under subsection (c).

"(4) Continuing revenue limitation on
grandfathered commercial activities.—A de-
pository institution controlled by a financial
holding company that engages in activities or
holds shares pursuant to this subsection, or a
subsidiary of such holding company that
may acquire, in any merger, consolidation, or
type of business combination, assets of
any other company which is engaged in any
activities required by this Act and the Board
does not have determined to be financial in
nature or incidental to activities that are
financial in nature under subsection (c), shall
not engage in any activity that the Board has
determined to be financial in nature or
incidental to activities under subsection (c).

"(5) Cross marketing restrictions ap-
pliable to commercial activities.—A depos-
itory institution controlled by a financial
holding company that engages in activities
that are financial in nature or incidental to
activities that are financial in nature under
subsection (c) or (i) of subparagraph (H) or (I)
of subsection (c) shall not—

"(A) offer or market, directly or through
any arrangement, by or through any
company described in subparagraph (A), a
company whose activities are conducted or
whose shares are owned or controlled by the
financial holding company pursuant to this
subsection (or subparagraph (H) or (I) of sub-
section (c)); or

"(B) permit any of its products or services
to be offered or marketed, directly or through
any arrangement, by or through any
company described in subparagraph (A).

"(6) Transactions with nonfinancial af-
filiates.—A depository institution con-
trolled by a financial holding company may
not engage in a covered transaction (as de-
defined by section 23A(b)(7) of the Federal Re-
serve Act) with any affiliate controlled by the
company pursuant to section 10(c), this sub-
section, or subparagraph (H) or (I) of sub-
section (c).

"(7) Sunset of grandfather.—A financial
holding company engaged in any activity,
retaining direct or indirect ownership or
control of shares of a company, pursuant to
this subsection, shall terminate such activi-
ty and divest ownership or control of the
shares of such company before the end of the
10-year period beginning on the date of the
enactment of the Financial Services Act of
1999, except as provided in section 6 of the
Bank Holding Company Act of 1956 (as added
by subsection (a)).

"(8) Other contents.—Each report sub-
mitted to the Committee pursuant to par-
agraph (1) shall also contain the follow-
ing:

"(A) A discussion of actions by the Board of
Governors of the Federal Reserve System
and the Secretary of the Treasury, as well
as the Board and the Secretary in con-
junction with the Federal Reserve System,
whether by regulation, order, interpretation, or
guideline or by approval or disapproval of an
application, with regard to activities of fi-
nancial holding companies that are inci-
dental to activities financial in nature or
complementary to such financial activities.

"(B) An analysis and discussion of the risks
posed by commercial activities of financial
holding companies to the safety and sound-
ness of affiliate depository institutions.

"(C) An analysis and discussion of the effect
of mergers and acquisitions under section 6
of the Bank Holding Company Act of 1956 on
market concentration in the financial serv-
ices industry.

"(D) An analysis and discussion, by the
Board and the Secretary in consultation
with the other Federal banking agencies (as
defined in section 3(c) of the Federal Deposit
Insurance Act), of the impact of the imple-
mentation of this Act and the amendments
made by this Act, on the extent of meeting
community credit needs and capital avail-
ability under the Community Reinvestment

SEC. 104. OPERATION OF STATE LAW.

(a) Affiliations.—In general.—Except as provided in paragraph (2), no State may, by statute, reg-
ulation, order, interpretation, or other ac-
tion, prevent or restrict an insured depos-
itory institution or any subsidiary or affili-
te to activities financial in nature or inci-
dental to activities financial in nature, or
cashless transactions, or any subsidiary or
affiliate thereof, from being affiliated directly or indirectly or associated with any person or entity, as au-
thorized or permitted by this Act or any
other provision of Federal law.

(b) Insurance.—With respect to affiliations
between insured depository institutions or
cashless transactions, or any subsidiary or
affiliate thereof, and persons or entities
generated in the business of insurance,
paragraph (1) does not prohibit

"(i) the name and address of each person by
whom, or on whose behalf, the affiliation re-
ferrable to in this subparagraph is to be
effected, as described in subparagraph (A)
referred to as the "insuring party"; or

"(ii) the name and address of each person or
entity that is engaged in the business of
insurance or domiciled in that State (here-

to referred to in this subparagraph is to be
described as the "insuring party") to the
insurance regulatory authority of that State, not later
than 60 days before the effective date of the
purchased acquisition—

"(A) the identity of each person
who, or on whose behalf, the
affiliation referred to in this subparagraph is to be
effected shall have been in existence;

"(B) An analysis and discussion of the risks
posed by commercial activities of financial
holding companies to the safety and sound-
ness of affiliate depository institutions.

"(C) An analysis and discussion of the effect
of mergers and acquisitions under section 6
of the Bank Holding Company Act of 1956 on
market concentration in the financial serv-
ices industry.

"(D) An analysis and discussion, by the
Board and the Secretary in consultation
with the other Federal banking agencies (as
defined in section 3(c) of the Federal Deposit
Insurance Act), of the impact of the imple-
mentation of this Act and the amendments
made by this Act, on the extent of meeting
community credit needs and capital avail-
ability under the Community Reinvestment
(III) a list of all individuals who are, or who have been selected to become, directors or executive officers of the acquiring party or who perform, or will perform, functions approximating the functions of such positions, including for each such individual, the information re-
quired by clause (ii); (iv) the source, nature, and amount of the consideration used, or to be used, in effecting the merger or other acquisition of control, a description of any transaction wherein funds were, or are to be, offered for any such pur-
pose, and the identity of persons furnishing such consideration, except that, if a source of such consideration is a loan made in the lender is the entity that has the ultimate right to the identity of the lender shall remain confiden-
tial if the person filing such statement re-
ques-- (v) fully audited financial information as to the earnings and financial condition of each acquiring party for the 5 fiscal years preceding the date of notification of each such acquiring party, or for such lesser pe-
riod as such acquiring party and any prede-
cessors thereof shall have been in existence, and similar unaudited information as of a date not less than 6 months prior to the date of notification, except that, in the case of an acquiring party that is an insurer actively engaged in the business of insurance, the financial information of such insurer need not be audited, but such audit may be required if the need therefor is determined by the insurance regulator of that State; (vi) any plans or proposals that each ac-
quiring party may have to liquidate such in-
surer, to sell its assets, or to merge or con-
solidate it with any person or to make any other material change in its business or cor-
porate structure or management; (vii) the number of shares of any security of the acquiring party that the acquiring party pro-
dposes to acquire, the terms of any offer, re-
quest, invitation, agreement, or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at; (viii) the amount of each of all security of the insurer that is beneficially owned or concerning which there is a right to ac-
quire beneficial ownership by each acquiring party; (ix) a full description of any contracts, ar-
rangements, or understandings with respect to any controlling person of any acquiring party or any person who performs, or will perform, functions approximating the functions of such positions, including any agreements or understandings, written or oral, with respect to the rights to acquire, sell, exercise, pledge, or otherwise dispose, of any security of the insurer that is beneficially owned or concerning which there is a right to acquire beneficial ownership by any person; (x) a description of the purchase of any se-
curity in the insurer during the 12-month pe-
riod preceding the date of notification by any acquiring party, including the dates of purchase, names of the purchasers, and con-
sideration paid, or agreed to be paid, there-
for; (xi) a description of any recommendations to purchase any security of the insurer made during the 12-month period preceding the date of notification by any acquiring party or by any person based upon interviews or at the suggestion of such acquiring party; (xii) copies of all tender offers for, requests or invitations for tender of, exchange offers for and agreements to acquire or exchange any securities of the insurer and, if distributed, a description soliciting material relat-
ing thereto; and (xiii) the terms of any agreement, con-
tract, or understanding made with any broker-dealer as to solicitation of securities by the insurer for tender and the amount of any fees, commissions, or other compensa-
tion to be paid to broker-dealers with regard thereto; (B) in the case of a person engaged in the business of insurance which is the subject of or involved in such acquisition in control, the State of domicile of such person from reviewing or taking action (including approval or disapproval) with regard to the acquisition, as required in control, as long as the State reviews and actions-- (i) completed by the end of the 60-day period beginning on the later of the date the State received notice of the proposed action or the date the State received the informa-
tion referred to in section 3 of the Federal Trade Commission Act to the extent that such sec-
section 5 relates to unfair methods of competi-
tion. (1) ACTIVITIES. (A) IN GENERAL.---Except as provided in paragraphs (2) and (3) and except with respect to in-
insurance sales, solicitation, and cross mar-
ketings activities, which shall be governed by paragraph (2), no State may, by statute, reg-
rules, order, interpretation, or other ac-
tion, prevent or restrict an insured deposi-
tory institution, wholesale financial institu-
tion, or subsidiary or affiliate thereof from engaging directly or indirectly, either by itself or in conjunction with a subsidiary, af-
filiate, or any other entity or person, in any activity authorized or permitted under this Act. (2) INSURANCE SALES.--- (A) IN GENERAL.---In accordance with the length of the period set forth in the decision of the Supreme Court of the United States in Barnett Bank of Marion County N.A. v. Nelson, 517 U.S. 25 (1996), no State may, by statute, regulation, order, inter-
pretation, or other action, prevent or sig-
ificantly interfere with the ability of an in-
sured depository institution or wholesale fi-
nancial institution, or any subsidiary or affili-
ate thereof, to engage, directly or indi-
rectly, either by itself or in conjunction with a subsidiary, affiliate, or any other entity or person, in any insurance sales, solicitation, or cross-mar-
ketings activity. (B) CERTAIN STATE LAWS PRESERVED.---Not-
withstanding paragraph (2) and the restrictions imposed by the antitrust laws of any State, no State may, by statute, regulation, order, or any other entity or person, in any insurance sales, solicitation, or cross-mar-
ketings activity, which shall be governed by paragraph (2), no State may, by statute, reg-
rules, order, interpretation, or other ac-
tion, prevent or restrict an insured deposi-
tory institution, wholesale financial institu-
tion, or subsidiary or affiliate thereof from engaging directly or indirectly, either by itself or in conjunction with a subsidiary, affil-
iate, or any other entity or person, in any activity authorized or permitted under this Act. (3) PRESERVATION OF STATE ANTI TRUST AND GENERAL CORPORATE LAWS.--- (A) IN GENERAL.---Subject to subsection (c) and the nondiscrimination provisions con-
tained in such subsection, no provision in paragraph (1) shall be construed as affecting the State of domicile of any person (other than a State or the Federal Government) authorizing or requiring any agree-
ment to purchase any security of the insurer, to sell its assets, or to merge or consolidate it with another person or to make any other material change in its business or corporate structure or management, including a transac-
tion to be paid to broker-dealers with regard thereto; and such agreements or understandings, written or oral, with respect to the rights to acquire, sell, exercise, pledge, or otherwise dispose, of any security of the insurer that is beneficially owned or concerning which there is a right to acquire beneficial ownership by any person; (x) a description of the purchase of any se-
curity in the insurer during the 12-month pe-
riod preceding the date of notification by any acquiring party, including the dates of purchase, names of the purchasers, and con-
sideration paid, or agreed to be paid, there-
for; (xi) a description of any recommendations to purchase any security of the insurer made during the 12-month period preceding the date of notification by any acquiring party or by any person based upon interviews or at the suggestion of such acquiring party; (xii) copies of all tender offers for, requests or invitations for tender of, exchange offers for and agreements to acquire or exchange any securities of the insurer and, if distributed, a description soliciting material relat-
ing thereto; and (xiii) the terms of any agreement, con-
tract, or understanding made with any broker-dealer as to solicitation of securities by the insurer for tender and the amount of any fees, commissions, or other compensa-
of insurance at the time at which the serv-
ices are performed, except that, in this
case, the term "services as an insurance
agent or broker" does not include a refer-
ence by an insured depository institution of
a customer or prospective customer to a
potential customer to a licensed insurance
agent or broker that does not include a dis-
cussion of specific insurance policy terms
and conditions.

(v) Restrictions prohibiting any compensa-
tion paid to or received by any individual who
is not licensed to sell insurance, for the
Refer to a person that seeks or
seeks an opinion or advice on, any
insurance product to a person that sells or
provides an opinion or advice on such prod-

(vi) Restrictions prohibiting the release of
the information concerning the pre-
miums, terms, and conditions of insurance
coverage, including expiration dates and
allocation, and insurance claims of a customer
contained in the records of the insured de-
pository institution or wholesale financial
institution, or a subsidiary or affiliate thereof,
to any entity other than an officer,
director, employee, agent, subsidiary,
or affiliate of an insured depository institu-
tion or a wholesale financial institution, for
the purchase or selling insurance, without
the express consent of the customer, other
than a prohibition that provides—

(i) the disclosure to an insured depository
institution or a wholesale financial
institution, or subsidiary or affiliate thereto,
that the insured depository institution or
wholesale financial institution, or subsidiary
or affiliate thereof, in connection with a merger
with or acquisition of an uninsured depository
institution, agent, or broker;

(ii) the release of information as otherwise
authorized by State or Federal law.

(vii) Restrictions prohibiting the use of
health information obtained from the
insurance records of a customer for any purpose,
other than for its activities as a licensed
agent or broker, without the express consent of
the customer.

(viii) Restrictions prohibiting the exten-
sion of credit or any product or service that
is equivalent to, or the purchase of, or sale of
any product of, a customer or the
customer's property of any kind, or furnishing
of any services or fixing or varying the con-

(vi) Restrictions prohibiting the release of
the information concerning the pre-
miums, terms, and conditions of insurance
coverage, including expiration dates and
rates, and insurance claims of a customer
contained in the records of the insured de-
pository institution or wholesale financial
institution, or a subsidiary or affiliate thereof
or in connection with a merger or
acquisition of an uninsured depository
institution, agent, or broker.

where practi-

tical, to the customer prior to the sale of
any insurance policy that such policy—

(i) is not issued by the Federal Deposit
Insurance Corporation;

(ii) is not guaranteed by the insured dis-
pository institution or wholesale financial
institution or if, appropriate, its subsidiaries
or affiliates or any person soliciting the pur-
chase of or selling insurance on the premises
thereof; and

(iii) it does not distinguish by its terms be-
tween insured depository institutions,
wholesale financial institutions, and subsidi-
ary or affiliates thereof engaged in the ac-

(iv) LIMITATION ON INFERENCES.ÐNothing in
this paragraph shall be construed to create
a prohibition that would prevent any insured
depository institution or wholesale financial
institution, or any subsidiary or affiliate thereof
to inform a customer or prospective cus-

(ii) NONDISCRIMINATION.ÐSubsection (c)
does not apply with respect to any State statute,
regulation, order, interpretation, or cross
marketing activities, or other action regarding
insurance sales, solicitation,

(c) LIMITATIONS.—

(i) OCC REFERENCE.—Section 306(e) does not
apply with respect to any State statute,
regulation, order, interpretation, or other
action regarding insurance sales, solicita-
tion, or cross marketing activities described
in subparagraph (A) that was issued, adopt-
ed, or enacted before September 3, 1998, and
that is not described in subparagraph (B).

(ii) NONDISCRIMINATION.—Subsection (c)
do not apply with respect to any State statute,
regulation, order, interpretation, or other
action regarding insurance sales, solicita-
tion, or cross marketing activities described
in subparagraph (A) that was issued, adopt-
ed, or enacted before September 3, 1998, and
that is not described in subparagraph (B).

(iii) CONSTRUCTION.—Nothing in this para-
graph shall be construed to limit the applica-

(iv) LIMITATION ON INFERENCES.ÐNothing in
this paragraph shall be construed to create
a prohibition that would prevent any insured
depository institution or wholesale financial
institution, or any subsidiary or affiliate thereof
or in connection with a merger or
acquisition of an uninsured depository
institution, agent, or broker.

where practi-

tical, to the customer prior to the sale of
any insurance policy that such policy—

(i) is not issued by the Federal Deposit
Insurance Corporation;

(ii) is not guaranteed by the insured dis-
pository institution or wholesale financial
institution or if, appropriate, its subsidiaries
or affiliates or any person soliciting the pur-
chase of or selling insurance on the premises
thereof; and

(iii) it does not distinguish by its terms be-
tween insured depository institutions,
wholesale financial institutions, and subsidi-
ary or affiliates thereof engaged in the ac-

(iv) LIMITATION ON INFERENCES.ÐNothing in
this paragraph shall be construed to create
a prohibition that would prevent any insured
depository institution or wholesale financial
institution, or any subsidiary or affiliate thereof
or in connection with a merger or
acquisition of an uninsured depository
institution, agent, or broker.

where practi-

tical, to the customer prior to the sale of
any insurance policy that such policy—

(i) is not issued by the Federal Deposit
Insurance Corporation;

(ii) is not guaranteed by the insured dis-
pository institution or wholesale financial
institution or if, appropriate, its subsidiaries
or affiliates or any person soliciting the pur-
chase of or selling insurance on the premises
thereof; and

(iii) it does not distinguish by its terms be-
tween insured depository institutions,
wholesale financial institutions, and subsidi-
ary or affiliates thereof engaged in the ac-

(iv) LIMITATION ON INFERENCES.ÐNothing in
this paragraph shall be construed to create
a prohibition that would prevent any insured
depository institution or wholesale financial
institution, or any subsidiary or affiliate thereof
or in connection with a merger or
acquisition of an uninsured depository
institution, agent, or broker.

where practi-

tical, to the customer prior to the sale of
any insurance policy that such policy—

(i) is not issued by the Federal Deposit
Insurance Corporation;
(1) distinguishes by its terms between insured depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, and other persons or entities engaging in activities, in a manner or degree, or over which the Board has direct supervision, and in such a manner or degree as to impose undue burden on interstate or foreign banking activities; (2) by adding at the end of each section in which a reference is made to any bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(a) such new subsection—

"(1) by inserting after the Board, including the Comptroller of the Currency;" before the end of the 180-day period begins; and

(b) such new subsection—

"(A) permitting a bank holding company to apply to such company and such company to remove such restriction if such determination or such removal is necessary to prevent or to terminate the immediate and continuous failure of any insured depository institution;" before the end of the 180-day period begins; and

(c) by inserting after subsection (A)(i) the following new paragraph:

"(ii) by inserting "and" after the Board.";

Sec. 6. Public Meetings for Large Bank Consolidations and Mergers.

In each case of a consolidation or merger under this Act involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the Comptroller shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the agency believes, in the sole discretion of the agency, there will be a substantial public impact.

(b) Federal Deposit Insurance Act—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is amended by adding at the end the following new paragraph:

"(3) Public Meetings.—In each merger transaction involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the responsible agency shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the agency believes, in the sole discretion of the agency, there will be a substantial public impact.

Sec. 105A. Public Meetings for Large Bank Consolidations and Mergers.

In each case of a consolidation or merger under this Act involving 1 or more banks each of which has total assets of $1,000,000,000 or more, the Comptroller shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the agency believes, in the sole discretion of the Comptroller, there will be a substantial public impact.

(b) Federal Deposit Insurance Act—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is amended by adding at the end the following new paragraph:

"(3) Public Meetings.—In each merger transaction involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the Comptroller shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the agency believes, in the sole discretion of the agency, there will be a substantial public impact.

Sec. 105. Mutual Bank Holding Companies Authorized.

Section 3(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)(2)) is amended—

(1) by striking the second comma after the Comptroller of the Currency; and

(2) by inserting at the end the following new subsection—

"(B) In General.—In every case; and

"(C) by inserting after subclause (X) the following new subclause:

"(XI) assets that are derived from, or are incidental to, consumer lending activities in which the bank was lawfully engaged as of May 5, 1967; and

Sec. 106. Prohibition on Deposit Production Offices.

(a) In General.—Section 106 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1831m) is amended by adding at the end the following new paragraphs—

"(1) Public Meetings.—In each case of a consolidation or merger under this Act involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the Comptroller shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the agency believes, in the sole discretion of the agency, there will be a substantial public impact.

"(2) Federal Deposit Insurance Act—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is amended by adding at the end the following new paragraph:

"(3) Public Meetings.—In each merger transaction involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the Comptroller shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the agency believes, in the sole discretion of the agency, there will be a substantial public impact.

Sec. 107. Clarification of Branch Closure Requirements.

Section 21(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1831k-4(r)(4)(A)) is amended by inserting "and any bank controlled or by a bank controlled by an out-of-state bank holding company (as defined in section 20(a)(7) of the Bank Holding Company Act of 1956)" before the period.
"(B) implemented procedures that are rea-
sonably adapted to avoid the reoccurrence of
such condition or activity.

The issuance of any notice under this para-
graph that relates to the activities of a bank
shall not be construed or be taken to affect the
authority of the bank to continue to engage in
such activities until the expiration of such
180-day period;

(b) INDUSTRIAL LOAN COMPANIES AFFILIATE
OVERDRAFTS.—Section 2(c)(2)(H) of the Bank
Holding Company Act of 1956 (12 U.S.C.
1844(c)(2)(H)) is amended to insert before the
period end thereof or that is otherwise permi-
ssible for a bank controlled by a company
described in subsection (a)(2) the following:

SEC. 109. GAO STUDY OF ECONOMIC IMPACT ON
COMMUNITY BANKS, OTHER SMALL
FINANCIAL INSTITUTIONS, INSUR-
ANCE AGENTS, AND CONSUMERS.

(a) STUDY REQUIRED.—The Comptroller
General of the United States shall conduct a
study of the projected economic impact and
the actual economic impact that the enact-
ment of this Act will have on financial insti-
tutions, including community banks, reg-
istered brokers and dealers and insurance
companies, which have total assets of
$100,000,000 or less, insurance agents, and
consumers.

(b) REPORTS TO THE CONGRESS.—
(1) The Comptroller General of the United
States shall submit reports to the
Congress, at the times required under
paragraph (2), containing the findings and
conclusions of the Comptroller General with
respect to the study required under sub-
section (a) and such recommendations for
legislative or administrative action as the
Comptroller General may determine to be
appropriate.

(2) TIMING OF REPORTS.—The Comptroller
General shall submit—
(A) a report before the end of the 6-month
period beginning after the date of the
enactment of this Act;
(B) another interim report before the end
of the next 6-month period; and
(C) a final report before the end of the 1-
year period after such second 6-month pe-
riod.

SEC. 110. RESPONSIVENESS TO COMMUNITY
NEEDS FOR FINANCIAL SERVICES.

(a) STUDY.—The Secretary of the Treasury,
in consultation with the Federal banking
agencies, as defined in section 3 of the Federal
Deposit Insurance Act, shall con-
duct a study of the extent to which adequate
services are being provided as intended by the
Community Reinvestment Act of 1977, includ-
ing services in low- and moderate-in-
come neighborhoods and for persons of
modest means, as a result of the enactment of
this Act.

(b) REPORT.—Before the end of the 2-year
period beginning on the date of the enact-
ment of this Act, the Secretary of the Treas-
ury, in consultation with the Federal bank-
ing agencies, shall submit a report to the
Congress on the study conducted pursuant to
subsection (a) and shall include such rec-
ommendations as the Secretary determines
appropriate, for legislative and adminis-
trative action with respect to institutions
covered under the Community Reinvestment

Subtitle B—Streamlining Supervision
of Financial Holding Companies

SEC. 111. STREAMLINING FINANCIAL HOLDING
COMPANY SUPERVISION.

Section 5 of the Bank Holding Company
Act of 1956 (12 U.S.C. 1844(c)) is amended to
read as follows:

"(A) IN GENERAL.—The Board from time to
time may require any bank holding company
and any subsidiary of such company to sub-
mit reports under oath to keep the Board in-
formed as to—
"(i) its financial, systems, for monitoring and
controlling financial and oper-
ating risks, and transactions with deposi-
tory institution subsidiaries of the holding
company; and
"(ii) existence by the company or sub-

subsidy with applicable provisions of this Act,

"(B) USE OF EXISTING REPORTS.—
"(i) IN GENERAL.—The Board shall, to
the fullest extent possible, accept reports in ful-
fillment of the Board's reporting require-
ments that reflect any activities that would per-
mit a bank holding company or any subsidiary
of such company has provided or been required to
provide to other Federal and State super-
visors or to appropriate self-regulatory orga-

"(ii) AVAILABLE.—A bank holding com-
pany or a subsidiary of such company shall
give to the Board, at the request of the
Board, a report referred to in clause (i).

