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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. LARSEN of Washington).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 29, 2010.

I hereby appoint the Honorable RICK LARSEN to act as speaker pro tempore on this day.

NANCY PELOSI,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Mighty and wonderful are Your works, Lord God Almighty. Just and true are Your ways, O King of all the nations.

Who would dare not to give You the honor and glory due Your Holy Name, O Lord.

For You alone are holy, all nations shall come and worship in Your presence.

Your mighty deeds are clearly seen both now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Florida (Ms. KOSMAS) come forward and lead the House in the Pledge of Allegiance.

Ms. KOSMAS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to five requests for 1-minute speeches on each side of the aisle.

RECOGNIZING DR. PAMELA CARBIENER

(Ms. KOSMAS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KOSMAS. Mr. Speaker, it is my distinct honor and privilege to recognize on the floor of the United States House of Representatives Dr. Pamela Carbiener for her extensive community service and spirit of volunteerism.

Dr. Carbiener has dedicated her life's work to helping those in need, with a particular focus on women and children. She is the cofounder and member of the Community Outreach to Prevent Eating Disorders, medical supervisor for the Children's Advocacy Center for Victims of Assault, medical supervisor for the Volusia County Rape Crisis Center, and board and coalition member for Healthy Start of Volusia and Flagler Counties. She also serves as the chair of Daytona State College's Women's Advocacy Board.

Dr. Carbiener practices at Halifax OB/GYN Associates in Daytona Beach, Florida, and she resides in nearby Ormond Beach with her husband, Frank, and their three children, Sarah, Katie, and Charlie.

Dr. Carbiener's contributions to Halifax Health and their board of directors, which is the governing body of the largest health care provider in the area, are numerous, generous, and valuable.

Today I would like to officially thank Dr. Carbiener for her tireless work and dedication to the health, well-being, safety, and care not only of her patients, but also to the countless citizens who are affected by her volunteerism and her work in the community. She is recognized as an accomplished and outstanding community leader for the greater Halifax region. Congratulations, Dr. Carbiener.

ANGEL INVESTORS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, this week I received a letter from a friend who works for a medical device company that is looking to expand its business by attracting an angel investor. Who are angel investors? They are wealthy individuals who invest their own money in companies with promise. They are not speculators. They are not brokers. They are individuals with vision who seek out entrepreneurs with creative ideas.

New regulations proposed in the Senate financial reform bill would require a 120-day waiting period for startups seeking funds and add more restrictions on the minimum assets or income needed to become an angel investor. Angel investing is not what brought down our economy. In fact, startups funded by such investments provided 10 percent of all new jobs even though they account for less than 1 percent of the new companies. Starbucks, Costco, Facebook, Google, the list of successful angel investment companies is long.

In my friend's case, if his company is not able to attract new investment, they will be unable to hire new workers or invest in new equipment. We should not cut short job growth with excessive new regulations.

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SUPPORT SMALL MODULAR REACTORS

(Mr. ALTMIRE asked and was given permission to address the House for 1 minute.)

Mr. ALTMIRE. Mr. Speaker, yesterday I introduced two bills designed to incentivize small modular reactors, one of the most promising areas in the future of nuclear power. One-third the size of today's plants, small reactors are cheaper and take half the time to build. These reactors offer more siting options and provide additional safety benefits.

The Nuclear Power 2021 Act is modeled for small reactors after the successful Nuclear Power 2010 program, and the Nuclear Energy Research Initiative Improvement Act requires the Department of Energy to develop a strategy to lower the cost of constructing and licensing nuclear reactors, including small reactors.

In seeking a bipartisan solution, I introduced these pieces of legislation working in concert with Energy and Commerce Ranking Member JOE BARTON and a bipartisan group of 19 other Members. I look forward to continue working with my colleagues to expediently bring small reactors to the market.

A SOVEREIGN DEBT CRISIS?

(Mr. KIRK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KIRK. Too often, the Congress focuses on problems of the past, not dangers to come. Last month, the Greek Government lost its AAA credit rating. On May 19, Greece will have to pay $10 billion in loans that it does not have the money to cover. The market will only lend now at a 24 percent interest rate. Estimates are that an IMF Greek bailout will cost $100 billion.

On Monday, Portugal lost its AAA rating, and this news triggered a sudden loss in our own stock market. Yesterday, Spain lost its credit rating, and the Spanish problem is five times the size of the Greek problem. Italy and Ireland may be next. We may soon face a sovereign debt crisis.

CRS reports that the IMF has $268 billion to lend, an amount that could quickly be exceeded by a European debt crisis. The IMF may not have the resources to handle this crisis, and the Fed and the U.S. taxpayer may be called on to bail out these irresponsible governments. Few in Congress even know of this danger to our economy and to our family incomes.

COMPREHENSIVE IMMIGRATION REFORM

(Mr. BACA asked and was given permission to address the House for 1 minute.)

Mr. BACA. Mr. Speaker, I stand this morning in solidarity with all those who respect fairness and justice in opposition to the Arizona Senate Bill 1070. This is an unconstitutional law that is inspired by racism and will lead to racial profiling of Hispanics and people of color.

We must do all we can to stop this law. That's why I am calling for an economic boycott of Arizona. I also encourage all those to oppose this kind of hate and to wear the red, blue, and yellow bracelet to express opposition to this bill.

We must all remember that immigration is not a Latino issue, it's an American issue. This misguided law is another reason why America needs comprehensive immigration reform to fix our broken system. I call on my Republican colleagues to have courage and to work with us on immigration reform. The American people need this reform, but we cannot do this alone. Again I say to the Republicans, step up to the plate and together let us pass real, comprehensive reform.

ISRAEL RESOLUTION COMMEMORATING 43RD ANNIVERSARY OF REUNIFICATION OF JERUSALEM

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, as a trusted ally, Israel and the United States have enjoyed a strategic partnership based on shared mutual values and respect. This relationship has continued to strengthen over the last 62 years, and it's critical that America continues to promote this friendship.

Fostering this important relationship means beginning the process of relocating the U.S. Embassy in Israel to Jerusalem and celebrating reunification. That is why I am introducing legislation today with over 20 cosponsors that commemorates the 43rd anniversary of the reunification of Jerusalem and supports locating the United States Embassy in Israel to Jerusalem.

In my visits to Israel, I have been impressed by its dynamic multicultural citizens, inspired by Prime Minister Benjamin Netanyahu. America must ensure that Jerusalem, led by Mayor Nir Barkat, continues to be a shrine open for all cultures.

Also, congratulations to Patricia Lobb of Aiken as she becomes a U.S. citizen this morning.

In conclusion, God bless our troops, and we will never forget September 11th in the Global War on Terrorism.

PUERTO RICO HAS SAID ''NO''

(Mr. GUTIERREZ asked and was given permission to address the House for 1 minute.)

Mr. GUTIERREZ. Today we are going to have Puerto Rico as the 51st State bill. They're going to say it's a Puerto Rico self-determination bill, but really it's designed to get one thing and one thing only, and that is to have the people of Puerto Rico accept statehood for themselves.

It seems to me when I checked the history books, in 1967 there was a plebiscite. They said, ''No.'' In 1993 Puerto Rico had a plebiscite. They said, ''No.'' In 1998 they had a plebiscite. They said, ''No.''

Millions of people are trying to get into this country, trying to get to America. We have 4 million American citizens, and they said, ''No.'' Why don't we respect their wishes? Why do we have to have this artificially crafted bill which has as a predetermined objective statehood for Puerto Rico? It's wrong.

We should not impose statehood or any other alternative on any people, especially when they said, ''No, no, no.'' Just so that we get it clear, it's spelled the same in English as in Spanish, N-o. No, no. So there shouldn't be any problem here in terms of understanding just what the people of Puerto Rico have said.

NATIONAL MEDIA SHOW DOUBLE STANDARD ON TAX PROMISES

(Mr. SMITH of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Texas. Mr. Speaker, during the Presidential campaign, then-Senator Obama made a firm pledge that, ''No family making less than $250,000 a year will see any form of tax increase.'' The nonpartisan factcheckers of Politifact say the administration broke that promise, but the national media have collectively yawned in response.

In comparison, when former President George H.W. Bush broke his 1988 ''Read my lips, no new taxes'' pledge, the national media heavily criticized him. The New York Times described President Bush's pledge as ''the seminal six words of his Presidency,'' and said it helped eliminate ''any plausible leadership path.'' The L.A. Times said it was one of several factors that ''ended the GOP stranglehold on tax policy.'' The national media should hold President Obama to the same standard, not give him a free pass.

WALL STREET REFORM

(Mr. HALL of New York asked and was given permission to address the House for 1 minute.)

Mr. HALL of New York. Mr. Speaker, we must reform Wall Street and end the risky practices that have caused millions of Americans to lose their jobs, their homes, and life savings. The House passed a financial reform bill that will protect consumers and prevent the irresponsible behaviors and practices that caused the financial crisis.

This is the 21st century. It's the government's responsibility to regulate products that are dangerous. To prevent the sale of cars with faulty

brakes, the government regulates the auto industry. To prevent the sale of rancid meat, the FDA regulates meatpackers. To prevent the sale of toys containing lead, we have a Consumer Product Safety Commission. Complex financial products are no different, as this week's hearings have shown, which is why we must have commonsense financial regulations to protect consumers.

H.R. 4173, which we already passed from the House, reforms Wall Street while helping Main Street. I urge the Senate to pass this critical bill.

THE RULE OF LAW

(Mr. POE of Texas asked and was given permission to address the House for 1 minute.)

Mr. POE of Texas. Mr. Speaker, America is a Nation founded on the rule of law, not the rule of men. That's why we have a Constitution and not a king. Law must apply to everybody and it must apply equally, regardless of race, color, or creed. People don't get to pick and choose which laws are enforced. They don't get to decide which laws they like and which ones they don't. That would cause chaos.

Federal law requires people to sign the guest book when they enter our country, otherwise they are here illegally. There is a lot of fear mongering, political hype, and misinformation about the State of Arizona trying to legally protect itself from illegal entry into its State.

Arizona acts because Washington is blissfully silent and sleeps. Rather than join this rant, the White House should grant the request of border governors and send the National Guard to the border to enforce the rule of law. After all, that is the government's job.

And that's just the way it is.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Byrd, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 5146. An act to provide that Members of Congress shall not receive a cost of living adjustment in pay during fiscal year 2011.

H.R. 5147. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

□ 1015

PROVIDING FOR CONSIDERATION OF H.R. 2499, PUERTO RICO DEMOCRACY ACT OF 2009

Mr. POLIS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1305 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1305

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2499) to provide for a federally sanctioned self-determination process for the people of Puerto Rico. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour and 30 minutes, with one hour equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources and 30 minutes controlled by Representative Velázquez of New York or her designee. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived except those arising under clause 10 of rule XXI. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such 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 as read, shall be 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. All points of order against such amendments are waived except those arising under clause 9 or 10 of rule XXI. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. The Chair may entertain a motion that the Committee rise only if offered by the chair of the Committee on Natural Resources or his designee. The Chair may not entertain a motion to strike out the enacting words of the bill (as described in clause 9 of rule XVIII).

The SPEAKER pro tempore. The gentleman from Colorado is recognized for 1 hour.

Mr. POLIS. For the purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. LINCOLN DIAZ-BALART). All time yielded during consideration of the rule is for debate only.

GENERAL LEAVE

Mr. POLIS. Mr. Speaker, I ask unanimous consent that all Members be given 5 legislative days in which to revise and extend their remarks on House Resolution 1305.

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

There was no objection.

Mr. POLIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1305 provides for consideration of H.R. 2499, the Puerto Rico Democracy Act of 2009, under a structured rule. The rule provides 1 hour and 30 minutes of general debate, with 1 hour equally divided and controlled by the chair and ranking minority members of the Committee on Natural Resources and 30 minutes controlled by Representative VELÁZQUEZ of New York. The rule makes in order those amendments printed in the report of the Committee on Rules. The amendments made in order may be offered only in the order printed in the Rules Committee report, may be offered only by a Member designated in the report, shall be considered as read, shall be 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 a division of the question. Finally, the rule provides one motion to recommit with or without instructions.

The rule is a fair rule. There were 35 amendments submitted for this bill, 13 of which were found to be nongermane. Of the remaining amendments, eight are made in order under this rule—three offered by Republicans and five offered by Democrats.

Mr. Speaker, I rise today in support of House Resolution 2499, the Puerto Rico Democracy Act. I'd like to thank Speaker PELOSI, who has been an unrelenting champion of this important issue; and Leader HOYER, whose strong support of this bill helped bring the resolution to the floor. I also want to recognize Resident Commissioner PIERLUISI for sponsoring the bill and Chairman RAHALL for his leadership on this issue.

This bill is based on the most fundamental democratic principle, the rule of self-determination. Puerto Rico has been a U.S. territory for over 100 years; yet during that time, Congress has never bothered to determine whether Puerto Ricans are actually satisfied with the status quo. H.R. 2499 aims to fix that by offering fellow citizens this basic right.

Puerto Ricans have been American citizens since 1917. During that time, they've contributed to our country's culture and economy while also serving proudly in the Armed Forces to defend our Nation. In fact, Puerto Rico has historically ranked alongside the top five States in per capita military service in defense of our Nation.

Yet, in spite of the contributions Puerto Ricans have made to this country, they do not receive all of the benefits that are due to them as American citizens. Their representative in Congress is a resident commissioner, who works tirelessly to advance their interests, yet has limited voting rights, instead of several Congresspeople with full voting rights the Puerto Ricans deserve. While they pay many taxes, Federal programs treat Puerto Rico less

than equally when compared to the 50 States. As I mentioned before, while they have courageously served in the military, and in fact at a higher rate than many other States, they do not yet have the right to vote for President of the United States, the Commander in Chief.

It's imperative that Congress act to right these wrongs which Puerto Ricans have had to live through for so long. The Puerto Rico Democracy Act would do that. If enacted, this bill would authorize a plebiscite process which would offer Puerto Ricans the chance to vote on the future of their island. The plebiscite would ask the unambiguous question: Are you satisfied with the status quo? If a majority of Puerto Ricans vote ''yes,'' then the government of Puerto Rico would be authorized to hold regular plebiscites every 8 years to ensure that voters continue to have the opportunity to express themselves democratically over time.

If a majority vote is against the status quo, if they decide that they are tired of their being treated as second-class citizens, the plebiscite will ask them to choose between nonterritorial status options: independence, statehood, and free association. This plebiscite represents the straightforward expression of self-determination and direct democracy that would allow Puerto Ricans to express their wishes to Congress. I, for one, will support the express wishes of the Puerto Rican people as a Member of Congress representing Colorado.

Like any important piece of legislation, this bill has some critics. You will hear from them today. Opponents have claimed that the bill favors statehood, and they take issue with how the plebiscite is being constructed. It's not only fair but imperative that voters, our fellow Americans, be given the opportunity to express whether or not they approve of their current status quo that is disenfranchising Puerto Ricans.

I urge and encourage my colleagues to support the rule, and I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I'd like to, first of all, thank my friend, the gentleman from Colorado (Mr. POLIS), for the time; and I yield myself such time as I may consume.

The underlying legislation, H.R. 2499, the Puerto Rico Democracy Act of 2009, is a fair and appropriate way for the people of Puerto Rico to express themselves at the ballot box regarding the critical issue of their permanent status. The legislation would allow a plebiscite whereby the people of Puerto Rico will decide whether to maintain their current political status or have a different status. If a majority favors a different status, the Government of Puerto Rico would be authorized to conduct a second plebiscite among three nonterritorial status options recognized under United States and international law: independence, United States statehood, or sovereignty in association with the United States. They would, obviously, have to be worked out between sovereign Puerto Rico and sovereign United States.

The legislation does not dictate an outcome for the people of Puerto Rico. Congress will not take sides by voting for this legislation. Congress will only be asking the Puerto Rican people to vote on the issue of their permanent status. This process is absolutely respectful of the Puerto Rican people's right to decide their future status.

I wish to commend Resident Commissioner PIERLUISI and my dear friend and former colleague, Governor Luis Fortuno, for extraordinary leadership on this issue. Both of them have earned the admiration of both sides of the aisle in the United States Congress and deserve commendation for their leadership.

Mr. Speaker, I understand that some Members of Congress have concerns that the results of the election would be automatically implemented. I was discussing with my colleague, Ms. ROS-LEHTINEN, some falsehoods that are being said on radio and other media that the vote today is one that would set up a process that would automatically be implemented. That is not the case. The results of the plebiscites are nonbinding on Congress. So in order for the results to be put into effect, whatever the results of the referendum would be, Congress would need to debate again and, again, pass legislation. In other words, new legislation.

My position with regard to the status of Puerto Rico is that the people of Puerto Rico have the right to decide the political and legal status of their wonderful island through a fair, neutral, as well as federally recognized, plebiscite. I have ultimate admiration for the people of Puerto Rico. They are a wonderful people. If the people of Puerto Rico ultimately vote to request admission to the United States of America as a State of the American Union, there will be no stronger defender of their right to be the 51st American State than me. If they vote to remain in their current status, there will be no stronger defender of their decision than me. And if they vote for independence, there will be no stronger defender of their decision than me. This legislation is a self-determination vehicle, and I support self-determination. I support democracy everywhere. The Puerto Rican people should be able to decide their permanent status themselves.

The House last addressed this issue in 1998. I remember, Mr. Speaker, that I had the honor of chairing that debate in the House when H.R. 856, the United States-Puerto Rico Political Status Act, after much leadership and advocacy by Resident Commissioner Romero-Barcelo, was brought to the floor under a Republican majority.

□ 1030

I was a member of the Rules Committee at that time, and I am proud to say that our majority, the Republican majority, allowed that bill to proceed under an open rule, a rule that allows Members from both parties to have their amendments to the legislation debated on the House floor without having to get approval from the Rules Committee. This is an important issue, and if there's ever been legislation that deserves an open debate process, it's this legislation.

I remind the House of the process that we used when we were the majority because today the current majority has decided to restrict debate on this issue, on this very same issue that we allowed an open debate process on in 1998. And not only on this legislation, but on every piece of legislation brought before this Congress. This majority has not allowed any open rules, any open debate process in over 2½ years. Since they regained the majority, they have allowed only one open rule, apart from appropriations bills. And even on appropriations bills, they have restricted debate.

Now I disagree with some of the amendments that were presented before the Rules Committee yesterday, and if, by chance, the majority would have allowed their consideration by the full Congress, I would have voted against those amendments. I may have even debated against those amendments. But just because I disagree with amendments that were brought before the Rules Committee, asking the Rules Committee to allow consideration by the full House does not mean that I believe that those Members of the House do not deserve the right to be heard. I believe the House should be allowed to work its will.

Now, unlike the current majority, I believe in open debate. Let amendments stand or fall on their merits. Just about every week I have the honor to come to the floor of this House to help manage rules debates on behalf of my party, and pretty much every time I come to the floor, I criticize the current majority for systematically blocking open debate with ruthless efficiency on every bill that we consider. Even on appropriations bills, which have long been brought to the floor under a tradition of open rules, they blocked debate. Today they could have easily upheld the tradition set by the Republican majority to allow an open debate on the extremely important issue of Puerto Rico's political status; yet the current majority, they can't bear to do something so abhorrent to them, to permit an open debate process. They cling, Mr. Speaker, they cling to their modus operandi, restricting debate, restricting debate. So they've done so again today.

Now, that doesn't negate the historic nature of what the Congress of the United States is doing today. Today whatever the outcome of this legislation, Congress will send its greeting,

its support and admiration for the wonderful people of ''La Isla del Encanto,'' Puerto Rico.

I reserve the balance of my time.

Mr. POLIS. Mr. Speaker, I yield 2½ minutes to the gentleman from Puerto Rico (Mr. PIERLUISI), the sponsor of the bill.

Mr. PIERLUISI. I thank the gentleman from Colorado (Mr. POLIS), and thank you for your eloquent explanation as to why H.R. 2499, the Puerto Rico Democracy Act, is a fair bill, a necessary bill, and a bill that is long overdue. I'm also thankful for the kind words given by the gentleman from Florida, Congressman DIAZ-BALART, and for his support for H.R. 2499.

I'm so grateful to you and to the hundreds of my other colleagues on both sides of the aisle who support H.R. 2499. I cannot cast a vote this afternoon, but please know that your vote will give voice to the aspirations of 4 million men, women, and children from Puerto Rico whom I am honored to represent. I'm also grateful for the support of diverse organizations such as LULAC, the Nation's oldest Hispanic civil rights organization, the Young Democrats of America, and the Puerto Rico Republican Party.

I want to say a special thank you to Majority Leader STENY HOYER. The majority leader has been a champion without peer for the U.S. citizens of Puerto Rico. My constituents and I owe him a debt of gratitude that no words, however sincerely uttered, can ever repay.

Mr. Speaker, this has not been easy, but I am a firm believer that nothing truly worth doing ever is. The fundamental justice of our cause, to enable a fair and meaningful self-determination process for the people of Puerto Rico after more than 110 years of inaction, is beyond question. Patience is a virtue, but my people have been patient enough.

H.R. 2499 is a simple bill designed to address a longstanding problem. Since joining the American family at the close of the 19th century, the Puerto Rican people have enriched the lives of this Nation in many ways. For generations, the island's sons and daughters have fought proudly alongside their fellow citizens of the States to protect freedom and democracy around the world. Many have given their lives in defense these values. Many more have borne the scars of their service to this great country.

The SPEAKER pro tempore. The time of the gentleman from Puerto Rico has expired.

Mr. POLIS. I yield the gentleman an additional 30 seconds.

Mr. PIERLUISI. Notwithstanding their contributions, my people have never expressed their views in a fair process authorized by Congress as to whether Puerto Rico should remain a U.S. territory or seek a nonterritorial status. If the majority of the voters express a desire for a nonterritorial status, the bill would authorize the government of Puerto Rico to conduct a second-stage plebiscite among the three alternatives to territorial status: independence, free association, and statehood. The bill before us would, for the first time, provide the people of Puerto Rico with the opportunity to be heard on the fundamental question of their political destiny.

The SPEAKER pro tempore. The time of the gentleman from Puerto Rico has again expired.

Mr. POLIS. I yield the gentleman an additional 30 seconds.

Mr. PIERLUISI. Thank you, Congressman POLIS.

This bill does not favor or exclude any valid status options, and claims to the contrary are without merit.

In the 21st century, shouldn't this Congress at least ask the people of Puerto Rico, the 4 million citizens living in Puerto Rico, whether they want to continue to be treated differently, different than their fellow citizens in the States? That is the question posed by H.R. 2499.

I ask for your support.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it's my privilege to yield 3 minutes to my dear friend and colleague from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to thank my dear friend and colleague, Congressman LINCOLN DIAZ-BALART, for yielding me the time.

I rise in strong support of the underlying legislation, the Puerto Rico Democracy Act, and I commend the bill's author—we just heard from him—Resident Commissioner PEDRO PIERLUISI, for his work in bringing this important legislation to the floor this morning. And I would be remiss if I did not also recognize the efforts of our former colleague Luis Fortuno, now the Governor of Puerto Rico, for his many years of leadership on this issue.

This day has been long in the making. With a population of nearly 4 million people, the people of Puerto Rico deserve the opportunity to decide their fate. Puerto Rico has been under the U.S. flag for 111 years, and its residents have been U.S. citizens for more than 90 years.

Since the extension of U.S. citizenship to its residents in 1917, Puerto Rico has maintained one of the highest per capita rates of participation in the U.S. Armed Forces. Puerto Ricans have fought and have died in every armed conflict since the First World War. And yet while Puerto Ricans have fought valiantly for self-determination overseas, they have never been given the opportunity to participate in a federally sanctioned vote to determine Puerto Rico's political status. That is until today.

H.R. 2499 authorizes the government of Puerto Rico to conduct an initial plebiscite. In this process, eligible voters would be asked whether they wish to maintain the current political status or to have a different status. The rationale for this plebiscite is simple: In accordance with the American principle of government by consent, Congress should seek the meaningful consent of Puerto Rico to the political status that it has had for more than 110 years. The American citizens of Puerto Rico have a right to determine their political future. This bill does not exclude any viable status option, nor does it provide for a change in status to be automatically implemented.

Under the initial plebiscite, eligible voters will be asked if they wish to maintain the current status or to have a different status. If a majority favors the current status, then the government of Puerto Rico would be authorized to ask voters this question again in 8 years. If a majority of voters cast ballots in favor of a different political status, then the government of Puerto Rico would be authorized to hold a second plebiscite on the three status options: independence, statehood, and free association.

The SPEAKER pro tempore. The time of the gentlewoman from Florida has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I yield the gentlewoman an additional 30 seconds.

Ms. ROS-LEHTINEN. I thank the gentleman for the time.

After 111 years under the U.S. flag, our founding principles dictate that the people of Puerto Rico be allowed to determine their political future in a fair and orderly vote sponsored by the Federal Government.

And it is for those reasons, Mr. Speaker, that I urge my colleagues to vote ''yes'' on H.R. 2499, the Puerto Rico Democracy Act.

Mr. POLIS. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. GUTIERREZ), the author of two of the amendments that were made in order under this rule.

Mr. GUTIERREZ. I thank the gentleman from Colorado for allowing me the opportunity.

First of all, I really think that if you're going to talk about democracy, if you're going to talk about freedom, that if you're going to talk about self-determination, then you have to deal with the process, and this process is just patently unfair.

I thank the majority for two amendments. That was nice. But isn't it interesting that as a Democrat—100 percent Democrat, one that has been consistently a senior Democrat—that when I came down here in 1998 when it was Gingrich's bill, when the author was Young, when it was a Republican-sponsored bill and I went before the Rules Committee, I had seven amendments ruled in order. Each amendment was given 30 minutes. That's 210 minutes of debate time. And now when my party, the party that says they are promoting this legislation to foment, to foster, to encourage, and to engage the people of Puerto Rico in a democratic process, the Democratic majority has decided to give me two amendments and then 10 minutes each. Well, you do

the math. That's 10 to 1, 10 times more time, and that's just on mine.

I want everybody to remember—I think it's kind of sad—Dorothy Height. There is a wonderful ceremony. I would have liked to have been at that ceremony. Here is a woman who gave everything for freedom, for civil rights, and this Congress couldn't wait until after the funeral arrangements were completed to begin this debate? You don't want people on this House floor to hear this debate. You don't want a full, compelling, articulate debate on this issue. You want this issue done today. You want it done quickly. You want it done swiftly.

I am telling you, this is going to blow up just like the Goldman Sachs derivatives blowup that don't have any transparency. And then everybody's going to say, What, that happened? We don't know how that happened. We don't know what room that was put together in. We don't know who put it together. But we are going to make a case today, a case today that this bill is just not what it pretends to be.

□ 1045

It is a bill, I mean, listen to yourselves. You say: Well, we have to stop the current system. I agree. I don't like the current colonial system of Puerto Rico either. I think it is a bad system, too. I would like to eliminate it and make sure that it ends in Puerto Rico. But you want to know something, I want to do it with respect to the people of Puerto Rico. I want to make sure that as we engage in this process, it's proper, so I just want to read something to you. Here's what it says. It says that the people of Puerto Rico will be able to vote for statehood. But guess what, we don't define what ''statehood'' means. I think statehood, they should continue to have their Olympic team because the statehooders say they can continue to have their Olympic team. I think statehood, they should continue to speak Spanish and be the predominant language which it is today. Under statehood, I think that's fine. But we don't get to debate it or discuss it.

I think there are many issues we should look at, but we are not going to define statehood because you know what, the proponents don't want a definition.

Now independent, we don't need to define that either. What is the one alternative that we define, the current status. You know, that's like, can you imagine Barack Obama going to JOHN MCCAIN and saying: Hey, JOHN, by the way, would you set my platform for me so when we run against each other, I have to defend and articulate what you have said my platform is, because that's really what is happening here today.

Moreover, this is what is going to happen today: The people of Puerto Rico are going to be engaged in a process in which, you know, one of the alternatives is going to be sovereignty in association with the United States. Let me repeat that. Sovereignty in association with the United States. People of America, call in if you know what that means. Call in right now if you've figured it out. I'm sure there are political scientists all over the country. You know what, it's okay if we don't understand it. The Congressional Research Service, that's what they're paid for. They have smart people there. You know what they said: It is ambiguous at best. And this is going to be congressionally sanctioned? And one of the alternatives our Congressional Research Service says they don't even have an explanation for. Let's have an open rule and let's vote ''no.''

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. POLIS. I yield the gentleman an additional 30 seconds.

Mr. GUTIERREZ. Thank you so much.

Look, we had a debate the last time. If statehood wins, I'm going to support it. I'm going to support it, but it has got to win in a fair way. It has got to win in a fair way. And you know what, the people of Puerto Rico, 1967, 1993, 1998, they had a chance. Why is it that we are advancing this? What happened to the people of the District of Columbia who, on numerous occasions, have begged and implored this Congress to take action as America citizens, and we have done nothing. And the people who have said no, we don't think so, we are moving forward.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind Members to address their comments to the Chair.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Mr. Speaker, as today's debate begins on this very important issue, where opposition is obviously on both sides of the aisle, there are two basic points I wish to make: first, to express the fundamental unfairness of this rule for debate, as the previous speaker just pointed out; and second, to explain why the underlying bill violates this Nation's established precedents when it comes to admitting States in the Union.

First, this rule is unfair to both Republicans and Democrats. It is astonishing to me to see how the Democrat leaders are denying the amendments proposed and offered by Members of their caucus. Senior Democrat Members are being limited. Their amendments were blocked. Their ability to speak and engage in debate is being restricted. And for what possible reason, Mr. Speaker? By what justification is this necessary and how is it fair?

In 1998, when the House last debated a similar Puerto Rican bill, there was an open rule, as Mr. GUTIERREZ mentioned. That rule was supported by both the Republican chairman and the ranking Democrat at that time, and it resulted in a full, all-day debate on this very important issue. So what is wrong with an open rule and a fair debate in 2010? This bill isn't about naming a post office; it is a bill that Congress is asking Puerto Rico if they want to become the 51st State. This is an important issue.

Amendments of importance, of ensuring Second Amendment rights by Puerto Rico if it becomes a State were blocked. Amendments to address the issue of English as an official language, that too was blocked.

Mr. Speaker, this rule should be defeated. Actually, the previous question should be defeated. And if the House is going to consider this bill, it should do so under an open process.

Second, the reason why such a thorough debate is necessary is that this bill is a dramatic departure from past procedures by which a State has sought and been admitted into the Union. Look at Alaska, look at Hawaii just in the last century. Look at numerous other States. They all held local referendum on the question of their desire to become a State. When a strong majority expressed their desire to become a State, the results of those individual referendum were communicated to Congress, and it was then that Congress responded to those referendum.

In this bill that process is exactly backwards. This bill is asking if Puerto Rico wants to become a State.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I yield the gentleman 1 additional minute.

Mr. HASTINGS of Washington. This bill has Congress blessing statehood before Puerto Rico even expresses its will. This bill isn't needed for Puerto Rico to hold a self-determination vote on what they desire of their future political plans. Puerto Rico can conduct a vote right now, just like they have done three times previously.

Mr. Speaker, it is wrong to deviate from the precedent of Alaska, Hawaii, and other States where those territories self-initiated a communication to Congress and Congress responded by making them States.

So, Mr. Speaker, I oppose this unfair rule for those reasons. I think that Republicans and Democrats on this important issue ought to have as much time as we had in 1998 to debate this issue. With that, I thank my friend for yielding me this time.

Mr. POLIS. Mr. Speaker, in brief response to the gentleman from Washington, all States, certainly including the residents of Puerto Rico, if they, in fact, become a State, would have the protections of the Second Amendment, as well as all of the other amendments and protections of our Constitution as interpreted by the Supreme Court.

And, of course, it is entirely up to States what they do with regard to recognizing official languages. My own State of Colorado has no official language. I understand there are other

States that do. Certainly any State can establish English, Spanish, French, whatever language they want, as an official language or languages.

Mr. Speaker, I would like to yield 5 minutes to the gentleman from New York (Mr. SERRANO).

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

Mr. SERRANO. Mr. Speaker, I thank the gentleman for the time.

My colleagues, I come to you today in a unique situation because, you see, I was born in the territory of Puerto Rico; and by being a resident of New York and having been raised in New York, I am able to be a Member of Congress. Not a Resident Commissioner, with all due respect to my brother, but a full voting Member of Congress.

And so I come fully understanding how it is to be able to look at yourself and to wonder what, if ever, will be resolved when it comes to the status of Puerto Rico.

This is a very significant moment and a very significant bill. For the first time in 112 years, the Congress of the United States will ask the 4 million American citizens in Puerto Rico what they wish their relationship to the United States to be. And it is done, I believe, in a fair way.

Now many will argue today that it is not binding on the Congress. That is a good thing because Congress can then take the results and analyze them and determine how it wants to apply the results, yes or no, whether it wants a higher vote for independence, if that is what they choose, or a higher vote for statehood. Congress can make that determination.

But I believe the process is fair. It says in the initial vote: Do you wish to remain as you are or do you wish to change your relationship to the U.S.? And then in the second vote if they choose for change, it says: Do you wish to become the 51st State, do you wish to become an independent nation, or do you wish to go and become an associated republic? Well, we have that. Some people say they don't know what that means. We have that. Micronesia is an associated republic of the United States. Palau is an associated republic of the United States. The Marshall Islands is an associated republic of the United States. So we know what that means.

I would argue for those who support commonwealth, that the next natural step of the commonwealth is free association unless they have a notice and it is statehood or unless they have been misled and it is independence. I think the next step is free association.

Why are those the three options available? Because all three options will remove Puerto Rico from the territorial clause of the Constitution of the United States, meaning it will no longer be a territory and then we can decide what to do.

It has been said here that Puerto Ricans have served our Armed Forces. That means a lot to us. And it means a lot to be able to say to those veterans who are now in Puerto Rico that they will have a chance to express themselves.

Many have asked me, Joe, if it doesn't do all of the things that some people claim it does, why do you support this bill? Because it begins a process, because it allows people to speak, because we would have heard for the first time that we know that they have something that they want to change.

Now, the opponents claim that this bill pushes Puerto Rico to statehood. Now I grew up in New York, but I can tell you one thing as a fact that I know about the Puerto Rican community and Puerto Rico: they know the status issue through and through. I think from the time you are 10 years old, all you debate in Puerto Rico is the status and baseball. And the status is bigger than baseball. So no one in Puerto Rico will be forced to vote for statehood unless they want it. Nobody will be forced to vote for independence unless they want it. No one will be forced to vote for anything unless they want it. They are very adamant. You think I'm excited now, you should see the way they speak about those issues in Puerto Rico. Nobody will force them into anything.

At the same time, the opponents tell you there is no majority support for statehood in Puerto Rico, but they'll be forced to vote for statehood. I don't understand that; if there is no support, then they won't vote for statehood. That's a fact.

Now, briefly, some of the commonwealth people, with all due respect to them, have proposed a new commonwealth, but they have never presented it in legislative form. They've had years. In the 20 years I've been here, they've never presented the commonwealth in a legislative form. We have presented many bills that speak to self-determination.

What they propose, and are you ready for this, Puerto Rico would remain American citizens. Puerto Rico would get more Federal dollars. Puerto Rico would be able to choose and pick any Federal law it wishes to follow and not follow. And Puerto Rico would be able to exchange ambassadors with other countries. That's the commonwealth that has been proposed.

I want that for the Bronx. That's a great deal. And I am sure that the gentleman wants it for Florida. And the Texans would jump at it immediately. But that is not what it is. Give the people of Puerto Rico the opportunity to express themselves.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield 2 minutes to my friend from Utah (Mr. CHAFFETZ).

Mr. CHAFFETZ. Mr. Speaker, I believe this is a rushed process. This should be considered under an open rule, as it has in the past. Even LOUISE SLAUGHTER, the chairwoman of the Rules Committee, was cited in Congress Daily today saying she didn't know why the House is even taking up the bill.

I offered an amendment that said two-thirds of the people of Puerto Rico should vote affirmatively for statehood in order to move forward, yet that was not ruled in order. Believe me, we want to make sure that more than 51 percent of the people want this before we move forward. You don't want to get married to someone who is only 51 percent sure, for goodness sake.

Nobody necessarily even knows what is in this bill; sovereignty and association with the United States has been pointed out. I don't think the people understand what that necessarily means, certainly in this body.

And there is no need for a federally sanctioned vote. In 1967, 1993 and 1998, the people of Puerto Rico voted. They voted against statehood. There is no reason that the heavy hand of the United States Congress needs to come down and force the people of Puerto Rico to vote on this.

□ 1100

They can do it themselves. And if they do it, they should do it with a very simple question: Are you in favor of statehood, yes or no? That simplicity would go a long ways with people like me and a lot of others. Let's have that kind of straight vote.

We love the people of Puerto Rico. They're fellow citizens; they've served in our military. There is a great kinship. But it doesn't necessarily mean that the people of Puerto Rico want statehood. If they're going to have a vote, they should do so in Puerto Rico. They don't need the heavy hand of Congress; let them vote on that straight vote.

I stand in opposition to this rule and in opposition to this bill, and I urge my colleagues to do the same.

Mr. POLIS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland, the distinguished majority leader, Mr. HOYER.

Mr. HOYER. I thank the gentleman from Colorado.

I rise in strong support of the bill. I rise in strong support of the underlying legislation. I am pleased to join my colleague from Puerto Rico (Mr. PIERLUISI) in support of the rule and the bill.

I know that Mr. PIERLUISI, who was elected to represent Puerto Rico in the Congress of the United States as their representative, has worked long and hard on this bill, as have so many of his predecessors. When I came to Congress, Carlos Barcelo was the representative of Puerto Rico, and he was for this. That was 30 years ago, and we're still talking about this. The gentleman from Puerto Rico and Mr. SERRANO make points that I would make.

Now, the gentleman who preceded me said that we are rushing this bill. This bill was reported out of committee last July, 30–8. This bill has 181 cosponsors,

broad bipartisan support in this Congress. And so we have brought this bill to the floor for consideration. It offers amendments to those who are opposed to this bill. It offers amendments, frankly, that I think are extraneous to the basic premise of this bill as well. The fact of the matter is that America prides itself on being the beacon for democracy.

What this bill does is celebrate democracy in Puerto Rico. I am grieved from time to time when I read that some of our fellow American citizens in Puerto Rico talk about the United States treating Puerto Rico as a colony. I don't know about the rest of you, but I'm not interested in having colonies. I don't perceive and have never perceived the United States as an imperial power with colonies. I perceive the United States of America as priding itself on being supportive of self-determination, of being committed to the premise that people freely ought to be able to come together and determine their own status.

That's what this legislation does. I don't think it does more than that or less than that. Unlike previous legislation, it does not say that if in fact the voters of Puerto Rico vote one way or the other, that action will automatically follow by this Congress. This Congress will then have to make a determination as to what relationship we want to have to Puerto Rico in a democratic fashion in this House and in the Senate, as should be the case.

The President of the United States has said he would want to see the status of Puerto Rico resolved. I want to see the status of Puerto Rico resolved. And, yes, if the citizens of Puerto Rico, under this bill, decide that they want to remain a Commonwealth and vote not to change, that will be the conclusion. If on the other hand they decide they want to have change, then they will have the options that the United Nations has set forth for colonies to become free nations.

I myself do not refer to Puerto Rico as a colony; some in Puerto Rico do. The fact of the matter is that it gives three options which are the three options sanctioned by the United Nations, and that is, for a free people to self-determine if they want to be an independent nation, or, alternatively, that they want to be a State, or, alternatively, they want to have a free association with the United States. That latter category, as I suppose similar to the relationship that England has to Australia and Great Britain or that Micronesia has, or some other entity that has its own independent laws, it's a sovereign nation, as is Canada; but the Queen of England is the head of their government. That may be somewhat like a free association. But whatever the people of Puerto Rico decide, it seems to me that I would be, as one Member, prepared to honor.

I am hopeful that today, after 111 years that Mr. SERRANO spoke about and that Mr. PIERLUISI has talked about, that we do in fact give to the Puerto Rican people the option that they deserve to have and that our principles demand they have.

I hope my colleagues will support this rule. I hope they will support the bill, and I hope they will oppose amendments that will undermine this opportunity that can be a historic opportunity, not just for the people of Puerto Rico, but for the people of the United States of America to live out its pledge to peoples that have an association with us and, indeed, the principle that we ask other nations to honor as well of self-determination.

I thank the gentleman from Colorado (Mr. POLIS) for yielding.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my pleasure to yield 2 minutes to my friend from Georgia, Dr. BROUN.

Mr. BROUN of Georgia. I thank the gentleman for yielding.

Mr. Speaker, this legislation is the first step in a process that offers the Commonwealth of Puerto Rico an invitation to become a full member as a State in the greatest Nation in the world. It is neither onerous nor unfair to require that English be the only official language as a precondition for its admission. I introduced an amendment that would accomplish this on two separate occasions. Unfortunately, the Democrats in this body rejected my amendment on both occasions, both in the committee as well as in this rule. Without this commonsense amendment, this legislation is fundamentally flawed.

Throughout our Nation's history, the common thread that has united individuals of diverse backgrounds has been the common use of the English language. It is the glue that holds us together as a Nation. This amendment would help unite the island with the rest of the other 50 States if it is admitted as a State. President Ronald Reagan once said, ''By emphasizing the importance of a common language, we safeguard a proud legacy and help to ensure that America's future will be as great as her past.''

No territory with an official language other than English has ever been admitted to the Union. In fact, there are a number of former territories that had to comply with English preconditions before they were admitted to the Union, including Louisiana, Oklahoma, Arizona, and New Mexico. All of these States agreed to the condition that their schools shall always be conducted in English, and Puerto Rico should be no exception.

My amendment does not prevent the Puerto Ricans from speaking Spanish in their home, church, business, or on the streets in San Juan.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I yield the gentleman 1 additional minute.

Mr. BROUN of Georgia. I thank the gentleman.

It simply requires English to be the official language in public schools, local and State courts, State government agencies, and the Puerto Rican legislature. This should not be a huge problem because since 1900 English has been taught from kindergarten to the 12th grade in Puerto Rico. Without this amendment, children in Puerto Rico will never have the opportunity—never have the opportunity—to participate fully and equally with their fellow citizens.

It is my firm belief that insisting on Puerto Rico's adoption of English as its only official language must serve as a minimal requirement for consideration of its inclusion into our sacred Union. Since the Democrat leadership of this body rejected my amendment on two separate occasions, I urge this body to vote ''no'' on the rule and ''no'' on H.R. 2499.

Mr. POLIS. In response to the gentleman from Georgia, we live in a Federalist system. States have the ability to determine what languages are recognized in an official capacity. I think it would be misleading to the people of Puerto Rico in the context of a vote to insinuate that there is a Federal tyranny with regard to language.

We live in an affiliation of States, a Federalist system that reserves power for the States. I know that the gentleman from Georgia has generally been a standard bearer of the rights of States and the prerogatives of States and, in fact, the ongoing battle against the overreach of Federal powers, and this is certainly an example of that.

States have the ability to decide what languages to print things in—language or languages—certainly the ability to set the language that their own State legislature meets in. This would be an example of an overreach of the Federal Government were they to dictate that.

Mr. BROUN of Georgia. Will the gentleman yield?

Mr. POLIS. I will yield briefly.

Mr. BROUN of Georgia. I thank the gentleman from Colorado for yielding.

I believe very firmly that the only way that we are going to incorporate people into this country—and we have been a Nation of immigrants, and I believe very fully that we should continue to allow responsible immigration into this Nation—but English has been the common thread that has bound us all together. It should be the official language of America.

We have required Oklahoma, Louisiana, Arizona, and New Mexico to accept English as the official language to be admitted, and I don't think——

Mr. POLIS. Reclaiming my time, I think it's a very appropriate discussion to have. It's a discussion at the State level; and I know that some States have done precisely that. But, again, this would be an example of an overreach of the Federal Government where they would actually be involved with dictating to States that here you must speak Spanish, here you must speak

French, here you must speak English, although certainly the gentleman has argued there are many at the local and State level that have advocated those policies on behalf of particular States.

Mr. Speaker, I reserve the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, as I said before, I would have opposed amendments like Dr. BROUN's on the floor, but I think that everyone should have an opportunity to be heard, even with ideas that I think are premature, because I don't know how the people of Puerto Rico are going to vote. So it's premature to say at this stage, okay, you have to speak this language or the other language because you're going to vote this way or the other way. No. No. All this does is start a process that will allow the people of Puerto Rico to speak. And it's the first time that there has been a federally authorized referendum for the people of Puerto Rico, and I think it's fair.

At this time, I yield 2 minutes to the distinguished gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I rise in opposition to the rule and to the underlying bill, but it could have been otherwise, I might add.

The major flaw in H.R. 2499 is that it never allows an up-and-down vote, a yes-or-no vote on statehood or on any of the other status options presented to the people of Puerto Rico. It is a skewed process. It is designed to have a poll that will have a predetermined outcome.

I submitted an amendment to the Rules Committee that would have fixed this fundamental flaw. Unfortunately, the rule now before us does not make my amendment in order. So now, if this bill becomes law, it will not find out whether the people of Puerto Rico support statehood. All the plebiscite will tell us is whether the people of Puerto Rico prefer statehood to independence.

I can save us all a lot of trouble to that point. I concede—and most of my friends will concede, pretty much everyone involved in this issue will concede—that the Puerto Rican people would prefer statehood to independence or free association. So if everyone is willing to concede the only point that will be established in this bill, then why bother passing this bill and having two separate plebiscites just so we can find out what we already know?

We also know that when people have had a chance just to vote on statehood, they voted against it. Well, the answer is that the proponents want to get the results of this system that's been set up this way so they can paint the people's opinion of Puerto Rico in a different way. They want to try to convince Congress and the American people the vote will really mean that the Puerto Rican people want statehood, but they're not being given the chance to vote up and down on statehood. It's only statehood in relationship to the other options, the other options that are offered on the ballot, I might add.

□ 1115

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LINCOLN DIAZ-BALART of Florida. I yield the gentleman an additional 30 seconds.

Mr. ROHRABACHER. So, if the people of Puerto Rico really wanted statehood, that could be demonstrated by a ''yes'' or ''no'' vote on statehood, for which my amendment would have provided; but the sponsors of this legislation don't want an up-or-down vote on statehood, apparently because they don't think they can get that outcome in a fair vote. So they want to set up the scenario, the only scenario by which they can win—a popularity contest between statehood, independence, and free association.

The people of Puerto Rico have a right to have an up-or-down vote on whether they want statehood right now as compared to their own status. This is a skewed poll, and it is stacking the deck. We should vote against this attempt to misrepresent the people of Puerto Rico.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, it is my pleasure to yield 3 minutes to my friend, the distinguished ranking member of the Rules Committee, the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, ''Who's on first?'' is the natural question that comes to mind on this issue.

As we sat in the Rules Committee last night, we saw LUIS GUTIERREZ, CHARLIE RANGEL, and NYDIA VELÁZQUEZ join up with VIRGINIA FOXX. We have here on the floor concerns raised by DANA ROHRABACHER and DOC HASTINGS, and we have LINCOLN DIAZ-BALART; Mr. PIERLUISI; our former colleague, Governor Fortuno; and a number of members of the Republican leadership joining in support of this.

The bottom line is that we should do exactly what Mr. GUTIERREZ argued both in the Rules Committee and here on the floor last night. Now, I have stood in this well repeatedly, saying that I could have done a better job when I'd had the privilege of serving as chairman of the House Rules Committee. I could have had more open rules. I could have had more free-flowing debate. In fact, as this new majority was attempting to emerge to that majority status, I was criticized, and it was justified in some ways.

We were promised, though, as I and others were being criticized, Mr. Speaker, that we would have an entirely new direction for America and that there would be an open, freewheeling debate. Well, there is no issue on which it is more apparent that we should be having a freewheeling debate, an open amendment process, than on this issue before us today.

As we look at where it is we are going, I will say that I was troubled by the arrogance, the arrogance that was exhibited in the Rules Committee last night. There were attempts made by people like Mr. GUTIERREZ, who submitted 16 amendments, and two of those 16 amendments were made in order. Ms. VELÁZQUEZ submitted six amendments, and three of hers were made in order. There were attempts made to make more amendments in order, and they were denied.

In 1998, as has been pointed out, we had a completely open amendment process. Let me say that, last night, in the Rules Committee, Mr. Speaker, when we made an attempt to put together a bipartisan amendment, we saw the arrogance of the Rules Committee demonstrated when there was a complete denial of even the chance to recess for 10 minutes so that the Democrats and Republicans could come together and offer a proposal.

I will make a pledge that, if I am fortunate enough to hold the gavel again and if a request is made by the minority to cobble together a bipartisan amendment to deal with an issue that is before us, I will assure the Members I will recess the committee and will allow Members to come together and work on that package.

We are going to have an opportunity in just a few minutes to defeat the previous question. If we do that, Mr. DIAZ-BALART will offer an open rule. Democrats and Republicans alike have been arguing for an open amendment process on this, Mr. Speaker.

So I ask my colleagues to vote ''no'' on the previous question so that we can have the free-flowing debate that this institution and the American people deserve.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I support the historic underlying legislation being brought to the floor today. Again, I commend Mr. PIERLUISI and Governor Fortuno.

In order to rightly return, however, to the open rule precedent set by the Republicans in 1998, I will be asking for a ''no'' vote on the previous question so that we can amend this rule and allow the House to consider the Puerto Rico Democracy Act under an open rule.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

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

There was no objection.

Mr. LINCOLN DIAZ-BALART of Florida. I yield back the balance of my time.

Mr. POLIS. Mr. Speaker, I would like to emphasize that this bill is revenue neutral for the Federal Government and that all costs of the plebiscite will be paid by the Puerto Rican government.

The United States is committed to democracy, and this bill gives us the opportunity to respect the democratically arrived-upon decision of the people of Puerto Rico. I join the number of

sentiments that have been expressed today, including those from my friend and colleague from Florida, which are that, should Puerto Rico decide to seek independence, as an individual Member of Congress, I will support that. Should they decide to seek status as an associated republic, I will support that, and should they choose to join us as a State, I will support that.

This recent health care debate, I think, helped to show the people of Puerto Rico some of the advantages that might be attained were they a State. Their Resident Commissioner, PEDRO PIERLUISI, did an excellent job in trying to advocate for the interests of Puerto Rico in this health care debate, but he was but one vote. The people of Puerto Rico, counted and apportioned under a census, should have six Members of Congress, probably Members on both sides of the aisle, advocating for their interests alongside Members of Congress, representing other parts of our country. The current territorial status of Puerto Rico would end under any of the three options. No options would be subject to the territorial clause of the U.S. Constitution. As my colleague from New York has mentioned, this is a topic that is discussed constantly around dinner tables in Puerto Rico.

As a Member of Congress from Colorado, I respect the voice of the Puerto Rican people and of the Resident Commissioner, PEDRO PIERLUISI, who has been elected with this as part of his platform.

Given the current hyperpartisan environment under which Congress works, it is very good to see a bill with such strong bipartisan support. It is important to point out that this bill has over 180 cosponsors and that it was voted out of committee with a strong bipartisan majority. In addition, the highest of Puerto Rico's elected officials from both parties, including its Representative to Congress and Governor Luis Fortuño, along with a sizable majority of both chambers of its legislature, also support this bill. The reason is they understand that this bill upholds the most basic democratic tradition on which our country was founded.

Today, we can offer millions of people the right to self-determination. For too long, we have denied our fellow citizens this right, and we are now faced with an opportunity to fix this grievous injustice and to give the people of Puerto Rico the ability to self-determine. Therefore, I urge my colleagues to uphold this country's commitment to democracy and to vote for the underlying rule, which is a fair rule, and the legislation.

I urge a ''yes'' vote on the previous question and on the rule.

The material previously referred to by Mr. LINCOLN DIAZ-BALART of Florida is as follows:

AMENDMENT TO H. RES. 1305 OFFERED BY MR. LINCOLN DIAZ-BALART OF FLORIDA

Strike all after the resolved clause and insert:

That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2499) to provide for a federally sanctioned self-determination process for the people of Puerto Rico. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived except those arising under clause 9 or 10 of rule XXI. General debate shall be confined to the bill and shall not exceed one hour and 30 minutes, with one hour equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources and 30 minutes controlled by Representative Velazquez of New York or her designee. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill. Each section of the committee amendment in the nature of a substitute shall be considered as read. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

(The information contained herein was provided by Democratic Minority on multiple occasions throughout the 109th Congress.)

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Democratic majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308–311) describes the vote on the previous question on the rule as ''a motion to direct or control the consideration of the subject before the House being made by the Member in charge.'' To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that ''the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition'' in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: ''The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.''

Because the vote today may look bad for the Democratic majority they will say ''the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.'' But that is not what they have always said. Listen to the definition of the previous question used in the Floor Procedures Manual published by the Rules Committee in the 109th Congress, (page 56). Here's how the Rules Committee described the rule using information from Congressional Quarterly's ''American Congressional Dictionary'': ''If the previous question is defeated, control of debate shifts to the leading opposition member (usually the minority Floor Manager) who then manages an hour of debate and may offer a germane amendment to the pending business.''

Deschler's Procedure in the U.S. House of Representatives, the subchapter titled ''Amending Special Rules'' states: ''a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.'' (Chapter 21, section 21.2) Section 21.3 continues: ''Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.''

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Democratic majority's agenda and allows those with alternative views the opportunity to offer an alternative plan.

Mr. POLIS. I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 23 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1215

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro

tempore (Mr. LARSEN of Washington) at 12 o'clock and 15 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

Ordering the previous question on House Resolution 1305, by the yeas and nays;

Agreeing to House Resolution 1305, if ordered.

The first electronic vote will be conducted as a 15-minute vote. The second electronic vote will be conducted as a 5-minute vote.

PROVIDING FOR CONSIDERATION OF H.R. 2499, PUERTO RICO DEMOCRACY ACT OF 2009

The SPEAKER pro tempore. The unfinished business is the vote on ordering the previous question on House Resolution 1305, on which the yeas and nays were ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The vote was taken by electronic device, and there were—yeas 218, nays 188, not voting 24, as follows:

[Roll No. 231]

YEAS—218

Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutch
Dicks
Dingell
Doggett
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Gonzalez
Grayson
Green, Al
Green, Gene
Grijalva
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kind
Kissell
Klein (FL)
Kosmas
Kucinich
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Tanner
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Visclosky
Walz
Wasserman Schultz
Watson
Watt
Waxman
Welch
Woolsey
Wu
Yarmuth

NAYS—188

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Childers
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Donnelly (IN)
Dreier
Duncan
Ehlers
Ellison
Emerson
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Griffith
Guthrie
Gutierrez
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hill
Honda
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kline (MN)
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Mitchell
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Nye
Olson
Paul
Paulsen
Pence
Petri
Pitts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Velázquez
Walden
Weiner
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—24

Barrett (SC)
Buchanan
Conyers
Davis (AL)
DeGette
Fallin
Gordon (TN)
Hoekstra
Johnson (GA)
Kilroy
Langevin
Meeks (NY)
Melancon
Mollohan
Moore (WI)
Pingree (ME)
Platts
Roybal-Allard
Shuler
Sutton
Teague
Wamp
Waters
Wilson (OH)

□ 1247

Messrs. MCCLINTOCK, BONNER, TOWNS, YOUNG of Alaska, HONDA and Ms. GINNY BROWN-WAITE of Florida changed their vote from ''yea'' to ''nay.''

Mr. THOMPSON of Mississippi and Ms. MARKEY of Colorado changed their vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Ms. ROYBAL-ALLARD. Mr. Speaker, I was unavoidably detained and was not present for the vote on Ordering the Previous Question on H. Res. 1305 (rollcall vote 231). Had I been present, I would have voted "yea."

Stated against:

Mr. PLATTS. Mr. Speaker, on rollcall No. 231. I was inadvertently detained and missed said vote. Had I been present, I would have voted "no."

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 222, nays 190, not voting 18, as follows:

[Roll No. 232]

YEAS—222

Ackerman
Adler (NJ)
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Butterfield
Cao
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutch
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Gonzalez
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kennedy
Kildee
Kilpatrick (MI)
Kind
Kissell
Klein (FL)
Kosmas
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)

Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Speier
Spratt
Stupak
Sutton
Tanner
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Tsongas
Van Hollen
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Woolsey
Wu
Yarmuth

NAYS—190

Aderholt
Akin
Alexander
Altmire
Austria
Bachmann
Bachus
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Capito
Carter
Cassidy
Castle
Chaffetz
Childers
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (IL)
Davis (KY)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Ellison
Emerson
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Herseth Sandlin
Hill
Honda
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
Kaptur
Kilroy
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kline (MN)
Kratovil
Kucinich
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McClintock
McCotter
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Mitchell
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Nye
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Space
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Velázquez
Walden
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (AK)
Young (FL)

NOT VOTING—18

Barrett (SC)
Davis (AL)
DeGette
Fallin
Gordon (TN)
Hoekstra
McCaul
Meeks (NY)
Melancon
Mollohan
Moore (WI)
Pingree (ME)
Poe (TX)
Shuler
Stark
Teague
Wamp
Wilson (OH)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining on the vote.

□ 1301

Mr. GUTIERREZ changed his vote from ''nay'' to ''yea.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

Mr. GUTIERREZ. Mr. Speaker, I move to reconsider the vote.

MOTION TO TABLE

Ms. SLAUGHTER. Mr. Speaker, I move to table the motion to reconsider.

The SPEAKER pro tempore. The question is on the motion to table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GUTIERREZ. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 199, noes 186, not voting 45, as follows:

[Roll No. 233]

AYES—199

Ackerman
Adler (NJ)
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Boccieri
Boren
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Cao
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Chandler
Chu
Clarke
Clyburn
Connolly (VA)
Conyers
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (TN)
DeFazio
Delahunt
DeLauro
Deutch
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Engel
Eshoo
Etheridge
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Gonzalez
Grayson
Green, Al
Green, Gene
Grijalva
Hall (NY)
Halvorson
Hare
Harman
Heinrich
Herseth Sandlin
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson, E. B.
Jones
Kanjorski
Kaptur
Kennedy
Kildee
Kilroy
Kissell
Klein (FL)
Kosmas
Kratovil
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sanchez, Loretta
Schakowsky
Schauer
Schiff
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Speier
Spratt
Stupak
Sutton
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Weiner
Welch
Woolsey
Young (AK)

NOES—186

Aderholt
Akin
Alexander
Altmire
Austria
Bachmann
Bachus
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boucher
Boustany
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Capito
Carter
Cassidy
Castle
Chaffetz
Childers
Clay
Coble
Coffman (CO)
Cole
Conaway
Cooper
Crenshaw
Culberson
Davis (IL)
Davis (KY)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dreier
Duncan
Ehlers
Farr
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gohmert
Goodlatte
Granger
Graves
Griffith
Guthrie
Gutierrez
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Honda
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jordan (OH)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kline (MN)
Kucinich
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Mitchell
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Space
Stearns
Sullivan
Taylor
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Wu
Young (FL)

NOT VOTING—45

Barrett (SC)
Bean
Boswell
Brady (TX)
Butterfield
Castor (FL)
Cleaver
Cohen
Davis (AL)
DeGette
Dingell
Ellison
Ellsworth
Emerson
Fallin
Gingrey (GA)
Gordon (TN)
Hastings (FL)
Higgins
Hoekstra
Johnson (GA)
Kagen
Kilpatrick (MI)
Lewis (CA)
Linder
Meek (FL)
Meeks (NY)
Melancon
Mollohan
Moore (WI)
Pascrell
Pingree (ME)
Sánchez, Linda T.
Sarbanes
Schrader
Schwartz
Shuler
Stark
Tanner

Teague	Wamp	Wilson (OH)
Tsongas	Waxman	Yarmuth

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

□ 1332

Messrs. DAVIS of Illinois, CLAY, and BUYER changed their vote from ''aye'' to ''no.''

Messrs. GARAMENDI, DELAHUNT, ROTHMAN of New Jersey, RANGEL, CUELLAR, ENGEL, COSTELLO, ACKERMAN, NYE, FATTAH, STUPAK and Ms. SPEIER, Mrs. NAPOLITANO, Ms. BALDWIN, and Ms. ROYBAL-ALLARD changed their vote from ''no'' to ''aye.''

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST TO REDUCE TIME FOR ELECTRONIC VOTING

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that votes for the remainder of the day be limited to 5 minutes.

The SPEAKER pro tempore. The Chair will not entertain that request without proper consultation.

GENERAL LEAVE

Mr. RAHALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 2499.

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

There was no objection.

PUERTO RICO DEMOCRACY ACT OF 2009

The SPEAKER pro tempore. Pursuant to House Resolution 1305 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2499.

□ 1334

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2499) to provide for a federally sanctioned self-determination process for the people of Puerto Rico, with Mr. SCHIFF in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 1 hour and 30 minutes, with 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Natural Resources and 30 minutes controlled by the gentlewoman from New York (Ms. VELÁZQUEZ) or her designee.

The gentleman from West Virginia (Mr. RAHALL) and the gentleman from Washington (Mr. HASTINGS) each will control 30 minutes. The gentlewoman from New York (Ms. VELÁZQUEZ) will control 30 minutes.

The Chair recognizes the gentleman from West Virginia.

Mr. RAHALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have the privilege of representing the great State of West Virginia in this body, a State that was born amidst civil conflict in the middle of a war. It is said that West Virginia is the only State to be formed by seceding from a Confederate State during the Civil War. In fact, the western counties stayed loyal to the Union, while Tidewater seceded from it.

Puerto Rico also joined the American family as a result of war. In 1898, during the Spanish-American War, the island was invaded by the United States and was ceded by Spain to our country under the Treaty of Paris. The island's century-long history within the American family has been significant. Puerto Rico was one of the first areas outside the continental United States where the American flag was raised.

To the United States, it marked a milestone in our own political development. When once our Union of States was comprised of renegade English colonies, we then stepped into a role that we previously had fought against. Given our own experience, would anyone have imagined that our new colony would be disenfranchised and kept unequal in our own political framework? Our commitment to Puerto Rico's advancement under the 1898 Treaty of Paris should be our judge.

If our measure of success is today's Puerto Rico, then I state Puerto Rico has done well by the United States. It is a showcase of democracy in the Caribbean. Having some of the highest voter turnout rates in our Nation, Puerto Rico shames many of our own States with its energy and enthusiasm in electing its leaders. Economically, it is a powerhouse in the Caribbean and considered a home away from home for many mainland Fortune 500 companies.

Equal in importance to Puerto Rico's political and economic prowess is the island's contributions to our own social fabric. Every aspect of American art, music, theater, and sport has been influenced by Puerto Rico's own culture and its people. And beyond such contributions, there remains Puerto Rico's patriotism, beginning in World War I when thousands of Puerto Ricans served in the U.S. military. There is no doubt that many more thousands are currently serving in our Armed Forces, fighting our wars, and dying for our country.

To the families who have lost a husband, a father, a daughter or son in our wars, I take this moment, as we all do, to salute you. We can debate political status, but what is not subject of debate is the patriotism of the people of Puerto Rico.

We are here today on the floor of the U.S. House of Representatives because, in spite of what we have gained from each other, there has been no ultimate achievement in Puerto Rico's political status, which really is the greatest commitment the U.S. has to all of our territories.

Since the establishment of the current Commonwealth status in 1952, four popular votes have been held on the status of Puerto Rico in three plebiscites and one referendum, but none of them were sanctioned by this body, the Congress of the United States.

Going back just to the 1970s, at least 40 separate measures have been introduced in Congress to resolve or clarify Puerto Rico political status. In addition, Congress has held at least 12 hearings, and four measures have received either House or Senate action.

During the last Congress, the Bush administration issued the President's Task Force Report on Puerto Rico's Status which served as the basis for the legislation before us today; a task force, I would point out, that was initiated by the Clinton administration and concluded by the Bush administration.

Indeed, the entire exercise has been bipartisan. The measure before us today is sponsored by the Resident Commissioner from Puerto Rico, PEDRO PIERLUISI, a Democrat. It is strongly supported by a former colleague and current Governor of Puerto Rico, the Honorable Luis Fortuno, a Republican. And it was reported out of our Natural Resources Committee by a vote of 30–8.

With this history before us, I join those who say it is time for Congress to provide the people of Puerto Rico with an unambiguous path toward permanently resolving its political status that is consistent with the U.S. Constitution.

When our Committee on Natural Resources considered similar legislation in the last Congress, we exhaustively examined the question of the constitutionality of the various status options available under the Constitution. And we continued that process during the current Congress. What emerged from that process was a clear consensus that settled on the permanent status options that are reflected in the bill before this body today.

The Resident Commissioner from Puerto Rico is to be congratulated for carefully crafting a bill which seeks to authorize a fair, impartial, and democratic process for self-determination for the people of Puerto Rico. The pending measure is straightforward. It authorizes a plebiscite in which the two voting options are presented: number one, present political status; or number two, a different political status. If option two prevails, then a second plebiscite would be conducted in which three options are presented: independence, free association with the United States, or statehood. Puerto Rico would then certify the results to the President and the Congress.

Let me be very clear on this point. Nothing in this legislation prejudges the result of these plebiscites. Nothing in this legislation prejudges the result of these plebiscites. And voting for this legislation does not constitute a vote for the status quo, statehood, independence, or free association.

The bill is about a process, and depending upon what occurs during that process, it will be up to a future Congress to ultimately decide Puerto Rico's status.

Mr. Chairman, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, before I begin my remarks, I am getting requests for time on the floor from a number of Members, and there simply is not enough time allocated by the rule. So, Mr. Chairman, I ask unanimous consent that each person that is allocated time get an additional 15 minutes.

The CHAIR. The Chair cannot entertain that request in the Committee of the Whole.

Mr. HASTINGS of Washington. Thank you, Mr. Chairman.

Mr. Chairman, I rise today in opposition to this bill. It strongly deviates from the procedures followed by other States to seek statehood, and it leaves numerous questions about the implications of statehood unanswered in this particular case.

H.R. 2499 is the wrong way to go about achieving statehood and breaks from the precedents set, as I mentioned, of other States and, most recently, those States that we entered into the Union in the last century, Alaska and Hawaii. Both of these States conducted their own vote on the question of statehood. When a strong majority voted in favor of statehood in each of these cases, it was only then that they went to Congress asking them to respond to that vote.

This bill has the process entirely backwards. This bill is a bill asking Puerto Rico if it wants to be a State, not the other way around. This is a dramatic departure from the long-established precedent of how other States sought admission to the Union.

□ 1345

This bill has Congress, as a result, blessing statehood before Puerto Rico even votes to express their will. Rather than receiving the request of statehood from a strong majority of the people of Puerto Rico, expressed through a locally initiated vote, this bill has Congressmen soliciting Puerto Ricans on the question of statehood.

Now, Mr. Chair, let me be very clear. I'm sympathetic to the people of Puerto Rico having the right and ability to vote on their own political future. But this bill is not—I want to repeat—not the only way that this can happen. In fact, this bill is not necessary for Puerto Rico to hold a self-determination vote. Puerto Rico can hold such a vote right now, today, without any action of Congress. And they have done it three times in the past.

Furthermore, Congress is asking Puerto Rico if it wishes to be a State without a clear understanding of the implications of statehood and the conditions that would be required to join the Union. First, there is the question of what statehood would cost the U.S. taxpayers in increased Federal spending. We really don't know the answer to that, but we do think it is higher. And the reason for that is we asked CBO, the Congressional Budget Office, for information on that. And they have not provided an up-to-date analysis of the cost of statehood. So in an effort to somehow quantify the costs, my committee staff reviewed information by the Congressional Research Service. The spending on just 10 Federal programs, Mr. Chairman, would cost an estimated $4.5 billion to $7.7 billion per year. Now, that's only 10 programs. We put all of the other costs together, you can only imagine that it may be higher than that.

So before voting on this bill, I think that Members ought to know if there is a cost and what that cost would be. This information could be calculated, but it is not being done. Without this information, in my view, H.R. 2499 should not be passed.

Second, Mr. Chairman, there's a question of reapportioning House seats. According to CRS, based on a population of approximately 4 million people, if Puerto Rico were to become a State, it would be entitled, rightfully, to two Senate seats and six seats in the U.S. House of Representatives. Without increasing the size—435 Members of the House—States could lose an existing seat or not receive an additional seat after the 2010 Census. Again, this is according to CRS. Those States, by the way, Mr. Chairman, include Arizona, Missouri, New York, South Carolina, Texas, and my home State of Washington. The public deserves to know whether their State would lose representation to provide six of 435 House seats to Puerto Rico, or whether their proposed solution is that the Nation needs more Members of Congress. In other words, increase the number of Members from 435 to 440 or 441.

Finally, Mr. Chairman, there is the question of whether English should be the official language of Puerto Rico. When a similar bill was debated in the House in 1998, an amendment on the issue of English as the official language was allowed to be offered on the floor of this House and allowed to be debated. Unfortunately, this time the Democrat majority has blocked direct amendments on this issue. Currently, both Spanish and English are the official languages of Puerto Rico. However, as a practical matter, Puerto Rico is predominantly Spanish-speaking. Spanish is used in the state legislature, local courts, businesses, and in schools.

Now, during our history, the matter of the English language was addressed during the admission of other States into the Union. And those States include Arizona, Louisiana, Oklahoma, and New Mexico. So I think it's only fair and appropriate to address and debate English as the official language in regard to statehood for Puerto Rico.

So, Mr. Chairman, we should not move forward with this bill until there are answers to those three issues, at least, that I have brought up. I think it would be more fair and more responsible to the residents and the 50 States and the people if we had answers to those questions before, and the conditions of statehood, rather than doing it before we have even gotten to that point.

So for those reasons, Mr. Chairman, I urge my colleagues to vote ''no'' on this bill.

I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

Let me just say that the gentleman from West Virginia, my colleague and friend, the chairman of the Natural Resources, is right. This is, Mr. Chairman, about process. It's about the fact that this is a flawed process. Not only was this bill drafted unilaterally, but it was prepared in a biased manner, with a predetermined outcome in mind.

Let us be clear. This legislation is designed to push the statehood agenda, regardless of whether that agenda is the best solution for the island or even among the people. The chairman of the Natural Resources Committee also mentioned that four plebiscites have been held in Puerto Rico. Yes, he is correct. In the past three plebiscites, the men and women of Puerto Rico have consistently voted in favor of Commonwealth status and against statehood.

I tell you that this legislation has no business being on the floor today. It raises a host of questions. It has zero probability of becoming law. However, it does place Members in the awkward position of explaining why they are meddling in Puerto Rico when a request from Puerto Rico has not even been made.

There are economic issues that we must address first. The President has ordered his White House Task Force on Puerto Rico to advise him and Congress on policies and initiatives that promote job creation, education, clean energy, and health care. Instead of dealing first with the very real concerns of how the people of Puerto Rico survive day by day, we are telling them our priority is to debate a status bill that will not become law. This is a disgrace. It is baffling that the statehood question, which lost in 1967, 1993, and again in 1998, is now allowed to scheme its way to victory. It is at the urging of this losing side that House Members have cosponsored a bill that would push for yet another electoral process. Except this time, the proposal that was previously rejected has been put in a privileged position. Those who drafted

this legislation will exclude Commonwealth status in the planned plebiscite by developing a shell game—with a first-round process to legitimize it.

The process that enabled the creation of the Commonwealth was adopted by Congress. The Puerto Rico Constitution was ratified by Congress. This form of government has been upheld by our U.S. courts. That is why it's so appalling, deceitful, and shameful that the people of Puerto Rico will be denied this option. No matter how much statehood supporters complain about Commonwealth, it's the law of the land.

Congress should not be in the business of picking winners and losers for this kind of referendum. It is not our job to create artificial conditions that will enable statehood to win a popular vote in Puerto Rico. Becoming a State of the Union is something that people must embrace knowingly, voluntarily, and openly. If the people of Puerto Rico want to become a State, the statehood option should stand on its own. Why are you so afraid? There should be no need to hide behind process or petty politics.

In a matter so fundamentally important to over 4 million Puerto Ricans, you would think that a public hearing could have been convened to listen to their views. But, no. The Committee on Natural Resources and this Congress know better than the people of Puerto Rico. It is, after all, their future that it is at stake. It is an outrage that a congressional hearing on the status issue has not been held in Puerto Rico since the 1990s. As many know, I have advocated for a constitutional convention to begin the process of determining Puerto Rico's status. Certainly, this is not the only option for going forward. But a sham of a process is definitely not a valid democratic option for choosing Puerto Rico's future.

Mr. Chairman, the concept of self-determination is fundamental to democracy. Sadly, H.R. 2499 turns its back on this very principle. We must not allow politics to undermine our democratic values nor be swayed by arguments that make no sense. If you truly want to honor the contributions of Puerto Ricans and the fabric of the Puerto Rican community, vote ''no'' on this bill. Stand up for what is truly right. Choose principles over politics. Let Puerto Ricans decide their own destiny without undue—undue—congressional demands. Vote ''no'' on H.R. 2499.

I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, a couple of claims have been made by previous speakers about why not have a direct vote on statehood, yes or no, like Hawaii and Alaska did. I think it's worth clarifying here that those States were already incorporated territories—and the Representative from Alaska can speak to this better than I can—meaning that it was constitutionally clear that they would eventually become States. Puerto Rico is unincorporated, meaning it can become a nation as well as a State.

The plebiscites would determine if Puerto Ricans wanted to pursue nationhood or statehood. A number of Puerto Ricans, as we all know, want statehood; some, independence; some, free association with the U.S., such as the U.S. has with Palau and two other areas. It is unclear what the second largest group of Puerto Ricans, those who vote for the Commonwealth Party, want among the real options of continued territory status, free association, independence, and statehood.

Another claim that my ranking member and good friend Mr. HASTINGS made was that the Congress of the United States would be reduced in seats if Puerto Rico were granted statehood. I'm going to quote directly from a CRS report that was done on this issue when it said that, New States usually resulted in additions to the size of the House of Representatives in the 19th and early 20th century. The exceptions to this general rule occurred when States were formed from other States—Maine, Kentucky, and my home State of West Virginia, as I have referenced already. These State Representatives came from the allocation of Representatives of the States from which the new ones had been formed.

So I don't think the assertion that the number of Members of Congress in its totality would be reduced, with the addition, if that were to be the outcome of Puerto Rico being a State were to occur.

□ 1400

Mr. Chairman, I yield 5 minutes to the gentleman from Puerto Rico (Mr. PIERLUISI), the sponsor of this legislation and truly the driving force.

Mr. PIERLUISI. Mr. Chairman, I rise in representation of the people of Puerto Rico. In fact, I am the only elected representative of the people of Puerto Rico in this Congress. In such capacity, I introduced H.R. 2499.

I have heard some complaints about process. Let's address the complaints about process, both the process here in this Congress as well as the process that this bill provides for to happen in Puerto Rico.

The process in this Congress, crystal clear. I introduced the bill along with a record number of original cosponsors. When we compared it with any previous bill relating to the status of Puerto Rico, about a month later the committee of jurisdiction, the Committee on Natural Resources, held a public hearing in which all political leaders of Puerto Rico were able to attend and testify before this Congress. A month later, the bill was marked up, like it should have been, and it was amended, it was improved upon by the committee of jurisdiction. Briefings have been held. It has been discussed widely in this Congress as well as elsewhere. So the process in this Congress has been a fair process, and it's about time we get a vote on it.

Talking about the bill itself, H.R. 2499 is simple, and it is fair. It identifies the valid political status options for Puerto Rico and authorizes a congressionally sanctioned plebiscite process among those options. It shows the highest respect for the people of Puerto Rico by being candid with them about their real status choices.

I have heard the word ''meddling.'' We're not meddling. We're assuming a responsibility. The relationship between Puerto Rico and the United States is bilateral in nature. For any change in the status of Puerto Rico to happen, two things must happen: the people of Puerto Rico must request it, the 4 million American citizens strong who live in Puerto Rico, and Congress must grant it. Congress is vested.

It's incredible, indeed, that in the 110 years that Puerto Rico has been a territory, Congress has not even asked the 4 million American citizens living in Puerto Rico whether they want to remain under the current relationship, whether they want to continue having Puerto Rico as a territory of the United States. That is a fair question. It is the threshold question.

The bedrock principle of our system is government by consent, and the first plebiscite provided in this bill informs Congress whether a majority consents to an arrangement that denies the 4 million U.S. citizens the right to have a meaningful voice in making the laws that govern their lives. The latest example was health care reform. I worked harder than anybody else in this Congress to get fair treatment for my people in Puerto Rico, and I got the support of my colleagues from New York of Puerto Rican origin, among others. But you know what? It wasn't good enough. We were not treated like our fellow American citizens. The treatment we got fell far short of that.

If a majority of the people of Puerto Rico, though, do wish to continue living under these conditions, we will abide by that, and that's the first consultation that this bill provides for. However, if a majority of the people of Puerto Rico say to this Congress that they do not wish to continue being a territory, then the bill provides the only three nonterritorial options that we can offer or include in this plebiscite in accordance with both U.S. law and international law. Those options are crystal clear. We don't need studies. We don't need to define them further than necessary. Statehood, independence, and free association. And for anybody who is concerned about the concept of free association, we've done it before. Marshall Islands, Micronesia, the Republic of Palau, those are free associated states with a relationship with the U.S. Let's hear from the people of Puerto Rico.

I want to speak plainly now. This bill has been unfairly characterized as a statehood bill. I am a strong proponent of statehood for Puerto Rico; yes, that's so. But this bill is not a statehood bill. That's one of the options.

And it is not binding on this Congress. Once we have the results, we will act accordingly. We will have discretion to deal with these results. Residents of Puerto Rico have contributed so much to this country. Our sons and daughters have served alongside their fellow citizens from the States on countless battlefields in Europe, Asia, and the Middle East.

The CHAIR. The time of the gentleman from Puerto Rico has expired.

Mr. PIERLUISI. I yield myself 1 additional minute.

As I was saying, during a late night patrol behind enemy lines, soldiers from Puerto Rico, Utah, Georgia watch each others' backs. Any differences in culture or language mean nothing. I went to Afghanistan recently to visit our troops in Afghanistan. I know what we're talking about. What matters is that the flag on their uniform is the same.

As I have said many times before, I support statehood because I believe the people of Puerto Rico have earned that right, should they choose to exercise it, to become full and equal citizens of the United States. But this is not a statehood bill. And that's why, with all due respect to the gentleman from Washington State, we will cross that bridge when we get to it.

The time and the day that Puerto Rico, the majority of the people request for statehood, you will have ample time to debate it, to deal with it, to impose a transitional period, whatever this Congress or a future Congress might want to do.

I was elected to represent all of the people of Puerto Rico, including those whose vision for the island's future differs from my own.

The CHAIR. The time of the gentleman from Puerto Rico has again expired.

Mr. PIERLUISI. I yield myself 15 additional seconds.

The intention of H.R. 2499 is to sponsor a fair process of self-determination in Puerto Rico, not to predetermine the outcome of that process. I have to say, in the 21st century, it is about time that this Congress, at the very least, ask the 4 million American citizens if they want to continue having the second-class citizenship they're earning and they're having today.

Vote in support of H.R. 4599.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Alaska (Mr. YOUNG).

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Chairman, this is a rehash of 12 years ago. I want to compliment the Delegate from Puerto Rico for representing his people.

The Governor supports this legislation, the Senate supports this legislation, and the House supports this legislation. Strongly, the Puerto Ricans that represent their people support this legislation. I think it's inappropriate for those that do not represent those people to speak out against this legislation. I think it's wrong not to recognize that this is long overdue.

Mr. Chairman, 112 years ago, 112 years ago Puerto Rico became Puerto Rico. They were supposed to be a State. And I am the only Member of this House that has gone through the statehood battles. This is not a statehood bill. As the Delegate has said, this is an opportunity to make that decision. Puerto Rico is not a territory. They're a Commonwealth. We were a territory. There is a great deal of difference. We did make that decision with the help of Congress, and we became a State. And I am proud of that, and I was proud of this body.

I am a little disappointed in some of the arguments that I hear against this bill: This is a statehood bill. This is a sneak attack. It was brought on us unexpectedly.

This bill has been before this Congress for 18 months, and we have discussed this issue for 12 years and longer. My bill, as I call it, the Young bill, was a statehood bill. That is a bill I would have preferred, but this is not. But this is what the Governor wants, the Delegate wants, the Senate wants, the House wants, and the people of Puerto Rico want. I think that's what we have to consider in this House. We are not the body as a whole. We are the body of the individual that represents the people, and I've argued this for many years because I am one, as the Delegate is.

The CHAIR. The time of the gentleman has expired.

Mr. PIERLUISI. I yield the gentleman from Alaska 1 additional minute.

Mr. YOUNG of Alaska. It is time that we act on this legislation. Let it go forward. Let us do what is fair.

And the arguments against this legislation, some of them are very frivolous. The English language. We were not required to have English when we became a State. We had many different languages, and we became a State. We do speak English, and we speak other languages within my State. That doesn't hold us back or make us any less.

But the idea that we have 4 million people that have waited for an opportunity to become a State, an independent nation, or whatever they wish, a free association, it is time we give them that opportunity. To have a body that is supposed to represent all the people but individually represent an area, we should recognize that right, as we did when we became a State.

I am proud that the Congress made us a State. We worked for that, and I think it's time we give an opportunity for the Puerto Ricans to make a decision as to whether they are a State again or whether they're a territory, or whatever they want to be, but to give them the opportunity.

And again, when that bridge comes—and again, I can talk about bridges, ladies and gentlemen—when that bridge happens, we will cross it, as far as cost goes. But it's time we recognize the great people, the warriors of Puerto Rico as they serve this country, but yet they cannot vote for their Commander in Chief. It's time we pass this legislation.

Mr. Chairman, as an original co-sponsor of H.R. 2499, I am pleased that the House of Representatives is now considering this important legislation. I want to compliment the author of the bill, Resident Commissioner PEDRO PIERLUISI and my good friend the Governor of Puerto Rico, Luis Fortuño for their tireless commitment on behalf of democracy in Puerto Rico.

I have been involved in Puerto Rico democracy for most of my Congressional career. In fact, it was my bill, H.R. 856 that was approved by the House of Representatives on March 4, 1998. Prior to passage, I conducted two public hearings in Puerto Rico and literally heard from hundreds of Puerto Ricans who passionately love this country and thirst for the opportunity to determine their own political future.

The Puerto Rican people are warm, hardworking, passionate and patriotic. In fact, only one state has proportionately sent more of their sons and daughters to fight for this nation than Puerto Rico. Yet, for over a century, we continue to deny these brave warriors, who proudly wear the uniform of this nation, the chance to vote for their Commander in Chief. This is fundamentally wrong and must be changed prior to our next Presidential election.

As someone who arrived in Alaska 50 years ago, I can certainly relate to the pleas of those of my good friend former Governor and Resident Commissioner Carlos Romero Barcelo who reminds us that: "We are now being ruled by the President and Congress without the consent of the people of Puerto Rico."

I still vividly remember the words of our Former Territorial Governor and U.S. Senator, Ernest Gruening, who would shout to anyone who cared to listen that: "Let us end American colonialism." While he was talking about Alaska, similar statements have been made by Puerto Rican elected officials for decades.

H.R. 2499 may not be a perfect bill. It is, however, a fair bill which does not exclude or favor any status option.

It is frankly hard to believe that it has been 12 years since the House last voted on a Puerto Rico status bill and 112 years since Puerto Rico became a U.S. territory. It is far past time to allow the 4 million people of Puerto Rico to vote in a federally sanctioned plebiscite and it would be appropriate if this the 111th Congress were to make that vote a reality.

I urge an "aye" vote on H.R. 2499. We should no longer deny the people of Puerto Rico their right to determine their own political future.

Ms. VELÁZQUEZ. Mr. Chairman, I would like to inquire as to how much time is remaining on each side.

The CHAIR. The gentlewoman from New York has 24 minutes remaining, the gentleman from Puerto Rico has 14¼ minutes remaining, and the gentleman from Washington State has 22 minutes remaining.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. RANGEL).

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

Mr. RANGEL. Let me thank the chairlady from New York for allowing me this time, and let me share the great respect and admiration that I have for the gentleman from Puerto Rico, a hardworking man. There is no question in my mind that in his heart, he wants what is best for Puerto Rico and what is best for the United States of America. And I can say the same about his predecessor who has now moved on to become the Governor.

The only question that I have—since I have been a friend of Puerto Rico for 39 years, not just legislatively but in my heart, I have felt the unfairness it is to call people citizens and yet to have to acknowledge that when it comes to health care, education, jobs, the only time that you can really know that Puerto Ricans are treated as Americans are treated is when they are drafted or when they volunteer to serve this great country of ours and when it ends up, you will find, that per capita more people from Puerto Rico have died and been wounded defending our flag than from any State or any territory. So it just seems to me that something has to be done. It is so truly unfair to respect our flag and respect our citizens and to tell them that they can fight a war when they can't even vote for the President.

And, quite frankly, as far as the status is concerned, it has hurt me as an American that this has consumed the island. And for the first time in a couple of months, I have heard about free association. I have more Puerto Ricans in my district in New York than probably in San Juan. I have never heard anyone talk about free association. I don't even know whether Members of the Congress know what free association is. As a matter of fact, a couple of people have asked me, since I've been here, who is our Ambassador to Puerto Rico anyway and what is the exchange of currency.

And to see what was happening on the rule, it is clear to me on both sides of the aisle, they want to know, What is this all about? It's about the lives of 4 million people, that's what it's about. We should at least know what we are doing before we superimpose some ideas that we have on other people.

I had an amendment—the Rules Committee rejected it—and all it did was adopt everything except, what do the people have to choose from, statehood? You bet your life. They would be entitled to it. And no matter which way they work out the number of votes—even though Tom Foley once told me when I thought that statehood was really going to pass in Puerto Rico, I said, Mr. Chairman, how are we going to handle this question with the Members? How are we going to handle the question of what parties these people are going to belong to? He said, Forget it, CHARLIE. The only time we're going to have statehood is when there is a mandate. We're not going to have a divided territory become a State. That was a guy who told me that from his background in history that he was an expert in this type of thing.

So it just seems to me that if we all accept anyone who's known, visited, read about Puerto Rico, that their biggest argument has been, majorly, those who want statehood, those who want a Commonwealth, and a smaller number who would like to have independence, which sounds great politically, but somehow internationally it doesn't make a lot of sense.

So what did my amendment do? It said, Go to the polls. Say if you want Commonwealth. Say if you want statehood. Say if you want independence. Or say, Not at this time. Let me breathe and try to figure this out. Because if we don't know what statehood is, how do we expect them to know?

□ 1415

When I asked these questions, someone said: Oh, no, they would have already rejected Commonwealth.

Well, I think some of us on this floor, if asked if we like the status we have in the Congress, we might say, especially some of my friends on the other side, that they don't like the status. Well, if I was in the minority, I wouldn't like the status either. But the truth of the matter is it doesn't mean that you want to get rid of it all. It may mean I don't like the status as it is. I would like to change it. I would like to have it improved. I would like to improve education and I would like to make certain that the expenses that Mr. HASTINGS talks about in terms of programs that are designed to help American citizens, that they would get them.

What price does it take to give your life for your flag and then find out how much it is going to cost to give them the things that Americans would want. So my problem is that Commonwealth doesn't get a chance. They call the existing government, which I don't really think means rejection of status, because there is a lot of romance and emotion that is involved in Puerto Rico. So give them the opportunity to say Commonwealth, but we don't need free association when hardly anyone here knows, especially the people in Puerto Rico, what does it mean.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Utah (Mr. CHAFFETZ), and I understand that he also gets 1 minute from the gentlelady from New York.

Ms. VELÁZQUEZ. Mr. Chairman, that is correct.

The CHAIR. The gentleman from Utah is recognized for 2 minutes.

Mr. CHAFFETZ. Thank you, Mr. Chairman, and thank you for the time.

Isn't it ironic that a bill about self-determination has got to have the heavy hand of the United States Congress dictating to the people of Puerto Rico about this vote. I find that terribly ironic.

There is no need for the United States Congress to pass this bill. No need. Four times, in 1952, in 1967, in 1993 and in 1998, the people of Puerto Rico were able to vote on this. They didn't need the approval of the United States Congress to do it; they don't need it today. But it is a manipulation of the process to try to get a desired outcome.

If you want to vote on statehood, take a straight vote. Do the people of Puerto Rico, yes or no, do the people of Puerto Rico want statehood? Simple, straightforward, to the point, and let's understand if that is truly what they want.

I am a conservative person. I do not believe that I should be trying to manipulate what is happening in Puerto Rico and what they want.

Finally, I will end with this. Please, as you consider this bill, understand that you are empowering people to vote in this election that have no business voting in this election. If you were born in Puerto Rico, you lived there 2 months and then you suddenly moved to the United States and you've lived here for the last 30, 40 years, you get to vote in this election. Why should a resident of Utah or Indiana vote in an election in Puerto Rico? That is fundamentally wrong and it is there because they want to manipulate the end result.

This is about Puerto Rico and the vote should be taken in Puerto Rico by the people of Puerto Rico if the people of Puerto Rico choose to do so, and not because of the heavy hand of the United States Congress. I urge my colleagues to vote ''no.''

Ms. VELÁZQUEZ. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. I thank the gentlelady.

Look, this is the Puerto Rico 51st State bill. It is the only result you can possibly expect. The deck is stacked. We all know. I was talking to my friends on the other side, and you know what they keep saying to me: Why are you against statehood? Everywhere I go: Why are you against statehood? They don't say: Why are you against the people of Puerto Rico having a free vote in determining their future and in exercising their right to self-determination?

Why do we come here and try to like hoodwink one another, fool one another. I mean, you know what I would like to see on the House floor, the same depth of honesty, sincerity and clarity and transparency that exists when people come up to me and ask why I am against statehood for Puerto Rico.

That is not why I am up here. I am against a process that does not allow the people of Puerto Rico to exercise their sovereign right to determine their future in a free manner.

Now, what does that mean? Everybody says well, there are 4 million American citizens in Puerto Rico. Have you ever considered one thing, that the

proponents of statehood, the proponents of statehood have never said that the Puerto Rican team must be part of the U.S. Olympic team? Have you ever thought about that contradiction that exists? I am happy to have statehood with a Puerto Rican Olympic team, and would support such a statehood; but does the Congress support such a statehood?

The fact is that the gentleman from Puerto Rico is doing a wonderful job on this bill, knows and understands that the language that is used in Puerto Rico is the Spanish language. It is the language of government. It is the language of commerce. It is the language of industry. It is the language of the courts. It is the common language of the people of Puerto Rico. And you know what, I would love to see the 51st State have Spanish as their primary language.

But do you not think the Congress of the United States should consider such a fact? And the reason I put this to you is because they keep saying, remember those words, ''mandated by the Congress.'' This is plebiscite mandated by the Congress. So what they are going to do is have a plebiscite mandated by the Congress where the statehooders get to define what statehood is during their plebiscite. They are going to have a Congress where independence gets to be defined, and the only one that we define is the relevant current status in Puerto Rico. That is the only one that we define.

I want to take a minute so that we can see how absurd, it says here, and this is the definition, sovereignty in association with the United States, a political relationship between sovereign nations not subject to the territorial clause of the United States Constitution.

You don't think that's going to confuse some people? Just think about it a moment. What does that mean? Okay, so I guess at this point what the Congress of the United States is saying, if this is the winner, this is the winner, Puerto Rico is sovereign. It means Puerto Rico is independent.

Does the FBI got to go? Does the IRS go that day? No, seriously, who controls immigration in and out of Puerto Rico? Who controls the ports? The Federal Government is gone, do we stop sending Social Security checks? Medicare and Medicaid, are they suspended? I mean, think about it one moment. What is it that occurs at that moment?

I would love to see a relationship between the United States and Puerto Rico where Puerto Rico is an independent sovereign nation. That is my belief. But ladies and gentlemen, I will not impose my beliefs on the people of Puerto Rico. The people of Puerto Rico, as the gentleman from Utah referred to earlier, they said, No. They said, No. They said, No. How many times do we have to say ''no''? Do not impose a result that the people of Puerto Rico have rejected freely and which they can constitute.

As a matter of fact, the last time there was a plebiscite in Puerto Rico in 1998, do you know which option won? This option beat statehood: none of the above, received over 50 percent of the vote.

I yield to the gentleman from Washington.

Mr. HASTINGS of Washington. I thank the gentleman for yielding.

In my opening remarks, I stated the reasons why I had a problem with this procedure, and I did not mention the option that you talked about, association.

I just wonder if the gentleman knows or maybe can help me, where did that come from?

Mr. GUTIERREZ. You know, I am kind of like Mr. RANGEL. I mean, this definition is a new definition. Now I will tell you this, the gentleman from Puerto Rico represents the Statehood Party in Puerto Rico. He came down here and he defined his own status or a lack of definition of his status. But you know what the next thing he did was, he defined the opposition status.

You know, that reminds me of kind of like Barack Obama going to JOHN MCCAIN during the election and saying: Tell you what, why don't you tell me what my platform is, write it for me, and that's what I'm going to run on later on.

You cannot allow this to happen because it is not a democratic process. The result is already. Let me just share with the gentleman that Senator WICKER, and I am going to ask that his statement be included in the RECORD at the appropriate moment, just issued a statement straight over from the other body, saying he's going to oppose this measure. It hasn't even been adopted and they are already going to oppose it, so we all know what the end result and futility is of what we do here today. They are already telling us that they are going to oppose this, and there is no companion bill.

Does the gentleman have another question?

Mr. HASTINGS of Washington. If the gentleman would yield, this is a point because my argument was, and I stated three other issues, we ought to know what we are doing because it has been suggested that this is not a statehood bill. But I have responded to at least that remark by saying it may not be a strict statehood bill, but it certainly gives blessing to an outcome on which we don't know what that outcome is. If it becomes association, then what do we do?

I just want to say that I think the gentleman makes a good point because the bottom line in all of this is there are too many unanswered questions on a process where we are blessing an outcome to make a determination whether we should have another, add to our Union the 51st State. I think that is serious, and I appreciate the gentleman for yielding.

Mr. GUTIERREZ. Thank you. This is what I think we genuinely need. But let me just add further, there has been much said about the importance of American citizenship and there are many Puerto Ricans who cherish their American citizenship and have fought for their American citizenship. But if you have 4 million American citizens and they don't want to incorporate as a State, shouldn't we respect that? Here's the logic, they were American citizens; therefore, they deserve statehood. The finality of it all, the justice of it all, right, the correct course of it all is to grant them statehood.

I think if they wanted independence tomorrow and they are citizens of the United States, and let me just say, it seems to me that George Washington and Thomas Jefferson were subjects of the king, and one day they got up and said we want to be free. They didn't quite agree with them, but that also is an option for American citizens.

You know what, maybe these 4 million American citizens don't want to become a State because they love their language; because they love their culture; because they love their idiosyncrasies; because they love applauding for their Olympic team when it goes out there on the international stage; because so many Miss Universes come from Puerto Rico. What if that is what they want, should we not respect that decision?

Mr. SMITH of Texas. Would the gentleman yield?

Mr. GUTIERREZ. I yield.

Mr. SMITH of Texas. I thank you for yielding.

It seems to me that this bill is almost the exact opposite of self-determination. Self-determination would be allowing the people in Puerto Rico to determine whether or not to have a referendum, a plebiscite, and what the questions would be. Hopefully it would be a straightforward question, as they have had three or four times in the past, but to have Congress mandate what the people of Puerto Rico have to do, that they have to have a plebiscite, have to have these questions on the ballot, it seems to me that is the opposite of self-determination and it is as you said, a congressional mandate. Is that how you see it as well?

□ 1430

Mr. GUTIERREZ. You know, I do, I see this as a congressional mandate. And you know what? We should not mandate statehood. Citizens organized of the United States of America, in incorporated or unincorporated territory, under or outside the territorial clause of the Constitution of the United States, should, together, in a vast majority, I believe—because, listen, this is like me going to my wife, and I ask her, Will you marry me? And she kind of hesitates and she says, How about if I'm loyal 50 percent of the time? How about 60 percent of the time? How about if we condition this relationship? Come on. That's what we're talking about here. We had a civil war to decide this. Once a State, always a State. Be careful what you wish for.

Mr. PIERLUISI. Mr. Chairman, I yield 1 minute to the gentlelady from Guam (Ms. BORDALLO).

Ms. BORDALLO. Mr. Chairman, I rise in support of H.R. 2499, the Puerto Rico Democracy Act of 2009, introduced by my colleague, Congressman PEDRO PIERLUISI.

As the chairwoman of the Subcommittee on Insular Affairs, Oceans and Wildlife, I fully support this bill which the full Natural Resources Committee reported out favorably on July 22 last year.

H.R. 2499 is an important bill for Puerto Rico and the other U.S. territories. As the delegate from Guam, I understand the desire of residents in the territories to decide their future and make a determination about their political future. Unlike other speakers here this afternoon, we on Guam are also in this same process of trying to determine our status. H.R. 2499 will provide the people of Puerto Rico a congressionally sanctioned process to express their preference regarding their political status.

Each territory, Mr. Chairman, is on a different path towards self-determination, and what is appropriate for Puerto Rico may not be suitable for other territories. But I firmly believe that the process established by H.R. 2499 is the best way, and I urge my colleagues to vote ''yes.''

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Indiana (Mr. BURTON), and I understand the gentleman from Puerto Rico will yield him 1 minute as well.

Mr. PIERLUISI. That is correct.

The CHAIR. The gentleman from Indiana is recognized for 2 minutes.

Mr. BURTON of Indiana. Mr. Chairman, this is so muddied up I don't know if anybody that's paying attention really understands what's going on.

This is just a process, that's all it is. The people who are going to decide whether or not any territory becomes a State is this body and the Senate. What we are asking for is a recommendation from the people of Puerto Rico. They're dying for this country; more have died percentage-wise in conflicts than any State in the Union. Their Governor wants this plebiscite, their Representative wants this plebiscite, their state senate wants this plebiscite, and the state house of representatives want this plebiscite. They know what this bill is. They've come and they've testified before the Resources Committee. They know, and they represent the people of Puerto Rico.

So these people coming down here from New York and everyplace else, they don't know; they don't know what they're talking about.

ANNOUNCEMENT BY THE CHAIR

The CHAIR. The gentleman will suspend.

The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestations of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

Mr. BURTON of Indiana. The people who want to have this determination made are the people of Puerto Rico, and their elected representatives altogether say let's have this bill passed. And yet people from New York and from Washington—I mean, I don't know how close the State of Washington is to Puerto Rico, but it's about 4,000 miles, maybe 5,000, and New York is quite a ways away. Why don't we listen to what the elected representatives of Puerto Rico want.

And it's Democrat and Republican. This is not a partisan issue. So my view is, let's let them have the plebiscite. Let's come up with a process that will work. We've tried this before, and it has been split up all over the place. This process will work. It will boil it down to what the people of Puerto Rico really want. I believe they want statehood, and we ought to let them determine that. If their representatives want it, if their Governor wants it, if everybody else wants it, and if they are sacrificing their lives for this country, then by gosh we ought to give them a chance to be a State.

Ms. VELÁZQUEZ. Mr. Chairman, may I inquire as to how much time remains on every side.

The CHAIR. The gentlewoman from New York has 8½ minutes remaining; the gentleman from Puerto Rico has 12¼ minutes remaining; and the gentleman from Washington State has 20 minutes remaining.

Ms. VELÁZQUEZ. I reserve the balance of my time.

Mr. PIERLUISI. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. GEORGE MILLER).

Mr. GEORGE MILLER of California. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of H.R. 2499, the Puerto Rico Democracy Act, introduced by our colleague, Mr. PIERLUISI.

Many of us on the Natural Resources Committee, including myself, Mr. RAHALL, and Mr. YOUNG, have been grappling with this issue of political status for Puerto Rico for decades, and we each have the scars to prove it. We have held numerous hearings over the years in Washington and in Puerto Rico. We have listened to the representatives of not only the political parties, but the citizens of Puerto Rico, and we've heard testimony from across the spectrum, including the representatives of each of the political parties in Puerto Rico. In light of all that experience, I am convinced that Congress must provide the people of Puerto Rico the opportunity to voice their preferences. That is what today's legislation would do, a fair opportunity for a self-determination process.

Puerto Rico has been a territory for 112 years, and it has been an important part of this country in peacetime and in war. Four million residents of Puerto Rico are American citizens and they are bound by Federal law, and yet Congress has never asked Puerto Ricans to officially express their views on the island's political status.

This legislation does not bind future Congresses. H.R. 2499 doesn't require the Federal Government to create a Puerto Rican state, nor does it force us to work toward Puerto Rican independence. This bill simply asks the citizens of Puerto Rico whether they want to remain a U.S. territory in their current status or whether they would prefer another political status. And if it turns out they favor another political status, another vote would then be authorized to determine which status option they prefer.

Considering the context and the history wrapped up in this issue, this legislation is as fair as you can possibly expect. I would hope that this House would respond by passing this legislation and sending the message to the people of Puerto Rico that Congress would welcome their telling us what they prefer their status to be. That is a choice that they will make in a free and open process, and they can proceed to the second question or not. But we will have asked them, instead of what we've seen in the past is people scrambling, depending upon political advantage in Puerto Rico, one particular time trying to rush to get a vote or get a statement or get a plebiscite. This is a process that's set out, it's fair, and we should support it.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from California (Mr. MCCLINTOCK).

Mr. MCCLINTOCK. I thank the gentleman for yielding.

Mr. Chairman, the proponents have a problem. They want statehood for Puerto Rico, but the people of Puerto Rico keep voting ''no.'' Well, what to do. Well, they replace a straightforward up-or-down vote with a very clever two-step process. If 40 percent support the Commonwealth and only 20 percent favor each of three alternatives, the overwhelming plurality is defeated on the first ballot, and they're left only to choose among three options, none of which they support. And then, just to be sure, proponents stuff the ballot box by letting non-Puerto Ricans vote just as long as they were born there. Well, that means that, as a Californian, I should be entitled to vote in New York's elections because I was born there.

This bill isn't needed for a referendum. Puerto Rico can do that on its own. The purpose of this bill is to imply congressional support of this rigged election process that has no legal effect, that has surrendered any moral validity, and that promises only to set off bitter divisions within the Commonwealth of Puerto Rico.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 2 minutes to the gentlelady from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. I thank my good friend from Washington for the time.

I rise in strong support of H.R. 2499, the Puerto Rico Democracy Act. This bill will provide a congressionally sanctioned process by which U.S. citizens of Puerto Rico can determine their preferences regarding the territory's political status.

This is not a bill to admit Puerto Rico as the 51st State. This bill, instead, would enable Puerto Ricans to determine their status preference by presenting all of the options possible under the law. They would be presented through a series of votes.

In the first plebiscite, voters will decide if they want a continuation of the current status or to change status. If voters decide to change status, a second plebiscite will be held on the three viable options for change: independence, statehood, or free association with the U.S.

The Puerto Rico Democracy Act does not include the misguided ''enhanced Commonwealth option.'' An enhanced Commonwealth, as envisioned by the bill's critics, perpetuates the false hope that Puerto Ricans can have the best of both worlds: they can have U.S. citizenship and national sovereignty; they can receive generous Federal funding and have the power to veto those laws with which it disagrees. If included as a viable option, an enhanced Commonwealth proposal would permanently empower Puerto Rico to nullify Federal laws and court jurisdiction. An enhanced Commonwealth option would also set the stage for Puerto Rico to enter into international organizations and trade agreements, all while being under the military and financial protection of the United States.

It is no surprise that this proposal has been soundly rejected as a viable option by the U.S. Department of Justice, the State Department, the Clinton administration, and the Bush administration. It is time that the people of Puerto Rico are given real options for the future political status of their homeland and not false promises.

Therefore, Mr. Chairman, I urge my colleagues to join me in supporting this bill before us today.

Mr. HASTINGS of Washington. Mr. Chairman, I am very pleased to yield 2 minutes to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. First of all, I thank the ranking member of the committee and the gentleman from Washington State for yielding.

Mr. Chairman, there are at least three reasons to oppose this bill, any one of which should be persuasive.

First, it rigs a proposed new referendum to force Puerto Ricans to choose what they have voted against four times in the past, statehood. It does not provide Puerto Ricans with a fair, straightforward way to choose among statehood, independence, and remaining a Commonwealth. The bill also allows U.S. citizens who are natives of Puerto Rico to vote in the referendum even if they now live in the United States.

Second, the poverty rate in Puerto Rico is almost 45 percent, twice that of our poorest State, Mississippi. The Congressional Budget Office estimated in 1990 that if Puerto Rico were to become a State, Federal entitlement and welfare costs for Puerto Rico would jump by 143 percent. That was 20 years ago. If Puerto Rico does become a State, the additional cost to American taxpayers of government benefits are likely to be in the tens of billions of dollars, but no cost analyses have been released. One can only guess why.

Third, let's acknowledge that to some this bill is a Democratic power play. The Pew Hispanic Center reported in 2008 that 61 percent of Puerto Rican registered voters were Democrats, 11 percent were Republicans, and 24 percent were independents.

Mr. Chairman, I urge my colleagues to oppose this bill for any or all of these reasons.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 3 minutes to the Republican Conference chairman, Mr. PENCE.

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

Mr. PENCE. I thank the gentleman for yielding.

I rise in support of the Puerto Rico Democracy Act, which simply grants the people of Puerto Rico a say in their future.

First, a little history lesson. The American flag has flown over Puerto Rico for more than a century. It has been a U.S. territory since 1898. The people of Puerto Rico have been citizens of the United States since 1917. Citizens born in Puerto Rico are natural-born U.S. citizens bound by Federal law. They pay Federal payroll taxes, and they are even eligible to be elected President.

American citizens from Puerto Rico have been drafted into military service during World War II and every war ever since—five Medal of Honor winners from Puerto Rico—65,034 Puerto Ricans served in World War II alone.

□ 1445

It has been an enormous contribution to the life of this Nation by these American citizens.

As a conservative who believes in the power of self-determination and of individual liberty, I believe the 4 million American citizens in the Commonwealth of Puerto Rico should be able to voice their opinions about Puerto Rico's relationship to the United States, although the ultimate determination of that fate rests with this Congress, and I am pleased to stand in a long line of Republicans who have taken that view. Every Republican President for the last 50 years has been committed to self-determination and democracy for the American citizens in Puerto Rico.

In 1982, President Ronald Reagan said, ''Puerto Ricans have borne the responsibilities of U.S. citizenship with honor and courage for more than 64 years. They have fought beside us for decades and have worked beside us for generations.'' He also added Puerto Rico's ''strong tradition of democracy provides leadership and stability'' in the Caribbean. I agree.

If the American citizens of Puerto Rico choose independence, I will support that vote. If the American citizens of Puerto Rico choose statehood, I will support that vote. I am equally confident that this Congress will be able to resolve any difficult issues about taxation, obligations of individuals and, most importantly, about the need for English to be the official language prior to any offering of citizenship to that territory.

The American citizens of Puerto Rico have fought, have bled, and have died in our military, on virtually every continent, in order to spread democracy and the right of self-determination. It seems to me it would be the height of hypocrisy for this Congress to deny the very same rights for which Americans have fought all over this world to the American citizens of Puerto Rico.

I know this is a difficult and a contentious debate, and I hold in the highest regard my colleagues who take a different view; but for me, for President Ronald Reagan, and for all freedom-loving Americans, I believe with all of my heart the time has come to adopt the Puerto Rico Democracy Act and to begin the process of allowing the American citizens of Puerto Rico to determine what will be their destiny, and we will determine it as well.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Ms. VELÁZQUEZ. Mr. Chairman, I yield 2 additional minutes to the gentleman from Tennessee (Mr. DUNCAN).

The CHAIR. The gentleman from Tennessee is recognized for 4 minutes.

Mr. DUNCAN. Mr. Chairman, I rise in opposition to this bill.

First of all, I would like to thank the gentleman from Washington State and the gentlewoman from New York for yielding me this time.

I have been to Puerto Rico three times. The people there have treated me in a very kind way, as kind as any place I have ever been, and I think Puerto Rico is a wonderful place.

I served with Governor Fortuño, who is the main proponent of this bill, and Governor Anibal Acevedo Vila before him. I have great respect for and, I hope, friendship with both of those men, but I oppose this bill.

The Washington Times said in an editorial yesterday that this is a bad bill, written ''to stack the deck in favor of statehood for Puerto Rico'' and that it ''actually tramples self-determination in favor of an underhanded political power grab.''

Those aren't my words. Those are the words of the Washington Times.

The Times' editorial went on to read, ''The bill is deliberately designed to unfairly make it harder for Puerto Rico to keep its current status as a territory with special benefits rather than as a State.''

The fairest way to have a vote on this issue would have been to have a simple, straightforward ballot with three choices—statehood, Commonwealth, or independence. However, the proponents of this bill seem to know that the statehood option would not receive over half of the vote in a fair, simple, straightforward ballot. Each time Puerto Rico has voted on this issue, less than half the people have voted for statehood.

When Alaska and Hawaii were admitted to the Union, some 80 or 85 percent of the people in those States voted for and wanted statehood. This is not the case in Puerto Rico.

I have serious reservations about making a territory a State with less than half the people who really want that status. In addition, the last time this issue came up, it was estimated that it would have an immediate impact of several billions of dollars on the Federal budget. With the economy the way it is now, statehood for Puerto Rico would be even more expensive today. As one previous speaker pointed out, Puerto Rico could set up a vote on this any time they want, but the statehood proponents want Congress to rig the election in favor of statehood.

That is not the right way to do this, Mr. Chairman, so I oppose this bill. For all of these reasons, I urge my colleagues to vote ''no'' on this bill and to defeat the gimmick process that we are dealing with here today.

Ms. VELÁZQUEZ. Mr. Chairman, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. SERRANO).

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

Mr. SERRANO. I thank the gentleman.

So much has been said today about what this bill does. Yet so little is understood, perhaps, about what this bill really does. The bill continues to be a bill I support strongly because, if nothing else, the strength of it is that it begins a process.

When I have told many Members of what the bill doesn't do, they ask me, Then why do you support it?

I support it because it begins a process. I support it because, for the first time in 112 years, the people of Puerto Rico will have an opportunity to express themselves, to say what they wish. Then we don't have to act on it. I suspect that we will, but we won't be imposing anything on anyone.

Another argument is that this bill forces statehood on Puerto Rico, but that argument is made by people who say there is no majority in support of statehood in Puerto Rico. Therefore, people would be voting out of—what?—ignorance. Well, I'll repeat what I have been saying all week.

I grew up in New York. I don't live in Puerto Rico, but I know one thing for a fact, not an opinion, which is that Puerto Ricans, from the age of about 10 or 12, know the status issue, discuss the status issue, and debate the status issue on a daily basis. It is the number one concern on the island. Therefore, no one will vote for statehood who does not believe in statehood. No one will vote for independence who is forced to vote for independence. No one will vote for free association who is forced to vote. They will do it because they believe in it and because they believe it is the right thing to do.

Some in Congress have asked, Why don't they do it on their own? Because, when they have done it on their own, we have ignored it.

Then there is another reason, one that may offend people if you don't present it properly: Puerto Rico did not invade the United States. The United States invaded Puerto Rico in 1898, and it has held it. According to the Constitution, it is up to the United States Congress to dispose of, if you will, the territory or to adjust the territorial status. If we tell them to do whatever they please, we will ignore what they do. If we tell them to do something, then it will be part of a process—again, that word ''process.'' So it is our responsibility to tell them to hold this vote.

Now, if they hold the vote and determine that they wish to become an independent nation, we will then be able to say, Well, you asked for that with 45 percent of the vote. Can you go back and take another vote and come back with 80 percent? Similarly, if they vote for statehood, we could say, No, you didn't come here, asking us for a certain amount. You have to go back.

So my point is that this bill does not end the process. With all due respect to my colleagues on both sides who oppose the bill, do you honestly believe that Congress would give anybody statehood just based on the first simple vote? I can assure you that, if statehood is ever to come to Puerto Rico, there will be a vote to accept the results of Puerto Rico's vote. There will be a vote to grant statehood to Puerto Rico. Then there will be a vote asking the Puerto Ricans ''yes'' or ''no'' if they accept statehood. It is just not going to happen. The process will take years. We are not doing what people think we are doing.

What we are doing is being honest to the comments we make on a daily basis, which are that we go overseas to fight for freedom and independence, for the ability to be free people and to make free choices. Yet we're going to say today that we won't allow 4 million American citizens to simply advise us on this choice? That is a mistake. That truly is un-American. What do we have to fear—that the territory may ask for a change in its status? It might choose not to do so.

One very important point: People say that the Commonwealth is defeated. No. In the first vote, you can choose to remain a Commonwealth. In the second vote, you stop being a colony.

Vote for this bill.

Mr. RAHALL. I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, as an original cosponsor of H.R. 2499, the Puerto Rico Democracy Act, I stand here proudly in support of this bill. I am somewhat surprised by some of the criticism registered here. I understand how we can have differences of opinion, but to suggest that somehow this undermines the authority of the Congress of the United States or that it is somehow contrary to the Constitution is just beyond the pale as far as I can see.

As the gentleman who just spoke before me said, this is an attempt to get an idea of how the people of Puerto Rico feel about this very important issue. They are American citizens. People have raised all sorts of scenarios about what may or may not happen. Go back and look at how other States have been admitted to the Union. Ultimately, the decision is made by this Congress.

I remember reading about Utah. When they were a territory, Utah wasn't accepted in the Union until they changed a certain policy on marriage. It was an extraordinary change that was required, but that was what happened. Congress didn't supinely stand here or lay down there and say, Oh, yes. You've said you want to be a State. Therefore, we take no action.

This is a way of our getting a measure of the sentiment of the people of Puerto Rico. I don't see why we should be upset about that. I know there are some outside observers who have suggested that somehow this undermines the Constitution and that somehow there is the Tennessee's plot. Examine the history of Tennessee. Examine the history of the response of Congress. It is absolutely historically factual that Congress decides under what terms a new State will be formed, when and if we will accept a new State.

So all I am saying is allow this to go forward. Allow us to find out what the sentiment is here. Our good friend Luis Fortuno is not someone who shows little respect for the Constitution.

Pass this bill.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself such time as I may consume.

I just want to ask the gentleman from California a question: So, basically, in listening to your argument, you are clearly stating that this is a pro-statehood bill, aren't you?

Mr. DANIEL E. LUNGREN of California. If the gentlewoman would yield, No.

Ms. VELÁZQUEZ. Reclaiming my time, Mr. Chairman, I would like to inquire how much time remains.

The CHAIR. The gentlewoman from New York has 7½ minutes remaining. The gentleman from Puerto Rico has 6¼ minutes remaining. The gentleman from Washington State has 8½ minutes remaining.

Ms. VELÁZQUEZ. I reserve the balance of my time.

Mr. PIERLUISI. I yield 1 minute to the gentleman from the Northern Mariana Islands.

Mr. SABLAN. Mr. Chairman, I rise in support of H.R. 2499.

As the newest member of the American family just 35 years ago, on a plebiscite called an act of free political self-determination, we went to the ballot and had one choice only—Commonwealth.

For us to say that Congress can give Puerto Rico the options it has in H.R. 2499, because it appears as if it's only statehood, we do this all the time, Mr. Chairman. We're not doing it now. We go to war. We are trying to give people free will and freedom. Yet we tell them it is freedom in association with the United States. It took Puerto Rico 100 years of being part of the United States. Only in the past 12 years has this discussion started.

□ 1500

It's about time. Let's put the question to the people of Puerto Rico. Give them an option. They could choose statehood; they could choose to remain a Commonwealth. Let's pass H.R. 2499. I urge my colleagues to support it.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. I thank the gentleman from Washington for yielding and for leading on this issue.

Mr. Chairman, I want to just add to this discussion and deliberation that what really happens here is that if this should pass today, and I rise in opposition to H.R. 2499, Mr. Chairman, but it sets up a momentum, it sets up a level of expectations, and the sequence of events being the question that would go before Puerto Ricans and those who were born in Puerto Rico that would live in any of the other 50 States presumably, do you want to stay the same or do you want to change? And once that decision is made, then there is no going back.

The momentum then washes over the dam. And the next question that comes back is, now you can't be what you were before. Now you have to decide between being an independent country or a free association, whatever that might be, or statehood. And when we get to this question of statehood and I look at the standards that have been there in the past, I disagree with the gentleman from Alaska (Mr. YOUNG). I can go up there and English is the language that is used in government and business and everywhere you go.

Yes, every language you can imagine is spoken of in every State, but the practice in Puerto Rico is Spanish, not English. Eighty-five percent of Puerto Ricans will self-profess that they are not proficient in English. They have very little understanding of English.

In fact, I will introduce into the RECORD the Latin American Herald Tribune, dated April 26, where the Secretary of Education in Puerto Rico, the Governor's Secretary, said, English is taught in Puerto Rico as if it were a foreign language and 85 percent aren't proficient in it.

I will also introduce into the RECORD a letter from U.S. English, Incorporated. Among it is a statement I think that's very important to consider here in this body, which says: "No State has ever been allowed to come into the Union when its core organs of government operate in a foreign language, and Puerto Rico must not be an exception." And, Mr. Chairman, it points out that Arizona, New Mexico, and Oklahoma had those conditions as conditions coming into statehood.

I just would make this point, that I wouldn't rise here today and take this position here today, since 1917 or even the last 50 years. If the practice of education and government in Puerto Rico had been the unifying common language, we would be unified as a people. Let's start that path and have this discussion in a generation.

Congressman DOC HASTINGS,
Ranking Member, House Natural Resources Committee, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN HASTINGS: On behalf of 1.8 million members of U.S. English, we oppose the current version of H.R. 2499, the Puerto Rico Democracy Act. H.R. 2499 fails to address the serious language questions pertaining to Puerto Rico's status, and compounds this error by pretending to address these issues. This vote will be featured prominently in the legislative scorecard we distribute to our members.

As you are aware, Puerto Rico's current policies with respect to language have never been allowed for any incoming state.

While English is mandatory in Puerto Rico's public schools, it is taught as a foreign language, and instruction rarely exceeds one hour per day. Unsurprisingly, just 20 percent of Puerto Rico's residents speak English fluently. California has the lowest proficiency rate among the 50 states, and its rate is 80 percent.

Puerto Rico's local courts and legislature operate entirely in Spanish, with English translations available only upon request.

No state has ever been allowed to come into the Union when its core organs of government operate in a foreign language, and Puerto Rico must not be an exception.

Yesterday, the Rules committee defeated amendments offered by Rep. Paul Broun that would have brought Puerto Rico's policies in line with the other 50 states as a condition for statehood. Instead, the committee reported an "alternative" English amendment by Rep. Dan Burton.

The Burton amendment, while purportedly offering a Puerto Rican state equal treatment, actually offers special treatment by allowing statehood with these historically unprecedented policies intact. Burton's insistence that Puerto Rico will be subject to federal official language policies is meaningless, since the United States has no official language. Further, Burton's "sense of Congress that English be promoted" has no legal force.

The Burton language is contrary to Congress' uniform historical practice when the language of government of a potential state was in genuine doubt. Congress required—not "promoted"—English to be the language of instruction for public schools in Arizona, New Mexico, and Oklahoma as a condition for statehood.

I urge any member who cares about English's role in our national unity to oppose this version of the legislation.

Sincerely,

MAURO E. MUJICA,
Chairman of the Board, U.S. English, Inc.

[From the Latin American Herald Tribune, Apr. 26, 2010]

PUERTO RICAN GOVERNMENT WANTS BILINGUAL NATION

SAN JUAN.—The Puerto Rican government wants to establish programs for teaching English to make the younger generations bilingual on an island where 85 percent of the population admits to having only a very basic idea of the language.

Education Secretary Odette Piñeiro said Tuesday in an interview with Efe that the department supports the initiative of Puerto Rico's resident commissioner in Washington, Pedro Pierluisi, to ask for more federal funding for teaching English in the public schools of this U.S. commonwealth.

"Spanish and English are the official languages of Puerto Rico, that is established," Piñeiro said, adding that the point of the proposal is to give public school students on the island the same opportunities as those who go to private schools.

Piñeiro also said that the measure will make sure that when young people on the island finish their studies they will be able to perform correctly both in Spanish and in English, which she said was something Puerto Rican society was asking for.

She was referring to an initiative announced by Pierluisi to ask that Title III funds be quadrupled for Puerto Rico, which would bring to $14 million per year the amount the Caribbean island would get for that purpose.

Piñeiro said that preceding administrations lost their chance to access those funds by not presenting the corresponding application the right way.

The secretary said that the measure "will improve employment opportunities" for the Caribbean island's young people, after commenting that "English is taught in Puerto Rico as if it were a foreign language."

"The idea is to give the necessary resources to kids in public schools so they have the same opportunities," she said.

For her part, the director of the Linguistics Program at the University of Puerto Rico, Yolanda Rivera, told Efe she is in favor of free choice in learning languages.

Rivera said, nonetheless, that "English is a foreign language in Puerto Rico," and there are political criteria for making that language more prevalent here as sought by the administration of Gov. Luis Fortuño, whose party favors U.S. statehood for the island.

"Deciding which language to teach is based on political criteria," Rivera said, adding that if commercial interests were the most important thing, Chinese would be the ideal language given the heights the Asian nation has reached internationally in that area.

The professor also said that she is concerned about Pierluisi's announcement of the hypothetical arrival of U.S. English teachers on the island.

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished Republican whip, Mr. CANTOR.

Mr. CANTOR. I thank the gentleman from Washington for yielding.

Mr. Chairman, for 93 years individuals born in Puerto Rico have been U.S. citizens, but Puerto Rico itself has been a Commonwealth. And as neither State nor an independent political entity, it has, as Ronald Reagan once said, an unnatural status. It is part of our country, but not entirely. Separate from our country, but not really.

Ronald Reagan was motivated to support possible statehood for Puerto Rico in part because our communist enemies were at the time exploiting Puerto Rico's status to sow unrest in Latin America by calling for an end to ''Yankee imperialism.'' While the Soviet Union may no longer be with us, Hugo Chavez is attempting to sow the same unrest, calling for an end to U.S. imperialism in Puerto Rico.

Reagan said back in 1980 that we must be ready to demonstrate that ''the American idea can work in Puerto Rico.'' Over the past 2 years, my friend, Governor Luis Fortuno, has worked to do just that. The Governor and others are actively working to increase economic opportunity by reducing the burden the government places on the people, introducing competition and choice to education, lowering taxes, restoring law and order, and defending traditional values.

Listening to these achievements, I am reminded that the great experiment begun by our Founding Fathers is not in its last days, but instead is being constantly renewed as we work to expand what it means to live in a land of opportunity.

Our best export has always been our ideas. And first and foremost amongst those ideas is the promise that limited government based on the consent of the governed that respects the inalienable rights granted by God is the best hope for mankind on Earth. These ideas have also served as a magnet drawing all those who wish for a better life to our shores.

The citizens of Puerto Rico share in this American inheritance. They share in our values and in their belief in the American Dream. The citizens of Puerto Rico deserve the opportunity to speak to their aspirations for the future in a sanctioned plebiscite.

If I were drafting this bill, Mr. Chairman, I would draft it differently. And while this legislation is far from perfect, I am motivated at the end of the day to support it by the belief that America's promise is not finite in terms of space or time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield 4 minutes to the gentleman from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. I thank the gentlewoman for yielding.

Look, let's take another look at it. Mr. LUNGREN came before us, and on numerous occasions, what did he say? Allow Puerto Rico to become a State. Just check his words. Before that it was Mr. BURTON from Indiana. In other words, they equate American citizenship with a fundamental, inalienable right to statehood.

There's no one right, inalienable right, that the people of Puerto Rico have. It's to their independence. And the Founding Fathers that we like to talk so much about would agree with us here today. If Thomas Jefferson were here today, he would say one thing: There is one and only one inalienable right of the people of Puerto Rico, something that could never be taken away from them, and that's to their independence.

And why do I bring this issue up today? I bring the issue up today so that we can understand that Puerto Rico is not just 4 million American citizens on an island; it is a culturally, it is a psychologically, constituted geographically, linguistically constituted nation of people, Puerto Ricans. Go to that nation of people today, and while they may love and cherish America, which is actually a good thing if you think about it today, a nation of people who love and cherish America, they still are fundamentally Puerto Rican. Ask them.

Has anybody been to a Puerto Rican parade in New York? Go out there with American flags on the day of a Puerto Rican parade. See how much money you make at the Puerto Rican day parade in New York or Chicago. No, it's an affirmation of who we are. Very different than the Italian day parade, than the Irish parade, than the Polish parade, in which you see many American flags.

Why is it that we continue to affirm this? Why is it that even those proponents of statehood for Puerto Rico have not been able to banish the Olympic team? They dare not. Why is it they have not been able to banish the language of Spanish? They dare not. Because those are things that are intrinsic to the people of Puerto Rico.

Look, let's stop kidding ourselves. Let's stop kidding ourselves. This is an attempt to do one thing and one thing only. Everybody talks about the American citizens and their right to statehood. What about the American citizens, and I say the only inalienable right that they have, to their independence? What about the 1.8 million pages that were sent to Congressman SERRANO on the backs of the FBI and intelligence agency for those of us that fought for Puerto Rican independence? What about those that have been jailed? What about those poets? What about those great Puerto Rican patriots who believe and will continue to believe in independence for Puerto Rico? That is a reality that we need to deal with.

So when Mr. CANTOR was speaking about the inalienable right, he was speaking about the inalienable right that the Founding Fathers bestowed upon those to be free from colonialism.

The current situation in Puerto Rico is deplorable. The current status of Puerto Rico is a colonial status. And we should move forward to eliminate that stain in our relationship with the people of Puerto Rico. But they have just as much right to independence, they have just as much right to independence as they do to statehood. And as a matter of fact, they have asserted that right.

Let me end with this: We keep saying let them, congressionally sanction. Ladies and gentlemen, they have come together on numerous occasions, and on each and every occasion, they have said, We don't want to be a State. They would like something different. Why are we imposing?

And really, look, everybody talks about the Founding Fathers. You know how the Founding Fathers did it? They had a Constitutional Convention. They got together and they had delegates from different States come together so they could have a Declaration of Independence, so they could build a Constitution. You know what? Let not the Congress of the United States say that this is democracy. Do you know what true democracy is? This Congress saying to the people of Puerto Rico get together in a constitutional convention, assemble yourselves, decide among yourselves, and we the Congress of the United States will respect that decision. We will not impose a process. We will not impose definitions upon you.

Mr. HASTINGS of Washington. Mr. Chairman, I reserve the balance of my time.

Mr. PIERLUISI. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. GRAYSON).

Mr. GRAYSON. Mr. Chairman, I appreciate the opportunity to speak on this important matter. This legislation is about what is right and what is fair.

Since 1898 residents of Puerto Rico have been deprived of full and equal political representation. Though its residents are American citizens, the island is not a State and its residents have no equal voting representation in Congress. Given a choice, Puerto Ricans might opt to change this situation. Some in Puerto Rico might opt for a statehood for the island, some might opt for independence, and some might opt for sovereign association. But Puerto Ricans have never been invited by Congress to make that choice. They are American citizens, but they are deprived of equal voting rights.

If Puerto Rico were a State, it would have six or seven representatives in Congress instead of one who cannot vote on the floor of the House. If Puerto Rico were a State, it would have two Senators instead of none. If Puerto Rico were a State, the people there would help to choose our President. Puerto Rico is, in fact, one of the largest populations in the entire world that has no say in choosing the leadership of its country, a democratic country. Now they cannot do anything like that. A host of policy decisions are made in Puerto Rico's name by us, by Congress and by the President, on behalf of Puerto Rico's people without their full or equal input or consent, and that is deeply, deeply unfair.

Whether Puerto Ricans decide in favor of statehood or not, there is an existing inequality that needs to be addressed. The people of Puerto Rico could have more representatives in Congress than they have today with or without statehood.

While I do not represent Puerto Rico, there is a very large Puerto Rican population in central Florida. But I am also here because people on the island of Puerto Rico have the right to full and equal representation. Under this legislation, voters will be asked by Congress whether they wish to maintain Puerto Rico's present form. If the majority of voters cast their ballots in favor of a different political status, the Government of Puerto Rico will be authorized to conduct a second vote among three options: independence, statehood, or sovereignty in association with the United States.

Residents of Puerto Rico have laid down their lives in defense of American democratic values for more than nine decades. In that time, they have never been given a chance to express their views about their political relationship with the United States by means of a fair, neutral, and democratic process. This must change. Therefore, I support this act.

□ 1515

Mr. HASTINGS of Washington. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Chairman, having been elected in 2004 to come to Congress, I got here and met someone else who was elected to come to Congress at the same time named Luis Fortuno. The Fortunos were a couple of the most wonderful, lovely people I have ever met, and it's a real privilege to have gotten to know them. So my initial feeling is that I would want to support whatever they supported, especially to have a Republican governor in Puerto Rico. The things that he is doing are wonderful. Cutting government, working to reduce spending in Puerto Rico, those are the things that we need leaders to help with in Washington.

But we are a people who came into being through a belief in self-determination. And so on initially hearing that Puerto Rico would have a vote that would allow them to decide whether they wanted to be part of the United States as a State, my initial impression was this would be a good thing. But on seeing that it has been divided into two votes and finding that there are three choices in the second vote, I am very concerned.

If Puerto Rico wants to be a State, then they should decide to do so unequivocally and tell this body to do so unequivocally. It ought to be one question, ''Do you want to be a State?'' ''Yes'' or ''no.'' And if the answer is loud and clear we do, then that's what we should take up. So regretfully, I will be voting ''no'' on this because I am concerned this is not the way to decide a statehood's future. I will be voting ''no.''

Ms. VELÁZQUEZ. I yield myself the balance of my time.

The CHAIR. The gentlewoman from New York is recognized for 3 minutes.

Ms. VELÁZQUEZ. Mr. Chairman, there is a reason why two of the three main political parties in Puerto Rico are opposed to this bill. They have been shut out of the legislative process. That is the reason. Here we are facing one of the largest deficits in the history of this country because we have been paying for two wars where we are committed to promote democracy, and yet in our own backyard we are denying 8 million Puerto Rican Americans the right to self-determination.

As I stated before and I state it again, this is shameful and it is a disgrace. So let me just say that this bill is not ready for prime time. Let's treat Puerto Ricans with the same respect as we did to Alaskans, Hawaii, and other States. They decided by themselves what was better for them. This bill doesn't do that. For all these reasons, I ask my colleagues to vote ''no.''

I yield back the balance of my time.

Mr. HASTINGS of Washington. I yield myself the balance of my time.

Mr. Chairman, as we conclude general debate, I want to make one point very, very clear. And that point is that we in Congress on a bipartisan basis welcomed the citizens of Puerto Rico to communicate to us their wishes. But, Mr. Chairman, this is not the right process for that.

I recognize this is not a vote on statehood. I never alluded to that. But, Mr. Chairman, we are setting, I think, a precedent where we are asking a territory of the United States if they want statehood. Looking back in the history, I found it pretty murky whether that even happened. What happened generally, and certainly in a vast majority of the 50 States that make up this great Union, is that they had a plebiscite and they decided they wanted to join this country, and then they asked the Congress to respond. We are doing this backwards.

There have been three votes in the history of this last century of Puerto Ricans, and in every case, in every case they did not choose statehood. So I don't know why we should be part of a process that from my point of view tilts the playing field in favor of statehood when in the past that hasn't been the case. The citizens of Puerto Rico right now, as I made in my opening remarks, can have a plebiscite. They can decide. They can decide by a statewide vote, they can have a constitutional convention, as my good friend from Illinois pointed out. There are a variety of ways for them to do that. We should allow them to do that.

Now, it's difficult. It's a difficult process. We all know that. Self-government is hard. But for goodness sakes, we shouldn't be party to what I believe is a process that is cinched in one way.

So for that reason, Mr. Chairman, I am going to vote ''no'' on this legislation, and I would urge my colleagues to do the same.

I yield back the balance of my time.

Mr. RAHALL. Mr. Chairman, I am honored to yield the balance of my time to the people's representative from Puerto Rico, Mr. PEDRO PIERLUISI.

Mr. PIERLUISI. It is time. It is time for this Congress to hear from the people of Puerto Rico. A lot has been said about this process of self-determination. And what is self-determination? It is to allow the people of Puerto Rico to express their wishes on their political destiny. H.R. 2499 does exactly that. The only possible options that the people of Puerto Rico have concerning the subject matter are the following: remaining as a territory, which is called a Commonwealth, but the label does not change the status. The Commonwealth of Pennsylvania is a Commonwealth, yet it is a State. Puerto Rico is a territory. And there is a clause in the United States Constitution that provides and has so been interpreted by the Supreme Court, the United States Supreme Court, that this Congress has plenary powers over the territories, including Puerto Rico. And we do not fail to exercise them on a daily basis, for better or worse, to the people of Puerto Rico, who do not have voting representation in this Congress, who do not vote for the President, and who do not participate in Federal programs on an equal basis with their fellow citizens in the States. That is one of the choices. And this bill, this plebiscite, the plebiscite in H.R. 2499, provides for that. If the people want to remain under the current status, they can, like they should be.

Now if the people of Puerto Rico say we no longer want to be a territory of the United States, we should know that, all Members of Congress. This bill then asks them their choice among the only three options that are accepted under U.S. and international law: statehood, independence, and there has been some talk about free association.

Let me tell you something. I agree with Congressman SERRANO. Libre asociación is that term in Spanish. In Puerto Rico everybody knows what libre asociación is. In fact, there is a faction within one of our main parties that advocates for that. And what is that? Simple; what Micronesia, the Marshall Islands, Palau already have—an association between Puerto Rico and the U.S. as sovereign nations that is not a territory of the United States. That option is included. So all the options are there. It is only fair to ask the people of Puerto Rico to express themselves in a way that is not binding on this Congress.

We will always have, the Congress will always have the last word on this topic, as it should be. So that's why I have put forth this bill before this Congress on behalf of the people of Puerto Rico as the only elected Representative

of the people of Puerto Rico, and I ask for your support. Vote for H.R. 2499.

Mr. ENGEL. Mr. Chair, I rise in strong support of H.R. 2499, the Puerto Rico Democracy Act.

Puerto Rico is home to nearly 4 million Americans.

It has been a U.S. territory for 112 years and its residents have been U.S. citizens since 1917.

Puerto Ricans have contributed much to the basic fabric of this country in times of peace and war.

Its residents have served as high government officials and leaders from all walks of life.

More than one million Puerto Ricans live in my home state of New York, and according to the latest numbers, more than 60,000 live in my congressional district.

I am, therefore, proud to call myself a cosponsor of the bipartisan Puerto Rico Democracy Act.

I know that the question of the status of Puerto Rico has been difficult for many years, but that is precisely why we must address it today.

Under the current status, residents of Puerto Rico are bound by federal law, but cannot vote for president and do not have voting representation in Congress.

Since joining the American family over a century ago, the Island's residents have never been given the opportunity to express their views—in the context of a fair and orderly vote sponsored by Congress—as to whether Puerto Rico should remain a U.S. territory or should seek a non-territorial status.

H.R. 2499 allows the government of Puerto Rico to conduct plebiscites to ask voters if they wish to maintain the current status or have a different status.

I support this bill because it finally creates a fair process to allow the people of Puerto Rico to decide their own future for themselves.

Self-determination is a basic principle of the United States, and Puerto Ricans deserve no less.

Finally, I would like to congratulate the sponsor of this bill, Mr. PIERLUISI, for his excellent work, and I appreciate the efforts of members on both sides of the aisle who helped bring the Puerto Rico Democracy Act to the floor today.

I urge my colleagues to support H.R. 2499.

Mr. GENE GREEN of Texas, Mr. Chair, I rise today as a cosponsor and to speak in strong support of H.R. 2499, The Puerto Rico Democracy Act of 2009, which establishes a just and fair way for Puerto Ricans to decide their relationship with the United States.

Puerto Rico has been a U.S. territory for 111 years and its residents have been U.S. citizens since 1917. Puerto Ricans have contributed immeasurably to the life of this nation in times of peace and war and have served as U.S. government officials, ambassadors, federal judges and military officers.

The island is home to nearly 4 million Americans who are subject to federal taxes as determined by law, pay income taxes on income from outside the island, as well as other taxes such as Social Security and Medicare.

Yet Puerto Ricans today still cannot vote for President of the United States and do not have full voting representation in Congress. I believe it is time for the people of Puerto Rico to decide their fate after over 100 years of political uncertainty.

H.R. 2499 would identify Puerto Rico's political status options and authorize a plebiscite process in which voters could express their preferences among those options. This bill will finally give them the opportunity to determine their relationship with the U.S. in the context of a fair, neutral and democratic process sponsored by Congress.

We must ensure that the views of all Puerto Ricans are heard on this fundamental question without excluding or favoring any status option. As a cosponsor of this bipartisan legislation, I support a fair and impartial process of self-determination for the people of Puerto Rico.

Mr. CULBERSON. Mr. Chair, I share Thomas Jefferson's belief that majority rule is "the vita principle of republics," therefore I am opposed to passage of H.R. 2499: and respectfully request that my name be withdrawn as a co-sponsor. I was mistaken in co-sponsoring this bill because it is not apparent from the language of the bill that it allows Puerto Rico to decide its future by less than a majority vote. I have also learned that current law enables Puerto Rico to hold an election to determine their future at any time, so this law is redundant—and we already have far too many redundant unnecessary laws on the books. For these reasons I would ask that my name be withdrawn as a cosponsor of this bill.

The CHAIR. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

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

H.R. 2499

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Puerto Rico Democracy Act of 2009".

SEC. 2. FEDERALLY SANCTIONED PROCESS FOR PUERTO RICO'S SELF-DETERMINATION.

(a) FIRST PLEBISCITE.—The Government of Puerto Rico is authorized to conduct a plebiscite in Puerto Rico. The 2 options set forth on the ballot shall be preceded by the following statement: "Instructions: Mark one of the following 2 options:

"(1) Puerto Rico should continue to have its present form of political status. If you agree, mark here ____.

"(2) Puerto Rico should have a different political status. If you agree, mark here ____.".

(b) PROCEDURE IF MAJORITY IN FIRST PLEBISCITE FAVORS OPTION 1.—If a majority of the ballots in the plebiscite are cast in favor of Option 1, the Government of Puerto Rico is authorized to conduct additional plebiscites under subsection (a) at intervals of every 8 years from the date that the results of the prior plebiscite are certified under section 3(d).

(c) PROCEDURE IF MAJORITY IN FIRST PLEBISCITE FAVORS OPTION 2.—If a majority of the ballots in a plebiscite conducted pursuant to subsection (a) or (b) are cast in favor of Option 2, the Government of Puerto Rico is authorized to conduct a plebiscite on the following 3 options:

(1) Independence: Puerto Rico should become fully independent from the United States. If you agree, mark here ____.

(2) Sovereignty in Association with the United States: Puerto Rico and the United States should form a political association between sovereign nations that will not be subject to the Territorial Clause of the United States Constitution. If you agree, mark here ____.

(3) Statehood: Puerto Rico should be admitted as a State of the Union. If you agree, mark here ____.

SEC. 3. APPLICABLE LAWS AND OTHER REQUIREMENTS.

(a) APPLICABLE LAWS.—All Federal laws applicable to the election of the Resident Commissioner shall, as appropriate and consistent with this Act, also apply to any plebiscites held pursuant to this Act. Any reference in such Federal laws to elections shall be considered, as appropriate, to be a reference to the plebiscites, unless it would frustrate the purposes of this Act.

(b) RULES AND REGULATIONS.—The Puerto Rico State Elections Commission shall issue all rules and regulations necessary to carry out the plebiscites under this Act.

(c) ELIGIBILITY TO VOTE.—Each of the following shall be eligible to vote in any plebiscite held under this Act:

(1) All eligible voters under the electoral laws in effect in Puerto Rico at the time the plebiscite is held.

(2) All United States citizens born in Puerto Rico who comply, to the satisfaction of the Puerto Rico State Elections Commission, with all Commission requirements (other than the residency requirement) applicable to eligibility to vote in a general election in Puerto Rico. Persons eligible to vote under this subsection shall, upon timely request submitted to the Commission in compliance with any terms imposed by the Electoral Law of Puerto Rico, be entitled to receive an absentee ballot for the plebiscite.