"(iii) REQUIRED USE OF PUBLICLY REPORTED
INFORMATION.—The Board shall, to the fullest
extent possible, in the case of a report of a reg-
report or recordkeeping requirements
under this Act information that is otherwise
required to be reported publicly and exter-

"(iv) REPORTS FILED WITH OTHER
AGENCIES.—In the event the Board requires a re-
port from a functionally regulated non-
depository institution subsidiary or a bank
holding company of a kind that is not re-
quired by another Federal or State regulator.
the Board shall request that the appropriate
regulator or self-regulatory organization
obtain such report. If the report is not made
available to the Board, and the Board finds it
necessary to assess a material risk to the bank
holding company or any of its subsidiary
depository institutions or compliance with this
Act, the Board may require such subsidiary
to provide such a report to the Board.

"(C) DEFINITION.—For purposes of this sub-
section, the term 'functionally regulated
nondepository institution' means—
"(I) a broker or dealer registered under the
Securities Exchange Act of 1934;

"(ii) an insurance company or an

company registered under the Investment
Advisers Act of 1940, or

any State, with respect to the invest-
ment advisory activities of such invest-
ment adviser and activities incidental to such
investment advisory activities;

"(iii) an insurance company subject to su-

"(iv) an entity subject to regulation by the
Commodity Futures Trading Commission,

"(2) EXAMINATIONS.—

"(A) EXAMINATION AUTHORITY.—
"(i) IN GENERAL.—The Board may make ex-
aminations of each bank holding company
and each subsidiary of a bank holding
company—

"(ii) FUNCTIONALLY REGULATED NONDE-

subsidiaries of the holding

"(iii) an insurance company subject to super-

"(iv) an entity subject to regulation by the
Commodity Futures Trading Commission,

"(2) EXAMINATIONS.—

"(A) EXAMINATION AUTHORITY.—
"(i) IN GENERAL.—The Board may make ex-
aminations of each bank holding company
and each subsidiary of a bank holding
company—

"(ii) FUNCTIONALLY REGULATED NONDE-

subsidiaries of the holding

"(iii) an insurance company subject to super-

"(iv) an entity subject to regulation by the
Commodity Futures Trading Commission,

"(2) EXAMINATIONS.—

"(A) EXAMINATION AUTHORITY.—
"(i) IN GENERAL.—The Board may make ex-
aminations of each bank holding company
and each subsidiary of a bank holding
company—

"(ii) FUNCTIONALLY REGULATED NONDE-

subsidiaries of the holding

"(iii) an insurance company subject to super-

"(iv) an entity subject to regulation by the
Commodity Futures Trading Commission,
'(iii) is licensed as an insurance agent with the appropriate State insurance authority.

'(B) Rule of Construction.—Subparagraph (A) shall not be construed as precluding the exercise of any powers authorized by capital adequacy rules, guidelines, standards, or requirements with respect to—

'(i) activities of a registered investment adviser incidental to investment advisory activities or activities incidental to investment advisory activities; or

'(ii) a licensed insurance agent other than insurance agency activities or activities incidental to insurance agency activities.

'(C) Regulations on Indirect Action.—In developing, establishing, or assessing holding company capital or capital adequacy rules, guidelines, standards, or requirements for parent holding companies, the Board shall not take into account the activities, operations, or investments of an affiliated investment company registered under the Investment Company Act of 1940, unless the investment company is—

'(1) a bank holding company; or

'(ii) controlled by a bank holding company by ownership of the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, and the shares owned by the bank holding company have a market value equal to more than $1,000,000.

'(4) Transfer of Board Authority to Appropriate Federal Agency .—

'(A) Authorized .—In the case of any bank holding company which is not significantly engaged in nonbanking activities, the Board, in consultation with the appropriate Federal banking agency, may designate the appropriate Federal banking agency of the lead insured depository institution subsidiary of such bank holding company as the appropriate Federal banking agency for the bank holding company.

'(B) Authority Transferred.—An agency designated by the Board under subparagraph (A) shall have the same authority as the Board under this Act to—

'(i) examine and report on the operations of the bank holding company and any affiliate of such company (other than a depository institution) under section 5.

'(ii) approve or disapprove applications or transactions under section 8.

'(iii) take actions regarding the holding company, any affiliate of the holding company (other than a depository institution), or any unaffiliated part of such company or affiliate under the Federal Deposit Insurance Act and any other statute which the Board may designate.

'(C) Authority Orders .—Section 9 of this Act and section 105 of the Bank Holding Company Act Amendments of 1970 shall apply to orders issued by an agency designated under subparagraph (A) in the same manner such sections apply to orders issued by the Board.

'(5) Functional Regulation of Securities and Insurance Activities .—The Board shall—

'(A) the Securities and Exchange Commission with regard to all interpretations of, and the enforcement of, applicable Federal securities laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of registrado brokers, dealers, and investment advisers required to be registered under State law; and

'(B) the relevant State securities authorities with regard to all interpretations of, and the enforcement of, applicable State securities laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of brokers, dealers, and investment advisers required to be registered under State law; and

'(C) the relevant State insurance authorities with regard to all interpretations of, and the enforcement of, applicable State insurance laws, and rules, regulations, orders, and other directives issued thereunder relating to the activities, conduct, and operations of insurance companies, as the case may be.


'(a) Prevention of Duplicative Filings.—Section 5(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(a)) is amended by adding the following new sentence at the end: "A declaration filed in accordance with section 6(b)(1)(D) shall satisfy the requirements of this subsection with regard to the registration of a bank holding company but not any requirement to file an application to acquire a bank pursuant to section 3."

'(b) Divestiture Procedures.—Section 5(e)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(e)(1)) is amended—

'(1) by striking "Financial Institutions Supervisory Act of 1966," order and inserting "Financial Institutions Supervisory Act of 1966, at the election of the bank holding company—"

'(2) and by striking "(A) order"; and

'(3) by striking "shareholders of the bank holding company. Such distribution" and inserting "shareholders of the bank holding company."

 '(4) by striking "(B) order"; and

'(5) by striking "(C) an affiliate of the depository institution of the bank holding company;" and

'(6) by striking "(D) an insurance company or the Securities and Exchange Commission, or State securities regulator, as the case may be.


'(a) Bank Holding Companies.—Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding the following new subsection:

'(g) Authority of State Insurance Regulator and the Securities and Exchange Commission.—

'(1) In General.—Notwithstanding any other provision of law, any regulation, order, or other action of the Board which requires a bank holding company to provide funds or other assets to a subsidiary insured depository institution shall not be effective for enforcement with respect to an entity described in subparagraph (A) if—

'(A) such funds or other assets are to be provided by—

'(i) a bank holding company that is an insurance company, a broker or dealer registered under the Securities Exchange Act of 1934, an investment company registered under the Investment Company Act of 1940, or an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State; or

'(ii) any other entity described in subparagraph (A) if—

'(i) such funds or other assets are to be provided by—

'(a) a broker or dealer registered under the Securities Exchange Act of 1934, an investment company registered under the Investment Company Act of 1940, or an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State; and

'(b) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker, dealer, investment adviser (solely with respect to investment advisory activities or activities incidental thereto), or investment company, as the case may be.'
shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker, dealer, investment banking, or investment adviser, as the case may be.

"(b) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the appropriate Federal banking agency requires a subsidiary, which is an insurance company, a broker or dealer, an investment company, or an investment adviser (solely with respect to investment advisory activities or activities incidental thereto) described in subsection (a)(1) to provide funds or assets to an insured depositary institution pursuant to any regulation, order, or other action of the appropriate Federal banking agency referred to in subsection (a), the appropriate Federal banking agency shall promptly notify the State insurance authority for the insurance company, the Securities and Exchange Commission, or State securities regulator, as the case may be.

"(c) DIVESTITURE IN LIEU OF OTHER ACTION.—If the appropriate Federal banking agency receives a notice described in subsection (a)(2) from a State insurance authority or the Securities and Exchange Commission with regard to a subsidiary referred to in such subsection, the appropriate Federal banking agency may order the insured depository institution to divest the subsidiary not later than 180 days after receiving the notice, or the subsidiary as the appropriate Federal banking agency determines consistent with the safe and sound operation of the insured depository institution.

(3) Review.—During the period beginning on the date an insured depository institution under subsection (c) to an insured depository institution and ending on the date the divestiture is complete, the appropriate Federal banking agency may impose any restriction or require the insured depository institution's ownership of the subsidiary including restricting or prohibiting transactions between the insured depository institution and the subsidiary, as are appropriate under the circumstances.

SEC. 114. PRUDENTIAL SAFEGUARDS.

(a) COMPTROLLER OF THE CURRENCY.--(1) IN GENERAL.—The Comptroller of the Currency may, by regulation or order, impose restrictions or requirements on relationships or transactions between a foreign bank, a subsidiary of such institution; or between a branch, agency, or commercial lending company of a foreign bank in the United States and any affiliate of the United States and any affiliate of the United States in such foreign bank that the Board finds are consistent with the public interest, the purposes of this Act, and the standards in paragraph (2).

(2) STANDARDS.—The Comptroller of the Currency may impose restrictions or requirements on relationships or transactions between a foreign bank, a subsidiary of such institution; or between a branch, agency, or commercial lending company of a foreign bank in the United States and any affiliate of the United States in such foreign bank that the Board finds are consistent with the public interest, the purposes of this Act, and the standards in paragraph (2).

(c) FEDERAL DEPOSIT INSURANCE CORPORATION.—(1) IN GENERAL.—The Federal Deposit Insurance Corporation may, by regulation or order, impose restrictions or requirements on relationships or transactions between a foreign bank, a subsidiary of such institution; or between a branch, agency, or commercial lending company of a foreign bank in the United States and any affiliate of the United States in such foreign bank that the Corporation finds are consistent with the public interest, the purposes of this Act, and the Federal Deposit Insurance Act, and the Federal Deposit Insurance Act, and other Federal law applicable to depository institution subsidiaries of bank holding companies or State banks (as the case may be), and the standards in paragraph (2).

(2) STANDARDS.—The Federal Deposit Insurance Corporation may exercise authority under paragraph (1) if the Corporation finds that such action will have any of the following effects:

(A) Avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund.

(B) Enhance the financial stability of banks.

(C) Avoid conflicts of interest or other abuses.

(D) Enhance the privacy of customers of the State nonmember bank or any subsidiary of the bank.

(E) Promote the application of national treatment and equality of competitive opportunity between subsidiaries owned or controlled by the State nonmember bank and any subsidiary of a bank holding company and any subsidiary of an insured depository institution of the United States.

(3) REVIEW.—The Board of Governors of the Federal Reserve System shall regularly—

(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

(B) modify or eliminate any restriction or requirement the Board finds is no longer required for such purposes.

SEC. 115. EXAMINATION OF INVESTMENT COMPANIES.

(a) EXCLUSIVE COMMISSION AUTHORITY.—(1) IN GENERAL.—Except as provided in paragraph (3), the Commission shall be the sole Federal agency with authority to inspect and examine any registered investment company that is not a bank holding company or a savings and loan holding company.

(2) EXCEPTION.—Except as provided in paragraph (3), a Federal banking agency may not inspect or examine any registered investment company that is a bank holding company or a savings and loan holding company.

(b) EXAMINATION.—Nothing in this subsection prevents the Federal Deposit Insurance Corporation, if the Corporation finds it necessary to disclose information to the extent necessary for the agency to carry out its statutory responsibilities.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) BANK HOLDING COMPANY.—The term ‘bank holding company’ shall have the same meaning as in section 2 of the Bank Holding Company Act of 1956.
(2) Commission.—The term "Commission" means the Securities and Exchange Commission.

(3) Federal banking agency.—The term "Federal banking agency" has the same meaning as in section 3(2) of the Federal Deposit Insurance Act.

(4) Registered investment company.—The term "registered investment company" means an investment company which is registered with the Commission under the Investment Company Act of 1940.

(5) Savings and loan holding company.—The term "savings and loan holding company" has the same meaning as in section 10(a)(1)(A) of the Federal Home Loan Bank Act.

SEC. 116. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by inserting after section 10 the following new section:

"SEC. 10A. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

(a) LIMITATION ON DIRECT ACTION.—

"(1) In general.—The Board may not preclude regulations, issue or seek entry of orders, change or rescind orders, impose or modify sanctions, take any action against, or order, consent, or direct any person to take any action against, any banking organization or any nonbank subsidiary of a banking organization, or order, consent, or direct any action against or with respect to a regulated subsidiary of a bank holding company unless the Board finds that such action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by such subsidiary that poses a material risk to—

(A) the financial safety, soundness, or stability of an affiliated depository institution; or

(B) the domestic or international payment system.

(b) LIMITATION ON BOARD ACTION.—The Board shall not take action otherwise permitted under subsection (a) unless the Board finds that it is not reasonably possible to effectuate its goals and objectives by other means.

(c) ACTIONS SPECIFICALLY AUTHORIZED.—Notwithstanding subsection (a), the Board may take action under this Act or section 10 of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 1811 et seq.) with respect to a commodity futures contract or a financial futures contract (including a financial futures contract on a security or commodity futures contract) to prevent the initiation of such contract, including, with respect to such a contract, the exercise or enforcement of any right under such contract, if the Board finds that such action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by a regulated subsidiary that poses a material risk to—

(A) the financial safety, soundness, or stability of an affiliated depository institution; or

(B) the domestic or international payment system.

(d) REGULATED SUBSIDIARY DEFINED.—For purposes of this section, the terms 'regulated subsidiary' and 'regulated subsidiary of a bank holding company' mean any subsidiary or affiliate (other than in connection with credit-related insurance) of an insured depository institution that receives assistance in accordance with this Act, or that limits the authority of the Board of Governors of the Federal Reserve System to make or require reports, to require examinations, or to impose capital requirements on or with respect to such a subsidiary or affiliate (other than in connection with credit-related insurance) in a company pursuant to paragraph (2) only if—

(1) the bank has received the approval of the Comptroller of the Currency under section 2(3)(B) of the Commodity Futures Trading Commission Act of 1974 (7 U.S.C. 21a(3)(B)), and any depository institution which becomes an affiliate of a bank holding company which is an affiliate of a Federal Reserve member bank at the most recent examination of each such depository institution affiliates of such national bank, unless a national bank is specifically authorized by the express terms of a Federal statute and not by implication or interpretation to acquire shares of or an interest in, or to control, such subsidiary, such as by paragraph (2) of this subsection and section 25A of the Federal Reserve Act.

(b) SPECIFIC AUTHORIZATION TO CONDUCT ACTIVITIES WHICH ARE FINANCIAL IN NATURE.—Subject to paragraphs (3) and (4), a national bank, its subsidiary, or any person controlling, controlled by, or under common control with a national bank, may take action under this Act or section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818 et seq.) with respect to a subsidiary of a national bank that—

(A) is not permissible for a national bank to engage in directly; or

(B) is conducted under terms or conditions that are necessary or appropriate to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by a regulated subsidiary that poses a material risk to—

(1) the financial safety, soundness, or stability of an affiliated depository institution; or

(2) the domestic or international payment system.

(c) ACTIONS SPECIFICALLY AUTHORIZED.—The Board may take action under this Act with respect to a subsidiary of a national bank that—

(A) the financial safety, soundness, or stability of an affiliated depository institution; or

(B) the domestic or international payment system.

(1) LIMITATION ON DIRECT ACTION.—

"(1) In general.—The Board may not preclude regulations, issue or seek entry of orders, change or rescind orders, impose or modify sanctions, take any action against, or order, consent, or direct any person to take any action against, any national banking association, any member of the Federal Reserve System, or any subsidiary of a national banking association unless the Board finds that such action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by such entity that poses a material risk to—

(A) the financial safety, soundness, or stability of an affiliated depository institution; or

(B) the domestic or international payment system.

(2) LIMITATION ON BOARD ACTION.—The Board shall not take action otherw
of the national bank after such date, may be excluded for purposes of paragraph (3)(C) during the 12-month period beginning on the date of such affiliation if—

"(A) the purpose or such depository institution has submitted an affirmative plan to the appropriate Federal banking agency to take such action as may be necessary to achieve such rating or a satisfactory rating, or the Comptroller has determined that the institution is financially sound; and

"(B) the plan has been approved by such agency.

(7) Definitions.—For purposes of this section, the following definitions shall apply:

"(A) Company; control; affiliate; subsidiary.—The terms 'company', 'control', 'affiliate', and 'subsidiary' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

"(B) Financial subsidiary.—The term 'financial subsidiary' means a company which is a subsidiary of an insured bank and is engaged in financial activities that have been determined to be financial in nature or incidental to such financial activities in accordance with subsection (b)(4), other than activities that are permissible for a national bank to engage in directly or that are authorized under the Bank Service Company Act, section 25 or 25A of the Federal Reserve Act, or any other Federal statute (other than this section) that specifically authorizes the conduct of such activities by its express terms and not by implication or interpretation.

"(C) Well capitalized.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act and, for purposes of this section, the Comptroller shall have exclusive jurisdiction to determine whether a national bank is well capitalized.

"(D) Well managed.—The term 'well managed' means—

"(i) in the case of a depository institution that has been examined, unless otherwise determined in writing by the appropriate Federal banking agency, the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Ratings System (or an equivalent rating under a rating system used by the Comptroller in connection with the most recent examination or subsequent review of the depository institution; and

"(ii) in the case of any depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.

"(E) Incorporation definitions.—The terms 'national banking company', 'national bank', 'financial subsidiary', 'depository institution', and 'subsidiary depository institution' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(b) Activities That Are Financial in Nature.

"(1) Financial activities.—

"(A) In general.—For purposes of subsection (a)(7)(B), an activity shall be considered to be a financial activity of a national bank only if—

"(i) such activity is permitted for a financial subsidiary of the bank represented by a national banking company pursuant to section 6(c)(3) of the Bank Holding Company Act of 1956 (to the extent such activity is otherwise prohibited under this section or any other provision of law or business practice for a subsidiary of a national bank engaged in activities pursuant to subsection (a)(7)(B)); or

"(ii) the Secretary of the Treasury determines that the activity is financial in nature or incidental to such financial activities in accordance with paragraph (B) or paragraph (3)(E).

"(B) Coordination between the Board and the Comptroller of the Currency.

"(1) Proposals raised before the appropriate Federal banking agency.

"(2) Consultation.—The Secretary of the Board shall notify the Comptroller of the Currency of any proposal to conduct or participate in an activity that is financial in nature or incidental to such financial activity.

"(3) Board view.—The Comptroller of the Currency shall determine whether a national bank is well capitalized and the Board shall give notice of such determination to the national bank.

"(E) the aggregate total assets of all comparable depository institutions that the Board determines to be appropriate.

"(D) the gross revenues from all activities conducted under this paragraph that do not exceed 5 percent of the consolidated gross revenues of the national bank.

"(C) neither the Secretary of the Treasury nor the Board has determined that the activity is financial in nature or incidental to financial activities under this subsection; and

"(F) if the national bank provides written notice to the Secretary of the Treasury describing the activity commenced by the subsidiary or conducted by the company acquired no later than 10 business days after commencing the activity or consummating the acquisition.

(C) Provisions Applicable to National Banks that Fail to Meet Requirements.

"(1) In general.—If a national bank or depository institution affiliate is not in compliance with the requirements described in paragraph (A), (B), or (C) of subsection (a)(3), the appropriate Federal banking agency shall notify the Comptroller of the Currency, who shall give notice of such finding to the national bank.

"(2) Agreement to correct conditions required.—Not later than 45 days after receipt by the national bank of a notice given under paragraph (1) or such additional period as the Comptroller of the Currency may permit, the national bank and any relevant affiliates of the depository institution shall execute an agreement acceptable to the Comptroller of the Currency and the other appropriate Federal banking agencies, if any, to comply with the requirements applicable under subsection (a)(3).

"(3) Comptroller of the currency may impose limitations.—Until the conditions described in a notice given under paragraph (1) or such additional period as the Comptroller of the Currency may permit, the national bank and any relevant affiliates of the depository institution shall execute an agreement acceptable to the appropriate Federal banking agencies to comply with the requirements applicable under subsection (a)(3).

"(A) the purposes of this Act and the Financial Services Act of 1999;
SEC. 46. SAFETY AND SOUNDEDNESS FIREWALLS APPLICABLE TO SUBSIDIARIES OF BANKS. 

(a) LIMITING THE EQUITY INVESTMENT OF A BANK IN A SUBSIDIARY. —

(1) CAPITAL DEDUCTION. — In determining whether an insured bank complies with applicable regulatory capital standards—

(A) the appropriate Federal banking agency shall deduct from the assets and tangible equity of the bank the aggregate amount of the outstanding equity investments of the bank in financial subsidiaries of the bank; and

(B) the assets and liabilities of such financial subsidiaries shall not be consolidated with those of the bank.

(2) INVESTMENT LIMITATION. — An insured bank shall not, without prior approval of the appropriate Federal banking agency, make any equity investment in a financial subsidiary of the bank if that investment, when made, exceed the amount that the bank could pay as a dividend without obtaining prior regulatory approval.

(3) TREATMENT OF DELINQUENT EARNINGS. — Thes purposes of this section, the term ‘financial subsidiary’ of an insured deposito- tory institution shall be treated as an outstanding equity investment of the bank in the financial subsidiary.

(B) OPERATIONAL AND FINANCIAL SAFEGUARDS FOR THE BANK. — An insured bank that has a financial subsidiary shall maintain procedures for identifying and managing any financial and operational risks posed by its financial subsidiary.

(C) MAINTENANCE OF SEPARATE CORPORATE IDENTITY AND SEPARATE LEGAL STATUS. —

(1) IN GENERAL. — Each insured bank shall ensure that its subsidiaries and branches conduct their activities with reasonable policies and procedures to preserve the separate corporate identity and legal status of the bank and any financial subsidiary that is a subsidiary of the bank.

(2) EXAMINATIONS. — The appropriate Federal banking agency, as part of each examination, shall review whether an insured bank is observing the separate corporate identity and separate legal status of any subsidiaries and affiliates of the bank.

(D) FINANCIAL SUBSIDIARY DEFINED. — For purposes of this section, the term ‘financial subsidiary’ means the term ‘financial subsidiary’ as defined in section 5136A of the Revised Statutes of the United States, as amended, and in section 5136 of the Revised Statutes of the United States.

(E) REGULATIONS. — The appropriate Federal banking agency shall jointly prescribe regulations implementing this section.

(F) TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARIES AND OTHER AFFILIATES. — Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended by inserting after section 23B (as redesignated subsection (e) as subsection (f); and

(2) by inserting after subsection (d), the following new subsection:

(e) RULES RELATING TO BANKS WITH FINANCIAL SUBSIDIARIES. —

(1) FINANCIAL SUBSIDIARY DEFINED. — For purposes of this section, the term ‘financial subsidiary’ means a company which is a subsidiary of a bank and is engaged in activities that are financial in nature or incidental to such financial activities pursuant to section (a)(2) or (b)(4) of section 5136A of the Revised Statutes of the United States.

(2) APPLICATION TO TRANSACTIONS BETWEEN A FINANCIAL SUBSIDIARY OF A BANK AND THE BANK. — For purposes of applying this section and section 23B to a transaction between a financial subsidiary of a bank and the bank (or between such financial subsidiary and any other subsidiary of the bank which is not a financial subsidiary) and not involving the Federal Deposit Insurance Corporation, the definition of ‘financial subsidiary’ in section 23B(b)(1), the financial subsidiary of the bank —

(A) shall be an affiliate of the bank and any other subsidiary of the bank which is not a financial subsidiary; and

(B) shall not be treated as a subsidiary of the Federal Deposit Insurance Corporation.