(d) CERTIFICATION OF PLEBISCITE RESULTS.—The Puerto Rico State Elections Commission shall certify the results of any plebiscite held under this Act to the President of the United States and to the Members of the Senate and House of Representatives of the United States.

(e) ENGLISH BALLOTS.—The Puerto Rico State Elections Commission shall ensure that all ballots used for any plebiscite held under this Act include the full content of the ballot printed in English.

(f) PLEBISCITE COSTS.—All costs associated with any plebiscite held under this Act (including the printing, distribution, transportation, collection, and counting of all ballots) shall be paid for by the Commonwealth of Puerto Rico.

The CHAIR. No amendment to the committee amendment is in order except those printed in House Report 111–468. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be 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.

AMENDMENT NO. 1 OFFERED BY MS. FOXX

The CHAIR. It is now in order to consider amendment No. 1 printed in House Report 111–468.

Ms. FOXX. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Ms. FOXX:

Page 4, line 5, strike "3" and insert "4".

Page 4, after line 16, insert the following:

(4) Commonwealth: Puerto Rico should continue to have its present form of political status. If you agree, mark here _____.

The CHAIR. Pursuant to House Resolution 1305, the gentlewoman from

North Carolina (Ms. FOXX) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from North Carolina.

Ms. FOXX. Mr. Chairman, I yield to the gentlelady from the Virgin Islands for the purposes of a unanimous consent request.

(Mrs. CHRISTENSEN asked and was given permission to revise and extend her remarks.)

Mrs. CHRISTENSEN. I thank my colleague from North Carolina for yielding.

Mr. Chair, I rise in support of this amendment because it corrects the chief concern I have had about this bill—that Commonwealth is not given fair treatment in the base bill, H.R. 2499.

A cleaner process would have allowed all of the possible options to be on the ballot in one vote, with Commonwealth included.

In the first vote where one is asked to choose the status quo or change, first of all the deck is stacked against commonwealth, by those who support statehood, independence or free association.

I have reason to believe that most Puerto Ricans want Commonwealth with new enhancements, which is not the status quo. Therefore someone even voting for change in the first ballot might still have Commonwealth as their preference. But they would have no opportunity to vote for it. This is grossly unfair to what I think is the majority of the population.

H.R. 2499 is slanted toward statehood. For every option to have a level playing field Commonwealth must be added in the second vote.

I urge my colleagues to support the Foxx amendment.

Ms. FOXX. Mr. Chairman, I would like to yield 15 seconds to the gentlelady from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Chairman, I rise in support of this amendment.

Ms. FOXX. Mr. Chairman, I yield myself such time as I may consume.

After being engaged in the spirited debate surrounding this bill, I am pleased to report that both supporters and opponents of the underlying bill, regardless of partisanship, can support the amendment I am offering. It's my belief that Congress has no business considering this bill at this time.

Puerto Ricans have voted on statehood three times without congressional action. Although congressional action is not needed, statehood advocates have defined this bill as necessary to providing a ''congressionally sanctioned'' vote process for Puerto Rico to determine its political status. However, if we are going to do this, we need to pass a bill that ensures fair consideration of all points of view.

Although the bill is being touted as one to allow Puerto Ricans the opportunity to exercise political self-determination, as it's currently written it denies commonwealth status quo supporters freedom to vote for their preferred option in the second stage of the plebiscite.

In the first stage of the plebiscite, Puerto Ricans are given two choices: the status quo or change. It's easy to see how anyone, even Commonwealth status quo supporters, would support some sort of change in their political processes. However, consensus on this question would move to a second stage, where Puerto Ricans choose only from three options: statehood, independence, or sovereignty in association with the United States. These three options deny supporters of continuing the Commonwealth status quo the freedom to vote for their preferred political status. Whether they support statehood, independence, or the Commonwealth status quo, Puerto Ricans' views should be given equal and fair consideration.

My amendment very simply adds a fourth option: ''Commonwealth: Puerto Rico should continue to have its present form of political status to the available voting options for the second stage of the plebiscite.''

□ 1530

This amendment takes nothing from the bill, but adds an option to reflect the views held by a significant portion of Puerto Ricans who should not be disenfranchised by this bill. This is an amendment Members of all persuasions can support. Opponents of the bill can remain opposed, but take comfort in knowing the bill was made a little better. Supporters, or even cosponsors, can take comfort in knowing their bill was made even better.

With that, I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from West Virginia is recognized for 5 minutes.

Mr. RAHALL. Mr. Chairman, this bill was carefully crafted to give the people of Puerto Rico the opportunity to inform Congress for the first time ever whether they want to continue with their current temporary status, Commonwealth, or move to a permanent status: statehood, independence, or free association. This amendment would subvert this effort by including a choice to continue the island's present status among the options provided for in the bill's second plebiscite. Adoption of this amendment will contradict the bill's intent and make it less likely that the people of Puerto Rico would seek a permanent nonterritorial status.

Debate over Puerto Rico's status continues to be the central issue in politics on the island. The fairest and simplest way, we believe, to address this concern is to let Puerto Ricans choose to either retain their present status, as the underlying bill does; or, if they don't want to, allow them to elect to become a state, an independent country, or a free nation with association with the U.S. Allowing the choice of retaining their current status after it was rejected in the first plebiscite, as this amendment would do, only serves to confuse the process and would likely cause an inconclusive outcome.

I, therefore, urge defeat of the amendment and reserve the balance of my time.

Ms. FOXX. Mr. Chairman, my colleague says this bill has been carefully crafted. Yes, it's been carefully crafted to keep the people who want the present status from being a choice. That is wrong. That should not be the way this bill is done. If they want to keep the present status, they should be able to vote for it.

I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I believe I have the right to close, and I reserve the balance of my time.

Ms. FOXX. Could I inquire, Mr. Chairman, as to how much time I have left.

The CHAIR. The gentlewoman from North Carolina has 2½ minutes remaining.

Ms. FOXX. Mr. Chairman, I think this bill as it is crafted is not the right way to go for the people of Puerto Rico. I don't have a dog in this fight. I have not taken a position on whether they should have statehood or not have statehood, but I don't like the Congress of the United States being used to create a situation that disenfranchises people. And that's what's happening.

We are wasting our time doing this. We don't need to do it. The people of Puerto Rico can vote on this without our doing this. We should be dealing with what is important to the American people—jobs and other issues. This is not necessary for us to do.

Mr. Chairman, I yield 30 seconds to my colleague, the gentleman from Utah (Mr. CHAFFETZ).

Mr. CHAFFETZ. Mr. Chairman, I'd just encourage my colleagues to listen to the argument on the other side. They don't want the status quo to be one of the options. This is supposed to be a bill about self-determination, yet it's this Congress that's going to force its will to determine what is even going to be on the ballot. This is fundamentally wrong. I urge my colleagues to vote in favor of this amendment.

Mr. RAHALL. I continue to reserve the balance of my time.

Ms. FOXX. Mr. Chairman, can I inquire again as to how much time is left on my side.

The CHAIR. The gentlewoman has 1½ minutes remaining.

Ms. FOXX. Mr. Chairman, I yield 1¼ minutes to the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Mr. Chairman, this amendment is a commendable effort to try and improve a deeply flawed piece of legislation, and I really thank the gentlewoman for being so committed to providing for a process of self-determination for the people of Puerto Rico. Elections are only democratic if the people are not blocked from choosing between all the options potentially available to them. One of the many shortcomings of this bill is that under the scheme it establishes, the second ballot will not include commonwealth as an option for voters.

Again, because what they want is for the people of Puerto Rico to vote for statehood instead of providing a fair, democratic process. That is undemocratic. It is un-American. That defies imagination. That is essentially telling the people of Puerto Rico that the system of government under which they currently live is not even an option for them to consider.

This approach ignores the fact that the Commonwealth is what the majority of the people of Puerto Rico have selected in the last three previous popular votes. The amendment offered by the gentlelady will take a good first step forward, and I am wholeheartedly in support of that amendment.

Ms. FOXX. Mr. Chairman, again, I want to say that I think the Congress of the United States is being used unfairly in this process. We do not need to be doing this. What the proponents of statehood are doing is rigging the process in favor of a vote for statehood and they're using the Congress of the United States to establish the process for them. We don't need to be passing this bill. The people of Puerto Rico can vote without this bill.

Mr. RAHALL. Before I yield to the gentleman from Puerto Rico to close on our side, let me just address one issue the gentlelady from North Carolina raised about us having other issues that she alluded to which are more important than this issue to address in Congress, like jobs, the economy, et cetera; therefore, why are we considering this legislation. That may be true.

Certainly, jobs and the economy are very important to every one of our districts. But I think it should be worth pointing out here that it's most unfortunate that we can't get the type of bipartisan support—as much bipartisan support from the other side on those issues of jobs and the economy as we do on this particular piece of legislation.

I would yield the balance of my time to the gentleman from Puerto Rico (Mr. PIERLUISI).

Mr. PIERLUISI. I rise in opposition to this amendment. The reason is rather straightforward. In a democracy, the majority rules. The threshold question, the first question that H.R. 2499 poses, is precisely to determine whether the majority of the people residing in Puerto Rico, the American citizens residing in Puerto Rico, want to remain as a territory. Once the majority speaks, we will abide by that. If the majority says they want change, they do not want to continue being a territory, called a commonwealth as it is, then it is only fair to ask a second question. Choose among the only available alternatives. The results will speak for themselves.

Some here seem to be convinced that the result will be that the people of Puerto Rico will choose statehood. It remains to be seen. We don't know the percentage. We don't know what other percentages we will have on the first vote, on the second vote. Let's allow the people of Puerto Rico to express themselves. It is only fair. And the Congress will have the last word.

The CHAIR. The question is on the amendment offered by the gentlewoman from North Carolina (Ms. FOXX).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. RAHALL. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from North Carolina will be postponed.

AMENDMENT NO. 2 OFFERED BY MR. GUTIERREZ

The CHAIR. It is now in order to consider amendment No. 2 printed in House Report 111–468.

Mr. GUTIERREZ. Mr. Chairman, I rise to offer my amendment.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. GUTIERREZ:

On page 4, line 5, strike ''on the following 3 options:'' and insert ''on the following 4 options:''.

On page 4, after line 16, insert the following:

''(4) None of the Above. If you agree, mark here _____.''.

The CHAIR. Pursuant to House Resolution 1305, the gentleman from Illinois (Mr. GUTIERREZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. GUTIERREZ. Well, here we go again. They say this is a bill. The chairman of Natural Resources says this is a bill to make sure that the people of Puerto Rico are able to define their future and do it in a free, objective manner. Really? Well, the last time they had a plebiscite in Puerto Rico, guess which option won? None of the above. Guess which option they exclude? The winning option in the last plebiscite. So who's kidding who in this place?

They have this thing rigged from the beginning to the end. If not, if they were so faithful to the wishes, to the will, to the passion of the self-determination of the people of Puerto Rico, why aren't they including the very option that won? They say they respect the decision of American citizens on the island of Puerto Rico and we should give them an opportunity to express themselves freely in a referendum. Guess what? They did. And yet we reject the very option that they chose for themselves.

What kind of democracy is that? I don't know what kind of democracy that is in other States, but I know how I feel about it. None-of-the-above, for me, offers this wonderful opportunity to the people of Puerto Rico.

Just so that we understand, because everybody says things, I want to read this. This is what the Democrats say about my amendment—my own party: you mislead voters into thinking there is a legally better alternative to Puerto Rico's political status other than an independent state or a sovereignty. Me? Me? I'm misleading people? What is the last option that won, adopted by the government of Puerto Rico, and voted on in Puerto Rico?

ANNOUNCEMENT BY THE CHAIR

The CHAIR. The Chair notes a disturbance in the gallery in contravention of the law and rules of the House.

The Sergeant at Arms will remove those persons responsible for the disturbance and restore order to the gallery.

Mr. GUTIERREZ. I know it's hard, but the truth is the truth.

ANNOUNCEMENT BY THE CHAIR

The CHAIR. The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

Mr. GUTIERREZ. The truth is that the last time one of the alternatives was exactly what I offer. If you really believe and you really trust and you really respect the judgment of the people of Puerto Rico, then include it as they included it when they were able to do it. If you say you're not imposing your will on them, then give them the option when they had the ability to choose the different options. I'm not asking for anything else other than that because I think that it is important and fundamental that we check into the history books.

Notice, no one, no one will contradict the fact that ''none of the above'' was the one that won, that that was one of the offers. And then they say that I mislead. I don't mislead anybody. The fact is, people say I'm doing this and that. That's okay. People like me, who defend the sovereign rights of the people of Puerto Rico, you know what happens to them in Puerto Rico? They get files on them by the Government of Puerto Rico. They get jailed. They are made sure they lose their jobs. They get sanctioned.

Everybody always says, Oh, why aren't there more people that believe in Puerto Rican independence? There's a lot of people that believe in Puerto Rican independence. More of them don't show themselves because when they do, you know what happens? Those that support other alternatives lock them up. Let me tell you something. Careful.

□ 1545

Mr. RAHALL. I rise in opposition to the amendment, Mr. Chairman.

The CHAIR. The gentleman from West Virginia is recognized for 5 minutes.

Mr. RAHALL. Mr. Chairman, as was the case with the Foxx amendment, this amendment would also add a fourth option to the second ballot in the two-stage plebiscite process. I urge defeat of this amendment as well,

largely along the same lines as the earlier amendment.

''None of the above'' is the ultimate and unnecessary escape clause. The proposal for its inclusion on the ballot suggests that there exists some other option for permanently resolving Puerto Rico's status in a manner compatible with the U.S. Constitution beyond the three options of independence, sovereignty in association with the United States, or statehood. Such a belief defies the conclusions of the international community, the courts, and the executive branch.

There is no other viable option than the three to be presented on the second ballot as provided for in the underlying bill. Thus, this ''none of the above'' amendment is not about progress, but rather inconclusiveness. Self-determination for the people of Puerto Rico should no longer be thwarted by inconclusiveness nor held captive to any pursuit for a status change not deemed viable under the U.S. Constitution or international law.

I urge defeat of the amendment.

I reserve the balance of my time.

Mr. GUTIERREZ. How much time do I have, Mr. Chairman?

The CHAIR. The gentleman from Illinois has 2 minutes remaining.

Mr. GUTIERREZ. I thank the Chair.

I yield 30 seconds to the gentleman from Utah.

Mr. CHAFFETZ. I thank the gentleman.

Mr. Chair and my colleagues, this amendment should pass unanimously. I don't care where you are on this issue. If you fundamentally believe that the people of Puerto Rico should be given a voice, then the voice that they should be able to allow, one of the boxes they should be allowed to check is ''none of the above.'' Last time, 50.3 percent of the residents there voted in favor of this. It is not right for us to deny them the opportunity to check the box that says, ''none of the above.'' This should pass unanimously.

I urge all of my colleagues on both sides of the aisle to vote for this.

Mr. RAHALL. I reserve the balance of my time.

Mr. GUTIERREZ. I yield myself 1 additional minute, Mr. Chair.

I just want to make this abundantly clear to everyone, and I know that Mr. PIERLUISI, the Resident Commissioner of Puerto Rico who used to be the attorney general in Puerto Rico, understands this to be true. And if not, I would like him to step up and just say, Luis, you've got it wrong. Please tell me that.

This is what happened in 1998: ''None of the above'' was the option included in the 1998 plebiscite by the very sponsor, by the very party that the proponent of the legislation that comes before us today, Mr. PIERLUISI's party. They controlled the Governorship. They controlled the House. They controlled the Senate. They set up the parameters, and they included it. Yesterday they come and say to me that I am being misleading about what is going on. And more than that, it's the option that won.

I also say fundamentally that one of the reasons I thought it was a good option was because I thought that it wasn't fair the way it was designed and the way it was construed. So I said, You know, I don't like the construction, so you should always give the people—especially people seeking self-determination—the option to say to us, the Congress, We didn't like the way you designed it, so we reject your proposal.

So let me use the last 30 seconds with this: I want you to look at this bill, and you are going to find a section that says that over 1 million Puerto Ricans born on the island of Puerto Rico that live in the United States—not in Puerto Rico—that live in the United States are guaranteed a ballot. What does that say to you?

There is a reason they speak Spanish, ladies and gentlemen. There's a reason they love the Puerto Rican flag. There's a reason they go to the Puerto Rican Day—there's a reason. It's okay. They have a passion for their culture, for their language, for who they are and their identity. And it is affirmed by the very proponent of this legislation, who understands that they are nationals—not of Puerto Rico, which you do not represent. But you are allowing them to participate in this process because you recognize they have an inherent right to participate in the future of Puerto Rico.

Mr. RAHALL. Mr. Chairman, I yield the balance of my time to the people's representative from Puerto Rico (Mr. PIERLUISI).

The CHAIR. The gentleman from Puerto Rico is recognized for 4 minutes.

Mr. PIERLUISI. I rise in opposition to this amendment, and I rise in opposition because some of my colleagues here have been talking about one term, ''free association,'' being an ambiguous term. Well, there cannot be anything more ambiguous than ''none of the above'' when you know that all the options that are available are the four options that we have been talking about.

The first option is for Puerto Rico to continue being a territory, and we all know what a territory is. Our Constitution provides for such. Puerto Rico is an unincorporated territory. That is an option. And there are only three other possible options as a matter of settled U.S. law and international law: independence, statehood, and free association. It serves no purpose, no real purpose to include a ''none of the above'' option when those are the options that we all know exist for the people of Puerto Rico.

If we want to effectuate self-determination, if we want to facilitate self-determination, if we want to give a voice to Puerto Rico, to the people of Puerto Rico, with a meaningful purpose, we cannot include a ''none of the above'' option. That was, indeed, the result of the last plebiscite that was done in Puerto Rico, which did not follow the bill that this House approved or the Senate failed to act upon. It added this ''none of the above'' option, and what happened is, to this day, nobody can understand what that means. It served no purpose. That's why I rise in opposition to this amendment.

The CHAIR. The question is on the amendment offered by the gentleman from Illinois (Mr. GUTIERREZ).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. GUTIERREZ. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Illinois will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. GUTIERREZ

The CHAIR. It is now in order to consider amendment No. 3 printed in House Report 111–468.

Mr. GUTIERREZ. I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. GUTIERREZ:

In the header of section 3(e), strike ''ENGLISH BALLOTS'' and insert ''LANGUAGE OF BALLOTS''.

In section 3(e), strike ''printed in English'' and insert ''printed in Spanish. Upon request by an eligible voter, the Puerto Rico State Elections Commission shall provide said eligible voter with a ballot printed in English''.

The CHAIR. Pursuant to House Resolution 1305, the gentleman from Illinois (Mr. GUTIERREZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Illinois.

Mr. GUTIERREZ. Mr. Chair, I yield 1½ minutes to the gentlelady from New York, Congresswoman VELÁZQUEZ.

Ms. VELÁZQUEZ. Mr. Chairman, this is a straightforward amendment, and it is very important that Congress needs to be certain that the people of Puerto Rico understand what is at stake and the options before them. This amendment will make sure that the ballots for these processes are available in both Spanish and English. Through this amendment, Puerto Rico's overwhelmingly Spanish-speaking population will be able to understand the ballot and exercise their vote. Those who reside on the island but are not fluent in Spanish will still have the opportunity to cast their ballot. They simply need to request one in English.

Mr. Chairman, this is a simple amendment, and it will provide for everyone to understand such an important process that is going to have such an incredible impact on the many people who live in Puerto Rico and those who do not live in Puerto Rico. So I urge its adoption.

Mr. GUTIERREZ. I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from West Virginia is recognized for 5 minutes.

Mr. RAHALL. Mr. Chairman, the pending amendment would strike the requirement from the bill that a ballot include the full content of the ballot printed in English. Instead, the amendment requires ballots to be printed in Spanish. An English ballot could be obtained only by the request of a voter.

The underlying bill strikes the right balance. We did address this issue during our full committee consideration of this legislation, and the underlying bill gives rise to the printing of a unified ballot. The amendment before us undoes that balance that we struck in the full committee in consideration of this issue, and it puts the onus on an English-proficient or otherwise English ballot-preferring voter to request such a ballot.

In my opinion, this would add tremendously to the administrative processing of the ballots; it would complicate the process, and it would add cost. It would be a tremendous cost addition to the process as well, and I would, therefore, urge the defeat of the amendment.

I reserve the balance of my time.

Mr. GUTIERREZ. Mr. Chair, I yield 1 minute to the gentleman from Utah.

Mr. CHAFFETZ. Mr. Chair, I rise in support of this amendment. I believe that English should be the official language of the United States of America, but that's a different issue. Let's be realistic. The people in Puerto Rico predominantly speak Spanish. Let's provide a ballot to them in Spanish so that they can know what they're voting for. And the amendment provides that if anybody wants an English ballot, they can get an English ballot. I think that's fair. I think that's reasonable. It just allows the people of Puerto Rico to know what they're voting on. I think that's a simple request.

And there is no additional cost to the people of the United States of America, because I was able to pass an amendment in the committee that said that there will be no cost to the United States taxpayers here in the continental United States.

So again, I think it's reasonable. I rise in support of this and urge its support.

Mr. RAHALL. Mr. Chairman, I reserve the balance of my time.

Mr. GUTIERREZ. I yield myself 1½ minutes of my time.

I thank Mr. CHAFFETZ and I thank the gentlelady from New York for their comments.

Why do I propose this? Because we're getting hoodwinked again. That's all that's happening here. You know what they're going to do? I'm telling you, this is just like those derivatives that they've got at Goldman Sachs. You don't know what's in it. Look into it, because it's going to blow up on you later on.

Let me tell you why. Here's what it says on page 5. It says, ''English ballots—the Puerto Rico State Elections Commission shall ensure that all ballots used for any plebiscite held under this act include the full content of the ballot printed in English.'' That's all it says.

Now, you know why they do that; to give you the misunderstanding, right, the false sense of confidence that people are actually going to go, and there's going to be a campaign, and it's going to be conducted in English, and the people can go and take an English ballot. The fact is that the ballots in Puerto Rico are printed in Spanish. The fact is—okay, let me give you another one.

There are, like, four big newspapers—well, there were four, but the one in English went bankrupt. The ones that thrive are the ones in Spanish. Did you ever turn the TV on in Puerto Rico? Go down there. There are, like, three or four really Puerto Rican stations. As a matter of fact, public TV in Puerto Rico is in Spanish. The news is in Spanish, and we help provide some of the funding through our contributions—not the Congress of the United States necessarily.

The fact is that I am here to affirm, to affirm, and I hope that this Congress recognizes that the people of Puerto Rico are a nation. They have a language. We should respect that language, and that language is Spanish. And as we move forward, the ballots, in order for them to understand this process, should be in Spanish.

I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I reserve the balance of my time.

Mr. GUTIERREZ. How many more speakers does the gentleman have remaining?

Mr. RAHALL. I just have one concluding speaker.

Mr. GUTIERREZ. Well, it's very clear that every time we have an amendment, they want to, like, finish it up. But that's okay. It's been unfair from the very beginning, so what's a little more unfairness.

The fact is, I was a schoolteacher there. I was an elementary schoolteacher for 2 years in Puerto Rico. Do you know how much time the children in the public school system—which we support, taxpayers of the United States support. Do you know how much time during the day they speak in English? One class out of six. You know how I know? I spent 50 minutes a day teaching them English for almost 2 years. And you know what, the students used to walk in, and they used to say, ''Oh, Mr. Ingles.'' It was like the math class. It was like the biology class. It was like the class they didn't want to take.

But you know something, that doesn't mean that they necessarily don't love this country. It's just that they affirm who they are, and we should respect that. They're Puerto Ricans, a colony of Spain, and have Spanish as their predominant language. Let's respect that cultural linguistic integrity in Puerto Rico.

I yield back the balance of my time.

□ 1600

Mr. RAHALL. Mr. Chairman, I yield the balance of my time to the people's representative from Puerto Rico (Mr. PIERLUISI).

Mr. PIERLUISI. Mr. Chairman, I have heard here, and it is unfortunate, some colleagues talk about this being rigged, using terms of that nature. And I can take it because I know that this is a fair bill.

Now I just heard that somehow we are opposing this amendment because of the way that this bill is drafted. Let me say for the record of this House that the language that provides for having the ballots in both Spanish and English was offered in committee, in the Committee of Natural Resources at the markup by Mr. HENRY BROWN from South Carolina who belongs to the Republican Party. And we voted on it.

The reason I am opposing this amendment is it is totally unnecessary. As a matter of local law in Puerto Rico, we need to provide the ballots in both English and Spanish, and that is what we are doing. We are just being fair. This amendment requires as an alternative that now we need to print separate ballots in English and force those who feel more comfortable with the English language to request them. It is not necessary. We oppose it. I oppose it. And that's all I'll say. I needn't say anymore.

The CHAIR. The question is on the amendment offered by the gentleman from Illinois (Mr. GUTIERREZ).

The question was taken; and the Chair announced that the noes appeared to have it.

Ms. VELÁZQUEZ. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Illinois will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. BURTON OF INDIANA

The CHAIR. It is now in order to consider amendment No. 4 printed in House Report 111–468.

Mr. BURTON of Indiana. Mr. Chairman, Mr. YOUNG and I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. BURTON of Indiana:

Amend section 3(e) to read as follows:

(e) ENGLISH LANGUAGE REQUIREMENTS.—The Puerto Rico State Elections Commission shall—

(1) ensure that all ballots used for any plebiscite held under this Act include the full content of the ballot printed in English;

(2) inform persons voting in any plebiscite held under this Act that, if Puerto Rico retains its current political status or is admitted as a State of the United States, the official language requirements of the Federal Government shall apply to Puerto Rico in

the same manner and to the same extent as throughout the United States; and

(3) inform persons voting in any plebiscite held under this Act that, if Puerto Rico retains its current political status or is admitted as a State of the United States, it is the Sense of Congress that it is in the best interest of the United States for the teaching of English to be promoted in Puerto Rico as the language of opportunity and empowerment in the United States in order to enable students in public schools to achieve English language proficiency.

The CHAIR. Pursuant to House Resolution 1305, the gentleman from Indiana (Mr. BURTON) and a Member opposed will each control 5 minutes.

The Chair recognizes the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

This is an amendment I think that everybody will embrace, at least I hope so, because it clarifies what was just discussed. I will read it to you real quickly. It says this amendment would retain the requirement that all ballots used for authorized plebiscites include the full content of the ballot printed in English as well as Spanish. It would also require the Puerto Rico State Elections Commission to inform voters in all authorized plebiscites that if Puerto Rico retains its current status or is admitted as a State that: (1) any official language requirements of the Federal Government shall apply to Puerto Rico to the same extent as throughout the United States; and (2) it is the sense of Congress that the teaching of English be promoted, not demanded or anything, but be promoted in Puerto Rico in order for English-language proficiency to be achieved.

So we are talking about making sure that everybody who votes, everybody who is involved in any kind of an official thing like a plebiscite, that they will see it in both English and Spanish. We are also pushing to promote English more than it has been in the past. I think this is an amendment that everybody should agree with.

I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I strongly support this amendment. This is the same amendment we had 12 years ago. It does promote Spanish and it does promote English. This is nothing new. Right now in my State we are printing our ballots in my State in different languages within the State. This is an amendment everybody should accept, except if you are just adamantly opposed to the legislation, as some people are.

I have spent some time in Puerto Rico, not as much time as some others, but I find an awful lot of Puerto Ricans who do use English. I think that is a blessing. I am one who thinks everybody should speak two or three languages if they can. This amendment is the right way to go, and all of the plebiscites will be in both languages, not one language, so those who speak English and Spanish and those who speak Spanish and English, both of them have a right to read and understand what they are voting on. It is the right bill. It is the right amendment. Let's vote on both things.

Mr. HASTINGS of Washington. Mr. Chairman, I rise to claim the time in opposition to the amendment.

The CHAIR. The gentleman from Washington is recognized for 5 minutes.

Mr. HASTINGS of Washington. Mr. Chairman, I want to say that this amendment is unnecessary, and really it masquerades a whole debate on English, and let me explain why. This amendment has essentially three components, and I will paraphrase what those components are. They talk about all ballots used in the plebiscite must be in English, number one. Number two, prospective voters are informed that the official language requirements of the Federal Government shall apply to Puerto Rico. And number three, it has a sense of Congress that it is in the best interest to promote English.

Now let me address each of those issues but let me suggest that I believe this amendment is offered to only deny a straight up-or-down vote on the issue of English as the official language.

First of all, the language that my good friend from Indiana read in support of this amendment is already in the bill. It is on page 5. It says that the plebiscite will be carried out in English. So we don't need that because it is already in the bill.

The second provision is really meaningless. That is the one that talks about Federal language requirements. We know there is no Federal requirement in this country as to English, even though 30 States have adopted that. There is no official one from the United States. There should be, but there isn't.

Finally, I will concede at least a little point. The sense of Congress language really has no statutory effect, but I will concede this: It is at least timely. Why do I say that, because just 3 days ago the Secretary of Education in Puerto Rico said: ''English is taught in Puerto Rico as if it were a foreign language.''

In the 2005 Census, 85 percent of Puerto Ricans said they had very little knowledge of English. As a practical matter, in the Commonwealth legislature, and in its courts and classes in public schools, Spanish is the primary language. So there is nothing in this amendment that will change that. What should have happened and didn't happen is the Rules Committee denied a straight up-or-down vote on English as official language. That was embodied in Mr. BROUN of Georgia's amendment. But unfortunately we were denied the opportunity because this is a structured rule to at least have a debate on that. If the intent of the Rules Committee is to say this is the one we should have, I totally disagree with that. So for that reason, I urge my colleagues to vote ''no'' on the amendment.

I reserve the balance of my time.

Mr. BURTON of Indiana. I think the amendment speaks for itself. I think the amendment, Mr. Chairman, says very clearly that we want to make sure that everyone who casts a ballot in an election or on a plebiscite has before them the ability to understand what the ballot is about and be able to cast it intelligently. This is done in all kinds of States. As a matter of fact, many States have as many as 11 different languages, which is really out of control, on one ballot. To say you can't have two on this ballot in Puerto Rico so they can cast their ballot intelligently really doesn't make much sense.

I am a very strong advocate for making sure that everyone in this country speaks English, and I understand what my colleague just said, but in this particular case we are talking about a plebiscite that is going to be advisory for the Congress of the United States. This is just to help this process along and to make sure that it is understood by everybody.

Mr. Chairman, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. I am happy the gentleman from Indiana (Mr. BURTON) brought this amendment up. I think it should be soundly defeated, but I am happy he brought it because it just demonstrates the imperialist nature. Here we are in the empire, the Congress of the United States, plenary powers over Puerto Rico, dictating what language they have to use.

You know what, it's amazing, but I'm not surprised, Mr. BURTON, because I understand the people of Indiana are still a little angry at the people of Puerto Rico when they arrested Bobby Knight. Bobby Knight got arrested in Puerto Rico. I think this is an important story to tell you. He got arrested in Puerto Rico. There were Pan American games, and the basketball team from the United States was competing against the basketball team from Cuba, and Bobby Knight went into a rage because all of the fans in the stadium in Puerto Rico, all American citizens, were clapping and cheering for the Cuban team and not the American team. So he said to himself: What's wrong with these people? And he threw a chair, as he likes to do, and he got arrested. There is an arrest warrant, and I don't know, maybe Mr. PIERLUISI can tell us if the arrest warrant is still valid and out there since he was the attorney general. It just tells you they're a nation, they're a people, and they affirm who they are in every instance.

Mr. BURTON of Indiana. I don't know what that has to do with anything, but I yield to Mr. PIERLUISI for 1 minute.

Mr. PIERLUISI. I rise in support of this amendment. It is a sensible

amendment. It basically provides that whatever legal requirements apply in the States will apply in Puerto Rico on this issue.

At the same time, it expresses a sense of Congress that we should improve the teaching of English in Puerto Rico. I am all for that. Ninety percent of the parents in Puerto Rico want to improve the teaching of English in Puerto Rico to their children. I have two bills pending before this Congress seeking additional funding, one, and the other creating a teacher exchange program so that we have more English teachers in Puerto Rico.

This is not an issue. We have two official languages in Puerto Rico, English and Spanish, the same way Hawaii has two official languages. We want all of our children to be fluent in English and to facilitate the government processes in Puerto Rico to the extent necessary so any English speakers will be well served.

So I support the amendment that has been offered by the gentleman from Indiana as well as the gentleman from Alaska.

Mr. HASTINGS of Washington. Mr. Chairman, I have 1 minute left and I have the right to close; is that correct?

The CHAIR. The gentleman is correct.

Mr. HASTINGS of Washington. Mr. Chairman, I yield 45 seconds to the gentleman from Georgia (Mr. BROUN).

Mr. BROUN of Georgia. Mr. Chairman, I rise in strong opposition to this amendment because it is a hollow amendment. No territory with an official language other than English has ever been admitted to the Union. Why this time?

Instead of reporting the English amendment I offered as a condition of statehood, the Rules Committee reported out a much watered down alternative English amendment which is opposed by every major pro-English group in the country. Unlike my amendment which required English as a condition of statehood, the Burton-Young amendment only encourages English to be taught without any enforcement.

Further, this amendment states that if Puerto Rico is admitted to the United States, the official language requirements of the Federal Government shall apply to Puerto Rico to the extent as throughout the United States. We don't have anything. That's totally useless.

This would be a great provision if the United States had an official language. Unfortunately, we do not. I urge my colleagues to vote ''no'' on this amendment.

Mr. BURTON of Indiana. Mr. Chairman, I will take my last 30 seconds to say that the gentleman from Georgia has a very strong accent, but I understand him.

I would just like to say that this is a clarifying amendment to make sure that everybody who votes down there in a plebiscite or in an election has before them the ability to understand and cast the vote intelligently. I can't understand why anybody would be opposed to this. It makes common sense, and I hope everybody will support it.

I yield back the balance of my time.

□ 1615

Mr. HASTINGS of Washington. I yield myself the balance of my time, which is 15 seconds.

Mr. Chairman, as I mentioned in my opening remarks, the pertinent part of this amendment is already in the bill, and that speaks to the ballot; the other two are really meaningless. Frankly, this amendment does not even need to be considered today; but if it's a cover, then it's a cover, and let's call it what it is.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Indiana (Mr. BURTON).

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. RAHALL. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Indiana will be postponed.

AMENDMENT NO. 5 OFFERED BY MS. VELÁZQUEZ

The CHAIR. It is now in order to consider amendment No. 5 printed in House Report 111–468.

Ms. VELÁZQUEZ. I have an amendment at the desk, Mr. Chairman.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Ms. VELÁZQUEZ:

Page 5, strike line 8 and all that follows through ''Persons eligible'' on line 13 and insert the following:

(2) An individual residing outside of Puerto Rico, if the individual—

(A)(i) is a resident of the United States, including a resident of any territory, possession, or military or civilian installation of the United States, at the time the plebiscite is held; and

(ii) would be eligible to vote in the plebiscite but for the individual's residency outside of Puerto Rico;

(B) was born in Puerto Rico; or

(C) has at least one parent who was born in Puerto Rico.

This paragraph shall apply notwithstanding any rule or regulation issued under subsection (b). Persons eligible

Page 6, after line 7, add the following:

(g) RECOGNITION OF RIGHT TO VOTE.—Congress recognizes the right of Puerto Ricans residing outside of Puerto Rico to vote in any plebiscite held under this Act and requests the Commonwealth Elections Commission of Puerto Rico to devise methods and procedures for such Puerto Ricans, including those born in, or having at least one parent born in, Puerto Rico, to register for and vote in absentia.

The CHAIR. Pursuant to House Resolution 1305, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York.

Ms. VELÁZQUEZ. Mr. Chairman, today the nation of Puerto Rico is 8 million people strong; 4 million reside on islands of Puerto Rico and 4 million live in the United States.

From Florida to New York City to Chicago to California, and everywhere in between, there are Puerto Rican communities across our Nation. Those Puerto Ricans who have been born in the United States are no less Puerto Rican than the ones that reside on the island. All of us, regardless of where we were born or raised, have a deep and abiding connection with our cultural home.

Puerto Ricans raised on the mainland often speak Spanish. They are taught about their culture, history, and where they come from. There are Puerto Rico Day parades in New York City, Chicago, Orlando, Hartford, and cities across this land. Regardless of where they were born, all Puerto Ricans are deeply vested in the political future of the island. I was born and raised in Puerto Rico, but that does not make me more Puerto Rican than Mr. GUTIERREZ.

Clearly, there is an air bridge between the United States and Puerto Rico. Puerto Ricans have relatives and family members living in Puerto Rico. And those Puerto Ricans living in the States possess their own sense of identity, which is shaped by and tied to Puerto Rico.

This amendment would allow Puerto Ricans living on the mainland to participate in the plebiscite that is called for under the bill. Importantly, the amendment requires that those wishing to vote be able to prove, by birth certificate, that they have at least one parent born in Puerto Rico. This will provide a safeguard against voter fraud while ensuring that we do not disenfranchise Puerto Ricans living in the States from this process.

Mr. Chairman, Puerto Ricans living on the mainland are no less Puerto Rican than those born and raised on the islands. We should not deny them a voice or a vote as this process, which is so important to the Puerto Rican nation, moves forward. These Puerto Ricans cannot be denied their right of self-determination.

I urge my colleagues to vote ''yes'' on this amendment, and I reserve the balance of my time.

Mr. PIERLUISI. Mr. Chairman, I rise in opposition to this amendment.

The CHAIR. The gentleman from Puerto Rico is recognized for 5 minutes.

Mr. PIERLUISI. The bill before us is a product of careful deliberation. We worked hard in reaching the right and correct balance in terms of determining who should be eligible to vote in the plebiscites provided for in the bill.

Before reporting it, the committee considered, as we had in previous Puerto Rico status bills, which voters should be participating, and we had to strike a balance. The bill makes both

residents of Puerto Rico who are otherwise eligible to vote under Puerto Rico electoral law and U.S. citizens who were born in Puerto Rico but who may not reside in the territory at the time of the plebiscite eligible to vote.

The committee recognized that a substantial number of individuals born in Puerto Rico but not currently residing there hope to return to live in Puerto Rico one day. Accordingly, they can be said to have a practical stake in helping to determine Puerto Rico's future political status. Such argument does not hold, though, for those who are of Puerto Rican descent but who were born outside of the territory, which the pending amendment would allow. The bill chooses place of birth rather than ethnic identity as the eligibility criteria. I urge this criterion to be maintained and that this amendment be rejected.

I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, may I inquire as to how much time I have remaining.

The CHAIR. The gentlewoman has 2½ minutes remaining, and the gentleman from Puerto Rico has 3½ minutes remaining.

Ms. VELÁZQUEZ. I yield to the gentleman from Illinois (Mr. GUTIERREZ) such time as he may consume.

Mr. GUTIERREZ. I thank the gentlelady.

Well, let's have a little talk here. There's a difference: here's citizenship, here's nationality, here's citizenship, here's nationality. They should not be confused. Ask the people in Ireland; they were subjects of the Queen; therefore, they were citizens. But they were always Irish. Ask the people of Ukraine. They may have been subjects of the Soviet Union and citizens of the Soviet Union and have a passport, but they never stopped being Ukrainian, they never stopped being Lithuanian. Look what happened in Yugoslavia once you got rid of Tito. We all saw everybody engage in their national pride. That's what we do, too: we assert it.

As a matter of fact, the very proponents of this legislation affirm that I'm right, they recognize it; otherwise, why would you allow people outside of the jurisdiction of Puerto Rico to vote and to determine its future unless you invested in them, unless they inherently had in themselves the nationality of Puerto Rican?

The gentleman from Puerto Rico says separation from ethnicity. I'm not an ethnic Puerto Rican. I might be a lot more Puerto Rican than some Puerto Ricans are. I suggest the gentleman come to my city of Chicago. In the Puerto Rican community there are many American flags, but there are two huge Puerto Rican flags. Don't divide the Puerto Rican nation; it is a nation of people. It may decide that it wants to incorporate itself into the United States of America, but it always is a nation of people with the inalienable right to independence. Don't divide our community.

If you look at my birth certificate, it says Puerto Rico twice on it—mom born in Puerto Rico, dad born in Puerto Rico. Then it says Chicago, Illinois. Nine months earlier, I would have been in Puerto Rico, so I'm separated by 9 months. And yet every fabric of who I am has a relationship to that wonderful, beautiful island: its music, its artistry, its poetry, its patriots. As a matter of fact, one of the most beautiful songs ever written about Puerto Rico was written in the United States of America and the longing for returning to that island.

Just think a moment, just think, think of the exodus of Puerto Ricans that left Puerto Rico in the 1950s during Operation Bootstrap. What did they do? Did they come to the United States and say, oh, great, we're in the United States; we're going to stay here forever and die here? No. The longing was to return one day to that island. Allow them the vote on the future of that island.

Mr. PIERLUISI. May I inquire as to how much time I have remaining.

The CHAIR. The gentleman has 3½ minutes remaining.

Mr. PIERLUISI. In listening to the gentleman from Illinois, I keep hearing that he wants Puerto Rico to become independent, that he sees Puerto Rico as a nation. So be it. That's a dignified status, and that is one of the options that this bill provides for.

In crafting the bill, we tried to be as inclusive as we could, recognizing that Puerto Ricans, people born in Puerto Rico, might be interested in participating in this plebiscite, might want to return to Puerto Rico; and for the purpose of being as fair and as democratic as we could, we drew the line on requiring birth in Puerto Rico. More than that, we think it would be too encompassing and not necessary.

So I oppose this amendment. I believe that the current bill is fair; it might not be perfect, like any piece of legislation. You draw lines when you're legislating, but this is a reasonable line.

I oppose this amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The question was taken; and the Chair announced that the noes appeared to have it.

Ms. VELÁZQUEZ. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from New York will be postponed.

AMENDMENT NO. 6 OFFERED BY MS. VELÁZQUEZ

The CHAIR. It is now in order to consider amendment No. 6 printed in House Report 111–468.

Ms. VELÁZQUEZ. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Ms. VELÁZQUEZ:

Page 3, strike line 8 and all that follows through line 5 on page 4 and insert the following:

(a) AUTHORITY TO CONDUCT PLEBISCITE.—The Government of Puerto Rico is authorized to conduct a plebiscite on the following 4 options:

Page 4, after line 16, insert the following:

(4) Commonwealth: Puerto Rico should continue to have its present form of political status. If you agree, mark here ____.

(b) RUNOFF PROCESS.—

(1) IN GENERAL.—If no option receives votes on more than 50 percent of the ballots cast, the Government of Puerto Rico shall conduct a runoff process to permit voters to select among the 2 options that received the most votes.

(2) OPTION TO SELECT NONE OF THE ABOVE.—In a runoff process conducted under this subsection, voters shall be permitted to vote for—

(A) the option that received the most votes;

(B) the option that received the second most votes; or

(C) neither of those options.

The CHAIR. Pursuant to House Resolution 1305, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York.

Ms. VELÁZQUEZ. Mr. Chairman, I am a strong believer that the people are smart enough to make tough decisions if they are presented with all the facts clearly and objectively. This legislation does not provide a transparent process of the choices available to Puerto Rico. That is not democracy by any definition.

A true system of democracy does not preclude certain options from a ballot, nor does it structure votes in a way to manipulate an electorate. Unfortunately, as we all know, this legislation structures the votes in a way that will prevent a commonwealth option from receiving fair consideration.

The process that allowed for the creation of the Commonwealth of Puerto Rico was adopted by Congress. It is a legitimate form of government that is accepted by millions. I, therefore, find it appalling that this Congress will consider precluding a commonwealth as an option for the people of Puerto Rico.

Mr. Chairman, joining our Union as a new State is not a step that should result from electoral tricks or engineering. Joining the United States of America must be a decision that a people undertake deliberately, knowingly, and voluntarily. If the people of Puerto Rico wish to become a State, that option should be able to prevail against all other choices. The people should affirm, in a single vote, that they wish to move in that direction. They should not be presented with a series of false choices that are rigged to force the electorate into choosing statehood.

Under this amendment, there would be an opportunity for a real vote, with all the options on the table. This

amendment eliminates the first round vote and adds commonwealth as a choice for voters. It also provides for a runoff process if no option receives a majority of votes.

If the supporters of statehood and the authors of this bill truly believe that they have the will of the people on their side, then this amendment should cause them no concern. All this amendment will do is provide a chance for the people to vote on the future of the island with all the options before them, including commonwealth. To effectively preclude commonwealth from this process is to deny the Puerto Rican people a true right to self-determination.

I urge you to vote ''yes'' on this amendment, and I reserve the balance of my time.

□ 1630

Mr. PIERLUISI. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from Puerto Rico is recognized for 5 minutes.

Mr. PIERLUISI. I yield 3 minutes to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Chairman, I rise today in opposition to the amendment because I believe it will muddy the waters of an otherwise clear choice that would be presented to the voters of Puerto Rico.

I also rise with tremendous respect for my colleagues and friends, Congresswoman NYDIA VELÁZQUEZ and Congressman LUIS GUTIERREZ, while at the same time rising in strong support of H.R. 2499, the Puerto Rico Democracy Act.

Puerto Rico has been a U.S. territory for 111 years, and its residents have been U.S. citizens since 1917. Puerto Ricans have a rich history of service to our Nation. They have served honorably in our military as Federal officials and as ambassadors. Our newest member of the Supreme Court, Justice Sonia Sotomayor, is of Puerto Rican descent. Yet, in all of this time, the people of Puerto Rico have never been given the chance to express their views about the island's political relationship with the United States in a meaningful vote sponsored by Congress.

Because H.R. 2499 embodies the commitment to democracy that defines our Nation, I urge my colleagues to join me in voting ''yes.''

I am proud that 20 of the bill's cosponsors hail from my State of Florida. The bill has received overwhelming bipartisan support from my State's delegation because of the close relationship between Florida and Puerto Rico. My district alone is home to more than 30,000 individuals of Puerto Rican descent, many of whom travel frequently to the island to visit family members. Companies in my district and across Florida regularly conduct business with those located in Puerto Rico.

Despite the close family and business ties that bind many in my district with Puerto Rico, our two peoples are different in one critical respect: The residents of Puerto Rico, despite being citizens of the United States, cannot vote for President and do not have voting representation in Congress. They also cannot access all Federal programs to the same extent as can the residents of the States.

H.R. 2499 would at long last give the people of Puerto Rico this opportunity. The bill authorizes the government of Puerto Rico to conduct an initial plebiscite. Voters would be asked whether they wished to maintain the current status or to choose a different status. The rationale for this plebiscite is simple.

Ms. VELÁZQUEZ. Will the gentlewoman yield?

Ms. WASSERMAN SCHULTZ. I yield to the gentlewoman from New York.

Ms. VELÁZQUEZ. The issue here is not if the people of Puerto Rico can vote or not in Presidential elections. The issue here is a true, transparent, democratic process for the Puerto Rican people to participate in a referendum without imposing statehood.

Ms. WASSERMAN SCHULTZ. Mr. Chairman, in reclaiming my time, I believe that this legislation would at long last give the people of Puerto Rico the opportunity that they have not been given before. It authorizes the government of Puerto Rico to conduct an initial plebiscite. It gives the people of Puerto Rico a chance to weigh in on whether they wish to keep their status the same or to change their status.

Congress needs to give the people of Puerto Rico access to participatory democracy, and this legislation does exactly that. It will create a process for the citizens of Puerto Rico to decide their own political status. If the majority of voters cast their ballots in favor of a different political status, the government of Puerto Rico would be authorized to conduct a second plebiscite which would include independence or statehood.

I urge my colleagues to join me in voting ''yes'' on H.R. 2499.

Ms. VELÁZQUEZ. Mr. Chairman, may I inquire as to how much time remains?

The CHAIR. The gentlewoman from New York has 2¼ minutes remaining.

Ms. VELÁZQUEZ. I yield 1 minute to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Thank you for yielding.

Mr. Chairman, I rise in support of this amendment.

I agree that the people of Puerto Rico deserve the opportunity to have a process whereby they can indicate their status preference, but I also agree that the way the vote is set up in the base bill is slanted towards a statehood outcome. This is the third Puerto Rico status bill that has been introduced since I've been in Congress, and while I consider H.R. 2499 to come closest to providing a plebiscite in which all options would be equally treated, it is not quite there yet.

Whether one supports commonwealth or improvements of the current commonwealth or not, I think everyone would agree that the process should be fair and that it should enable the people of Puerto Rico to express their preference for clear, equally treated options. This amendment does that, and I think the runoff with the two receiving the most votes and none of the above provides an additional level that ensures that no one is forced to choose between options, neither of which they support.

I look forward to supporting the status option that the people of Puerto Rico select, but I would have reservations in doing so if it were arrived at through a flawed process. This amendment is an attempt to fix that flaw, and I urge my colleagues to support it.

Mr. PIERLUISI. Mr. Chairman, I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, in closing, I will simply say that the authors of this bill are not afraid of having the people of Puerto Rico freely express themselves in a process that is democratic and that is transparent. They should support this amendment. Yet, if they are afraid that the only way they can get a simple majority that supports statehood is by denying the people of Puerto Rico the choice to vote for commonwealth, they know that history is on the side of the people of Puerto Rico. Repeatedly, every time plebiscites have been conducted in Puerto Rico, the commonwealth status has won, and statehood has been defeated. That is why they are so afraid, and that is why they are denying the right of the people of Puerto Rico to true self-determination.

I urge my colleagues to support and to vote for this amendment, and I yield back the balance of my time.

Mr. PIERLUISI. Mr. Chairman, I am in opposition to the amendment offered by the gentlewoman from New York.

This amendment would replace the plebiscite process authorized by the bill with an entirely new process, including a runoff with a problematic none-of-the-above option, which is unsound, confusing, and unlikely to produce a clear expression of the voters' views on the status question.

I urge my colleagues to reject this amendment. The amendment would delete the two-step process authorized by the bill, and it would replace it with a one-step process that uses the term ''commonwealth'' to denote Puerto Rico's current status.

As I said before, the term ''commonwealth'' is the legal name. It is the title given to the territory of Puerto Rico. Including the term when giving the people of Puerto Rico an option is confusing in and of itself, particularly because it could imply that it is more than what it is. This has been debated long enough. A territory is a territory is a territory. Call it whatever you may.

By limiting the plebiscites I authorize to one, the amendment fails to accomplish one of the primary purposes

of the bill: to determine whether the people of Puerto Rico consent to an arrangement that, whatever its other merits, does not provide them with self-government at the national level. The amendment includes a runoff process that provides for a none-of-the-above option. By including this option, the amendment undermines the purpose of the legislation, which is to enable a fair and informed process of self-determination for the people of Puerto Rico. ''None of the above'' is not a valid status. The last plebiscite provided that, and to this day, we cannot even interpret it. Including it on any ballot misleads voters into thinking that there is a possible alternative to the three available options.

I urge Members to vote ''no'' on this amendment, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. RAHALL. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from New York will be postponed.

AMENDMENT NO. 7 OFFERED BY MS. VELÁZQUEZ

The CHAIR. It is now in order to consider amendment No. 7 printed in House Report 111–468.

Ms. VELÁZQUEZ. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Ms. VELÁZQUEZ:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Puerto Rico Democracy Act of 2010''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Congress respects the self-determination right of the people of Puerto Rico to choose their future relationship to the United States.

(2) Congress pledges not to dissuade, influence, or dictate a status option to the people of Puerto Rico.

(3) Congress will respectfully postpone consideration of the Puerto Rico status question until it receives an official proposal from the people of Puerto Rico to revise the current relationship between Puerto Rico and the United States that was made through a democratically held process by direct ballot.

SEC. 3. SENSE OF CONGRESS.

It is the sense of Congress that the Government of Puerto Rico can proceed to conduct a plebiscite in Puerto Rico. The 2 options set forth on the ballot may be preceded by the following statement: ''Instructions: Mark one of the following 2 options:

''(1) Puerto Rico should conduct a plebiscite to determine a future proposal for the political status of Puerto Rico. If you agree, mark here ____.

''(2) Puerto Rico should NOT conduct a plebiscite to determine a future proposal for the political status of Puerto Rico. If you agree, mark here ____.''.

Amend the title so as to read: ''A bill to express the sense of Congress that the Government of Puerto Rico can proceed to conduct a plebiscite in Puerto Rico, and for other purposes.''.

The CHAIR. Pursuant to House Resolution 1305, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York.

Ms. VELÁZQUEZ. Mr. Chairman, self-determination is a basic concept in a democracy. The ability of a people to choose their own national grouping without undue influence from another country is rightly recognized as a core element of freedom and liberty. Today, sadly, we are debating legislation that turns its back on this principle.

Perhaps what is most unfortunate is that what we are debating today involves imposing ideas from the outside onto the island. It seems to me, if we wish to keep faith with the democratic tradition of self-determination, then we will look for the guide to Puerto Rico's future, not in the House of Congress and not in Washington, D.C., but in Puerto Rico.

The amendment that I am offering will honor the concept of self-determination. This amendment empowers the people of Puerto Rico to submit their own proposal for moving forward. The amendment expresses the sense of Congress that we should not proceed until we have heard from those most affected by this debate, the Puerto Rican people. The residents of Puerto Rico should exercise freely and without congressional interference. The right to self-determination and this amendment recognize their rights. Rather than having Congress approve a bill that says to the Puerto Rican people that their relationship with the United States must change, this amendment sends a different message. It says to the Puerto Rican nation: We trust you to decide your future.

If they envision a better alternative than the status quo, then let them come to Congress and tell us. That is true self-determination. That is a process that will be viewed as legitimate by all parties in Puerto Rico, and it is a far cry from a bill that forces the Puerto Rican people to take a series of sham votes which are aimed at achieving a predetermined outcome.

Mr. Chairman, I ask my colleagues to honor the democratic tradition of self-determination. I urge Members to vote ''yes'' on this amendment.

I reserve the balance of my time.

Mr. RAHALL. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from West Virginia is recognized for 5 minutes.

Mr. RAHALL. Mr. Chairman, this amendment does nothing to further the goal of H.R. 2499, which is to provide the people of Puerto Rico with a federally recognized process to allow them to freely express their wishes regarding their future political status in a congressionally recognized referendum.

The amendment recognizes that Puerto Rico can conduct a plebiscite on whether to conduct a plebiscite on a status option or options, and it calls on Congress to ''respectfully postpone consideration'' of the issue until it receives a proposal for revision of the current U.S.-Puerto Rican relationship voted for by Puerto Ricans.

We are all aware of the fact that Puerto Rico can conduct its own plebiscites. There is no disputing this fact. In fact, they have done so multiple times in the past, most recently in 1998, but because some of those were local referenda, which included definitions of the various status choices that were inaccurate and likely not to be supported by Congress, the results were inclusive, which brings us to the need of the bill pending before us.

We have an obligation to provide the people of Puerto Rico with a process that, more likely than not, will lead to a final resolution of the question of their political status, a question with which we have been grappling for more than a century. The amendment of the gentlewoman fails this test, and, for this reason, it should be defeated.

I reserve the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois (Mr. GUTIERREZ).

The CHAIR. The gentleman is recognized for 2½ minutes.

Mr. GUTIERREZ. I thank the gentlewoman. We have been working very closely together.

Mr. Chairman, this is a wonderfully crafted amendment, but I think that it is very important that the Congress respects the self-determination of the people of Puerto Rico to choose their future relationship with the United States or without the United States but to decide their future relationship.

This is the key pledge: Congress pledges not to dissuade, to influence, or to dictate a status option to the people of Puerto Rico.

Look, in my first election in Puerto Rico, I represented the Puerto Rican Independence Party. I was 19 years old in San Sebastian del Pepino. I was a delegate for that party until the first election. There was one vote for the Puerto Rican Independence Party in my polling place, what they call ''Integro''—right?—just for independence. That was mine at that point.

I went to the university. I used to sell Claridad when I was at the university, and I would sell it to others. I've been a proponent of Puerto Rican independence. I got a nice, little carpeta, too—right?—and I haven't called the FBI yet to see what long list of things they've written down about me and who I've associated with, but let me tell you something:

The gentleman from Puerto Rico knows that everything is not all fair and square in Puerto Rico. There is an adage in Puerto Rico—right?—which is

don't get together with those people or you will be fingered. Do you know what? 1.8 million pages. You know, my dad was right. They had figured us out. They had said who we were. Do you know what would happen? You couldn't get a job. You couldn't be a teacher. You couldn't be anybody prominent in the society of Puerto Rico.

So I am here to say, for all of those who fought for the independence of Puerto Rico and for its right to join as a sovereign nation in the world of nations, don't do this. Don't dictate.

□ 1645

Please note that although I have always been an advocate, I have never come before this Congress to dictate my opinion, to dictate an outcome which benefits me. Let me tell you something. You think you've got a definition for the commonwealth that you can destroy? I have got a definition for independence that I can sell also. But I think it would be wrong to do it. I think it would be unfair to do it.

What the gentlewoman from New York is simply doing here is saying return this process to the people of Puerto Rico.

As I come up here every time, ''Founding Fathers,'' ''Founding Fathers,'' ''Founding Fathers.'' Then they ask you who is your favorite Founding Father? And no one can name one.

Let me tell you something about the Founding Fathers. They had a Constitutional Convention. Let's allow the spirit of the Founding Fathers to act in Puerto Rico.

Mr. RAHALL. Mr. Chairman, I yield the balance of my time to the gentleman from Puerto Rico (Mr. PIERLUISI).

The CHAIR. The gentleman is recognized for 3½ minutes.

Mr. PIERLUISI. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from New York.

This amendment is in the nature of a substitute and seeks to postpone an informed self-determination process along the viable status options in Puerto Rico. Postpone. Delay.

We've waited long enough. We have been waiting for 112 years.

In addition, it basically opts out. This is an opt-out. Congress is basically saying I'm not going to deal with this. Easy for Congress to do, but it is not the right thing.

Congress should be engaged in this process like it has never done before. Why? There are 4 million American citizens living in that territory, and they are being discriminated against every day in legislation that is pending before the Congress. If they want to live under those conditions, so be it. They should tell this Congress. But if they want a different status, nonterritorial, they should be given the chance also to express themselves along those lines. And the options are clear.

The gentleman from Illinois, it looks like he favors one of those options, independence for Puerto Rico. He keeps talking about Puerto Rico's being a nation and so on. I respect that. If that's the will of the majority of the people of Puerto Rico, I am sure this Congress will respect it as well. But there are two other options. Yes, free association, it has been done before, and in Puerto Rico, people know very well what free association is all about. And the other one is statehood. There has been lots of talk about statehood here. And what I tell to all those who have raised concerns about the potential admission of Puerto Rico as a State is that we're not there yet. When we get there, then we will address it. But at least this bill allows the people of Puerto Rico to express their will. What is more democratic than that? What is fairer than that? Nothing. To simply say we're not going to get involved in this, solve it among yourselves, easy way out, but that's not fair. We've waited long enough.

I rise in opposition to this amendment.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. RAHALL. Mr. Chairman, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentlewoman from New York will be postponed.

AMENDMENT NO. 8 OFFERED BY MR. HASTINGS OF WASHINGTON

The CHAIR. It is now in order to consider amendment No. 8 printed in House Report 111–468.

Mr. HASTINGS of Washington. Mr. Chairman, I have an amendment in the nature of a substitute made in order under the rule.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. HASTINGS of Washington:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Puerto Rico Plebiscite Act of 2010''.

SEC. 2. PLEBISCITE.

Puerto Rico has and has had the authority to conduct a plebiscite of its residents on its future political status and to transmit the result to Congress.

Amend the long title so as to read: ''A bill to clarify Puerto Rico plebiscite authority.''.

The CHAIR. Pursuant to House Resolution 1305, the gentleman from Washington (Mr. HASTINGS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Washington.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the debate here has centered largely on the procedure by which citizens of Puerto Rico should, if they desire, become a State. I am of the opinion and what this amendment does is to state very specifically that the citizens of Puerto Rico have within their power to make that determination. I think that is the proper way to go.

But I also believe that the amendment that just passed by a voice vote, the Velázquez amendment, accomplishes the same thing. So I don't want to be redundant, and in a moment, Mr. Chairman, I am going to ask if I can have this amendment withdrawn.

But before I do that, I yield 1 minute to my colleague from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. I thank the gentleman for yielding to me.

I just want to make a couple of comments before we end this debate, as we will very, very soon.

I know that everybody thinks this is about self-determination. If it were truly about self-determination, why are the other two parties in Puerto Rico opposed to the bill? Why is it that all those who believe in independence are opposed to the bill? Why are those that believe in commonwealth opposed to the bill? If there is such consensus, if the gentleman truly represents the will of the people of Puerto Rico, why are the other two parties opposed to the bill? And that's a very important question that we ask ourselves.

Secondly, Mr. PIERLUISI acknowledged, just so that we have it all, in the Puerto Rican media, that he didn't seek the opinions of the opposition party with regards to this bill because it would have been, according to him, una perdida de tiempo. That means ''a waste of time.''

Now, all I want to say is it isn't a waste of time. It is valuable. And that's why I am so happy that you are doing what you're doing because I think we can all gather around the gentlewoman VELÁZQUEZ and support her amendment.

Buscar consenso no es una perdida de tiempo. To seek consensus is not a waste of time.

Mr. RAHALL. Mr. Chairman, I rise in opposition to the amendment.

The CHAIR. The gentleman from West Virginia is recognized for 5 minutes.

Mr. RAHALL. First, Mr. Chairman, just a correction. The gentleman from Washington stated that the previous amendment passed by voice vote. We have a rollcall order on that; so I just wanted to correct that.

Mr. HASTINGS of Washington. Will the gentleman yield?

Mr. RAHALL. I yield to the gentleman from Washington.

Mr. HASTINGS of Washington. I understand that. The chairman said that the amendment passed.

Mr. RAHALL. We do have a rollcall vote scheduled on that.

Mr. HASTINGS of Washington. But there will be a rollcall vote.

Mr. RAHALL. Reclaiming my time, this particular amendment does nothing to fulfill our obligation to provide

a process for self-determination for the people of Puerto Rico, and it is very similar to previous amendments that have been offered today. It was my hope that when the gentleman supported reporting the bill from committee, when he voted for it back on July 22, 2009, when the bill passed out of our Natural Resources Committee on a 30–8, I see the ranking member, my good friend, the gentleman from Washington is listed as ''aye'' vote. It's an ''aye'' vote for the pending legislation before us today.

In addition, in looking through the report here, I see no dissenting views. There are additional views, but there are no dissenting views to this bill as it came out of our Committee on Natural Resources back on July 22 of last year.

So we are where we are. Regrettably, the gentleman's substitute does nothing to advance the goal of self-determination for the people of Puerto Rico. It states the obvious. Puerto Rico does have the authority to conduct a plebiscite on its own. It has done so on several occasions, often with confusing definitions of the alternatives. But there has never been, never been, a congressionally authorized plebiscite, one backed by the full power of the United States Congress. And that is what the underlying bill is all about. That is what our efforts are here about, showing some congressionally sanctioned approval of the Puerto Ricans' efforts at self-determination.

Mr. Chairman, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Chairman, I yield myself the balance of my time.

In response to my good friend from West Virginia, the distinguished chairman of the committee, yes, it's true, I voted for the bill, but there is always more to the rest of the story.

In my opening remarks, I expressed doubt that this is the proper way to go. I expressed those doubts, but I know that this issue is something that needs to be resolved. I was hoping when it got to the floor of the House it might have an open rule so it could be perfected, but I wanted to find out more about this issue, and I found out more about these issues and why now I believe I should be in opposition to it. I called Governor Fortuno last Friday and told him of my decision on that, and he was very gracious when we had that conversation.

Now, as to this amendment, as I had mentioned, I think the Velázquez amendment accomplishes what I would want to accomplish in my amendment. So, Mr. Chairman, I rise in support of the Velázquez amendment when we have the rollcall.

Mr. Chairman, I ask unanimous consent to have my amendment withdrawn.

The CHAIR. Without objection, the amendment is withdrawn.

There was no objection.

ANNOUNCEMENT BY THE CHAIR

The CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 111–468 on which further proceedings were postponed, in the following order:

Amendment No. 1 by Ms. FOXX of North Carolina.

Amendment No. 2 by Mr. GUTIERREZ of Illinois.

Amendment No. 3 by Mr. GUTIERREZ of Illinois.

Amendment No. 4 by Mr. BURTON of Indiana.

Amendment No. 5 by Ms. VELÁZQUEZ of New York.

Amendment No. 6 by Ms. VELÁZQUEZ of New York.

Amendment No. 7 by Ms. VELÁZQUEZ of New York.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 1 OFFERED BY MS. FOXX

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from North Carolina (Ms. FOXX) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 223, noes 179, not voting 34, as follows:

[Roll No. 234]

AYES—223

Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Austria
Bachmann
Bachus
Bartlett
Barton (TX)
Bean
Becerra
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boustany
Brady (TX)
Bright
Broun (GA)
Buchanan
Burgess
Buyer
Calvert
Camp
Capito
Capuano
Carney
Carter
Cassidy
Chaffetz
Christensen
Cleaver
Coble
Coffman (CO)
Cole
Conaway
Cooper
Costello
Courtney
Cuellar
Culberson
Cummings
Davis (IL)
Davis (KY)
DeLauro
Dent
Dreier
Duncan
Ellison
Ellsworth
Emerson
Fattah
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Goodlatte
Graves
Green, Al
Griffith
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Halvorson
Harman
Harper
Hastings (WA)
Heller
Hensarling
Herger
Herseth Sandlin
Himes
Holden
Honda
Hunter
Inglis
Issa
Jackson (IL)
Jenkins
Johnson, Sam
Jones
Jordan (OH)
Kanjorski
Kaptur
Kilpatrick (MI)
King (IA)
Kingston
Kirk
Kucinich
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Lipinski
LoBiondo
Lowey
Lucas
Luetkemeyer
Lummis
Mack
Manzullo
Marchant
Marshall
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Mitchell
Moore (WI)
Moran (KS)
Murphy (NY)
Murphy, Tim
Myrick
Nadler (NY)
Neugebauer
Oberstar
Obey
Olson
Paulsen
Payne
Pence
Perriello
Peters
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Quigley
Radanovich
Rangel
Rehberg
Richardson
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Roskam
Ross
Roybal-Allard
Royce
Rush
Ryan (WI)
Sarbanes
Scalise
Schakowsky
Schmidt
Sensenbrenner
Sessions
Shadegg
Sherman
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Space
Spratt
Stearns
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tonko
Towns
Turner
Upton
Velázquez
Walden
Watt
Weiner
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Young (FL)

NOES—179

Ackerman
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Berkley
Berman
Berry
Bishop (NY)
Blumenauer
Boccieri
Bordallo
Boswell
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Brown-Waite, Ginny
Burton (IN)
Campbell
Cantor
Cao
Capps
Cardoza
Carnahan
Carson (IN)
Castle
Chandler
Childers
Chu
Clarke
Clyburn
Connolly (VA)
Conyers
Costa
Crenshaw
Crowley
Dahlkemper
Davis (CA)
Davis (TN)
DeFazio
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ehlers
Engel
Eshoo
Etheridge
Farr
Filner
Fudge
Garamendi
Gonzalez
Gordon (TN)
Grayson
Grijalva
Hare
Hastings (FL)
Heinrich
Higgins
Hill
Hirono
Holt
Hoyer
Inslee
Israel
Jackson Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Kagen
Kennedy
Kildee
Kilroy
Kind
King (NY)
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Loebsack
Lofgren, Zoe
Luján
Lungren, Daniel E.
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Matheson
Matsui
McDermott
McGovern
McNerney
Meek (FL)
Miller (NC)
Miller, George
Moore (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Napolitano
Neal (MA)
Norton
Nye
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Perlmutter
Peterson
Pierluisi
Polis (CO)
Pomeroy
Price (NC)
Putnam
Rahall
Reichert
Rodriguez
Ros-Lehtinen
Rothman (NJ)
Ruppersberger
Ryan (OH)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Schauer
Schiff
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Stark
Stupak
Sutton
Tanner
Taylor
Thompson (CA)
Thompson (MS)
Titus
Tsongas
Van Hollen
Visclosky
Walz
Wasserman Schultz
Watson
Welch
Yarmuth
Young (AK)

NOT VOTING—34

Barrett (SC)
Boucher
Brown (SC)
Butterfield
Castor (FL)
Clay

Cohen
Davis (AL)
DeGette
Delahunt
Faleomavaega
Fallin
Granger
Green, Gene
Hinchey
Hinojosa
Hodes
Hoekstra
Linder
Meeks (NY)
Melancon
Mollohan
Nunes
Paul
Pingree (ME)
Reyes
Shuler
Speier
Teague
Tierney
Wamp
Waters
Waxman
Wilson (OH)

□ 1729

Ms. SUTTON and Messrs. HARE, HILL, SNYDER, KLEIN of Florida, SKELTON, CONYERS, GEORGE MILLER of California, and COSTA changed their vote from ''aye'' to ''no.''