(3) APPLICATION TO TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARY AND NONBANK AFFILIATES. —

GENERAL. — A transaction between a financial subsidiary and an affiliate of the financial subsidiary shall not be deemed to be a transaction between a subsidiary of a national bank and a nonbank for purposes of section 23A or section 23B of the Federal Reserve Act.

(CERTAIN AFFILIATES EXCLUDED. — For purposes of subparagraph (A) and notwithstanding paragraph (4), the term ‘affiliate’ shall not include a bank, or a subsidiary of a bank, which is engaged exclusively in activities permissible for a national bank to engage in directly or which are authorized by any Federal law other than section 5136A of the Revised Statutes of the United States.

(EQUITY INVESTMENTS EXCLUDED SUBJECT TO THE APPROVAL OF THE BANKING AGENCY. — Subsection (a)(1) shall not apply so as to limit the equity investment of a bank in a financial subsidiary of such bank, except that any investment that exceeds the amount of a dividend that the bank could pay at the time of the investment without obtaining prior approval of the appropriate Federal banking agency and is in excess of the limitation which would apply under subsection (a)(1), but for this paragraph, may be made only with the approval of the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) with respect to such bank.

SEC. 47. MISREPRESENTATIONS REGARDING DEPOSITORY INSTITUTION LIABILITY FOR OBLIGATIONS OF AFFILIATES. —

(a) IN GENERAL. — Chapter 47 of title 18, United States Code, is amended by inserting after section 1007(h) the following new section:

§ 1008. Misrepresentations regarding financial institution liability for obligations of affiliates.

(a) IN GENERAL. — No institution-affiliated party of an insured depository institution or institution-affiliated party of an insured depository institution shall fraudulently represent that the institution is or will be liable for any obligation of a subsidiary or other affiliate of the institution.

(B) CRIMINAL PENALTY. — Whoever violates subsection (a) shall be fined not more than $5,000 or imprisoned for not more than 2 years, or both.

(C) INSTITUTION-AFFILIATED PARTY DEFINED. — For purposes of this section, the term ‘institution-affiliated party’ has the same meaning as in section 3 of the Federal Deposit Insurance Act and any reference in that section shall also refer to a subsidiary or affiliate of an insured depository institution.

(D) OTHER DEFINITIONS. — For purposes of this section, the terms ‘affiliated’, ‘affiliated party’, and ‘institution-affiliated party’ have the same meanings as in section 3 of the Federal Deposit Insurance Act.
SEC. 124. REPEAL OF STOCK LOAN LIMIT IN FEDERAL RESERVE ACT.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by striking the paragraph designating as "(m)" and inserting "(m) [Repealed]."

SEC. 131. WHOLESALE FINANCIAL HOLDING COMPANIES EMBRACED.

Section 10 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended to read as follows:

"SEC. 10. WHOLESALE FINANCIAL HOLDING COMPANIES.

"(a) Companies That Control Wholesale Financial Institutions.—

"(1) WHOLESALE FINANCIAL HOLDING COMPANY DEFINED.—The term 'wholesale financial holding company' means any company—

"(A) is registered as a bank holding company;

"(B) is predominantly engaged in financial activities described in section 6(f)(2);

"(C) controls 1 or more wholesale financial institutions;

"(D) does not control—

"(i) a bank other than a wholesale financial institution;

"(ii) an insured bank other than an institution permitted under subparagraph (D), (F), or (G) of section 5(a) or (i) a savings association; and

"(E) is not a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1998).

"(2) SAVINGS ASSOCIATION TRANSITION PERIOD.—Notwithstanding paragraph (1)(D)(iii), the Board may permit a company that controls a savings association and that otherwise meets the requirements of paragraph (1) to become supervised under paragraph (1), if the company divests control of any such savings association within such period not to exceed 5 years after becoming supervised under paragraph (1) as permitted by the Board.

"(B) SUPERVISION BY THE BOARD.—

"(1) IN GENERAL.—The provisions of this section shall govern the reporting, examination, and capital requirements of wholesale financial holding companies.

"(2) REPORTS.—

"(A) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board’s reporting requirements under this subparagraph that the wholesale financial holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

"(B) USE OF EXISTING REPORTS.—

"(I) AVAILABILITY.—A wholesale financial holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (ii).

"(C) EXEMPTIONS FROM REPORTING REQUIREMENTS.—

"(I) IN GENERAL.—The Board may, by regulation or order, except any company or class of companies, under such terms and conditions and for such periods as the Board shall provide in such regulation or order, from the provisions of this subparagraph if any regulation prescribed under this paragraph.

"(II) CRITERIA FOR CONSIDERATION.—In making any determination under clause (i) with regard to any person under such clause, the Board shall consider, among such other factors as the Board may determine to be appropriate, the following factors:

"(II)(i) Whether information of the type required under this paragraph is available from a supervisory agency (as defined in section 1101(7) of the Right to Financial Privacy Act of 1978) or a foreign regulatory authority of a similar type.

"(II)(ii) The primary business of the company.

"(III) The nature and extent of the domestic and foreign regulation of the activities of the company.

"(3) EXAMINATIONS.—

"(A) LIMITED USE OF EXAMINATION AUTHORITY.—The Board shall examine each wholesale financial holding company and each subsidiary of such company in order to—

"(i) inform the Board regarding the nature of the operations and financial condition of the wholesale financial holding company and its subsidiaries;

"(ii) inform the Board regarding—

"(I) the financial and operational risks within the wholesale financial holding company system that may affect any depository institution owned by such holding company; and

"(II) the systems of the holding company and its subsidiaries for monitoring and controlling those risks; and

"(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any depository institution controlled by the wholesale financial holding company and any of the company’s other subsidiaries.

"(B) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a wholesale financial holding company under this paragraph to—

"(i) the holding company; and

"(ii) any subsidiary (other than an insured depository institution subsidiary) of the holding company that, because of the size, condition, or activities of the subsidiary, the nature or size of transactions between such subsidiary and any affiliated depository institution, or the centralization of functions within the system, could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

"(C) DEPENDENCY TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use the reports of examination of depository institutions made by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision or the appropriate State depository institution supervisory authority for the purposes of this section.

"(D) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, defer to the examination by the Board or by any State or Federal government insurance agency responsible for the supervision of the insurance company.

"(E) CONFIDENTIALITY OF REPORTED INFORMATION.—

"(1) IN GENERAL.—Withholding any other provision of law, the Board shall not be compelled to disclose any nonpublic information required to be reported under this paragraph or any information requested by the Board by any domestic or foreign regulatory agency, that relates to the financial or operational condition of any wholesale financial holding company or any subsidiary of such company.

"(2) COMPLIANCE WITH REQUESTS FOR INFORMATION.—No provision of this subparagraph shall be construed as authorizing the Board to withhold information from the Congress, or preventing the Board from complying with a request for information from any other Federal department or agency, purposes within the scope of such department’s or agency’s jurisdiction, or from complying with any order of a court of competent jurisdiction in an action brought by the United States or the Board.

"(3) COORDINATION WITH OTHER LAW.—For purposes of section 15 of the United States Code, this subparagraph shall be considered to be a statute described in subsection (b)(3)(B) of such section.

"(IV) DESIGNATION OF CONFIDENTIAL INFORMATION.—In prescribing regulations to carry out the requirements of this subsection, the Board shall designate information described in obtained pursuant to this paragraph as confidential information.

"(D) FAX COSTS.—The cost of any examination conducted by the Board under this section may be assessed against, and made payable by, the wholesale financial holding company.

"(4) CAPITAL ADEQUACY GUIDELINES.—

"(A) CAPITAL ADEQUACY PROVISIONS.—Subject to the requirements of, and solely in accordance with, the terms of this paragraph, the Board may adopt capital adequacy rules or guidelines for wholesale financial holding companies.

"(B) METHOD OF CALCULATION.—In developing rules or guidelines under this paragraph, the Board shall—

"(i) FOCUS ON DOUBLE LEVERAGE.—The Board shall focus on the use by wholesale financial holding companies of debt and other liabilities to fund capital investments in subsidiaries.

"(II) NO UNWEIGHTED CAPITAL RATIO.—The Board shall not, by regulation, guideline, order, or otherwise, impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

"(III) NO CAPITAL REQUIREMENT ON REGULATORY ENTITIES.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that is not a depository institution.

"(IV) LIMINATION.—The Board shall not, by regulation, guideline, order, or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that is not a depository institution.

"(V) limitation on other activities.—The Board shall not, by regulation, guideline, order, or otherwise, impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

"(VI) NO CAPITAL REQUIREMENT ON REGULATORY ENTITIES.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that is not a depository institution, or any subsidiary that is not a depository institution.

"(VII) LIMITATION.—The Board shall not, by regulation, guideline, order, or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that is not a depository institution.

"(VIII) limitation on other activities.—The Board shall not, by regulation, guideline, order, or otherwise, impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

"(IX) NO CAPITAL REQUIREMENT ON REGULATORY ENTITIES.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that is not a depository institution, or any subsidiary that is not a depository institution.

"(X) LIMITATION.—The Board shall not, by regulation, guideline, order, or otherwise, impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.
clause shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered or supervised investment advisory or insurance company, or as requiring the other than investment advisory activities or activities incidental to investment advisory activities.

(v) LIMITATIONS ON INDIRECT ACTION.—In developing, establishing, or assessing the capital, capital adequacy rules, guidelines, standards, or requirements for purposes of this paragraph, the Board shall take full account of—

(I) a bank holding company; or

(II) controlled by a bank holding company by reason of ownership by the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, and the shares owned by the bank holding company have a market value equal to more than $1,000,000.

(vi) APPROPRIATE EXCLUSIONS.—The Board shall take full account of—

(I) the investments made applicable to any subsidiary that is not a depositary institution by another Federal regulatory authority or State insurance authority; and

(II) industry norms for capitalization of a company’s unregulated subsidiaries and activities.

(vii) INTERNAL RISK MANAGEMENT MODELS.—The Board may incorporate internal risk management models of wholesale financial holding companies into its capital adequacy guidelines or rules and may take account of the extent to which resources of a subsidiary depositary institution may be used by or available to affiliates of the wholesale financial holding company.

(C) NONFINANCIAL ACTIVITIES AND INVESTMENTS.

(I) Grandfathered activities.—

(A) In general.—Notwithstanding section 4(a), a company that becomes a wholesale financial holding company engaging in, or controls such foreign bank) has invested, or controls pursuant to paragraph (1) or (2) to offer or market any product or service of an affiliated wholesale financial institution; or

(B) any affiliated wholesale financial institution to offer or market any product or service of any company whose shares are owned or controlled by such wholesale financial holding company pursuant to such paragraphs.

(d) QUALIFICATION OF FOREIGN BANK AS WHOLESALE FINANCIAL HOLDING COMPANY.—

(I) In general.—Any foreign bank, or any company that owns or controls a foreign bank, that operates a branch, agency, or commercial lending company in the United States, that operates a branch, agency, or commercial lending company in the United States.

(2) CONDITIONS FOR TREATMENT AS A WHOLESALE FINANCIAL HOLDING COMPANY.—

A foreign bank and a company that owns or controls a foreign bank may not be treated as a wholesale financial holding company unless the bank and company meet and continue to meet the following criteria:

(A) No insured deposits.—No deposits held by or through an affiliate (other than those held by an insured depository institution) of an insured depository institution are insured by the Federal Deposit Insurance Corporation.

(B) Capital standards.—The foreign bank meets risk-based capital standards comparable to the capital standards required for a domestic financial institution, giving due regard to the principle of national treatment and equality of competitive opportunity and the requirements imposed on domestic banks and companies.

SEC. 132. AUTHORIZATION TO RELEASE REPORTS.

(a) Federal Reserve Act.—The last sentence of the eighth undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 360) is amended to read as follows:

The Board of Governors of the Federal Reserve System, in its discretion, and may furnish reports of examination or other confidential supervisory information concerning State member banks or any other entities examined by any other authority of the Board to any Federal or State authorities with supervisory or regulatory authority over the examined entity, to officers, directors, or representatives of the examined entity, and to any other person that the Board determines to be proper.

(A) by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I), respectively; and
(B) by inserting after subparagraph (F) the following subparagraph:
``(G) the Commodity Futures Trading Commission; or''; and
(2) in section 1212(e), by striking ``and the Securities and Exchange Commission'' and inserting ``the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

SEC. 12C. CONFORMING AMENDMENTS.
(a) BANK HOLDING COMPANY ACT OF 1956—
(1) DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding after subsection (b) the following new subsections:
``(d) WHOLESALE FINANCIAL INSTITUTION.—The term `whole sale financial institution' means a wholesale financial institution subject to section 98 of the Federal Reserve Act.
``(e) COMMISSION.—The term `Commission' means the Securities and Exchange Commission.

``(f) DEPOSITORY INSTITUTION.—The term `depository institution' includes a wholesale financial institution.
``(g) RULES OF THE COMMISSION.—The term `rules of the Commission' means rules of the Board of Governors of the Federal Reserve System prescribing for permission to operate a wholesale financial institution or the Comptroller of the Currency prescribing for permission to operate a wholesale financial institution.
``(h) SPECIAL DEPOSITORY INSTITUTION.—The term `special depository institution' means an insured State bank for purposes of paragraph (2).
``(i) TREATMENT AS MEMBER BANK.—Any bank may apply to the Board of Governors of the Federal Reserve System to become a State wholesale financial institution, or to the Comptroller of the Currency to become a national wholesale financial institution, and, as a wholesale financial institution, to subscribe to the stock of the Federal reserve bank organized within the district where the applicable bank is located.

``(j) REGULATION.—A national wholesale financial institution may exercise, in accordance with such institution's articles of incorporation and bylaws, all the powers and privileges of a national bank formed in accordance with section 5133 of the Revised Statutes of the United States, and subject to section 98 of the Federal Reserve Act and the limitations and restrictions contained therein.

``(k) COMMUNITY REINVESTMENT ACT OF 1977.—A national wholesale financial institution shall be subject to the Community Reinvestment Act of 1977.
``(l) CERTAIN OTHER STATUTES APPLICABLE.—A national wholesale financial institution shall be deemed to be a banking association, and the Board shall be the appropriate Federal banking agency for such institution.
``(m) LIMITATIONS AND EXEMPTIONS.—A national wholesale financial institution may be subject to, and shall be subject to, such sections as the Board, in the case of all other whole sale financial institutions, or to the Comptroller of the Currency, in the case of a national wholesale financial institution, may determine with respect to such institution.
``(n) BAN K MERGER ACT.—A wholesale financial institution shall be subject to sections 18(c) and 44 of the Federal Deposit Insurance Act in the same manner and to the same extent as such provisions apply to State-chartered wholesale financial institutions.
``(o) B RANCHING.—Notwithstanding any other provision of law, a wholesale financial institution may establish and operate a branch at any location on such terms and conditions as established by, and with the approval of—
``(P) the Board, in the case of a State-chartered wholesale financial institution, and
``(Q) the Comptroller of the Currency, in the case of a national wholesale financial institution.

``(q) ACTIONS OF OUT-OF-STATE BRANCHES OF WHOLESALE FINANCIAL INSTITUTIONS.—A State-chartered wholesale financial institution shall be deemed to be a State bank and a national wholesale financial institution shall be deemed to be a national bank, and any reference in such section to a State member insured bank or national bank includes a wholesale financial institution unless it has met all requirements under that Act for voluntary termination of deposit insurance.

``(r) FEDERAL DEPOSIT INSURANCE CORPORATION.—The Federal Deposit Insurance Corporation shall perform the duties and exercise the powers of the Comptroller of the Currency under the Federal Deposit Insurance Act.

``(s) PREEMPTION OF STATE LAWS.—Sections 27 of the Federal Deposit Insurance Act shall apply to State-chartered wholesale financial institutions in the same manner and to the same extent as such provisions apply to State-chartered member insured banks and any reference in such section to a State-chartered member insured bank shall be deemed to be a reference to a State-chartered wholesale financial institution.

``(t) D ISCRIMINATION REGARDING INTEREST RATES.—Section 22 of the Federal Deposit Insurance Act shall apply to State-chartered wholesale financial institutions in the same manner and to the same extent as such provision applies to State-chartered member insured banks.

``(u) B RANCHES.—Wholesale financial institutions shall be subject to the Community Reinvestment Act and shall have all of the rights, powers, privileges, and immunities (including those derived from status as a federally chartered institution) of and as if it were a national bank, subject to such terms and conditions as established by the Board.

``(v) COMMUNITY REINVESTMENT ACT OF 1977.—A State wholesale financial institution or a national wholesale financial institution shall be subject to the Community Reinvestment Act of 1977.

``(w) SPECIFIC REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—
``(AA) MINIMUM AMOUNT.—
``(i) IN GENERAL.—No wholesale financial institution may receive initial deposits of $100,000 or less, other than on an incidental and occasional basis.
``(ii) LIMITATION ON DEPOSITS OF LESS THAN $100,000.—No wholesale financial institution may receive initial deposits of $100,000 or less, other than on an incidental and occasional basis, if such deposits constitute more than 5 percent of the institution's total deposits.
``(BB) NO DEPOSIT INSURANCE.—Except as otherwise provided in the Federal Deposit Insurance Act, no deposits held by a wholesale financial institution...
shall be insured deposits under the Federal Deposit Insurance Act."

"(C) ADVERTISING AND DISCLOSURE.—The Board and the Comptroller of the Currency shall by regulation or order, pursuant to advertising and disclosure by wholesale financial institutions to ensure that each depositor is notified that deposits at the wholesale financial institution are not federally insured or otherwise guaranteed by the United States Government.

"(2) MINIMUM CAPITAL LEVELS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—The Board shall, by regulation, adopt capital requirements for wholesale financial institutions—

"(A) to account for the status of wholesale financial institutions as institutions that accept deposits that are not insured under the Federal Deposit Insurance Act; and

"(B) to provide for the safe and sound operation of the wholesale financial institution without undue risk to creditors or other persons, including Federal reserve banks, engaged in transactions with the bank.

"(3) ADDITIONAL REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—In addition to the requirements otherwise applicable to State member insured banks or applicable, under this section, to wholesale financial institutions, the Board may impose, by regulation or order, upon wholesale financial institutions—

"(A) limitations on transactions, direct or indirect, with affiliates to prevent—

"(i) the transfer of risk to the deposit insurance funds; or

"(ii) an affiliate from gaining access to, or the benefits of, credit from a Federal reserve bank, including overdrafts at a Federal reserve bank;

"(B) special clearing balance requirements; and

"(C) any additional requirements that the Board determines to be appropriate or necessary to—

"(i) promote the safety and soundness of the wholesale financial institution or any insured depository institution affiliated of the wholesale financial institution; or

"(ii) prevent the transfer of risk to the deposit insurance funds; or

"(iii) protect creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

"(4) EXEMPTIONS FOR WHOLESALE FINANCIAL INSTITUTIONS.—The Board may, by regulation or order, exempt any wholesale financial institution from any provision applicable to a member bank that is not a wholesale financial institution in all of the circumstances.

"(5) LIMITATION ON TRANSACTIONS BETWEEN A WHOLESALE FINANCIAL INSTITUTION AND AN INSURED BANK.—For purposes of section 23A(d)(1) of the Federal Reserve Act, a wholesale financial institution that is affiliated with an insured bank shall not be a bank.

"(6) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed as limiting the Board's authority over member banks or the authority of the Comptroller of the Currency over national banks under any other provisions of law. A bank or any affiliation of any Federal Reserve bank to make, increase, renew, or extend any advance or discount under this Act to any member bank or other depository institution.

"(D) CAPITAL AND MANAGERIAL REQUIREMENTS.—

"(1) IN GENERAL.—A wholesale financial institution shall be well capitalized and well managed.

"(2) NOTICE TO COMPANY.—The Board shall promptly provide notice to a company that controls a wholesale financial institution whenever such wholesale financial institution is not well capitalized and well managed.

"(3) AGREEMENT TO RESTORE INSTITUTION.—Not later than 45 days after the date of receipt of a notice under paragraph (2) (or such additional time as the Board may permit), the company shall execute an agreement acceptable to the Board to restore the wholesale financial institution to compliance with all of the requirements of paragraph (1).

"(4) LIMITATIONS UNTIL INSTITUTION RESTORED.—Until the wholesale financial institution is restored to compliance with all of the requirements of paragraph (1), the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances.

"(5) FAILURE TO RESTORE.—If the company does not execute such an agreement in accordance with paragraph (3), comply with any limitation imposed under paragraph (4), restore the wholesale financial institution to well managed status within such period as the Board may permit, the company shall, upon such terms and conditions as the Board may impose, be appointed a conservator or receiver for a national bank.

"(6) POWERS.—The conservator or receiver for a wholesale financial institution shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

"(7) RESOLUTION OF WHOLESALE FINANCIAL INSTITUTIONS.—

"(1) CONSERVATORSHIP OR RECEIVERSHIP.—

"(A) APPOINTMENT.—The Board may appoint a conservator or receiver for a wholesale financial institution to possess and control a wholesale financial institution to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank.

"(B) POWERS.—The conservator or receiver for a wholesale financial institution shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

"(2) RESOLUTION OF WHOLESALE FINANCIAL INSTITUTIONS.—

"(A) IN GENERAL.—A wholesale financial institution shall be well capitalized and well managed.

"(B) NOTICE TO THE COMPTROLLER.—Before any action under section 8 of the Federal Deposit Insurance Act involving a wholesale financial institution that is chartered as a national bank, the Board shall notify the Comptroller and recommend that the Comptroller take the recommended action. If the Comptroller fails to take the recommended action or to provide an acceptable plan for addressing the concerns of the Board before the close of the 30-day period beginning on the date of receipt of the formal recommendation from the Board, the Board may take such action.

"(C) VOLUNTARY TERMINATION OF INSURED STATUS BY CERTAIN INSTITUTIONS.—

"(1) SECTION 8 DESIGNATIONS.—Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

"(A) by striking paragraph (1); and

"(B) by redesignating paragraphs (2) through (10) as paragraphs (1) through (9), respectively.

"(2) VOLUNTARY TERMINATION OF INSURED STATUS.—The Federal Deposit Insurance Act (12 U.S.C. 1812 at subsection B) is amended by inserting after subsection B of section B the following new section:

"SEC. 8A. VOLUNTARY TERMINATION OF STATUS AS AN INSURED DEPOSITORY INSTITUTION.

"(a) IN GENERAL.—Except as provided in subsection (b), an insured State bank or a national bank may voluntarily terminate such bank's status as an insured depository institution in accordance with regulations of the Corporation if

"(1) the bank provides written notice of the bank's intent to terminate such insured status—

"(A) to the Corporation and the Board of Governors of the Federal Reserve System, in the case of an insured State bank, or to the Corporation and the Comptroller of the Currency, in the case of an insured national bank; or

"(B) to the corporation and the Comptroller of the Currency, in the case of an insured national bank.

"(2) the Corporation and the Comptroller of the Currency have the same authority with respect to any depository institution as they have as to any insured depository institution.

"(3) the Corporation and the Comptroller of the Currency, in the case of an insured national bank authorized to operate as a wholesale financial institution, has approved the term of the corporation as the Board determines to be appropriate or necessary to—

"(i) provide for the safe and sound operation of the wholesale financial institution; or

"(ii) prevent the transfer of risk to the deposit insurance funds; or

"(iii) protect creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

"(4) THE CORPORATION AND THE COMPTROLLER OF THE CURRENCY MAY APPOINT A CONSERVATOR OR RECEIVER FOR A NATIONAL BANK.—The Corporation and the Comptroller of the Currency may appoint a conservator or receiver for a national bank in accordance with regulations of the Corporation and of the Comptroller of the Currency.

"(5) RESOLUTION OF WHOLESALE FINANCIAL INSTITUTIONS.—

"(A) IN GENERAL.—A wholesale financial institution shall be well capitalized and well managed.

"(B) NOTICE TO THE COMPTROLLER.—Before any action under section 8 of the Federal Deposit Insurance Act involving a wholesale financial institution that is chartered as a national bank, the Board shall notify the Comptroller and recommend that the Comptroller take the recommended action. If the Comptroller fails to take the recommended action or to provide an acceptable plan for addressing the concerns of the Board before the close of the 30-day period beginning on the date of receipt of the formal recommendation from the Board, the Board may take such action.

"(C) VOLUNTARY TERMINATION OF INSURED STATUS.—The Federal Deposit Insurance Act (12 U.S.C. 1812) is amended by inserting after section 8 the following new section:

"SEC. 8A. VOLUNTARY TERMINATION OF STATUS AS AN INSURED DEPOSITORY INSTITUTION.

"(a) IN GENERAL.—Except as provided in subsection (b), an insured State bank or a national bank may voluntarily terminate such bank's status as an insured depository institution in accordance with regulations of the Corporation if

"(1) the bank provides written notice of the bank's intent to terminate such insured status—

"(A) to the Corporation and the Board of Governors of the Federal Reserve System, in the case of an insured State bank, or to the Corporation and the Comptroller of the Currency, in the case of an insured national bank; or

"(B) to the Corporation and the Comptroller of the Currency, in the case of an insured national bank authorized to operate as a wholesale financial institution, has approved the term of the corporation as the Board determines to be appropriate or necessary to—

"(i) provide for the safe and sound operation of the wholesale financial institution; or

"(ii) prevent the transfer of risk to the deposit insurance funds; or

"(iii) protect creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

"(4) THE CORPORATION AND THE COMPTROLLER OF THE CURRENCY MAY APPOINT A CONSERVATOR OR RECEIVER FOR A NATIONAL BANK.—The Corporation and the Comptroller of the Currency may appoint a conservator or receiver for a national bank in accordance with regulations of the Corporation and of the Comptroller of the Currency.
(c) ELIGIBILITY FOR INSURANCE TERMINATED.—Any bank that voluntarily elects to terminate the bank’s insured status under subsection (a) shall not be eligible for insurance under this section or any assistance authorized under this Act after the period specified in subsection (f)(1).

(d) INSTITUTION MUST BECOME WHOLESALE INSTITUTION FOR TRANSITION PURPOSES.—Any depository institution which voluntarily terminates its institution’s status as an insured depository institution under this section may, upon termination of insurance, accept any deposits unless the institution is a wholesale depository institution subject to section 9B of the Federal Reserve Act.

(e) EXIT FEES.—

(1) IN GENERAL.—Any bank that voluntarily terminates such bank’s status as an insured depository institution under this section shall pay an exit fee in an amount that the Corporation determines is sufficient to account for the institution’s pro rata share of the amount (if any) which would be required to restore the relevant deposit insurance fund to the fund’s designated reserve ratio as of the date the bank provides a written notice of termination of deposit insurance.

(2) PROCEDURES.—The Corporation shall prescribe, by regulation, procedures for assessing any exit fee under this subsection.

(f) TERMINATION OF DEPOSITS INSURED AS OF TERMINATION.—

(1) TRANSITION PERIOD.—The insured deposits of each depository in a State bank or a national bank on the effective date of the voluntary termination of the bank’s insured status, less all subsequent withdrawals from any deposits of such depository, shall continue to be insured for a period of not less than 6 months and not more than 2 years, as determined by the Corporation. During such period, no additions to any such deposits, and no withdrawal of any such deposits, shall be made.

(2) TERMINATION OF DEPOSITS TAKING ACTIVITIES.—Any depository institution which voluntarily terminates such institution’s status as an insured depository institution under this section may not, upon termination of insurance, accept any deposits unless the institution is a wholesale depository institution subject to section 9B of the Federal Reserve Act.

(g) TERMINATION OF CORPORATE PERSONALITY AND DUTIES.—During the period specified in paragraph (1) with respect to any bank, the bank shall continue to pay assessments under this Act if required under subsection (a)(1)(B).

(h) NOTICE REQUIREMENTS.—

(1) NOTICE TO THE CORPORATION.—The notice required under subsection (a)(1)(A) shall be in such form as the Corporation may require.

(2) NOTICE TO DEPOSITORS.—The notice required under subsection (a)(1)(B) shall be—

(A) sent to each depositor’s last address of record with the bank; and

(B) in such form as the Corporation finds to be necessary and appropriate for the protection of depositors.

(3) DEFINITION.—Section 19(b)(1)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)) is amended by inserting “, or any wholesale financial institution subject to section 9B of this Act” after “such Act”.

(4) TECHNICAL AND CONFORMING AMENDMENTS TO THE BANKRUPTCY CODE.—

(1) BANKRUPTCY CODE DEBTORS.—Section 101(b)(2) of title 11, United States Code, is amended by striking “; or” and inserting the following: “; or” except that—

(A) a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act may be a debtor if a petition is filed at the direction of the Comptroller of the Currency (in the case of a national wholesale financial institution established under section 5136B of the Revised Statutes of the United States) or the Board of Governors of the Federal Reserve System (in the case of any wholesale financial institution); and

(B) a corporation organized under section 25A of the Federal Reserve Act may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or.

(2) CHAPTER 7 DEBTORS.—Section 109(d) of title 11, United States Code, is amended to read as follows:

(3) DEFINITION OF FINANCIAL INSTITUTION.—Section 101(22) of title 11, United States Code, is amended to read as follows:

(4) SUBCHAPTER V OF CHAPTER 7.—

(A) IN GENERAL.—Section 103 of title 11, United States Code, is amended—

(i) by redesignating subsections (e) through (l) as subsections (f) through (l), respectively; and

(ii) by inserting after subsection (d) the following:

(e) Subchapter V of chapter 7 of this title applies only in a case under such chapter concerning the liquidation of a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, or a corporation organized under section 25A of the Federal Reserve Act.

(B) The Corporation shall construe subsection (e) of chapter 7 of title 11, United States Code, as amended by adding at the end the following:

“§781. Definitions for subchapter

In this subchapter—

(1) the term ‘Board’ means the Board of Governors of the Federal Reserve System;

(2) the term ‘depository institution’ has the same meaning as in section 3 of the Federal Deposit Insurance Act, and includes any wholesale bank;

(3) the term ‘national wholesale financial institution’ means a wholesale financial institution established under section 5136B of the Revised Statutes of the United States; and

(4) the term ‘wholesale bank’ means a national wholesale financial institution, a wholesale financial institution established under section 9B of the Federal Reserve Act, or a corporation organized under section 25A of the Federal Reserve Act.

§782. Selection of trustee

(a) Notwithstanding any other provision of this title, the conservator or receiver who files the petition shall be the trustee under this chapter, unless the Comptroller of the Currency designates an alternative trustee in the case of any wholesale financial institution for which it appointed the conservator or receiver; or the Board (in the case of any wholesale bank for which it appointed the conservator or receiver) designates an alternative trustee. The Comptroller of the Currency or the Board (as applicable) may designate a successor trustee, if required.

(b) Whenever the Comptroller of the Currency or the Board appoints or designates a trustee, chapter 3 and sections 704 and 705 of this title shall apply to the Comptroller or the Board, as applicable, in the same way and to the same extent that they apply to a United States trustee.

§783. Additional powers of trustee

(a) The trustee under this subchapter has power to distribute property not of the estate, including distributions to customers that are mandated by subchapters III and IV of this chapter.

(b) The trustee under this subchapter may, after notice and a hearing—

(1) sell the wholesale bank to a depository institution or consortium of depository institutions (which consortium may agree on the allocation of the wholesale bank among the consortium);

(2) merge the wholesale bank with a depository institution;

(3) transfer contracts to the same extent as a receiver for a depository institution under paragraphs (9) and (10) of section 11(e) of the Federal Deposit Insurance Act;

(4) transfer assets or liabilities to a depository institution;

(5) transfer assets and liabilities to a bridge bank as provided in paragraphs (1), (3)(A), (5), (6), and (9) through (13), and subparagraphs (A) through (K) of paragraph (4) of section 11(n) of the Federal Deposit Insurance Act, except that—

(A) the bridge bank shall be treated as a wholesale bank for the purpose of this subchapter; and

(B) any references in any such provision of law to the Federal Deposit Insurance Corporation shall be construed to be references to the appointing agency and that references to deposit insurance shall be omitted.

(c) Any reference in this section to transfers of liabilities includes a ratable transfer of liabilities within a priority class.

§784. Right to be heard

The Comptroller of the Currency (in the case of a national wholesale financial institution) or the Board (in the case of a wholesale bank), or a Federal Reserve Bank (in the case of a wholesale bank that is a member of the Federal Reserve System), may designate an alternative trustee. The Comptroller of the Currency or the Board (as applicable) may designate a successor trustee, if required.
that bank) may raise and may appear and be heard on any issue in a case under this subchapter.

(C) CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by adding at the end the following:

``SUBCHAPTER V—WHOLESALE BANK LIQUIDATION

"781. Definitions for subchapter.

"782. Election of trustee.

"783. Additional powers of trustee.

"784. Right to be heard.''.

(e) RESOLUTION OF EDGE CORPORATIONS.—The 18th undesignated paragraph of section 25A of the Federal Reserve Act (12 U.S.C. 624) is amended to read as follows:

"(18) APPOINTMENT OF RECEIVER OR CONSERVATOR.—

"(A) IN GENERAL.—The Board may appoint a conservator or receiver for a corporation organized under the provisions of this section to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank, and the conservator or receiver appointed under this paragraph shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

"(B) APPOINTMENT AT REQUEST.—The Board shall have the same authority with respect to any conservator or receiver appointed for a corporation organized under this provision as the Comptroller of the Currency has with respect to a conservator or receiver of a national bank and the national bank is in the same manner and to the same extent as the Comptroller of the Currency may appoint a national bank conservator or receiver, if the Comptroller so requests.

"(C) TITLE 11 PETITIONS.—The Board may direct the conservator or receiver of a corporation organized under the provisions of this section to file a petition pursuant to section 10 of title 11, United States Code, in the bankruptcy court for the district in which the principal place of business of the corporation is located, or for the district of Columbia, for the appointment of a receiver for the corporation in lieu of otherwise applicable Federal or State insolvency law.''.

Subtitle E—Preservation of FTC Authority

SEC. 141. AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956 TO MODIFY NOTIFICATION AND POST-APPROVAL WAITING PERIOD FOR SECTION 3 TRANSACTIONS.

Section 13(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting “and, if the transaction also involves an acquisition under section 13, the Board shall also notify the Federal Trade Commission of such approval” before the period at the end of the first sentence.

SEC. 142. INTERAGENCY DATA SHARING.

To the extent not prohibited by other law, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System shall make available to the Attorney General and the Federal Trade Commission any data in the possession of any such agency that the antitrust agency deems necessary for antitrust review of any transaction requiring notice to any such antitrust agency or the approval of such agency under section 3. Any file of the Board Holding Company Act of 1956, section 18(c) of the Federal Deposit Insurance Act, the National Bank Consolidation and Merger Act, the Bank Holding Company Act of 1956, the Home Owners’ Loan Act, or the antitrust laws.

SEC. 143. CLARIFICATION OF STATUS OF SUBSIDIARIES AND AFFILIATES.

(a) CLARIFICATION OF FEDERAL TRADE COMMISSION JURISDICTION.—Any person which directly or indirectly controls, is controlled directly or indirectly by, or is directly or indirectly under common control with, any bank or savings association (as such terms are defined in section 3 of the Federal Deposit Insurance Act) and is not itself a bank or savings association shall not be deemed to be a bank or savings association for purposes of the Federal Trade Commission Act or other law enforced by the Federal Trade Commission.

(b) SAVINGS PROVISIONS.—No provision of this section shall be construed as restricting the authority of any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) under any Federal banking law, including section 8 of the Federal Deposit Insurance Act.

(c) HART-SCOTT-RODIN AMENDMENTS.—(1) BANKS.—Section 15 of the Clayton Act (15 U.S.C. 1226) is amended by deleting before the comma in the first sentence the words “and” and “the”.

(2) BANK HOLDING COMPANIES.—Section 7A(c)(8) of the Clayton Act (15 U.S.C. 1226(c)(8)) is amended by deleting before the semicolon at the end the following: “, except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) is subject to section 6 of the Bank Holding Company Act of 1956; and (B) does not require agency approval under section 3 of the Bank Holding Company Act of 1956.”

SEC. 144. ANNUAL GAO REPORT.

(a) IN GENERAL.—By the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress on market concentration in the financial services industry and its impact on consumers.

(b) ANALYSIS.—Each report submitted under subsection (a) shall contain an analysis of—

(1) the positive and negative effects of affiliations between various types of financial companies, and of acquisitions pursuant to section 13, on market concentration; and

(2) consumer actions which have been purchased by depository institutions and the effects of any such changes on the availability of venture capital, consumer credit, and other financial services and products and the availability of capital and credit for small businesses; and

(3) the acquisition patterns among depository institutions, depository institution holding companies, and insurance companies including acquisitions among the largest 20 percent of firms and acquisitions within regions or other limited geographic areas.

(c) SUNSET.—This section shall not apply after the end of the 5-year period beginning on the date of the enactment of this Act.

SEC. 151. FOREIGN BANKS THAT ARE FINANCIAL HOLDING COMPANIES.

Section 9A of the Federal Deposit Insurance Act (as added by section 10(c) of the International Banking Act of 1978 (12 U.S.C. 3101(15)) is amended by striking “State agency, or subsidiary of a foreign bank” and inserting “or subsidiary”

(b) EXAMINATIONS.—Section 10(c) of the International Banking Act of 1978 (12 U.S.C. 3101(15)) is amended by adding at the end the following: “The Board may also make examinations of any affiliate of a foreign bank conducting business in any State if the Board deems it necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or other applicable Federal banking laws.”

SEC. 154. RECIPROCITY.

(a) NATIONAL TREATMENT REPORTS.—(1) REPORT REQUIRED IN THE EVENT OF CERTAIN ACQUISITIONS.—(A) IN GENERAL.—Whenever a person from a foreign country announces its intention to acquire or acquires a bank, a securities underwriter, broker, or dealer, an investment adviser or insurance company that ranks within the top 50 firms in that line of business in the United States, the Secretary of Commerce, in the case of an insurance company, or the Secretary, in the case of a bank, a securities underwriter, broker, or dealer, or an investment adviser, shall, within the earlier of 6 months of such announcement or such time and in consultation with other appropriate Federal and State agencies, prepare and submit to
the Congress a report on whether a United States person would be able, de facto or de jure, to acquire an equivalent sized firm in the country in which such person came from a foreign country.

(B) Analysis and Recommendations.—If a report submitted under subparagraph (A) states that the equivalent treatment referred to in paragraph (1) is not provided in the country which is the subject of the report, the Secretary of Commerce or the Secretary of the Treasury, as the case may be and in consultation with other appropriate Federal and State agencies, shall include in the report analysis and recommendations as to how that country's laws and regulations would need to be changed so that reciprocal treatment would exist.

(2) Report Required Before Financial Services Negotiations Commence.—The Secretary of Commerce, with respect to insurance companies, and the Secretary of the Treasury, with respect to banks, securities underwriters, brokers, dealers, and investment advisers, shall, not less than 6 months before the commencement of the financial services negotiations of the World Trade Organization to which a country is a party, prepare and submit to the Congress a report containing—

(A) an assessment of the 30 largest financial services markets with regard to whether reciprocal access is available in such markets to United States financial services providers and (B) with respect to any such financial services markets in which reciprocal access is not available to United States financial services providers, a description and recommendation as to what legislative, regulatory, or enforcement changes would be required to ensure full reciprocity for such providers.

(C) Person of a Foreign Country Defined.—For purposes of this subsection, the term "person of a foreign country" means a person, or a person which directly or indirectly owns or controls that person, that is a resident of that country, is organized under the laws of that country, or has its principal place of business in that country.

(b) Provisions Applicable to Submissions.—

(1) Notice.—Before preparing any report required under subsection (a), the Secretary of Commerce or the Secretary of the Treasury, as the case may be, shall publish notice that a report is in preparation and seek comment from United States persons.

(2) Public Submissions.—Upon the request of the submitting person, any comments or related communications received by the Secretary of Commerce or the Secretary of the Treasury, as the case may be, with regard to the report shall, for the purposes of section 552 of title 5, of the United States Code, be treated as commercial information obtained from a person that is privileged or confidential, regardless of the medium in which the information is obtained. This confidential information shall be the property of the Secretary and shall be privileged from disclosure to any other person. However, this privilege shall not be construed as preventing access to that confidential information by the Congress.

(3) Prohibition of Unauthorized Disclosures.—No person in possession of confidential information, provided under this section may disclose that information, in whole or in part, except for disclosure made in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the confidential information of any person.

Subtitle G—Federal Home Loan Bank System Modernization

SEC. 161. SHORT TITLE.

This subtitle may be cited as the "Federal Home Loan Bank System Modernization Act of 1999".

SEC. 162. DEFINITIONS.

Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(1) in paragraph (1), by striking "term 'Board' means" and inserting "terms 'Finance Board' and 'Board' mean";

(2) by adding paragraph (3) and inserting the following:

"(3) STATE.—The term 'State', in addition to the States of the United States, includes the District of Columbia, Puerto Rico, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.";

and

(3) by adding at the end the following new paragraph:

"(13) COMMUNITY FINANCIAL INSTITUTION.—(A) IN GENERAL.—The term 'community financial institution' means an institution which has a deposit of $500,000,000 or less in average total assets, based on an average of total assets over the 3 years preceding that date.

(B) ADJUSTMENTS.—The $500,000,000 limit referred to in subparagraph (A) shall be adjusted annually by the Finance Board, based on the annual percentage increase, if any, in the Consumer Price Index for All Urban Consumers, as published by the Department of Labor.";

SEC. 163. SAVINGS ASSOCIATION MEMBERSHIP.

Section 5(f) of the Home Owners' Loan Act (12 U.S.C. 1441(f)) is amended to read as follows:

"SECTION 5(f).—Sections of the Home Owners' Loan Act (12 U.S.C. 1441(f)) are amended—

(1) FEDERAL HOME LOAN BANK MEMBERSHIP.—On and after January 1, 1999, a Federal savings association may become a member of the Federal Home Loan Bank System, and shall qualify for such membership in the manner provided by the Federal Home Loan Bank Act.";

SEC. 164. ADVANCES TO MEMBERS; COLLATERAL.

(a) IN GENERAL.—Sections of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) are amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D) respectively, and indenting appropriately;

(2) by striking "(a) Each" and inserting the following:

"(a) In general.—

(I) ALL ADVANCES.—Each";

(3) by striking the 2d sentence and inserting the following:

"(2) PURPOSES OF ADVANCES.—A long-term advance may only be made for the purposes of—

(A) providing funds to any member for residential housing finance; and

(B) providing funds to any community financial institution for small business, agricultural, rural development, or low-income community development lending;";

(4) by striking "A Bank" and inserting the following:

"(3) COLLATERAL.—A Bank";

(5) in paragraph (3) (as so designated by paragraph (4) of this subsection)—

(A) in subparagraph (C) (as so redesignated by paragraph (1) of this subsection) by striking "Deposits" and inserting "Cash or deposits";

(B) in subparagraph (D) (as so redesignated by paragraph (1) of this subsection) by striking the 2d sentence; and

(C) by inserting after subparagraph (D) (as so redesignated by paragraph (1) of this subsection) the following:

"(E) Secured loans for small business, agriculture, rural development, or low-income community development, or securities representing a whole interest in such secured loans, in the case of any community financial institution.";

(b) In paragraph (5)—

(A) in the 2d sentence, by striking "and the Board";

(B) in the 3d sentence, by striking "Board" and inserting "Federal home loan bank"; and

(C) by striking "(5) Paragraphs (1) and (4) and inserting the following:

"(A) ADDITIONAL BANK AUTHORITY.—Subparagraphs (A) through (E) of paragraph (3)";

(2) by adding at the end the following:

"(B) REVIEW OF CERTAIN COLLATERAL STANDARDS.—The Board may review the collateral standards applicable to each Federal home loan bank for the classes of collateral described in subparagraphs (D) and (E) of paragraph (3) and, may, if necessary for safety and soundness purposes, require an increase in the collateral standards for any or all of those classes of collateral.

(2) DEFINITIONS.—For purposes of this subsection, the terms 'small business', 'agricultural development', and 'low-income community development' shall have the meanings given those terms by rule or regulation of the Finance Board.";

(3) ELIGIBILITY AND LIMITATIONS.—The section heading for section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended to read as follows:

"SECTION 10. ADVANCES TO MEMBERS."

(4) CONFORMING AMENDMENTS RELATING TO MEMBERS WHICH ARE NOT QUALIFIED THRIFT LENDERS.—The 1st of the 2 subsections designated as subsection (e) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)) is amended—

in the last sentence of paragraph (1), by inserting "or, in the case of any community financial institution, for the purposes described in subsection (a)(2) before the period";

and

in paragraph (5)(C), by inserting "except that, in determining the actual thrift investment percentage of any community financial institution for purposes of this subsection, the total investment of such member in loans for small business, agriculture, rural development, or low-income community development or securing a whole interest in such loans, shall be treated as a qualified thrift investment (as defined in section 10(d))" before the period.

SEC. 165. ELIGIBILITY CRITERIA.

Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended—

(1) in paragraph (2)(A), by inserting, "other than a community financial institution" after "institution"; and

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

"(2) LIMITED EXEMPTION FOR COMMUNITY FINANCIAL INSTITUTIONS.—A community financial institution that otherwise meets the requirements of paragraph (2) may become a member without regard to the percentage of its total assets that is represented by residential mortgage loans, as described in subparagraph (A) of paragraph (2)."

SEC. 166. MANAGEMENT OF BANKS.

(a) BOARD OF DIRECTORS.—Section 7(d) of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) is amended—

(1) by striking "(d) The term" and inserting the following:

"(d) TERMS OF OFFICE.—The term"; and

(2) by striking "shall be two years".

(b) COMPENSATION.—Section 7 of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended by striking "subject to the approval of the board".

(c) REPEAL OF SECTIONS 22A AND 27.—The Federal Home Loan Bank Act (12 U.S.C. 1421
et seq.) is amended by striking sections 22A (12 U.S.C. 1442a) and 27 (12 U.S.C. 1447).

(d) **SECTION 12.—Section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1422c) is amended—**

(1) in the first paragraph—

(A) by striking ``, and inserting ``, loan banks''.

(2) in the second paragraph—

(A) by inserting:``, and inserting ``Federal home loan bank''; and

(3) in the third paragraph—

(A) by striking ``, and by its Board of directors, all that is owned through ``, and inserting ``, and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which the affairs may be administered consistent with applicable laws and regulations, as administered by the Finance Board. No officer, employee, attorney, or agent of a Federal home loan bank'';

(B) by striking ``, and its president, its vice-president, its treasurer, its secretary, corporate counsel, any of its officers, or any other person or any class of persons, including directors, to be named by the Finance Board'' the first place that term appears; and

(C) in the fourth paragraph—

(i) by striking ``Subject to the approval of the Board'' the first place that term appears; and

(ii) by inserting:``, Federal home loan bank''; and

(3) by adding ``, loan banks'' and inserting ``, loan banks''.

**EFFECTIVE DATE.**—The amendment made by subsection (a) shall become effective on January 1, 1999. Payments made by a Federal home loan bank before that effective date shall be counted toward the total obligation of that bank under section 12B(f)(2)(C) of the Federal Home Loan Bank Act, as amended by this section.