Ms. KILPATRICK of Michigan, Ms. SCHAKOWSKY, Ms. HARMAN, Mrs. HALVORSON, and Messrs. GRIFFITH, BOOZMAN, SULLIVAN, WATT, JACKSON of Illinois, BURGESS, OLSON, AL GREEN of Texas, ELLISON, COURTNEY, and CAPUANO changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 2 OFFERED BY MR. GUTIERREZ

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Illinois (Mr. GUTIERREZ) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 164, noes 236, not voting 36, as follows:

[Roll No. 235]

AYES—164

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Bartlett
Becerra
Bilbray
Blackburn
Blunt
Bonner
Bono Mack
Boozman
Boustany
Broun (GA)
Buchanan
Calvert
Camp
Capito
Carney
Carter
Cassidy
Chaffetz
Christensen
Coble
Coffman (CO)
Conaway
Costello
Culberson
Davis (IL)
Davis (KY)
Dreier
Duncan
Edwards (MD)
Ellison
Ellsworth
Flake
Fleming
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Giffords
Gingrey (GA)
Gohmert
Graves
Griffith
Grijalva
Guthrie
Gutierrez
Hall (NY)
Hall (TX)
Hastings (WA)
Heller
Hensarling
Herger
Herseth Sandlin
Holden
Honda
Hunter
Inglis
Jenkins
Johnson (IL)
Jones
Jordan (OH)
Kanjorski
Kaptur
Kilpatrick (MI)
King (IA)
Kingston
Kirk
Kucinich
Lamborn
Lance
Latham
Latta
Lee (CA)
Lee (NY)
Lewis (CA)
LoBiondo
Lucas
Luetkemeyer
Lynch
Manzullo
Marchant
Marshall
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McIntyre
McKeon
McMahon
McMorris Rodgers
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Mitchell
Moore (WI)
Moran (KS)
Murphy (NY)
Neal (MA)
Neugebauer
Paulsen
Perriello
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Quigley
Radanovich
Rangel
Rehberg
Richardson
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Roskam
Roybal-Allard
Royce
Ryan (WI)
Scalise
Schakowsky
Schmidt
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Space
Stearns
Sullivan
Terry
Thompson (PA)
Thornberry
Tonko
Towns
Upton
Velázquez
Watt
Weiner
Westmoreland
Whitfield
Wilson (SC)
Wolf
Woolsey
Young (FL)

NOES—236

Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Barton (TX)
Bean
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blumenauer
Boccieri
Boehner
Bordallo
Boren
Boswell
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Campbell
Cao
Capps
Capuano
Cardoza
Carnahan
Carson (IN)
Castle
Chandler
Childers
Chu
Clarke
Clyburn
Cole
Connolly (VA)
Conyers
Cooper
Costa
Courtney
Crenshaw
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (TN)
DeFazio
DeLauro
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (TX)
Ehlers
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Forbes
Foster
Fudge
Garamendi
Gerlach
Gonzalez
Goodlatte
Gordon (TN)
Grayson
Green, Al
Halvorson
Hare
Harman
Harper
Hastings (FL)
Heinrich
Higgins
Hill
Himes
Hirono
Holt
Hoyer
Inslee
Israel
Issa
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Johnson, Sam
Kagen
Kennedy
Kildee
Kilroy
Kind
King (NY)
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Langevin
Larsen (WA)
Larson (CT)
LaTourette
Levin
Lewis (GA)
Lipinski
Loebsack
Lofgren, Zoe
Lowey
Luján
Lummis
Lungren, Daniel E.
Mack
Maffei
Maloney
Markey (CO)
Markey (MA)
Matheson
Matsui
McCarthy (CA)
McDermott
McGovern
McHenry
McNerney
Meek (FL)
Mica
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moran (VA)
Murphy (CT)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Norton
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pence
Perlmutter
Peters
Peterson
Pierluisi
Polis (CO)
Pomeroy
Price (NC)
Putnam
Rahall
Reichert
Rodriguez
Ros-Lehtinen
Ross
Rothman (NJ)
Ruppersberger
Rush
Ryan (OH)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schauer
Schiff
Schock
Schrader
Schwartz
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Stupak
Sutton
Tanner
Taylor
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Titus
Tsongas
Turner
Van Hollen
Visclosky
Walden
Walz
Wasserman Schultz
Watson
Welch
Wittman
Wu
Yarmuth
Young (AK)

NOT VOTING—36

Barrett (SC)
Boucher
Brown (SC)
Butterfield
Cantor
Castor (FL)
Clay
Cleaver
Cohen
Davis (AL)
DeGette
Delahunt
Faleomavaega
Fallin
Filner
Granger
Green, Gene
Hinchey
Hinojosa
Hodes
Hoekstra
Linder
Meeks (NY)
Melancon
Mollohan
Nunes
Paul
Pingree (ME)
Reyes
Shuler
Speier
Teague
Wamp
Waters
Waxman
Wilson (OH)

ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). Members have 2 minutes remaining to vote.

□ 1738

Ms. DELAURO changed her vote from ''aye'' to ''no.''

Mr. DAVIS of Illinois and Mrs. BLACKBURN changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Chair, on rollcall No. 235, I was away from the Capitol due to commitments in my Congressional District. Had I been present, I would have voted "no."

AMENDMENT NO. 3 OFFERED BY MR. GUTIERREZ

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Illinois (Mr. GUTIERREZ) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 13, noes 386, not voting 37, as follows:

[Roll No. 236]

AYES—13

Chaffetz
Edwards (MD)
Grijalva
Gutierrez
Honda
Jackson Lee (TX)
Kucinich
Lee (CA)
Moore (WI)
Napolitano
Quigley
Towns
Velázquez

NOES—386

Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Bordallo
Boren
Boswell
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Carter
Cassidy
Castle
Chandler

Childers
Christensen
Chu
Clarke
Cleaver
Clyburn
Coble
Coffman (CO)
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
DeLauro
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gonzalez
Goodlatte
Gordon (TN)
Graves
Grayson
Green, Al
Griffith
Guthrie
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hirono
Holden
Holt
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (NY)
Levin
Lewis (CA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Moore (KS)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Neal (MA)
Neugebauer
Norton
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pierluisi
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Radanovich
Rahall
Rangel
Rehberg
Reichert
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Tsongas
Turner
Upton
Van Hollen
Visclosky
Walden
Walz
Wasserman Schultz
Watson
Watt
Weiner
Welch
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—37

Barrett (SC)
Boucher
Brown (SC)
Butterfield
Castor (FL)
Clay
Cohen
Davis (AL)
DeGette
Delahunt
Faleomavaega
Fallin
Filner
Gohmert
Granger
Green, Gene
Hinchey
Hinojosa
Hodes
Hoekstra
Lewis (GA)
Linder
Meeks (NY)
Melancon
Mollohan
Nunes
Paul
Pingree (ME)
Reyes
Rooney
Shuler
Speier
Teague
Wamp
Waters
Waxman
Wilson (OH)

ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). Members have 2 minutes remaining to vote.

□ 1744

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Chair, on rollcall No. 236, I was away from the Capitol due to commitments in my Congressional District. Had I been present, I would have voted "no."

AMENDMENT NO. 4 OFFERED BY MR. BURTON OF INDIANA

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Indiana (Mr. BURTON) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 301, noes 100, not voting 35, as follows:

[Roll No. 237]

AYES—301

Ackerman
Aderholt
Adler (NJ)
Alexander
Altmire
Arcuri
Austria
Baca
Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Boccieri
Bono Mack
Bordallo
Boren
Boswell
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cao
Capito
Capps
Cardoza
Carnahan
Carney
Carter
Cassidy
Castle
Chaffetz
Chandler
Childers
Cleaver
Clyburn
Coble
Cole
Conaway
Connolly (VA)
Cooper
Costa
Costello
Crenshaw
Crowley
Cuellar
Culberson
Dahlkemper
Davis (CA)
Davis (KY)
Davis (TN)
DeFazio
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (TX)
Ehlers
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Flake
Foster
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gonzalez
Goodlatte
Griffith
Guthrie
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Holden
Holt
Hoyer
Inslee
Israel
Issa
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (NY)
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Lance
Langevin
Larsen (WA)
Latham
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Luján
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Markey (CO)
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Mica
Miller (MI)
Miller (NC)
Miller, George
Minnick
Mitchell
Moore (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Nadler (NY)
Neal (MA)
Neugebauer
Norton
Nye
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pierluisi
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (NC)
Putnam
Radanovich
Rahall
Rehberg
Reichert
Richardson
Rodriguez
Roe (TN)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Ryan (WI)
Sablan
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schauer
Schiff
Schock
Schrader
Schwartz
Scott (GA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuster
Simpson
Sires
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Space
Spratt
Stark
Stearns
Stupak
Sutton
Tanner
Taylor
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiberi
Tierney
Titus
Tonko
Tsongas
Turner
Upton
Van Hollen
Visclosky
Walden
Walz
Wasserman Schultz
Watson
Welch
Whitfield
Wilson (SC)
Wolf
Wu
Yarmuth
Young (AK)
Young (FL)

NOES—100

Akin
Andrews
Bachmann
Bachus
Bilbray
Blunt
Boehner
Bonner
Boozman
Broun (GA)
Brown, Corrine
Cantor
Capuano
Carson (IN)
Christensen
Chu
Clarke
Coffman (CO)
Conyers
Courtney
Cummings
Davis (IL)
DeLauro
Edwards (MD)
Ellison
Fattah
Fleming
Forbes
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Gingrey (GA)
Gordon (TN)
Graves
Grayson
Green, Al
Grijalva
Gutierrez
Harper
Hastings (WA)
Heller
Hirono
Honda
Hunter
Inglis
Jackson (IL)
Jackson Lee (TX)
Jenkins
Jordan (OH)
King (IA)
Kingston
Kirk
Kucinich
Lamborn
Larson (CT)
Latta
Lee (CA)
Lee (NY)
Lucas
Luetkemeyer
Lummis
Marchant
Markey (MA)
McDermott

McHenry
McKeon
McMorris Rodgers
Michaud
Miller (FL)
Miller, Gary
Moore (WI)
Moran (KS)
Myrick
Napolitano
Oberstar
Pitts
Price (GA)
Quigley
Rangel
Rogers (AL)
Royce
Rush
Salazar
Schakowsky
Schmidt
Scott (VA)
Skelton
Slaughter
Souder
Sullivan
Terry
Tiahrt
Towns
Velázquez
Watt
Weiner
Westmoreland
Wittman
Woolsey

NOT VOTING—35

Barrett (SC)
Boucher
Brown (SC)
Butterfield
Castor (FL)
Clay
Cohen
Davis (AL)
DeGette
Delahunt
Faleomavaega
Fallin
Filner
Gohmert
Granger
Green, Gene
Hinchey
Hinojosa
Hodes
Hoekstra
Linder
Meeks (NY)
Melancon
Mollohan
Nunes
Paul
Pingree (ME)
Reyes
Shuler
Speier
Teague
Wamp
Waters
Waxman
Wilson (OH)

ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). Members have 2 minutes remaining to vote.

□ 1751

Mr. SMITH of Texas changed his vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated for:

Mr. FILNER. Mr. Chair, on rollcall No. 237, I was away from the Capitol due to commitments in my Congressional District. Had I been present, I would have voted "yes."

AMENDMENT NO. 5 OFFERED BY MS. VELÁZQUEZ

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 11, noes 387, not voting 38, as follows:

[Roll No. 238]

AYES—11

Gutierrez
Honda
Jackson Lee (TX)
Kaptur
Kilpatrick (MI)
Kucinich
Lee (CA)
Moore (WI)
Towns
Velázquez
Weiner

NOES—387

Ackerman
Aderholt
Adler (NJ)
Alexander
Altmire
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrow
Bartlett
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Bordallo
Boren
Boswell
Boustany
Boyd
Brady (PA)
Brady (TX)
Braley (IA)
Bright
Broun (GA)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Capps
Capuano
Cardoza
Carney
Carson (IN)
Carter
Cassidy
Castle
Chaffetz
Chandler
Childers
Christensen
Chu
Clarke
Cleaver
Clyburn
Coble
Coffman (CO)
Cole
Conaway
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crenshaw
Crowley
Cuellar
Culberson
Cummings
Dahlkemper
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
DeLauro
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Graves
Grayson
Griffith
Grijalva
Guthrie
Hall (NY)
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hirono
Holden
Holt
Hoyer
Hunter
Inglis
Inslee
Israel
Issa
Jackson (IL)
Jenkins
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kennedy
Kildee
Kilroy
Kind
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lowey
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Meek (FL)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Moore (KS)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Norton
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pierluisi
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Space
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Tsongas
Turner
Upton
Van Hollen
Visclosky
Walden
Walz
Wasserman Schultz
Watson
Watt
Welch
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Woolsey
Wu
Yarmuth
Young (AK)
Young (FL)

NOT VOTING—38

Akin
Barrett (SC)
Boucher
Brown (SC)
Butterfield
Carnahan
Castor (FL)
Clay
Cohen
Davis (AL)
DeGette
Delahunt
Faleomavaega
Fallin
Filner
Granger
Green, Al
Green, Gene
Hinchey
Hinojosa
Hodes
Hoekstra
Linder
Meeks (NY)
Melancon
Mollohan
Nunes
Paul
Pingree (ME)
Reyes
Schock
Shuler
Speier
Teague
Wamp
Waters
Waxman
Wilson (OH)

ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). Members have 2 minutes remaining to vote.

□ 1758

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Chair, on rollcall No. 238, I was away from the Capitol due to commitments in my congressional district. Had I been present, I would have voted "no."

AMENDMENT NO. 6 OFFERED BY MS. VELÁZQUEZ

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 112, noes 285, not voting 39, as follows:

[Roll No. 239]

AYES—112

Altmire
Bartlett
Bilbray
Bishop (GA)
Bonner
Boozman
Boren
Brady (TX)
Bright
Broun (GA)
Burgess
Capito
Carter
Christensen
Clarke
Coble
Coffman (CO)
Cole
Conaway
Cooper
Costello
Courtney
Culberson
DeLauro
Dreier
Duncan
Ellison
Ellsworth
Flake
Fortenberry
Foster
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gerlach
Giffords
Gingrey (GA)
Grijalva
Gutierrez
Hall (TX)
Hastings (WA)
Hensarling
Herger
Herseth Sandlin
Himes
Honda
Inglis
Johnson (IL)
Jordan (OH)
Kaptur
Kilpatrick (MI)
King (IA)
Kingston
Kline (MN)
Kucinich
Lamborn
Lance
Larson (CT)
Latham
Lee (CA)
Lee (NY)
Lowey
Marchant
Marshall
Matheson
McMahon
McMorris Rodgers

Michaud
Miller, Gary
Minnick
Mitchell
Moore (WI)
Murphy (CT)
Murphy (NY)
Nadler (NY)
Neal (MA)
Neugebauer
Nye
Olson
Pence
Pitts
Platts
Poe (TX)
Price (GA)
Richardson
Rogers (KY)
Rohrabacher
Roskam
Roybal-Allard
Royce
Scalise
Schakowsky
Schrader
Sessions
Shadegg
Sherman
Skelton
Smith (NE)
Smith (TX)
Souder
Space
Stearns
Sullivan
Thornberry
Tonko
Towns
Velázquez
Watt
Weiner
Westmoreland
Wilson (SC)

NOES—285

Ackerman
Aderholt
Adler (NJ)
Akin
Alexander
Andrews
Arcuri
Austria
Baca
Bachmann
Bachus
Baird
Baldwin
Barrow
Barton (TX)
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boccieri
Boehner
Bono Mack
Bordallo
Boswell
Boustany
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Cassidy
Castle
Chaffetz
Chandler
Childers
Chu
Cleaver
Clyburn
Connolly (VA)
Conyers
Costa
Crenshaw
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
DeFazio
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ehlers
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Fleming
Forbes
Fudge
Gallegly
Garamendi
Garrett (NJ)
Gonzalez
Goodlatte
Gordon (TN)
Graves
Grayson
Green, Al
Griffith
Guthrie
Hall (NY)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Heinrich
Heller
Higgins
Hill
Hirono
Holden
Holt
Hoyer
Hunter
Inslee
Israel
Issa
Jackson (IL)
Jackson Lee (TX)
Jenkins
Johnson (GA)
Johnson, E. B.
Johnson, Sam
Jones
Kagen
Kanjorski
Kennedy
Kildee
Kilroy
Kind
King (NY)
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Langevin
Larsen (WA)
LaTourette
Latta
Levin
Lewis (CA)
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lofgren, Zoe
Lucas
Luetkemeyer
Luján
Lummis
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Manzullo
Markey (CO)
Markey (MA)
Matsui
McCarthy (CA)
McCarthy (NY)
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McNerney
Meek (FL)
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, George
Moore (KS)
Moran (KS)
Moran (VA)
Murphy, Patrick
Murphy, Tim
Myrick
Napolitano
Norton
Oberstar
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Perlmutter
Perriello
Peters
Peterson
Petri
Pierluisi
Polis (CO)
Pomeroy
Posey
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (MI)
Rooney
Ros-Lehtinen
Ross
Rothman (NJ)
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schauer
Schiff
Schmidt
Schock
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sestak
Shea-Porter
Shimkus
Shuster
Simpson
Sires
Smith (NJ)
Smith (WA)
Snyder
Spratt
Stark
Stupak
Sutton
Tanner
Taylor
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Tiahrt
Tiberi
Tierney
Titus
Tsongas
Turner
Upton
Van Hollen
Visclosky
Walden
Walz
Wasserman Schultz
Watson
Welch
Whitfield
Wittman
Wolf
Woolsey
Wu
Young (AK)
Young (FL)

NOT VOTING—39

Barrett (SC)
Boucher
Brown (SC)
Butterfield
Castor (FL)
Clay
Cohen
Davis (AL)
DeGette
Delahunt
Faleomavaega
Fallin
Filner
Gohmert
Granger
Green, Gene
Hinchey
Hinojosa
Hodes
Hoekstra
Linder
McCaul
Meeks (NY)
Melancon
Mollohan
Nunes
Obey
Paul
Pingree (ME)
Reyes
Shuler
Slaughter
Speier
Teague
Wamp
Waters
Waxman
Wilson (OH)
Yarmuth

ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). Members have 2 minutes remaining to vote.

□ 1805

Mr. SPRATT changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Chair, on rollcall No. 239, I was away from the Capitol due to commitments in my congressional district. Had I been present, I would have voted ''no.''

AMENDMENT NO. 7 OFFERED BY MS. VELÁZQUEZ

The CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 171, noes 223, not voting 42, as follows:

[Roll No. 240]

AYES—171

Aderholt
Adler (NJ)
Akin
Altmire
Arcuri
Austria
Bachmann
Bachus
Bartlett
Barton (TX)
Becerra
Bilbray
Bilirakis
Bishop (GA)
Blunt
Boehner
Bonner
Boozman
Boren
Boustany
Brady (TX)
Bright
Broun (GA)
Buchanan
Buyer
Calvert
Capito
Carney
Carter
Cassidy
Chaffetz
Chandler
Coble
Coffman (CO)
Conaway
Cooper
Costello
Courtney
Davis (IL)
Davis (KY)
DeLauro
Dreier
Duncan
Ellison
Ellsworth
Emerson
Fattah
Flake
Forbes
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Gallegly
Gerlach
Giffords
Gingrey (GA)
Goodlatte
Graves
Griffith
Grijalva
Guthrie
Gutierrez
Hall (TX)
Hastings (WA)
Heller
Hensarling
Herger
Holden
Honda
Hunter
Inglis
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
Kanjorski
Kaptur
Kilpatrick (MI)
King (IA)
Kucinich
Lamborn
Lance
Larson (CT)
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Lipinski
LoBiondo
Lowey
Lucas
Luetkemeyer
Lynch
Manzullo
Marchant
Marshall
Matheson
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McHenry
McKeon
McMahon
McMorris Rodgers
Michaud
Miller (MI)
Miller, Gary
Minnick
Mitchell
Moore (WI)
Moran (KS)
Myrick
Nadler (NY)
Neal (MA)
Neugebauer
Nye
Olson
Paulsen
Perriello
Petri
Pitts
Platts
Poe (TX)
Price (GA)
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Roskam
Roybal-Allard
Royce
Rush
Ryan (WI)
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Sherman
Shimkus
Shuster
Simpson
Skelton
Smith (TX)
Souder
Space
Stearns
Sullivan
Tanner
Thompson (PA)
Thornberry
Tiberi
Tonko
Towns
Turner
Upton
Velázquez
Watt
Weiner
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf

NOES—223

Ackerman
Alexander
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Berkley
Berman
Berry
Biggert
Bishop (NY)
Bishop (UT)
Boccieri
Bono Mack
Bordallo
Boswell
Brady (PA)
Braley (IA)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Camp
Campbell
Cantor
Cao
Capps
Capuano
Cardoza
Carnahan
Carson (IN)
Castle
Childers
Chu
Clarke
Cleaver
Clyburn
Cole
Connolly (VA)
Conyers
Costa
Crenshaw
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (TN)
DeFazio
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ehlers
Engel
Eshoo
Etheridge
Farr
Fleming
Foster
Frelinghuysen
Fudge
Garamendi
Garrett (NJ)
Gonzalez
Gordon (TN)
Grayson
Green, Al
Hall (NY)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hirono
Holt
Hoyer
Inslee
Israel
Issa
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kennedy
Kildee
Kilroy
Kind
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Langevin
Larsen (WA)
Lee (CA)
Levin
Lewis (GA)
Loebsack
Lofgren, Zoe
Luján
Lummis
Lungren, Daniel E.
Maffei
Maloney
Markey (CO)
Markey (MA)
Matsui
McCarthy (CA)
McDermott
McGovern
McIntyre
McNerney
Meek (FL)
Mica
Miller (FL)
Miller (NC)
Miller, George
Moore (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Napolitano
Norton
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pence
Perlmutter
Peters
Peterson
Pierluisi
Polis (CO)
Pomeroy
Posey
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Richardson
Rodriguez
Ros-Lehtinen

Ross	Scott (VA)	Thompson (MS)
Rothman (NJ)	Serrano	Tiahrt
Ruppersberger	Sestak	Tierney
Ryan (OH)	Shea-Porter	Titus
Sablan	Sires	Tsongas
Salazar	Slaughter	Van Hollen
Sánchez, Linda T.	Smith (NE)	Visclosky
	Smith (NJ)	Walden
Sanchez, Loretta	Smith (WA)	Walz
Sarbanes	Snyder	Wasserman Schultz
Schakowsky	Spratt	
Schauer	Stark	Watson
Schiff	Stupak	Welch
Schock	Sutton	Woolsey
Schrader	Taylor	Wu
Schwartz	Terry	Young (AK)
Scott (GA)	Thompson (CA)	Young (FL)

NOT VOTING—42

Barrett (SC)	Delahunt	Melancon
Blackburn	Faleomavaega	Mollohan
Blumenauer	Fallin	Nunes
Boucher	Filner	Paul
Boyd	Gohmert	Pingree (ME)
Brown (SC)	Granger	Reyes
Butterfield	Green, Gene	Shuler
Castor (FL)	Hinchey	Speier
Christensen	Hinojosa	Teague
Clay	Hodes	Wamp
Cohen	Hoekstra	Waters
Culberson	Linder	Waxman
Davis (AL)	Mack	Wilson (OH)
DeGette	Meeks (NY)	Yarmuth

ANNOUNCEMENT BY THE CHAIR

The CHAIR (during the vote). Members have 2 minutes remaining to vote.

□ 1811

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Chair, on rollcall 240, I was away from the Capitol due to commitments in my Congressional District. Had I been present, I would have voted "no."

The CHAIR. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIR. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WEINER) having assumed the chair, Mr. SCHIFF, Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2499) to provide for a federally sanctioned self-determination process for the people of Puerto Rico, pursuant to House Resolution 1305, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. HASTINGS of Washington. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HASTINGS of Washington. I am.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Hastings of Washington moves to recommit the bill H.R. 2499 to the Committee on Natural Resources with instructions to report the same back to the House forthwith with the following amendment:

Amend Section 2(c)(3) to read as follows:

(3) Statehood: Puerto Rico should be admitted as a State of the Union, the official language of this State shall be English, and all its official business shall be conducted in English; and laws shall be in place that ensure that its residents have the Second Amendment right to own, possess, carry, use for lawful self defense, store. assembled at home, and transport for lawful purposes, firearms and in any amount ammunition, provided that such keeping and bearing of firearms and ammunition does not otherwise violate Federal law. If you agree, mark here _____.

Mr. HASTINGS of Washington (during the reading). Mr. Chairman, I ask unanimous consent that the motion be considered read.

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

There was no objection.

The SPEAKER pro tempore. The gentleman is recognized for 5 minutes.

Mr. HASTINGS of Washington. Mr. Speaker, as the House considers the bill on Puerto Rico's future, this motion to recommit provides Members of the House an opportunity to register their views on questions of English as an official language and on the importance of protecting Americans' Second Amendment rights.

□ 1815

Mr. Speaker, two amendments were filed with the Rules Committee to directly address the issues of the English language and Second Amendment gun rights. Both were blocked by the Democrat-controlled Rules Committee.

What that means, of course, is that Members have no opportunity to debate this issue. Making an amendment in order does not guarantee, obviously, the outcome. Yet we are even denied the opportunity of English as the official language and Second Amendment rights. So this motion to recommit simply combines these two issues in the motion to recommit. Let me explain specifically what the motion will do.

It will amend the description of ''statehood,'' which will appear on the plebiscite ballot authorized under this bill, to state: one, English will be the official language of the State, and all official business will be conducted in English; two, laws will be in place that will ''ensure residents have the Second Amendment right to own, possess, carry, use for self-defense, store assembled at home, and transport for lawful purposes, firearms and in any amount ammunition, providing that such keeping and bearing of firearms and ammunition does not otherwise violate Federal law.''

This MTR simply expresses the views on these two important issues. It has been asserted during the debate that providing for English as the official language is something unprecedented or that it is something which hasn't been talked about or whatever. That is simply not true, because four States were admitted to the Union, and part of that admittance was a requirement that English would be the official language.

So, Mr. Speaker, this is a pretty straightforward motion to recommit, and I urge my colleagues to vote for the motion to recommit.

I yield back the balance of my time.

Mr. PIERLUISI. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Puerto Rico is recognized for 5 minutes.

Mr. PIERLUISI. The matters that are being raised in this motion are premature. They are irrelevant, actually, because all that H.R. 2499 does is to consult the people of Puerto Rico on the four available options that they have regarding our status—the current status of the territory, statehood, independence, and free association.

The people of Puerto Rico have not yet expressed by a majority that they want to join the Union as a State. I hope that it comes about, and when it comes about, Puerto Rico will comply with the Second Amendment in the same way that all the other States must comply with the Second Amendment.

The same goes for the English language. That shouldn't be an issue. It shouldn't be an issue now in Puerto Rico, and it will not be an issue, if the time comes, when we become a State. Puerto Rico now has two official languages—English and Spanish. Ninety percent of our parents want their children to be fluent in English. We are proud of having English as a language, and we want to improve it. In fact, I have two bills pending before this Congress for that very purpose.

So both issues are being unfairly placed—at least that is what the motion seeks—in the ballot that the people of Puerto Rico will be having in front of them. What the motion seeks is to somehow tell the people of Puerto Rico, You can have statehood, but just English only and only if you comply with the Second Amendment.

I oppose this motion because it is untimely, and it is premature. The day will come when we will debate these issues, but that day is not now.

I yield 1 minute to the majority leader, the gentleman from Maryland (Mr. HOYER).

The SPEAKER pro tempore. The gentleman may not yield blocks of time and must remain on his feet.

Mr. HOYER. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman from Puerto Rico has 2 minutes and 40 seconds remaining.

Mr. HOYER. I thank the gentleman for yielding, and I rise in opposition to this motion.

I traveled throughout the Soviet Union to captive nations with many of you, and I rose in those nations and said to the leaders, You need to give your people self-determination.

Many of you have said the same thing on this floor. You've said it about tyrant governments that have kept their peoples from practicing their own religions, from speaking their own languages, from adopting their own laws. You have spoken out against it. They were foreign nations, and it was easy to do. But now we talk about Puerto Rico, a territory of the United States of America. What Mr. PIERLUISI seeks to do, what his Governor wants to do, what two-thirds of his legislature want to do—the senate and the house—is to give them the opportunity to exercise that self-determination.

Now, on this floor, we have adopted an amendment, for which many have spoken, that we ought to give four alternatives rather than three. We've done that. There will now be four alternatives for the people of Puerto Rico on the second ballot. Let us now defeat this amendment designed only to defeat this bill.

Hawaii was not made to do this. As the gentleman from Alaska, DON YOUNG, will tell you and as he said on the floor, Alaska was not made to do this, and we did not ask that to occur in any one of the captive nations to which we spoke. Ronald Reagan did not ask for that. Let us not ask for it. Let us give an honest up-or-down vote to the people of Puerto Rico, who for 112 years have perceived themselves as a colony.

Now, there are some who want statehood. There are some who want independence and sovereign status. There are some who want commonwealth. There are, perhaps, some who want a relationship with the United States somewhat like Australia has with Great Britain. As the gentleman from Puerto Rico said, do not diminish this principle, however, with the politics of the future. This will be debated when and if Puerto Rico asks for statehood.

Your Republican Governor asks for a vote for this bill and against this motion to recommit. I ask my party to do the same. Give Puerto Rico its chance today.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. HASTINGS of Washington. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage, if ordered; and the motion to suspend the rules on H. Res. 375.

The vote was taken by electronic device, and there were—ayes 194, noes 198, not voting 38, as follows:

[Roll No. 241]

AYES—194

Aderholt
Adler (NJ)
Akin
Alexander
Altmire
Arcuri
Austria
Bachmann
Bachus
Barrow
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boustany
Brady (TX)
Bright
Broun (GA)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Capito
Carney
Carter
Cassidy
Castle
Chaffetz
Childers
Coble
Coffman (CO)
Cole
Conaway
Costello
Crenshaw
Culberson
Davis (KY)
Dent
Donnelly (IN)
Dreier
Driehaus
Duncan
Ehlers
Ellsworth
Emerson
Flake
Fleming
Forbes
Fortenberry
Foster
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Goodlatte
Graves
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Holden
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
Kanjorski
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Lipinski
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
McNerney
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Mitchell
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nye
Olson
Owens
Paulsen
Pence
Perriello
Peterson
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Roskam
Royce
Ryan (WI)
Scalise
Schauer
Schmidt
Sensenbrenner
Sessions
Shadegg
Shimkus
Shuster
Simpson
Skelton
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Space
Stearns
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Titus
Turner
Upton
Walden
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (FL)

NOES—198

Ackerman
Andrews
Baca
Baird
Baldwin
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Brady (PA)
Braley (IA)
Brown, Corrine
Cao
Capps
Capuano
Cardoza
Carnahan
Carson (IN)
Chu
Clarke
Cleaver
Clyburn
Connolly (VA)
Conyers
Cooper
Costa
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeLauro
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Edwards (MD)
Edwards (TX)
Ellison
Engel
Eshoo
Etheridge
Farr
Fattah
Frank (MA)
Fudge
Garamendi
Gonzalez
Gordon (TN)
Grayson
Green, Al
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hirono
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kaptur
Kennedy
Kildee
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Loebsack
Lofgren, Zoe
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
Meek (FL)
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Peters
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Richardson
Rodriguez
Ros-Lehtinen
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schiff
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Stupak
Sutton
Tanner
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Watson
Watt
Weiner
Welch
Woolsey
Wu
Young (AK)

NOT VOTING—38

Barrett (SC)
Boucher
Boyd
Brown (SC)
Butterfield
Castor (FL)
Chandler
Clay
Cohen
Davis (AL)
DeGette
Delahunt
Fallin
Filner
Granger
Green, Gene
Hinchey
Hinojosa
Hodes
Hoekstra
Kilpatrick (MI)
Linder
Meeks (NY)
Melancon
Mollohan
Nunes
Paul
Pingree (ME)
Reyes
Ross
Shuler
Speier
Teague
Wamp
Waters
Waxman
Wilson (OH)
Yarmuth

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are reminded there are 2 minutes remaining in this vote.

□ 1839

Mr. CANTOR changed his vote from ''no'' to ''aye.''

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall 241, I was away from the Capitol due to commitments in my Congressional District. Had I been present, I would have voted "no."

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 223, nays 169, answered ''present'' 1, not voting 37, as follows:

[Roll No. 242]

YEAS—223

Ackerman
Adler (NJ)
Andrews
Arcuri
Baca
Baird
Baldwin
Barrow
Bartlett
Becerra
Berkley
Berman
Biggert
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Boccieri
Boswell
Brady (PA)
Braley (IA)
Brown, Corrine
Brown-Waite, Ginny
Buchanan
Burton (IN)
Buyer
Campbell
Cantor
Cao
Capps
Capuano
Cardoza
Carnahan
Carson (IN)
Castle
Chu
Clarke
Cleaver
Clyburn
Coffman (CO)
Cole
Connolly (VA)
Conyers
Costa
Crenshaw
Crowley
Cuellar
Cummings
Dahlkemper
Davis (CA)
Davis (TN)
DeFazio
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ehlers
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Flake
Foster
Frelinghuysen
Fudge
Garamendi
Gonzalez
Gordon (TN)
Grayson
Green, Al
Grijalva
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Hensarling
Herseth Sandlin
Higgins
Hill
Himes
Hirono
Holt
Hoyer
Inslee
Israel
Issa
Jackson (IL)
Jackson Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kaptur
Kennedy
Kildee
Kilroy
Kind
King (NY)
Kirk
Kirkpatrick (AZ)
Kissell
Kline (MN)
Kosmas
Kratovil
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Loebsack
Lofgren, Zoe
Lowey
Luján
Lungren, Daniel E.
Lynch
Mack
Maffei
Maloney
Markey (CO)
Markey (MA)
Matsui
McCarthy (CA)
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meek (FL)
Mica
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moran (VA)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Nadler (NY)
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pence
Perlmutter
Peters
Peterson
Polis (CO)
Pomeroy
Posey
Price (NC)
Putnam
Rahall
Rangel
Reichert
Richardson
Rodriguez
Ros-Lehtinen
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sires
Skelton
Smith (WA)
Snyder
Spratt
Stark
Stupak
Sutton
Tanner
Taylor
Thompson (CA)
Thompson (MS)
Thompson (PA)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Visclosky
Walden
Walz
Wasserman Schultz
Watson
Watt
Welch
Woolsey
Wu
Young (AK)

NAYS—169

Aderholt
Akin
Alexander
Altmire
Austria
Bachmann
Bachus
Barton (TX)
Bean
Berry
Bilbray
Bilirakis
Bishop (UT)
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boustany
Brady (TX)
Bright
Broun (GA)
Burgess
Calvert
Camp
Capito
Carney
Carter
Cassidy
Chaffetz
Chandler
Childers
Coble
Conaway
Cooper
Costello
Courtney
Culberson
Davis (IL)
Davis (KY)
DeLauro
Donnelly (IN)
Dreier
Duncan
Ellison
Emerson
Fleming
Forbes
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Giffords
Gingrey (GA)
Gohmert
Goodlatte
Graves
Griffith
Guthrie
Gutierrez
Hall (TX)
Harper
Hastings (WA)
Heller
Herger
Holden
Honda
Hunter
Inglis
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
Kanjorski
King (IA)
Kingston
Kucinich
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Lipinski
LoBiondo
Lucas
Luetkemeyer
Lummis
Manzullo
Marchant
Marshall
Matheson
McCaul
McClintock
McCotter
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Mitchell
Moore (WI)
Moran (KS)
Murphy (CT)
Myrick
Neugebauer
Nye
Olson
Paulsen
Perriello
Petri
Pitts
Platts
Poe (TX)
Price (GA)
Quigley
Radanovich
Rehberg
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Roskam
Ross
Royce
Rush
Ryan (WI)
Scalise
Schmidt
Sensenbrenner
Sessions
Shadegg
Sherman
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Space
Stearns
Sullivan
Terry
Thornberry
Tiahrt
Tiberi
Turner
Upton
Velázquez
Weiner
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (FL)

ANSWERED ''PRESENT''—1

Slaughter

NOT VOTING—37

Barrett (SC)
Boucher
Boyd
Brown (SC)
Butterfield
Castor (FL)
Clay
Cohen
Davis (AL)
DeGette
Delahunt
Fallin
Filner
Granger
Green, Gene
Hinchey
Hinojosa
Hodes
Hoekstra
Kilpatrick (MI)
Klein (FL)
Linder
Meeks (NY)
Melancon
Mollohan
Nunes
Paul
Pingree (ME)
Reyes
Shuler
Speier
Teague
Wamp
Waters
Waxman
Wilson (OH)
Yarmuth

□ 1855

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GENE GREEN of Texas. Mr. Speaker, on rollcall No. 242, final passage of H.R. 2499, had I been present, I would have voted "yes."

Stated against:

Mr. FILNER. Mr. Speaker, on rollcall 242, I was away from the Capitol due to commitments in my Congressional District. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. BOYD. Mr. Speaker, I was unable to attend votes this evening. Had I been present, my votes would have been as follows:

"Nay" on Velázquez (NY) Amendment in the Nature of a Substitute; "yea" on the Motion to Recommit H.R. 2499; "yea" on H.R. 2499.

PERSONAL EXPLANATION

Mrs. KILPATRICK of Michigan. Mr. Speaker, I was unable to attend to several votes today. Had I been present, I would have voted "nay" on the Motion to Recommit; "nay" on passage of H.R. 2499.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. KOSMAS). The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

VACATING ORDERING OF YEAS AND NAYS ON HOUSE RESOLUTION 375, SUPPORTING THE GOALS AND IDEALS OF WORKERS' MEMORIAL DAY

Mr. HOYER. Madam Speaker, I ask unanimous consent that the ordering of the yeas and nays on the motion to suspend the rules and agree to House Resolution 375 be vacated, to the end that the resolution be considered as adopted in the form considered by the House on Tuesday April 27, 2010.

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

There was no objection.

Accordingly (two-thirds being in the affirmative) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. CANTOR asked and was given permission to address the House for 1 minute.)

Mr. CANTOR. I yield to the gentleman from Maryland, the majority leader, for the purposes of announcing next week's schedule.

Mr. HOYER. I thank the Republican whip for yielding.

I observe that our former colleague is on the floor, the Governor of Puerto Rico. Congratulations to him.

On Tuesday, the House will meet at 12:30 p.m. for morning-hour debate and 2 p.m. for legislative business with votes postponed until 6:30 p.m. On Wednesday and Thursday, the House will meet at 10 a.m. for legislative business. On Friday, no votes are expected in the House.

We will consider several bills under suspension of the rules. The complete list of suspension bills will be announced by the close of business tomorrow. In addition, we will consider H.R. 5019, the Home Star Energy Retrofit Act of 2010.

Mr. CANTOR. I thank the gentleman.

Madam Speaker, I noticed that my friend the majority leader did not mention the budget or the supplemental for

Afghanistan and Iraq for next week's schedule. Obviously, both are extremely critical. I would like to ask, Madam Speaker, when does he expect those items to come to the floor?

I yield to the gentleman from Maryland.

Mr. HOYER. I thank the gentleman for his question, and I appreciate him yielding.

As I have said before on the floor with respect to scheduling, I agree with him on both items. I think the budget is very important, and clearly the supplemental is very important, and I hope to be able to move those as soon as possible.

□ 1900

We are working on both. I know the Appropriations Committee is working on the supplemental. I know Mr. SPRATT is working on budget. So I tell my friend that I share his view of their importance, and that we hope to be able to move those to the floor within the near future. I cannot give him a date, but within the near future.

Mr. CANTOR. I would just like to reiterate our concern that as he just expressed the need for us to focus on matters of fiscal importance—and a budget would reflect that—as well as, Madam Speaker, to ensure that the House goes in regular order, hopefully, with a supplemental bill. I know there were some reports that that supplemental would come directly to the floor. I can yield to the gentleman if he has anything to respond to that.

Mr. HOYER. I really don't have anything specific. I have talked to Mr. OBEY. I don't have the specifics of how he is going to consider that. Obviously, that is an appropriations matter, as the gentleman well observes. I would be glad to talk to Mr. OBEY specifically about how he is going to proceed and let the gentleman know.

Mr. CANTOR. I thank the gentleman, and I think in order to wrap up probably the shortest colloquy yet, I yield back the balance of my time.

ADJOURNMENT TO MONDAY, MAY 3, 2010

Mr. HOYER. Madam Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. on Monday next, and further, when the House adjourns on that day, it adjourn to meet at 12:30 p.m. on Tuesday, May 4, 2010, for morning-hour debate.

The SPEAKER pro tempore (Ms. KOSMAS). Is there objection to the request of the gentleman from Maryland?

There was no objection.

COMMUNICATION FROM CHAIR OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The SPEAKER pro tempore laid before the House the following communication from the Chair of the Committee on Transportation and Infrastructure; which was read and, without objection, referred to the Committee on Appropriations:

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,

Washington, DC, April 29, 2010.

Hon. NANCY PELOSI,
Speaker of the House of Representatives, Washington, DC.

DEAR MADAM SPEAKER: Today, on April 29, 2010, the Committee on Transportation and Infrastructure met in open session to consider four resolutions for the U.S. Army Corps of Engineers, in accordance with 33 U.S.C. §542. The resolutions authorize Corps surveys (or studies) of water resources needs and possible solutions. The Committee adopted the resolutions by voice vote with a quorum present.

Enclosed are copies of the resolutions adopted by the Committee.

Sincerely,

JAMES L. OBERSTAR.

Enclosures.

RESOLUTION—DOCKET 2822—COASTAL CONNECTICUT STORM DAMAGE REDUCTION, MILFORD, CONNECTICUT

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That the Secretary of the Army review the report of the Chief of Engineers on Land and Water Resources of the New England-New York Region, published as Senate Document No. 14, 85th Congress, 1st Session, and other reports to determine whether any modifications of the recommendations contained therein are advisable at the present time in the interest of flood damage reduction, coastal storm damage reduction, coastal erosion, and other related purposes in the vicinity of the estuaries and shoreline from the Housatonic River to the Oyster River of Milford, Connecticut.

RESOLUTION—DOCKET 2823—HOUSATONIC RIVER WATERSHED, MASSACHUSETTS AND CONNECTICUT

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That the Secretary of the Army review the report of the Chief of Engineers on Land and Water Resources of the New England-New York Region, published as Senate Document No. 14, 85th Congress, 1st Session, and other reports to determine whether any modifications of the recommendations contained therein are advisable at the present time in the interest of flood damage reduction, environmental restoration, and other related purposes in the vicinity of the Housatonic River, Connecticut.

RESOLUTION—DOCKET 2824—FAIRFIELD AND NEW HAVEN COUNTIES, CONNECTICUT

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That the Secretary of the Army review the report of the Chief of Engineers on Land and Water Resources of the New England-New York Region, published as Senate Document No. 14, 85th Congress, 1st Session, and other reports to determine whether any modifications of the recommendations contained therein are advisable at the present time in the interest of flood damage reduction, coastal storm damage reduction, coastal erosion, and other related purposes in the vicinity of the estuaries and shoreline of Fairfield and New Haven Counties, Connecticut.

RESOLUTION—DOCKET 2825—FIVE MILE RIVER, CONNECTICUT

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That the Secretary of the Army review the report of the Chief of Engineers on Land and Water Resources of the New England-New York Region, published as Senate Document No. 14, 85th Congress, 1st Session, and other reports to determine whether any modifications of the recommendations contained therein are advisable at the present time in the interest of flood damage reduction, environmental restoration, and other related purposes in the vicinity of Five Mile River, Connecticut.

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

(Mr. MORAN of Kansas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

BRAZILIAN CRITTERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE of Texas. I want to bring to the attention of the House a serious problem that we have encountered. It seems as though we have such a problem on our borders that now, in southeast Texas, in a small port city called Port Arthur, three illegal Brazilians have shown up in the last couple of days. They have come into the port of Port Arthur and they were stowaways on this massive ship that was bringing in Brazilian paper pulp. Thirteen thousand tons of this pulp was brought in on this ship, and through inspection by Federal authorities, they found three stowaways—three illegals from the nation of Brazil.

Now, you probably assume that I'm talking about people, but I am not. Here is one of those stowaways, one that they actually captured and gave an identification number. You see, the three stowaways turned out to be three grasshoppers. Little bitty critters. Yet our United States Agriculture Department was able to investigate and find

these three little illegal stowaways in this massive amount of paper pulp from Brazil.

So they took the pulp, and it's sitting on the dock. It's going to be sprayed down for any disease. They even gave one of these grasshoppers an official government ID number. Here it is down here: 234735719. Of course, the grasshopper was found in Jefferson County, Texas. The other two, apparently, didn't look quite as bad as this one. They thought this one might be carrying some type of disease and it has, lo and behold, been brought to Washington, D.C., to be examined further by Federal authorities to see if it was carrying any type of disease or contamination from the nation of Brazil.

Madam Speaker, I bring this to the House's attention for this reason: our United States Department of Agriculture is so good and so intense and so competent that they are able to keep out of the United States illegal grasshoppers about three inches long. They're able to find them on this massive ship in the port of Port Arthur, Texas, carrying 13,000 tons of paper pulp. They're able to capture these grasshoppers, send one to Washington, D.C., to be examined to see if it's carrying disease. I commend the Department of Agriculture for their work and tenacious activity in making sure illegal Brazilians—that are grasshoppers—don't enter the United States without being caught.

Now it seems to me that if we are so advanced with technology and manpower and competence that we can capture illegal grasshoppers from Brazil in the holds of ships that are in a little small place in Port Arthur, Texas, on the Sabine River—the Sabine River, Madam Speaker, is the river that separates Texas from Louisiana—if we're able to do that as a country, how come we cannot capture the thousands of people that cross the border every day on the border of the United States? They're a little bigger than grasshoppers, and they should be able to be captured easier.

Well, maybe it's because the country doesn't have the moral will, the government doesn't have the moral will, to protect the borders from people coming in. But we sure have the moral will as a Nation to keep these grasshopper critters from coming into the United States from Brazil. Maybe we need to make the guy down there in southeast Texas that captured this grasshopper from Brazil, he ought to be in charge of homeland security. If he's able to do this with grasshoppers, just think what he can do on the southern border of the United States.

So, Madam Speaker, we have the technology; we have the capability. We need the moral will as a Nation to secure the border of the United States. That is the responsibility of the Federal Government. The Federal Government should take some lessons from the guy that captured this grasshopper and make sure that the southern border of the United States is protected from people who come here without permission. We can do it. Let's have the moral will. Let's send the National Guard, if necessary, to the border to protect the dignity of the Nation. Because that's the job of the Federal Government.

And that's just the way it is.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

(Mr. DEFAZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

HELP FOR THE BORDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

Mr. BURTON of Indiana. Let me just say that Mr. POE of Texas, my good friend who just spoke, he added a little bit of levity, but it was very important. The point that he was making, in that we have the ability in this country to really deal with things like agriculture and insects that might come in and contaminate our crops, but we have a serious, serious problems on the 1,980-mile border between us and Mexico.

The administration has cut some of the money from the whole project of putting fences and more broad Border Patrol agents on that border. And it's a war zone, as Mr. POE has said. Mr. POE is the leader in pointing out the problems with what's going on on the border between Texas and Mexico, as well as the border all the way between the United States and the whole country of Mexico.

So I'd just like to say if I were talking to the President or anybody in his administration, listen to Mr. POE and the guys who've been down there on the border. They know. The sheriffs and the police in Arizona and all of them know that this is a war zone. American lives are at risk. And we're not doing anything from the Federal level to deal with the problem.

As Mr. POE said in a letter that he wrote that I cosigned the other day, they need to send, if necessary, the National Guard down there to augment the Border Patrol agents, some of whom are at risk every single day, every single night. And so if I were talking to the administration on behalf of my good friend, Mr. POE, and all of us that are concerned about the border and the illegals that are coming in by the thousands and now into the millions over the years, we really need to do something to protect that border. No more talking about it. Let's do it. Let's send the National Guard down there with the ability to do whatever is necessary when they're dealing with armed drug dealers or people coming across the border who may mean to do harm to American citizens.

If we give them that right and we put the National Guard down there with the ability to defend themselves against these people that are coming across the border, we can sew that thing up and we can stop the illegal immigration. Then, once we secure the border, we can start talking about a real, viable immigration reform bill. But until we secure the border, we shouldn't be talking about that. That's the number one objective.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. POSEY) is recognized for 5 minutes.

(Mr. POSEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. FORBES) is recognized for 5 minutes.

(Mr. FORBES addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

CHRYSLER DEALERSHIPS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. SHIMKUS) is recognized for 5 minutes.

Mr. SHIMKUS. I'd like to read a letter from a former Chrysler dealer in my district: ''Dear Congressman, I'd like to thank you for cosponsoring H.R. 2743, the Automobile Dealers Economic Rights Restoration Act of 2009, and H.R. 3179, the Financial Services and Government Appropriations Act for Fiscal Year 2010.

''The letter I received from you, dated August 7, 2009, was appreciated. The H.R. 3288 bill has no doubt done a great deal of good for a lot of GM and Chrysler dealers. However, the bill did not address the dealerships that lost everything and has no possible way of going back into business.

''When Chrysler informed me on May 14, 2009, that my franchise was going to be terminated effective at the close of business on June 9, 2009, I had 263 new Chrysler vehicles in inventory and $412,000 of Chrysler parts. In their letter they stated: 'We intend to maintain business as usual and after rejection, we want to work with you to assist in the redistribution of new vehicles and parts to ease the burden on you.'

''They did nothing except lie to Congress. Chrysler went out of their way to make sure I could not stay in business. The week of May 18, they sent

letters to all my customers informing them that I could not be a Chrysler dealer as of June 10, 2009, and if they need service work to take their vehicles to another dealership. At the time I was terminated, my dealership was in the top 5 percent of sales; my customer satisfaction was one of the highest Chrysler had. In 2006, my parts and service managers both were awarded Chrysler Managers of the Year and I was runner-up for Dealer of the Year.

''I could not believe I was being terminated. When I tried to call and inquire as to why I was terminated, no one would answer my call. To this day, no one has explained why I lost my franchise. By the close of business on June 9, the dealership had sold all but 186 vehicles at retail and reduced the parts inventory to $352,000. When I called Chrysler about what I should do with the leftover new vehicles, I was told that they had other issues to deal with and would get back to me in a few months. They also stated that I could not retain the vehicles as new, and the vehicles would not qualify for any of the factory rebates or factory warranties.

□ 1915

''I was forced to sell all of the 186 vehicles to other Chrysler dealers at $3,000 to $4,000 loss per vehicle, which amounted to a loss of $700,000 of cash. When I tried to sell my Chrysler parts to other dealers, they received phone calls and were told if they need parts to call Chrysler, not Dave Croft Motors.''

Madam Speaker, this is just the first page of three that I am submitting for the RECORD which talks about, really, the theft of personal-property in the government bailouts of automobile companies. This is an individual family business that has existed for decades that was destroyed, abused, and left with nothing.

He ends with, ''I will keep telling my story to anyone who will listen. I hope that some kind of law will be put in place so this cannot happen to another business in the future. I still have to tell myself that I live in America and not in China.''

What he experienced was the government intervention and taking over of personal, private wealth in this country. And it's an indication of a sad direction this country has taken when it thwarts the capitalist model of raising capital, taking a risk, and either benefiting from that risk or losing everything.

When we get involved in bailing out Wall Street banks, and then we don't bail out small Main Street businesses, what we have here is a discrepancy. If we would allow the market to work, it's not compassionate. It's very, very tough, but it is the best way to turn around the economy. Otherwise, small businesses around this country will continue to get rolled over by Big Business and Big Government.

And with that, I would like to submit the entire letter for the RECORD.

DAVE CROFT,
Edwardsville, IL, April 5, 2010.

Congressman JOHN M. SHIMKUS,
Regency Centre,
Collinsville, IL.

DEAR CONGRESSMAN: I would like to thank you for cosponsoring H.R. 2743 ''The Automobile Dealers Economic Rights Restoration Act of 2009'' and H.R. 3179, ''The Financial Services and General Government Appropriations Act for FY 2010.'' The letter I received from you dated August 7, 2009, was appreciated. The H.R. 3288 bill has no doubt done a great deal of good for a lot of the GM and Chrysler dealers. However, the bill did not address the dealerships that lost everything and has no possible way of going back in business.

When Chrysler informed me on May 14th, 2009 that my franchise was going to be terminated effective at the close of business on June 9th, 2009, I had 263 new Chrysler vehicles in inventory and $412,000 of Chrysler parts. In their letter they stated ''We intend to maintain ''business as usual'' and ''After rejection, we want to work with you to assist in the redistribution of new vehicles and parts to ease the burden on you''. They did nothing except lie to Congress. Chrysler went out of their way to make sure I could not stay in business. The week of May 18th they sent letters to all my customers informing them that I would not be a Chrysler dealer as of 6/10/2009 and if they need service work to take their vehicles to Cassens & Sons in Edwardsville.

At the time I was terminated my dealership was in the top 5% of sales, my customer satisfaction was one of the highest Chrysler had. In 2006 my Parts & Service managers both were awarded Chrysler's managers of the year and I was runner-up for dealer of the year. I could not believe I was being terminated. When I tried to call to inquire as to why I was terminated, no one would answer my call. To this day no one has explained why I lost my franchise!!!

By the close of business on June 9th, the dealership had sold all but 186 vehicles at retail and reduced the parts inventory to $352,000. When I called Chrysler about what I should do with the left over new vehicles, I was told they had other issues to deal with and would get back to me in a few months. They also stated that I could not retail the vehicles as new and the vehicles would not qualify for any of the factory rebates or factory warranty. I was forced to sell all of the 186 vehicles to other Chrysler dealers at $3,000 to $4,000 lost per vehicle which amounted to a loss of $700,000 dollars of cash. When I tried to sell my Chrysler parts to other dealers, they received phone calls and were told if they need parts to call Chrysler, not Dave Croft Motors.

In 2006 the dealership did $47,251,683 in sales and employed 55 families. In 2007 we had $55,894,301 in sales and employed 53 families. Just think of the tax dollars the State of Illinois, County of Madison and the City of Collinsville was collecting from my dealership!

After wholesaling my new car inventory to other Chrysler dealers and selling most of the parts for 15% on the dollar, it was the end of July and the dealership was out of cash. I did everything I could to keep the dealership open but without a franchise it was impossible to pay the overhead. I had to let most of my employees go. On January 19th, 2010 I had to file Chapter 7 bankruptcy. I was forced, to sell the building, which I built in 1979, to pay my creditors. My family and I lost everything we worked for the last 34 years.

It is still hard for me to believe that this could happen in America. I was always under the belief that my Congress would make sure that nothing like this could ever happen to anyone who worked as hard as my family did. I could understand if Chrysler file bankruptcy and did not receive my tax dollars to keep them in business, and then my government gave 15% to Fiat who put no money into the deal—we the people are going to lose billions of dollars on Chrysler! I just look at Chrysler's sales! Anyone can see that the government will have to give them more money. Crazy!!

After Congress passed the Automobile Dealers Economic Rights Restoration Act, 400 of the 798 dealers filed for arbitration, I being one. Chrysler reviewed the 400 who had requested arbitration and decided that 50 of the terminated dealers should NOT have been terminated and gave them a letter of intent (gave them back their franchise) without going through the arbitration process, I am one of the 50 dealers. After losing my building, all of my parts, all of my equipment, have no cash and they tell me sorry you should not have been terminated—give me a break, and, oh yes, Chrysler gave all my customers to other dealers. What do I do now? I was making a profit when my dealership was terminated and believe I would still be a strong dealer today if Chrysler had not terminated my franchise. This has been a nightmare for my customers.

I know that when you cosponsored the above bill that you had great intentions. You have to know that Chrysler will not deal in good faith. They will make the requirements to get reinstate so unreal that very few dealers will be able to meet their requirements. What about dealers like myself who cannot go back into business? It does nothing for me. At one time NADA was trying to get compensation paid to the dealers that lost their franchise: $3000 dollars for each unit retailed in one of the following years, 2006, 2007 or 2008, and purchase back all the Chrysler parts and special tools. This would only be a fraction of what my family has lost, but we have nothing now. Starting over at the age of 65 will be very hard and I will have a hard time putting any trust in the laws of our country.

I will keep telling my story to anyone who will listen. I hope that some kind of law will be put in place so this cannot happen to another business in the future. I still have to tell myself that I live in America and not in China.

DAVE CROFT.

WE NEED TO PASS COMPREHENSIVE IMMIGRATION REFORM NOW

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentleman from Colorado (Mr. POLIS) is recognized for 60 minutes as the designee of the majority leader.

Mr. POLIS. Madam Speaker, I will be joined throughout the course of this evening by some of my colleagues, including the gentleman from Minnesota (Mr. ELLISON) and others who might join us. We want to speak tonight about a topic that's been in the news lately and is incredibly important to the American people, and that's the topic of immigration, securing our borders, immigration reform. A lot of us were, frankly, shocked at some of the steps that Arizona took a couple of weeks ago which has sent a powerful message to us here in Washington that we need to act.

It's not up to States to patrol their borders, to protect who is here, and to enforce workplace laws; it is the responsibility of the Federal Government. The Federal Government has failed to enforce our immigration laws. It's time to act now to pass comprehensive immigration reform. I have heard the message from Arizona loud and clear, and I hope that that passage of that bill provides an impetus for us to take the politically challenging but critical steps necessary to pass comprehensive immigration reform.

Today was an exciting day for immigration reform. In the Senate, they introduced their conceptual proposal for immigration reform. This was introduced today by a number of Senators. Now, it's not a bill. We have a bill in the House that I proudly joined as a cosponsor of with about 100 Members to fix our broken immigration system. But this is the first step towards a bill in the Senate, which I hope will be introduced soon and will be bipartisan. It starts out 1(a), ''securing the border first before any action can be taken to change the status of people in the United States illegally.'' As long as we have a porous border and we are failing to secure our border, there won't be any meaningful reform in our own country. There will continue to be people who enter our country extralegally.

It's absolutely ridiculous that in this day and age, a sovereign Nation, the greatest Nation on Earth, cannot secure our own border. It's also critical that we know who's here. The Senate plan and the House plan that I am a cosponsor of require our undocumented population to register and undergo a background check. That's an important step, because right now we don't even know who is here in our own country. That's a security threat that every American should take seriously, and I think it's critical that we know who's here.

Arizona has triggered a national crisis and underlined the critical need for action at the Federal level. This ridiculous measure that Arizona passed—and I should point out that we should expect, if Congress continues to fail to take action, other States to pass some misguided and extreme State laws. But this Arizona law has triggered a moral crisis by forcing American citizens, families who are American citizens, to live in fear.

What does this law mean? It means that as American citizens are going about their business, going to school, going to the 7–Eleven, whatever they're doing, and if an officer thinks, thinks, suspects that they might be an illegal immigrant—could it be the clothes they wear? Could it be their race? Could it be an accent they speak with?—that officer can then demand proof, proof of their legal status in the U.S.

Now, I ask you, who carries the proof of their American citizenship with them? I know I don't when I go out shopping. I know I don't when I go for a walk. So these Americans will be detained. They could spend days, weeks, even months away from their families as they have to prove their American citizenship and request the documentation to do so. That can frequently take a long time, and I have been to these immigrant detention facilities. We have one in Aurora, Colorado. That is the type of facility that an American citizen will be taken to simply because they are not walking around or going about with the documentation of their American citizenship.

This threatens to turn Arizona into a police state. It threatens to strike fear in the hearts of hundreds of thousands of Arizonans, particularly Arizonans of particular ethnic heritages. That's why I feel very strongly this bill is a racist bill, one born of xenophobia, but one that will affect the rights of American citizens. Will it lead to the apprehension of more undocumented immigrants? It might. It will, on the margins. But it will lead to the detention of American citizens accidentally because American citizens, as we go about our own business in our own country, should not have to carry with us proof of our citizenship in this great Nation.

Where does this overreach of government end? This new law has triggered a political crisis in Arizona, effectively causing the law enforcement community, which has strongly opposed this bill in Arizona, to face the choice of going after people based on their race or protecting people from crime.

The fastest growing segment of our electorate will continue to pay attention to this issue. Latinos want to know that we have an interest in fixing the broken immigration system and making sure that no other States overreach and go after American citizens like Arizona does.

And yet we can all understand—me from Colorado, others across the Nation—why Arizona felt it had to fall to them to take action on this issue. It's because the Federal Government has failed to act on comprehensive immigration reform. Immigration is a national issue that requires a national solution. It can't be solved on a State-by-State basis. We need the Federal Government to take bold and decisive action, and we need to pass comprehensive immigration reform now.

We stand with the Arizona Association of Police Chiefs, the Yuma County sheriff, Mesa police chief and other law enforcement officials who are opposed to Senate bill 1070 in Arizona because it makes Arizonan communities less safe and threatens American citizens with detention. If people are afraid that their families and neighbors and friends will be rounded up by police, they live in constant fear of a government and a police that are there to serve and protect.

The Arizona immigration enforcement law is an example of the chaos that's been created by the Federal Government's failure to protect our borders and act on comprehensive immigration reform. The new Arizona law is an attack on our American values. President Obama's acknowledged that Arizona's law undermines the basic notions of fairness that we cherish as Americans. This is a challenge of who we are as a Nation, who we are as human beings, and whether we're going to stand up for American ideals or reject those to appeal to our worst instincts and the worst among us.

Let's do the right thing and fix our broken immigration system. That is a challenge to us here in Congress, and it shouldn't take courage from Members of Congress to talk about, support, and pass immigration reform. Quite to the contrary, it should take courage to avoid passing immigration reform, because the American people overwhelmingly want immigration reform, and those Members of Congress who stand in the way of securing our borders and ensuring that only people can work legally risk not returning next year and having a different voice that demands the action of the United States Congress.

This is one of the few issues that has broad agreement among my constituents in Colorado. I have said this to a number of audiences. When we talked about health care, there were many of my constituents who supported health care reforms and many who opposed it. With regard to immigration, I have not found one constituent on the left or the right that believes that we are doing everything right with regard to immigration. It is broken. Conservatives agree it's broken. Liberals agree it's broken. Nobody believes our immigration system works perfectly.

We have an undocumented population of over 10 million people. We have thousands, hundreds of thousands of businesses across this country that violate the law every day. The rule of law across our great Nation has been challenged and undermined. But we in Congress—I hope that we in Congress have heard the cry from Arizona, the cry from the 49 other States, the cry from the American people demanding that we in Congress take action to fix our broken immigration system and may restore the rule of law to this great Nation.

I see I am joined by my friend from Minnesota, who I will yield to.

Mr. ELLISON. I thank the gentleman for yielding.

Congressman KEITH ELLISON here from the State of Minnesota, and it is very timely that we are here to talk about immigration. The fact of the matter is that it is a symptom of the Congress' failure to pass comprehensive immigration reform that we get these draconian pieces of legislation such as were signed into law in Arizona on April 23, 2010, just a few days ago. If the United States Government would take hold of this immigration debate and pass comprehensive immigration reform, States would not have to resort

to these extreme measures—unconstitutional in my view—that Arizona has taken.

Let me just point out a few things. The law says that police officers can stop and detain people who are suspected of being illegal aliens and demand that they provide proof that they are U.S. citizens. The fact of the matter is that this—some people have said, Well, you know, KEITH, this could make people who may have a brown complexion and dark hair, who sort of have a typical Mexican appearance, that might subject them to unfair and illegal stops. My response is, That's true. It may stop Latinos, but it will stop anybody, because there's no certain way that a Latino person looks. There is a wide diversity all throughout the community, a wide diversity, no color, no language, no culture. People look all kinds of ways. The most Anglo-looking person in Arizona could be stopped and demanded to show their proof of citizenship, and if they don't have it, they could be carted off.

The fact is that I am making this argument because I don't want Americans of any background to think that they are going to be somehow safe from a law as sweeping and unfair as this one. No one is safe when the Constitution is offended in such a dramatic way as it has been by this Arizona law. But at the same time I have no sympathy for this Arizona law, I will say that it is a symptom of the Congress' failure to deal with comprehensive immigration reform.

I want to say that the argument has been made that somehow this is about addressing issues of crime and law enforcement. You know, if that were true, why would the Arizona Association of Chiefs of Police oppose a law for fiscal and public safety reasons, noting that the fear of government officials would diminish the public's willingness to cooperate with the police in criminal investigations, and it will negatively affect the ability of law enforcement agencies across the State to fulfill their many responsibilities in a timely manner?

The fact is that law enforcement officials who know something about law enforcement don't like this law. They are right. And the fact is this law is offensive to our Constitution. But again, it calls into question what we are doing here in Congress on comprehensive immigration reform, which is nothing much. The fact is we need to get busy on immigration reform. The American people want it. It is popular. It is something that the American people have asked for, and the Congress should step forward and do something about it right away.

So let me yield back to the gentleman from the great State of Colorado and just point out that comprehensive immigration reform is something that I believe we need.

There are just a few principles that I want to mention before I yield back, and that is that the progressive immigration reform agenda passed by the Progressive Caucus believes in keeping families together, creating a path towards citizenship and employment verification. Because as much as we talk about securing the border—and we should secure the border—you can't always secure the border at the border. We need the cooperation of all employers to make sure that they are doing employment verification so that we can make sure that the border is being secured. So yes, at the border, but also at the point of employment which people are drawn to.

There is more to be said about this, but I yield back to the gentleman.

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Mr. POLIS. I appreciate Mr. ELLISON bringing up employer verification. One of the key components of the Senate outline requires biometric employment verification. So this is not a Social Security number that could be used by somebody who is 6 foot 1 and 52 one day and someone who is 5 foot 3 and 42 the next day. This is a real biometric ID. No later than 18 months after the date of enactment of this proposal, the Social Security Administration will issue biometric Social Security cards that will be fraud resistant, tamper resistant, wear resistant, be machine readable, contain a photograph and an electronically coded microchip processor which possesses a unique biometric identifier for the authorized card bearer. It could be a fingerprint, eye scan.

We are going to be serious about knowing who can work and who is not legally employable. We need to be serious about making sure that it is the right person that we are talking about.

Again, there are hundreds of thousands, if not millions of violations of this area of employment law every day in this country, and we are not even remotely serious about cracking down on those. That is why we urgently need, why Arizona and the rest of the country has called on Congress to address this issue and why we only ignore them at our own peril.

We are joined by the gentlewoman from California (Ms. CHU) who, in her time here, has already become a champion of comprehensive immigration reform and making sure that we can fix our broken immigration system. I am glad to welcome Congresswoman CHU from California.

Ms. CHU. Today I stand here to say our immigration system is broken and fixing it is critically important to the long term security and prosperity of our Nation. Of course, I have a much different opinion on how to fix it than some on the other side of the aisle. Where they see an attack on American culture and way of life, I see a chance to strengthen our Nation with a new generation of productive and active citizens. Where they see fear and paranoia, I see an opportunity to do the right thing, the humane thing, and bring 12 million immigrants out of the shadows and into society.

What they don't see is the ongoing family separations, the exploitation of workers by unscrupulous workers, and the true human cost of our broken immigration system.

I get calls every day in my district from families who have sacrificed and worked hard to put food on the table and send their children to school. Take the case of Maria, an American citizen, who came into our district office last month with her two children, ages 2 and 4, crying torrents of tears. They were trying to do the right thing. Her husband was undocumented. She had gone to Ciudad Juarez, Mexico, with her husband for an appointment with an immigration official where she was petitioning for her husband to receive legal status. The immigration officer denied it saying there was insufficient hardship.

It is now more than a year since her husband was left stranded in Ciudad Juarez. Even married to an American citizen, he is barred from reentering the country for up to 10 years because of a law passed by Congress in the 1990s making it tougher for undocumented immigrants to acquire legal status through marriage. In the meantime, Maria has lost her house, was forced to do a short sale because she could not keep up with the mortgage payments without her husband's income. Her children wake up in the middle of the night crying for their daddy. To me that sounds like sufficient hardship.

These family separations are cruel and counterproductive to both legal immigrants and citizens. It is families that have historically helped immigrants assimilate into American life and helped prevent health and social problems. Family networks give individuals the support and resources they need to become successful, productive members of our society.

And if Congress doesn't act to fix our immigration system, States will do their own thing and we will be stuck with an unfair and impractical patchwork system. Just last week, the State of Arizona passed the broadest and strictest immigration measure in generations in any State. The law makes a failure to carry immigration documents a crime, and gives the police broad power to detain anyone suspected of being in the country illegally.

Now I don't walk around with my birth certificate or passport, which is expensive and out of financial reach of many. And neither does Abdon, a commercial truck driver living in Arizona. Last week on the heels of the Governor signing this new law, he was shackled by the police and detained by the Phoenix Immigration and Customs Enforcement Office. Abdon was born a citizen of the United States. He has a job. He pays taxes. He speaks English. His wife Jackie is a natural-born citizen of the United States. She too has a job and she also speaks English. She pays taxes. But he was pulled over and arrested. Why? Not because he was speeding, that's for sure.

When the officer demanded his papers, Abdon could only produce his driver's license and Social Security number. Not good enough. At a routine commercial weigh station on a regular workday, Abdon made the mistake of not carrying his birth certificate with him. That's right, his birth certificate.

Now why did the police really pull him over? It is apparently now the law of the State of Arizona you can arrest people, citizen or not, simply for appearing Hispanic.

This is a sadly familiar story, but one that was thought to be safely in the past. In the years following the Civil War, States began to implement a series of discriminatory laws designed to control former slaves and free blacks. Under the vagrancy laws, police could stop anyone anywhere and require you to show proof of employment on demand. If you didn't, you could be arrested and your labor sold to the highest bidder.

But what if you forgot to carry your employment records with you when you left the house that morning, what if you, like so many regular citizens, were unaware of the anti-vagrancy laws? What if you were simply unemployed? Well, it might be your last mistake as a free citizen of the United States.

Sound familiar? Well, it does to Abdon, and it is for Abdon and the thousands of other Arizonians that we need immigration reform this year. We cannot solve our immigration woes by simply creating new problems. Instead, we must pass a comprehensive bill that actually fixes our immigration system that penalizes employers who would hire undocumented workers and exploit their status for their own gain. We need a bill that protects the family and repairs a bureaucratic system that forces citizens and immigrants to live apart from their loved ones. We need a bill that secures our borders and provides a clear path to citizenship and employment for otherwise law-abiding immigrants, undocumented or not.

America would not be the great Nation it is without the passion, ingenuity and perseverance of the millions of immigrants who have come to our shores looking for a better life for themselves and their families.

Mr. POLIS. Thank you, Congresswoman CHU, for your leadership on this issue. Those are very powerful words that you shared. The stories that you shared, those individuals are not alone. There are hundreds of thousands of people across our country every day who have powerful stories about what has happened to them through our immigration system.

Let me briefly mention something that the Congresswoman alluded to about detention. It could be an American citizen or somebody who is undocumented and taken to detention, that means that taxpayers are paying their way. Taxpayers are paying $120 a day on average in these detention facilities. So if this Arizona law leads to more undocumented people being apprehended, then we are putting them up for free at a government hotel. So rather than working and not being a burden on American society, Arizona's new law forces taxpayers to put up illegal immigrants, feed and clothe and house them at taxpayer expense.

I bet if the people of Arizona knew that, they would have second thoughts about this law. But that is exactly what will happen. Not only that, there will be American citizens who are swept up in this. You go out for coffee, run your errands, don't bring your proof of citizenship with you, boom, you're in a detention facility. American taxpayers are paying $120 a night for you, and it might take a week, a month, however long it takes until you can get your documentation. God forbid you are visiting from Alaska, visiting from Florida, were born to a midwife and don't have a hospital birth certificate, you could be in that detention facility even though you are an American citizen for months, all at taxpayer expense.