**SEC. 16B. CAPITAL STRUCTURE OF FEDERAL HOME LOAN BANKS.**

Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended to read as follows:

> **(a) REGULATIONS.—**

> **(1) **CAPITAL STANDARDS.—Not later than 1 year after the date of enactment of the Financial Services Act of 1999, the Finance Board shall issue regulations prescribing uniform capital standards applicable to each Federal home loan bank, which shall require each such bank to—

> **(A) **the leverage requirement specified in paragraph (2); and

> **(B) **the risk-based capital requirements, in accordance with paragraph (3).

> **(2) LEVERAGE REQUIREMENT.—**

> In general, the leverage requirement shall require each Federal home loan bank to maintain a minimum amount of total capital based on the aggregate on-balance sheet assets of the bank and shall be 5 percent.

> **(B) TREATMENT OF STOCK AND RETAINED EARNINGS.—**In determining compliance with the minimum leverage ratio established under subparagraph (A), the paid-in value of the outstanding Class B stock shall be multiplied by 1.5, the paid-in value of the outstanding Class C stock of re- tained earnings shall be multiplied by 2.0, and such higher amounts shall be deemed to be capital for purposes of meeting the 5 percent minimum leverage ratio.

> **(3) RISK-BASED CAPITAL STANDARDS.—**

> **(A) IN GENERAL.—**Each Federal home loan bank shall maintain permanent capital in an amount that is sufficient, as determined in accordance with the regulations of the Finance Board, to meet—

> **(i) **the credit risk to which the Federal home loan bank is subject; and

> **(ii) **the market risk, including interest rate risk, to which the Federal home loan bank is subject, based on a stress test established by the Finance Board that rigorously tests for changes in market variables, including changes in interest rates, rate volatility, and changes in the shape of the yield curve.

> **(B) **CONSIDERATION OF OTHER RISK-BASED STANDARDS.—In establishing the risk-based capital standard under subparagraph (A)(ii), the Finance Board shall take into consideration any risk-based capital test established pursuant to section 330 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1999 (12 U.S.C. 4532), as defined in that Act, with such modifications as the Finance Board determines to be necessary to align the risk-based capital test with the capital standards and other prudential standards.
appropriate to reflect differences in operations between the Federal home loan banks and those enterprises.

(4) OTHER REGULATORY REQUIREMENTS.—The regulations issued by the Finance Board under paragraph (1) shall—

(A) permit each Federal home loan bank to issue, with such rights, terms, and preferences as may be consistent with this Act and the regulations issued hereunder, as the board of directors of that bank may approve, any form of—

(i) Class A stock, which shall be redeemable in cash and at par 6 months following submission by a member of a written notice of its intent to redeem such shares; and

(ii) Class B stock, which shall be redeemable in cash and at par 5 years following submission by a member of a written notice of its intent to redeem such shares; and

(iii) Class C stock, which shall be non-redeemable;

(B) provide that the stock of a Federal home loan bank may be issued to and held by only members of the bank, and that a bank may not issue any stock other than as provided in this section;

(C) prescribe the manner in which stock of a Federal home loan bank may be sold, transferred, redeemed, or repurchased; and

(D) provide the manner of disposition of outstanding stock, the liquidation of any claims of the Federal home loan bank against, an institution that ceases to exist, or a person and the liquidation of any claims of any member of the Federal home loan bank against, an institution that ceases to exist, or a person.

(5) DEFINITIONS OF CAPITAL.—For purposes of determining compliance with the standards established under this subsection—

(A) permanent capital of a Federal home loan bank shall include (as determined in accordance with generally accepted accounting principles)—

(i) the amounts paid for the Class C stock and any other nonredeemable stock approved by the Finance Board;

(ii) the amounts paid for the Class B stock, in an amount not to exceed 1 percent of the total assets of the bank; and

(iii) the retained earnings of the bank; and

(B) total capital of a Federal home loan bank shall include—

(i) permanent capital;

(ii) paid for for the Class A stock, Class B stock (excluding any amount treated as permanent capital under subparagraph (5)(A)(ii)), or any other class of reredeemable stock approved by the Finance Board;

(iii) consistent with generally accepted accounting principles, and subject to the regulations of the Finance Board, a general allowance for losses, which may not include any reserves or allowances made or held against specific assets; and

(iv) amounts available from sources available to absorb losses incurred by the bank that the Finance Board determines by regulation to be appropriate to include in determining total capital.

(6) TRANSITION PERIOD.—Notwithstanding any other provisions of this Act, the requirements relating to purchase and retention of capital stock of a Federal home loan bank by any member thereof in effect on the date before the date of enactment of the Federal Home Loan Bank System Modernization Act of 1992 shall continue in effect with respect to each Federal home loan bank until the regulations required by this subsection have taken effect and the capital structure plan required pursuant to subsection (a) has been approved by the Finance Board and implemented by such bank.

(7) CAPITAL STRUCTURE PLAN.—

(A) APPROVAL OF PLAN.—Not later than 270 days after the date of publication by the Finance Board of final regulations in accordance with paragraph (1) of the terms of the capital structure plan of each Federal home loan bank shall be submitted for Finance Board approval a plan establishing and implementing a capital structure plan for such bank that—

(i) the board of directors determines is best suited for the condition and operation of the bank and the interests of the members of that bank;

(ii) meets the minimum capital standards and requirements established under subsection (a) and other regulations prescribed by the Finance Board.

(B) APPLICABILITY OF MODIFICATIONS.—The board of directors of a Federal home loan bank shall submit to the Finance Board for approval any modifications that the bank proposes to make to an approved capital structure plan.

(C) CONTENTS OF PLAN.—The capital structure plan of each Federal home loan bank shall contain provisions addressing each of the following:

(i) minimum investment;

(ii) in general. — The capital structure plan of a Federal home loan bank shall require each member of that bank to maintain a minimum investment in the stock of the bank, through acquisition, purchase, or otherwise, or that provides notice of intention to withdraw from membership in the bank.

(D) DISPOSITION OF SHARES.—The capital structure plan of a Federal home loan bank shall provide for the manner of disposition of any stock held by a member of that bank and the terms and conditions under which the Finance Board shall provide notice of its intention to withdraw from membership in that bank.

(E) OTHER REGULATIONS.—The capital structure plan of a Federal home loan bank shall provide for the manner of disposition of any stock held by a member of that bank and the terms and conditions under which the Finance Board shall provide notice of its intention to withdraw from membership in that bank.

(F) RIGHTS OF MEMBER.—A Federal home loan bank shall include in its capital structure plan provisions establishing terms, rights, and preferences, including minimum investment, dividends, voting, and liquidation preferences of each class of stock issued by that bank.

(8) PROPOSED MODIFICATIONS.—The board of directors of a Federal home loan bank may provide for the manner of disposition of any stock held by a member of that bank and the terms and conditions under which the Finance Board shall provide notice of its intention to withdraw from membership in that bank.

(9) TERMINATION OF MEMBERSHIP.—

(A) IN GENERAL.—The capital structure plan of a Federal home loan bank shall provide for the manner of disposition of any stock held by a member of that bank and the terms and conditions under which the Finance Board shall provide notice of its intention to withdraw from membership in that bank.

(B) VOLUNTARY WITHDRAWAL.—Any member of a Federal home loan bank may withdraw from membership in the bank by providing written notice to the bank of its intent to do so. The applicable stock
redemption notice periods shall commence upon receipt of the notice by the bank. Upon the expiration of the applicable notice period for each class of redeemable stock, the member shall surrender such stock to the bank, and shall be entitled to receive in cash the par value of the stock. During the applicable notice periods, the member shall be entitled to dividends or other distributions paid or payable on the stock.

(g) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any capital stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(h) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(i) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(j) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(k) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(l) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(m) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(n) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(o) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(p) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(q) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(r) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(s) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(t) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(u) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(v) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(w) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(x) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(y) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

(z) Rejoining After Divestiture of All Shares.—(1) In General.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution may not redeem any excess Class B stock if, following the divestiture, the bank would fail to satisfy any minimum capital requirement.

1. **CONGRESSIONAL RECORD**

   **HOUSE**

   **July 1, 1999**

   **H5268**

   **SECTION 171. SHORT TITLE.**

   The Electronic Funds Transfer Act (15 U.S.C. 1693(c); as amended) is hereby referred to as the Electronic Fund Transfer Act of 1999.

   **SECTION 172. ELECTRONIC FUND TRANSFER FEE DISCLOSURES AT ANY HOST ATM.**

   (a) In General.—(1) The Comptroller General of the United States shall conduct a study of the feasibility of requiring, in connection with any electronic fund transfer initiated by a consumer, a fee imposed by any automated teller machine operator in connection with a transaction initiated by a consumer at an automated teller machine operated by such operator.

   (b) Study.—The study conducted under paragraph (a) shall be conducted by the Comptroller General of the United States and shall be completed not later than 2 years after the date of enactment of the Electronic Funds Transfer Act of 1999.
SEC. 175. NO LIABILITY IF POSTED NOTICES ARE DAMAGED.

Section 910 of the Electronic Fund Transfer Act (15 U.S.C. 1693h) is amended by adding at the end the following new subsection:

"(d) EXCEPTION FOR DAMAGED NOTICES.—If the notice required by subsection (a) is posted pursuant to section 904(d)(3)(B)(i) by an automated teller machine operator has been posted by such operator in compliance with such section and the notice is subsequently removed, damaged, or altered by any person other than the operator of the automated teller machine, the operator shall have no liability under this section for such failure to comply with section 904(d)(3)(B)(i)."

Subtitle J—Deposit Insurance Funds

SEC. 186. STUDY OF SAFETY AND SOUNDNESS OF FUNDS.

(a) STUDY REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation shall conduct a study of the following issues with regard to the Bank Insurance Fund and the Savings Association Insurance Fund:

(1) SAFETY AND SOUNDNESS.—The safety and soundness of the funds and the adequacy of the reserve requirements applicable to the funds; light;

(A) the size of the insured depository institutions which are resulting from mergers and consolidations since the effective date of the Riegle-Neal Banking and Branching Efficiency Act of 1994;

(3) MERGER ISSUES.—Issues relating to the planning, preparation, and implementation and operating costs. The Comptroller General shall submit a report to the Congress containing:

(1) the findings and conclusions of the Comptroller General in connection with the study required under subsection (a); and

(2) the recommendation of the Comptroller General with regard to the question of whether a notice requirement described in subsection (a) should be implemented and, if so, how such requirement should be implemented.

SEC. 176. ELIMINATION OF SAIF AND DIF SPECS.

(a) IN GENERAL.—None of the proposed regulations described in subsection (b) may be published in final form and, to the extent that any such regulation has become effective before the date of the enactment of this Act, such regulation shall cease to be effective as of such date.

(b) PROPOSED REGULATIONS DESCRIBED.—The proposed regulations referred to in subsection (a) are as follows:


(2) The regulation proposed by the Director of the Office of Thrift Supervision to amend part 583 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.


SEC. 192. STUDY AND REPORT ON FEDERAL ELECTRONIC FUND TRANSFERS.

(a) STUDY.—The Secretary of the Treasury shall conduct a feasibility study to determine:

(1) whether all electronic payments issued by Federal agencies could be routed through the Regional Financial Centers of the Department of the Treasury for verification and reconciliation;

(2) whether all electronic payments made by the Federal Government could be subjected to the same level of reconciliation as United States Treasury checks, including matching each payment issued with each corresponding deposit at financial institutions;

(3) whether the appropriate computer security controls are in place in order to ensure the integrity of electronic payments;

(4) the estimated costs of implementing any such regulations, if so recommended, the processes and controls described in paragraphs (1), (2), and (3); and

(5) a possible timetable for implementing those processes if so recommended.

(b) REPORT TO CONGRESS.—Not later than October 1, 2000, the Secretary of the Treasury shall submit a report to Congress containing the results of the study required by subsection (a).

(c) DEFINITION.—For purposes of this section, "electronic payment" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer and magnetic tapes so as to order, instruct, or authorize a debit or credit at a financial institution.

SEC. 193. GENERAL ACCOUNTING OFFICE STUDY OF CONFLICTS OF INTEREST.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study analyzing the conflict of interest faced by the Board of Governors of the Federal Reserve System between its role as a primary regulator of the banking industry and its role as a vendor of services to the banking and financial services industry.
SEC. 195. STUDY AND REPORT ON ADAPTING EXISTING LEGISLATIVE REQUIREMENTS TO ONLINE BANKING AND LEASING.

(a) STUDY REQUIRED.—The Federal banking agencies shall conduct a study of banking regulations regarding the delivery of financial services on or off the premises of the bank (which the broker or dealer offers brokerage services on or off the premises of the bank), and report their recommendations on adapting those existing requirements to online banking and lending.

(b) REPORT REQUIRED.—Within 1 year of the date of the enactment of this Act, the Federal Reserve System shall submit a report to the Congress containing the findings and conclusions of the Comptroller in connection with the study required under subsection (a) and such recommendations for legislative and administrative action as the Board may determine to be appropriate.

SEC. 196. REGULATION OF UNINSURED STATE MEMBER BANKS.

Section 9 of the Federal Reserve Act (12 U.S.C. 321 et seq.) is amended by adding at the end the following new paragraph:

"(28) ENFORCEMENT AUTHORITY OVER INSURED STATE MEMBER BANKS.—Section 8 of the Federal Deposit Insurance Act, subsections (j) and (k) of section 7 of such Act, and subsections (b) through (n), (s), (u), and (v) of section 8 of such Act shall apply to an insured State member bank in the same manner and to the same extent such provisions apply to an insured Federal deposit insurance corporation, and any reference in any such provision to ‘insured depository institution’ shall be deemed to be a reference to ‘uninsured State member bank’ for purposes of this paragraph.”

SEC. 197. CLARIFICATION OF SOURCE OF STRENGTH DOCTRINE.

Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended by adding at the end the following new subsection:

"(1) IN GENERAL.—Except as provided for in paragraph (3), upon the establishment of a branch of any insured depository institution in a host State under this section, the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in any such branch, without reference to this section, shall be equal to not more than:

(A) the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(B) the maximum rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(C) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(D) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(E) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(F) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(G) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(H) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(I) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(J) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(K) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(L) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(M) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(N) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(O) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(P) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(Q) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(R) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(S) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(T) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(U) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(V) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(W) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(X) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(Y) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

(Z) the rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

"(2) LIMITATION ON CLAIMS.—As the Comptroller General may determine to be appropriate, the Comptroller General shall conduct a study of banking agencies to establish a procedure for resolving any such conflict of interest.

"(3) R ULE OF CONSTRUCTION.—No provision of this subsection shall be construed as superseding section 501 of the Depository Institutions Deregulation and Monetary Control Act of 1980.
ministerial functions in connection with brokerage transactions including scheduling appointments with the associated persons of a broker or dealer, except that bank employees may be paid in cash or in kind or in the form of investment vehicles available from the bank and the broker or dealer under the arrangement.

"(vi) bank employees do not receive incentive compensation for any brokerage transaction unless such employees are associated persons of a broker or dealer and are qualified pursuant to the rules of an organization, except the bank employees may receive compensation for the referral of customers for securities lending or borrowing transactions, as a registered transfer agent, guardian, assignee, receiver, or custodian under a uniform gift to minor act or custodian under a uniform transfer act, as a carry broker, and may forward customer funds or securities to the carry broker, as a custodian or a clearing agency, for the custody of any customer if the compensation is a per order processing fee equal to not more than $0.01 per share or per $100 of principal amount, or $0.005 per order, or a fee per order in an amount determined by the National Association of Securities Dealers, Inc., with respect to the purchase or sale of securities in connection with the plan or program; or

"(vii) bank effects transactions in excepted bond transactions, as part of a program for the purchase or sale of securities in connection with the plan or program; and

"(viii) the bank does not provide any services as a registered transfer agent, to customers which receive any services are fully disclosed to the broker or dealer.

"(viii) the bank does not hold securities pledged in connection with derivative transactions, as a registered transfer agent, for any odd-lot holder or plans registered with the Commission; and

"(ix) the bank's compensation for such carrying broker activities are engaged in with respect to securities, including the exercise of warrants and other rights on behalf of customers; or

"(x) bank employees do not receive compensation for the referral of customers for securities lending or borrowing transactions, as a registered transfer agent, guardian, assignee, receiver, or custodian under a uniform gift to minor act or custodian under a uniform transfer act, as a carry broker, and may forward customer funds or securities to the carry broker, as a custodian or a clearing agency, for the custody of any customer if the compensation is a per order processing fee equal to not more than $0.01 per share or per $100 of principal amount, or $0.005 per order, or a fee per order in an amount determined by the National Association of Securities Dealers, Inc., with respect to the purchase or sale of securities in connection with the plan or program; or

"(xi) the bank does not provide any services as a registered transfer agent, to customers which receive any services are fully disclosed to the broker or dealer.

"(yi) instruments are held in the name of the bank as custodian under a uniform gift to minor act or custodian under a uniform transfer act, as a carry broker, and may forward customer funds or securities to the carry broker, as a custodian or a clearing agency, for the custody of any customer if the compensation is a per order processing fee equal to not more than $0.01 per share or per $100 of principal amount, or $0.005 per order, or a fee per order in an amount determined by the National Association of Securities Dealers, Inc., with respect to the purchase or sale of securities in connection with the plan or program; or

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"(yi) the bank does not provide any services as a registered transfer agent, to customers which receive any services are fully disclosed to the broker or dealer.
act, or as an investment adviser if the bank receives a fee for its investment advice; and
(ii) in any capacity in which the bank possesses investment discretion on behalf of another;
(iii) in any other similar capacity.
(F) EXCEPTION FOR ENTITIES SUBJECT TO SECTION 206.—The term ‘broker’ does not include:
(i) an officer who, in the six month period preceding the date of enactment of this
section, was employed by a broker, dealer, or investment adviser because the bank
engages in any of the following activities under the conditions described:
(I) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank buys or sells securities;
(A) commercial paper, bankers’ acceptances, or commercial bills;
(B) exempted securities; or
(C) foreign government obligations as defined in section 5136 of the Revised Statutes of
the United States, in conformity with section 19C of this title and the rules and regulations
thereunder, or obligations of the North American Development Bank; or
(ii) any standardized, credit enhanced debt security issued by a foreign government
pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by
such foreign government to retire outstanding commercial obligations;
(iii) INVESTMENT, TRUSTEE, AND FIDUCIARY TRANSACTIONS.—The bank buys or sells
securities for investment purposes;
(iv) for accounts for which the bank acts as a trustee or fiduciary.
(iii) ASSET-BACKED TRANSACTIONS.—The bank engages in issuance or sale to
qualified investors, through a grantor trust or other separate entity, of securities backed
by or representing an interest in notes, drafts, acceptances, loans, leases, receivables,
other obligations (other than securities of which the bank is not the issuer), or pools of
any such obligations predominantly or substantially backed or secured by such
assets:
(I) the bank;
(ii) an affiliate of such bank other than a broker or dealer; or
(iii) a corporation of banks of which the bank is a member, if the obligations or pool
of obligations consists of mortgage obligations or consumer-related receivables.
(iv) EXCEPTED BANKING PRODUCTS.—The bank buys or sells excepted banking
products, as defined in section 206 of the Financial Services Act of 1999.
(v) DERIVATIVE INSTRUMENTS.—The bank issues, buys, or sells any derivative
instrument to which the bank is a party:
(i) to or from a qualified investor, except that this provision (A) does not provide for the delivery
of one or more securities (other than a derivative instrument or government security
proprietary), the transaction shall be effected with or through a registered broker or dealer;
(ii) to or from other persons, except that if the derivative instrument provides for the delivery
of one or more securities (other than a derivative instrument or government security), or is a security (other than a
government security), the transaction shall be effected with or through a registered broker
or dealer; or
(iii) to or from any person if the instrument is neither a security nor provides for the delivery
of one or more securities (other than a derivative instrument).
SEC. 202. DEFINITION OF DEALER.
Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to
read as follows:
(I) DEFINITION OF DEALER.—A bank shall not be considered to be a dealer
unless the bank engages in any of the following activities under the conditions described:
(a) DEFINITION OF EXCEPTED BANKING PRODUCT.—For purposes of paragraphs (4) and (5)
‘excepted banking product’ means—
(A) a deposit account, savings account, certificate of deposit, or other deposit instrument
issued by a bank;
(B) a banker’s acceptance;
(C) a letter of credit issued or loan made by a bank;
(D) a debit account at a bank arising from a credit card or similar arrangement;
(E) a participation in a loan which the bank or an affiliate of the bank (other than a
broker or dealer) funds, participates in, or owns that is sold—
(A) to qualified investors; or
(B) to other persons that—
(I) have the opportunity to review and assess any material information, including
information regarding the borrower’s creditworthiness; and
(ii) based on such factors as financial sophistication, net worth, and knowledge and
experience in financial matters, have the capability to evaluate the information
available, as determined under generally applicable banking standards or guidelines; or
(F) a derivative instrument that involves or relates to—
(A) currencies, except options on currencies that trade on a national securities exchange;
(B) interest rates, except interest rate derivatives that—
(i) are based on a security or a group or index of securities (other than government
securities or a group or index of government securities); or
(ii) provide for the delivery of one or more securities (other than government
securities) or
(iii) trade on a national securities exchange; or
(C) commodities, other rates, indices, orfs, except derivative instruments that—
(i) are securities or that are based on a group or index of securities (other than
government securities or a group or index of government securities); and
(ii) provide for the delivery of one or more securities (other than government
securities) or
(iii) trade on a national securities exchange.
(b) CLASSIFICATION LIMITED. — Classification of a particular product as an excepted banking product pursuant to this section shall not be construed as finding or implying that such product is not a new substitute or offering for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction offered for any purpose under the Commodity Exchange Act. (c) INCORPORATED DEFINITIONS. — For purposes of this section: (1) the term "bank," "qualified investor," and "securities laws" have the same meanings given in section 3(a) of the Securities Exchange Act of 1934, as amended by this Act; and (2) the term "government securities" has the meaning given in section 3(a)(24) of such Act (as defined by this Act), and, for purposes of this section, commercial paper, bankers acceptances, and commercial bills shall be treated in the same manner as government securities.

SEC. 207. ADDITIONAL DEFINITIONS. Section 3(a) of the Securities Exchange Act of 1934 is amended by adding at the end the following new paragraphs: "(54) DERIVATIVE INSTRUMENT. — "(A) Definition. — The term "derivative instrument" means any individually negotiated contract, agreement, note, or other 430,000 or 450,000 or obligations that is based, in whole or in part, on the value of any interest in, or any quantitative measure or the occurrence of any event relating to, instruments, commodities, contracts, investments, investments in a commodity, commodity contracts, currency, or any other rights, interests, or assets, but does not include an excepted banking product, as defined in paragraphs (1) through (9) of section 204(a) of the Financial Services Act of 1999. "(B) CLASSIFICATION LIMITED. — Classification of a particular contract as a derivative instrument pursuant to this section shall not be construed as finding or implying that such instrument is or is not a security for any purpose under the Federal Deposit Insurance Act, as defined in section 1(c)(1) and (c)(2) of the Securities Act of 1933, or business development company, as defined in section 2(a)(48) of the Investment Company Act of 1940. "(55) QUALIFIED INVESTOR. — "(A) Definition. — For purposes of this title, the term "qualified investor" means— (i) any investment company registered under section 8(b) of the Investment Company Act of 1940; (ii) any issuer eligible for an exclusion from the definition of investment company pursuant to section 1(b)(7) of the Investment Company Act of 1940; (iii) any bank (as defined in paragraph (6) of this subsection), savings association (as defined in section 3(a)(31) of the Federal Deposit Insurance Act), broker, dealer, insurance company (as defined in section 2(a)(13) of the Securities Act of 1933), or business development company (as defined in section 2(a)(48) of the Investment Company Act of 1940); (iv) any small business investment company licensed by the United States Small Business Administration under section 301 of the Small Business Investment Act of 1958; (v) any State sponsored employee benefit plan, within the meaning of the Employee Retirement Income Security Act of 1974, other than an individual retirement account, if the investment made by such plan is made by a plan fiduciary, as defined in section 3(21) of that Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser; (vi) any trust whose purchases of securities are directed by a person described in clauses (1) through (v) of this subparagraph; (vii) an diversified plan under section 3(c)(2) of the Investment Company Act of 1940; (viii) any associated person of a broker or dealer other than a natural person; (ix) any foreign bank (as defined in section 3(b)(7) of the International Banking Act of 1990); (x) the government of any foreign country; (xi) any corporation, company, or partnership that is not on a discretionary basis, not less than $10,000,000 in investments; (xii) any national person who owns and invests on a discretionary basis, not less than $10,000,000 in investments; (xiii) any government or political subdivision, agency, or instrumentality of a government who owns and invests on a discretionary basis not less than $50,000,000 in investments; or (xiv) any multinational or supranational entity or any agency or instrumentality thereof. "(B) ADDITIONAL AUTHORITY. — The Commission may, by rule or order, define a "qualified investor" as any other person, taking into consideration such factors as the financial sophistication of the person, net worth, and knowledge and experience in financial matters."

SEC. 208. GOVERNMENT SECURITIES DEFINED. Section 3(a)(24) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(24)) is amended— (1) by striking "or" at the end of subparagraph (C); (2) by striking the period at the end of subparagraph (D) and inserting "or"; and (3) by adding at the end the following new subparagraph: "(E) for purposes of sections 15, 15C, and 17A as applied to a bank, a qualified Canadian government obligation as defined in section 5336 of the Revised Statutes of the United States."

SEC. 209. EFFECTIVE DATE. This section shall take effect at the end of the 20-day period beginning on the date of the enactment of this Act.

SEC. 210. RULE OF CONSTRUCTION. Nothing in this Act shall supersede, affect, or otherwise limit the scope and applicability of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

Subtitle B—Bank Investment Company Activities

SEC. 211. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANK. (a) MANAGEMEN ACTIVITIES. —Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(f)) is amended— (1) by redesigning paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; (2) by striking "(f) Every registered" and inserting the following: "(f) CUSTODY OF SECURITIES,— "(1) Every registered; (2) by redesigning the second, third, and fourth sentences of such subsection as paragraphs (2) through (5), respectively, and indenting the left margin of such paragraphs appropriately; and (3) by adding at the end the following new paragraph: "(6) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, of which is an affiliated person, promoter, organizer, or principal underwriter for, or principal adviser or consultant of that registered management company, may serve as custodian of that registered management company." (b) UNIT INVESTMENT TRUSTS. —Section 26 of the Investment Company Act of 1940 (15 U.S.C. 80a-26) is amended— (1) by redesigning subsections (b) through (e) as subsections (c) through (f), respectively; and (2) by inserting after subsection (a) the following new subsection: "(b) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person of a principal underwriter for, or principal adviser or consultant of, a registered unit investment trust, may serve as trustee or custodian under subsection (a)(1)."

SEC. 212. LENDING TO AN AFFILIATED INVESTMENT COMPANY. Section 17(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-17(a)) is amended— (1) by striking "or" at the end of paragraph (2); (2) by striking the period at the end of paragraph (3) and inserting "or"; and (3) by adding at the end the following new paragraph: "(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for— (i) the investment company; (ii) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of section 17(b) or section 17(c); and (iii) any account over which the investment company’s investment adviser has brokerage placement discretion;" (4) by redesigning clause (vi) as clause (vii); and (5) by inserting after clause (v) the following new clause: "(vii) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to— (i) the investment company; (ii) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of section 17(b) or section 17(c); and (iii) any account over which the investment company’s investment adviser has borrowing authority."
(1) by striking clause (v) and inserting the following new clause:

"(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

"(i) any investment company for which the investment adviser or principal underwriter serves as such;

"(ii) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

"(iii) any account over which the investment adviser has brokerage placement discretion;";

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

"(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

"(1) any investment company for which the investment adviser or principal underwriter serves as such;

"(2) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

"(3) any account over which the investment adviser has borrowing authority;";

(4) in section 220(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b±2(a)(7)) is amended by striking ``investment company, except that such term includes an insurance company or company investment company.''

SEC. 221. TREATMENT OF BANK COMMON TRUST FUNDS.

(a) Securities Act of 1933—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking "or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian" and inserting "or any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940".

(b) Securities Exchange Act of 1934—Section 3(a)(12)(A)(ii) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(a)(12)(A)(ii)) is amended by inserting before the period at the end of subparagraph (A) the following:

"(ii) any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940.".
(i) advertised; or
(ii) offered for sale to the general public; and
(C) fees and expenses charged by such fund are consistent with the concept of fiduciary principles established under applicable Federal or State law.

SEC. 222. INVESTMENT ADVISERS PROHIBITED FROM ENGAGING IN INTEREST IN REGISTERED INVESTMENT COMPANY.
Section 15B of the Investment Company Act of 1940 (15 U.S.C. 80a-15) is amended by adding at the end the following new subsection:

(g) CONTROLLING INTEREST IN INVESTMENT COMPANY.

(1) In general.—If an investment adviser to a registered investment company, or an affiliated person of that investment adviser, holds a controlling interest in that registered investment company in a trustee or fiduciary capacity, such person shall—

(A) if it holds the shares in a trustee or fiduciary capacity with respect to any employee benefit plan subject to the Employee Retirement Income Security Act of 1974, transfer the power to vote the shares of the investment company through to another person acting in a fiduciary capacity with respect to the plan who is not an affiliated person of that investment adviser or any affiliated person thereof; or

(B) if it holds the shares in a trustee or fiduciary capacity with respect to any person or entity other than an employee benefit plan subject to the Employee Retirement Income Security Act of 1974—

(i) transfer the power to vote the shares of the investment company through to—

(1) another person acting in a fiduciary capacity who is not an affiliated person of that investment adviser or any affiliated person thereof; or

(2) any person authorized to receive statements and information with respect to the trust who is not an affiliated person of that investment adviser or any affiliated person thereof; or

(ii) vote the shares of the investment company held by it in the same proportion as shares held by all other shareholders of the investment company;

and

(iii) vote the shares of the investment company as otherwise permitted under such rules and regulations as the Commission may prescribe or issue consistent with the protection of investors.

(2) Exemption.—Paragraph (1) shall not apply to an investment adviser or registered investment company, or any affiliated person of that investment adviser, that holds shares of the investment company in a trustee or fiduciary capacity if that registered investment company consists solely of assets held in such capacities.

(3) Safe Harbor.—No investment adviser to a registered investment company or any affiliated person of such investment adviser shall be deemed to have acted unlawfully or to have breached a fiduciary duty under State or Federal law solely by reason of acting in accordance with clause (i), (ii), or (iii) of paragraph (2).

SEC. 223. STATUTORY DISQUALIFICATION FOR BANK WRONGDOING.
Section 9a(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)) is amended in paragraphs (1) and (2) by striking "securities dealers, banks, transfer agent," and inserting "(A) depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or a branch or agency of a foreign bank (as such terms are defined in section 1(b) of the International Banking Act of 1990), or".

SEC. 224. CONFIRMING CHANGE IN DEFINITION.
Section 2(a)(5) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(5)) is amended by striking "in accordance with the laws of the United States" and inserting "(A) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or a branch or agency of a foreign bank (as such terms are defined in section 1(b) of the International Banking Act of 1990), or"

SEC. 225. CONFORMING AMENDMENT.
Section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2) is amended by adding at the end the following new subsection:

(c) CONFLICT OF INTEREST, COMPETITION, AND CAPITAL FORMATION.—Whenever pursuant to this title the Commission is engaged in rulemaking and is considering whether an action is necessary or appropriate in the public interest, the Commission shall, in addition to the protection of investors, in furtherance of the purposes of this section, such supervision shall become effective 45 days after the date of receipt of such written notice by the Commission or within a shorter period as the Commission, by rule or order, may determine.

(2) Election not to be supervised by the Commission as an investment company.

(A) Voluntary withdrawal.—A supervised investment bank holding company that is supervised pursuant to paragraph (1) may, upon satisfactory written representation that the Commission deems necessary or appropriate, elect not to be supervised by the Commission by filing a written notice of withdrawal from subsection (a) of section 25A of the Federal Reserve Act. Such notice shall not become effective until one year after receipt by the Commission, or such shorter or longer period as the Commission deems necessary or appropriate to ensure effective supervision of the material risks to the supervised investment bank holding company and to the affiliated broker or dealer, or to prevent evasion of the purposes of this section.

(B) Discontinuation of Commission Supervision.—If the Commission finds that any supervised investment bank holding company that is supervised pursuant to paragraph (1) is no longer in existence or has ceased to be an investment bank holding company, or if the Commission finds that continued supervision of such a supervised investment bank holding company is not consistent with the purposes of this section, the Commission may discontinue the supervision pursuant to a rule or order, if any, promulgated by the Commission under this section.

(3) Supervision of investment bank holding companies.

(A) Recordkeeping and reporting.—

(C) In general.—Every supervised investment bank holding company and each affiliate thereof shall make and keep for prescribed periods such records, furnish copies thereof, and make such reports, as the Commission may require by rule, in order to keep the Commission informed as to—

(i) the company’s activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions and relationships between any broker or dealer affiliate of the supervised investment bank holding company; and

(ii) the extent to which the company or affiliate has complied with the provisions of this Act and regulations prescribed or orders issued under this Act.

(F) Form and contents.—Such records and reports shall be prepared in such form and in such manner, according to such specifications (including certification by an independent public accountant), as the Commission may require and shall be provided promptly at any time during normal business hours for inspection. Such records and reports may include—

(i) a balance sheet and income statement;
"(ii) an assessment of the consolidated capital of the supervised investment bank holding company; 

(iii) an independent auditor's report at testing the sufficiency of internal controls and the investment bank holding company's compliance with its internal risk management and internal control objectives; and 

(iv) a report concerning the extent to which the company or affiliate has complied with the provisions of this title and any regulations prescribed and orders issued under this title.

(B) USE OF EXISTING REPORTS.—

(I) IN GENERAL.—The Commission shall, to the fullest extent possible, accept reports furnished in fulfillment of the requirements under this paragraph that the supervised investment bank holding company or its affiliates have been required to provide to another appropriate regulatory agency or self-regulatory organization.

(ii) A VAILABILITY.—A supervised investment bank holding company or an affiliate of such company shall provide to the Commission, at the request of the Commission, any report referred to in clause (i).

(C) FOCUS OF EXAMINATION AUTHORITY.—The Commission may make examinations of any supervised investment bank holding company or any affiliate of such company in order to—

(I) inform the Commission regarding—

(aa) the operation and financial condition of the supervised investment bank holding company and its affiliates; 

(bb) the financial and operational risks within the supervised investment bank holding company that may affect any broker or dealer controlled by such supervised investment bank holding company; and 

(cc) the systems of the supervised investment bank holding company and its affiliates for monitoring and controlling those risks; and 

(ii) monitor compliance with the provisions of this subsection, provisions governing transactions and relationships between any broker or dealer affiliated with the supervised investment bank holding company and any of the company's other affiliates, and applicable bankruptcy laws; 

III) INVESTIGATION OF BANKING AND INSURANCE ACTIVITIES OF SUPERVISED INVESTMENT BANK HOLDING COMPANIES.—The Commission shall defer to—

(A) the appropriate regulatory agency with regard to all interpretations of, and the enforcement of, applicable banking laws relating to the activities, conduct, ownership, control, and operations of banks; 

(B) the appropriate State insurance regulators with regard to all interpretations of, and the enforcement of, applicable State insurance laws relating to the activities, conduct, and operations of insurance companies and insurance agents.

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

(A) The term 'investment bank holding company' means—

(i) any person other than a natural person that owns or controls one or more brokers or dealers; and 

(ii) the associated persons of the investment bank holding company.

(B) The term 'supervised investment bank holding company' means any investment bank holding company that is supervised by the Commission pursuant to this subsection.

(C) The terms 'affiliate', 'bank', 'bank holding company', 'control', 'savings association', and 'wholesale financial institution' have the same meanings given in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 181). 

(D) The term 'insured bank' has the same meaning given in section 3 of the Federal Deposit Insurance Act. 

(E) The term "foreign bank" has the same meaning given in section 2(b)(7) of the International Banking Act of 1978. 

(F) The term "person", associated with an investment bank holding company and 'associated person of an investment bank holding company' mean any person directly or indirectly controlling, controlled by, or under common control with the investment bank holding company.

(G) Authority To Limit Disclosure of Information.—If the Commission determines that it is necessary to protect against violations of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 or any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under subsection (h) or (i) or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition or affairs of any person of a broker or dealer, investment bank holding company, or any affiliate of an investment bank holding company. Nothing in this subsection shall affect the Commission's authority to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or complying with an order of any Federal financial regulatory authority.

IV) FUNCTIONAL REGULATION OF BANKING ACTIVITIES.—

(A) The Commission shall promulgate rules for supervised investment bank holding companies to prescribe rules for supervised investment bank holding companies.

(B) In prescribing rules under this paragraph:

(i) DOUBLE LEVERAGE.—The Commission shall consider the use of the supervised investment bank holding company's capital, debt and equity, and other liabilities to fund capital investments in affiliates.

(ii) UNWEIGHTED CAPITAL RATIO.—The Commission shall not impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

(iii) INTERNAL RISK MANAGEMENT MODELS.—The Commission shall not, by rule, regulation, guideline, order or otherwise, impose any capital adequacy provision on a supervised investment bank holding company that may affect any broker or dealer that is in compliance with applicable capital requirements of another Federal regulatory authority or State insurance authority.

(iv) APPROPRIATE EXCLUSIONS.—The Commission shall take full account of the applicable capital requirements of another Federal regulatory authority or State insurance regulator.

(C) INTERNAL RISK MANAGEMENT MODELS.—The Commission may incorporate internal risk management models into its capital adequacy rules for supervised investment bank holding companies.

(D) USE OF EXISTING REPORTS.—

(i) Financial and Operational Risk Information.—The Commission shall consider the use of financial and operational reports, and any other information, furnished to the Federal Deposit Insurance Corporation or any other Federal financial regulatory authority.

(ii) RESTRICTED FOCUS OF EXAMINATIONS.—The Commission shall not impose on the examination of a supervised investment bank holding company any of the company's other affiliates, and any supervised investment bank holding company or any affiliate of such company, consideration that is inconsistent with applicable capital requirements of another Federal regulatory authority or State insurance authority.

(V) CONSULTATION.—In prescribing rules under this section, the Commission shall consult with each other and with appropriate Federal financial regulatory authorities and State insurance or other regulatory agencies.

(W) IMPLEMENTATION.—The Commission shall defer to the appropriate Federal financial regulatory agencies and State insurance or other regulatory agencies the implementation of the rules prescribed under this section.

(C) PROVISIONAL BANKING ACTIVITIES.—

(A) The Commission shall consider the use of internally generated capitalization, debt and equity, and other liabilities to fund capital investments in affiliates.

(B) The terms 'person associated with an investment bank holding company' and 'wholesale financial institution' have the same meanings given in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 181).
laws and rules applicable to persons subject to their jurisdiction, and may prescribe exceptions from the rules and revisions required by subsection (a) to the extent appropriate in light of the objective of this regulation to make the act of disclosure more understandable.

(d) Enforcement.—Any rule prescribed by a Federal financial regulatory authority pursuant to this section shall, for purposes of enforcement, be treated as a rule prescribed by such regulatory authority pursuant to the statute under whose authority the act or practice is made of such order, ruling, determination, or other action in its final form; or

(1) the end of the 6-month period beginning on the date on which such order, ruling, determination, or other action is issued.

(2) the end of the 6-month period beginning on the date on which the act or practice is made of such order, ruling, determination, or other action in its final form; or

(3) if the product is offered or proposed to be offered by the bank as principal, in the case of such order, ruling, determination, or other action in its final form; or

(4) if the product is offered or proposed to be offered by the bank as principal, in the case of such order, ruling, determination, or other action in its final form; or

(5) if the product is offered or proposed to be offered by the bank as principal, in the case of such order, ruling, determination, or other action in its final form; or

(6) if the product is offered or proposed to be offered by the bank as principal, in the case of such order, ruling, determination, or other action in its final form; or

(7) if the product is offered or proposed to be offered by the bank as principal, in the case of such order, ruling, determination, or other action in its final form; or

(8) if the product is offered or proposed to be offered by the bank as principal, in the case of such order, ruling, determination, or other action in its final form; or

(9) if the product is offered or proposed to be offered by the bank as principal, in the case of such order, ruling, determination, or other action in its final form; or

(TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

SEC. 301. STATE REGULATION OF THE BUSINESS OF INSURANCE

The Act entitled “An Act to express the intent of Sec. 301. STATE REGULATION OF THE BUSINESS OF the Congress with reference to the regulation of the business of insurance” and approved March 9, 1945 (15 U.S.C. 1011 et seq.), referred to as the “McCarran-Ferguson Act” remains the law of the United States.

SEC. 302. MANDATORY INSURANCE LICENSING REQUIREMENTS

No person shall engage in the business of insurance in a State as principal or agent unless such person is licensed as required by the appropriate State or Federal insurance regulatory authority pursuant to the statute under whose authority such person is subject to taxation.

SEC. 303. FUNCTIONAL REGULATION OF INSURANCE

The insurance activities of any person (including a national bank exercising its power to act as agent under the 12th undesignated paragraph of section 13 of the Federal Reserve Act) shall be functionally regulated by the States, subject to section 104.

SEC. 304. INSURANCE UNDERWITNESS IN NATIONAL BANKS

(a) In General.—Except as provided in section 305, a national bank and the subsidiaries of a national bank may not provide insurance for an insurance agency, a subsidiary of a national bank which is subject to tax as an insurance company under section 831 of the Internal Revenue Code of 1986.

(b) Authorized Products.—For the purposes of this section, a product is authorized if—

(1) as of January 1, 1999, the Comptroller of the Currency had determined in writing that national banks may provide such product as principal; or

(2) the end of the 12-month period beginning on the date on which such order, ruling, determination, or other action is issued.

(c) Definition.—For purposes of this section, the term “insurance” means—

(1) any product regulated as insurance as of January 1, 1999, in accordance with the relevant State insurance law, in the State in which the product is provided;

(2) any product first offered after January 1, 1999, which is not regulated as insurance under section 831 of the Internal Revenue Code of 1986; or

(3) a product that includes an insurance component.

SEC. 305. TITLE INSURANCE ACTIVITIES OF NATIONAL BANKS AND THEIR AFFILIATES

(a) General Prohibition.—No national bank, and no subsidiary of a national bank, may engage in any activity involving the underwriting or sale of title insurance

(b) Nondiscrimination Parity Exception.

(c) General Prohibition.—No national bank, and no subsidiary of a national bank, may engage in any activity involving the underwriting or sale of title insurance

(d) Affiliates and Subsidiaries Defined. — For purposes of this section, the terms “affiliates” and “subsidiaries” have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

SEC. 306. EXPEDITED AND EQUALIZED DISPUTE RESOLUTION FOR FEDERAL REGULATORS

(a) Filing in Court of Appeals.—In the case of a regulatory conflict between a State insurance regulator and a Federal regulator as to whether any product offered or sold as insurance, as defined in section 304(c) of this Act, or whether a State statute, regulation, or interpretation of the applicable Federal law is preempted under Federal law, either regulator may seek expedited judicial review, subject to such determinations as the United States Court of Appeals for the Circuit in which the State is located or in the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in such court.

(b) Expedited Review.—The United States Court of Appeals in which a petition for review is filed in accordance with subsection (a) shall complete all action on such petition, including rendering a judgment, before the end of the 60-day period beginning on the date on which such petition is filed, unless all parties to such proceeding agree to any extension of such period.

(c) Supreme Court Review.—Any request for certiorari to the Supreme Court of the United States of any judgment of a United States Court of Appeals with respect to a petition for review under subsection (b) shall be filed with the Supreme Court of the United States as soon as practicable after such judgment is issued.

(d) Statute of Limitation.—No petition may be filed under this section challenging an order, ruling, determination, or other action of a Federal regulator, or the United States Court of Appeals after the later of—

(1) the end of the 60-day period beginning on the date on which such order, ruling, determination, or other action is issued.

(2) the end of the 60-day period beginning on the date on which such order, ruling, determination, or other action is issued.

(3) the end of the 60-day period beginning on the date on which such order, ruling, determination, or other action is issued.

(4) the end of the 60-day period beginning on the date on which such order, ruling, determination, or other action is issued.

(e) Standard of Review.—The court shall decide a petition filed under this section based on its review of the merits of all questions presented under Federal law, including the nature of the product or activity and the history and purpose of its regulation under State and Federal law, without unequal deference.
"(I) IN GENERAL.—The Federal banking agencies shall prescribe and publish in final form, before the end of the 1-year period beginning on the date of the enactment of the Financial Services Reform and Consumer Protection Act of 2006, consumer protection regulations (which the agencies jointly determine to be appropriate) that —

(A) apply to retail sales practices, solicitations, or offers of any insurance product by any insured depository institution or wholesale financial institution or any person who is engaged in such activities associated with the sale of such product, including any affiliate of the institution or on behalf of the half of the institution; and

(B) are consistent with the requirements of this section and any such additional protections for consumers to whom such sales, solicitations, advertising, or offers are directed as the agency determines to be appropriate.

(2) APPLICABILITY TO SUBSIDIARIES.—The regulations prescribed pursuant to paragraph (1) shall extend such protections to any subsidiary of an insured depository institution, as deemed appropriate by the regulators referred to in paragraph (3), where such extension is determined to be necessary to ensure the consumer protections provided by this section.

(3) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraph (1), after consultation with the State insurance regulators, as appropriate.

(a) SALES PRACTICES.—The regulations prescribed pursuant to subsection (a) shall include anticoercion rules applicable to the sale of insurance products which prohibit an insured depository institution from engaging in any practice which would lead a consumer to believe an extension of credit, in violation of section 32 of the Federal Deposit Insurance Corporation Act Amendments of 1970, is conditional on—

(I) the purchase of an insurance product from the institution or any of its affiliates; or

(2) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an uninsured entity.

(c) DISCLOSURES AND ADVERTISING.—The regulations prescribed pursuant to subsection (a) shall include provisions relating to disclosures and advertising in connection with the initial purchase of an insurance product.

(1) DISCLOSURES.—

(A) IN GENERAL.—Requirements that the disclosures provided to a consumer of the receipt of the disclosure required under this subsection with respect to —

(i) the uninsured nature of any insurance product sold, or offered for sale, by the institution or any subsidiary of the institution; or

(ii) the case of a variable annuity or other insurance product that involves an investment risk, the investment risk associated with any such product.

(B) SEPARATION OF BANKING AND NONBANKING ACTIVITIES.—

(1) REGULATIONS REQUIRED.—The regulations prescribed pursuant to subsection (a) shall include such provisions as the Federal banking agencies consider appropriate to ensure that the routine acceptance of deposits is kept, to the extent practicable, physically segregated from insurance product activity.

(2) REQUIREMENTS.—Regulations prescribed pursuant to paragraph (1) shall include the following:

(A) SEparate setting.—A clear delineation of the setting in which, and the circumstances under which, transactions involving insurance products should be conducted in a location physically segregated from an area where retail deposits are routinely accepted.

(B) REFERRALS.—Standards which permit any person accepting deposits from the public in an area where such transactions are routinely conducted to refer a customer who seeks to purchase any insurance product to a qualified person who sells such product, only if such person or otherwise causes a reasonable person to reach an erroneous belief with respect to —

(i) the uninsured nature of any insurance product sold, or offered for sale, by the institution or any subsidiary of the institution; or

(ii) the case of a variable annuity or other insurance product that involves an investment risk, the investment risk associated with any such product.

(2) EFFECT ON OTHER AUTHORITY.—

(3) GENERAL.—No provision of this section shall be construed as granting, limiting, or otherwise affecting—

(A) any authority of the Securities and Exchange Commission, any self-regulatory organization, the Municipal Securities Rulemaking Board, or the Secretary of the Treasury under any Federal securities law; or

(B) except as provided in paragraph (2), any authority of any State insurance commissioner or other State authority under any State law.