I think the solution that the American people want is a lot better than that. I don't think that the American people want to put up illegal immigrants in hotels for months or years at a time. I think the American people want to make sure that we don't have an undocumented population in this country. That is exactly what the House conference of immigration reform bill would do, as well as the Senate proposal that was outlined. The Senate bill would require that anybody who is here has to register and have a background check and they would get a prospective immigrant status, a transitory, temporary status to be here.

And eventually if they learned English, went through all of these steps, they could become a permanent resident. But that is quite a long way down the road. And to ever achieve lawful permanent residence, they would have to speak English, have basic citizenship skills, updated terrorism, criminal history and background checks, pay all Federal income taxes, fees and civil penalties and register for selective service after 8 years on the temporary status.

No, the American people don't want to put illegal immigrants up in hotels like the Arizona legislature are proposing. The American people don't want to have a large undocumented population.

I would also like to point out the problems that this law has interposed on one of our Nation's most important strategic relationships, and that is our relationship with our neighbors to the south, Mexico. I am the founder here in the Congress of the U.S.-Mexico Friendship Caucus to facilitate one of our most important trading partners. The flow of ideas and goods between the U.S. and Mexico is an important part of the prosperity we have here, and the growing economy in helping Mexico meet the demands of its growing middle class. And yet this law is hurting our bilateral relationship with Mexico.

You know, before I got to Congress, I occasionally used to travel internationally. I had been to places like Tunisia and Egypt and Australia. And on our Department of State, there is a site where they list any country with a warning. Don't go to this country because it has a civil war or it has terrorists. My mother wouldn't have liked it very much if our own Department of State said you might die if you go there.

Well, you know what, Mexico is now advising their citizens, their tourists, not to go to Arizona. Yes, one of our very own States is being warned against visiting by a country that sends many tourists to our Nation.

I represent some of the ski resorts, Vail, Beaver Creek and Copper Mountain in Colorado. We have tens of thousands from Mexico every year. It is one of our larger countries that sends tourists that keep Americans employed and spend money in Colorado. But by criminalizing a whole status of people, any Mexican tourist would have second thoughts about going to Arizona. And it saddens me as an American, having looked at these warnings that our Department of State has and always seeing Third World developing countries, saying glad I don't live where that civil war or dictator is, well, now one of our closest and most important friends and neighbors, the great country of Mexico, has listed one of our States on their warnings.

That's a blow to the American pride. I am proud to be an American, and to think that our country has some of these problems that only developing countries or dictatorships or police states have had in the past is not only disgraceful, but it will undermine the economy of Arizona. Tourism will dry up.

And it won't be just Mexico and Arizona. I have a feeling that many other countries will follow suit from East Asia and Latin America because who wants their citizens to be apprehended and placed in detention for months at a time. And that would be a very reasonable response. I hope that this law in Arizona is tossed out as soon as possible.

Again, it is important for us to understand why Arizona passed it. It was a message, a message to us in Congress that Congress has failed the American people. Congress has failed to enforce our borders and implement real employment enforcement, real security. Indeed, Congress' lack of action is leading to the undermining of American sovereignty not only in Arizona, but in many States, including my home State of Colorado, that has hundreds of thousands of people who live extra-legally—we don't know who they are, we don't know where they are—work, in most cases, extra-legally because Federal enforcement has been a joke.

□ 1945

This is a solution that we can solve. It's not a solution that should involve posturing from the left or the right. It's one that the American people and the people of Arizona, very rightfully so, have demanded action on with a shot across our bow.

I hope the people of Arizona don't suffer too much under this law because I understand and sympathize with their goals. I hope it's overturned soon. Certainly, if it's allowed to continue, it will hurt their economy, they will lose jobs, Arizonans will lose work, and Americans will be forced into detention at taxpayer expense. I hope that that doesn't happen. I hope this law is overturned before that happens. But the shot across the bow has been received, and I hope that it provides the urgent impetus for those of us here in Congress to move forward now on comprehensive immigration reform.

I yield to my friend from Minnesota (Mr. ELLISON).

Mr. ELLISON. Let me thank the gentleman from Colorado for really raising these issues.

The fact is, I do just want to say that the Progressive Caucus has some essential principles that we believe are essential to have in any immigration bill. We know that a version was dropped in the Senate; there was another dropped in the House earlier.

What we say is we think that we've got to keep families together. We have to create a path to earn citizenship. This isn't handing out citizenship to anybody. People have to take care of the business that the gentleman from Colorado already mentioned—paying all taxes, going through courses in English and citizenship, making sure that they do everything that they have to do, but at least they're allowed to be on a path that will lead them to citizenship and that there would be employment verification.

But there are other important values that I think we should talk about as well. The fact is that one of those values is respect, another value is identifying the fact that young people studying hard every single day, graduating from an American high school, brought to this country by their parents, in my view, should be able to go to a college in their State and pay in-state tuition. So that's another value I think is very important. It enhances education, values and achievement, and it indicates that young people who have lived their lives here and grown up here and who came here through no fault or through no choice of their own can have a future.

The fact is that there are some basic principles that I think we should pursue. The thing that does concern me, though, is that sometimes we hear people, Madam Speaker, say things like, well, you know, this bill is dead on arrival, or that bill is not going to go anywhere; they just declare bills to be not in motion sometimes.

But I believe, Madam Speaker, that whether comprehensive immigration reform moves or not is up to the people of America if they demand that it move. The same way that health care reform moved because people wouldn't let it die, immigration reform can move because the people are demanding it. The same way financial reform is moving, immigration can move because if people say we've got to have this, we need it, no more of our fellow neighbors living in the shadows, we need to have a legitimate path towards citizenship—it's not amnesty—that does involve real accountability, but at the same time allows people to come out of the shadows and have some status that they can have so that they can do what they need to do for themselves and their families. The fact is that this is the decent thing to do, it's the right thing to do.

By the way, I will point out, Madam Speaker, that there is a growing and strengthening coalition for immigration reform. In my own State of Minnesota, we used to have immigrant groups, people who are directly affected by immigration policy from new American groups, whether they're Latino or east African or Southeast Asian, or whatever community, a lot of times they would be at the forefront of this question of immigration reform.

But then we began to see labor come into the conversation. Labor does not want an exploitable, abusable group of people who are in the shadows that can undercut their wage rate. They want everybody aboveboard and walking through the front door to have a status so that they can organize them so that they can have some stability. Even the chamber of commerce in my city has said, look, we're for comprehensive immigration reform as well. I'm not speaking for the U.S. Chamber of Commerce, but I can tell you that there are many local chambers of commerce around this country who know that immigration reform is the right policy.

So the fact is we have a growing coalition; we have a coalition that's coming together, that's deepening and coming together to demand this. So I guess my message, Madam Speaker, is to say, never say that we can't get comprehensive immigration in 2010; it can happen with a strong will and with a committed champion, and with people who demand it of their leaders who are charged with the responsibility of representing them in Congress.

I yield back to the gentleman.

Mr. POLIS. The people of this country are tired of this problem being used for political purposes from the left and the right. The American people just want to see this issue solved. The American people are smart; they recognize that the longer we delay taking action the bigger the problem gets.

Our immigration laws should reflect our interests as Americans and our values as Americans; but we need to treat this as something to solve, not an opportunity for politicians to score points on the left or points on the right by preying on our legitimate or illegitimate concerns or prejudices. Yes, we truly are a Nation of laws, but we are also a Nation of immigrants. We need to make sure that immigrants obey our laws, learn English, and pay their taxes; and then we welcome them as our American brothers and sisters.

It's amazing to see some of the nonconventional alliances, some of the groups that have been pushing for immigration reform. Among the strongest has been the faith-based community. Now, while I have many people who have supported me in the past who are of the Catholic faith, the archbishop, Archbishop Chaput in Denver, is somebody who I don't agree with on a lot of social issues; he and I disagree on many issues, such as a woman's right to choose, but on this issue, he and I joined together in an event in Denver in support of immigration reform that 1,500 people, on a Sunday after mass, packed into a church in strong, universal support for comprehensive immigration reform across the faith-based community. From the evangelicals to the Catholics to the Jews to the Muslims to the humanists and the atheists, there is strong support for comprehensive immigration reform.

There is also support—and this is very unusual in the context of politics—from both the organized labor community and unions and businesses in the chamber of commerce. Among the strongest advocates for immigration reform have been high-tech businesses, chambers of commerce, arm and arm with their workers, their unions. It's very rare to see that happen here in Congress. And yet, why hasn't Congress achieved anything? It seems like politicians on both sides of the aisle have preferred to keep this issue out there. Is it to rally their base? Is it to talk about the undocumented, about why they need more time to do something? And yet both sides have refused to take action. And it will take both sides working together to solve this issue with an American solution.

Obey our laws, learn English, pay taxes, and welcome to America—that has always been our message. And it needs to continue to be the underlying values with which we construct an immigration system that works, restores the rule of law to our Nation, and is an opportunity for us in Congress to rise to the challenge that the people of Arizona have put before us, that frustrated voters in cities and States across the country have put to us. And if Congress doesn't act to pass comprehensive immigration reform and solve this issue, I believe that the American people will elect a Congress that will.

I will yield to my friend from Minnesota (Mr. ELLISON).

Mr. ELLISON. I just want to go back to an important point that the gentleman from Colorado made just a moment ago. Congressman POLIS, Madam Speaker, made the point that people are in detention for months and

months as they await their immigration proceedings and the decision. These are not people who have robbed or hurt anyone or sold dope or anything like that. These are folks who are awaiting a decision in their immigration case. They are not criminals; they're awaiting immigration proceedings, decisions. These folks, these people in immigrant detention are just languishing, rotting.

There have been, since 2003, 107 people who have died in custody because they were in detention. If they were out, could they have gotten the medical attention that they needed? I'm sure in many cases they could have. The fact is that these are folks who are not serving criminal sentences. They haven't been convicted of hurting anyone or stealing people's property or doing anything wrong. They're just awaiting proceedings.

In fact, Madam Speaker, I was at an eighth grade graduation only a few days ago; and my daughter, who I was so proud of, was there with her friends and they were all abuzz—you know how kids that age can be. And I talked to another adult who I had known for a number of years because my older children went to school with her children and one of her children was in my daughter's class. And she said to me, you know, I want you to know it's good to see you. I was in detention. I recently got out of immigration detention. This is what this lady said to me. And it shocked me because my son, who is now 22 years old, was buddies with her son, who is now 22 years old, but they were running around my house when they were both seven and eight and nine years old and now here she is—I haven't seen her in a while—and she just told me that she had been there herself. I didn't even ask her how she got out—I was glad she was out—but the fact is that she had been in ICE detention herself. This is a woman who is a bright lady, smart, capable, raising children on her own, doing the best she can, happens to find her roots in Mexico. I didn't ask her about the details of her life, but I was concerned that she found herself in that awful situation.

I connected her with my office to do everything we could for her; but the fact is there is a human toll being taken on people every single day, people around us, people we know, people we don't even know what they're going through, but they have their own immigration nightmare that they're struggling through every single day.

Her children, I know the younger ones were born in the United States and I know the older ones came here at a very early age, they're my kids' close friends. But the fact is that it kind of struck me right across the face like a cold bucket of water that here is this lady who I know. I couldn't exactly call her a friend, but I can say that this is a person who I know, who I respect, and who was living her own private nightmare with regard to immigration.

It seems to me that the rules ought to be clearer, they ought to be fairer, they ought to be predictable. It seems to me that the children who come here at an early age ought to be able to pursue their education in an institution in their State and not have to pay exorbitant out-of-state tuition just to do that. It seems to me that we ought to try to unite families. As Americans, we value families, and we ought to do something about that.

The fact is that people in immigrant detention, these folks are often some of the most abused folks in our community, Madam Speaker. I will just refer again to what the Congressman from Colorado mentioned a moment ago, detention, people are there for months, but these folks, some of them have been through tremendous ordeals; some are torture victims, some are victims of trafficking, some are from other vulnerable groups and are detained for months and even years, further aggravating their isolation, depression, and sometimes mental health problems.

The fact is that this situation is not right. These people are not criminals. They should not be held this way. And they're held at our expense—we're the ones who fork it over—but it's no picnic for them either. The fact is that we have to do something about it.

Over 30,000 people are held in immigrant detention on any given day at an average cost of more than $100, $120 per day. This has resulted in over 380,000 people held in detention in fiscal year 2009. Think about it: that's an incredible expense that we are paying because our immigration system has not been corrected, has not been addressed, and the fact is that we have to do something about it.

Since 2005, ICE has increased the number of detention beds by 78 percent. Taxpayers are paying the price of DHS's skyrocketing use of immigration detention, and DHS spends about $1.7 billion on ICE custody operations.

□ 2000

So the fact is that a human toll is being taken. The broken immigration system offends our sense of fairness, and it offends our sense of being a humanitarian country. We've got to do something about it right away.

I yield back to the gentleman.

Mr. POLIS. Madam Speaker, how much time remains?

The SPEAKER pro tempore. There are 17 minutes remaining.

Mr. POLIS. Thank you.

I am glad that my friend from Minnesota brought up the important issue of detention. The Department of Homeland Security and ICE had 380,000 people in 2009 who were detained at taxpayer expense. One of the things we fear with the Arizona law is that these could actually be American citizens out working one day.

Oh, you don't have your papers. You're in detention. It could take a week. It could take a month.

There are many Americans who might have difficulty furnishing those records. Again, I point in particular to those who were born of a midwife or who are very elderly or whose birth hospitals have been subject to fires or to disasters, where records are unable to be located or where they've been lost or where it simply has been human error. Each of these 380,000 people who were detained last year were detained at taxpayer expense. Now, I would argue that that is not good for them and that it's not good for us, the taxpayers.

First of all, as my colleague from Minnesota mentioned, 107 died, in many cases, due to medical treatment being withheld, due to abuses. In the incarceration system, in many cases, they are put in with actual criminals who have been convicted of crimes. Again, these are people who are not serving criminal sentences. They are being detained while awaiting decisions on their immigration proceedings. They might either then be released into our country or expelled through a different country, but despite that, they are held in prisons and jails, and they're often mixed with the general prison population, putting them at risk for their lives and limbs, all at taxpayer expense.

To the extent that it allows for the apprehension of more people, the Arizona law will simply result in the greater taxpayer expense of putting people up at the tune of $120 a day. You know, that's what it costs. When I looked at it, I said, Gosh. We can put them up at Motel 6 for a quarter of that cost. Yet we continue, the taxpayers across our country, because of our complete failure to protect our borders and to have real immigration policy that works for our Nation. Over 300,000 people were incarcerated at taxpayer expense last year.

Comprehensive immigration reform is an American solution. It's common sense. It's fair. It's balanced. It has overwhelming support from the American people. Eighty-one percent agree that comprehensive reform is a balanced approach and that it's fair to taxpayers.

Voters across the board, from liberal to conservative, believe it is unrealistic to simply try to deport our way out of this problem. Seven in 10 voters agree that, in addition to increased enforcement and securing the border, illegal immigrants should be required to register and to meet conditions for permanent status. A comprehensive approach to immigration reform secures our borders, cracks down on employers who hire illegally, makes sure that we have real verification of who is able to work, and requires that illegal immigrants pay taxes and learn English to be eligible for permanent status. Voters should know that comprehensive immigration reform is an orderly process and that it will turn what has been completely uncontrolled and chaotic into a controlled flow of immigrants that continue to build our Nation and to reestablish the rule of law across our great Nation.

Americans are tired of the posturing on the left and the right. They are tired of the lack of solutions coming from Washington. They don't want to hear us complain about this, complain about that, hyperbole on this, hyperbole on that. What the people of Arizona have very clearly said they want and what the people of our country have very clearly said they want is for us here in Congress, the only place that this problem can be fixed, to fix this problem.

Border security is a joke. Enforcement of our laws at the workplace is a joke. We have over 10 million people violating the law in our country every day. The rule of law—our sovereignty—has been undermined. Taxpayers are putting up hundreds of thousands of foreign nationals a year at the cost of over $100 a day. Why not put them up at cheap hotels and save three-quarters of that? I don't know, but this is what we're doing.

Does this make sense to anybody, Madam Speaker? The answer is no.

I have brought this up at almost all of my town hall meetings in Colorado, and I have yet to find a single constituent—and I have a lot of diversity among my constituents. They range from the Tea Party patriots on the right to the socialists on the left and everything in between. Not one of them is happy with the immigration system in this country. Not one of them is happy that we are putting up 300,000 people a year at the cost of $120 a day. Not one of them is happy that we have an undocumented population of 10 million working illegally in this country. Not one of them is happy. Yet, to this point, Congress has failed to hear and to act upon that.

I believe that we will continue to fail at our own peril and that it is incumbent upon this Congress, with the fiercest urgency that the American people have placed on this issue before us, to solve this issue. We are a Nation of laws, and we are also a Nation of immigrants. That's why we need to make sure that our laws, our immigration laws, reflect our interests as Americans in order to create jobs for Americans, to provide safety and security for Americans and to help American businesses grow and succeed, which is why immigration reform is supported by chambers of commerce, by business interests as well as by unions, by faith-based communities, and by law enforcement.

We here in Congress should not be afraid of talking about solving the immigration issue. We should be afraid of not talking about solving the immigration issue. Every day that goes by without bills being moved forward or with bills being dropped or without solutions being discussed is a day that the American people will hold their Members of Congress accountable for not doing anything to solve this pressing national issue.

I yield to my friend from Minnesota.

Mr. ELLISON. Madam Speaker, I was just in my district about a week ago at a little church called Sagrado Corazon de Jesus. It's right there in south Minneapolis where a lot of folks gathered from the faith community. They were Catholic; they were Protestant; they were Jewish; they were Christian; they were Muslim; they were Hindu; they were of the Hmong spiritual tradition; and they were of no faith at all. Yet they came together to make an appeal to the American people for comprehensive immigration reform.

I think it's important to understand that the faith community has done a tremendous job in making sure this issue is at the forefront. The faith community has done such a great job because the faith community understands one essential thing, which is that all human beings are endowed with an inherent dignity which we, as fellow human beings, must respect if we are going to be in accordance with that faith tradition.

I want to thank them for their advocacy, and I want to let them know that I respect and appreciate their work.

Because I would like to see our anchor tonight be able to take the last 5 minutes to wrap it all up, let me also just mention in our waning minutes of our presentation that, as I've been sitting here, I've been checking my Twitter account, and I know that some people are happy that we're talking about comprehensive immigration and that some people are not.

Madam Speaker, I just want to say, to those folks who are happy about it, keep on working hard. We can do this thing. To the folks who aren't happy about this discussion topic tonight, I just want to say, Madam Speaker, that I know people are not happy with the current system. The status quo isn't working. Madam Speaker, people can say that they don't like this part of a bill or that part of a bill, but can we get together as Americans and discuss what we are going to do? Because the fact is that simply saying ''no'' is not an option.

I'll also submit to you that we are not going to get 12 to 20 million people on a bus and send them back home. That's not realistic. Many people who emigrate here without proper documentation don't even cross a border. They come in on airplanes. These are folks whose visas have run out and things like that. So just thinking that this is an ''other side of the border'' issue is missing much of the complexity that is going on here.

You're also not going to incarcerate 12 to 20 million people. You know, Madam Speaker, I had somebody say the crimes that the undocumented immigrants are committing are, one, being here and, the other, taking jobs from Americans. Let me just say, if you think what they're doing is a crime, Madam Speaker, what you're saying is that we're going to have to have 12 million to 20 million more jail cells to put people in. That's not practical.

We need a solution that makes sense, that is a pathway toward citizenship. We need a solution which does involve border security but which also involves employer verification so that people will not think that they can emigrate to the United States without proper documentation and just find jobs. That's one of the things that attracts folks.

I will say one more thing, which is not in the progressive principles but which, I think, we do need to talk about. We need to talk about how poverty in other parts of the world, particularly in our own hemisphere, attracts people to the United States. Therefore, we should take a real look at our policies—at our trade policies, at our ag policies—and see if we are actually incentivizing people to come to the United States.

If we dump cheap corn into Latin America, what happens to the corn farmer in Latin America? I think we need to ask that question.

It needs to be part of the conversation, because I can't imagine most people who are undocumented really want to leave their homes, their languages, their families, or their friends in order to come to a country they don't know, where they don't necessarily speak the language and where they don't necessarily know anyone just to try to make lives. They probably would rather stay home, but there is something that is drawing them here, and it probably has something to do with the great economy of the United States. It probably also has something to do with trade and agriculture policies, which have put a lot of pressure on economies in this hemisphere.

So, with that, Madam Speaker, I am going to yield back to Congressman POLIS for the closing. He has really been a champion on this issue, and he has really kept the fire burning on it. I think, Madam Speaker, that we all owe him a debt of gratitude, along with other champions like LUIS GUTIERREZ and many, many others.

So I yield back to the gentleman, and I thank him for his work.

Mr. POLIS. I thank the gentleman from Minnesota.

With due respect, it is really the American people who have kept the fire under this issue. The American people do not want Congress to continue to ignore our broken immigration system.

What would ignoring immigration do? What if we just said we're not going to deal with it, you know, that there's too much to work on? We've got, you know, health care. We've got energy. Why bother doing immigration?

You know what? Failure to act on immigration reform will mean that we will likely have twice as many illegal immigrants in 10 years than we have now—twice as many. Instead of 10 or 12 million, we could be talking about 20 or 25 million. The longer we wait, the bigger the problem gets.

The goal of immigration reform needs to be to eliminate—to bring to

zero—illegal immigration. If immigrants who have been living in our country illegally want to become taxpaying American citizens, they need to pass a background check, pay extra taxes, work towards citizenship, learn English, register.

We need immigration reform that is both principled and pragmatic. We in this country have the right to decide who lives in our country and who doesn't, but we haven't been exercising that right. We've been allowing millions of people to live here without knowing who they are or what they are doing. Yet we continue to refuse to take action, and we do so at our own peril.

Yes, we should hear very clearly from Arizona and from other States that they are demanding action of the Federal Government. There is no good solution for a county or a State. I sympathize with our cities, our counties, and our States which are dealing with the failure of a Federal policy to protect our borders—Federal policies that undermine the rule of law and our national sovereignty, but it falls to the United States Congress to act to fix our broken immigration laws. People should not be able to cross the borders or to overstay their visas without permission, and businesses should not be able to exploit cheap labor off the books, undermining jobs for American citizens.

We in Congress have a unique opportunity now to take action. The American people are tired of excuses. They are tired of demagoguery. They want a solution that works and that ensures that we will have zero illegal immigrants in a year and in 10 years and in 20 years rather than seeing an increase from 10 or 12 million to 20 million or to 25 million or to 30 million.

What does ''national sovereignty'' mean if you don't even know who is within your borders or what they're doing or whether they're criminals? Why are we putting over 300,000 of them up at expensive hotels at over $100 a day at taxpayer expense? Is that part of the solution?

□ 2015

It doesn't sound like part of the solution that the people of Arizona want. It doesn't sound like part of the solution that the American people want. Obey our laws, learn English, pay taxes, and welcome to America. We need to replace a broken system with one that works.

I call upon my colleagues in this Chamber and in the United States Senate on both sides of the aisle to stop playing political games with an issue that the American people are crying out for a solution on and to act and bring forward a real solution along the lines of the proposal that was introduced in the Senate today, along the lines of the House comprehensive immigration reform bill to demand that Congress move towards fixing this problem, restoring security to our borders, sovereignty to our Nation, preventing the undermining of the rule of law that this Nation was built upon, and strengthening our economy and providing jobs for American families.

Madam Speaker, I hope that my colleagues join me in moving forward immediately on comprehensive immigration reform to fix our broken laws and replace it with a system that works and is enforced.

ILLEGAL IMMIGRATION

The SPEAKER pro tempore (Mrs. DAHLKEMPER). Under the Speaker's announced policy of January 6, 2009, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes as the designee of the minority leader.

Mr. KING of Iowa. Madam Speaker, it's my privilege and honor to be recognized by you to address the floor tonight.

I am standing here trying to decide whether I want to support or rebut the statements from the gentleman from Colorado. I support a good number of the statements that he has made, and I may well try to rebut some of the other statements that he has made.

But the statement ''replace a broken system with one that works,'' it's an interesting comment. I think it's clear that our immigration system is not working. Well, let me say that the system doesn't work, but I am not certain that the laws are incorrect. And that's the point that I would make is that I roll back to 1986 when Ronald Reagan was straight-up honest and failed me when he signed the amnesty bill of 1986. And the intent was that about a million people would be granted a path to citizenship and that would be it, it would be the end, and there would never be another immigration bill ever as long as any of us lived, and we would preserve the rule of law, and we'd learn to respect the rule of law, but we would allow for the million or so that were here illegally to have their path to citizenship in order to put this away, package it up, and be able to move on.

Well, it wasn't 1 million. It was closer to 3 million people, and there was fraud and there was corruption and there were counterfeit documents that were used that was part of that tripling. We might not have counted it right. It might have been more than a million. It might have been 1½ million. It was unlikely to be 2 million. But it turned out to be 3 million because people were gaming the system.

In my particular office, I took applications in and I made sure they filled out their I–9 forms, and I took copies of their documents and made sure my files were complete and considered their applications because I was sure that INS would be into my office to go through my books and make sure that I followed the law because it was going to be enforced by this newly robust Federal Government. That was the commitment. Amnesty now, enforcement forever, never amnesty again.

That was 1986. And here we are all these years later, 24 years later, and we have had by each succeeding administration—I'm not particularly happy with the enforcement we saw in the Reagan administration, and I was less happy with the enforcement that I saw in Bush 41 and less happy with what I saw under Bill Clinton and less happy with what I saw under George W. Bush, and I'm less happy with what I've seen under President Obama. Less and less effective enforcement.

And they do find a way to put together the data so that they can point to their enforcement and allege that in this particular administration, the enforcement against employers appears to be marginally stronger than it was under George Bush, but the enforcement against illegal workers is significantly less than it was under George Bush, and I wasn't happy with what George Bush did.

So is the system broken? I think the enforcement of the system is broken, Madam Speaker. I think that we have had a succession of Presidents who didn't demonstrate the will to enforce our immigration law, and because of that, there has been a growing disrespect for our immigration law. And even people that respect the law have seen that their competition who would hire illegals have a comparative advantage against them if they are going to adhere to the intent of the law. So the competition pushes other employers to violate the intent and the rule of law sometimes and hire the illegals to give them that comparative advantage against their competition. And slowly the respect for the rule of law and their adherence and compliance with the law has been diminished in this country to the point where I have people in my neighborhood that will say, Well, if you don't think I should hire an illegal, then who is going to fix my leaky roof? Who's going to paint my house? Who's going to do these other things?

That's not my job, Madam Speaker. My job is to stand up for the rule of law. And, yes, if I think there are laws that are unjust, then I should join with my colleagues and we should find a way to change them.

I don't happen to believe that our immigration laws today are unjust. I believe they are unenforced. And I think they are founded on good and just rule of law foundation.

Not having the documents in front of me, but I will reach into it a little bit. I've seen some documents that illustrated the laws that Mexico has with regard to their immigration laws, which are if ours are considered Draconian, theirs, in fact, are Draconian. And President Calderon has been arguing against Arizona law while he is enforcing more Draconian laws in the nation of Mexico against people who would come into their southern border. Crossing the border illegally is a felony, punishable up to 2 years in the penitentiary. That's one of the examples that we have.

So I would, Madam Speaker, just remind the American people that we have grounded these laws in just and rational cause. And now Arizona has seen that the Federal Government has been unwilling to enforce the laws, and they are watching a crime rate that, if you look at the data over the last 10 years, has increased in almost every category over the last 10 years. In order to be objective, not probably to the extent that has been articulated by many of the pundits, but it has been a gradual and significant increase in the crime rates in Arizona in the areas of murder and rape, violent crime, and certainly about the only thing, except illegal border crossings, which have diminished marginally over the last couple of years.

And a year ago last August, there was a report that there were as many as 1½ million that have been in the United States illegally that reversed their travels and voluntarily deported themselves back to Mexico and points south. Most of that is attributable to the decline in the economy rather than the increase in enforcement.

But it doesn't mean that there has been a diminishment of illegal drugs coming across the border or a diminishment in illegal activity along the border. In fact, those numbers are up. The violence numbers are up. The illegal drugs are up. The contraband crossing the borders are up. And the numbers of just individual illegal people by interdiction data that's delivered to us by Janet Napolitano, the Secretary of Homeland Security, are marginally down.

Now, it may or may not be that there are more illegal border crossings. It might well be that they are just simply interdicting fewer coming across the border and there is less enforcement. Although I do believe that there are marginally fewer illegal border crossings but more illegal drugs, more violence, more kidnappings. The State of Arizona has the highest kidnap rate in the Nation. In fact, some of the cities there have the highest or second highest kidnap rate in the world. That's because of the drugs and it's because of the cartels that are doing business in that area.

So Arizona passed a law, and this law does a number of things. It sets up a situation where law enforcement—it requires all of the political subdivisions in Arizona, the counties, the cities, the other political subdivisions, and the State, to enforce Federal immigration law. It sets it up so that an individual has standing to sue the political subdivision, local government, if they fail to enforce immigration law. And it provides for reasonable suspicion for a law enforcement officer to pick up an individual that's out in public if they reasonably suspect that that individual is unlawfully present in the United States. Those are good things, and they are all that I have described within the parameters of existing Federal law today.

The argument that has been made and the demonstrations that are queued up for May 1, and that will be this coming Saturday, they are trying to establish demonstrations all over America of people rising up to demonstrate against Arizona's immigration law. Well, look at what has happened. The Federal Government hasn't enforced immigration law.

I would say that our immigration laws are true and just and right altogether. And our problem is not because our laws are wrong. Our problem is not because we need to replace broken laws. It's that we need to take this system that—''broken'' is not the right word for it, I would say to the gentleman from Colorado (Mr. POLIS). I think instead it's a system that is not being utilized because we lack the will to enforce immigration law in the United States. And that will has been diminishing over the years. The greater the number of illegals, the more people get to know their neighbors that may be in the United States illegally. They don't see that when you contribute to or allow or tolerate people who are unlawfully present in the United States in your neighborhood, when you hire them, you're contributing to the problem. People don't see that.

They just understand that we're all God's children. They like the people that came in. They see that they work hard, and so, therefore, they become their advocates. It's a natural thing to happen. But at the same time, while our laws are being broken and our laws are being disrespected, there's an undermining of the American system.

There's a reason that the people want to come to the United States. There isn't a country in the world where there aren't significant numbers of people that don't want to become Americans. And the reasons for that fall into a lot of categories, but one of them is we have respect for the rule of law. Our traditions honor the rule of law. Lady Justice is blind. When you think of the image of Lady Justice standing there blindfolded with the scales of justice balanced, without consideration for race, creed, color, ethnicity, national origin, age, or disability. That's the American creed.

We have equal justice for all, and justice is blind with regard to those characteristics. So people want to come here. They want to come to the United States from countries, countries that do not have that tradition of honoring the rule of law. They want to come to the United States from countries that have a corrupt tradition where you have to pay to play and it's who you know and how you pay them off or you curl up and you try to avoid the scrutiny of government and interactivity with the government agencies.

Here in this country, we're straight up, open, and honest, and, for the most part, moral and ethical, and we respect the law. But if we grant amnesty to 12 or 20 or more million people because it's described as an insurmountable problem, that the argument that's often made that we can't deport 12 or 20 million people, in fact, we could. We could do that. It's not logistically impossible to do so.

I went over to London a little over a year ago to deal with the immigration issue over there. And I listened to them talk about the numbers of illegals that they have, and I have forgotten the exact number, but let's just say that we are in that 12 to 20 million category, and population ratio-wise, they are down in that 1½ million category, perhaps, of illegals in England. And what is their argument? You can't deport 1½ million people. It's too many. It's an impossible thing logistically.

Well, interestingly we're here with 12 to 20 million. We're making the same argument. Well, then, how many could we deport? If it's not 20 million and it's not 12 million and the British say they can't deport 1½ million, could we depart 1½ million if we chose to do that, or is it 1 million or ½ million or 100,000 or 10,000 or one? What is our capability logistically to deport people that are in the United States illegally?

And I will suggest that it's in direct proportion to our resources and our will to enforce the law. Our problem is not that we can't do so logistically. Our problem is we lack the will to do so from a moral standard because we're listening to both sides of this argument. The argument that people are here, that they just want to work. They want to earn for their families. And for the most part, that's true. And we disregard the argument that is this point that I need to make, Madam Speaker, and that is that 90 percent of the illegal drugs consumed in the United States of America come from or through Mexico, 90 percent. It's a consistent number that comes from the Drug Enforcement Agency, and it's been consistent throughout several years.

□ 2030

And the illegal drug distribution chains in America, magically, and this is a Drug Enforcement Agency response, magically if every one of the people that are in the United States illegally, magically tomorrow morning woke up in their home country where they were legal to live and reside, if that happened by magic wand overnight, there is at least one link in every illegal drug distribution chain in America that would be severed because at least one link has an illegal alien that's part of that drug distribution chain.

And so if it was in our endeavor to shut off the illegal drug distribution in America, we would simply make sure we enforced our immigration laws. And that would be a very temporary fix, and it might only last for hours or days, not much longer than weeks and perhaps not months, but it would sever the distribution of all illegal drugs in America, however temporarily that might be.

So when we look at what happens when we have 12 to 20 or more million illegals in America, what are the effects on our society? First, they are delivering 90 percent of the drugs from or through Mexico. And some of them at least touch the delivery of every illegal drug that's delivered in the United States of America while that's going on.

What is accompanied by the illegal drug trade? Violence, murder, theft, rape, all of those things that go along with crime are wrapped up and associated with the illegal drug distribution. And the people that are illegally distributing drugs that are in the United States illegally are also, however inadvertently, the channel of their work is enabled by, and not always willfully, and sometimes even unknowingly, it's enabled by the illegal community in the United States. It becomes an underground railroad for illegal people and illegal drugs that are pouring through, from and through Mexico into the United States. And it is something that brings about a high amount of death and destruction and diminishment of human capital, human resources, and human potential. That's why we outlaw those illegal drugs in the first place.

It doesn't mean that all the people that are involved in that are willfully evil or willfully trying to undermine our society. It might be inadvertent. But they are part of the problem. And if we are to have the rule of law, we have to enforce the rule of law. And to imagine that when law enforcement comes in contact with people who are here illegally that we would be unwilling to put them back into the condition that they were in at the time they broke the law is unconscionable for a rule-of-law Nation to think such a thing.

Think in terms of this: if someone walks into the bank and robs the bank and would walk out of that bank with all of the loot, and we would interdict them with our law enforcement and decide, well, you really only want to provide for your family, so we are going to let you go on here because we don't have the will to stop you at this point. Or our immigration laws, simply deporting people is the equivalent of putting them back in the condition they were in before they broke the law. It's the equivalent of taking a bank robber and saying you don't get to keep the money, but we are going to take you out of the bank and set you outside the door and let you go. That's the equivalent of deportation.

It is we put people back in the condition they were in before they broke the law. It's like taking a bank robber out of the bank, not letting them keep the loot, and you set them outside the door and say, okay, go. You are free to go. It's as if you never broke our law. That's what deportation is. It is not Draconian. It is not harsh. It is not cruel and unusual punishment. It is de minimis that we can do if we are going to enforce the law. And if we are not willing to put people back in the condition they were in before they broke our immigration law, then we cannot have enforcement of our immigration law whatsoever.

It doesn't work to set a standard of amnesty that's been advocated by President Bush, President Obama, by many of the leaders over here on the left side of the aisle that we should give people a path to citizenship, make them pay a fine, force them to learn English. That seems a little odd to me, how you force somebody to learn a language and require them to pay their back taxes. Those are the minimum standards for somebody who would come into the United States legally in the first place.

If you want to become an American citizen, get in line. Get in line in a foreign country. Don't jump the line. Don't jump the border. And when you do that, and you go take your citizenship test—first, you have to pass the test that asks the question what's the economic system of the United States of America? And the answer is free enterprise capitalism. That's a little heads up there, Madam Speaker, on that one.

But when people come into the United States legally, they are required to learn English. If they want to become a citizen, if they want to go through the naturalization process, they are required to learn English. They are required to demonstrate proficiency in English in both the written and the spoken word. They have to understand our history and understand those principles that made America great. And we are not going to naturalize somebody that didn't pay their back taxes.

And the idea of a fine for being in the United States illegally, and that's the only other condition that we would add, whether that would be pay a fee of $1,500—I remember when it started out to be $500. And then $500 seemed like a pittance, so they raised it to $1,000 and then $1,500. And under the Bush administration we had the discussion and the argument that their position was, well, it's not amnesty if they have to pay a fine. Oh, really? If the fine is cheaper than what you have to pay a coyote to sneak into the United States is it really a fine? And does the fine replace the penalty that exists for violating Federal law? And I say no.

If you grant people the objective of their crime, it's amnesty. To grant amnesty is to pardon people for the violation of the law and grant them the objective of their crime. That's what amnesty is. And so if we are going to have amnesty, let's be honest about it, Madam Speaker. Let's ask the people in this Congress, the President of the United States, the executive branch of government, and the people in the United States Senate that are now crafting up legislation are you for or against amnesty. If they want to support amnesty, it's fine with me if they will just admit that. And then we can have a debate as to what degree of amnesty they are going to advocate.

But it's offensive to the American people to hear United States Senators or Members of the House of Representatives, Congressmen and -women, or the President of the United States, or his spokesmen or -women, argue that amnesty isn't amnesty when we know very well what amnesty is. Pardon immigration lawbreakers and reward them with the objective of their crimes. That's amnesty.

President Reagan understood it. He admitted amnesty was amnesty. He signed the amnesty bill in 1986. Yes, he let me down, but he was honest about it. And we haven't been honest during the second half of the Bush administration, and we certainly aren't honest during the Obama administration, this first third or so of the Obama administration about amnesty or immigration.

And so here are my concerns, that 90 percent of the illegal drugs that are consumed in the United States come from or through Mexico. Of all the violence that pours forth from that, it costs American lives dozens and dozens, in fact by the hundreds, every year Americans that die at the hands of illegals that are here in the United States of America illegally. That's the definition. And if we would be effective in enforcing immigration law, those people who died at the hands who are here illegally would still be alive.

When the school bus wrecked in southwest Minnesota and we lost four or five young girls there because it was caused by an accident by an individual who had two or three times been interdicted by law enforcement in the United States but was turned loose again, those girls would be young women today. They would be alive today. And their parents know that. It happens over and over hundreds of times. In fact, it's happened thousands of times since we failed to enforce our immigration laws.

So what do we do? We put together the will to enforce our immigration laws. The American people rise up and make the argument that we are going to have the rule of law, that we are going to shut off all illegal traffic at the border. We are going to force all that traffic through the ports of entry.

It's been a little while since we have talked about the necessity of building a wall and a fence on the southern border. Someone said to me we can't build 2,000 miles of fence. Yes, we could. We could build 2,000 miles of triple fencing. We could put sensors on it. We could put lights on it. We could build roads in between. We could patrol it. We could enforce it. We can fix it so nobody gets through all that. Yes, we can. And for the people that will argue if you build a 20-foot fence I will show you a 21-foot ladder, that's got to be the silliest and the weakest and the most specious argument I have heard here on the floor of the United States Congress. I have heard the Secretary of

Homeland Security say build a 50-foot fence and I will show you a 51-foot ladder.

Madam Speaker, what in the world could that mean? All right, if you build a rocket that will fly to the Moon, I will show you a rocket that will fly a mile past the Moon. So what? What does that mean? They are not going to be building a 51-foot ladder. And if they do, we are going to be sitting there with our sensory devices, our roads, our monitoring, and we are going to make sure if they can get over that fence they don't get to the next one. And if they get over that one, we are going to make sure they don't get to the next one.

I have designed a concrete wall. And it is not the only barrier; it is not the only tool. And when those of us that talk about the necessity for extending the fence and the wall on the southern border and building double and tertiary fences and walls, the argument against it becomes this silly argument of, well, that's not going to solve the problem.

None of us believe it's the total solution. None of us believe that building an effective wall and fence is the only thing we would do. It's among the effective things that we could do.

So, Madam Speaker, here are some things that the American people don't know. The President doesn't know. His actuaries don't know. The Speaker of the House doesn't know. HARRY REID, the majority leader in the Senate doesn't know. And the committee Chairs don't know. And I may well be the only one in the United States Congress that knows this. And, Madam Speaker, now the whole world is going to know. Here are the numbers. About 2006 we were spending $8 billion on our southern border. Now we are spending about $12 billion on our southern border. All together. These aren't numbers that come out of the administration except one piece at a time. And you have to add them up and calculate it out and calculate it back to the numbers of miles of border that we have. $12 billion when you add up all of the expenses necessary for ICE that are operating down there near the border in that 20- to 40-mile, maybe 50-mile range of the border.

You have to pay the personnel, their health care package, their benefits package, their retirement funds, their equipment, their vehicles that they drive, guns, uniforms, all those things that they do. And you add to that Custom Border Protection, our CBP people, our Customs personnel, our Border Patrol personnel. And all of the forces that are there lined up that are part of that coordinated effort to defend the border are right in the area of $12 billion. $12 billion for 2,000 miles of border. That is $6 million a mile, Madam Speaker.

Now, think of this. Most of us can think what a mile is. For me, I live on the corner on a gravel road in Iowa. And a lot of those corners you can stand out there in the middle of that intersection and you can see a mile in each of four directions. It is not the case in mine, but I know how far a mile is. Most of us do.

Now, when I stand on my corner and I look to the west that full mile, a mile west, which is the clearest vision that I have, and I think would the Federal Government pay me—if that were the border, would the Federal Government pay me $6 million to guard that border for that mile? Could I do that for $6 million? Would I be willing to take on that contract and control that border for $6 million for that mile? And that's the average for 2,000 miles. Some of it's barren and desolate. Would I be willing to do that, Madam Speaker, for $6 million? You betcha. You betcha, to pick up on a phrase. I would do that for $6 million a mile.

And, furthermore, I would be willing to guarantee nobody would get across that mile. I would guard it, I would protect it, I would hire the personnel necessary. And, in fact, rather than paying a lot of people that were boots on the ground, I would have some, and they would be in mobile vehicles, and we would have sensors, and we would have some lights, and we would have radios, and we would have warning devices and ground-based radar. We would do all that stuff.

□ 2045

But we would also build a fence and a wall as a barrier to slow that traffic down and make it hard enough that they wouldn't come through my mile at all. In fact, I would shut down all the traffic in that mile for $6 million. And if you award me that contract, I would be willing to let you dock me from that contract. I would guarantee it. I would bond it. I would let you dock me. If they got across my mile, then subtract from my contract every illegal crosser that is there. Then you would put the incentives in place to actually succeed in what we're doing as opposed to just simply doing—it's not catch and release back into America anymore. It's catch and release at the port of entry and turn them back in to Mexico, and then they come back around with a smirk on their face. And I have watched them do that, Madam Speaker.

Another tool that we need to have is the New IDEA Act. New IDEA is legislation that I have introduced in the last three Congresses. The New IDEA stands for the New Illegal Deduction Elimination Act. That's the acronym, New Illegal Deduction Elimination Act. It comes from this part. If you look around, across the agencies of the Federal Government and think about those agencies and how aggressively and how effectively they do their jobs, we have the Department of Homeland Security, which has really pledged that they're not going to deport illegal workers in America.

In fact, they picked up some illegal workers by accident in Boston some months ago back in December or January. They found out that they were illegal. They processed them. These workers were on their way up to Gillette Stadium in Boston. So ICE, after they processed them, hauled them up to work. They gave them chauffeured transportation up to their job to be groundskeepers at Gillette Stadium in Boston, a complete lack of focus on their job.

I mean, you talk about open borders. Jump across the border, come in here and sneak in and get yourself a job and have your documents being invalid, falsification, whatever it might be, misrepresents your status. And if we run across you by accident because our ICE people are out there doing what they do, we will take your fingerprints and your names, and then we'll give you a chauffeured ride on up to work at Gillette Stadium. That is bizarre. It is so far away from an understanding of what it takes to enforce the law.

I take us back to a time in the fifties when my father was a manager of the State police radio stations, and he also was the mayor of a small community. The local town cop came across an illegal who happened to be traveling through the community, and I don't know how they interdicted him, whether it was his license plate light that was out or whatever it was, but he was arrested. He was incarcerated. He was held up in the city jail, and they had to process him. And my father, as mayor, was the justice of the peace as well. There never was any consideration about turning him loose because it was too hard to enforce the law. The only thing that could come from that was the person that was illegally in the United States was going to go back to their home country. And by my recollection, that's what happened.

But the New Illegal Deduction Elimination Act recognizes that the Department of Homeland Security hasn't shown a complete will to enforce immigration law. They have got good officers out in the field. They want to do so. They want to deliver on a mission and accomplish a mission statement. They want to accomplish their mission statement, but the lack of will from the White House down through the Secretary of Homeland Security prevents them from being as effective as they can be.

So there's your agency. Department of Homeland Security is not as effective as they can be, enforcing against employers because politically that's more palatable but refusing to enforce against illegal workers because they have decided that those illegal workers can be Democrats. I stand on that statement, Madam Speaker. They've decided those illegal workers can become Democrats, so they want to pander to them.

We've got the Social Security Administration that has a database that should be feeding information to the Department of Homeland Security. Whenever you have duplications of those Social Security numbers, you

can bet that as soon as the second one shows up, if it's outside the neighborhood in the driving range of the first one, that you have one illegal there at least that's working off of that Social Security number—and maybe both of them are illegal.

The Social Security Administration is willing to take the checks that come from the payroll taxes of those millions who are working illegally in America, paying their payroll taxes because it's withheld from their paycheck, but declaring the maximum number of dependents so that they pay Social Security, Medicare and Medicaid, but not State and Federal income tax. The Social Security Administration's willing to take those checks from those illegal workers and not explore the duplications on those Social Security numbers because the money's going into the account which is being spent by this Congress but is kept in an accounting process in Parkersburg, West Virginia, in a filing cabinet. And bonds that are worth no more than this piece of paper was, a print on top of it. I happen to have one in my filing cabinet as well. $3.54 billion in bonds in the Social Security account. It's an IOU from the government to the government. They put them in a filing cabinet in Parkersburg, West Virginia. But illegals pay into that out of proportion because they're not going to file a tax return. And so the dollars that are contributed on that Social Security number go into that filing cabinet along with those bonds.

And we have the Department of Homeland Security who is not willing to enforce the law to the extent that it must be against illegal workers. They may be willing to enforce the law in even an increasing degree over the Bush administration against employers who are hiring illegal workers. The Social Security Administration is cashing the checks of people who have fraudulently misrepresented their identity, and so neither agency has demonstrated the will to enforce the law.

So I brought this legislation called the New IDEA Act which clarifies that wages and benefits paid to illegals are not tax deductible for Federal income tax purposes, and it establishes that there will be a cooperative working effort between Social Security, Homeland Security, and the IRS. The IRS, who has demonstrated they do have a desire to enforce the law, they have been vigorous in enforcing the law, and they would be very useful in stepping into the enforcement of illegal immigration law, and they happen to be in just exactly the right position to do so.

And so under my bill, should it become law—and in fact, my bill has been advocated by the Democrats in the Senate who are proposing immigration legislation, Senator SCHUMER and others. They didn't define the title of the bill, but they defined the bill within their talking points, so I can commend them for recognizing the need.

New IDEA, the New Illegal Deduction Elimination Act, clarifies that wages and benefits paid to illegals are not tax deductible for income tax purposes, and it directs the IRS to go in under the normal course of their audits, run the Social Security numbers of those employees through, which will show up on the tax forms, run them through the E-Verify program. E-Verify is the Internet-based program that can verify the identity of the employees. It identifies a person who can lawfully work in the United States, and it has a very, very high degree of success and accuracy.

So the IRS would come in in an audit, and they would audit corporation A, and say corporation A has 25 employees. Their Social Security numbers will be listed in their tax forms. They will punch those Social Security numbers in to E-Verify. If it comes back that they can lawfully work in the United States, fine. No problem. If it comes back that they can't verify, then the IRS can give the employer an opportunity to cure those records, to straighten them out and to correct them. But failure to correct those records then can be concluded by the IRS, under the New IDEA Act, the New Illegal Deduction Elimination Act, the IRS can then deny the tax deductibility of the wages and benefits paid to the illegals.

When the IRS denies that, then those wages—let's just say that it's $1 million worth of wages that are paid, are deducted as a business expense like you would deduct, oh, let's say, fuel or any of your overhead that you might have, input from produced products or whatever it might be. That business expense would be denied. And when it's denied, presumably, it goes over into the income column. So $1 million worth of wages are denied as an expense because it was paid to illegals and denied by the IRS. It would go over here to the other column on the profit side.

And I did this calculation at 34 percent corporate income tax, and it might well be 35 percent today, and I think it's more accurate to say so. But at 34 percent, your $10 an hour illegal, by the time you add interest and penalty and the 34 percent tax, becomes a $16 an hour illegal. The IRS steps in then to enforce immigration law by denying the deductibility of wages and benefits paid to illegals, adding the interest and the penalty, and the $10 an hour illegal becomes a $16 an hour illegal. Employers will understand that instantly, and they will set about cleaning up their workforce, using E-Verify.

And, by the way, we give that employer safe harbor if he uses E-Verify, using E-Verify to clean up his workforce. And an employer that can't function with the illegal staff that he has may make the decision to incrementally transition over into legal employees over a period of time. Whatever it takes. It's not draconian. It isn't stark. It isn't something that shuts businesses down, but it is something that sets up an incentive for businesses to comply with our immigration law. Should they choose not to do that, then they can pay the Federal Treasury the difference of $10 an hour up to $16 an hour.

We need to fix E-Verify, and we do in my bill. We set up E-Verify so that an employer can use E-Verify to verify the employability status of the applicant upon a bona fide job offer rather than having to hire the individual. Under current E-Verify law, you can't use E-Verify to determine if a job applicant can lawfully work in the United States. You can only do that after you actually hire them. So if you hire an individual, and you run their data through E-Verify and it comes back that they can't confirm that they can lawfully work in the United States, then you have to turn around and fire them.

And I'll take the position that American employers should not be compelled to hire illegals in order to find out that they're illegal. They should be able to say to the individual, Sam, John, Larry, Sally, whoever you are, I'm offering you this job, and the job that I'm offering you is contingent upon your data being approved through E-Verify. I will do that now if you're willing to accept this job. If they say yes, you run the data through. You've got, at a maximum, a 6-second delay to get this verification done. If they don't meet the test, you don't put them on the payroll. I think that it's immoral to hire people that are illegal, and I don't want to be compelled to do that because we've got a flaw in our E-Verify law.

So I appreciate the statement that Mr. POLIS from Colorado made that he's for zero illegal immigration. I don't know how you get to that unless you're willing to enforce the law. I think we need to force all traffic—legal and illegal—and all products—human and other products—through the ports of entry on our southern border. I think we need to go ahead and build a fence and a wall. And at the expense of $6 million a mile, that's the maintenance of our border. What will it cost us to build a fence and how much will it cut in the cost to maintain the enforcement of that? If we can, for a couple million dollars a mile, build some very effective barriers, that means that we can cut down on the cost to the boots on the ground to enforce those sections and focus our boots on the ground that we have in the areas where we have trouble with enforcement. That's a logical thing to do.

Look around the world. Look at the barrier that they have in Israel, for example, where they had suicide bombers coming through over and over and over again. They built a barrier there, and it's set up to protect the Israelis from the people that would come and do them harm. Is it immoral for them to protect themselves from that kind of damage to their lives and to their limbs and to their treasure? I suggest it is not. And those that would argue that a wall on our border is comparable to the Berlin Wall just completely and intentionally and willfully miss the

most important point, and that is that a wall to keep people out is morally and fundamentally different than a wall to keep people in. The Berlin Wall was about keeping people in. You don't hear the same people argue against the Great Wall of China because they know the Great Wall of China was designed to keep people out, not in. We know that the barrier in Israel has worked. We know that our barriers on our southern border where we have them have worked.

We have tertiary fencing down there in San Luis, Arizona, that is, as near as I can determine, that section of fence—however short it is—it's three layers of fencing. As near as I can determine, it has not been defeated by anyone. It's easier to go around the end than it is to go over, around, under, or through. I don't suggest we build 2,000 miles of wall and fencing with sensors and monitoring and patrol roads. Madam Speaker, I suggest that we simply build a fence and build a wall until they quit going around the end. If we do that, it may take 2,000 miles. It may not. We may just be building the 784 miles that are required by the Secure Fence Act. We would need to have a smart immigration policy.

And here we are, down into the depths of this downward spiral of our economy, this economy that's been referred to a good number of times as the ''great recession.'' And we're talking about, what, granting amnesty to people, perhaps moving pieces of legislation through this Congress that would legalize 12 million to 20 million people in an economic environment where we have 15.4 million unemployed Americans that fit the category, that fit the definition, another 5 million to 6 million Americans who no longer fit the definition for unemployment because they quit trying. So we have over 20 million Americans that are looking for work or should be looking for work or have given up, and we have at least 8 million illegals that are working in the United States, taking up jobs that Americans could and should be doing.

□ 2100

The argument that there is work that Americans won't do, we haven't heard much of that argument in the last year or so, since the economy went into the downward spiral. They haven't said that as often. I have always argued that there isn't work that Americans won't do. We do everything. There is no job in America that is not being done by Americans. No matter how many legal or illegal immigrants might be doing that work, there will always be Americans standing there doing that work as well.

When we travel around the world and look at the work that is being done, work that is characterized as work that Americans won't do, I see that work being done by every nationality in every country. There is no work that Americans won't do. When JOHN MCCAIN talked about he would pay $50 an hour for people to come and pick lettuce, I am not sure that he ever wrote that check; but I was quite concerned that I would lose my construction crew, who might all migrate down to Arizona to pick lettuce for $50 an hour.

It isn't a matter that there is work that Americans won't do, it is a matter of there has been a flood of underskilled labor that are mobile. They are more reactive. They can beat Americans to that job because they are not as tied to real estate. They don't have those kinds of possessions. They have a cell phone network, and if they need 25 people to pick the lettuce in Arizona, that network brings a lot of illegals in there to do that. It doesn't mean Americans won't do it. There is no work Americans won't do.

I mentioned JOHN MCCAIN, and it isn't for the purpose of being critical of the positions he has taken in the past, I say my hats off to the people who have served this country. He is an authentic American hero. He has gone through a tremendous amount of torture and pain and suffering, and he has not lost his resolve to defend this country in a fashion that he believes as a United States Senator.

I would just suggest, here are some real facts. I have asked this question, and I come down to a bottom line consensus: What is the toughest, dirtiest, most dangerous job that we ever ask Americans to do? I will suggest that it is not in the United States. It has been and perhaps will not be again in that particular location, but it is rooting terrorists out of places like Fallujah, or places in Afghanistan, where we ask our soldiers and our marines to put their lives on the line to do that, sometimes in 130 degree heat with 70, 80 pounds that they are carrying. They go in and root those terrorists out of Fallujah. They root them out of Afghanistan. They do that, and if you calculate them at 40 hours a week, for about $8.09 an hour.

If Americans will do that, if they will take on the toughest, the hottest or the coldest, the dirtiest, and the most dangerous jobs in the world for that kind of money, there is no argument to be made that there are jobs that Americans will not do. We work hard and are willing to take a risk. We stand up for freedom and liberty and the rule of law. The people who put on the uniform to put their lives on the line are very much about defending the pillars of American exceptionalism, the principles that made American great, and they are not about defending someone having a path to citizenship being granted through amnesty.

We owe the honor to the people who have defended our liberty and freedom to stand up for the rule of law. The rule of law has been reestablished by the statute in Arizona, the immigration legislation that they have passed and has been signed into law by the governor.

These immigration laws in Arizona are laws that reflect the Federal immigration law. They fit within the umbrella of the Federal immigration law. Yes, there is a standard called Federal preemption, and that means if the Federal Government passes a law, provided it is constitutional that supersedes that of the States, that is Federal preemption. But we don't have any statutes that preempt immigration law in Arizona because they have drafted their immigration legislation to fit within the umbrella of the Federal immigration law.

And they have set up some clear standards, clear standards that there shall not be racial profiling used as the only criterion when it comes to interdicting or stopping an individual.

Now that happens to fit consistently with Federal case law. We have a responsibility and a duty and an obligation and a legal standard that allows our law enforcement officers to use a profile provided their race isn't the only criterion. And reasonable suspicion includes a whole lot of other criteria in addition to race. We don't want to be foolish or stupid about this.

I recall an incident that took place in Urbandale, Iowa, 15 or more years ago. It is a community that at the time was not populated by minorities in any significant percentage. There was a Cadillac being driven down the street in a higher income residential area by an African American. The law enforcement officer saw that and wondered, and maybe it was actually Windsor Heights, come to think of it, but it was one of the suburbs of Des Moines, and the officer saw that and thought, That doesn't quite fit what goes on in this community. It could have been the same police officer in an African American community that would have made the call if it were perhaps a white person in that community.

But it turned out to be the other way around. He ran the plates on the car and the car was registered to a Caucasian female who lived in the neighborhood. So the officer suspected something was out of order, pulled the car over, and found out that the African American driving the car was the husband of the Caucasian lady whom the car was registered to who lived in the neighborhood.

Okay, it wasn't what you would normally see as typical. One could argue it was racial profiling, but I would argue it was police work picking up the things that were inconsistent and trying to pick the populous. In any event, the settlement was $60,000 paid to the driver of the car, the husband of the lady who owned the car and was a very legitimate resident of the community and as far as I know, was a very well-respected Iowan.

But sometimes you get caught in the anomaly, and you have to give the police officers their due. They are picking out those things that are out of order and don't fit the normal practice in the neighborhood. And I know the difference. I live in a rural neighborhood. When somebody drives down my road,

we generally know who they are and where they are going. If I drive down the road, they know me. It is part of our own built-in security system.

Where I reside out here in D.C., I know who stands on the street and what the flow of traffic is, and you see those things that are outside the normal flow. That's what police officers do. It isn't and should not be targeting people because of their race. But race can be a factor in a legitimate police activity as long as it is not the only factor. That is what the Arizona law says.

I want to presume that those police officers are operating to enforce the rule of law and protect society and to use the tools that they have to protect the people. That's what they are. They provide security all across this country. Having grown in an law enforcement family, I respect the job that they do and the risk that they take and the judgment and the education that is necessary for them if they are going to enforce the law.

In Arizona, the executive order by the governor ensures that they are going to continue to teach and train their officers so that they stay within compliance of Federal law, Arizona law, Arizona Constitution and the United States Constitution. And if there are deviations from that, I am very confident that the people who are driving wedges between us as Americans will find a way to litigate.

I regret and it saddens me, and in fact it infuriates me, Madam Speaker, that we would see the people who are race baiters who are seeking to drive wedges between the American people, trying to capitalize on this and scare the American people and make it out to be something that it is not. What it is is, it is a law that sets up and honors the Federal immigration law that uses the Arizona law enforcement people to enforce an immigration law that is now a State law that is the mirror of the Federal law. We need to understand that in the case of U.S. v. Santana Garcia, and several others, that there are Federal precedents that local law enforcement implicitly has the authority to enforce immigration law.

Regardless of whether there is a 287(g) agreement, local law enforcement has the authority to enforce immigration law, and there is a Federal law that prohibits sanctuary cities. It has been exploited by many cities in the country, including San Francisco and Houston, a number of cities that want to boycott Arizona, the violation of the Federal law from prohibiting cities from becoming sanctuary cities has been a circumvention, and it says the series of requirements that are in there that prohibit local cities from, let me say, protecting illegals in their communities, and have they found a way to pass memorandums of understanding or city ordinances that direct their police officers to not gather information, because the statute that was written wasn't tight enough and requires that once they have the information, they have to transfer it on to Federal law enforcement officials, so they just prohibit their local law enforcement officers from gathering information on illegals.

And so they become sanctuary cities and the streets of the city fill up with people who are here illegally. They are taking jobs from Americans. They are among the 8 millions taking jobs from Americans; and as the streets fill up, they are also turning a blind eye to the illegal drugs and the violence and the abuse that comes out of that community in its entirety.

Madam Speaker, I go back to 12 to 20 million illegals living in America, at least 8 million working in America, 15.4 million unemployed, another 5 to 6 million that quit looking for work that fit that category except they are not trying any longer, over 20 million Americans who need a job, 8 million illegals that are occupying jobs that would all go to people who are either Americans or lawfully present in the United States, in an economy that has been declining and shrinking.

And by the way, we have 1.5 million green cards that are issued on an annual basis. If you look at the workforce in America, 10 years ago the workforce in American was 142 million, now it is 153 million.

□ 2115

It has increased about a little over 1 million a year over the last 10 years. And if you would go back and look, the numbers of green cards has accelerated from about three quarters of a million in that period of time—and that actually is a guess, Madam Speaker—on up to about 1.5 million a year now. Almost the sum total of the expansion of our workforce has been attributable to the legal immigration green cards that are a component of this. And so our economy has to grow and create 1.5 million new jobs a year just to accommodate the legal immigration, let alone the illegal immigration. Those are the facts of what we're faced with today.

So, Madam Speaker, I'm going to make this statement, that we have to put a stop to the illegal immigration in America. We've got to direct all traffic through our ports of entry where we can stop the traffic of illegal drugs, contraband, and people coming into the United States. We need to enforce our immigration law. We need to adopt the new ID Act so the IRS can help us enforce immigration law. And then, while all this is going on, we've got to take a look at the legal immigration in America and make a determination as to how many jobs we want this economy to create to accommodate those who are coming in here legally, and we have to have an economy that's going to be robust.

Furthermore, according to Robert Rector of the Heritage Foundation, a household that's headed by a high school dropout costs taxpayers in America an average of $22,449; $22,449 over 50 years of heading the household, a $1.5 million cost to the taxpayers to help sustain this household because we have become a welfare state. When my grandmother came here before the turn of the previous century, she didn't come here to a welfare state. She came here to a meritocracy, and they wanted to ensure that the people that came through Ellis Island were physically and mentally fit and could sustain themselves. And even though they were screened in Europe before they got on the ship, 2 percent of them were sent back from Ellis Island because they didn't meet the standard.

And so here we are today, 1.5 million legal immigrants who are granted work permits in the United States consuming all the new jobs in America and expanding the workforce when we have many more Americans that we could tap into to do this work that we haven't tried. That's 15.4 million unemployed, plus 5 to 6 million who no longer meet that category, 20 million altogether. And if I would put them into this category, those Americans of working age are in the area of 80 million Americans of working age who are simply not in the workforce. So if we would just simply hire one out of 10 of those, we could replace all the illegal workers by hiring 10 percent of those who are not in the workforce, but are of working age; and about 20 million of those are looking for work.

So, Madam Speaker, we have an economy we need to heal up. We've got a rule of law we've got to reestablish. We have demonstrations that are likely to come across America that are designed to just pit Americans against Americans, race-based, race baiting for political purposes, when what we're really looking for here is the enforcement of the rule of law and a robust economy that's going to employ American workers.

We are the most generous country in the world when it comes to allowing legal immigration, roughly 1.5 million a year. No other country comes close to matching that. We need to take a look at our economy, the rule of law, the culture in America, enforce the rule of law, stand with Arizona—who has not done anything except define their Arizona immigration law to reflect that of the Federal law. And the President of the United States, who has directed the Justice Department to examine Arizona law, I think is finding out that it's constitutional, it's statutorily consistent, it cannot be and should not be preempted by Federal law, and it should be honored and respected and supported, not investigated, nor litigated. And I encourage and I thank the people in Arizona for having the courage to step up and pass their legislation.

Madam Speaker, I yield back the balance of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. POLIS) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

(The following Members (at the request of Mr. POE of Texas) to revise and extend their remarks and include extraneous material:)

Mr. CALVERT, for 5 minutes, May 4 and 5.

Mr. FORBES, for 5 minutes, today.

Mr. MORAN of Kansas, for 5 minutes, May 6.

Mr. POE of Texas, for 5 minutes, May 6.

Mr. JONES, for 5 minutes, May 6.

Mr. SHIMKUS, for 5 minutes, today.

ENROLLED BILL SIGNED

Lorraine C. Miller, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5147. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

ADJOURNMENT

Mr. KING of Iowa. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 16 minutes p.m.), under its previous order, the House adjourned until Monday, May 3, 2010, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XIV, executive communications were taken from the Speaker's table and referred as follows:

7255. A letter from the Regulatory Officer, Department of Agriculture, transmitting the Department's final rule — Adjustment of Appendices to the Dairy Tariff-Rate Import Quota Licensing Regulation for the 2008 Tariff-Rate Quota Year received April 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7256. A letter from the Secretary, Department of Agriculture, transmitting the Department's report entitled, ''2009 Packers and Stockyards Program Annual Report'', pursuant to the Packers and Stockyards Act of 1921, as amended; to the Committee on Agriculture.

7257. A letter from the Under Secretary, Department of Defense, transmitting a letter on the approved retirement of General Charles C. Campbell, United States Army, and his advancement on the retired list in the grade of general; to the Committee on Armed Services.

7258. A letter from the Under Secretary, Department of Defense, transmitting the Department's report on National Guard Counterdrug Schools Activities, pursuant to Public Law 109-469, section 901(f); to the Committee on Armed Services.

7259. A letter from the Under Secretary, Department of Defense, transmitting the Department's report on activities under the Secretary's personnel management demonstration project authorities for the Department of Defense Science and Technology Reinvention Laboratories; to the Committee on Armed Services.

7260. A letter from the Chief Counsel, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket IN: FEMA-2010-0003] received April 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7261. A letter from the Deputy to the Chairman, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Deposit Insurance Regulations; Temporary Increase In Standard Coverage Amount; Mortgage Servicing Accounts; Revocable Trust Accounts; International Banking; Foreign Banks (RIN: 3064-AD36) received April 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

7262. A letter from the Office of Research and Analysis, Department of Agriculture, transmitting the Department's final rule — School Food Safety Program Based on Hazard Analysis and Critical Control Point Principles [FNS-2008-0033] (RIN: 0584-AD65) received April 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

7263. A letter from the Assistant General Counsel for Regulatory Services, Department of Education, transmitting the Department's final rule — Race to the Top Fund [Docket ID: ED-2010-OESE-0005] (RIN: 1810-AB10) received April 21, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and Labor.

7264. A letter from the Program Analyst, Department of Transportation, transmitting the Department's final rule — Tire Fuel Efficiency Consumer Information Program [Docket No.: NHTSA-2010-0036] (RIN: 2127-AK45) received April 12, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7265. A letter from the Senior Legal Advisor/Chief, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of the Amateur Service Rules to Facilitate Use of Spread Spectrum Communications Technologies [WT Docket No.: 10-62] received April 12, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7266. A letter from the Acting Associate Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting the Commission's final rule — High-Cost Universal Service Support Jurisdictional Separations Coalition for Equity in Switching Support Petition for Reconsideration [WC Docket No.: 05-337] [CC Docket No.: 80-286] received April 12, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

7267. A letter from the Assistant Secretary, Legislative Affairs, Department of State, transmitting the Department's report on U.S. support for Taiwan's participation as an observer at the 63nd World Health Assembly and in the work of the World Health Organization, as mandated in the Participation of the 2004 Taiwan in the World Health Organization Act, Pub. L. 108-235, Sec. 1(c); to the Committee on Foreign Affairs.

7268. A letter from the Deputy Director, Court Services and Offender Supervision Agency for the District of Columbia, transmitting the Agency's annual report for Fiscal Year 2009, pursuant to Public Law 107-174, section 203; to the Committee on Oversight and Government Reform.

7269. A letter from the Associate General Counsel for General Law, Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7270. A letter from the Associate General Counsel for General Law, Department of Homeland Security, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Oversight and Government Reform.

7271. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administrations's final rule — Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 10 [Docket No.: 0907021105-0024-03] (RIN: 0648-AY00) received April 9, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7272. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska [Docket No.: 09100091344-9056-02] (RIN: 0648-XU89) received April 9, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7273. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Resources of the South Atlantic; Trip Limit Reduction [Docket No.: 060525140-6221-02] (RIN: 0648-XU16) received April 9, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7274. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone of Alaska; Gulf of Alaska; Final 2010 and 2011 Harvest Specifications for Groundfish [Docket No.: 0910131362-0087-02] (RIN: 0648-XS43) received April 9, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7275. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2010 and 2011 Harvest Specifications for Groundfish [Docket No.: 0910131363-0087-02] (RIN: 0648-XS44) received April 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7276. A letter from the Director Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Atlantic Highly Migratory Species; Inseason Action to Close the Commercial Gulf of Mexico Non-Sandbar Large Coastal Shark Fishery (RIN: 0648-XU90) received April 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7277. A letter from the Assistant Administrator for Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule —

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Harbor Porpoise Take Reduction Plan Regulations [Docket No.: 080721862-91321-03] (RIN: 0648-AW51) received April 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Natural Resources.

7278. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — Federal Civil Penalties Inflation Adjustment Act — 2009 Implementation [Docket No.: USCG-2009-0891] (RIN: 1625-AB40) received April 13, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

7279. A letter from the Director, Department of Justice, transmitting the Department's report entitled, ''National Drug Threat Assessment (NPDTA) 2010''; to the Committee on the Judiciary.

7280. A letter from the Deputy Assistant Administrator/Office of Diversion Control, Department of Justice, transmitting the Department's final rule — Information on Foreign Chain of Distribution for Ephedrine, Pseudoephedrine, and Phenylpropanolamine [Docket No.: DEA-295F] (RIN: 1117-AB07) received April 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

7281. A letter from the Deputy Assistant Administrator/Office of Diversion Control, Department of Justice, transmitting the Department's final rule — Changes to and Consolidation of DEA Mailing Addresses [Docket No.: DEA-312F] (RIN: 1117-AB19) received April 8, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

7282. A letter from the Attorney Advisor, Department of Homeland Security, transmitting the Department's final rule — 2010 Rates for Pilotage on the Grast Lakes [Docket No.: USCG-2009-0883] (RIN: 1625-AB39) received April 13, 2010, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. VAN HOLLEN (for himself, Mr. CASTLE, Mr. BRADY of Pennsylvania, and Mr. JONES):

H.R. 5175. A bill to amend the Federal Election Campaign Act of 1971 to prohibit foreign influence in Federal elections, to prohibit government contractors from making expenditures with respect to such elections, and to establish additional disclosure requirements with respect to spending in such elections, and for other purposes; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOEKSTRA:

H.R. 5176. A bill to amend the National Labor Relations Act to prohibit States and Territories from classifying self-employed individuals as employees under state collective bargaining laws; to the Committee on Education and Labor.

By Mr. REHBERG:

H.R. 5177. A bill to delay the implementation of certain final rules of the Environmental Protection Agency in States until accreditation classes are held in the States for a period of at least 1 year; to the Committee on Energy and Commerce.

By Mr. DOGGETT (for himself, Mr. LEVIN, Mr. WAXMAN, Mr. WEINER, Mr. GEORGE MILLER of California, Mr. VAN HOLLEN, Mr. PASCRELL, Mr. LEWIS of Georgia, Mr. MCDERMOTT, Mr. DAVIS of Illinois, Mr. KIND, Mr. BLUMENAUER, Ms. LINDA T. SÁNCHEZ of California, Mr. STARK, Ms. SCHWARTZ, Mr. THOMPSON of California, Ms. GINNY BROWN-WAITE of Florida, Ms. DELAURO, Ms. ESHOO, Mr. ISRAEL, Ms. JACKSON LEE of Texas, Ms. KILPATRICK of Michigan, Mr. LIPINSKI, Mrs. MCCARTHY of New York, Mr. SNYDER, Ms. SUTTON, Mr. WALZ, Mr. WELCH, Ms. WOOLSEY, Mr. NADLER of New York, Mr. BERMAN, Mr. LANGEVIN, Ms. DEGETTE, Mrs. MALONEY, Mr. GENE GREEN of Texas, Mr. HINCHEY, Ms. LEE of California, Mr. DEFAZIO, Mr. DELAHUNT, Mr. RUSH, Mr. MARKEY of Massachusetts, Mr. CUMMINGS, Mr. FILNER, Ms. ZOE LOFGREN of California, Ms. MATSUI, Mr. MEEKS of New York, Mr. PLATTS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PIERLUISI, Mr. PALLONE, Mrs. CAPPS, Mr. HOLT, Mr. SMITH of New Jersey, Mr. WU, Mr. SHERMAN, Mr. BRALEY of Iowa, Mr. ELLISON, Mr. HARE, Mr. HINOJOSA, Mr. HONDA, Ms. CLARKE, Mr. KUCINICH, Mr. MATHESON, Ms. SLAUGHTER, Mr. TIERNEY, Mr. GRAYSON, Mr. SERRANO, Ms. WATERS, Mr. BISHOP of New York, Ms. KAPTUR, Ms. WATSON, Mrs. DAVIS of California, Mr. GRIJALVA, Mr. FARR, Ms. LORETTA SANCHEZ of California, Mr. CARNAHAN, Mr. COHEN, Mrs. NAPOLITANO, Mr. CONNOLLY of Virginia, Mr. GUTIERREZ, Mr. SIRES, Ms. BALDWIN, Mr. OLVER, Mr. PAYNE, Ms. RICHARDSON, Ms. ROYBAL-ALLARD, Mrs. LOWEY, Mr. MCGOVERN, Ms. EDWARDS of Maryland, Mr. LOEBSACK, Ms. SCHAKOWSKY, Mr. FRANK of Massachusetts, Mr. ROTHMAN of New Jersey, Mr. ANDREWS, Mr. RYAN of Ohio, Ms. TSONGAS, Mr. ACKERMAN, Ms. HIRONO, Mr. OBERSTAR, Mr. CAPUANO, Mr. LYNCH, Mr. SARBANES, Ms. WASSERMAN SCHULTZ, Ms. NORTON, Mr. ARCURI, Mr. JACKSON of Illinois, Ms. KILROY, Mr. SESTAK, Mr. KENNEDY, Mr. HALL of New York, Mr. HIMES, Mr. TONKO, Mr. MORAN of Virginia, Mrs. DAHLKEMPER, Ms. HARMAN, Mr. MOORE of Kansas, Mr. BAIRD, Mr. SCHRADER, and Mr. GARAMENDI):

H.R. 5178. A bill to amend the Internal Revenue Code to reduce tobacco smuggling, and for other purposes; to the Committee on Ways and Means.

By Mrs. DAHLKEMPER:

H.R. 5179. A bill to amend title 5, United States Code, to make clear that family coverage under the Federal Employees Health Benefits Program remains available with respect to an otherwise eligible child of a Federal employee or annuitant until that child attains 26 years of age, and for other purposes; to the Committee on Oversight and Government Reform.

By Ms. SHEA-PORTER (for herself, Ms. PINGREE of Maine, Mr. FRANK of Massachusetts, Mr. TIERNEY, Ms. BORDALLO, and Mr. PALLONE):

H.R. 5180. A bill to establish an Ombudsman Office within the National Marine Fisheries Service, and for other purposes; to the Committee on Natural Resources.

By Mr. ARCURI (for himself, Mr. OWENS, Mr. HUNTER, and Mr. JONES):

H.R. 5181. A bill to amend title 10, United States Code, to improve the preservation of the small arms production industrial base; to the Committee on Armed Services.

By Mr. BERRY:

H.R. 5182. A bill to help certain communities adversely affected by FEMA's flood mapping modernization program; to the Committee on Financial Services.

By Mr. BRIGHT:

H.R. 5183. A bill to amend the Internal Revenue Code of 1986 to extend the first-time homebuyer tax credit through December 31, 2010, and for other purposes; to the Committee on Ways and Means.

By Mr. DAVIS of Illinois (for himself, Mr. CUELLAR, Mr. MCGOVERN, Mr. NEAL of Massachusetts, Ms. BORDALLO, and Mr. OLVER):

H.R. 5184. A bill to amend the Safe and Drug-Free Schools and Communities Act to include bullying and harassment prevention programs; to the Committee on Education and Labor.

By Mr. DEFAZIO (for himself, Mr. DONNELLY of Indiana, and Mr. MARSHALL):

H.R. 5185. A bill to amend titles 10 and 38, United States Code, to increase the maximum age for children eligible for medical care under the TRICARE program and the CHAMPVA program; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DENT:

H.R. 5186. A bill to extend the chemical facility security program of the Department of Homeland Security, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Florida (for himself, Mr. MCGOVERN, Mrs. CHRISTENSEN, Ms. CORRINE BROWN of Florida, Mr. CLEAVER, Mr. CONYERS, Mr. DAVIS of Illinois, Ms. DELAURO, Mr. FILNER, Ms. LEE of California, Mr. MEEK of Florida, Mr. MEEKS of New York, Ms. NORTON, Ms. RICHARDSON, Mr. RUSH, and Mr. THOMPSON of Mississippi):

H.R. 5187. A bill to require the Secretary to establish a commission that is designed to construct a comprehensive national strategy on how to increase the affordability, accessibility, and effectiveness of long-term care and community services; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HINCHEY:

H.R. 5188. A bill to amend the Internal Revenue Code of 1986 to extend the first-time homebuyer tax credit through December 31, 2010, and for other purposes; to the Committee on Ways and Means.

By Mr. HINCHEY:

H.R. 5189. A bill to amend the Internal Revenue Code of 1986 to require that the issuer of a tax-exempt State or local obligation obtain a certification that the interest rate with respect to such obligation is reasonable without materially increasing the risks associated with the obligation; to the Committee on Ways and Means.

By Mr. HOYER (for himself, Mr. EHLERS, Mr. KENNEDY, and Mr. KING of New York):

H.R. 5190. A bill to reauthorize the Special Olympics Sport and Empowerment Act of 2004, to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes; to the Committee on Education and Labor,

and in addition to the Committees on Foreign Affairs, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY (for herself, Ms. ROS-LEHTINEN, Mr. ELLISON, and Mr. KIRK):

H.R. 5191. A bill to increase the United States financial and programmatic contributions to promote economic opportunities for women in developing countries; to the Committee on Foreign Affairs.

By Mrs. LUMMIS:

H.R. 5192. A bill to require the Secretary of Agriculture to designate national forests or portions of national forests in western States as locations for demonstration projects to prevent or mitigate the effect of pine beetle infestations and conduct forest restoration activities, to authorize the emergency removal of dead and dying trees to address public safety risks in western States, to make permanent the stewardship contracting authorities available to the Forest Service, and for other purposes; to the Committee on Agriculture, and in addition to the Committee on Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. MALONEY (for herself and Ms. WATSON):

H.R. 5193. A bill to establish an employment-based immigrant visa for alien entrepreneurs who have received significant capital from investors to establish a business in the United States; to the Committee on the Judiciary.

By Mr. MCKEON:

H.R. 5194. A bill to designate Mt. Andrea Lawrence, and for other purposes; to the Committee on Natural Resources.

By Mr. SMITH of New Jersey:

H.R. 5195. A bill to establish a director of anti-trafficking policies in the Department of Defense; to the Committee on Armed Services.

By Mr. WELCH:

H.R. 5196. A bill to support State and tribal government efforts to promote research and education related to maple syrup production, natural resource sustainability in the maple syrup industry, market promotion of maple products, and greater access to lands containing maple trees for maple sugaring activities, and for other purposes; to the Committee on Agriculture.

By Mr. WILSON of South Carolina (for himself, Ms. ROS-LEHTINEN, Mr. CONAWAY, Mr. LAMBORN, Mr. HENSARLING, Mr. HERGER, Mr. KING of Iowa, Mr. BISHOP of Utah, Mr. FRANKS of Arizona, Mr. GOHMERT, Mr. SHADEGG, Mr. GINGREY of Georgia, Mr. PITTS, Mrs. SCHMIDT, Mr. FLEMING, Mr. SMITH of Texas, Mr. TIAHRT, Mrs. BACHMANN, Mrs. BLACKBURN, Mr. BURTON of Indiana, Mrs. MCMORRIS RODGERS, Mr. MCCLINTOCK, Mr. MILLER of Florida, Mr. FORBES, Mr. REICHERT, Mr. AKIN, Mr. BLUNT, Mr. MARIO DIAZ-BALART of Florida, Mr. COBLE, Mr. CAMPBELL, and Mr. BARRETT of South Carolina):

H. Con. Res. 271. Concurrent resolution commemorating the 43rd anniversary of the reunification of Jerusalem; to the Committee on Foreign Affairs.

By Mr. EHLERS (for himself, Mr. BOYD, Ms. RICHARDSON, Mr. MCCAUL, Mr. RAHALL, Mr. GRAVES, Mr. BURGESS, Mr. COSTELLO, Mr. POSEY, Mr. PETRI, Mr. FILNER, Mr. BOOZMAN, Mr. DENT, Mr. BOSWELL, Mr. REHBERG, Mr. SALAZAR, Mr. YOUNG of Alaska, and Mr. OBERSTAR):

H. Con. Res. 272. Concurrent resolution recognizing the many contributions made by general aviation pilots and operators to the Haiti earthquake relief efforts, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GORDON of Tennessee (for himself and Mr. HALL of Texas):

H. Res. 1307. A resolution honoring the National Science Foundation for 60 years of service to the Nation; to the Committee on Science and Technology.

By Ms. BORDALLO (for herself, Mr. FALEOMAVAEGA, Mrs. CHRISTENSEN, Mrs. CAPPS, Mr. GRIJALVA, Ms. SHEA-PORTER, Mr. SABLAN, Mr. PIERLUISI, and Mr. TANNER):

H. Res. 1308. A resolution supporting the goals and ideals of the International Year of Biodiversity, and for other purposes; to the Committee on Natural Resources, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BALDWIN (for herself, Mr. SENSENBRENNER, and Mr. WELCH):

H. Res. 1309. A resolution expressing the sense of the House of Representatives that there is need for further study of the Functional Gastrointestinal Disorder (FGID) Irritable Bowel Syndrome (IBS); to the Committee on Energy and Commerce, and in addition to the Committees on Armed Services, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EHLERS (for himself, Mr. INGLIS, Mr. WU, Mr. HALL of Texas, and Ms. GIFFORDS):

H. Res. 1310. A resolution recognizing the 50th anniversary of the laser; to the Committee on Science and Technology.

By Mr. COHEN (for himself and Mr. FARR):

H. Res. 1311. A resolution expressing support for the charitable collection and good samaritan distribution to uninsured, low-income Americans of Food and Drug Administration-approved, medically-appropriate, non-expired, non-narcotic prescription medications by non-profit organizations licensed to dispense such medications; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GRAVES (for himself, Mr. GUTHRIE, Mr. CLAY, Mr. LUETKEMEYER, Mr. ARCURI, Mr. CONNOLLY of Virginia, Mr. SIMPSON, Mr. AL GREEN of Texas, Mr. NEAL of Massachusetts, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. THOMPSON of California, Mr. THOMPSON of Pennsylvania, Mr. WILSON of South Carolina, Mr. MORAN of Virginia, Mr. HARPER, Mr. MORAN of Kansas, Mr. TERRY, Mr. BURGESS, Mrs. MCMORRIS RODGERS, Mr. BLUNT, Mr. SKELTON, Mr. CASTLE, Mr. CLEAVER, Mr. GERLACH, Mr. WHITFIELD, Mr. LEE of New York, Mr. PETRI, Mr. MICA, Mr. KIRK, Mr. ROSKAM, Mr. DENT, Mr. EHLERS, Mr. FORTENBERRY, and Mr. POE of Texas):

H. Res. 1312. A resolution recognizing the roles and contributions of America's teachers to building and enhancing our Nation's civic, cultural, and economic well-being; to the Committee on Education and Labor.

By Mr. GRIFFITH:

H. Res. 1313. A resolution expressing support for designation of May as ''Child Advocacy Center Month'' and commending the National Child Advocacy Center in Huntsville, Alabama, on their 25th anniversary in 2010; to the Committee on Education and Labor.

By Mr. HASTINGS of Florida:

H. Res. 1314. A resolution urging the Government of Canada to end the commercial seal hunt; to the Committee on Foreign Affairs.

By Mr. HASTINGS of Florida (for himself, Mr. FALEOMAVAEGA, Ms. BERKLEY, Ms. WOOLSEY, Ms. LEE of California, Ms. SPEIER, Ms. HIRONO, Mr. BERMAN, Mr. FARR, Mr. GRIJALVA, Mr. ANDREWS, Mr. POLIS, Mr. STARK, and Mr. HARE):

H. Res. 1315. A resolution urging the Secretary of State to designate the Caucasus Emirate as a foreign terrorist organization; to the Committee on the Judiciary, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HONDA (for himself, Mr. SABLAN, Ms. CHU, Ms. SPEIER, Mr. SCHIFF, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. RICHARDSON, Ms. BORDALLO, Mr. RANGEL, Mr. FILNER, Ms. ZOE LOFGREN of California, Mr. BLUMENAUER, Ms. MATSUI, Ms. WATSON, Mr. SIRES, Mr. SERRANO, Mr. FALEOMAVAEGA, Ms. HIRONO, Ms. MCCOLLUM, Mr. ORTIZ, Ms. LEE of California, Mr. SCOTT of Virginia, Ms. ROYBAL-ALLARD, Mr. WU, Mr. FARR, Mr. VAN HOLLEN, Mr. LEWIS of Georgia, Ms. BALDWIN, Mr. AL GREEN of Texas, Mr. RUSH, Mr. ROTHMAN of New Jersey, Mrs. CAPPS, Mr. ELLISON, Mrs. MALONEY, Mr. BACA, Mr. CAO, Mr. KAGEN, Mrs. CHRISTENSEN, Mrs. NAPOLITANO, Mr. HINOJOSA, Ms. WOOLSEY, Ms. SCHAKOWSKY, Mr. LARSON of Connecticut, Mr. CROWLEY, Mr. GRIJALVA, Ms. CLARKE, Mr. TOWNS, Mr. CLAY, Mr. JACKSON of Illinois, Mr. NADLER of New York, Ms. VELÁZQUEZ, Mr. GEORGE MILLER of California, Mr. GUTIERREZ, Mrs. DAVIS of California, Mr. MCDERMOTT, and Mr. CONNOLLY of Virginia):

H. Res. 1316. A resolution celebrating Asian/Pacific American Heritage Month; to the Committee on Oversight and Government Reform.

By Mr. LANCE (for himself, Mr. BURGESS, Mrs. MCMORRIS RODGERS, Mr. CHAFFETZ, Ms. JENKINS, Mr. GARRETT of New Jersey, Mr. LEE of New York, Mr. BOOZMAN, Mr. COLE, Mr. HASTINGS of Washington, Mr. HOEKSTRA, Mr. KINGSTON, Mr. BURTON of Indiana, Mr. MORAN of Kansas, and Mr. PAUL):

H. Res. 1317. A resolution expressing the sense of the House of Representatives that the value-added tax in addition to existing Federal taxes is a massive tax increase that will result in hardships for United States families and job-creating small business and will stunt economic recovery; to the Committee on Ways and Means.

By Mr. MAFFEI:

H. Res. 1318. A resolution congratulating Jim Boeheim, head coach of the Syracuse University Orange men's basketball team and a native of Lyons, New York, for receiving many coaching awards for the impressive achievements of the Syracuse University Orange 2009–2010 men's basketball team; to the Committee on Education and Labor.

By Mr. SIRES (for himself, Mr. PASCRELL, Mr. LOBIONDO, Mr. SMITH

of New Jersey, Mr. ADLER of New Jersey, Mr. LANCE, Mr. HOLT, Mr. ROTHMAN of New Jersey, Mr. PALLONE, Mr. GARRETT of New Jersey, Mr. PAYNE, Mr. ANDREWS, and Mr. FRELINGHUYSEN):

H. Res. 1319. A resolution congratulating Coach Bob Hurley, Sr. of St. Anthony High School in Jersey City, New Jersey, on his induction into the Naismith Memorial Basketball Hall of Fame and celebrating his achievements; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII,

269. The SPEAKER presented a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 681 urging the Congress and the President of the United States to pass and sign legislation that would provide a temporary extension of the ARRA's Enhanced FMAP; to the Committee on Education and Labor.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 21: Ms. CHU.
H.R. 24: Mr. HASTINGS of Washington, Mr. HEINRICH, Mrs. CHRISTENSEN, and Mr. SIRES.
H.R. 39: Mrs. NAPOLITANO and Ms. CHU.
H.R. 40: Mr. BRADY of Pennsylvania.
H.R. 108: Mr. TERRY.
H.R. 197: Mrs. DAHLKEMPER.
H.R. 208: Mr. FORBES, Mr. CUELLAR, Mr. PERRIELLO, Mr. VAN HOLLEN, Mr. SCOTT of Virginia, Mr. SMITH of Texas, and Mr. LUETKEMEYER.
H.R. 211: Mrs. KIRKPATRICK of Arizona.
H.R. 476: Mr. SCOTT of Georgia, Mr. DAVIS of Illinois, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. PAYNE, Ms. VELÁZQUEZ, and Mr. RUSH.
H.R. 510: Mr. CARTER.
H.R. 764: Mr. PLATTS and Mr. DUNCAN.
H.R. 848: Ms. SCHAKOWSKY and Ms. WOOLSEY.
H.R. 868: Mr. CARNAHAN.
H.R. 873: Mr. TONKO.
H.R. 995: Mr. ENGEL.
H.R. 997: Mr. WALDEN and Mr. LAMBORN.
H.R. 1021: Ms. SHEA-PORTER, Mr. SCHAUER, Mr. KAGEN, and Ms. BERKLEY.
H.R. 1036: Mrs. BLACKBURN, Ms. BERKLEY, Mr. RAHALL, Mr. GOODLATTE, and Mr. OBERSTAR.
H.R. 1067: Mr. MICA and Mr. MCGOVERN.
H.R. 1074: Mr. CAMP and Mrs. DAHLKEMPER.
H.R. 1126: Mr. WALZ.
H.R. 1210: Mr. YOUNG of Alaska.
H.R. 1322: Mrs. MCCARTHY of New York.
H.R. 1346: Ms. RICHARDSON.
H.R. 1505: Mr. LAMBORN.
H.R. 1547: Mr. PRICE of Georgia, Ms. NORTON, and Mr. FILNER.
H.R. 1625: Mr. HOLT.
H.R. 1655: Mr. POE of Texas.
H.R. 1691: Mr. JOHNSON of Georgia, Mr. KIRK, and Mr. ROSS.
H.R. 1751: Mr. SIRES.
H.R. 1792: Ms. PINGREE of Maine.
H.R. 1826: Ms. WATERS.
H.R. 1829: Mr. PETERSON and Mr. HOLT.
H.R. 1961: Mr. LEWIS of Georgia and Mr. WU.
H.R. 2054: Ms. EDWARDS of Maryland, Mr. BRALEY of Iowa, Mrs. MCCARTHY of New York, Ms. TITUS, Mr. KILDEE, and Mr. KUCINICH.
H.R. 2149: Mr. ENGEL.
H.R. 2277: Mr. LEWIS of Georgia.
H.R. 2296: Mrs. DAHLKEMPER.
H.R. 2328: Mr. CROWLEY.
H.R. 2336: Mr. MOORE of Kansas.
H.R. 2378: Mr. MCINTYRE and Mr. MAFFEI.
H.R. 2406: Mr. MORAN of Kansas.
H.R. 2480: Mr. KRATOVIL.
H.R. 2542: Mr. KRATOVIL.
H.R. 2579: Ms. PINGREE of Maine.
H.R. 2625: Mr. ROTHMAN of New Jersey, Mrs. DAVIS of California, and Mrs. MALONEY.
H.R. 2737: Mr. ORTIZ, Mr. CUMMINGS, and Mr. MURPHY of New York.
H.R. 2766: Mr. MCMAHON and Ms. VELÁZQUEZ.
H.R. 2849: Ms. HERSETH SANDLIN.
H.R. 3035: Mr. ROGERS of Kentucky.
H.R. 3101: Mr. PALLONE.
H.R. 3185: Mr. KAGEN and Mr. FILNER.
H.R. 3202: Mr. HARE.
H.R. 3212: Mr. MARKEY of Massachusetts.
H.R. 3240: Mr. MINNICK.
H.R. 3286: Mr. YOUNG of Alaska and Mr. COLE.
H.R. 3333: Mr. SCHIFF.
H.R. 3408: Mr. GARAMENDI, Mr. LYNCH, Mr. FARR, Mr. WU, Mr. BISHOP of New York, and Mrs. CAPPS.
H.R. 3427: Mr. POLIS.
H.R. 3448: Mr. FORBES.
H.R. 3486: Mr. KRATOVIL.
H.R. 3487: Mr. ACKERMAN.
H.R. 3502: Ms. WOOLSEY.
H.R. 3519: Mr. WELCH, Ms. GIFFORDS, and Mr. FRANK of Massachusetts.
H.R. 3666: Mr. LATOURETTE and Mr. KING of New York.
H.R. 3668: Mr. RUPPERSBERGER and Mr. BURGESS.
H.R. 3699: Mr. OLVER.
H.R. 3734: Mr. THOMPSON of Mississippi.
H.R. 3781: Mr. NYE and Mr. YOUNG of Alaska.
H.R. 3790: Ms. DELAURO, Mr. LARSON of Connecticut, Ms. JENKINS, Mr. WU, and Mr. PLATTS.
H.R. 3839: Ms. KILPATRICK of Michigan.
H.R. 3905: Mr. BURGESS.
H.R. 3924: Mr. HALL of Texas.
H.R. 3936: Mrs. EMERSON, Mr. ELLISON, Mr. DAVIS of Tennessee, and Mr. ALTMIRE.
H.R. 4014: Mr. MCNERNEY and Mr. STARK.
H.R. 4070: Mr. GRAVES.
H.R. 4072: Mr. BOYD.
H.R. 4114: Mr. POE of Texas.
H.R. 4116: Ms. KILROY, Mr. COURTNEY, and Mrs. DAVIS of California.
H.R. 4128: Mr. GRIJALVA.
H.R. 4279: Mrs. LOWEY, Mr. PETERSON, Mr. WEINER, and Ms. BALDWIN.
H.R. 4296: Mr. SPACE.
H.R. 4325: Ms. LEE of California.
H.R. 4402: Mr. CLAY, Mr. CONYERS, Mr. VAN HOLLEN, and Ms. WASSERMAN SCHULTZ.
H.R. 4427: Mr. FORBES, Mr. CUELLAR, Mr. PLATTS, Mr. PERRIELLO, Mr. CARNEY, Mr. LUETKEMEYER, and Mr. BOREN.
H.R. 4469: Mr. HUNTER, Mr. BISHOP of Utah, Mr. COBLE, and Mr. KIRK.
H.R. 4473: Mr. DOGGETT and Ms. PINGREE of Maine.
H.R. 4477: Mr. WEINER and Mr. PASTOR of Arizona.
H.R. 4509: Mr. DEFAZIO, Mr. WU, Ms. CORRINE BROWN of Florida, and Mr. WALDEN.
H.R. 4525: Mr. SHUSTER.
H.R. 4544: Mr. CARNAHAN.
H.R. 4554: Mr. CHANDLER, Mr. SALAZAR, and Mr. RYAN of Ohio.
H.R. 4594: Ms. CORRINE BROWN of Florida, Ms. CLARKE, Ms. MATSUI, Mr. MOLLOHAN, Mr. KENNEDY, Mr. PERRIELLO, Mr. THOMPSON of California, and Mr. DAVIS of Illinois.
H.R. 4601: Mr. MCDERMOTT and Mr. GRIJALVA.
H.R. 4603: Mr. COFFMAN of Colorado.
H.R. 4638: Mr. WELCH.
H.R. 4645: Ms. PINGREE of Maine and Mr. ALEXANDER.
H.R. 4647: Mr. MILLER of North Carolina.
H.R. 4662: Mr. BISHOP of Georgia.
H.R. 4671: Mr. LOEBSACK and Mr. BRALEY of Iowa.
H.R. 4676: Ms. RICHARDSON, Mrs. CAPPS, Mrs. DAVIS of California, and Mr. COSTA.
H.R. 4678: Ms. RICHARDSON.
H.R. 4684: Mr. TANNER.
H.R. 4687: Mr. BACA, Mr. ELLISON, Mrs. CAPPS, and Mr. LARSON of Connecticut.
H.R. 4689: Mr. YOUNG of Alaska, Mr. COLE, and Mr. GRAVES.
H.R. 4690: Ms. MCCOLLUM.
H.R. 4746: Mr. GARY G. MILLER of California, Mr. SHIMKUS, Mr. TIAHRT, and Mr. CALVERT.
H.R. 4751: Mr. WELCH and Mr. HIGGINS.
H.R. 4755: Ms. FUDGE.
H.R. 4780: Mr. HUNTER, Mr. LAMBORN, and Mr. PLATTS.
H.R. 4785: Mr. HILL.
H.R. 4788: Ms. HIRONO, Mr. WU, and Ms. SPEIER.
H.R. 4835: Mrs. BLACKBURN and Mr. SHULER.
H.R. 4850: Mr. ELLSWORTH, Mr. KISSELL, Mr. CONNOLLY of Virginia, and Ms. CLARKE.
H.R. 4859: Mr. CALVERT.
H.R. 4866: Mr. ELLSWORTH.
H.R. 4876: Mr. STUPAK and Ms. BEAN.
H.R. 4896: Mr. ROHRABACHER.
H.R. 4923: Mr. FILNER, Mr. SCHIFF, Mr. DOGGETT, and Ms. MCCOLLUM.
H.R. 4925: Mr. WELCH.
H.R. 4940: Mr. WHITFIELD and Ms. BALDWIN.
H.R. 4941: Mr. TEAGUE and Mr. BILBRAY.
H.R. 4945: Mr. RUPPERSBERGER.
H.R. 4947: Mr. LOBIONDO.
H.R. 4951: Mr. EDWARDS of Texas.
H.R. 4952: Mr. BURTON of Indiana and Mrs. MILLER of Michigan.
H.R. 4958: Ms. SCHAKOWSKY.
H.R. 4959: Mr. COHEN.
H.R. 4961: Mr. LEWIS of Georgia, Mr. CLAY, Ms. MOORE of Wisconsin, Mr. DAVIS of Illinois, Mr. WATT, Mr. SCOTT of Virginia, Mr. ELLISON, and Mr. JOHNSON of Georgia.
H.R. 4972: Mr. FRANKS of Arizona.
H.R. 4993: Mr. MCDERMOTT, Mr. MICHAUD, and Ms. HIRONO.
H.R. 5012: Ms. MARKEY of Colorado and Ms. FUDGE.
H.R. 5015: Mrs. MALONEY, Mr. DAVIS of Illinois, Ms. EDWARDS of Maryland, Mr. JACKSON of Illinois, Ms. MATSUI, Mr. MCDERMOTT, Ms. RICHARDSON, Mr. THOMPSON of California, Ms. WATSON, Mr. YARMUTH, Ms. CLARKE, Mr. ELLISON, Ms. JACKSON LEE of Texas, Mr. KAGEN, Ms. KAPTUR, Ms. KILPATRICK of Michigan, Mr. LEWIS of Georgia, Ms. NORTON, Mr. PAYNE, Mr. STARK, Mr. WALZ, Mr. BERRY, Mr. MAFFEI, Mr. HASTINGS of Florida, and Mr. KENNEDY.
H.R. 5032: Mr. BISHOP of New York.
H.R. 5034: Mrs. LUMMIS, Mr. LOBIONDO, Mr. DONNELLY of Indiana, Mr. BRIGHT, Mr. ORTIZ, Mr. CARNEY, Mr. HASTINGS of Florida, and Mr. BISHOP of New York.
H.R. 5035: Mr. SCOTT of Virginia and Mr. CALVERT.
H.R. 5044: Mr. BOCCIERI, Mr. BOYD, Mr. MCMAHON, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. YARMUTH, and Mr. SIRES.
H.R. 5049: Mr. BERMAN.
H.R. 5054: Mr. WITTMAN, Mr. BURTON of Indiana, Mr. MCCAUL, and Mr. MORAN of Kansas.
H.R. 5065: Mr. HOEKSTRA and Mr. MCCLINTOCK.
H.R. 5078: Mr. NEAL of Massachusetts.
H.R. 5084: Mr. HALL of New York, Mr. LARSEN of Washington, and Mr. TONKO.
H.R. 5092: Mr. CONNOLLY of Virginia, Mr. KENNEDY, Ms. MATSUI, Mr. WELCH, Mr. RUPPERSBERGER, Mr. BILIRAKIS, Mr. STARK, Mr. BURGESS, Mr. PETERS, Mr. ROGERS of Kentucky, Mr. SENSENBRENNER, Mr. DAVIS of Illinois, Mr. GENE GREEN of Texas, Mr. EHLERS, Ms. SPEIER, Mr. MCGOVERN, and Mr. TONKO.

H.R. 5095: Mr. ROONEY.

H.R. 5118: Ms. JENKINS.

H.R. 5126: Mr. BURTON of Indiana, Mr. TIAHRT, Mr. LATTA, Mr. DANIEL E. LUNGREN of California, Mr. LAMBORN, and Mr. MORAN of Kansas.

H.R. 5128: Mr. BRALEY of Iowa, Ms. MCCOLLUM, Mr. FILNER, Mr. CHANDLER, Ms. LEE of California, and Mr. BLUMENAUER.

H.R. 5131: Ms. DELAURO, Mr. COURTNEY, and Mr. HIMES.

H.R. 5141: Mr. ROYCE, Mr. CAMPBELL, Mr. OLSON, Mr. AKIN, Mr. MARCHANT, Mr. WILSON of South Carolina, Mr. CHAFFETZ, Mr. POSEY, Mr. HENSARLING, Mr. MANZULLO, Mr. BISHOP of Utah, Mr. FRANKS of Arizona, Mr. GOHMERT, Mr. ISSA, Mr. GINGREY of Georgia, Mr. FLEMING, Mr. LATTA, Mr. TIAHRT, Mrs. BACHMANN, Mr. BILBRAY, Mr. BURGESS, Mr. CARTER, Mr. SAM JOHNSON of Texas, Mr. WHITFIELD, Mr. SMITH of New Jersey, Mr. MCCARTHY of California, Mr. LOBIONDO, Mr. FRELINGHUYSEN, Mr. MCCAUL, Mr. GARY G. MILLER of California, Ms. GRANGER, Mr. PITTS, Mrs. SCHMIDT, and Mr. NEUGEBAUER.

H.R. 5144: Ms. JACKSON LEE of Texas and Mr. POE of Texas.

H.R. 5159: Mr. GRAYSON.

H.R. 5162: Mr. SPACE and Mr. BOREN.

H.R. 5173: Mr. BURTON of Indiana, Mr. ROYCE, Mr. GALLEGLY, Mr. WILSON of South Carolina, Mr. BUCHANAN, Mr. MARCHANT, and Mr. JONES.

H.J. Res. 61: Ms. WASSERMAN SCHULTZ.

H.J. Res. 67: Mr. COLE.

H.J. Res. 77: Mrs. SCHMIDT, Mr. GUTHRIE, Mr. HENSARLING, and Mrs. LUMMIS.

H.J. Res. 79: Mr. FORBES.

H. Con. Res. 4: Mr. WELCH.

H. Con. Res. 110: Ms. MCCOLLUM.

H. Con. Res. 137: Mr. ISRAEL.

H. Con. Res. 245: Mr. BILBRAY.

H. Con. Res. 260: Mr. DAVIS of Illinois, Mr. NYE, Mr. GORDON of Tennessee, Mr. WALDEN, Mr. ENGEL, Mr. LINCOLN DIAZ-BALART of Florida, Ms. BERKLEY, and Mr. COSTA.

H. Con. Res. 262: Ms. JACKSON LEE of Texas, Mr. ELLISON, Mr. JACKSON of Illinois, Mr. JOHNSON of Georgia, Ms. RICHARDSON, Mr. SCOTT of Virginia, Mr. AL GREEN of Texas, Ms. WATSON, Mr. MOORE of Kansas; Mr. CONNOLLY of Virginia, Mr. HINOJOSA, Mr. COURTNEY, Mrs. HALVORSON, Mr. KILDEE, Mr. MCDERMOTT, Ms. KAPTUR, Mr. RUSH, and Mrs. NAPOLITANO.

H. Con. Res. 266: Mr. MARCHANT, Mr. ROE of Tennessee, and Mr. ROTHMAN of New Jersey.

H. Con. Res. 268: Mr. COHEN, Mr. WEINER, Mr. KAGEN, Ms. KILPATRICK of Michigan, Mr. HALL of New York, and Ms. BORDALLO.

H. Res. 173: Mr. CHANDLER, Mr. SCHAUER, Ms. WASSERMAN SCHULTZ, Mr. TERRY, Mr. MCMAHON, Mr. TONKO, Mr. LANGEVIN, Mr. BOCCIERI, Mr. WELCH, Mr. KILDEE, Mr. NEAL of Massachusetts, and Mr. SPACE.

H. Res. 764: Mr. CLEAVER.

H. Res. 873: Mr. ROTHMAN of New Jersey, Mr. QUIGLEY, Mr. PETERS, and Mr. HINCHEY.

H. Res. 913: Mr. GERLACH and Mr. DAVIS of Illinois.

H. Res. 936: Ms. NORTON.

H. Res. 1056: Mr. WOLF.

H. Res. 1077: Mr. DEUTCH.

H. Res. 1149: Mr. HOEKSTRA, Mr. POLIS, Mr. EHLERS, Mr. CASSIDY, and Mr. PETRI.

H. Res. 1162: Mr. SIRES, Mr. INSLEE, Mr. PETERSON, Mr. LUJÁN, Mr. BISHOP of New York, Mr. HIMES, Mr. LARSON of Connecticut, Ms. DELAURO, Ms. BORDALLO, Ms. RICHARDSON, Mr. CONYERS, and Ms. MCCOLLUM.

H. Res. 1207: Mr. MILLER of Florida, Mr. LATTA, and Ms. SHEA-PORTER.

H. Res. 1224: Ms. MCCOLLUM.

H. Res. 1226: Mr. SIRES, Ms. DELAURO, and Mr. DAVIS of Kentucky.

H. Res. 1231: Mr. MORAN of Virginia, Mr. CROWLEY, Mr. CARNAHAN, Mr. LOBIONDO, Mr. WU, Ms. SLAUGHTER, Mrs. CAPPS, Mr. CAPUANO, Mr. BAIRD, and Mr. SCHIFF.

H. Res. 1234: Mr. ARCURI.

H. Res. 1245: Mr. AKIN, Mr. JORDAN of Ohio, Mr. WILSON of South Carolina, Mr. LAMBORN, Mr. PENCE, Mr. MARCHANT, Mr. POSEY, Mr. HENSARLING, Mr. KING of Iowa, Mr. MANZULLO, Mr. BISHOP of Utah, Mr. FRANKS of Arizona, Mr. GOHMERT, Mr. SHADEGG, Ms. GRANGER, Mr. GINGREY of Georgia, Mr. PITTS, Mrs. SCHMIDT, Mr. FLEMING, Mr. LATTA, Mr. SMITH of Texas, Mrs. BACHMANN, Mr. ROGERS of Kentucky, and Ms. JENKINS.

H. Res. 1247: Mr. DRIEHAUS, Mr. CAO, Mr. FARR, and Mr. TONKO.

H. Res. 1258: Mr. REYES, Mr. SABLAN, Ms. VELÁZQUEZ, Mr. COSTA, Ms. LINDA T. SÁNCHEZ of California, Mr. BUTTERFIELD, Mr. CARDOZA, Mr. MCMAHON, Mr. GUTIERREZ, Mr. TOWNS, Mr. DAVIS of Illinois, Mr. JACKSON of Illinois, Mr. OBERSTAR, Mr. SERRANO, Mr. ORTIZ, and Mr. SCHIFF.

H. Res. 1277: Mr. ALTMIRE, Mr. JACKSON of Illinois, Ms. NORTON, and Mr. COHEN.

H. Res. 1279: Mr. DANIEL E. LUNGREN of California, Mr. NEUGEBAUER, Mr. MARCHANT, Mr. CHAFFETZ, Mr. HENSARLING, Mrs. BACHMANN, Mr. BISHOP of Utah, Mr. KINGSTON, Mr. GOHMERT, Mr. LUETKEMEYER, Mr. SHADEGG, Ms. GRANGER, Mr. PITTS, Mrs. SCHMIDT, Mr. FLEMING, Mr. SMITH of Texas, Mr. ISSA, and Mr. BARRETT of South Carolina.

H. Res. 1285: Mr. WEINER and Mr. MCMAHON.

H. Res. 1291: Mr. RODRIGUEZ, Ms. TITUS, and Mr. WALZ.

H. Res. 1294: Mr. WALZ.

H. Res. 1295: Mr. POMEROY, Mr. GERLACH, Mr. REHBERG, Mr. BILIRAKIS, Mr. ROE of Tennessee, Mr. GRIFFITH, Mr. ALEXANDER, Mr. MCCAUL, Mr. BRADY of Pennsylvania, Mr. BAIRD, Mr. JORDAN of Ohio, Mr. EHLERS, Mr. KINGSTON, Mr. CASTLE, Mr. INGLIS, Mr. SCALISE, Ms. WASSERMAN SCHULTZ, Mrs. SCHMIDT, Mr. PETRI, Mr. SCHIFF, Mr. AUSTRIA, Mr. BRALEY of Iowa, Mr. LARSEN of Washington, Mr. MCKEON, Mr. LIPINSKI, Mr. HELLER, Mr. UPTON, Mr. TURNER, Mr. KIRK, Mrs. DAHLKEMPER, Mr. DOGGETT, Mr. HOLT, Ms. KAPTUR, Mr. LYNCH, Mr. LAMBORN, Mr. BONNER, Mr. SMITH of New Jersey, Mr. LOBIONDO, Mr. SHADEGG, Mr. TAYLOR, Mr. POSEY, Mr. MCHENRY, Mrs. BIGGERT, Mrs. CAPITO, Mr. COSTA, Mr. HERGER, Mr. CARTER, Mr. HALL of Texas, Mr. SAM JOHNSON of Texas, Mr. PENCE, Mr. CHAFFETZ, Mr. GUTIERREZ, Mr. KENNEDY, Mr. WHITFIELD, Mr. PRICE of North Carolina, Mr. BERMAN, Ms. ROS-LEHTINEN, Mr. ROYCE, and Mr. DUNCAN.

H. Res. 1297: Mr. PETERS, Mr. FORTENBERRY, Mr. CAMP, Mr. MURPHY of New York, Mr. MILLER of North Carolina, Mr. PETERSON, Mrs. DAHLKEMPER, Mr. CROWLEY, Mr. HIMES, Mr. CONNOLLY of Virginia, Mr. TONKO, Mr. STUPAK, and Mr. QUIGLEY.

H. Res. 1299: Ms. MATSUI, Mr. COSTA, Mr. SABLAN, Mr. HELLER, and Mr. MCCAUL.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, OR LIMITED TARIFF BENEFITS

Under clause 9 of rule XXI, lists or statements on congressional earmarks, limited tax benefits, or limited tariff benefits were submitted as follows:

The amendment to be offered by Representative HASTINGS of Washington, or a designee, to H.R. 2499 the Puerto Rico Democracy Act of 2009, does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

PETITIONS, ETC.

Under clause 3 of rule XII,

122. The SPEAKER presented a petition of City of Lauderhill, Florida, relative to Resolution No. 10R-02-46 congratulating the President on receiving the 2009 Nobel Peace Prize; which was referred to the Committee on Foreign Affairs.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petition:

Petition 10 by Mr. JONES on H.R. 775: Virginia Foxx, Todd Russell Platts, Jerry Moran, Cathy McMorris Rodgers.

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Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, SECOND SESSION

Vol. 156 WASHINGTON, THURSDAY, APRIL 29, 2010 No. 62

Senate

The Senate met at 12:15 p.m. and was called to order by the Honorable KAY R. HAGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our Father God, by whom the meek are guided in judgment and light rises up in darkness for the godly, give our Senators the wisdom that saves them from false choices. Illuminate their path with the light of Your presence so that they will not stumble in all their deliberations. Keep their motives clean, their vision clear, their patriotism fervent, their speech guarded, their appraisals fair, and their consciences unbetrayed.

We pray in Your sacred Name. Amen

PLEDGE OF ALLEGIANCE

The Honorable KAY R. HAGAN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 29, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KAY R. HAGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. HAGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

KENTUCKY COAL MINE DISASTER

Mr. MCCONNELL. Madam President, many Kentuckians awoke this morning to the sad news that one miner was killed and another is missing after a ceiling collapse in an underground coal mine in Webster County, which is in the western part of Kentucky.

Right now, it is my understanding that MSHA officials are on the site and rescue teams are working to locate the missing miner. For now we can only hope their efforts are successful.

I ask my colleagues and the American people to keep the miners, their families, and the rescue workers in their prayers.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. Madam President, for me, being a miner's son, having worked in the mines myself, these reports out of West Virginia and Kentucky are very troubling. Mining is a very dangerous occupation. I know that personally as a result of my dad having been ''blasted'' as we called it, and reflecting back on my childhood friend, Stan Hudgens, whose father was working in the blossom with my dad and a rock dropped on his head and killed him. My dad brought him out of the mine.

So these reports out of the coal mines are troubling. I agree with my distinguished friend that we have to make sure that we act—not do anything harmful to the industry because it is a very important industry. Mining is the No. 2 industry in Nevada. It is not coal mining. And a lot of our mining now in Nevada is open pit, but not all of it is. We have a lot of underground mines too. The same with coal mining; coal mining is what we refer to as the hard rock business. It is open pit mining, but they have a significant amount of underground mining also.

So I look forward to working with my friend, the Republican leader, and all of those who want to make mines safer and protect this most important industry.

SIGNING AUTHORITY

Mr. REID. Madam President, I ask unanimous consent that I be authorized to sign any duly enrolled bills and joint resolutions for the period of today, April 29, and tomorrow, April 30.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURRIS). Without objection, it is so ordered.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

RESTORING AMERICAN FINANCIAL STABILITY ACT OF 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 3217, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3217) to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail,'' to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes.

The PRESIDING OFFICER. The majority leader is recognized.

AMENDMENT NO. 3739

Mr. REID. Mr. President, there is a substitute amendment at the desk. I call up that amendment on behalf of Senators DODD and LINCOLN.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. DODD, for himself and Mrs. LINCOLN, proposes an amendment numbered 3739.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

AMENDMENT NO. 3737 TO AMENDMENT NO. 3739

(Purpose: To prohibit taxpayers from ever having to bailout the financial sector)

Mr. REID. Mr. President, I now ask the clerk to report the Boxer amendment No. 3737.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mrs. BOXER, proposes an amendment numbered 3737 to amendment No. 3739.

At the end of title II, add the following:

SEC. 212. PROHIBITION ON TAXPAYER FUNDING.

(a) LIQUIDATION REQUIRED.—All financial companies put into receivership under this title shall be liquidated. No taxpayer funds shall be used to prevent the liquidation of any financial company under this title.

(b) RECOVERY OF FUNDS.—All funds expended in the liquidation of a financial company under this title shall be recovered from the disposition of assets of such financial company, or shall be the responsibility of the financial sector, through assessments.

(c) NO LOSSES TO TAXPAYERS.—Taxpayers shall bear no losses from the exercise of any authority under this title.

Mr. REID. Mr. President, the managers of the bill wish to give opening statements on this important legislation. I ask unanimous consent that Senator DODD be recognized to use whatever time he feels appropriate, that Senator SHELBY then be recognized to use whatever time he feels appropriate, that Chairman LINCOLN then be recognized to make a statement, and following that, Senator CHAMBLISS, the ranking member of the Agriculture Committee, and then Senator WARNER, a member of the Banking Committee, wishes to make a statement. I ask that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, we are beginning debate on the floor of the Senate of a matter that has obviously been the subject of great discussion and debate over the last couple years. My remarks will be very brief. I have talked a lot over the last week or so about the bill. I presume I will be spending a lot of time in the coming days. I do not need to spend a lot of time now. My colleague and friend from Alabama, Senator SHELBY, wants to be heard and others want to be heard this afternoon. I will be here to engage them.

I begin by thanking and commending my colleague from Alabama. We have disagreements about this bill. He is a good friend and someone I work with closely, as we will on this bill as we move forward. We want to accommodate Members on all sides to be heard, to offer their amendments, to have a good debate. We would like to accommodate and accept amendments where we can. If we cannot, we will try to lay out why or offer alternative ideas as we move through this debate.

Obviously, it is very important we get this right. Senator SHELBY has said that many times, and I agree with him. It is very important. Literally, language, punctuation marks can have implications. It is that delicate as we work through language. My intention is to get there.

Today we are going to have general debate on the bill; tomorrow possibly some additional debate. We will pick up our first amendments on Tuesday when we get back. I wish to address that point in a minute, if I may.

I wish to begin the debate with a message for those who have seen the acrimony in the Chamber over the past couple weeks and have concluded that the Senate is not up to getting the job done on legislation of this import and this size.

I will be the first to admit that sometimes we become discouraged and disappointed with each other. That is the nature, I suppose, of a legislative body when we have as many different and strongly held views. I, myself, was frustrated with how long it took to bring the bill up on the floor. Others are frustrated by what they see in the bill. All of this can be a rationale for why we express our frustration.

The thing that made it possible to get to this point is the same thing that will make it possible to get to the finish line on this important legislation; that is, the trust we have, that we are each committed to getting the job done.

As Senator SHELBY and I both pointed out last evening, we have worked closely over the past 37 months that I have chaired the Banking Committee. I mentioned we brought 42 measures out of our committee, 37 of which have become the law of the land. While we do not agree on this bill or at least not all of it, we are both confident this legislation can become law as well if we work hard and together and achieve common ground, even if it is not exactly as we would want if we were writing it on our own. I think it is what our colleagues in the country think of us.

Simply put, we have no other choice but to do so. The status quo is unacceptable. We cannot leave the American people vulnerable to the present construct of our financial regulatory system. The American people have paid too high a price for the failure of our system to stop Wall Street greed and recklessness from undermining the stability of our economy.

We heard over and over that we have lost 8.5 million jobs and 7 million homes lost to foreclosure or are in foreclosure. Trillions of dollars—some say $11 trillion, some say $13 trillion, some say higher—trillions of dollars of household wealth has been lost in the last 18 months; home values—again, the number everyone agrees on—a 37 percent decline in home values across the Nation. In some States, the numbers are much higher. We have seen a decline in retirement income by some 20 percent as well across the Nation.

All this was not cause by one particular event or set of circumstances. There was a variety of circumstances, the culmination of which and the expansion brought us to the brink of financial collapse and disaster.

I described the aims of our legislation. First, it ends ''too big to fail.'' Senator SHELBY and I have been working on that issue. We have had long discussions agreeing on principles and what needs to be done. My hope is, in the first part of next week—our staffs are going to work over the weekend to take the principles on which we have reached some agreements and then do the delicate job of writing the language that reflects those principles and ideas.

I thank my staff as well as Senator SHELBY's staff for trying to get us to a point where we reach a level of comfort, that we have done what we said we were going to do; that is, to end too big to fail. No longer will there be an implicit understanding that if a major financial institution or even a less-than-major financial institution starts to fail somehow it is going to get propped up by taxpayer dollars. Our colleague from California, BARBARA BOXER—we heard already the language of her amendment which will once again add a voice to this effort to say, when losses occur, too big to fail will never expose the American taxpayers to writing a check to have to underwrite that cost.

I presume there may be others who have ideas on how best to nail this

down. We welcome those ideas. Again, Senator SHELBY and I will work on an amendment we intend to offer the first part of next week that reflects those values as well. I thank him and his staff and others for the time already spent. I cannot count the hours we have spent sitting with each other, talking about these ideas and how best to achieve them.

Obviously, we want to involve as well the Treasury Department and others for their advice and counsel because they ultimately will be asked to implement a lot of what we have talked about. We will be busy over the coming days as well on those issues.

Senator BOXER's idea—I discussed this with Senator SHELBY already, and without committing anyone at all, there seems to be, at least at this juncture, a relatively good response or reaction to what she intends to do. Too big to fail has been a subject of major conversation. We all agree what we want to achieve. The question is, Can we do this? I am confident we can.

I would like us to begin on a positive note as well. There will be times during this debate where we will be at very different sides. That will happen, as it should be. There is nothing wrong with that. I think it is better to begin a process where you can agree on issues and sit down and come to common understandings. Too big to fail is an area where there is no disagreement about what we are trying to achieve. That is a great starting point. My hope is we can do that in the coming days.

We create an early warning system. This has not been the subject of a lot of debate. I think we all agree that to have the ability to watch and monitor what is occurring, both domestically and internationally, is very important.

We have established what we call a systemic risk council that will allow us to observe what is occurring on a regular basis so we can spot these problems before they metastasize and grow into, as we have seen, problems that created as much harm for our economy as the present recession has. I will not go into the details of it, but I think there is a general agreement that this makes a lot of sense.

We bring derivatives out of the shadow and into the sunlight so Wall Street is accountable for actions. I do not sense a lot of disagreement on what we are trying to achieve. There is some disagreement on about how this is best worked.

I am hopeful that in the coming weeks we can resolve these differences as we deal with these exotic instruments. Clearly, getting more sunshine, more transparency we think will be a great asset as well.

Finally, we put cops on the beat with consumer protection so Americans can make smart decisions based on full information when they are planning for their financial futures. There is general agreement having a consumer protection agency or bureau or division makes sense. There is disagreement on what the powers of that agency will be, how it should operate, how it can be working. We have to work on that issue to see if we can reach common ground. If not, we will have votes on whether one is for it or against it, with additions or subtractions, what it can do and over what jurisdiction it has authority.

These are the principles. There is not much disagreement with what we are trying to achieve but there will be on how best to do it in certain areas. There may be disagreements on how to actually accomplish these goals.

I said before that we agreed to move forward on this bill and that I will allow each Member in this Chamber to offer his or her suggestions, air their concerns, vote up or down on ideas.

What I would like to see occur during this debate is not only are we taking on a large issue, but this institution has been damaged over the last number of years. It amounts to this: Senator JON KYL and I engaged in a colloquy the other day—not a planned one—about the issue of trust, which is what people are concerned about. We need to restore that trust if we can. It is incumbent we try to understand each other's motives, not question them, and then deal effectively with ideas as they come up.

My hope is not only will we end up with a good bill at the end of all this, but we can also end up repairing some of the tensions and stress that exists in this legislative body. When I said I want Members to be able to offer their amendments, to debate those amendments, and have votes on those amendments, I mean it—I know my colleague from Alabama shares that view as well—and that people with limited time—obviously, we do not want filibustering occurring—ought to have it to express those ideas and then vote on the ideas.

I mentioned last night the amendment proposed by Senator BOXER. I have discussed that amendment already. Others will have amendments to come next week as well.

I cannot promise that the final product will be a bill that all 100 Senators will feel they can support. I understand that. But my goal is to get the best, most effective legislation we can. My belief is we can make that happen by acting like Senators, listening to each other, ensuring our debate is as civil as it is passionate, as factual as it is fierce.

To paraphrase our President: We did not ask for the job of saving our financial system from its inefficiencies and excesses, but that is our job today. That is what we have been asked to do. I have the greatest confidence in my colleagues that we can get that job done. I look forward, again, to working with my colleague and friend, Senator SHELBY, moving forward as well with the leadership and others to achieve the desired results with this bill.

I yield the floor to my colleague and friend from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SHELBY. Mr. President, before proceeding to my remarks on the bill, I want to thank Senator MCCONNELL, the Republican leader, for his leadership, and also the members of the Banking Committee on both sides of the aisle for their hard work and dedication which has brought us this far.

Also, I want to thank my colleague and the committee's chairman, my friend, Senator CHRIS DODD. Over the years, as he has said, we have worked together on a number of bills and quite often found a way to compromise, to work forward on some very difficult and complex issues. Unfortunately, thus far, compromise has alluded us on this particular piece of legislation, at least some of it.

Throughout our discussions, we shared roughly, I believe, the same goals. Where we have differed, however, is how to achieve those goals. My goal during consideration of this legislation here will be to reshape this bill so that it actually ends bailouts, protects consumers without jeopardizing our small community banks, and brings transparency, as Senator DODD mentioned, to the world of derivatives, without sacrificing economic growth and job creation, which we desperately need in this country.

I, along with many of my colleagues on both sides of the aisle—Democrats and Republicans—will seek to remove dozens of provisions that unnecessarily expand the reach of the Federal Government into the private affairs of Americans and potentially endanger our civil liberties. As always, I will try to focus on policy and not politics.

Unfortunately, over the last several days, debate has become tainted by accusations and misrepresentations. This is nothing new here. The process has already become overly political with allegations that Republicans are blindly following the advice of a pollster's political memo.

I wish to say for the record here that I voted against the Chrysler bailout in 1979, I believe it was, when this particular pollster they are talking about was still in high school. So I have a long record of fighting against bailouts and trying to protect the taxpayer.

Also, I advanced the toughest piece of legislation that would have reined in Fannie Mae and Freddie Mac years ago. But that was opposed unanimously by the Democrats in the Banking Committee.

I was the only Senator criticizing the SEC's lack of supervision of the Nation's largest investment banks while some of my Democratic colleagues, including then-Senator Obama, were endorsing it.

I also opposed the imposition of the Basel II capital accords that would have left our banks in far worse shape than they were when the crisis hit.

I was questioning regulators about the growing housing bubble and the stability of our housing market years before the collapse.

As chairman of the Banking Committee before Senator DODD, I authored and passed, with the help of the Senator, the only attempt to address the lack of competition in the credit rating industry, once again over a lot of opposition.

Finally, when Congress repealed the restrictions put in place by Glass-Steagall, I was the only Republican on the Banking Committee to vote no. So if any of my colleagues wish to discuss my motivation and my record, I am standing here on the floor right now.

As I have stated, there are a number of changes I believe need to be made to this bill before I can consider supporting it. I think we should begin by listening to the people who will be negatively affected by this bill if it were to become law.

If a small business owner from my hometown in Tuscaloosa, AL, tells me that he fears an out-of-control consumer regulator, I listen. If an orthodontist from Mobile, AL, fears regulatory burdens because she offers installment payments, I listen. If the makers of Mars candy bars fear massive cost increases from this legislation that will threaten American jobs and prices, I listen.

There are others we should be listening to as well. For example, large financial firms such as Goldman Sachs and Citigroup are in favor of this bill. Why is that? The answer is, as now written, they know that the bill will bring them and Wall Street firms like them under the Federal safety net where they will get preferential treatment, just as Goldman Sachs got in the AIG bailout.

Yes, the bill, as written, will guarantee that Goldman Sachs could again be paid 100 cents on the dollar if its bets go bad. That is a huge benefit for Wall Street firms at the expense of others—mainly the taxpayers.

The resolution authority established by this bill at the moment will ensure that the politically influential investors in these firms, such as foreign governments and sovereign wealth funds, will get special taxpayer bailouts not available to creditors of small financial companies. This will give these firms a permanent funding advantage over smaller competitors on Main Street.

Make no mistake, this bill will help the big banks get bigger, as it is written today, and further tilt the competitive playing field against small and less politically connected firms.

The legislation that we are about to consider will help the likes of Goldman Sachs but harm the American people. It will lead to job losses, lost opportunities for businesses to productively invest in the future, and it will ensure future bailouts, which Senator DODD and I both want to prevent.

Chairman DODD has assured me that he will address a number of concerns I have expressed with respect to bailouts. We have talked about this at length. I appreciate his assurances and take him at his word, but I am concerned that there appear to be no substantive changes in the relevant sections of the bill that would reflect such assurances yet. Therefore, at the conclusion of my remarks, and picking up on what we talked about earlier, I wish to hear how the chairman intends to address the following: the removal of the $50 million bailout fund, which some people call the honey pot; not allowing the government to pay creditors and shareholders of a failed firm more than they would be entitled to in bankruptcy; not allowing the FDIC to prop up failing firms with government and debt guarantees—meaning the taxpayer; not allowing the Federal Reserve to lend broadly on bad collateral; holding the FDIC accountable if it fails to properly conduct resolutions or uses the resolution authority to provide bailouts; and not allowing the government to deem any nonbank financial company as systemically important and worthy of taxpayer funds at the Fed's discount window.

As many of my colleagues are beginning to realize, it doesn't matter what we say. What matters is what is in the bill's language. And the language in this bill right now would allow for bailouts. I urge my colleagues to read the language carefully.

I have been assured that the bailout provisions will be addressed. However, they have not been addressed yet in the chairman's substitute language. We need to see language from the majority that clearly addresses the issues I have set forth. My hope is that by Tuesday this can be resolved quickly, with both of us offering a joint amendment.

Nevertheless, we are still left with a bill this afternoon that will create massive and intrusive new government bureaucracies, damage job creation, reduce private investment in productive projects, make risk management more difficult, and threaten our economy.

The bill before us now establishes overarching bureaucracies without any meaningful protections for our financial privacy rights. Also, the bureaucracies have been designed to address many issues that have little or no bearing on the recent crisis or any financial crisis. It is a power grab that can reach into virtually every aspect of our economy, and it needs to be restrained.

I wonder how any crisis will be prevented through data collection from banks about deposit accounts of their customers to identify community development opportunities as found in section 1071 of this bill.

Small businesses across this country fear the massive and potentially very intrusive new bureaucracy created under the rubric of consumer protection. And they have every right to be afraid. The massive new government bureaucracy called for in this bill has authorities and powers to call you forward and ask you, under oath, about your personal financial affairs. The fact so many are looking the other way on this serious threat to our civil liberties is troubling. But as this debate goes on, I think America is going to start focusing on the deep aspects of this bill.

The architects of this massive new bureaucracy have long argued for a consumer bureau with the right culture, they call it. Whether that culture focuses on consumer protection and a safe and sound banking system or it becomes a way for community organizers and groups such as ACORN to grab Federal resources is left wide open here.

This massive new bureaucracy will be funded by over $600 million taken directly from the Federal Reserve, outside of the congressional oversight or appropriations process. Tapping the central bank to pay for political initiatives is a very disturbing and dangerous precedent. They did that in Argentina to the utter dismay of the global community and to Argentina itself. It shows a complete lack of understanding of the importance of an independent central bank. For us to follow Argentina's lead and tap the Fed for new government programs is not only shortsighted but signals to the rest of the world the failure of this country to act in a fiscally responsible manner.

In addition to the new Fed consumer protection bureaucracy, this bill envisions a massive new potentially $½ billion per year Federal bureaucracy called the Office of Financial Research, designed to collect granular financial data and to construct complex financial models. Did you hear that? This new bureaucracy is given unprecedented authority, including abilities to obtain virtually any type of data it wants from financial companies, to the level of detail of what you buy on your credit card.

This new bureaucracy is also designed to gather data, process it, and then is required to make it available to Wall Street firms so they can cut their costs. So who is for Wall Street now?

This bill also threatens our economy, as Senator DODD mentioned, by its treatment of derivatives. Greater transparency in all derivative markets is a good thing. But this bill, at this juncture, under the guise of promoting transparency, I believe, threatens Main Street companies and their customers for no good reason. The end-user exemptions put Main Street companies through almost endless and unworkable hoops that will ensure higher costs, lower growth, fewer jobs, and diminished economic opportunity.

In addition, by seeking to concentrate all manner of risky products into clearinghouses, the bill threatens to concentrate risk to the point of becoming systemically large, which, as we all know, leads to government or taxpayer bailouts. This bill could actually increase risk in our financial system, as it is written, and decrease economic output at a time when we need it the most.

Finally, while concentrating risks in America, this bill will shift derivative

trades offshore to places where we have no oversight or regulatory abilities to act.

Proponents of this bill also argue that regulatory gaps are being closed and that the bill somehow simplifies and rationalizes the regulatory framework. Yet the Kansas City Fed President has said:

> This bill actually increases the complexity of the regulatory structure . . . as well as creating unnecessary costs.

As is often the case with this bill, claims about what it does do not match the language itself. They claim it is regulatory simplicity; the language means that there will be increased complexity.

I have highlighted here this afternoon some of the major problems in this bill. It will not end taxpayer-funded bailouts as it is written; it provides for a drastic expansion and overreach of government into the economy and every aspect of our personal financial lives; it also raises the cost of risk management and threatens the abilities of companies to manage risk using derivatives while potentially accumulating risk to systemic proportions; and it makes an already complex regulatory maze even more complex.

I welcome the opportunity to debate the bill before us and to offer amendments and work with Senator DODD, the chairman, to improve the deficiencies and strengthen this bill's shortcomings. I hope we are going to be able to do this in a spirit of cooperation in the days ahead.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I say to my colleagues, other than what you heard from my good friend from Alabama, he likes the bill. So we will have some work to do.

Let me again assure him and my colleagues here that we have had very productive talks, my friend from Alabama and I, particularly in the too-big-to-fail area. My two colleagues, MARK WARNER and BOB CORKER, did a tremendous amount of work in our committee over many weeks as we divided the labor to try to address these issues as thoroughly and as comprehensively as possible. I think we have done that work, but I respect the fact that others may have additional ideas to make this work even better. I know he raised the issue here, and we are going to try to work over this weekend to try to put together the legal language, the language that has to be drafted here, to reflect some of these ideas we can incorporate as part of this bill. My colleague and friend from Alabama has my word on that. We will work on that to do that. Again, I thank him. We have worked well together over these last 37 months.

I make this offer to my colleagues too. I just had a brief conversation with Senator CHAMBLISS. I say this on my own behalf, but I hope Senator SHELBY might agree with me. If Members have amendments, it would help, even in the next day or so, if you could let us know what those amendments are. Even though we may not get to them for a while, we can start to work with our colleagues on their ideas. We may be able to accept some.

I see my colleague from Arkansas here, the chairman of the Agriculture Committee. I don't know whether she shares that view, but it would be helpful. If people have ideas, the earlier we know about them, the better we will be able to respond to them or modify them in some way so they are acceptable. I hope Senators will take advantage of that offer; that the chair of the Agriculture Committee, myself, and I presume Senator CHAMBLISS would share that view as well. Let's see these amendments early on so we can try to be helpful to our colleagues early on, if at all possible.

I commend my colleague as chairperson of the Agriculture Committee. She has taken over that job over the last number of months and done a great job at it. I look forward to working with her, hopefully, in the next week or two on this bill as well.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mrs. LINCOLN. Mr. President, I thank Chairman DODD for his hard work. I absolutely agree that getting Members to bring their amendments forward is going to be critical in terms of working with them and their ideas to see if we can move forward. We have a historic opportunity to do something on behalf our country, and I hope we all work together to make that happen.

I ask unanimous consent that Senator BOXER be the next Democratic speaker after Senator WARNER in the queue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. LINCOLN. Mr. President, I rise today to speak in support of the Dodd-Lincoln substitute amendment. This substitute amendment represents a critical step forward in restoring the soundness of our financial system. This bill will ensure that our markets work for Main Street and not just for Wall Street.

We have come to a critical juncture, and our Nation faces great challenges. But within those challenges we find great opportunities.

Last fall, I had the honor and solemn responsibility of taking over the gavel of the Committee on Agriculture, Nutrition, and Forestry. As the daughter of a very pragmatic, seven-generation Arkansas family, I find myself, in the Senate Committee on Agriculture's 184 years, the first Arkansan to ever serve as chairman of that committee. I am proud of the work that has gone into the product we bring, along with the banking bill, to this process.

Our committee was tasked with putting an end to the reckless behavior that put our financial system in jeopardy, specifically bringing regulation to the over-the-counter derivatives market. Reforming this market is at the heart of financial regulatory reform. Within a decade, this market exploded to $600 trillion in notional value and is today completely unregulated.

Last week, the Senate Agriculture Committee took a critical step toward bringing transparency and accountability to this market, a critical step toward passing the Wall Street Transparency and Accountability Act with bipartisan support.

The major provisions of this bill are included in this substitute amendment I have offered today with Chairman DODD. I appreciate the work of my distinguished colleague, Chairman DODD, and the Senate Banking Committee staff, along with the amazing staff from the Agriculture Committee, to merge our two bills.

I also appreciate the leadership of Majority Leader REID, whose commitment to producing strong financial regulatory reform guided us through this process.

This substitute legislation takes the best of both committees' products and represents the strongest reform legislation to date. I thank Chairman DODD for his strong leadership on this combined effort. He is a longtime leader in this body, and I very much appreciate not only all of his leadership but certainly our strong relationship. I am grateful for all of his hard work.

I would also like to thank the President and his Treasury Department for their leadership on this issue. I also greatly appreciate the strong support from Chairman Gensler at the Commodity Futures Trading Commission. Because of their commitment, the administration has been instrumental in bringing us to this point.

I am also very fortunate to have a strong partner in my good friend and ranking member, SAXBY CHAMBLISS. His thoughtfulness and the hard work of his unbelievable staff is reflected in many of the provisions we will begin debating on the Senate floor today. While we have had some policy differences, I know without a doubt that we share the goal of bringing thoughtful reform to these markets.

This legislation is historic. It is landmark reform. It will keep banks in the business of banking. It will prevent future bailouts and, through the work done by Chairman DODD, put an end to too big to fail. It will lower systemic risk—systemic risk through our clearing mechanisms and our exchange trading and real-time price transparency. It will close loopholes and make sure the regulators have the full authority to go after those entities that would evade or abuse the law. It protects jobs on Main Street by giving true commercial end users the ability to hedge and manage their risks. It protects municipalities, along with pensions and retirees and any governmental agency, from the gouging or the gross profiteering that has occurred in the past. Most importantly, it will bring 100 percent transparency to what is currently a completely unregulated and dark marketplace.

This bill is true reform. This is strong reform. But we need to remember that this is not regulation for regulation sake. We have an important but narrowly tailored end user exemption and appropriate restraint on the regulators where necessary. We understand we are competing in a global financial world. This is a robust package that balances the need for strong, meaningful reform and recognizes the importance of these markets.

Americans are demanding transparency and accountability from their government and from their financial system. America's consumers and businesses deserve strong reform that will ensure that the U.S. financial oversight system promotes and fosters the most honest, open, and reliable financial markets in the world. That ensures that not only does the United States remain the world financial leader but, most importantly, that we lead by example.

I look forward to working with Chairman DODD and my colleagues to consider amendments over the next several days and to improving the substitute bill where necessary. Most importantly, though, I am looking forward to providing the American people with a sound economy and a financial regulatory system that they truly deserve.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, I will say more about it in my conclusion remarks, but first of all, Senators DODD and SHELBY, thanks for continuing your dialog with each other, and thanks for coming forth with the type of agreement that has allowed us to get this extremely important agreement to the floor.

With the financial collapse of 2008, there are a number of issues that simply have to be addressed, and this is the appropriate forum now for all of those issues to come forward and have debate on both sides of the aisle; to hopefully at the end of the day come up with the right kind of product that is going to make sure situations like 2008 never occur again.

To my chairman and my partner on the Committee on Agriculture, she is my dear friend, and we have worked very closely together on so many issues, including this one. When we have our differences, we are able to disagree in a very professional way. I am very appreciative of her as well as of her friendship.

We all know that appropriate regulation of derivatives and specifically the swaps market is a critical component of this legislation, and the Agriculture Committee is responsible for the oversight of the Commodity Futures Trading Commission, which will become one of the key regulators of the swaps market. As the ranking member on the Agriculture Committee, I have the responsibility to ensure that we get this right.

The Agriculture Committee has a history of not falling subject to partisan influence. We have a long tradition of checking our partisan politics at the door in an effort to reach consensus so that both Republicans and Democrats can then support our products on the floor. For instance, the Agriculture Committee facilitated a bipartisan deal to close the Enron loophole back in 2008. Then-chairman Senator HARKIN and I worked across party lines with Senators SNOWE, FEINSTEIN, LEVIN, and CANTWELL to ensure that electronic trading facilities offering contracts that perform a significant price discovery function are properly regulated in a transparent way. Earlier this week, the CFTC used this new authority to subject seven natural gas contracts to increased oversight. That is an example of how laws written with bipartisan agreements yield real results.

Derivatives legislation should have been handled this way too. It should have come out of the Agriculture Committee as a bipartisan product. My staff and Chairman LINCOLN's staff spent 5 months crafting a derivatives bill which should have been reported from the committee with support from both sides.

Unfortunately, things fell apart just as we were about to circulate an agreed-upon discussion draft. This discussion draft, which would have required clearing of swaps by swaps dealers and others who contribute to systemic risk—it would have provided the FTC and the CFTC with the authority to establish capital markets and margin requirements. It would have allowed the CFTC to impose aggregate limits, and, most importantly, it would have provided the much needed transparency that has been absent from the swaps market. This would have represented a 180-degree shift from current law that was in place in 2008. Transparency is the key here. Under our agreed-upon discussion draft, 100 percent of all trades in the swaps and derivatives market would have been out in the open and available to regulators to review in real time.