(2) COORDINATION WITH STATE LAW.—

(3) develop procedures for informing consumers of their rights under this section and any regulated essential to the recovery of the uniformity of the enforcement of the Act and provide such additional protection for consumers to whom such sales, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or any person who is engaged in such activities at an office of such institution or on behalf of the institution, in a State where the State has an effect statutes, regulations, orders, or interpretations, that are inconsistent with or contrary to the regulations prescribed by the Federal banking agencies.

(3) PREEMPTION.—If, with respect to any provision of the regulations prescribed under this section, the Board of Governors of the Federal Reserve System, the Secretary of the Treasury, the Federal Deposit Insurance Corporation, the Federal Reserve Banks, and the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation determine jointly that the protection afforded by such provision for consumers is greater than the protection provided by a comparable provision of the statutes, regulations, orders, or interpretations referred to in paragraph (2), the Board of Directors of the Federal Deposit Insurance Corporation shall disapprove a plan of reorganization by which the rights or interests of any individual, corporation, or other entity to which such provision of the regulations prescribed under this section shall supersede the comparable provision of such State statute, regulation, order, or interpretation.

(4) INSURANCE PRODUCT DEFINED.—For purposes of this section, the term 'insurance product' includes an annuity contract the interest on which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

SEC. 308. CERTAIN STATE AFFILIATION LAWS PREEMPTED FOR INSURANCE COMPANIES AND AFFILIATES.

Except as provided in section 104A(2), no State may, by law, regulation, order, interpretation, or otherwise—

(1) prevent or significantly interfere with the ability of any insurer, or any affiliate of an insurer (whether such affiliate is organized as a stock company, mutual holding company, or otherwise), to become a financial holding company or to acquire control of an insured depository institution; or

(2) limit the amount of any insurer that may be invested in the voting securities of an insured depository institution (or any company which controls such institution), so long as the laws of the State of domicile may limit the amount of such investment to an amount that is not less than 5 percent of the insurer's admitted assets; or

(3) have the authority to review, approve, or disapprove a plan of reorganization by which
an insurer proposes to reorganize from mutual form to become a stock insurer (whether as a direct or indirect subsidiary of a mutual holding company or otherwise) unless such State is the State of domicile of the insurer.

SEC. 309. INTERAGENCY CONSULTATION.

(a) Purpose.—It is the intention of Congress that the Board of Governors of the Federal Reserve System, the umbrella supervisor for financial holding companies, and the State insurance regulators, as the functional regulators of companies engaged in insurance activities, take into account the treatment under applicable Federal law of the following matters:

(1) have enacted uniform criteria regarding the integrity, personal qualifications, education, training, and experience of licensed insurer producers, including the qualification of nonresident producers to sell or solicit the purchase of insurance products, and

(2) have enacted criteria and requirements for licensed insurer producers to sell or solicit the purchase of insurance products, including the qualification of nonresident producers to sell or solicit the purchase of insurance products, and

(b) Uniformity Required.—States shall be deemed to have established the uniformity necessary to satisfy subsection (a)(1) if the States—

(1) establish uniform criteria regarding the integrity, personal qualifications, education, training, and experience of licensed insurer producers, including the qualification of nonresident producers to sell or solicit the purchase of insurance products, and

(2) have enacted criteria and requirements for licensed insurer producers to sell or solicit the purchase of insurance products, including the qualification of nonresident producers to sell or solicit the purchase of insurance products.
SEC. 325. MEMBERSHIP.
(a) ELIGIBILITY.—
(1) IN GENERAL.—Any State-licensed insurance producer shall be eligible to become a member in the Association.
(2) INELIGIBILITY FOR SUSPENSION OR REVOCATION OF LICENSE.—Notwithstanding paragraph (1), a State insurance producer shall not be eligible to become a member if a State insurance regulator has suspended or revoked such producer's license in that State for a period of 2 years preceding the date on which such producer applies for membership.
(3) RESUMPTION OF ELIGIBILITY.—Paragraph (2) shall cease to apply to any insurance producer if—
(A) the State insurance regulator renews the license of such producer in the State in which the license was suspended or revoked; or
(B) the suspension or revocation is subsequently overturned.
(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRITERIA.—The Association shall have the authority to establish membership criteria that—
(1) bear a reasonable relationship to the purposes for which the Association was established; and
(2) do not unfairly limit the access of smaller agencies to the Association membership.
(c) ESTABLISHMENT OF CLASSES AND CATEGORIES.—
(1) CLASSES OF MEMBERSHIP.—The Association may establish separate categories of membership, with separate criteria, if the Association reasonably determines that performance of different duties requires different levels of education, training, or experience.
(2) CATEGORIES.—The Association may establish separate categories of membership for individuals and for other persons. The establishment of any such categories of membership shall be based either on the types of licensing categories that exist under State laws or on the aggregate amount of business handled by an insurance producer. No special categories of membership, and no distinct membership criteria, shall be established for members which are insurance producers or which are insurance producers and brokers. No special categories of membership, and no distinct membership criteria, shall be established for members which are members of the Board or the Board of Directors.
(d) MEMBERSHIP CRITERIA.—
(1) IN GENERAL.—The Association may establish criteria for membership which shall include standards for integrity, personal qualifications, education, training, and experience.
(2) MINIMUM STANDARD.—In establishing criteria under paragraph (1), the Association shall establish the highest levels of insurance producer qualifications established under the licensing laws of the States.
(e) EFFECT OF MEMBERSHIP.—Membership in the Association shall constitute the highest levels of insurance producer qualifications established under the licensing laws of the States.
(f) ANNUAL RENEWAL.—Membership in the Association shall be renewed on an annual basis.
(g) CONTINUING EDUCATION.—The Association shall establish, as a condition of membership, continuing education requirements which shall be comparable to or greater than the requirements set by such State insurance regulators.
(h) SUSPENSION AND REVOCATION.—The Association may—
(I) inspect and examine the records and offices of the members of the Association to determine compliance with the criteria for membership established by the Association; and
(2) suspend or revoke the membership of an insurance producer if—
(A) the producer fails to meet the applicable membership criteria of the Association; or
(B) the producer has been subject to disciplinary action pursuant to a final adjudicatory proceeding under the jurisdiction of a State insurance regulator, and the Association concludes that retention of membership in the Association would not be in the public interest.
(i) OFFICE OF CONSUMER COMPLAINTS.—
(1) IN GENERAL.—The Association shall establish an office of consumer complaints which shall—
(A) receive and investigate complaints from both consumers and State insurance regulators related to members of the Association; and
(B) recommend to the Association any disciplinary actions that the office considers appropriate, to the extent that any such recommendation is not inconsistent with State law.
(j) RECORDS AND REFERRALS.—The office of consumer complaints of the Association shall—
(A) maintain records of all complaints received in accordance with paragraph (1) and make such records available to the NAIC and to each State insurance regulator for the State of residence of the consumer who filed the complaint; and
(B) refer, when appropriate, any such complaint to any appropriate State insurance regulator.
(k) TELEPHONE AND OTHER ACCESS.—The office of consumer complaints shall maintain a toll-free telephone number for the purpose of this subsection and, as practicable, other alternative means of communication with consumers, such as an Internet home page.

SEC. 326. BOARD OF DIRECTORS.
(a) ESTABLISHMENT.—There is established the board of directors of the Association (hereafter in this subtitle referred to as the "Board") for the purpose of governing and supervising the activities of the Association and the members of the Association.
(b) POWERS.—The Board shall have such powers and authority as may be specified in the bylaws of the Association.
(c) COMPOSITION.—
(1) MEMBERS.—The Board shall be composed of 7 members appointed by the NAIC, 1 member appointed by the Federal Reserve Board, and 4 members of the Board shall have significant experience with the regulation of commercial lines of insurance in at least 1 of the 20 States in which the greatest total dollar amount of commercial-lines insurance is placed in the United States.
(2) INITIAL BOARD MEMBERS.—
(A) IN GENERAL.—If, by the end of the 2-year period beginning on the date of enactment of this Act, the NAIC has not appointed the initial 7 members of the Board of Directors established by this Act, the initial Board shall consist of the 7 State insurance regulators of the 7 States with the greatest total dollar amount of commercial-lines insurance in place as of the end of such period.
(B) ALTERNATE COMPOSITION.—If any of the State insurance regulators described in subparagraph (A) declines to serve on the Board, the State insurance regulator with the next greatest total dollar amount of commercial-lines insurance in place, as determined by the NAIC as of the end of such period, shall serve as a member of the Board.
(C) INOPERABILITY.—If fewer than 7 State insurance regulators accept appointment to
the Board, the Association shall be established without NAIC oversight pursuant to section 332.

(d) TERMS.—The term of each director shall be the term of service of the members of the Board, be for 3 years, with ½ of the directors to be appointed each year.

(e) BOARD VACANCIES.—A vacancy on the Board shall be filled in the same manner as the original appointment of the initial Board for the remainder of the term of the vacating member.

(f) MEETINGS.—The Board shall meet at the call of the chairperson, or as otherwise provided by the bylaws of the Association.

SEC. 327. OFFICERS.

(a) IN GENERAL. (1) POSITIONS.—The officers of the Association shall consist of a chairperson and a vice chairperson of the Board, a president, secretary, and treasurer of the Association, and such other officers and assistant officers as may be deemed necessary.

(2) MANNER OF SELECTION.—Each officer of the Board and the Association shall be elected or appointed at such time and in such manner and for such terms not exceeding 3 years as may be prescribed in the bylaws of the Association.

(b) CRITERIA FOR CHAIRPERSON.—Only individuals who are members of the NAIC shall be eligible to serve as the chairperson of the Board of Directors.

SEC. 328. BYLAWS, RULES, AND DISCIPLINARY ACTION.

(a) ADOPTION AND AMENDMENT OF BYLAWS. (1) COPY REQUIRED TO BE FILED WITH THE NAIC.—The board of directors of the Association shall file with the NAIC a copy of the proposed bylaw or any proposed amendment to the bylaws, accompanied by a concise general statement of the basis and purpose of such proposal.

(2) EFFECTIVE DATE.—Except as provided in paragraph (3), any proposed bylaw or proposed amendment shall take effect—

(A) 30 days after the filing of a copy with the NAIC;

(B) upon such later date as the Association may designate; or

(C) upon such earlier date as the NAIC may determine.

(3) DISAPPROVAL BY THE NAIC.—Notwithstanding paragraph (2), a proposed bylaw or amendment shall not take effect if, after public notice and an opportunity to participate in a public hearing—

(A) the NAIC disapproves such proposal as being contrary to the public interest or contrary to the purpose or the bylaws of the Association and provides notice to the Association setting forth the reasons for such disapproval; or

(B) the NAIC finds that such proposal involves a matter of such significant public interest that public comment should be obtained, in which case it may, after notifying the Association in writing of such finding, require that the procedures set forth in subsection (b) be followed with respect to such proposal, in the same manner as if such proposed bylaw change were a proposed rule change within the meaning of such subsection.

(b) ADOPTION AND AMENDMENT OF RULES. (1) FILING PROPOSED REGULATIONS WITH THE NAIC.—Proceedings instituted by the Association for the purpose of amending the rules of the Association which any provision of this subtitle other than subparagraph (A) of subsection (3), provides notice to the Association to adopt, amend, or repeal any proposed rule or amendment of the Association, whenever adopted.

(2) DISMISSAL OF REVIEW.—The NAIC may, in accordance with such rules as the NAIC determines to be necessary or appropriate in the public interest, or to carry out the purposes of this subtitle, require the Association to adopt, amend, or repeal any proposed rule or amendment of the Association, whenever adopted.

(3) DISCIPLINARY ACTION BY THE ASSOCIATION. (1) SPECIFICATION OF CHARGES.—In any proceeding to determine whether membership shall be denied, suspended, revoked, or not renewed (hereafter in this section referred to as "disciplinary action") the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

(2) SUPPORTING STATEMENT.—A determination to take disciplinary action shall be supported by a statement setting forth—

(A) any act or practice in which such member has been found to have been engaged;

(B) the provisions of this subtitle, the rules or regulations of the Association which any such act or practice is deemed to violate; and

(C) such rules and regulations are, and the purposes of this subtitle, require the Association to adopt, amend, or repeal any proposed rule or amendment of the Association, whenever adopted.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action taken by the Association shall be denoted as a disciplinary action, the Association shall be denied, suspended, revoked, or not renewed (hereafter in this section referred to as "disciplinary action") the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

(2) DISMISSAL OF REVIEW.—The NAIC may dismiss a proceeding to review any disciplinary action if the NAIC finds that—

(A) on the NAIC's own motion; or

(B) on application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action taken by the Association shall be denoted as a disciplinary action, the Association shall be denied, suspended, revoked, or not renewed (hereafter in this section referred to as "disciplinary action") the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

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(A) on the NAIC's own motion; or

(B) on application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action taken by the Association shall be denoted as a disciplinary action, the Association shall be denied, suspended, revoked, or not renewed (hereafter in this section referred to as "disciplinary action") the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

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(A) on the NAIC's own motion; or

(B) on application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action taken by the Association shall be denoted as a disciplinary action, the Association shall be denied, suspended, revoked, or not renewed (hereafter in this section referred to as "disciplinary action") the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

(2) DISMISSAL OF REVIEW.—The NAIC may dismiss a proceeding to review any disciplinary action if the NAIC finds that—

(A) on the NAIC's own motion; or

(B) on application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action taken by the Association shall be denoted as a disciplinary action, the Association shall be denied, suspended, revoked, or not renewed (hereafter in this section referred to as "disciplinary action") the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

(2) DISMISSAL OF REVIEW.—The NAIC may dismiss a proceeding to review any disciplinary action if the NAIC finds that—

(A) on the NAIC's own motion; or

(B) on application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action taken by the Association shall be denoted as a disciplinary action, the Association shall be denied, suspended, revoked, or not renewed (hereafter in this section referred to as "disciplinary action") the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

(2) DISMISSAL OF REVIEW.—The NAIC may dismiss a proceeding to review any disciplinary action if the NAIC finds that—

(A) on the NAIC's own motion; or

(B) on application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.
SEC. 330. FUNCTIONS OF THE NAIC.
(a) ADMINISTRATIVE PROCEDURE.—Determinations of the NAIC, for purposes of making rules pursuant to section 328, shall be made after notice and opportunity for a hearing and for submission of views of interested persons.
(b) EXAMINATIONS.—The NAIC may make such examinations and inspections of the Association and require the Association to furnish it with reports and records or copies thereof as the NAIC may consider necessary or appropriate in the public interest or to effectuate the purposes of this subtitle.
(c) PROHIBITED ACTIONS.—No State shall—
(1) EXAMINATIONS.—Antitrust laws are applicable to this act as it is appropriate.
(2) PROHIBITED ACTIONS.—No State shall—
(a) JURISDICTION.—The appropriate United States District Court shall have exclusive jurisdiction over litigation involving the Association, including disputes between the Association and its members that arise under this subtitle.
(b) EXHAUSTION OF REMEDIES.—An aggrieved person shall have available all administrative remedies before the Association and the NAIC before it may seek judicial review of an Association decision.
(c) STANDARDS OF REVIEW.—The standards set forth in section 553 of title 5, United States Code, shall be applied whenever a rule of the Association is judicially reviewed, and the standards set forth in section 554 of title 5, United States Code, shall be applied whenever a disciplinary action of the Association is judicially reviewed.

SEC. 331. LIABILITY OF THE ASSOCIATION AND THE DIRECTORS, OFFICERS, AND EMPLOYEES OF THE ASSOCIATION.
(a) IN GENERAL.—No association shall be deemed to be an insurer or insurance producer, or any other entity engaged in the business of insurance, or guaranty fund entity, established without NAIC oversight and the financial condition of which is not determined by the NAIC, to be an insurer or insurance producer, or any other entity engaged in the business of insurance, or guaranty fund entity, or to effectuate the purposes of this subtitle.
(b) EXAMINATIONS.—The NAIC may make such examinations and inspections of the Association and require the Association to establish rules, regulations, or orders regulating or taxing the insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including counterfeit insurance laws.

SEC. 334. COORDINATION WITH OTHER REGULATORS.
(a) COORDINATION WITH STATE INSURANCE REGULATORS.—The Association shall have the authority to—
(1) ISSUE UNIFORM INSURANCE PRODUCER APPLICATIONS.—The Association shall provide a unified application that may be used to apply for the issuance or renewal of State licenses, while preserving the ability of each State to impose such conditions on the issuance or renewal of a license as are consistent with section 333;
(2) ESTABLISH A CLEARINGHOUSE.—The Association shall have the authority to establish a central clearinghouse through which members of the Association and its members that arise under this subtitle.
(3) ESTABLISH A NATIONAL DATABASE.—The Association shall establish a national database for the collection of regulatory information concerning the activities of insurance producers.
(4) COORDINATION WITH THE NATIONAL ASSOCIATION OF SECURITIES DEALERS.—The Association shall coordinate with the National Association of Securities Dealers in order to ease any administrative burdens that fall on persons that are members of both associations, consistent with the purposes of this subtitle and the Federal securities laws.

SEC. 335. JUDICIAL REVIEW.
(a) GENERAL.—The appropriate United States District Court shall have exclusive jurisdiction over litigation involving the Association, including disputes between the Association and its members that arise under this subtitle. Suits brought in State court involving the Association shall be deemed to have arisen under Federal law and therefore subject to jurisdiction in the appropriate United States District court.
(b) EXHAUSTION OF REMEDIES.—An aggrieved person shall have available all administrative remedies before the Association and the NAIC before it may seek judicial review of an Association decision.
(c) STANDARDS OF REVIEW.—The standards set forth in section 553 of title 5, United States Code, shall be applied whenever a rule of the Association is judicially reviewed, and the standards set forth in section 554 of title 5, United States Code, shall be applied whenever a disciplinary action of the Association is judicially reviewed.

SEC. 336. DEFINITIONS.
For purposes of this subtitle, the following definitions shall apply:
(a) STATE.—The term “State” means the State in which the insurance producer maintains its principal place of business and is licensed to act as an insurance producer.
(b) INSURANCE.—The term “insurance” means any product, other than title insurance, defined or regulated as insurance by the appropriate State insurance regulatory authority.
(c) INSURANCE PRODUCER.—The term “insurance producer” means any person that offers advice, counsel, opinions, or services related to insurance.
(4) STATE.—The term "State" includes any State, the District of Columbia, American Samoa, Guam, Puerto Rico, and the United States Virgin Islands.

(5) STATE LAW.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable to, or of interest to, the District of Columbia shall be treated as a State law rather than a law of the United States.

Subtitle C—Rental Car Agency Insurance Activities

SEC. 341. STANDARDS OF REGULATION FOR MOTOR VEHICLE RENTALS.

(a) PROTECTION AGAINST RETROACTIVE APPLICATION OF REGULATORY AND LEGAL ACTION.—The term "State law" in subsection (5) shall be construed as altering the validity, interpretation, or effect of—

(1) any State statute;

(2) the prospective application of any court judgment interpreting or applying any State statute;

(3) the prospective application of any final State regulation, order, bulletin, or other statutorily authorized interpretation or action, which, by its specific terms, expressly regulates or exempts from regulation any person who solicits the purchase of or sells insurance connected with, and incidental to, the lease or rental of a motor vehicle;

(b) PREEMINENCE OF STATE INSURANCE LAW.—No provision of this section shall be construed as altering the validity, interpretation, or effect of—

(1) any State statute;

(2) the prospective application of any court judgment interpreting or applying any State statute or order, bulletin, or other statutorily authorized interpretation or action, which, by its specific terms, expressly regulates or exempts from regulation any person who solicits the purchase of or sells insurance connected with, and incidental to, the short-term rental of a motor vehicle;

(c) SCOPE OF APPLICATION.—This section shall apply with respect to—

(1) the lease or rental of a motor vehicle for a period of 90 consecutive days or less; and

(2) insurance which is provided in connection with, and incidental to, such lease or rental of a motor vehicle for a period of consecutive days not exceeding the lease or rental period.

(d) MOTOR VEHICLE DEFINED.—For purposes of this section, the term "motor vehicle" has the meaning given such term in section 13102 of title 49, United States Code.

Subtitle D—Confidentiality

SEC. 351. CONFIDENTIALITY OF HEALTH AND MEDICAL INFORMATION.

(a) IN GENERAL.—A company which underwrites or sells annuities contracts or contracts insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death (other than credit-related insurance) and any subsidiary or affiliate thereof shall maintain a practice of protecting the confidentiality of individually identifiable health and medical and genetic information and may disclose such information only—

(1) with the consent, or at the direction, of the customer;

(2) for insurance underwriting and reinsuring policies, account administration, reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), providing information to the customer's physician or other health care provider, participating in research projects, enabling the purchase, transfer, merger, or sale of any insurance company, or as otherwise required or specifically permitted by Federal or State law; or

(3) in connection with—

(A) the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit, or other payment card or account number, or by other payment means;

(B) the transfer of receivables, accounts, or interest thereon;

(C) the audit of the debit, credit, or other payment information;

(D) compliance with Federal, State, or local law;

(E) compliance with a properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities as governed by the requirements of this section; or

(F) fraud protection, risk control, resolving customer disputes or inquiries, communicating with State insurance regulatory authorities, or reporting to consumer reporting agencies.

(b) STATE ACTIONS FOR VIOLATIONS.—In addition to such other remedies as are provided under State law, the chief law enforcement officer of a State, State insurance regulator, or any other official designated by the State, has reason to believe that any person has violated or is violating this title, the State may bring an action to enjoin such violation in any United States district court or in any other court of competent jurisdiction.

(c) EFFECTIVE DATE; SUNSET.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), subsection (a) shall take effect on February 1, 2000.

(2) SUNSET.—Subsection (a) shall not take effect if, or shall cease to be effective on and after the date on which, legislation is enacted that satisfies the requirements in section 260F(c) in the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033).

(d) CONSULTATION.—While subsection (a) is in effect, any notice required under such section (2), subsection (a) shall not take effect on and after the date on which, legislation is enacted that satisfies the requirements in section 260F(c) in the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033).

(e) CONSULTATION.—While subsection (a) is in effect, any notice required under such section (2), subsection (a) shall not take effect on and after the date on which, legislation is enacted that satisfies the requirements in section 260F(c) in the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033).

IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES

SEC. 401. PROHIBITION ON NEW UNITARY SAVINGS AND LOAN HOLDING COMPANIES.

(a) IN GENERAL.—Section 10(c) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)) is amended by adding at the end the following new paragraph:

"(g) TERMINATION OF EXPANDED POWERS FOR NEW UNITARY HOLDING COMPANY.—

"(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding paragraph (3), no company may become or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after March 1, 1986, 12 U.S.C. 1467a(c)(3), unless such company, directly or indirectly (including through a subsidiary other than a savings association), in any activities that are permitted—

(i) under paragraph (3)(C) or (2); or

(ii) for financial holding companies under section 6(e) of the Bank Holding Company Act of 1956.

(B) EXISTING UNITARY HOLDING COMPANIES AND THE SUCCESSORS TO SUCH COMPANIES.—Subparagraph (A) shall not apply, and paragraph (3) shall continue to apply, to a company (or any subsidiary of such company) that—

(i) either—

(I) acquired 1 or more savings associations as in section 3 of the Federal Deposit Insurance Act; or

(II) subject to subparagraph (C), became a savings and loan holding company by acquiring control of the company described in subclause (I) or the successor to any such savings association.