Unfortunately, this language is not part of the underlying bill. Instead, we are faced with a derivatives product crafted without input from Republicans, a derivatives product that reflects an agreement between both Democratic committee chairmen and the administration. Republicans were not even invited into the room to provide input.

The product they have developed will have many unfortunate consequences for Main Street businesses that had nothing to do with creating this financial meltdown. I fear what I believe to be unintended consequences resulting from applying complicated regulations too broadly will subject our American businesses to more risk, not less.

For example, this legislation would force the Farm Credit System institutions to run their interest rate swaps through a clearinghouse, which will result in additional costs in the form of higher interest rates to their customers, without doing anything to lessen systemic risk. Let me be clear as to whom this will ultimately affect—our farmers and ranchers, our electric cooperatives, and our ethanol facilities that seek financing from these institutions. Institutions such as CoBank will be forced to clear their swaps and execute them on a trading facility, which will impose significant new costs and result in higher interest rates for their customers or, worse, discourage them from managing their risk, which will again result in higher costs for their borrowers.

Because this legislation broadly applies regulation, treating all financial institutions exactly the same. Cobank and Goldman Sachs are not the same and should not be regulated in the same manner. Cobank should have the option to clear their swaps and not be mandated to do so.

This legislation will also prevent John Deere Credit from hedging its interest rate risk except through a clearinghouse. Again, this will result in less attractive credit arrangements for farmers who need financing to buy tractors and combines.

The same can be said for consumers who would like favorable financing arrangements with Ford Motor Credit to buy a car. They will not be allowed the best deal because Ford Motor Credit is now going to be forced to take on additional cost when hedging their interest rate risk. Can anyone tell me why we are treating John Deere and Ford Motor Credit exactly the same as Goldman Sachs?

Also, entities such as Koch Industries that is hedging their risk and also engaged in developing products for their customers' hedging needs should not inadvertently be captured in a new regulatory category designed to apply to big financial dealers. But that is exactly what this legislation does.

Koch's and Goldman Sachs' swaps businesses would essentially be regulated in the same way. Treating these entities like dealers may force them to stop offering those products to their customers, in which case their customers will have no other option but to seek products from the large dealers such as Goldman Sachs and other Wall Street bankers.

Today I heard the stock price of Goldman Sachs is up, and this explains it. They will get increased opportunities to make more money under this legislation. Why do we want to essentially lessen competition and drive all of the swaps business to those that are the most systemically risky or, even worse, drive them offshore where we cannot regulate them?

Banks such as Goldman Sachs may even be forced out of the swaps business if this legislation becomes law, which begs the question: Who will then be left to offer these risk management tools to our constituents' businesses?

Businesses rely on swaps as a very legitimate option to help them alleviate risk inherent to their business. But if no one is left to sell them this protection, they will be forced to hold the risk on their books. Why on Earth would Congress advance legislation that would actually prevent the businesses in each of our States from properly managing their risk, especially in these difficult times?

The American public wants to know why we cannot target these new regulations so Wall Street is regulated properly without punishing the businesses they rely on every day. I would like to know the same thing. Unfortunately, I think I already know the answer: It has absolutely nothing to do with regulating Wall Street.

When the Obama administration realized the Committee on Agriculture was on the verge of producing a derivatives regulation package that would have appealed to both Republicans and Democrats, they scrambled to kill the deal. You see, to the extent that any aspect of the financial regulatory reform package has Republican support, they can no longer play politics with this issue.

If we produce a bill that has the support of several Republicans, then they can no longer blame us for holding up this process, which would cause the administration to lose the message they are pushing, in hopes that voters will forget about health care. Their message is simple: They want to be able to tell the public that Republicans are opposed to regulating Wall Street.

Well, that is disingenuous at best and totally false at worst. Republicans are just as anxious as Democrats to address what went wrong on Wall Street and, frankly, it is long overdue. Why has the administration waited almost 18 months to push financial regulatory reform? Why are they trying to cut Republicans out of the process? Is it that they wanted an issue that will drag on into the election season, not a solution that will truly protect the consumers on Main Street?

I wish we were here today debating a derivatives product that had input from Senators on both sides of the aisle and perhaps a little less input from the administration. The American people expect the administration to implement the laws that Congress passes, but they elected us to write those laws.

I feel certain that we could have done a much better job had we been allowed to work in a more bipartisan way. Unfortunately, I have to encourage my colleagues to oppose the derivatives portion of this bill because I think it will have undesirable consequences for Main Street businesses and consumers who are already struggling in this weakened economy.

We will have amendments to correct the deficiencies in this bill, and I hope we will receive bipartisan support for those amendments because they truly will reflect commonsense solutions to the complex derivatives issue.

Let me close by saying that I know Senator DODD, Senator LINCOLN, Senator SHELBY, all of us, wanted, at the end of the day, to develop a bipartisan bill. I hope we can still do that. I see my friend, Senator WARNER, is on the Senate floor. He and I have had some conversations about trying to meld some of our ideas. I know he has worked very closely with my dear friend, Senator CORKER, from this side of the aisle.

Now that we have this bill on the Senate floor, I hope we can get by the rhetoric; that we can all say our piece and that we can roll up our sleeves and do what the American people want to see us do, which is to work together for their best interests. They are the ones who are going to suffer for what comes out of here or they will be the ones to benefit from what comes out of the Senate.

Senator DODD is a dear friend. We have had many conversations about this bill. I know what is in his heart. I know he wants to get this done in the right way. Likewise with my dear friend, Senator LINCOLN. So as we move ahead now, I am very hopeful we can settle down to the real business the Senate is famous for; that is, having real, hard-core debate on issues because these are extremely tough.

There has not been a more complex issue that we have had to deal with in my now going on 8 years in this body. But the minds are very capable of resolving these issues. We can do so with good ideas from both sides of the aisle. I am very hopeful at the end of the day, we will come out with a product the American people can look back at and say: Wow. That is the way the Senate is supposed to work. And the people we sent to do the peoples' business have, in fact, put together a good product that is going to benefit America; it is going to benefit American business and, most importantly, it will benefit Americans.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, before Senator CHAMBLISS leaves the floor, before we hear from my colleague from Virginia, let me thank both of our colleagues: my colleague from Arkansas who spoke, but also my good friend from Georgia. I thank him immensely for his comments. We have worked together, not as often, and we do not sit on committees together. But we have come to know each other and respect each other immensely. I know he is going to do exactly what we are talking about. This is an opportunity for us not only to get a bill right, but to get this institution right, in a way. It ought to be the way we can conduct ourselves.

I have always said, there is nothing wrong with partisanship. In fact, the country was not built on anything but partisanship. It was the contest of ideas. But the ability to have a civil debate in the context of some partisan ideas, with the ultimate goal of resolving those issues so that we reach a common solution, is the purpose for our existence in all this.

I have great faith in our ability to do that. I know we will get closer to that because there is a guy named SAXBY CHAMBLISS. So I thank him.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. I appreciate the opportunity to follow the chair and the ranking member of the Banking Committee and the chair and the ranking member of the Agriculture Committee on this critically important debate.

I commend their work, the great amount of work that has been done, actually, in a bipartisan fashion already on this important piece of legislation. There are differences. But an awful lot of work has gone into getting this product that now can be fully aired on the floor of the Senate.

I want to pay particular compliments to my dear friend, someone I had the opportunity to actually work for close to 30 years ago, the chairman of the Banking Committee, who, while I am a new guy in the Senate, seems to me, on this bill, has kind of done it the old-fashioned way. He has had an open door to any Member of both sides of the aisle.

As this issue got more and more complex, he asked various members of the committee to roll up their sleeves and take on portions. Senator CORKER and I—and nobody has been a better partner than BOB CORKER for me during this process—took on a major portion of the bill. Then, as we kind of got to the Senate floor, time and again—and I will come back to certain specific examples—he has said: How can we find that common ground that seems to be so often missing from this debate?

I also commend the ranking member, Senator SHELBY. Nobody has been kinder and no one has spent more time with me kind of helping me learn the ropes of this institution than Senator SHELBY. But I also have to say that as we get into the substance, some of the comments that have been made from my colleagues, particularly on the other side, do not resemble the bill we are actually starting debate on, particularly some of the portions in which I personally have been very involved.

I want to try to address some of those briefly. In some of the comments we have heard from my colleagues, they have talked about that we did not put in too big to fail. If there was one overriding challenge that we were all tasked with—I believe my colleagues from the other side of the aisle would completely concur with this—it was ending too big to fail and never again exposing taxpayers to the financial mistakes made by large systemically important institutions, made by Wall Street.

What I have not heard from my colleagues—and I guess this will be assent—is that a lot of the things that we have put in this legislation, bipartisan,

take us down that path. We have created a systemic risk council so for the first time the regulators can actually get above their silo-like focus, so they can look ahead of the crisis and create early trip wires to make sure we do not get to the kind of catastrophic place we ended up in September of 2008.

This systemic risk council will make sure that these systemically important firms—and there will be systemically firms no matter what we do—but that the price of getting so large will actually be borne by those institutions and not by the taxpayers.

So what are those speed bumps, as I have called them? Increased capital requirements, making sure there is a better management of leverage, making sure they actually have in place risk management plans.

Then we have created two brandnew tools that regulators have never had before. In fact, the price of getting so large, one is a whole new—and I apologize to my colleagues and those who are viewing because some of this is in the weeds, but the weeds are where billions of dollars are made or lost.

But we are creating a whole new area of capital that is called contingent debt, that any of these firms will have to put in place. That debt will convert to equity and dilute shareholders and dilute management if any firm even gets close to getting into trouble.

It will be an immediate check by current management on not getting too far over the edge, because we believe the bankruptcy process should be the way that firms unwind themselves; if they get into trouble, go into bankruptcy. They may or may not come out at the other end, but you have to have a plan in place.

We have spent an awful lot of time looking back, back to the Bear Stearns crisis, the Lehman crisis, AIG. All of the stories show there was no plan in place for how to unwind these firms.

So we have given this risk council the ability to require these systemically important firms to basically put forward a plan on how they will unwind themselves in bankruptcy at no risk to taxpayers. If the regulators do not approve, they have the ultimate sanction of actually being able to break up these firms.

Now, time and again, in this legislation—and I hear some of my colleagues saying: We are going to always default to resolution. If this works, resolution should rarely and hopefully never, ever have to be called upon. But who would have ever predicted that we would have ever gotten to the point of complete financial meltdown of September 2008? So we cannot go responsibly forward without also having—and we heard this from people across the spectrum—without having some form of a resolution plan in place.

There has been a great deal of comment made about the notion that the chairman's bill says we ought to go ahead and in effect ask these financially important firms to pony up a little bit of the resources so that if one of them gets into trouble and has to be unwound, there is some capital available to, in effect, keep the firm operating so the market doesn't lose faith in that institution and then create a financial run. We saw institutions that seemed to be very well capitalized but, because the market lost faith in them, their capital disappeared virtually overnight. You have to make sure there is an assurance that the firm can continue to operate and be out of business. Senator CORKER and I looked at different options, but we thought perhaps the best way is to have some resources available, whether the number is $50 billion, as the chairman proposed, or a lesser amount, subject to valid debate, and perhaps the industry ought to be paying for that.

I have heard others criticize that, but what I have not heard from my colleagues on the other side is, if the industry is not going to pay to keep these firms alive through the process of being put out of business—again, resolution means your firm is going out of business, your management is gone, your shareholders are gone, your unsecured creditors are gone. No rational management team would ever want this to happen. They would always prefer bankruptcy. That is how we have tilted this process. But if you are going to do that, you need to put them out in an orderly way. You don't want to have what happened when there was no plan to unwind Lehman. What I would ask is, if they don't like the prefund from industry—and some even in the Treasury don't like it—then who will pay and how do we make sure taxpayers are not exposed?

My two goals are—and I know Senator CORKER agrees—that taxpayers should not be exposed, and you have to have some liquidity operating so you can keep the firm operating so you can put it out of business.

I have also heard critiques that somehow in this process there would be some preference for one creditor over another. Nothing could be further from the truth in terms of what the Dodd bill proposes. It is as if somehow a whole new process was created out of whole cloth where somehow the firm that was going to be put out of business was going to be choosing which creditor was going to be paid or not paid. Nothing could be further from the truth. The model I believe the chairman's bill adopted was basically the model the FDIC uses as it puts banks out of business through the normal resolution process.

The fact is, the FDIC is charged, as this resolution authority is charged, to say you have to maximize value as you put the firm out of business. So, yes, you may have to pay the electric bill to keep the lights on, but there will be a recoupment process at the end so that creditors balance out. It is not some new process. This has been used for decades relatively effectively.

I also heard comments made about some new bureaucracy in the Office of Financial Resolution. Nothing could be further from the truth. One thing we heard time and again as institutions came in, as regulators came in, was that too often they didn't have current real-time data. So when AIG was going down, nobody knew the extent of the interconnectedness. When Lehman went down, nobody understood the state of their transactions. The Office of Financial Resolution that is proposed is to make sure that the regulators—experts from all across the field, not Wall Street—have real-time data on the state of interconnectedness of all the transactions that take place on a daily basis. To me this could be one of the most effective tools in this whole piece of legislation, making sure we have an immediate snapshot of the market.

In the consumer area, I think there is, again, broad agreement that we need to improve consumer protections; that we ought to make sure financial products are regulated by the nature of the product, not by the charter of the organization that is issuing the product.

There are still parts we need to work on. We need to make sure, particularly for community-based banks, that a community-based bank, a smaller institution that didn't create the crisis in the first place, doesn't have one regulator come in on a Monday on a consumer issue and another come in on a Wednesday on safety and soundness, and get conflicting advice. How we get enforcement right is an issue we have to work through. But again, common ground can be found on this issue.

I commend the Agriculture chair and Senator CHAMBLISS on the issue on derivatives. There has been a lot of discussion. There is an agreement that derivatives, while they have been oftentimes appropriately vilified as some of the tools that created the crisis, are also a useful way that legitimate businesses hedge risk. At the same time, as we try to put in place new rules around derivatives, we don't want to push the whole derivatives market offshore. While I commend the end-use exemption that was created and the goal of trying to get everything cleared and on exchanges, my hope is we can put some penalties in place. Some of the penalties the Agriculture Committee has put in place perhaps could be triggered if the banks do not end up meeting what they basically said, not overusing the end-use exemption or not getting all their products cleared or on the exchanges. My concern is that no matter how good the end-use exemption we write, there will always be more resources on Wall Street to find ways around even the best written legislation on something where as much money was put in place. So putting in place trip wires that might then cause a Draconian response would help self-police the industry.

One more example of the approach Chairman DODD has taken on this bill. In my background, I spent 20 years in

the finance industry before I was Governor. I was in the early stage capital formation business, something that is very important in the tech community. A lot of firms that are thrown around on this floor and elsewhere I have been a client of, worked with, worked against. One of the areas I had great concerns about in an earlier draft was anything that might stop or slow the ability for startup companies to access capital. There were some provisions in the bill that looked at the definition of a qualified investor that could hurt the creation of angel investors which are so critical to creating new jobs. There were perhaps provisions put in around the SEC in terms of new deals that might have to be vetted for a long period.

If you are a startup company, you don't have 120 days before you can raise your dollars to kind of get to the next step to stay alive. I cite these two examples because instead of simply saying no to the chairman, I said: Yes, you raise good points. Others have raised these points. They are changing the bill. I think that spirit is what the chairman is going to bring to the debate.

In the 20 years of being in the finance business or around the finance business, I came to this body thinking I might know a little something about this subject. There was probably a month in which I realized that whatever I knew was incremental and that the last year and a half I have had to go back and retest all of my assumptions. It has been an enormously challenging and exciting experience. I come away from this year and a half—again, particularly working with Senator CORKER, where we had everybody from across the political spectrum talk to us to get us up to speed on these issues—with a couple conclusions.

One, there is no Democratic or Republican solution to financial regulatory reform. If there is ever an area that should not be broken down on partisanship, it is this issue. Second, what the market craves most is predictability. Sometimes it is overstated: if you do this, oh, my gosh, it will be the death knell of American capitalism—there has to be balance. But oftentimes those statements are overstated. At the end of the day, what the market wants is a good, commonsense bill that will set the tone, not just for the next year or two but for the next 20 to 30 years.

Finally, because of the good work of Chairman DODD, Senator SHELBY, and many others, common ground is attainable. I look forward to spending as much time as needed and appreciate in particular those on the Republican side who agreed to bring this bill to the floor and no longer are there going to be political shenanigans; let's air these issues back and forth.

There is a lot more to say about some of the critiques that are made of the bill. I look forward to that discussion and look forward to working toward that common ground so we end up with 21st century financial rules of the road.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, before we hear from my colleague from California, I thank Senator WARNER of Virginia. He is a relatively new Member of this body and a new member of the committee, but I can't even begin to aptly characterize his contribution to this product. Since day one, he has been at every meeting, been involved in almost every conversation about this bill, particularly the focus that he and Senator BOB CORKER agreed to take on in working out title I and title II of the bill dealing with resolution authority and too big to fail. His background, his experience, his knowledge made a wonderful contribution to this product. His interest in other matters is valued as well, because he brings two decades of living in a world in which these matters were something he absolutely grappled with. We have a long journey in front of us in the coming weeks to get through all of this, but his continuing involvement in this Chamber on this subject matter will be invaluable to all of us as we go forward. I thank him for that.

Let me thank my colleague from California. She also has a background on this subject matter. She has often talked about it. I thank her for what will be our first amendment on this bill, something I think brings all of us together. I thank her for her energy and interest in the subject.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 3737

Mrs. BOXER. Mr. President, I thank Senator DODD for all his work on so many issues. Just the way things worked out, he has been so pivotal in health care reform and now in Wall Street reform. This is an era of reform. My friend should be very proud that he happens to be here at this time, because we can't go back to the days we left. As a reminder, I will show you some of the headlines. It is worth a minute of looking at these headlines. This is taken from 2007 and 2008, some of the headlines we had to face in those times: ''U.S. unemployment rate hits 10.2 percent, highest in 26 years.'' How about this one: ''Nightmare on Wall St.'' ''The bailout to end all bailouts.'' ''Wall Street's latest downfall: Madoff charged with fraud.'' ''Credit crunch continues as lending rates climb.'' ''Jobs, wages nowhere near rock bottom yet.'' ''Where do we go from here?'' ''The Nasdaq in biggest fall since the dot.com crash.'' ''Dow dives 778 points.'' ''U.S. loses 533,000 jobs in biggest drop since 1974.'' We can see the look on this man's face. He is obviously standing in the middle of the New York Stock Exchange. That explains how everybody felt as our constituents lost their wealth. They lost their wealth and with it their confidence in America.

I want to continue with one more chart because all of us want so much to put this behind us. That is what we will do with this bill. But we have to remember. ''Economy in crisis, what now?'' ''U.S. pension insurer lost billions in market.'' ''Housing prices take biggest dive since 1991.'' ''Full of doubts, U.S. shoppers cut spending.'' ''Wall Street employees set to get 145 billion 2009,'' the bonuses during this time. ''How low can they go?'' ''Home prices drop 42%.'' ''Carnage continues: 524,000 jobs lost in December.'' And from the San Jose Mercury News: ''Foreclosure Wave, San Jose Fights to Protect Neighborhoods.''

What we are doing here is so important. I am so proud of the work Senator DODD did in his committee that has brought us to this point. I am grateful that our Republican friends let this bill move forward. We will have our debates. That is fine. But we can't afford to go back to those old days. Those old days could happen unless we act, as the President has stated.

I want to take the time to thank Senator DODD in particular for working with us, as well as to thank the administration for working with us, to come up with an amendment which will synthesize exactly what the bill does.

The purpose of this amendment—which is pending at the desk, which I am hopeful we will vote on Tuesday—says in its purpose: ''To prohibit taxpayers from ever having to bail out the financial sector.''

When I heard my colleagues on the other side say Senator DODD's bill would ensure taxpayer bailouts, I knew it was false, and I went to Senator DODD and colleagues on the committee and said I did not understand why these comments were coming from the other side, as if saying this glass of water on my desk is a cup of coffee. No. This glass of water is a glass of water. It is not coffee. And if you say seven, eight, and nine times that it is coffee, somebody might believe it. That is how I view the comments from the other side that this is guaranteeing bailouts, when in fact it is not.

So I said to Chairman DODD: I have an idea that we should put together a very simple amendment to the bill that basically says what we know is true:

> All financial companies put into receivership under this title shall be liquidated.

No company is ever going to be kept afloat. No taxpayer funds should ever be used to prevent the liquidation of any financial company under this title, that all funds expended will be repaid to the taxpayers by the financial sector through assessments or the sale of the assets of the company.

Then, we repeated at the end:

> Taxpayers shall bear no losses from the exercise of any authority under this title.

I am going to put up the Boxer amendment. It simply fits right on this chart, I say to my friends. It is very simple. If a company is taken into receivership, liquidation must follow. Nobody is being kept afloat. No one's

business is being kept afloat. They are liquidated.

Recovery of Funds.—All funds expended in the liquidation of a financial company under this title shall be recovered [either] from the disposition of assets of such financial company, or shall be the responsibility of the financial sector, through assessments.

Lastly, just in case people really wanted it stated—and I see some smiles on faces because we worked together to make sure no one could turn this around—

No Losses to Taxpayers.—Taxpayers shall bear no losses from the exercise of any authority under this title.

So let there be no mistake. Senator DODD's arms were open to this amendment. He said this reflects exactly what we have done. But he said: Senator, if you feel better if we put it in one place, we will do it.

I think it is important for the American people to understand the simplicity of the approach: No loss to taxpayers, period, end of quote. So if somebody goes on TV this weekend and says this bill is about bailing out companies and keeping them afloat with taxpayer funds, it cannot be done under the bill, and this amendment certainly brings it home in a very simple, plain English fashion.

I am proud to be working with my colleague Senator DODD. I used to sit on the Banking Committee, and I was kind of lured off the committee because the people in California said: We have to have somebody on the Commerce Committee. We have so much at stake there. So it was tough for me to walk away, but I did walk away. But I still retain the relationships.

I am going to go through what is in the Dodd bill that I think is so terrific—then I am going to yield the floor—because Senator DODD has been talking about this by himself, and I think he deserves to have a bit of a rest and the rest of us should come over here and talk about it.

Again, taxpayer bailouts are done. We know the bill itself does it, but we have made it clear. Taxpayers are covered. We will have a cop on the beat for our consumers. We will know that a Consumer Financial Protection Bureau has only one job, and that is the job to look after our consumers so they are protected from the kind of deceptive and abusive practices that fueled this crisis.

Let's face it, this crisis was fueled by Wall Street, by speculation, no leverage requirements—lots of things—dark markets. This bill takes on these issues.

We see another part: brings disclosure to dark markets. The bill eliminates the loopholes that allow reckless speculative practices to go unnoticed. It brings real regulation to derivatives markets and to the ''shadow banking system.''

I think we are probably going to have some debate over this. But I can say right now, when I worked on Wall Street so many years ago, I have to say—too many years ago to remind myself of, but let's say it was a long time ago, and it was in the 1960s—those were the years when a $12 million share day on Wall Street was breaking all the records. Now a $1 billion share day isn't that much. We did not have these kinds of instruments. We did not have these kinds of toxic instruments that were so complex.

When I asked Treasury Secretary Paulson about it—he was George Bush's Secretary of the Treasury—he essentially held his head in his hands and said: You know, it is hard for me to explain this to you. That is a fact. It did not build up my confidence very much. I have to say, we need to have a financial system that is understandable by everybody. But certainly the Secretary of the Treasury should not have to hold his head in his hands and say: I can't explain it. We have to end those days, and the best way is sunshine.

So I say to Senator DODD, you did a great job in working to bring disclosure to the dark markets. Senator LINCOLN, working through the Agriculture Committee, I think brought us even more protection, and that is very good. Because I think the President said it well. The President said: We want everyone to prosper. We want everyone to be innovative. But we do not want to put our people at risk. When people start losing in the ways we were losing—20 percent of our net worth; 40 percent, 50 percent the market went down—50 percent of its value—a lot of people lost their dreams, and it was unnecessary. But it happened because there were markets that were in the dark, and there were people who were not fulfilling their fiduciary responsibility to their clients.

What else does the Dodd bill do? It curbs risky behavior on Wall Street. The bill provides for strict new capital and borrowing requirements as financial companies grow in size and complexity and pose a risk to the financial system.

Regulators will restrict proprietary trading—speculative gambling—by critical financial firms. We have situations where a firm is advising a client—and we know this happened with Goldman Sachs—advising clients to buy a particular instrument which happened to be worthless. And I cannot use the word the traders used to describe it because this is a family audience. These were junk, and they called them worse than that. They were junk. They were being sold to the customers of Goldman while Goldman was taking a short position—in other words, a position that bet on these instruments' failure. The kind of e-mails that came out were reminiscent of the e-mails that came out during the Enron scandal, bragging about how widows and orphans were going to get hurt.

Well, if there is anything we should do here, it is to protect our people, not put them at greater risk.

There is going to be an early warning system created to prevent a future crisis—the Financial Stability Oversight Council—to focus on the risks before they lead to a crisis. As a last resort, the regulators can break up a company that is too big to fail.

Lastly, of the big accomplishments of the bill, the bill protects against securities markets scams. It mandates management improvements and increased funding for the SEC. The bill creates a new SEC Office of Credit Rating Agencies to strengthen the regulation of credit rating agencies, many of which failed to correctly rate risky financial products.

I have to say, I am working on an amendment that is even stronger because, for me, as someone who relied on, so many years ago, the honesty of these rating companies—these are the companies that say: This is AA, this is AAA, this is A, this is B, this is bad—they are getting paid by the people who have an interest in them giving a good rating. That is wrong, and we have to do something here to insert some type of responsibility to the public. These rating agencies have a responsibility to the public. I am working on some approaches. We do not have it ready. We are going to talk to Senator DODD, and we hope he will be amenable to it. But we have some thoughts about it.

In this area, the people of this country are putting their hopes and dreams into the financial markets. It has been a great thing, in general, over the years. It has been a great thing because America is a great country, and we have innovation and innovators, and we have venture capitalists who put it all on the line, and they hit, and we can all do very well if we invest, even if we do it through our 401(k) or our company does it through a pension plan.

We know most Americans have a stake in these markets. I heard some things from Goldman Sachs—they said something like this: Well, the people we were selling to were sophisticated, and they should have known better. But they stop short of the truth. Maybe they were sophisticated, and maybe they were not doing their job either; therefore, it trickles down to the people who were relying on that so-called sophisticated investor. All we are saying is, we need reasonable rules of the road. We want to know a rating agency is giving it their best shot to tell the truth about a security. We want to ensure that. If there are new, exotic instruments being traded, that is fine, but let's take a look at them in the light of day so people are fully informed. Then, if you take a gamble, if you are fully informed, that is one thing. But if you do not understand you are taking a gamble, that is another.

So again, I am very pleased we are at this point. Somebody said the only reason we got here is we threatened to work through the night. Maybe there is some truth in that. Frankly, it does not matter to me. We are at this point. We can get to this bill. My Republican

friends who say they want to improve it—they did not try to do it in the committee, is my understanding—but if they want to do it now, I welcome that because I am sure I will support some of their amendments if they are in the spirit of this bill. The spirit of the bill is protecting consumers, protecting taxpayers, making sure taxpayers are never on the hook, and stopping a situation like this one, as shown on this chart, where every newspaper had pictures of people like this who were at a loss to understand: How could this happen in America?

I get the chills thinking about the conversations many Democratic Senators had. I know Republicans had the same conversation with the Secretary of the Treasury and with Fed Chairman Ben Bernanke, in which they basically said: We are on the brink of collapse. We may never come back from this situation.

We cannot forget that. If we do not move to correct the system in ways that are not overly burdensome, but we get it right—and I think Senator DODD pretty much has gotten to that sweet spot on this thing; we may want to move here or there with an amendment—if we can do this, if we did nothing else—and, by the way, we have done other things, and we will do more—this is crucial. It is crucial to consumer confidence. Consumer confidence fuels 70 percent of the market. Let's do this right.

I thank my Republican friends who decided to work with us. I thank Senator DODD for his patience, for his passion, and I am very happy he is leading us because he is so effective and he knows what he is saying.

I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Connecticut.

Mr. DODD. Mr. President, again, I commend our colleague from California and thank her for her involvement and her ideas and suggestions. Again, it is going to be helpful that we begin with a proposal that I think is going to bring us together. As I said—I cannot speak for others; but at least I have heard, when I have asked people to comment on the Senator's proposal—there seems to be almost unanimity around the Senator's idea. In a debate that is obviously going to have us not with unanimity, as we move forward in a number of areas, I think it is always good to begin where we speak with one voice. I think that common voice is making sure we never again have that too-big-to-fail concept as part of our economic structure.

The Senator will be making a significant and historic contribution to this effort, and I thank her.

Mrs. BOXER. I thank the Senator.

Mr. DODD. Mr. President, I do not have any other requests for time to speak this afternoon on this bill. But it is obviously a leadership call as to what their decisions are to go forward.

Again, I want to say to my friend and colleague from Alabama, we have had a very good working relationship, and it will continue through this process. We have already been discussing several ideas. I appreciate Senator WARNER raising a couple of issues. The angel investor idea is one that needs to be changed. I know my friend and colleague from Missouri, KIT BOND, has ideas on this as well, and I am going to be getting in touch with him and asking him, along with Senator WARNER and others, to work on some language we can add to our bill. I know Senator CORKER is working on some ideas as well and, again, we want to be cooperative. A number of my colleagues over here have been submitting amendments, including BEN CARDIN and others, SHERROD BROWN. I know Senator SANDERS has some amendments. We have a lot of ideas that are going to be coming up in the coming days, so we have a lot of work in front of us before we complete action on this bill.

Again, I am grateful to Senator SHELBY and the other members of the Banking Committee. They have been very helpful over these many months, and we have had long conversations about this. There are a lot of different ideas as to how this all can work, but each and every one of them made a constructive contribution to the process, and I am grateful to them for that. I am very grateful to Leader REID. Obviously, none of this happens without the involvement of the leader and his very fine staff who have been tremendously helpful in us getting to this point by providing the structure and the organization that allows us to actually begin a debate. Many thought we couldn't even get to this debate. I wish to underscore something Senator BOXER said a few minutes ago. We spent a lot of time over the last 2 weeks; there was a lot of acrimony and finger-pointing as to why we weren't starting. That is behind us. We have now started. Some people want to flyspeck that debate. The fact is, we are on the bill and we are moving forward. That is good news. My hope is, over the next few weeks, we will complete this bill.

With that, I will note the absence of a quorum and let the leadership decide what they want to do.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN of Ohio. Mr. President, Wall Street's crisis became the Nation's crisis. Lost jobs in Toledo, foreclosed homes in Bedford Heights, frozen credit for small businesses in Lebanon, State budget shortfalls, and the list goes on and on. It can't happen again. We must not let it happen again.

One of the most disturbing aspects of the Wall Street reform process is, some policymakers started with the premise that, first of all, Wall Street wealth must be protected. Sure, they have their lobbyists. Sure, they have their PR people spinning. But it amazes me to think that is where some people started this whole debate. They focused their energies on minimizing the safeguards put in place to protect our Nation from another financial meltdown.

In this morning's Washington Post, E.J. Dionne quotes an e-mail from an arrogant banker, who happens to work at Goldman Sachs, who wrote:

> What if we created a ''thing,'' which has no purpose, which is absolutely conceptual and highly theoretical and which nobody knows how to price?

At some point, we have to ask in this body: Whom do we report to, the megabanks that raked in millions by gambling with the livelihoods, the homes, the retirement security of middle-class Americans, or do we report to middle-class Americans themselves? Is our job to protect Wall Street or is our job to protect against more taxpayer-funded bailouts?

In my view, we must take the steps necessary to eliminate bailouts and establish foolproof financial protections for the Americans we represent, and we do it even if the behemoth banks don't like it, even if Wall Street lobbyists don't like it, and even if most of my Republican colleagues don't like it. That is what the amendment I will offer on Tuesday is all about.

In the last few decades, the banking industry has become so concentrated it no longer functions as a competitive market. Yesterday I met with Kansas City Fed President Dr. Tom Hoenig. He observed that since 1990, the 20 largest financial firms have increased their control of banking assets. They once controlled 35 percent of those assets. Today they control 70 percent. Some firms are 30 to 40 percent larger than they had been just before the crisis.

What does that mean? We are twiddling our thumbs as Wall Street once again places our Nation at risk.

Think about this: 15 years ago the 6 largest U.S. banks had assets equal to 17 percent of GDP. Today, the 6 largest megabanks in this country have combined assets of 63 percent of GDP; from 17 percent 15 years ago, percent of GDP, assets as a percent of GDP, to 63 percent today. Three of these megabanks have close to $2 trillion—that is two thousand billion—$2 trillion of assets on their balance sheets and over $1 trillion in liabilities. Because our economy rides on a few megabanks, taxpayer-funded bailouts are far more likely than if these banks were not so dominant.

As we have seen, that is not the only downside of banking concentration. It also jeopardizes our small businesses which generate over 60 percent of new jobs. The current distortion in the market gives privileged large banks clear funding advantages, up to $34 billion annually over smaller community banks. These large banks could game the system far too often at the expense

of the smaller banks, at the expense of the community banks. These large banks have put a virtual freeze on spending on small businesses—despite receiving this taxpayer bailout.

Three of these largest banks slashed their SBA lending by 86 percent from 2008 to 2009. In Ohio, SBA-backed loans—those are government-guaranteed loans to help small business. I know the Presiding Officer has fought for small business in Duluth and Rochester and St. Paul, as I have for small business in Toldedo and Dayton and Cincinnati. In 2007, SBA-backed loans in my State went from 4,200 to only 2,100 in 2009. They basically were cut in half.

I have heard from manufacturers and entrepreneurs, energy startups and mom-and-pop corner stores—all small business owners who strive to be in the middle class and bring their employees up to the middle class, who are struggling to get the credit they need to hire workers and expand businesses. They have the capacity, they have the customers, they simply cannot get the credit they need to expand. It is clearly not the small banks who are cutting their lending. In fact, according to the Kansas City Fed, 45 percent of banks with assets under $1 billion actually increased their business lending in 2009.

What do the megabusinesses do instead of lending? In the last year Wall Street megafirms have increased their trading by 23 percent. They are trading with each other on Wall Street so they can make money. They are not making loans to Main Street because it simply is not as profitable for them.

Last year, we let 100 community banks fail across the Nation. Meanwhile, we spent $165 billion of taxpayers' money to keep the big six banks afloat. But the cost of having these six megabanks is even greater. The Bank of England estimates that the true social cost to our economy of the financial crisis has exceeded $4 trillion, four thousand billion dollars. If we don't want another economic crisis, if we don't want more small business failures, if we don't want more bailouts, we need to do something about the unprecedented concentration of wealth among a few large banks.

That is why Senator KAUFMAN of Delaware, Senator CASEY of Pennsylvania, Senator MERKLEY of Oregon, Senator WHITEHOUSE of Rhode Island, Senator HARKIN of Iowa, Senator SANDERS of Vermont, Senator BURRIS of Illinois, and I have introduced this amendment modeled after the Safe Banking Act of 2010. These Senators come from the East and the South and the Midwest and all over our country. They will rise with me in support of the Brown-Kaufman amendment.

It would prevent any financial institution from becoming so large that it could jeopardize the entire economy. Too big to fail means too big to exist. The amendment would scale back the six largest banks of the Nation—just six banks but six megabanks. Those six banks' total assets, as I said, are 63 percent of gross domestic product in this country. This amendment would require them to liquidate some of their bank before it is too late.

That would mean they could spin off one of their lines of work, they could reduce one of their lines of work, they could do less business in one region—whatever—so they are not megabanks with this kind of power over our economy.

Our amendment would place statutory limits on the leverage of these banks. Our amendment imposes sensible size constraints on these banks. The leverage ratio would be set in the vicinity of 6 percent—about 16 to 1.

We saw on Wall Street one of the things that brought on this crisis was there were ratios of 25 and 30 and sometimes even 35 or 40 to 1. This amendment would cap concentration of deposits held by any one bank at 10 percent of the Nation's deposits, about $750 billion—not small but not so humongous as they are now.

The bill we will be considering beginning next week is strong, but it needs to be stronger. It focuses on monitoring risk—that is the right thing—and taking action should regulators believe the risk has grown too big. But we know the regulators didn't exactly do it right during the Bush years, and that is why it is so important that we write legislation in a way to keep these large banks from getting too big. We should not just monitor risk until we are once again on the brink of trouble. We should learn from recent history and correct our regulatory mistakes by nipping risk in the bud. That means preventing the anticompetitive concentration of banks that become too big to fail and bank on that to engage in high-risk behavior. Not only would our amendment help prevent bailouts and protect us against economic collapse, it would help boost lending to small businesses.

I am joined in the Chamber by the Senator from Louisiana who has specialized in finding ways to help small businesses. She knows, as I do, these small businesses have not gotten the kind of credit they need to expand; that they have the capacity to grow; that they have the employees, they have the customers, but they too often have not been able to get credit.

The Brown-Kaufman amendment would take action now to prevent economic collapse and taxpayer-funded bailouts in the future. We believe the American public does not want regulators to wait and see whether another crisis develops. We should prevent it before it starts.

Too big to fail is too big. The American people saw the arrogance of Goldman bankers who seem, with little regret, without second thought, to completely disregard the public interest. They want us to teach Wall Street megabanks a lesson that they will never again monopolize America's wealth or gamble away America's dreams.

This is not about retribution. This is about protecting the American public from banks too big to fail, banks that are too big to exist. It will affect a relatively small number of banks, but these banks, frankly, have too much power over our economy. These banks, coupled with their risk and their size, present a real threat to the future prosperity of our great country.

I yield the floor.

The PRESIDING OFFICER (Mrs. SHAHEEN). The Senator from Louisiana.

Ms. LANDRIEU. Madam President, I ask to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Before I begin on my topic, which is different from the topic of the Senator from Ohio—I thank him for his comments about our focus on small business and assure him, as the Chair knows, that we are doubling our efforts this week to hone in on a package of support and help for small businesses in America. We believe the recovery can take place and will take place, but it will be led in large measure by the small businesses in America. We are going to do our very best, after we deal with this bill that is on the Senate floor, to focus the attention of the Senate in that regard.

I thank the Senator from Ohio and look forward to working with him in the weeks ahead.

TRAGEDY IN THE GULF

Madam President, I rise today, though, to speak on an equally serious subject—actually, a tragedy and disaster that is occurring right now off the coast of my home State, in Louisiana. On Tuesday, on April 20, as we all now know, at approximately 10 p.m., a tremendous and terrible explosion occurred aboard a state-of-the-art drill ship, the Transocean Deepwater Horizon.

There were 126 men and women onboard that rig. It was drilling in almost 6,000 feet of water—a real technological feat—some 50 miles off the Louisiana coast. The explosion, unfortunately and sadly, killed 11 men and 17 others were injured—3 of them critically—and today 1 remains in the hospital.

We don't know what precisely caused this accident, but at present it appears that the blow-out preventer failed. We do not know why.

The blowout preventer is a very large piece of equipment. I would like to try to explain.

It is, of course, very dark down in the depths of the ocean. This is the best picture we have. This is what the floor of the ocean looks like. This is the blowout preventer. This is a graph of it.

It is a standard piece of equipment on all wells, and it is a huge piece of equipment on a well like this. It would weigh up to 500 tons. It is about 18 feet in length. At some point this piece of equipment, which is standard—this piece of equipment, which is tested every 14 days, as required by law—

failed. This actual piece of equipment, this blowout preventer on this rig, was actually tested 10 days before this tragic incident, and it passed the inspection.

The investigation that is fully underway now and will continue for many weeks and months will tell us more. But what we know today is the blowout preventer failed. The explosion that occurred ignited the oil and gas that flowed from a riser pipe that was connected to the well at the sea bed. This riser pipe is a very thick and strong pipe. Right now, today, as we speak, it is curled on the bottom of the ocean floor much like a garden hose would be, twisted in many places, but the well is not closed. So there are anywhere from 1,000 to 5,000 barrels of oil leaking from this well.

Despite heroic efforts that have been underway now for days, this has not been closed. This will continue to leach and leak until it is. The rig burned, as did the oil and gas that issued forth, for some 36 hours, and then the rig began to take on water and ultimately sank to the sea floor.

As I said, we know what the leak rate is, and it is headed to shore. These are the facts. Everyone agrees this accident was and is an unmitigated disaster. I know the hearts and prayers of everyone in the United States are with the families of those who lost their lives and those who are injured and we continue to pray for them as they recover.

But the issue for us is to acknowledge this and to make decisions about how to move forward. Today, the U.S. Coast Guard reports that a rainbow sheen can be seen in the water—I will put up a map in a minute—about 32 miles by 42 miles in length. What is important about this sheen is that 97 percent of it is a rainbow sheen. Only 3 percent contains emulsified crude.

I would like to take a moment to explain what emulsified crude means. It is a thicker oil clotted in water, but even in the areas where the crude has beaded or gathered on the water's surface, it is a very thin layer. In fact, in a briefing with the Coast Guard yesterday, the oil slick at its thickest point is about a millimeter or two in thickness, about the thickness of a couple of strands of hair.

So it is important to understand why this is an unprecedented disaster. The oil slick is wide and covers a large section of our ocean. It is very thin; 97 percent of it is an extremely thin sheen of relatively light oil on the surface.

I do not say that to diminish the tragedy, but to accurately convey to the American people what we are dealing with. This is not the heavy, thick oil that stained the Santa Barbara coast in 1969, nor does it look like Prudhoe Bay crude that spilled from the ruptured hull of a tanker in 1989.

But what is of immediate concern to the people of my State and the Gulf Coast is that the oil sheen is approaching our shores. The edge of the sheen is approximately 23 miles off the coast of Plaquemines Parish. This could change in a few days. We do not know. But it looks as though the spill is going to move right to the mouth of the Mississippi River, to the Bayou La Loutre Pass.

In the meantime, I do know that there are 56,000 feet of flexible barrier that have been deployed to contain the spill. That is about 15 miles of barrier. An additional 31 miles is available to be deployed, and 72 miles of barrier and buffer have been ordered.

I also know there are literally hundreds if not thousands of people—I have been on the phone with the Commandant of the Coast Guard, I have been on the phone the last 3 days with the Admiral of the Coast Guard, Mary Landry. I have spoken to the Department of Interior, I have kept in touch with local and parish officials. I do know there are hundreds and thousands of people at work, in Houma, LA, outside of Hammond, LA, and hundreds along the coast doing everything they can to minimize potential damage to our shore.

We are investigating every hour what more can be done. There are 70 response vessels in place. They are being used as skimmers, tugs, barges, and recovery vessels, and approximately 1,000 government/industry response personnel are on site responding to the incident. Some 65,000 gallons of dispersant have been deployed, and an additional 110,000 gallons are available. And, today, a controlled burn began. There are different views about how this oil can be eliminated. Some of it is dispersed naturally, some of it can be burned. It has to be corralled and burned and, of course, controlled.

This has not happened in this depth of water. So the industry and our government officials are using everything known at our disposal now to take care of it. Some of it will be trial and error.

I want to spend a minute about what the options should be. We have seen disasters such as this before. We have seen them in the oil industry when tankers explode or hit ground. We have seen them in shipping, when ships, for no apparent reason, sink in the middle of an ocean. We have seen them in the nuclear power industry. And, in fact, we have seen them in our space program.

We must react to this disaster in the measured but right way. We must apply the lessons of past tragedies to this one, so we can make the best and wisest decisions that will instruct us about how to move forward. I do not believe we can react in fear. I do not believe we should retreat.

One option would be the way we dealt with, and I think it was a poor choice, the Three Mile Island nuclear powerplant disaster. There were no deaths or injuries, but the disaster was so frightening to people, there was so much concern, that basically we brought all new nuclear powerplant applications to a screeching halt.

In hindsight, that was not the right decision. Today, we are 30 years behind the French in nuclear technology. France gets 80 percent of its electricity from nuclear; we get less than 20. France is the largest net exporter of electric power, exporting 18 percent of its total production to Italy, the Netherlands, Belgium, Britain, and Germany. Its electricity cost is the lowest in Europe.

Today, Areva, a French company, is the world's leading nuclear company. It could have been a U.S. company, but it is not, because we ran, we retreated out of fear. We did not, in my view, respond the way we should have.

For those who are interested in reducing carbon emissions—and I am one of them—consider that France's carbon emissions per kilowatt hour are less than one-tenth of Germany's, and one-thirteenth that of Denmark. France's emissions of nitrogen oxide and sulfur dioxide have been reduced by 70 percent over 20 years, even though their total output of power has tripled. Let me repeat that. Its emissions of nitrogen oxide and sulfur have been reduced by 70 percent, even through their production has tripled because they moved forward with nuclear power, found a way, fine-tuned their technology.

But because of our poor and inappropriate and wrong reaction, our United States has largely sat out of the nuclear renaissance at great expense to our country. We have allowed foreign companies to step in as global leaders and 30 years later we are now trying to make up that ground. So retreat is not an option.

By contrast, we can look at how we, the United States, responded to the 1986 disaster of the Space Shuttle *Challenger*. I can remember exactly where I was, as many Americans can remember when that incident happened. We all remember the joy of the takeoff and of the launch, and then the unbelievable visual of that space shuttle exploding into a billion pieces in space, losing all seven lives, and, remember, there was a teacher on board, Christa McAuliffe. The horror of that disaster shocked us all, and it haunts us to this day. However, what we did not do is end the space program. We did not stop launching. We did not stop exploring.

As we go through with this disaster, and we handle it, whether it takes us a week or several weeks or a month or several months, we have to find a way to make sure it never happens again, strengthen our resolve, strengthen our technology, and continue to be the world leader in clean technology in this world. We did not declare the risks were too great and the benefits of the program were too few. We moved forward. As a result, the United States remains a global leader in the space race, and we must continue to remain a leader in energy production, even as we transition from fossil fuels to wind and solar and other offshore opportunities.

No one has ever claimed, including myself, an unabashed proponent of the

industry, that drilling is risk free. The people of my home State of Louisiana know these risks better than anyone, both the safety of the rig workers, and to the environment itself. But we also know that America needs 21 million gallons of oil a day to keep this economy moving. Twenty-one million gallons of oil a day are necessary for this economy. This well is leaching right now 5,000. That is less than one-fourth of 1 percent of the oil that is necessary.

So we must continue to drill. For advocates who say we cannot afford to drill off our coast, then what coast should we drill off of? Should we have all of our oil coming, 100 percent, from Saudi Arabia or Venezuela or Honduras or West Africa? We have to take responsibility to drill where we can safely. Out away from our shores is as safe as we can be. We obviously have to improve our technology, and that we will. Retreat, we will not.

Let me give a few more facts, and then I will wrap up my comments. It is more risky to import our oil in tankers than it is to drill for it offshore, even considering this disaster we are dealing with today. According to a report by the National Academy of Sciences, spills from tankers bringing oil in from overseas account for four times as many oil spills as does offshore drilling.

Compared to how much oil we use in this country, the industry spill rate is quite low. Minerals Management Service reports offshore operators have a spill rate of only .001 percent since 1980. That means that 99.99 percent of all oil is produced, transported, and consumed safely.

Again, I am not saying that to minimize this disaster. We know the blowout preventer failed. There may be other safeguards that must be put into place. The investigation will show that. There may be those who need to be held accountable. The investigation will show that as well.

But the fact is, natural seeps introduce as much as 150 times more oil into our oceans than does offshore drilling. I agree we do not want to drill everywhere. I do not think we should drill in Yosemite National Park. I believe there are places such as the Great Lakes and other places potentially off the Atlantic Coast that we should not drill. But using the right amount of buffer zone, whether it is 50 miles, or 35 miles, or 100 miles, using up-to-date technologies, backup blowout preventers, something I am learning about that actually goes on in Norway and other countries, might also reduce these risks even further.

But let me say one more word before I close, a word about revenue sharing. I have been probably the most outspoken advocate in this Senate, and will continue to be, and am proud of my advocacy on the part of coastal States, particularly the States of Texas, Louisiana, Mississippi, and Alabama, that have been host to this industry for the better part of 75 years. We have lived through its ups and downs. We have lived through disasters such as this, and periods of relative calm. We have benefitted from the millions of dollars that have benefitted our States indirectly through jobs. But with all that we have done, generating almost $5 billion in taxes off the Gulf Coast, out of this Gulf Coast, $5 billion a year comes to the Federal Treasury. The fishermen in Plaquemines Parish, the fishermen in St. Bernard, the schoolchildren in Orleans and in Jefferson have not received one penny, even though in our whole State today, many people along the coast are standing watch to keep this oil spill from our shores.

We have come here time and time again and said, we are proud to be partners in this industry, even today, in the midst of this disaster we still have. But you must understand the risk. We do. And we would like to have a portion of that funding to help us either have the kind of technology in place to invest in our wetlands, to fill up some of these canals that have been left, even as we make the industry reach to higher and better standards. I hope that as people watch this disaster unfold, they will hear again the call of the gulf coast Senators and House Members to allow us to share these revenues in a fair way so we can all benefit from the upside, and most certainly share the downside, as we will do in the next weeks and months ahead.

We are going to continue to monitor, to react, to do everything we can to save the environment, to investigate the accident, to continue to nurture and care for those who are still injured, and to comfort those who have lost members of their family. There is a young mother I spoke to who lost her 21-year-old husband, and will be raising a 3-month-old and a 3-year-old by herself, at least for the foreseeable future. There are many other stories like that. But we are proud to be part of producing the resources this country needs, as we work on technologies to prevent these kinds of disasters in the future. We do not believe that moving this production completely off of our shore is the answer. We do not believe burying our head in the sand and pretending the country does not need 21 million gallons of oil a day, or pretending we can get this energy tomorrow from somewhere else—we may get it somewhere else in 20 or 30 years, but not next week, and not the month after, and not the year after.

So let us be careful in the way we move forward. Let us be measured. Let us be open to hear the facts. Let us hold people accountable for what happened and understand what happened and prevent it again. In the meantime, I know the Coast Guard, the military, Louisiana's agencies, and our local officials are going to do everything we can to protect our people and our environment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

MORNING BUSINESS

Mr. FRANKEN. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISCLOSE ACT

Mr. FRANKEN. Madam President, I rise to support the Democracy Is Strengthened by Casting Light On Spending in Elections Act, or the DISCLOSE Act, Senator SCHUMER's bill to fight the effects of the Citizens United decision.

I want to tell Minnesotans listening at home why I support this bill. I want to talk about the problem this bill addresses and how this bill fixes that problem. I also want to talk about a part of this legislation that came from a bill I introduced earlier this year.

A lot of people don't follow the Supreme Court very closely, so I would like to summarize what the Citizens United decision does. In a nutshell, it allows corporations to spend as much money as they want, whenever they want, in any election in this country. It lets corporations spend their shareholder money to do this. What is worse, it will allow foreign subsidiaries, wholly owned by foreign governments, to spend just as much money as their American competitors.

This decision changed our election laws in a radical way. In a single decision, the Supreme Court reversed a century-old legal standard, 2 Federal laws, 24 State laws, including a 20-year-old Minnesota law, and 2 of its own decisions, one of which it handed down just 6 years ago. I am not a lawyer and I don't speak Latin, but unless the term ''stare decisis'' means ''overrule stuff,'' I think we have an activist court on our hands.

But I don't want to talk about legal precedent; I want to talk about how this decision will affect people's everyday lives. I want to talk about the crisis Citizens United has created for communities: for the safety of our communities and for our ability to run them without a permission slip from big business.

Let me give a couple of examples of policies that might never have been enacted if Citizens United had been the law of the land.

As of 1965, when America's population was about half as large as it is today, 50,000 people died every year from car accidents. Believe it or not, the auto industry knew full well it could prevent a large portion of highway deaths just by installing seatbelts in every car they sold. But as late as the early 1960s, they refused to do that. They said: ''Safety doesn't sell.'' They lobbied against legislation to require seatbelts.

Fortunately for all of us, in 1966 Congress passed a law requiring all passenger cars to have seatbelts. By the year 2000, the fatality rate from car accidents had dropped by 71 percent.

Here is another story. In the 1920s, oil companies started adding lead to gasoline. They did this even though they knew that lead was a poison. In fact, 80 percent of the workers at Standard Oil's very first lead gas plant died of or got lead poisoning. This didn't stop oil company representatives from testifying before this very body repeatedly that leaded gasoline and lead pollution in the air were totally safe. That is what they said.

But Congress didn't take the bait. In 1970, Congress passed the Clean Air Act and phased out leaded gasoline over the next two decades. By 1995, the percentage of children with elevated levels of lead in their blood had dropped by 84 percent. By 2000, the level of ambient lead in the air had dropped 98 percent.

A lot of people know that the National Traffic and Motor Vehicle Safety Act and the Clean Air Act of 1970 are two of the pillars of modern consumer and environmental safety laws. Here is another thing they have in common: They were both passed about 60 days before midterm elections.

Do you think the seatbelt bill would have been as strong if GM could have run $1 million in attack ads against vulnerable Congressmen, by name, in the last months before those elections?

Do you think the Clean Air Act would have been so aggressive on lead if Standard Oil could have spent $10 million against lawmakers in Texas? These kinds of corporate expenditures would have been made possible by Citizens United, and this is what the DISCLOSE bill will fight.

Here is my point. At the end of the day, this bill is not about election law. It's not about campaign finance. It's about seatbelts. It's about clean air. It's about protecting our right to improve our lives without some corporation saying: No, you can't do that.

I want to talk a little about how the DISCLOSE Act is going to temper the effects of Citizens United.

First, the bill will make sure voters know who is really behind any advocacy group's election ad. Both the head of the advocacy group and its top contributors will have to appear in and approve every ad. These groups will also have to disclose their top donors to the Federal Election Commission.

Secondly, the DISCLOSE Act will enhance accountability to shareholders. Corporations will have to disclose their political expenditures in periodic reports. They will have to post this information on their Web sites. I have worked with Senator SCHUMER on getting strong disclosure provisions, so I am particularly pleased to see these provisions in place.

Thirdly, under the DISCLOSE Act, government contractors receiving more than $50,000 will be banned from spending money on our elections. The same goes for recipients of TARP funds who have yet to pay taxpayers back. This makes sense. If companies are getting taxpayers' money, they should not be able to turn around and spend that same money to tell taxpayers how to vote.

I want to talk about a fourth part of the bill which I think is crucial. As President Obama said in his State of the Union Address in January, the Citizens United decision won't just open the floodgates for special interests; it is going to open the floodgates for foreign interests. Under Citizens United, foreign companies with subsidiaries in the United States will be able to use those companies to spend without limit in American elections. As President Obama said, American elections should not be bankrolled by foreign entities. Can't we all agree on that?

That is why that day, a few hours before President Obama stood before the combined Houses of Congress, I introduced the American Elections Act, a bill that would close loopholes in our current laws that allow foreign companies to spend freely in our elections.

I am thrilled to say that the DISCLOSE Act contains three of the core provisions of my legislation. I am so thankful to Senator SCHUMER for reaching out to work together to include them and for his remarks this morning. He has been a true champion on this issue.

Let me summarize these provisions. First, the DISCLOSE Act bars election spending by companies in which a foreign national controls political decisionmaking or the company's operations. This effectively codifies an existing regulation. Secondly, it bars election spending by companies in which foreign nationals make up a majority of the board of directors. Finally, it bars election spending by companies in which a foreign entity owns a controlling share of stock, defined by the leading Delaware standard for a controlling share, which is 20 percent stock ownership. This may seem low, but, in fact, 31 out of the 32 States that define a controlling share with a number define it as 20 percent or less. Actually, almost all of them define it as 10 percent, including Minnesota.

They all boil down to this: If a foreign individual, foreign company, or foreign government controls your company, your company should not be spending freely in American elections. American elections should be controlled by Americans.

My Republican colleagues are saying that we are fighting a paper tiger here, that we should not be concerned about foreign influence in our elections because the law already prohibits it. The day after President Obama delivered his State of the Union, Minority Leader MCCONNELL came to the floor to talk about this, and said that President Obama was wrong and that the law was actually ''crystal clear'' on foreign spending. He said:

[C]ontrary to what the President and some of his surrogates in Congress say, foreign persons, corporations, partnerships, associations, organizations or other combination of persons are strictly prohibited from any participation in U.S. elections, just as they were prohibited before the Supreme Court's Citizens United decision.

''Strictly prohibited from any participation''? Yet, in fact, because our current laws are vague and out of date, even CITGO, a wholly owned subsidiary of the Government of Venezuela, could easily spend freely in our elections before Citizens United.

Current Federal law has three main provisions against Federal influence:

First, companies must be incorporated and have their principal place of business in the United States.

CITGO's parent company is located in Venezuela, but CITGO itself is organized under the laws of Delaware, with its principal place of business in Texas. CITGO passes that test.

Second, the Federal Elections Commission requires that any political spending by foreign subsidiaries be drawn from profits made in America.

No problem for CITGO. The latest SEC 10–K filing we could obtain showed $625 million in annual profits here in the United States. CITGO passes that test. But it can only spend $625 million on American elections.

Finally, current regulations require that all political decisionmaking for a company be made by Americans, not foreign nationals.

You would think that because CITGO's board of directors has no Americans—it is just four Venezuelan citizens—it couldn't pass this test. But believe it or not, a July 2000 decision from the Federal Elections Commission said that even this would not disqualify a company. As long as a board of directors formed an elections committee with only American members, that company can still spend on elections, even with 100 percent foreign board membership.

So there you have it. If our current laws can't stop Hugo Chavez, whom can they stop?

Far from expanding the rights of American companies and leaving foreign ones behind a legal firewall, Citizens United has expanded the existing rights of American companies and foreign subsidiaries equally. Both American companies and foreign subsidiaries can now spend as much money as they want whenever they want in our elections.

We need to act now to protect our elections against foreign governments. We need to act now to protect our consumer safety and our environmental laws against a corporate veto. We need to act now to pass the DISCLOSE Act, which I am proud to join as an original cosponsor.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

Ms. LANDRIEU. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. Madam President, I ask unanimous consent to speak for 5 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMEMBERING DR. DOROTHY I. HEIGHT

Ms. LANDRIEU. Madam President, I come to the floor today to pay tribute to a great civil rights leader of our Nation, a woman who was memorialized today at the National Cathedral here in Washington, DC. Of course, I am speaking of Dr. Dorothy Height, who was a tremendous trailblazer, a true heroine of our time, a great leader of the civil rights movement. She had tremendous courage and tremendous determination that allowed women all over our Nation and, in fact, the world to break through irrational limits set by society at large. She was an inspiration to me and I know to the Presiding Officer and to other women who serve in this Chamber and to women leaders in all 50 States.

She was the chair and president emerita of the National Council of Negro Women. The council was founded, as we know, by Mary McLeod Bethune when she brought 28 women's organizations together to improve the quality of life for women. Dr. Height embraced that vision and continued her work, her crusade for justice. Through her leadership, she changed our Nation by shining a light on discrimination and injustice, which was all too common in the century that has just ended. And we still find versions and, unfortunately, visions of it here today.

She was a member of many other organizations that have come to represent so many good things about America, such as the YWCA. She was a very proud member of Delta Sigma Theta Sorority and traveled here frequently with her sorority sisters, who I know are in true mourning for her today as well. Through her dedication and commitment to these organizations, she encouraged women to be leaders in national and community organizations and on college campuses.

She had an extraordinary presence, a very big and warm heart. She was a great intellect. She had a passion for people, and in her own quiet but very forceful way, she brought great change to our Nation.

She has received any number of awards. Many of those were mentioned today and in the past weeks, as we remember her fondly—the Presidential Medal of Freedom Award, the Congressional Gold Medal Award.

I was proud to join many of my colleagues in introducing a resolution honoring the life and legacy of Dr. Height. She will be greatly missed. She will be fondly remembered. There are very few women who will live in this century and have the kind of impact she has had on so many of us. So our prayers and thoughts are with her family and with her closest of friends. But I wanted to give a moment of honor to her on the Senate floor today.

Madam President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MENENDEZ. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OFFSHORE DRILLING

Mr. MENENDEZ. Madam President, I rise today, as I am pleased we are finally moving to Wall Street reform—something I have come to speak about several times on the floor. That is critically important to our country, critically important to our economy, critically important to investors and consumers to have confidence, and I am glad we are moving to that, as a member of the Banking Committee. But at the same time, there is an enormous environmental challenge taking place in our country, one that I think portends the consequences of offshore drilling.

I rise today to discuss the tragedy in the gulf and looming environmental disaster that threatens the gulf.

First, I want to remember those who lost their lives in the tragic fire and explosion of the Deepwater Horizon oil rig in the Gulf of Mexico last week. Our thoughts and prayers are with the workers and their families.

The loss of life and the injuries are truly horrific, but this is also an environmental tragedy, one that threatens to reach historic proportions. Over 1 million gallons of oil have already leaked into the gulf. Each hour that passes without a solution, without a way to stop it, leads us to wonder what the extent of the damage will be. It is a wake-up call to all who are trying to weigh the benefits against the risks of offshore drilling as part of our energy mix. It certainly leads this Senator to wonder about the wisdom and the necessity of drilling off the coast of my State of New Jersey and, I would argue, off the coast of any Senator's coastal State.

As I stand on this floor today—and I show you this picture I have in the Chamber of the fire the Deepwater Horizon oil rig was engulfed in before it sunk—before it sunk—and then had all of the oil spilling into the gulf. As I stand here on this floor today, an oil slick bigger than the State of Delaware—over 4,000 square miles—is drifting toward shore—drifting toward shore. To give you some perspective of what that means, as shown in this other picture, this is how big this oil sheen is when compared to my home State of New Jersey—all of the yellow. If this spill in the gulf were happening, for example, in Virginia waters right now, my whole State would be holding its breath because NOAA has shown my office how a spill in Virginia waters could easily wash up on the New Jersey shore.

I say to the Presiding Officer, I do not know if you have visited New Jersey, but we have magnificent, pristine beaches. The dunes along the coast are breathtaking. Wildlife is abundant. Tourism depends on it. It would all—it would all—be in jeopardy.

The next photograph I want to show is what happens to wildlife in these oil slicks. This is a photograph in the aftermath of the Exxon Valdez spill. We hope and pray the spill in the gulf stays offshore, but the reality is, it could make landfall any day now and this photograph could be repeated a thousand times.

Now we learn the spill from the Deepwater Horizon is worse than it was originally reported—far worse, at least five times worse. The Coast Guard and NOAA have revised their estimate of the leak. They now say it is not 42,000 gallons per day but 210,000 gallons a day. Imagine if the leak continues for 2 months, which seems like a real possibility at this point. In 2 months, it will have exceeded the amount of oil spilled in the Exxon Valdez disaster. Let's keep something in mind: The Exxon Valdez was a tanker with a finite amount of oil aboard. This is virtually a bottomless pit of oil.

When asked to compare this spill to previous spills, the Coast Guard compared it to the IXTOC I spill. On June 3, 1979, an exploratory well called the IXTOC I blew out in the Gulf of Mexico. It took 9 months—9 months—to cap, to seal, and the resulting spill was the second largest in world history, over 10 times larger than the Exxon Valdez spill. As my colleagues can see from this map which has Texas, Louisiana, and the gulf, the spill traveled 600 miles from its center—600 miles—blanketing the coasts of Mexico, Texas, and Louisiana, causing extraordinary damage.

Now we are debating the wisdom of expanding oil production on the Outer Continental Shelf; in essence, all along the coastlines of our country. Some think the way to expand offshore drilling reasonably is simply to create some type of a buffer zone off the coast as if a little more room can protect our shores; as if the ocean is in neat, little boxes that could somehow be confined. Frankly, I think this graphic of the IXTOC spill shows that oilspills don't respect State borders or buffer zones.

In the wake of what we are seeing in the gulf, I am deeply concerned that the current 5-year plan recently announced by the administration would allow oil drilling less than 100 miles from Cape May, NJ. Cape May is a great historical place in New Jersey with beautiful beaches—some of the greatest beaches in the Nation. Cape May, where Delaware Bay meets the Atlantic, is the epicenter of bird migration on the entire East Coast and

one of New Jersey's most significant seaside resort communities; the fourth most lucrative fishing port in the entire Nation, rich with scallop beds. It is less than 10 miles from Delaware waters—waters that the administration announced they are studying for possible future drilling.

So I am concerned that if the lease sales go forward, the coastlines of Maryland, Delaware, and New Jersey will be under threat—not just an environmental threat but an economic one as well. Approximately 60 percent—60 percent—of New Jersey's $38 billion tourism industry comes from the Jersey shore, and the State's multibillion-dollar fishing industry would also be threatened by the specter of a potential oilspill.

We had an unfortunate incident in New Jersey's history. Years ago, in 1987, when the shore was polluted with medical waste in that year and medical waste that ended up on the beaches of New Jersey—syringes on the beach of New Jersey and other medical waste on the beaches of New Jersey—tourism revenue dropped 22 percent the very next year, and it took some time to recover. If a serious oilspill were ever to hit our coast, the damage would be enormously costly, and if the Exxon Valdez spill is any guide, much of the damage would be permanent.

It simply does not make sense to play Russian roulette with an asset that generates thousands of jobs and tens of billions of dollars per year for potential drilling assets that could never generate even one-tenth of that, and this is only in one State. Magnify that by so many other States that have similar coastal economies.

This tragedy in the gulf is a wakeup call. It demands that whatever we do in terms of drilling, we do carefully, thoughtfully, and with the very real images of this tragedy in mind. It is obvious—now more than ever—that we cannot ignore the risks of oil exploration, that we cannot take the safety of these rigs for granted or the reliability of redundant shutoff systems that were supposed to prevent such a spill.

It is time to weigh the risks against the payback. And what is the payback? Well, the Energy Information Administration, the entity our Federal Government has to give us information about our energy sources, estimates that opening all the shores—all shores to drilling—would amount to no more than a few hundred thousand barrels per day, which translates to a few tablespoons of gasoline per American vehicle. We don't keep oil in a domestic market. Oil is part of a world market, so there is no guarantee that American-produced oil comes to America for the purposes we need. It is hardly a drop in the bucket, with no measurable impact on gas prices. I don't want to gamble with the coastline of New Jersey or any of these other States for a few tablespoons of gasoline.

This image of a burning rig in the gulf that ultimately sunk and for which we have all this disaster taking place is a wakeup call to all of us who are committed to finding the best energy options for the future—options that will not put hundreds of miles of our coastline at risk. I don't quite understand why it is that when we are talking about global climate change legislation, we are also in desperate pursuit of oil, which is a contributor to the greenhouse gas emissions we are trying to avoid and, in essence, change from, so we don't have the climactic changes that can threaten our way of life. However, that is exactly what we are doing by going after this.

So I am respectfully requesting that the administration reconsider its proposal to expand offshore drilling until we are absolutely certain we can protect the New Jersey shore and the entire Atlantic seaboard from the potential environmental and economic disaster that could come from coastal drilling. I don't know why the Atlantic coast has to be under siege, but it seems to be. The other coastline was largely kept unexplored.

Instead of doubling down on 19th century fuels such as oil, we should be investing in a 21st century green economy that will create thousands of new jobs, billions in new wealth, and help protect our air and water from pollution. It is time for this country to move forward and embrace the future rather than clutch to the ways of the past that have not only given us this addiction but at the same time given us the consequences in our environment of polluting it in a way that ultimately creates risks to our crops, our farmers, our shorelines, as well as our health. My home State of New Jersey still has far too much incidence of respiratory ailments, including cancers.

We can do much better than this. We should do much better than this. We should stop feeding an addiction that ultimately would only add but a few tablespoons of gas and not do anything about the price but put an enormous risk to the economy of these coastlines, to our natural habitats, and to the quality of air we breathe. I hope the President will understand this disaster is a wakeup call that needs to be thought of seriously before we move forward on something that can be so risky to our economy, to our environment, and to our way of life.

With that, I yield the floor and observe the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. McCASKILL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SECRET HOLDS ON NOMINATIONS

Mrs. McCASKILL. Madam President, I came to the floor of the Senate last Tuesday to make 74 unanimous consent motions to trigger a law this body voted for by a vote of 96 to 2 back in January of 2007, and this law says that once a unanimous consent motion is made for a nomination, that people who are secretly holding the nomination must come out into the sunlight.

The law requires that 6 days after that motion is made, whoever is holding the nominee must identify themselves and, in fact, that must be published in the CONGRESSIONAL RECORD. Tomorrow would be the day for publication for all the dozens of different nominees being held up by who knows who for who knows what reason.

I wished to make sure the leaders of both parties were aware that this time had run and, today, I will ask unanimous consent that a letter I sent to the minority leader and the majority leader acknowledging that the rule has been triggered, with the list of the various nominees, asking that they make sure the Members of their party have, in fact, come forward and identified themselves for the RECORD tomorrow.

I ask unanimous consent that the letter I sent to Leader MCCONNELL and Leader REID be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 29, 2010.

Hon. MITCH MCCONNELL,
Minority Leader, U.S. Senate,
The Capitol, Washington, DC.

MINORITY LEADER MCCONNELL: Last week I went to the Senate floor to raise the issue of ''secret holds'' and to call attention to the need for openness and transparency within the United States Senate. As you know, a secret hold refers to the practice where one member of the Senate puts an anonymous hold on a nominee or legislation without publicly raising their objections. In spite of efforts in 2007 to end this practice, we now know that secret holds remain the status quo in the Senate. While efforts are being made to strengthen this rule and eliminate secret holds, I am concerned that Senators continue to ignore the current requirements for disclosure of holds.

Under the existing rule, after a unanimous consent request is made to confirm a nomination or pass legislation, the Senator with objections to the particular measure or nominee must notify their party leader and then submit a notice of intent specifying the reasons for their hold. Within six-session days of the unanimous consent request, the notice must be printed publicly in the Congressional Record. The rule is clear that it is incumbent upon the leaders of each party to enforce the rules should members fail to comply.