(C) NOTICE PROCESS FOR NONFINANCIAL ACTIVITIES BY A SUCCESSOR UNITARY HOLDING COMPANY.—

(ii) NOTICE REQUIRED.—Subparagraph (B) shall not apply to any company described in subparagraph (B)(i)(III) which engages, directly or indirectly, in any non-financial activities other than activities described in clauses (i) and (ii) of subparagraph (A), unless—

(I) in addition to an application to the Director under this section to become a savings and loan holding company, the company submits a notice to the Board of Governors of the Federal Reserve System of such non-financial activities in the same manner as a notice of nonbanking activities is filed with the Board under section 4(i) of the Bank Holding Company Act of 1956; and

(II) before the end of the applicable period under such section 4(i), the Board either approves or does not disapprove of the continuation of such activities by such company, determines that the company is not成为一个 savings and loan holding company.

"(II) PROCEDE.—Section 4(i) of the Bank Holding Company Act of 1956, including the last sentence thereof, and any notice filed with the Board under this subparagraph in the same manner as it applies to notices filed under such section.".

SEC. 402. RETENTION OF "FEDERAL" IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.

Section 2 of the Act entitled "An Act to enable national banking associations to increase their capital stock and to change their names or locations", approved May 1, 1886 (12 U.S.C. 30), is amended by adding at the end the following new subsection:

"(d) RETENTION OF "FEDERAL" IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.—

"(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, any depository institution the charter of which is converted from that of a Federal savings association to a national bank or a State bank after the date of the enactment of the Financial Services Act of 1999 may retain the term 'Federal' in the name of such institution if such depository institution remains a depository institution other than a bank.

"(2) DEFINITIONS.—For purposes of this subsection, the term 'depository institution', 'insured depository institution', 'national bank' and the term 'State bank' have the same meanings as in section 3 of the Federal Deposit Insurance Act.".
TITLE V—PRIVACY
Subtitle A—Privacy Policy

SEC. 501. DEPOSITORY INSTITUTION PRIVACY POLICIES.

Section 6(dd) of the Bank Holding Company Act of 1956 (as added by section 103 of this title) is amended by adding at the end the following new subsection:

"(h) DEPOSITORY INSTITUTION PRIVACY POLICIES.—

"(1) Disclosure required.—In the case of any insured depository institution which becomes a company, affiliate of a financial holding company, the privacy policy of such depository institution shall be clearly and conspicuously disclosed.

"(2) INSTITUTIONS ADEQUATELY PROTECT THE PRIVACY RIGHTS OF CUSTOMERS.—

"(A) with respect to any person who becomes a customer of the depository institution at the time the depository institution becomes affiliated with such company, to such person at the time at which the business relationship between the customer and the institution is initiated; and

"(B) with respect to any person who already is a customer of the depository institution at the time the depository institution becomes affiliated with such company, to such person within a reasonable time after the affiliation is consummated.

"(3) INFORMATION TO BE INCLUDED.—The privacy policy of an insured depository institution which is disclosed pursuant to paragraph (2) shall include—

"(A) the policy of the institution with respect to disclosing customer information to third parties, other than agents of the depository institution, for marketing purposes; and

"(B) the disclosures required under section 603(d)(2)(A)(ii) of the Fair Credit Reporting Act with regard to the right of the customer, at any time, to direct that information referred to in such section not be shared with affiliates of the depository institution.

Section 18(h) of the Home Owners' Loan Act, this subsection and subsection (i) shall apply to any financial institution subject to regulation by such Federal banking agency; and

"(i) definitions.—In this subsection, the terms "affiliate", "Federal banking agency", "financial institution", and "subsidiary of such holding institution" have the meanings given to such terms in section 3 of the Federal Deposit Insurance Act.

Subtitle B—Fraudulent Access to Financial Information

SEC. 521. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.

(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES.—It shall be a violation of this subtitle to request a person to obtain customer information of a financial institution, knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a).

(b) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed so as to prevent any financial institution, or any officer, employee, or agent of such financial institution, from obtaining customer information of a financial institution under false pretenses in the course of—

"(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information; or

"(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

"(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a).

(c) NONAPPLICABILITY TO INSURANCE INSTITUTIONS FOR INVESTIGATION OF INSURANCE FRAUD.—No provision of this section shall be construed so as to prevent any officer, employee, or agent of an insurance institution, from obtaining information as part of an insurance investigation into criminal activity, fraud, material misrepresentation, or material nondisclosure that is authorized for such institution under State law, regulation, interpretation, or order.

(d) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed so as to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

(e) NONAPPLICABILITY TO COLLECTION OF CHILD SUPPORT JUDGMENTS.—No provision of this section shall be construed to prevent any State-licensed private investigator, or any officer, employee, or agent of such private investigator, from collecting customer information in the course of any investigation of child support obligations from a Federal or State court, and to the extent that such action by a State-licensed private investigator is not unlawful under any other Federal or State law or regulation, and has been authorized by an order or judgment of a court of competent jurisdiction.

SEC. 522. ADMINISTRATIVE ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Compliance with this subtitle shall be enforced by the Federal Trade Commission in the same manner and with the same powers, as such authority is vested under title VIII, the Fair Debt Collection Practices Act, to enforce compliance with such title.

(b) NOTICE OF ACTIONS.—The Federal Trade Commission shall—

"(1) notify the Secretary of the Treasury whenever the Federal Reserve Board initiates an investigation with respect to a financial institution subject to regulation by the Securities and Exchange Commission;

"(2) notify the appropriate Federal banking agency whenever the Commission initiates an investigation with respect to a financial institution subject to regulation by such Federal banking agency; and

"(3) notify the appropriate State insurance regulator whenever the Commission initiates an investigation with respect to a financial institution subject to regulation by such regulator.

SEC. 523. CRIMINAL PENALTY.

(a) IN GENERAL.—Whoever knowingly and intentionally violates, or knowingly and intentionally attempts to violate, section 521 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

(b) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, section 521 while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3651 of title 18, United States Code, imprisoned for not more than 10 years, or both.

SEC. 524. RELATION TO STATE LAWS.

(a) IN GENERAL.—This subtitle shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations of any State or Federal law enforcement agency, or any officer, employee, or agent of such agency, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this subtitle, and then only to the extent determined by the Commission, on its own motion or upon the petition of any interested party.

SEC. 525. AGENCY GUIDANCE.

In furtherance of the objectives of this subtitle, the Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) and the Federal Deposit Insurance Corporation, as applicable, shall adopt such regulations and guidelines as may be necessary to ensure that such financial institutions have policies, procedures, and controls in place to prevent the unauthorized disclosure of any State or Federal agency's financial information, and to deter and detect activities proscribed under section 521.
SEC. 526. REPORTS.
(a) REPORT TO THE CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General, in consultation with the Federal Trade Commission, Federal banking agencies, the Securities and Exchange Commission, appropriate Federal law enforcement authorities, appropriate State insurance regulators, shall submit to the Congress a report on the following:
(1) The efficacy and adequacy of the remedial provisions in the statute in addressing attempts to obtain financial information by fraudulent means or by false pretenses.
(2) Any recommendations for additional legislation or action to address the threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.
(b) ANNUAL REPORT BY ADMINISTERING AGENCIES.—The Federal Trade Commission and the Attorney General shall submit to Congress an annual report on the number and disposition of all enforcement actions taken pursuant to this subtitle.

SEC. 527. DEFINITIONS.
For purposes of this subtitle, the following definitions shall apply:

(1) CUSTOMER.—The term “customer” means, with respect to a financial institution, any individual (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

(2) CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION.—The term “customer information of a financial institution” means any information maintained by or for a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.

(3) DOCUMENT.—The term “document” means any information in any form.

(4) FINANCIAL INSTITUTION.—
(A) IN GENERAL.—The term “financial institution” means any institution engaged in financial activities to risks that unduly expose commerce and unduly expose growing risks.

(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term “financial institution” includes any depository institution defined in section 3 of the Federal Reserve Act, any broker or dealer, any investment adviser or investment company, any insurance company, any loan or finance company, a credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p)).

(C) SECURITIES INSTITUTIONS.—For purposes of subparagraph (B)—
(i) the terms “broker” and “dealer” have the meanings provided in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);
(ii) the term “investment adviser” has the meaning provided in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)); and
(iii) the term “investment company” has the meaning provided in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80b-3).

(D) FURTHER DEFINITION BY REGULATION.—The Federal Trade Commission, after consultation with banking agencies and the Securities and Exchange Commission, may prescribe regulations clarifying or describing the types of institutions which shall be treated as financial institutions for purposes of this subtitle.

The CHAIRMAN. No amendment to that amendment shall be in order except those printed in House Report 106-214. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on an amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider Amendment No. 1 printed in House Report 106-214.

AMENDMENT NO. 1 OFFERED BY MR. BURR OF NORTH CAROLINA

Mr. BURR of North Carolina. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BURR of North Carolina:
Page 29, line 24, before the period insert “, except those printed in House Report 106-214. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.”

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It is now in order to consider Amendment No. 1 printed in House Report 106-214.
Mr. BURR of North Carolina. Madam Chairman, I yield myself the remaining time. I would like to reiterate what the gentleman from North Carolina (Mr. BURR) has already said. This amendment does not harm the delicate compromises of this bill. Jefferson Pilot has been in the insurance business and the communications business for 40 years. The amendment is narrowly crafted, and it maintains the 15-percent gross revenue limitation on nonfinancial activities. They also are subjected to the 10-year divestiture requirements.

Madam Chairman, a vote for this amendment is a vote for ACC basketball.

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

Mr. BURR of North Carolina. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, in most cases we would criticize on this House floor for a very specific tailored amendment for a specific company. But, as has been pointed out, this is a unique company because they are the only ones that will get caught in the catch-22 of what we created, which was an atmosphere in the Telecommunications Act of 1996 where we go through a different calculation as to how we value assets in the communications business today.

In fact, it has been official to have a pool of companies in a particular market to achieve the true asset value of a communications business. As this company agrees to divest themselves of the nonfinancial assets, I think that it is only fair to look at that 1996 Act, to look at what we are getting ready to do, and to say we will allow this company who is caught in the middle to, under their divestiture of this broadcast business, to at least achieve the asset value that it is worth.

Unfortunately, that means that we have to create this one amendment that says, during this 10-year period, we will allow them possibly to add a requirement that says, during this 10-year period, the ACC has to create this one amendment to the Telecommunications Act of 1996 which was an atmosphere to achieve the true asset value of a company.

...there are about 75 of those who believe that they have to make a choice under the rules because apparently we are not capable of doing that, but nonetheless, we made those decisions, and we made strict rules.

I am sorry that this company is affected by it, but they are just going to have to make a choice under the rules that are provided for in this bill of either being a broadcast company and insurance company or an insurance company and a banking company, but they want to have it all three ways and they would be the only one in the United States that could do that. I do not think that is appropriate. That is not given to anybody else.

For that reason, I have to oppose the amendment. I would hope that our colleagues would oppose the amendment as well.

Madam Chairman, I yield back the balance of my time.

The Chair. The question is on the amendment offered by the gentleman from North Carolina (Mr. BURR).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BENTSEN. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on amendment No. 2 offered by Ms. SCHAKOWSKY, the gentlewoman from Illinois (Ms. SCHAKOWSKY) will be postponed.

It is now in order to consider amendment No. 2 printed in House Report 106-214.

AMENDMENT NO. 2 OFFERED BY MS. SCHAKOWSKY. Ms. SCHAKOWSKY. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. SCHAKOWSKY.
Mr. LEACH. Madam Chairman, will the gentleman woman yield?

Ms. VELAZQUEZ. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, I offer an amendment.

Ms. VELAZQUEZ. Madam Chairman, is there any Member who is opposed to this amendment?

Mr. WATT of North Carolina. Madam Chairman, I yield back the balance of my time.

Mr. LEACH. The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. BARR of Georgia.

Page 235, after line 23, insert the following new subsections:

(1) IN GENERAL.—Section 5318(g) of title 31, United States Code, is amended—

(A) by striking paragraph (1) and inserting the following new paragraphs:

"(1) I N GENERAL .—Any financial institution, and any director, officer, employee, or
Mr. LAFAELCE. Madam Chairman, I yield 2½ of my 5 minutes to either the gentleman from Iowa (Mr. LEACH) or his designee.

Mr. LEACH. Madam Chairman, I would be happy to yield that time to my distinguished colleague from Arkansas (Mr. HUTCHINSON).

The CHAIRMAN. Without objection, the gentleman from Arkansas (Mr. HUTCHINSON) will control 2½ minutes.

There was no objection.

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

Let me say that a number of Republicans are going to be recognized by me. The gentleman from Iowa (Mr. LEACH), the gentleman from Florida (Mr. MCCOLLUM), the gentlewoman from New Jersey (Mrs. ROUKEMA), the gentleman from Alabama (Mr. BACHUS).

I will only have 30 seconds for myself and no more than 30 seconds for anyone else.

I oppose this amendment strongly. It goes way beyond the repeal of Know Your Customer. It basically would re-weight the provisions of the Bank Secrecy Act that have been in existence for decades. The FBI strongly opposes this, says it cannot enforce the law, Treasury and Justice strongly oppose it. Based upon my conversation with the administration I believe we could be constrained to veto a bill that did not repeal these strong law enforcement provisions.

I strongly urge the defeat of this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. HUTCHINSON. Madam Chairman, I yield ½ minutes to the gentleman from Florida (Mr. MCCOLLUM) who has been such a leader on this issue.

(Mr. MCCOLLUM asked and was given permission to revise and extend his remarks.)

Mr. MCCOLLUM. Madam Chairman, I thank the gentleman for yielding this time to me. I just want to say with all due respect to my colleagues who are promoting this amendment this is far beyond a Know Your Customer amendment. I am opposed to that too, just like everybody, I suspect, here. That was a horrible idea the Treasury had, and I am very glad to see that it has disappeared.

But what we are doing in this amendment, if it is passed, it actually guts existing money laundering laws. It would set the drug war back by some estimates that I suspect is true, maybe 20 years. What it really would do would be to allow drug kingpins to launder money undetected. The current laws say that one has to have a currency transaction report if they go to the bank and take cash of $10,000 or more and deposit it in order for us to have the notice that we need to have of that transaction so that law enforcement can get ahold of these drug kingpins.
Mr. CAMPBELL. Madam Chairman, I yield my time to the distinguished gentleman from California (Mr. CAMPBELL), the distinguished gentleman from Michigan (Mr. DINGELL), and the gentleman from Texas (Mr. PAUL). Offering here would increase that amount to $25,000. There are two elements: Once again, I urge you to protect the ability of law enforcement agencies nationwide to effectively investigate and prosecute cases involving money laundering, fraud, and other financial crimes. If this amendment had been in effect in 1997, it would have stopped 2,536 federal investigations resulting in convictions for financial institution fraud matters.

And finally, what does the FBI say about this? A vote for this amendment would send a signal to organized criminal organizations worldwide that the U.S. is a money laundering haven. Clearly this is a no vote.

Madam Chairman, I include for the Record the following letter:

INTERNATIONAL ASSOCIATION
OF CHIEFS OF POLICE,
Alexandria, VA, July 1, 1999.

Dear Mr. Speaker:

I have been asked to provide the International Association of Chiefs of Police (IACP), I am writing to express our profound concern over the Barr/Paul/Campbell Amendment to H.R. 10, the Financial Services Act. This amendment will have a detrimental impact on the ability of law enforcement agencies to effectively investigate and prosecute cases involving money laundering, fraud, and other financial crimes. I urge you to oppose this amendment.

The Barr/Paul/Campbell amendment, by eliminating the requirement that financial institutions file Suspicious Activity Reports (SARs), will deprive law enforcement of an invaluable investigative tool which, according to the FBI, was used in 98% of the cases filed by its Fraud Investigation Squad in 1998. These 1998 investigations resulted in the convictions of more than 2,600 individuals and the restoration of more than $960 million to the victims of fraud.

In addition, by elevating the threshold limit of the Currency Transaction Report (CTR) from $10,000 to $25,000, the Barr/Paul/Campbell amendment would severely undermine the anti-drug efforts of law enforcement agencies. Since the inception of the legitimate cash transactions exceeding the $10,000 limit, the CTR often provides law enforcement with valuable information on the money laundering operations of drug dealers. Raising the CTR threshold to $25,000 will only assist criminals in their efforts to hide their illegal profits.

Once again, I urge you to protect the ability of law enforcement to combat fraud, money laundering and financial crimes by opposing the Barr/Paul/Campbell amendment to H.R. 10.

Thank you for your attention in this matter.

Sincerely,

RONALD S. NEUBAUER,
President.
This argument that we will lose so many prosecutions is absurd. The number of $25,000 does not even adjust for inflation from the original $10,000 established in 1970. So when we hear these arguments that we will suddenly be a haven for money laundering, recognize that we are not even adjusting for inflation from the $10,000 requirement established in 1970 to a $25,000 requirement today. It ought to be $40,000 if we adjusted for inflation.

I conducted if we were to repeal the Fourth Amendment, if we were to repeal the Fifth Amendment, we could improve law enforcement, but it would not be worth it.

Mr. LEACH. Madam Chairman, I yield 30 seconds to the distinguished gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chairman, I rise in strong opposition to this amendment. This is really a privacy gone crazy. It would gut the Bank Secrecy Act and the provisions dealing with the suspicious activities reports as well as the cash transaction reports. It is under the guise of privacy, a 30-year law that has been effective in terms of protecting and help us deal with the emerging types of networks of crime that exist in our society. Just raising the cash transaction itself, we should subject this to deliberate hearings and considerations, and I do not think that we should shove it out under the basis of normal activity, to condemn me if I do not behave in a normal manner. For that price of freedom I think we are sacrificing very, very little, if anything, on law enforcement.

I conclude if we were to repeal the Fourth Amendment, if we were to repeal the Fifth Amendment, we could improve law enforcement, but it would not be worth it.

Mr. OXLEY. Madam Chairman, I yield 30 seconds to the distinguished gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Madam Chairman, first let me just stress section 191 of this bill repeals the Know Your Customer regulation. Secondly, the committee would have to have further regulations in this area. But thirdly, it has to be understood by everybody here that money laundering is the Achilles heel of drug traffickers, and many are able to separate themselves from their illegal activities, and that cannot be done from their money, and just like Al Capone was convicted for tax evasion, drug traffickers today are conviected more than anything else of money laundering. To throw this out would be an absolute assault on law enforcement. We must not allow it to happen.

Madam Chairman, I yield to the gentleman from Ohio (Mr. OXLEY).

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Madam Chairman, I rise in opposition to the amendment. It is an anti-law enforcement, and I plan to vote no on this amendment. Mr. BARR of Georgia. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, just a little over a week ago we heard that the sky was falling from the gentleman from Florida (Mr. MCCOLLUM), the gentleman from Alabama (Mr. BACHUS), the gentleman from Iowa (Mr. LEACH), the gentlewoman from New Jersey (Mrs. ROUKEMA). On the Democratic side, my colleague from the gentlewoman from California (Ms. WATERS), the gentleman from Minnesota (Mr. VENTO), the gentleman from Michigan (Mr. DINGELL).

The administration believes that this would shred their ability to enforce antimoney laundering and bank secrecy provisions.

Mr. LEACH. Madam Chairman, I yield 30 seconds to the gentlewoman from Iowa (Mr. LEACH).

Mr. LEACH. Madam Chairman, first let me just stress section 191 of this bill repeals the Know Your Customer regulation. Secondly, the committee would have to have further regulations in this area. But thirdly, it has to be understood by everybody here that money laundering is the Achilles heel of drug traffickers, and many are able to separate themselves from their illegal activities, and that cannot be done from their money, and just like Al Capone was convicted for tax evasion, drug traffickers today are convicted more than anything else of money laundering. To throw this out would be an absolute assault on law enforcement. We must not allow it to happen.

Madam Chairman, I yield to the gentleman from Ohio (Mr. OXLEY).

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Madam Chairman, I rise in opposition to the amendment. It is an anti-law enforcement, and I plan to vote no on this amendment. Mr. BARR of Georgia. Madam Chairman, I yield myself such time as I may consume.

Again I strongly oppose this, but I want to point out to those who have not spoken that we have had individuals from the Republican party and the Democratic party strongly oppose this from the right, from the left, the gentleman from Arkansas (Mr. HUTCHISON), the gentleman from California (Ms. WATERS), the gentleman from Iowa (Mr. LEACH), the gentlewoman from New Jersey (Mrs. ROUKEMA). On the Democratic side, my colleague from the gentlewoman from California (Ms. WATERS), the gentleman from Minnesota (Mr. VENTO), the gentleman from Michigan (Mr. DINGELL).

The administration believes that this would shred their ability to enforce antimoney laundering and bank secrecy provisions.

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The administration believes that this would shred their ability to enforce antimoney laundering and bank secrecy provisions.

Mr. LEACH. Madam Chairman, I yield 30 seconds to the gentlewoman from Iowa (Mr. LEACH).

Mr. LEACH. Madam Chairman, first let me just stress section 191 of this bill repeals the Know Your Customer regulation. Secondly, the committee would have to have further regulations in this area. But thirdly, it has to be understood by everybody here that money laundering is the Achilles heel of drug traffickers, and many are able to separate themselves from their illegal activities, and that cannot be done from their money, and just like Al Capone was convicted for tax evasion, drug traffickers today are convicted more than anything else of money laundering. To throw this out would be an absolute assault on law enforcement. We must not allow it to happen.

Madam Chairman, I yield to the gentleman from Ohio (Mr. OXLEY).
Mr. BARR of Georgia. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentleman from Georgia (Mr. BARR) will be postponed.

The CHAIRMAN. The Committee will rise informally.

The Speaker pro tempore (Mr. Lewis of Kentucky) assumed the chair.

MESSAGE FROM THE SENATE
A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 775) "An Act to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes."

The message also announced that the Senate has passed a concurrent resolution of the following title in which concurrence of the House is requested:

S. Con. Res. 152.--A concurrent resolution providing for a conditional adjournment or re- cess of the Senate and a conditional adjournment of the House of Representatives.

The SPEAKER pro tempore. The Committee will resume its sitting.

FINANCIAL SERVICES ACT OF 1999
The Committee resumed its sitting.

The CHAIRMAN. The gentleman from Massachusetts (Mr. Frank) rises to explain certain provisions of the bill which are material to an understanding of the necessary powers of the Comptroller of the Currency to regulate foreign banks operating in the United States.

The amendment is supported by the Florida International Bankers Association and Conference of State Bank Supervisors. This amendment has been well received in Florida Banking Department and the California Banking Department, as well as the Florida International Bankers Association and Conference of State Bank Supervisors. This amendment has been fully vetted with the Federal Reserve Board, and they have indicated that they have no objection to it.

Madam Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Massachusetts (Mr. Frank) is recognized for 5 minutes.

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

Madam Chairman, I should note that under the rules someone is entitled to 5 minutes in opposition. I would describe myself for these purposes as leaning against but open to persuasion, in the manner which I do a good deal of in representing my State.

I was interested in what the gentleman said and will listen some more, but I also wanted to use this occasion to pass the gentleman from Florida, the gentleman from Massachusetts (Mr. Frank). It is a somewhat constricted debate situation.

What I wanted to do was to explain why I would be voting against this bill, although I think on the subjects that it deals with it does a good job. That is, I think this is a bill which suffers from incompleteness.

I think with regard to the regulation of the financial services industry, this is a good product of the defect from a broad representative body. I think the Committee on Banking and Financial Services on both sides worked seriously and well under the leadership of the chairman and the ranking member.

The problem is, in my mind, it carries out a pattern that is too much present in America today and that I think threatens great harm even as it makes some specific progress, and that is a pattern in which we do a good job of fostering conditions in which the capitalist system can flourish. It is in our interest that the capitalist system flourish.

Capitalism clearly has established itself as the superior way for a society to generate wealth, and the generation of wealth is very important. It is important in and of itself because it provides the resources which themselves, and it is important as a way to provide the resources which help us deal with other problems.

I think this is a bill which suffers from incompleteness in the way it deals with it does a good job. That is, I think this is a bill which suffers from incompleteness.

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The SPEAKER pro tempore. The Committee will resume its sitting.