Today marks the sixth session-day since I made seventy-four unanimous consent requests to confirm the non-controversial nominations on the Senate Executive Calendar (a complete list is attached). These nominees were reported out of committee by voice vote or by a unanimous vote of the committee and have no known opposition. To date, there have not been any notices filed in the Congressional Record despite the fact that all seventy-four motions were objected to by Senator Kyl on behalf of his Republican colleagues. While, several of these nominations have since been confirmed by the Senate, the bulk of the nominations remain stalled without any public notification.

Therefore, I write today to ask if you have been notified by any member that he/she has objections to any of the confirmation requests I made last week. If so, I urge you to enforce the member's obligation to place a public notice in the Congressional Record stating their objection. Should there be no known opposition to these nominees I ask that they be immediately confirmed by unanimous consent of the Senate.

Thank you for the consideration of this request. Should you or your staff have any additional concerns or questions, please feel free to contact Nichole Distefano of my staff at nichole_distefano@mccaskill.senate.gov.

Sincerely,

CLAIRE MCCASKILL,
United States Senator.

U.S. SENATE,
Washington, DC, April 29, 2010.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
The Capitol, Washington, DC.

MAJORITY LEADER REID: Last week I went to the Senate floor to raise the issue of ''secret holds'' and to call attention to the need for openness and transparency within the United States Senate. As you know, a secret hold refers to the practice where one member of the Senate puts an anonymous hold on a nominee or legislation without publicly raising their objections. In spite of efforts in 2007 to end this practice, we now know that secret holds remain the status quo in the Senate. While efforts are being made to strengthen this rule and eliminate secret holds, I am concerned that Senators continue to ignore the current requirements for disclosure of holds.

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Sincerely,

CLAIRE MCCASKILL,
United States Senator.

Mrs. MCCASKILL. Madam President, we have gone back and looked at the Executive Calendar from a historic perspective. At the beginning of this week, we had 84 pending nominations. At the exact same time in President Bush's Presidency, we had eight. That is what we call a lopsided score—84 to 8. Of the 49 nominations we have voted on as a body since President Obama took office, 38 of them were confirmed by more than 70 votes. That is a pretty lopsided margin. Twenty of them were confirmed by more than 90 votes.

I am confident that if we took the time—which I think may be the desire of my friends on the other side—to file cloture and go through individual votes on all these nominees, the vast majority of them would receive those kinds of lopsided confirmations. This is a game we need to quit playing. The secret hold needs to end.

I have written some colleagues of mine, including Senator MARK WARNER and Senator WHITEHOUSE, and we have composed a letter—and we asked our colleagues to sign it—saying we will no longer participate in the secret hold. No more secret holds for us. We don't need the law to tell us we only have 6 days to secretly hold. We have asked in the letter that the secret hold be abolished. There is not a good reason for it. There isn't. Why does anything such as that need to be a secret? It is something that needs to be done publicly. The people whom everyone works for need to know why they are holding up a nomination or blocking a bill. The secrecy needs to stop.

You can hold somebody; it is your prerogative as a Senator to hold a nominee. Work against that nomination. Try to defeat them in committee. Keep in mind that all these nominees came out of committee without an objection—no objection in committee. If you want to object, that is your prerogative. Come out and tell the world why this is the wrong person for the job but don't hide. Don't hide.

I will be watching with interest tomorrow the CONGRESSIONAL RECORD. I am very worried we are going to have the old switcharoo, which means if you withdraw your hold in 6 days, then you can hand it off to somebody else. You can say: I no longer have a secret hold, and then you whisper to your buddy: Why don't you do it now and then we will have 6 more days and then another 6 days.

I wish to serve notice that I will be making these unanimous consent requests every time there is a secret hold, so anybody who does it is only going to have 6 days. Seriously, if we start the switcharoo and continue to go week after week without knowing who is holding these people or why, that is when people should get angry. That means they voted for a law that they had every intention of evading. People are mad enough at us. That is liable to get them over to the ''flat furious'' category if we go into that territory.

I am hopeful this Congress will be the Congress where we end the secret hold. I wish to again acknowledge the work Senator GRASSLEY and Senator WYDEN have done for years. They have definitely tilled this ground, and they, in fact, put this in the law that we voted on in 2007. I compliment them for their work on this issue. We are continuing to work together on this issue. Senator WYDEN and Senator GRASSLEY are continuing to try to find a way to reform and make this place more open and transparent.

I invite all my colleagues to sign the letter—Republican, Democratic, Independent. Sign the letter. We have 43 signatures. That means we are almost halfway there. If we can get to 60—we can move mountains here when we get that magic 60 number. I hope we can get to 60 by the end of next week. That means we will have more than a majority to say: I don't need a rule or a law; I am willing to make any hold I have open to public inspection.

I wish to also make another unanimous consent request today. We have a very important function in government; that is, investigating accidents. We are getting ready to enter into the travel season. The National Transportation Safety Board is a very important body. In fact, they are going to be considering, in the next week, the ''miracle on the Hudson'' accident and the problem with aviation as it relates to the danger of birds and possible engine failure. In June, they will be investigating the tragic Metro accident here in Washington, when 9 people died. This is one of those boards where a Democrat and a Republican are both appointed. The Democrat has been waiting since last December, ostensibly, for the Republican. Dr. Earl Weener has been on the Executive Calendar for a number of weeks.

Dr. Rosekind and Dr. Weener are needed on the NTSB. If any Member has a reason to recuse themselves, they would not have enough Members to go forward with these investigations. This is the kind of work that needs to be done. This is what people want the government to do. There is a lot of stuff the government does they don't want us doing. They want us to figure out what is going on with accidents in our transportation system and come up with answers so we can avoid these deadly accidents in the future. I think it is important, in light of that, that I go ahead and make another unanimous consent request to try to confirm these two people so they can begin working on the National Transportation Safety Board as we enter into the most heavily traveled period in America—the summer vacation months, when so many more Americans are traveling with their families.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mrs. MCCASKILL. Madam President, I ask unanimous consent that the Senate proceed to executive session for the

purpose of the consideration of Calendar No. 592, Mark R. Rosekind, to be a member of the National Transportation Safety Board, and No. 787, Earl F. Weener, to be a member of the National Transportation Safety Board; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc; that no further motions be in order; that the President be immediately notified of the Senate's action, and that any statements relating to the nominations be printed in the RECORD, as if read.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Madam President, reserving the right to object, I have no problem with either nomination. I understand they are in the process of being cleared by other Members. I believe that, while I have no specific problem, we want to allow all Senators to sign off before consent is granted.

Last week, I objected to some of the nominations to allow the two leaders to work their clearance process on the Executive Calendar. I understand that the two leaders worked to confirm four U.S. attorneys later today.

Under the circumstances, as to the specific request of my colleague, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Madam President, if I could inquire of the Senator from Arizona for the purpose of making a clear record.

Mr. KYL. Madam President, I objected.

Mrs. MCCASKILL. Madam President, I wish to make sure that the objection—the reason I am asking to inquire is it has to be clear that the objection is being made on behalf of someone else and not on behalf of the Senator from Arizona.

Mr. KYL. Madam President, reserving the right to object, let me explain this process. When a nomination is sought to be cleared by both sides, there is what is called a hotline. All offices receive a quick notice that a particular bill or nominee is being hotlined. If you have a question or a concern, you register that. It is registered as an objection until it can be cleared up. In many cases, it is cleared up very quickly—sometimes overnight. Sometimes the two leaders need to work out a process for it to be cleared. It is, in one sense, a hold.

As I said, I have no objection to these two people, so I am not holding them. I am objecting on behalf of the Republican leadership in order to enable the two leaders to clear both of these nominees; that is, to make sure there is no objection on either side, so they can both go forward. That is the basis for my objection.

Mrs. MCCASKILL. Madam President, let me make a couple comments concerning that.

First, Mr. Weener has been on the Executive Calendar since March 24. So this isn't something that happened in the last couple days.

Second, it was very clear that the Senator from Arizona said he wasn't objecting, so he is objecting for someone else. This notion that this has something to do with the leaders working together, none of these nominees are being held by anybody. This is not about the leader asking for time to clear names. It is not whether somebody can hold. Certainly, somebody can hold. The question is, After they have done it for 6 days, they can't be secret anymore. What I am trying to do—and I know the Senator from Arizona understands this. I am not quarreling with somebody's ability to hold. I just need to know who is holding. It cannot just be that we are working on it and it came over on the hotline and give us a few days. The 6 days are up. The people who are holding these nominees now have to say who they are.

I wished to make it clear that your objection was not your objection to these nominees. In other words, you are not claiming the objection, you are claiming it on behalf of someone else who will not identify themselves. That is the point. Tomorrow is the day that all these people need to be identified as to who is holding them. If it is Senator MCCONNELL holding every one, then he needs to claim them and say: I am holding all the nominees. If it is other Members of the caucus, then they need to claim it. It is the same for any Democrats who are holding. I believe we had two or three nominees being held by Democrats. They need to be published in the CONGRESSIONAL RECORD tomorrow. But this notion that it is being held up because the two leaders are working together, Senator REID doesn't have anybody being held. So I wish to make sure we got that clear.

Mr. WHITEHOUSE. Will the Senator yield for a question?

Mrs. MCCASKILL. I yield to the Senator from Rhode Island for a question.

Mr. KYL. If my colleague will yield first for a minute, I wish to make it clear that it is precisely on the basis that I stated that I am objecting this evening. I believe the two leaders will be able to clear the two specific nominees my colleague asked unanimous consent for tonight. It is truly a matter of the clearance process through the hotline. As a result, what I said is true. It is nothing more than that, to my knowledge.

I take all the other points my colleague made. As to my objection this evening, I prefer to have my colleague acknowledge that what I said is what I believe; namely, that this is a clearance process for the two leaders through the hotline and that it is my expectation that these nominees will be cleared through that process. It is simply not completed.

Mrs. MCCASKILL. I apologize. I didn't mean to intimate that the Senator was saying something he didn't believe. I apologize if that is the way it was taken.

The point is pretty obvious. We have 84 nominees backed up at the train station, compared to 8 under the Bush administration. If anybody can't see what is going on, they need to tune in and pay attention. This is stall and block, stall and block, stall and block. Fine, but own it. If you are going to stall and block, let's see who you are. Claim it. That is all this is about. Claim it.

If you are proud of slowing the process down, we just want to know who you are. To say this is about the two leaders clearing the hotline, that is not what this is about. This is about the law that says you cannot have secret holds once a unanimous consent request is made. I will be here as many times as it takes to reform this process and end the secret hold.

I yield to my colleague from Rhode Island.

Mr. WHITEHOUSE. First of all, I thank the Senator for her continuing efforts on this point. I had the privilege of joining her on the first day in moving some of these unanimous consents. She brought up 73, I think, in 1 day, to tee up all these names under the Senate rules that require that once a unanimous consent has been proposed, the identity of the Senator with the hold has to be divulged in 6 legislative days. As I understand it, the 6 legislative days run today.

Mrs. MCCASKILL. Correct.

Mr. WHITEHOUSE. Therefore, tomorrow is the day when one of three things has to take place. We can come to the floor and clear these folks by unanimous consent because there will no longer be a secret hold is option 1. Option 2 is a Senator would have stood up, filed the papers that the rules of the Senate require and admit to the secret hold, making this process transparent and open. The third is they will have done what Senator MCCASKILL and I have both called the switcheroo, and they will have gone quietly to some other Senator and said: I only have 4 days left; I don't want to hold it till 6. If you pick up my hold now for me, then you are after the unanimous consent request, and we think we can dodge the rules this way.

Is it the understanding of the Senator from Missouri that those are the three options we will discover tomorrow as to all of these 80 nominees, which category they are in?

Mrs. MCCASKILL. I believe under the law, those are the only three options available: to either withdraw the hold and let the nomination go forward or claim the hold and publicly identify yourself or evade the law.

Mr. WHITEHOUSE. With respect to the observation that the distinguished Senator from Arizona made that they had just, after this process, allowed four U.S. attorneys to be cleared, in the light of the fact that at this time in the Bush administration there were eight Bush administration officials who were the subject of Democratic holds, but it is more than 80 Obama officials who are now still the subject of

almost exclusively Republican holds, notwithstanding what is clear under the pressure of this initiative, we are actually down from over 100, but we are still holding at over 80 officials who are tangled up in secret holds.

Is it a fair statement of mine to put, ''Gosh, we released four'' into the context of, ''Yeah, but we are holding 84''? That is the way the ratio works right now; does it not?

Mrs. MCCASKILL. To be fair, I know we had 84 pending at the first of the week. I think our raising a ruckus is beginning to have a little bit of an impact because the iceberg moved slightly this week. We may have confirmed 14 this week of the 74, I believe, that I moved by unanimous consent last week.

Keep in mind, all 74 I moved last week had been unanimously reported out of committee, with no opposition from the Republican Party in committee. None.

Mr. WHITEHOUSE. Indeed, votes in favor by the Republicans on the committee.

Mrs. MCCASKILL. Exactly. In fact, many of them were voice-voted. We even checked to make sure no one said nay at the committee level. These were unanimously agreed to out of committee. There were 74 last week. I made the requests last Tuesday on the 74. The Senator from Rhode Island made a few requests on some that were not in that group that had been unanimously agreed to. I believe this week some of the group—maybe some of the Senator's, maybe some of the ones on which I made unanimous consent requests. I know we had 14 that moved. I think we are around 70 total right now. But of those, 60 of them are in this unanimous-consent category and ones we have no idea who is holding them.

Mr. WHITEHOUSE. Of those, if I may ask another question, who have been cleared, some have been allowed to come forward for votes on the Senate floor. The last was Judge Chin who had been held for a considerable period of time. We actually, if I recall correctly, had to file cloture and take more time. There is a process built around cloture so it burns up Senate floor time. We were forced to do that.

When the nomination was finally voted on in the Senate, is my recollection correct that he cleared the Senate 98 to 0?

Mrs. MCCASKILL. He was held for a long time. And, yes, the Senator is correct, we had to go through all the procedural hoops that take time. Time is money when you are working for the taxpayers. Every hour we spend on something is an hour we cannot spend on something else. Everyone—all the good people who are working in this room, in the cloakrooms, and in all the offices—is paid by the taxpayers. We took time to go through cloture. Then there was not one ''no'' vote. If that is not a great example of obstructionism for the sake of obstructing, I cannot think of a better one—forcing the Senate to take days to confirm unanimously a nominee after they have held for a long period of time.

Mr. WHITEHOUSE. Just by a process of elimination, unless one of the two absent Senators was the one who had the hold, whoever was holding Judge Chin actually ended up voting for him after months and months of having delayed the nomination.

Mrs. MCCASKILL. I don't know about the Senator from Rhode Island, but I would love to know how many people secretly hold a nominee and end up voting yes. Nine times out of ten—I should not say that. I don't know. It is secret. I have to believe that most times people secretly hold a nominee because they want something from an agency. In fact, I had a Member actually acknowledge to me: I don't care what happens to that nominee, but I need something from this agency. It is a leverage: I am going to hold your nominee hostage until this agency gives me what I want.

I think we remember, there was an instance that came out in public that some people were being held for projects in their State.

Mr. WHITEHOUSE. That is the right of the Senator to do, so long as they do it publicly.

Mrs. MCCASKILL. Right.

Mr. WHITEHOUSE. They can still do that even after the secret holds.

Mrs. MCCASKILL. Absolutely. If someone is trying to leverage—I do not agree with it, but that is their right as a Senator—if they want to leverage a project in their State by saying to the administration: I won't let you have any nominees to go to work in that agency until that agency gives me what I want—that is their right. People should know about it. I don't think it would be very popular. People might have a problem with that. That is the beauty of the secret hold. They never have to tell that they are leveraging a nominee to get something they want out of an agency. That is why we need to end the secret hold. Simple.

Mr. WHITEHOUSE. Madam President, if I may conclude, I thank the Senator for indulging me in these questions and allowing me to ask them and for her energetic and principled leadership on this issue.

Mrs. MCCASKILL. Madam President, I thank my colleague from Rhode Island. There are so many things about the Senate I respect—the traditions, the service. Make no mistake about it, there are so many of my Republican colleagues who serve whom I admire and respect. They care deeply about their country. Sometimes we disagree on issues, but that does not diminish my respect for them as public servants and as people. We all get along better than people probably realize we do. But there are certain traditions around here, frankly, that are more like a bad habit.

The tradition of comity is wonderful. The tradition of debate is wonderful. The tradition of collegiality is wonderful, the tradition of seniority and respecting people who have been here for a great deal of time. So much of it has been built up over the history of this Nation, and I am so proud to be a Member of this body in so many ways.

But there are some bad habits that are traditions of which we should not be proud, and this is one of them. This is a tradition that needs to end. The secret hold is a bad habit. It is a luxury in which we should not indulge as members of a public body to serve the public on behalf of the people for whom we work.

Our work should be open. The word ''secret'' does not have a place of honor in this democracy. Secret, good government, that is a little bit like oil and water. Let's do away with this bad habit. Let's demolish this tradition for all the right reasons and go forward and have a new tradition that from now on, if a Senator feels strongly enough about a nominee to block their nomination, that they come forward, explain their reasoning, and allow the people they work for to judge for themselves whether that is a valid reason to stop a nomination.

In many instances, the people they work for may believe it is a valid reason and may applaud them for it. But if it needs to be secret, I don't know, I bet maybe they might not. Let's end the tradition.

I thank the Senator from Rhode Island. I also, obviously, thank, once again, Senator GRASSLEY. He has so many times been the conscience of this place for so many different reasons, so many different issues. I have greatly admired his work in the inspector general community. He has done so much with inspectors general to strengthen them, make sure they have independence.

He has been a great champion for accountability and transparency in the Senate. I am proud he has worked as long as he has on trying to stop the tradition of secret holds. He and Senator WYDEN get the lion's share of the credit that has been done on this issue over the years.

We now have 43 Senators who are willing to say: Enough already. Now if we can just get a few more, we can nail the coffin shut on secret holds once and for all.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

RUNAWAY CREDIT CARD INTEREST RATES

Mr. WHITEHOUSE. Madam President, I ask unanimous consent that my statement be followed by a colloquy among the cosponsors of the amendment I will be discussing.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WHITEHOUSE. Madam President, I had actually planned to offer an amendment to the Wall Street reform bill this afternoon, but I have been informed that the open-amendment process does not begin until next week. I

will describe my amendment this afternoon and then return to the floor at the earliest opportunity to actually call it up.

Before I describe it, I wish to commend Chairman DODD and Chairman LINCOLN for their hard work in crafting a strong Wall Street reform bill. The collapse of the housing market in 2008 and the resulting recession, near depression, was painful evidence that our financial institutions were underregulated and that we were ill-prepared for the invention of complex, new financial products.

The legislation we are currently debating will strengthen and modernize our Nation's financial regulation and substantially reduce the chances for future market bubbles and collapses, with all the economywide collateral damage we have seen from this collapse.

My amendment is cosponsored by Senator MERKLEY, who is on the Senate floor—I am delighted he is here with me—Senator DURBIN, Senator SANDERS, and Senator LEVIN. It would address an area that is not yet covered by the Wall Street reform bill, and that is runaway credit card interest rates.

This amendment would address that issue not by imposing any new restrictions on lending but, rather, by restoring to our States historic powers that they held for hundreds of years and that were eliminated only in the relatively recent past.

Madam President, when you and I were growing up, a credit card offer with a 20-percent or 30-percent interest rate might well have been a matter to bring to the police. Such interest rates were illegal under the laws of most, if not all, of the 50 States.

Today, in contrast, credit cards routinely charge rates of 30 percent or even more, usually after they have trapped people into a late payment or some trick of some kind to get them away from the teaser rate with which they sold them the credit card. They end up with 30 percent interest or higher. These interest rates have spiraled out of control, and for reasons I will explain, the States, at least recently, have been powerless to do anything about it despite the historic power they had in this area.

Prior to 1978—indeed, for the first 202 years of our Republic—each State had the ability to enforce usury laws against any lenders doing business with its citizens. Our economy grew and flourished during these two centuries. These were not hard periods for the financial services industries, and lenders profited while complying with the laws in effect where they operated. Then in 1978 came an apparently uneventful Supreme Court case. It was little noticed at the time it was decided. In Marquette National Bank of Minneapolis v. First of Omaha Service Corporation, the Supreme Court interpreted one word—the word ''located''—in the National Bank Act of 1863. That word sat quietly in that statute for 102 years, but in 1978 they interpreted it as meaning the location of the business rather than the location of the customer—where the bank was headquartered or domiciled rather than where their customer lived.

Well, it did not take long before big banks cottoned on to the opportunity this created—an opportunity never sanctioned by Congress nor apparently even intended by the Supreme Court. It was an inadvertent loophole, but they found it, and they realized they could avoid the interest rate restrictions by reorganizing as national banks and moving to States that had the weakest consumer protections. So what happened? A race to the bottom. The proverbial race to the bottom took place as a small handful of States eliminated consumer protections, eliminated interest rate caps in order to attract into their States lucrative credit card business and their related tax revenue.

Today, there is a reason the credit card divisions of major banks are based in just a few States, and it causes consumers in all of our other States to be denied the historic protection they enjoyed from outrageous interest rates and fees. My amendment would reinstate the historic longstanding powers of our sovereign States to decide which interest rate limits, if any, should be set to protect their own citizens.

Let me be clear about what this amendment would not do. It would not prescribe or even recommend any interest rate caps and it would not impose any other lending limitations. It would restore to the States the power they enjoyed for over 200 years, from the very founding of the Republic—the power to say ''enough,'' the power to say 30 percent interest or 50 percent interest or 100 percent interest is too much and we won't allow you to charge it to our citizens.

The current system is not just unfair to consumers who can't be protected by their own State's government and are vulnerable to predatory lending in States far from their home, it is unfair to local lenders and retailers that continue to be bound by the laws of the home State. They are still bound. So the home State bank is under the State law. It is the huge, gigantic out-of-State national bank that can come in and compete against those small banks with that disadvantage. The small local bank has to play by the rules of fair interest rates, but the gigantic national credit card companies can avoid having any rules at all. So we need to level the playing field to eliminate this unfair and lucrative advantage that Wall Street banks enjoy against our local Main Street community banks.

To make sure lenders can't find another statute to use to once again avoid State law, my amendment would apply to all types of consumer lending institutions, not just national banks, and that is for the purpose of forbidding them and preventing them from changing their charters to avoid limitations on gouging consumers.

One of the other factors in this bill is that you can't choose your regulator by changing your charter, and we have reached broadly with this to protect against exactly that. My amendment would give State legislatures ample time to revise their usury statutes, if they feel they need revision, and would allow lenders the time to adjust. The amendment would not go into effect until 1 year after the President signs the bill into law.

In the meantime, it is worth noting that most States' usury laws are around or above 18 percent, and that federally regulated credit unions do quite well under a Federal 18-percent interest rate cap. So the underlying interest rates that States tend to apply, when this power has not been stripped from them, really inadvertently, tend to be quite reasonable, as proven by the fact that our credit union industry operates under a Federal 18-percent interest rate cap and does quite well.

It is the 30-percent and over interest rates that are the recent anomaly, the peculiarity in our country's history. We should go back to the historic norm—the way the Founding Fathers saw things under the doctrine of federalism—and close this modern bureaucratic loophole; probably an inadvertent loophole, but one that the big Wall Street banks found to gouge local citizens and compete unfairly with local banks.

I ask my colleagues for their consideration on this, and I turn to the distinguished Senator from Oregon, Senator MERKLEY.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Madam President, I rise to praise my colleague from Rhode Island for producing this amendment. I look forward to seeing it offered. I certainly am honored to be able to cosponsor it. I thought I would share with him a story that goes back to my days as a member of the Oregon legislature.

When I came to the Oregon legislature, I had a lot of folks in my house district saying: Wouldn't you do something about payday lending and other high-interest lending? How is it possibly reasonable to have payday loans, which are secured by the next paycheck at over 500 percent interest; and how is it reasonable or fair that I am being lent money through my credit card at 25 or 30 percent when the interest I am earning is just 1 or 2 percent? And I had no good answer for why it was fair, because it wasn't fair. It wasn't right.

So I proceeded to start working on this issue. When I went down to legal counsel, they advised me: Well, Representative MERKLEY, it works like this. You, at the State level, can apply rules to payday lending and to pawnbrokers and to title loans and to local consumer lending companies but not when it comes to credit cards. They explained to me the story that the Senator from Rhode Island just shared, that those rules are set by the States issuing the credit cards.

Well, certainly any State that has reasonable standards for a credit card, they are not going to be issued from within that State. Thus, we come to the race to the bottom my colleague was describing. So I proceeded to carry the fight and the battle over the payday lending, the title loans, the pawnbrokers and the local consumer loans, and we largely won that battle in Oregon, but we couldn't take on credit cards.

In the back of my mind, when I was running for the Senate, I thought, this will be an opportunity, if I join this body, to be able to weigh in on the issue of States rights in favor of consumers, in favor of common sense. So it is for all these reasons I am pleased to join Senator WHITEHOUSE as a cosponsor of his amendment.

Mr. WHITEHOUSE. Madam President, I am grateful for my colleague's support.

I see Senator SANDERS of Vermont has joined us on the floor, and I am delighted to welcome him to our colloquy.

Senator SANDERS.

Mr. SANDERS. I thank my colleague, and I applaud his introducing this amendment.

The issue of credit card companies charging Americans outrageously high interest rates is something that has concerned me for a number of years. We have another amendment which approaches this issue from a different level, but I am going to work with Senator WHITEHOUSE, and I think this is a very important amendment.

The bottom line here is that usury and loan-sharking is immoral, it is wrong, and it has got to be prohibited. I know Senator WHITEHOUSE and Senator MERKLEY are more than aware, there are even Biblical references in both the Old and New Testament to the immorality and the condemnation of usury. We know as a Nation, people look askance at loan sharks.

Let's be honest. What are we talking about here? If a financial institution is charging people who are desperate enough to be buying their groceries, in many cases their basic necessities, on their credit card, 25- or 30-percent interest rates, if that is not usury, if that is not loan sharking, then I don't know what is.

We have introduced legislation that would cap credit card interest rates at 15 percent. Senator WHITEHOUSE is approaching it in another way, which is an interesting way. But the bottom line is that we have to deal with the absurd Marquette ruling which essentially nullifies what every State in the country has done. I think in Vermont we have usury rates at 12 percent. But it doesn't mean anything because of the Marquette decision.

So all over this country, when we have 20 percent of the people in America now paying at least 20 percent interest rates on their credit cards, those people want action. And when we talk about Wall Street reform and we talk about consumer protection, yes, of course, we need a strong, independent financial services consumer protection agency but, more importantly, we need to address this outrage of high credit card interest rates, and the amendment of the Senator from Rhode Island would do that.

I think the American people want to see action, and I hope we can work together on the amendment and on my amendment and give people some relief.

Mr. WHITEHOUSE. Madam President, I thank Senator SANDERS and both my colleagues very much for their cosponsorship of this amendment and their advocacy of it. I would hope we could find support for this from the other side of the aisle.

I do not see this as an exclusively Democratic issue. If you look at the arguments that have been made by all of us on the floor just now for it—Senator SANDERS spoke eloquently about the Judeo-Christian tradition that informs so much of our civilization and its horror of exaggerated exorbitant interest rates—for those of our colleagues who are attuned to those traditions, who take their religious principles seriously, they only have to harken back to sources of our Judeo-Christian tradition to find these kinds of limits are good and historic.

For those of us who are constitutional scholars and historians and are familiar with the doctrine of federalism and the role of the States in protecting their local citizens, the notion of States rights is one that has frankly been championed by colleagues on the other side of the aisle. Here is an opportunity to express their fealty to that doctrine and to that principle of States rights.

To those who think that 202 years of successful tradition of local regulation of interest rates has value, we can document that this is a recent anomaly. This is a peculiarity we are correcting. The great sweep of American history, over more than two centuries, is that the States protected their citizens properly and well. Anyone who cares for consumers in their States, local consumers up against huge credit card companies that keep you waiting on the phone for hours when you have to try to file a complaint, whose offices are in another State or in another country, sticking up for your local citizens is something I think we should all be prepared to agree to.

And finally, for those of us who have local banks, community banks, Main Street banks that are domiciled in our home States, why should they suffer the disadvantage of having to compete against these huge rapacious credit card companies and Wall Street banks and be subject to their State's law but have this loophole allow the monster banks, the gigantic banks to take advantage of consumers in this way?

I think you can look at this amendment from a whole variety of perspectives and the principles that it stands on are ones that many of our colleagues on the other side of the aisle have supported and championed over the years.

Mr. MERKLEY. If I might chime in at this point and say that in terms of the discussion I saw at the State level in Oregon, this is a bipartisan discussion, because it is indeed deeply rooted in traditions and wisdom that extends back not just generations but thousands of years.

Indeed, time after time after time the leaders—the philosophical and the religious leaders, as well as political leaders—saw the damage that was done to the foundation of societies from extraordinarily high interest rates.

I think it goes back to understanding that the strength of a society is in the strength of its families. You do not build strong families when wealth is stripped away by usurious interest rates, by extraordinary interest rates, rates that exceed by many times the earnings on interest that a family can get by putting their money into a bank or lending their money into a financial system. There is a very small return there, but borrowing out of that financial system, very high charges.

If our goal is to build families, then this has all the wisdom in the world. I certainly want to note that the other aspect of this that helps tie together Democrats and Republicans is that it is an issue of local control. There was never a moment when this Chamber, or the Chamber a few yards from here, the House Chamber, proceeded to say we are going to take away States rights to control their own interest rates on cards. There was never a moment like that. Such a law was never passed.

Indeed, you have not just the fact that Federal law has trumped State law but has trumped it without any deliberate act of Congress and in the most bizarre of fashions. So I should think the reach in favor of building strong families, building strong communities, and local control will be high. I certainly look forward to a bipartisan effort to pass this legislation.

Mr. SANDERS. If I can pick up from the Senator from Oregon, the reason, for thousands of years, that religious leaders and philosophers have condemned usury, which is what we are talking about today, is that it is basically immoral, according to every major religion on Earth, to tell a desperate person who is in need of a loan that I am going to give you this loan but I am going to charge a very high interest rate. That is condemned by every major religion on Earth as well as every great writer I can think of who addressed that issue.

What I wish to do, I suggest to my friend from Rhode Island, is I want for a moment to read some of the e-mails I received from Vermont dealing with this issue we are attempting to address. You are dealing with it one way. I am trying to deal with it more on a national way. But we both, together, are trying to address this.

Let me give a couple of e-mails that came to me over the last couple of months. This is from Jeffrey, from the State of Vermont:

I was one of those guys who failed to read the fine print. A couple of years ago my credit card payment got lost in the mail. By the time I had realized what had happened, they charged me a $45 late fee and then spiked my interest rate up to 35 percent. At the time I was in good standing with them. I desperately tried to get this back on track but after 10 or 12 months of making these crazy payments I had to make a choice—lose my transportation to work, lose my house—I am a father of four beautiful children—or stop paying on the credit card. Now my credit card report has suffered greatly and, even though it has been over a year, they still harass me almost daily. This situation has affected every part of my family and my life.

That is the end of the quote from Jeffrey from Vermont.

This is Ronald from Colchester, VT:

I am writing about my Citi credit card.

I should point out, as my friend from Rhode Island knows, that the four largest financial institutions in this country issue 66 percent, two-thirds, of the credit cards in the country.

I am writing about my Citi credit card. My interest rate went from 12 percent to 29.9 percent overnight. I phoned them and was told it was not just myself paying that rate, but everyone pays that rate. How can credit card companies let you make purchases on your account for a moderate interest rate and just mysteriously move to 29.9 percent overnight? I hope you are able to pass your law to restrict credit card companies from abusing their power over their customers.

I have gotten many e-mails and I am sure you have as well. The bottom line is what we are saying is we intend to end this outrageous practice on the part of huge banks that are ripping off the American people. What Senator WHITEHOUSE is trying to do is say let us go back to the federalist principles of this country where States have established their own interest rate caps, and let's enforce that.

We are taking a little bit different position. But both of us are going to do everything we can to end this outrage and I applaud the Senator from Rhode Island for his hard work on this.

Mr. WHITEHOUSE. Let me thank Senator SANDERS, who is a passionate and articulate consumer advocate, and Senator MERKLEY of Oregon, who has come to the Senate in the interests of his native Oregonians, trying to make sure they are well served. He has been remarkable at that.

I apologize to Senator DURBIN. I know he wanted to come and join us as well, but the timing changed and he was unable to attend. I thank him for his cosponsorship of this amendment. I also thank distinguished chairman of the Armed Services Committee, Chairman LEVIN, for cosponsoring it. I am truly honored by their support. The distinguished Senator from Illinois, Senator BURRIS, tells me he wishes to cosponsor as well. So I am grateful to him and I thank him. He is a former banker so he understands these issues very well, and he understands the effect of backing in the local community. I am very gratified by his support.

The last thing I want to say before I close on this subject is that the system by which credit card companies get consumers into these high-interest rate predicaments is no accident. It is a system and it has been carefully designed by the credit card companies, beginning with the way they write the agreement.

When credit cards began, the credit card agreement was two or three pages long. I am looking at an array of young pages here in front of me. They are pretty soon going to be getting credit cards of their own. They won't know what it was like when I got my first credit card. They are going to get a first credit card contract that has 20 pages of fine print. And hidden in the fine print have been amazing tricks and traps.

One of my personal favorites, which we thankfully ended under the leadership of Chairman DODD earlier, was that the credit card companies would declare the day was over at 10 in the morning and then they would open the mail at 11. So if you got your payment in on the day it was due, they didn't open the mail until they declared the day was over.

The day wasn't over. The Sun was still up, morning was not even over, but they had declared in the fine print of the contract that they could end the payment day at 10 in the morning and then open the mail later that day so your check was, guess what, late, and that put you into a late payment category so they could jack your interest rate.

As Senator SANDERS' constituent and so many folks in Rhode Island have experienced, 1 day you are at 12.9 percent and the next day you are at 30 percent and you don't know what hit you. And once they have you there, it is very hard to unwind. It is very hard to pay it off and get out. Many consumers cannot pay off their credit card all at once so now they are trapped, and they are trapped in what Prof. Ronald Mann of Columbia University has called ''the sweat box.''

He has looked at how the credit card companies manipulate their consumers, and what they do is they set up all these tricks and traps and suddenly you build up a nice balance and it is at a reasonable interest rate but you fall into one of the traps. They catch you with one of the tricks. And bang, they have you. You are now at a 30-percent interest rate, you don't have the resources to pay it off all at once, and the charges begin to pile up—the fees, the exorbitant interest—and pretty soon they have got you completely over a barrel.

It is systematized. It is done to extract the maximum amount of money and profit from consumers who are not aware of how sophisticated the machinery is that is out there trying to gouge them.

This is not just a question of exorbitant interest rates; it is also a question of pushing back against credit card companies that have developed a system, the sweat box system, that needs to be put to an end. And State regulation can help do it. Because if the State is not being paid off with tax revenues to look away from what the bank is doing, and if most of the damage is not being done in other States whose complaints are not as relevant in the home State, in the domicile State, then they get away with it.

They will not get away with it once federalism, States rights, and the American tradition of State protection of its citizens are restored and this inadvertent loophole is closed. My amendment would do that.

I hope colleagues who are listening to this will think about supporting the amendment. As I said, I think it ought to have bipartisan appeal and will certainly be good for people in our country who are at the business end of the credit card industry's machine.

I yield the floor.

The PRESIDING OFFICER (Mr. WHITEHOUSE). The Senator from Illinois.

Mr. BURRIS. Mr. President, my colleagues and I here in Washington are here to fulfill a sacred public trust, a commitment we made the moment we raised our hands and swore the oath of office. Whether we swore that oath 30 days ago or 30 years ago, that commitment remains very real. We are here to fight for the citizens of our respective States, to represent their concerns and to make sure their voice rings out in the committee hearings and on the floor of this Chamber. That is the obligation we took upon ourselves the moment we entered public service. I know it is something all of us take very seriously.

I call upon my colleagues to rise to the challenge of this pivotal moment. It is time to live up to the promise we made. It is time to stand up for the people we came here to represent, from all 50 States of this Union. It is time to take action on Wall Street reform so we can restore accountability to a system that has spiraled out of control, and cost billions in taxpayers' dollars.

The U.S. Constitution makes it clear that my colleagues and I are accountable to the American people we came here to serve. But because we enjoy a thriving free market system, Wall Street bankers are bound by no such accountability. That is why we used to have strict regulations in place, such as basic capital standards and lending requirements, that laid out the rules of the road by which all financial institutions must operate—not to interfere with the market but to assure that business practices were free and fair.

It used to be that banks, large and small, based their security on the quality of their investments. I worked at a very large bank in those days. The

lending decisions were driven by confidence in the local businesses. Financial institutions sank or swam as a result of the choices they made. This encouraged responsible choices and ensured that banks made smart investments. It kept them accountable to the communities they served and to the businesses in those communities.

I said a moment ago I served as a banker for many years. I helped secure loans for small and large businesses. I fought to keep investing in the local economy because I knew we had a responsibility to those who worked with us. We helped enrich the people with whom we did business. The bank's responsibility is to keep capital and cash flowing.

The bank's responsibility is to keep capital and cash flowing. So we were accountable to our customers. That is what banking used to be. But not anymore. Gradually over the past few decades, tough standards were relaxed, regulations were rolled back, and rules were bent or ignored by some of the country's largest and most trusted financial institutions. Greed replaced accountability as the driving force behind many transactions. Banks made bad loans and then repackaged them with other loans and sold off the risk. They created new types of securities and invented ways to place high-stake bets on investments. These activities have no value of their own. They have nothing to do with our free market economy. They are designed to make easy money for big banks, which pass the risk on to someone else. But they contribute absolutely nothing to the economy. There is no product, no investment in private enterprise that will benefit local communities.

So Wall Street has basically turned into a casino, and it has done so at our expense. These fat-cat bankers were gambling not just with our money but with our economic future. They placed our entire economy at risk, and about 2 years ago their recklessness caught up with them. The bottom fell out. The whole massive scheme began to unravel. The American economy fell apart like a house of cards because that is exactly what Wall Street had become—a giant pile of empty investments that had been passed around between big banks, packaged and repackaged to the point where these investments were supported by little more than the paper on which they were written. These large investment banks tried to make something from nothing, and in their wild pursuit of bigger and bigger profits, they gambled the stability of our entire economy. So it is no wonder these systems came crashing down.

Wall Street dropped the ball, and now they are trying to pass the buck. I refuse to let them do that. I refuse to stand by as these big firms try to take the government bailout money and escape the consequences of their action. What they did was irresponsible and unethical.

My colleagues and I were forced to make difficult decisions to prevent a complete economic collapse. We did what was necessary to stop the bleeding and get America back on the road to recovery.

Now it is time to make sure this can never happen again. It is time we pass financial reform that will make Wall Street accountable again so they cannot make decisions that undermine our economic security. That is why I strongly support the bill introduced by my good friend, the distinguished Senator from Connecticut, Chairman DODD.

I thank my Republican friends for allowing us to bring it up for debate. I said on this floor yesterday that the ball game had another inning, and it did. I am grateful to our Republican friends who said: Yes, let's put this on the floor and let's debate it.

Let's not debate to debate and then not get on with the business of average American citizens. As we discuss this legislation in this Chamber in front of the American people, I hope to work with my colleagues in both parties to hammer out a comprehensive, bipartisan bill, a bill that ends the days of the Wall Street casino and safeguards every American from the kind of reckless behavior that led to this crisis in the first place. This is the difficult work we swore to do when we came to this Senate. As we take up the issue of Wall Street reform, I intend to work with my colleagues, both Democrats and Republicans, to see that it gets done.

As I said to the Senator from Rhode Island, I am very interested in his piece of legislation that deals with the credit card interest.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURRIS.) Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—AMENDMENT NO. 3739

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that amendment No. 3739 be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MORRIS BLACK

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a man from Keavy, KY, who bravely served his country in World War II.

Morris Black was drafted at age 19, and he proudly put on his uniform and left his friends and family behind. Among those left behind was his sweetheart and future wife, Ms. Pauline Cassidy. During the Battle of the Bulge, while serving in one of the most exposed roles within his company—a field medic—Black was injured in both his head and leg. In a subsequent battle, he rushed from one wounded soldier to the next, providing as much care as possible, while coming under heavy enemy fire. For his heroic service as a field medic, Mr. Black received several medals, awards, and decorations, including the Purple Heart and the Silver Star.

Unfortunately, field medic Black's well-deserved accolades would not be presented to him for another 60 years due to bureaucratic oversight. Mr. Black finally received these medals on March 7, 2010. Though he is appreciative, he is quick to point out that his service was not done for the purpose of winning medals; it was to help the soldiers that needed his assistance in those critical moments.

The Corbin Times-Tribune recently ran a story about Morris Black's service. As Mr. Black recalls his experience in the interview, he says, ''There were times when I didn't know whether I'd make it home or not, but I did. There is no greater honor than to fight for your country.''

Today, I know my colleagues will join me in paying tribute to his service and I ask unanimous consent that the full article from the Times-Tribune be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Corbin Times-Tribune, Mar. 20, 2010]

A QUIET HERO

(By Erica Bowlin)

CORBIN, KY.—Morris Black received a very special delivery in the mail on March 7, 2010. He finally received his Silver Star—60 years after serving in World War II.

During the war, Morris, of Keavy, won several badges, medals, and honors. For so many years he wondered why he never received his Silver Star, and he was unsure if he ever would.

Black was drafted into the Army when he was just a young man of nineteen. He was concerned about what would await him, and he was unsure about leaving behind his sweetheart, Miss Pauline Cassidy. But, the young man knew he had a responsibility to fight for his country, to fight for those who couldn't fight. So, Morris Black proudly put on his uniform and joined the Army. The year was 1943.

Black was first sent to Army basic training at Campground, Illinois. After boot camp he received orders to England and worked there as an orderly in a hospital. Then the call came to go to combat, and off he went to Germany.

As a Field Medic, Technician Grade 5, Black saw many strenuous battles. During the Battle of the Bulge, he received injuries to his leg and head. In a separate battle, Black's unit was taking heavy enemy fire. Black ran from one fallen soldier to the next, doing his best to care for each and every one.

''They had us all penned down,'' said Morris, ''and I just did the best I could to get them in as good a shape as I could get them.''

Black won the Silver Star for his efforts that day in Germany. He was also awarded

the Purple Heart after the battle in which he was injured. He just never got to hold the actual awards in his hand. That is, until earlier this month.

But Black did not do what he did for the medals. He did what he did because he is a patriot, and he knew he was the only hope his fallen brothers may have had at those critical moments.

Black is quiet in demeanor, never boasting. But, his honor and integrity shows—in the way he holds his head high and the way he smiles. It is clear that he is a hero.

''I was just doing my job,'' he said.

After two years and nine months in Germany, Black was the only one in his unit who hadn't returned home for leave. Finally, he was granted a leave of absence and got the chance to come home to his beloved country and back to his sweetheart, Pauline. The two had been exchanging letters during the war. Pauline was anxiously awaiting the arrival of her soldier.

Black received word that the war had ended, just as his ship arrived in New York.

''They were unloading at the station when they started to say 'the war is over,' and I was very happy that day,'' he said.

Soon Black was back at home in Keavy, where he'd been raised. He was back with his family, back to his life. He returned to Pauline, and the two were married just a few days later.

''I had really missed him,'' said Pauline, ''and I had really worried about him. It was good to have him home.''

The two began building their house shortly after they were married. They still live in the home today. Black worked as a carpenter, and Pauline worked for the United States Postal Service. The couple had two children, Harold Gene and Sheila Kay. The Blacks will celebrate their 65th anniversary on May 19, 2010.

Morris Black continued to serve his community and country after returning home. He was one of the founding members of The Disabled American Veterans Chapter 158 in Keavy. The center now serves as a community gathering place.

''They hold family reunions and play ball at the field,'' said Black.

Black also worked as a volunteer firefighter. Pauline remembers her husband rushing off at all hours to fight fires.

''He would be working on something and when a call came in, he was out the door,'' she said.

''There was about three or four of us who got together and decided we needed a fire department. So we started one,'' said Black.

The Keavy Volunteer Fire Department is thriving and continues to serve the community. Black is proud of all he has done, and very grateful that he has been able to serve. He is most grateful, he said, for his family.

''It feels good to have my wife and children, and grandchildren and great-grandchildren. That's what really makes me proud.''

Morris and Pauline live each day as it comes, and they thank God for every day they have together.

''There are times when I didn't know whether I'd make it home or not, but I did. There is no greater honor than to fight for your country. And there's nothing like the feeling of having people who love you,'' said Black.

After a lifetime of service, Black has every right to brag, but that is not his style. As he holds his Silver Star in his hands, he looks at it with pride, and he does appreciate it. But the real satisfaction for a soldier is much bigger than an award. Black remembers each one of the soldiers he stopped to help that day in Germany, and thinks of the ones who didn't make it home. His gratitude is to those who fought before and with him, and for those who continue to fight.

REMEMBERING DOROTHY HEIGHT

Mr. MENENDEZ. Mr. President, I would like to take a moment to recognize the life of women and civil rights pioneer Dorothy Height, a woman who helped pave the way for an African American to be elected President of the Unites States, a Latino son of immigrants to represent New Jersey in the U.S. Senate, and brilliant Jewish and Latina women to preside in the U.S. Supreme Court.

Dorothy Height first immersed herself in the civil rights movement in 1933 when she became a leader of the United Christian Youth Movement of North America. It was her dedication to ending the horror of lynching, reforming the criminal justice system, and securing free access to public accommodations that made her an American hero and the obvious choice to serve as a representative of the YWCA to the World Conference of Christian Youth.

While serving as the assistant executive director of the Harlem YWCA, Ms. Height met Mary McLeod Bethune, founder and president of the National Council of Negro Women. Recognizing the promise and potential in Ms. Height, Bethune invited her to join the NCNW in her mission to secure equal rights for women.

Throughout her countless years of leadership with the YWCA, the National Council of Negro Women, and Delta Sigma Theta Sorority Incorporated, Ms. Height inspired a generation of future leaders. During those days of racism, intolerance, and hatred, it was extremely difficult for a woman, an African-American woman, to advocate for civil rights. Imagine how frightening it must have been to stand up to oppression, intolerance, and injustice that often ended in violence against those who simply came in peace seeking to be treated equally and fairly. A fearless leader, Ms. Height took the chance she knew she had to take because as she plainly stated, ''we all have to do whatever we can.''

It was that simple philosophy that motivated her to accomplish many achievements through her leadership with the YWCA, NCNW, and Delta Sigma Theta Sorority. Her contributions are endless, and as a testament to her accomplishments, Ms. Height was awarded the Presidential Medal of Freedom in 1994 and the Congressional Gold Medal in 2004.

Dorothy Height's commitment to ensuring equality for all is her legacy and our hope.

Heralded as a civil rights leader, Ms. Height was the only woman at the highest level of the civil rights movement to march alongside revered leaders such as Dr. Martin Luther King, Jr., Whitney H. Young, A. Phillip Randolph, and John Lewis, just to name a few. During the height of the civil rights era, she organized the ''Wednesdays in Mississippi'' event, which brought together African-American and Caucasian women from different walks of life to create a discourse of understanding. Respected as a national leader, Ms. Height played a pivotal role in several Presidential committees, including the President's Committee on the Employment of the Handicapped and the President's Committee on the Status of Women.

Her life's work helped to bring our Nation out from the shadow of segregation to a place where we are moving closer to true racial, ethnic, and gender equality. While we have made great strides toward obtaining equality, there is still much work left to be done. At the age of 98, Dorothy Height continued to play a role in addressing the social inequities some Americans face, as evidenced by her position of chairperson of the Leadership Conference on Civil Rights. She once stated, ''I want to be remembered as someone who used herself and anything she could touch to work for justice and freedom . . . I want to be remembered as one who tried.'' Ms. Height will not only be remembered as one who tried but also as one who achieved, one who inspired, and one who has left a footprint in this world. We can honor her legacy by doing our part and trying to make this society better than the one she lived in by finally achieving equality for all.

ENUMERATED POWERS ACT

Mr. ENZI. Mr. President, I rise today to discuss the need to closely examine our United States Constitution and Congress's limits held within this important document. Our Founding Fathers granted Congress limited powers within the Constitution, and we should not stray outside those powers. They knew what would happen if a government grew too large and too controlling. So far during the 111th Congress, the government has taken over banks, insurance companies, the student loan industry and the automobile industry. The American people know this is wrong and they have spoken out. During the Wyoming State legislative session, which concluded on March 5, two resolutions were passed because the Federal Government continues to overstep its bounds. These two resolutions, House Enrolled Joint Resolution 2 and House Enrolled Joint Resolution 3, demand that Congress desist from making mandates beyond the enumerated powers of the United States Constitution.

In the U.S. Senate, I am working to pass S. 1319, The Enumerated Powers Act, to achieve what the Wyoming State Legislature passed and signed into law on the State level earlier this year. The Enumerated Powers Act would require that every bill introduced in Congress include a constitutionality clause pointing to the exact section in the Constitution that grants

Congress the right to make that specific law. I am proud to be an original cosponsor of this piece of legislation which was introduced by Senator COBURN.

We must learn from our constituents and fellow lawmakers. Our Constitution has held our country together for hundreds of years and this is no time to abandon it.

I ask unanimous consent to have these two resolutions printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ENROLLED JOINT RESOLUTION NO. 2

Whereas, the Tenth Amendment to the Constitution of the United States reads as follows: ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people''; and

Whereas, the Tenth Amendment defines the total scope of federal power as being that specifically granted by the Constitution of the United States and no more; and

Whereas, the scope of power defined by the Tenth Amendment means that the federal government was created by the states specifically to be an agent of the states; and

Whereas, the states are demonstrably treated as agents of the federal government; and

Whereas, many federal laws are directly in violation of the Tenth Amendment to the Constitution of the United States; and

Whereas, the Tenth Amendment assures that we, the people of the United States of America and each sovereign state in the union of states, now have, and have always had, rights the federal government may not usurp; and

Whereas, Section 4, Article IV, of the Constitution says, ''The United States shall guarantee to every State in this Union a Republican Form of Government,'' and the Ninth Amendment states that ''The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people''; and

Whereas, Congress may not simply commandeer the legislative and regulatory processes of the states; and

Whereas, the United States Congress frequently considers and enacts laws, and the executive agencies of the federal government frequently promulgate regulations, the constitutional authority for which is either absent or tenuous, including, without limitation, the Real ID Act, which imposes significant unfunded mandates upon the states with respect to the traditional state function of drivers licensing, the Endangered Species Act, which, as construed by the United States Fish & Wildlife Service, authorizes a federal executive agency to require specific state legislation related to the traditional state function of wildlife management, the Clean Water Act, which, as construed by the Environmental Protection Agency, authorizes a federal executive agency to exercise regulatory jurisdiction over waters that are not subject to federal regulation, the Federal Land Policy and Management Act, which implements a policy of federal lands retention in derogation of the ''equal footing'' doctrine. Now, therefore, be it

Resolved by the members of the Legislature of the State of Wyoming:

Section 1. That the State of Wyoming Legislature claims sovereignty on behalf of the State of Wyoming and for its citizens under the Tenth Amendment to the Constitution of the United States over all powers not otherwise enumerated and granted to the federal government or reserved to the people by the Constitution of the United States.

Section 2. That the rights and liberties of Wyoming, its costates and their respective citizens must be protected from any dangers by declaring that Congress is limited by the Tenth Amendment to the Constitution of the United States and that this state calls on its costates for an expression of their sentiments on acts not authorized by the United States Constitution.

Section 3. That this resolution serve as notice and demand to the federal government, as our agent, to cease and desist, effective immediately, from enacting mandates that are beyond the scope of these constitutionally delegated powers. The State of Wyoming will not enforce such mandates.

Section 4. That all compulsory federal legislation that directs states to comply under threat of civil or criminal penalties or sanctions be prohibited or repealed.

Section 5. That the Secretary of State of Wyoming transmit copies of this resolution to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress and to the Wyoming Congressional Delegation, with a request that this resolution be officially entered in the congressional record as a memorial to the Congress of the United States of America.

COLIN M. SIMPSON,
Speaker of the House.
DAVE FREUDENTHAL,
Governor.
JOHN J. HINES,
President of the Senate.

Time Approved: 3:48 p.m.
Date Approved: 3/8/10.

I hereby certify that this act originated in the House.

PATRICIA L. BUSH,
Chief Clerk.

ENROLLED JOINT RESOLUTION NO. 3

Whereas, the tenth amendment to the Constitution of the United States reads as follows: ''The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.''; and

Whereas, the tenth amendment to the Constitution of the United States defines the total scope of federal power as being that specifically granted by the Constitution of the United States and no more; and

Whereas, the scope of the power defined by the tenth amendment to the Constitution of the United States means that the federal government was created by the states specifically to be an agent of the states; and

Whereas, the states are demonstrably treated as agents of the federal government; and

Whereas, many powers assumed by the federal government and federal mandates are directly in violation of the tenth amendment to the United States Constitution; and

Whereas, the interstate commerce clause in article 1, section 8 of the Constitution of the United States provides that Congress shall have the power: ''To regulate Commerce with foreign Nations, and among the several States, and with Indian Tribes;'' and

Whereas, the interstate commerce clause is limited to the federal government regulating trade between the states and between the states and other nations, to help prevent conflicts between states over commercial activities and to prevent the erection of barriers to commerce between the states; and

Whereas, the interstate commerce clause should not be used to provide Congress with authority to regulate matters that are primarily intrastate with only an insignificant or collateral effect upon interstate commerce; and

Whereas, many federal laws are beyond the scope and intent of the interstate commerce clause and the tenth amendment to the Constitution of the United States; and

Whereas, the tenth amendment to the Constitution of the United States assures that we, the people of the United States of America and each sovereign state in the union of states, now have, and have always had, rights the federal government may not usurp; and

Whereas, article 4, section 4, of the Constitution of the United States says: ''The United States shall guarantee to every State in this Union a Republican Form of Government,'' and the ninth amendment to the Constitution of the United States adds ''The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retain by the people.''; and

Whereas, Congress may not simply commandeer the legislative and regulatory processes of the states. Now, therefore, be it

Resolved by the members of the legislature of the State of Wyoming:

Section 1. That the Wyoming Congressional delegation and Congress take action to initiate the amendment process provided by article 5 of the Constitution of the United States to amend the tenth amendment and article 1, section 8 (the interstate commerce clause), of the Constitution of the United States.

Section 2. That Congress amend the tenth amendment of the Constitution of the United States as follows, with proposed changes indicated in underscored text:

The powers not *expressly* delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. *This amendment shall be considered by all courts as a rule of interpretation and construction in any case involving an interpretation of any constitutional power claimed by the Congress.*

Section 3. That Congress amend the interstate commerce clause, article 1 section 8, of the Constitution of the United States as follows, with proposed changes indicated in underscored text:

To *directly* regulate Commerce with foreign nations, and among the several states, and with the Indian Tribes, *with no authority in Congress to regulate matters that are primarily intrastate with only an insignificant or collateral effect upon interstate commerce;*

Section 4. That Congress shall specify that the amendments to the tenth amendment and the interstate commerce clause, article 1 section 8, of the Constitution of the United States, as provided herein, shall be operative upon ratification by the legislatures of three-fourths of the several states, provided that such ratification shall occur within seven years from the date of the submission of the amendments to the states by Congress.

Section 5. That this state calls on its costates for an expression of their sentiments on the need to amend the tenth amendment and article 1, section 8 of the Constitution of the United States as provided in this resolution.

Section 6.

(a) That the Secretary of State of Wyoming transmit copies of this resolution:

(i) To the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress and to the Wyoming Congressional Delegation, with a request that the Wyoming Congressional Delegation take all reasonable and necessary actions to initiate the amendment process to

amend the Constitution of the United States consistent with the language proposed in this resolution and that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America; and

(ii) To the Speaker of the House of Representatives and President of the Senate, or their equivalent, and the governor of each of the other forty-nine states.

COLIN M. SIMPSON,
Speaker of the House.
DAVE FREUDENTHAL,
Governor.
JOHN J. HINES,
President of the Senate.

Time Approved: 1:53 p.m.
Date Approved: 3/11/10.

I hereby certify that this act originated in the House.

PATRICIA L. BUSH,
Chief Clerk.

QUEST FOR MODERNITY

Mr. INHOFE. Mr. President, as the co-chairman of the U.S. Senate Taiwan Caucus, I ask for unanimous consent to have printed in the RECORD the speech of Taiwan President Ma Ying-jeou, delivered, via video conference, before the faculty and students at the Fairbank Center for Chinese Studies at Harvard University.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE QUEST FOR MODERNITY

(Speech by Ma Ying-jeou, President, Republic of China at Fairbank Center, Harvard University, Apr. 6, 2010)

President Ma Ying-jeou took part this morning in a video conference with the Fairbank Center for Chinese Studies at Harvard University. The conference was moderated by Dr. William Kirby, Director of the Fairbank Center. Harvard University president Drew G. Faust opened the conference with a videotaped talk in which she welcomed President Ma to the video conference. After the moderator's opening remarks, President Ma followed with a speech entitled ''The Quest for Modernity.'' Thereafter, professors Steven M. Goldstein, David Der-Wei Wang, William P. Alford each posed a few questions to the president. This was followed by a Q&A session in which the president fielded questions from members of the audience. As the conference was drawing to a close, President Ma gave a short closing statement.

Prof. Kirby, Prof. Goldstein, Prof. Alford, Prof. Wang, Prof. Su Chi, Ambassador Yuan, Director General Hung, Dear faculty members, students, distinguished guests, ladies and gentlemen: Good Evening!

I. NOSTALGIA ABOUT HARVARD

It heartens me to be once again addressing the excellent faculty and student body of Harvard University. This moment brings back a rush of nostalgia because it was here I became a proud father for the first time before I even got my doctoral degree. It was also at Harvard when I was cloistered for long hours in the Law School Library, or debating with fellow classmates and professors, that I was able to broaden my understanding of the world, and hone my skills as a scholar, intellectual and eventually a leader. I also feel nostalgic on a deeper level. When I think of a long litany of historic events, figures, and institutions: John Hay's Open-Door Policy, Boxer Rebellion, American Indemnity Scholarships for China with all its recipients, like Hu Shih and Chien Shih-Liang, Tsinghua University, Yenching University, May Fourth Movement, Flying Tigers, Pearl Harbor, John Leighton Stuart, 1949, Korean War, United States-Republic of China Mutual Defense Treaty, Fairbank Center, the Quemoy and Matsu Crisis, Cultural Revolution, Shanghai Communiqué, Taiwan Relations Act, mainland China's Reform and Open Policy, U.S. arms sales to Taiwan and so on, I cannot help but think of the far-reaching impact that America has had on China's, and later on Taiwan's, convoluted path to modernization. I cannot help but think my time at Harvard was not only a personal academic journey, but also a microcosm reflecting a people's long search for a modern nation.

II. WEALTH, POWER AND DEMOCRACY

The late venerable Benjamin Schwartz, who as you know had been a prominent member of the Fairbank Center, described in the life of Yen Fu that the evolution of modern China has been a journey in search of wealth and power. Given the rise of mainland China's economic power and military strength over the last thirty years, it seems that it has achieved those goals to a considerable degree. However, I believe a society that is truly modernizing should not be limited to wealth and power but must also include the foundations for freedom and democracy. For it is only through the active participation and free choice of one's citizens that government truly serves the welfare of the people; only then can a government sustain, and a nation thrive. So I am proud to say that the Republic of China on Taiwan has in fact achieved all these three pillars. The ROC has since become a thriving nation with a robust economy, viable military and a truly open and vibrant democracy. With so much already achieved the roadmap of my administration is quite straightforward: namely to strengthen the foundation of these three pillars so as to safeguard the future of Taiwan's posterity, and to share with mainland China our values and way of life.

III. COMING OUT OF RECESSION

My administration came into office two years ago in the midst of a global economic crisis, so it's not an exaggeration that we definitely ''hit the ground running.'' Since then we have worked relentlessly to revitalize Taiwan's economy. By taking measures such as guaranteeing 100% bank deposits, substantially lowering interest rate in seven instances, investing 16 billion US dollars in domestic infrastructure in 5 years, distributing 2.7 billion US dollars worth of shopping vouchers, and providing emergency assistance for the underprivileged, my administration has successfully brought the economy out of the downturn after a year and a half. Now we expect to create about a quarter of a million jobs to bring the unemployment rate below 5% and GDP growth up to 4.72% this year. Job creation will remain our top priority, especially those in the green energy sector. With carbon reduction in mind, we are now ambitiously promoting innovation across all of Taiwan's most competitive sectors. These include the country's traditional strongholds such as IT, agriculture, and healthcare as well as other emerging industries like green energy, biotech, tourism and the cultural creative industries. However, the growing trend towards regional integration among economic powerhouses in East Asia, like Japan, mainland China, South Korea and the ASEAN countries, is threatening to marginalize Taiwan's heavily export-driven economy. As such, my administration has been seeking to institutionalize economic relations with mainland China and diversify our export markets and products so that Taiwan will not only avoid being cut off from the global economy but also enhance its international competitiveness. Therefore, we have been pushing hard for an Economic Cooperation Framework Agreement (ECFA) with the mainland that will serve as a critical structural platform for economic interaction between the two sides. On top of intellectual property rights protection and investment guarantee, the framework will include an early harvest package of goods and services to enjoy zero custom tariffs. The negotiations are already underway and expect to conclude in the next few months. We have also established government programs that will cushion potential shocks to industries and workers, especially small- and medium-sized enterprises. Although some assert that signing the ECFA with mainland China will compromise our sovereignty, this is definitely not the case. The top priority of my administration has always been the principle of ''putting Taiwan first for the benefit of the people.'' The truth of the matter, ECFA will spearhead Taiwan's return to the accelerated track for economic integration in Asia-Pacific and beyond. This without a doubt will strengthen Taiwan's capabilities to enhance its competitive edge in the global market and brighten its outlook for negotiating similar arrangements with other countries.

IV. CROSS-STRAIT RAPPROCHEMENT AND FLEXIBLE DIPLOMACY

In the pursuit of power my administration is not merely seeking military strength but more importantly to build up our soft power. In fact, the heart of my foreign policy is to reestablish mutual trust with all our major international partners, especially the United States. In achieving this goal, my administration has worked incessantly to transform the Taiwan Straits from a major flashpoint into a conduit for regional peace and prosperity. Therefore, in order to resume constructive dialogue with the mainland after a hiatus of over a decade, we first announced in 2008 the policy of ''No Unification, No Independence, No Use of Force'' so as to maintain the status quo across the Taiwan Strait under the framework of the Republic of China's 1946 Constitution. This breakthrough was further advanced under the framework of the 92 Consensus of ''one China, respective interpretations'' that was reached by the two sides in November 1992. That is now deemed a feasible formula by government leaders across the Taiwan Strait as well as many in the wider world community. We have also adopted a policy of Flexible Diplomacy and pursued a diplomatic truce with the mainland, which has by and large ended the vicious cycle of diplomatic warfare between the two sides. This will assuredly foster responsible stakeholdership in both Taiwan as well as the mainland. At the same time, we are working equally hard to enhance Taiwan's meaningful participation in and contribution to the international community. This will be achieved through our strong initiative to develop Taiwan's green technology and healthcare industries in conjunction with our foreign aid policies. For example, under the Flagship Program for Green Energy Industry, we will be building up Taiwan's industrial base in green technology especially in Photo voltaic solar cells and LED. This will not only benefit our people and economy, but more importantly, Taiwan will be able to share its resources and expertise with our allies and friends. On my visit to our Pacific island allies last month, I was proud to survey firsthand the work that Taiwan has done for some of the countries in the area. For example, Taiwan

has installed and provided solar energy technology to the Solomon Islands in hopes of improving the environment and livelihoods of their people. Taiwan has also set up an impressive medical mission in the Marshall Islands to treat the high prevalence of cataracts sufferers. In fact, our government will boost the overall effectiveness of our medical aid by initiating many more medical and public health missions that will target specific conditions and diseases common among the people of the Pacific island allies and friends. At the same time, after Taiwan effectively controlled the spread of the H1N1 Flu within our own borders, with a mortality rate of 2 deaths per million, which is only ⅓ of the average for OECD countries, I am proud to report that Taiwan will also be giving away locally manufactured vaccines worth 5 million U.S. dollars to other countries in need. Taiwan's search and rescue teams were also one of the first on the scenes when Haiti was hit by a devastating earthquake earlier this year. In addition to donating $16 million worth in aid and funds, our government is also planning to set up medical and vocational training centers to train for hundreds of medical and skilled workers, and build 1,200 housing units. Also, as a sign of Taiwan's flourishing civil society, World Vision Taiwan has collected countless small donations from our people that will be sufficient to feed and save more than 8,000 homeless Haitian children and orphans. However, my administration realizes humanitarian relief is only a small part of the long and challenging road to full recovery. This is why we hope to continue the work we have started in integrating the advances we make in healthcare and green technology into our foreign aid framework, so that Taiwan can truly make a meaningful difference in the countries we help.

V. THE UNIVERSAL VALUE OF FREEDOM AND DEMOCRACY

However, coming back full circle, the search for a modern nation cannot merely lie upon the pillars of wealth and power. It is only under a true democracy that one's citizens can live without fear according to the law, and share in the burdens as well as benefits of good governance. Although Taiwan has made impressive sociopolitical progress over the last decades, it is still a young democracy. So, as firm champions for democracy, my administration will work to strengthen the democratic infrastructure of my country. Already we are taking tangible steps to enhance Taiwan's rule of law and protection of human rights in conformity with international standards. In the past year, we have ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both administered by the United Nations. In converting these covenants into domestic law, they will certainly strengthen the human rights of our citizenry and further consolidate our rule of law. Furthermore, I came to power on the promise of combating corruption in elections and government, whereby we have already made meaningful progress. Without a doubt this goal will continue to be a cornerstone of my presidency, which I am determined to carry through in my capacity as the President of the country. I will assuredly not waver from the path in laying the foundations of a true democracy. In fact, next year in 2011 will be the Centennial Anniversary of the Republic of China. Against the background of thousands of years of Chinese history, the last century was in some ways merely a comma. But from a larger perspective, it was nothing short of an exclamation mark, as it has been 100 years of struggle; 100 years of experimentation and 100 years of education before a people learned that they too have the unequivocal rights to life, liberty and the pursuit of happiness. This nation-building process undoubtedly was achieved through the collective efforts of countless dedicated individuals who traversed between tradition and modernity that helped bridge the East to the West so many years ago. Inevitably, this made it possible for a people to aspire to the same democratic values as you cherish. From the chaos arising out of the turn of the 20th century, to the founding of the first republic in Asia in 1912 and its evolution forward in 1949 when the Republic of China Government moved to Taiwan, in 1987 when Taiwan lifted martial law, launched its democratic transformation, and subsequently allowed Taiwan residents to visit their relatives on the mainland, in 1996 when people on Taiwan directly elected its President for the first time, and in 2000 and 2008 when the Presidential elections further consolidated Taiwan's democracy through two rotations of power between political parties, the passage of these 100 years has irrevocably transformed the foundations of a political culture. Distinguished faculty members and students, ladies and gentlemen, as the elected president of the Republic of China, I will continue to strive toward forging Taiwan into an exemplary democracy; one that will be a source of inspiration and emulation for generations to come.

Thank you.

PRESIDENT MA'S CLOSING REMARKS

Dear distinguished faculty, students and friends; it is my great pleasure to hold this teleconference with you. Your questions and comments are very good, and some are very tough to answer, but in thinking and answering these questions you force me to think deeper and strive harder on the challenges that confront the road ahead.

Although today's conference is near an end, I am heartened by the thought that our friendship will continue to grow as there is still so much we need to do, together. The international system that the US forged out of the devastation of World War II 65 years ago has today become the enduring foundation of our global village. Being rule-based and sufficiently flexible, this system encourages positive-sum international cooperation rather than zero-sum interstate conflict. Hence, it changed the underlying dynamics of the world order that made it possible for countries, big or small, to prosper together. As a matter of fact, my idea to seek rapprochement with the mainland find some similarities with the ideas espoused by the American leaders in having soft talks with the Soviet Union and to have détente. In other words, to replace confrontation with negotiations; to solve international disputes through peaceful means. It is this very system that has interlocked the world into a community of thriving interdependence, giving rise to the possibility where foes can turn into friends, where every country can be a winner and every contribution become part of a greater picture.

This is also the system from which I draw my inspiration to lead my country, particularly in dealing with the mainland. In taking a responsible stake in the world, and in seeking rapprochement with the Chinese mainland, my administration has committed the Republic of China on Taiwan to becoming a dependable and valuable contributor to this international system. In my visit abroad last month, I kept saying to our friends or to the overseas Taiwanese and to members of my delegations, that what I tried to do as far as my country's foreign relations is concerned is to make Taiwan a respectable member of the international community. I want every Taiwanese when they walk in the streets of New York, of Paris, of Sydney, of Beijing that they are respected. People will say they are from Taiwan, and that Taiwan is a respectful country in the world. Some in my domestic audience may disagree with me, but I firmly believe that this is the right path for Taiwan to avoid being marginalized from the forward march of the rest of the world. However, we will not merely concentrate on our own interests but equally apply our resources in hopes of having a positive impact on the world community. In fact, under this system that the United States started over half a century ago, we, as a whole, ought to be able to right what has gone wrong; to unite as one humanity against the global crises that threatens all that we hold dear, whether climate change, the global economic downturn, the risk of pandemics, or the wars that endanger the peace of our world. In the end, we are the only ones that can overcome the challenges we face. And in such an important partnership, I am confident Taiwan will be there to live up to its responsibilities.

Thank you.

TRIBUTE TO JIMMY WAYNE

Mr. CORKER. Mr. President, I want to take a moment of the Senate's time to recognize the leadership and contributions of Jimmy Wayne to the State of Tennessee and the United States of America for his remarkable efforts to combat homelessness.

Jimmy Wayne began his ''Meet Me Halfway'' on January 1, 2010. He plans to walk 1,660 miles from Nashville, TN, to Phoenix, AZ, to raise awareness about the plight of homeless youth in our country.

He knows firsthand about the challenges of being homeless. Jimmy is a product of the foster child system who grew up in a variety of foster homes, and he occasionally found himself homeless as a teen.

He was fortunate to be given a second chance at the age of 16 when Bea and Russell Costner gave him a home and a new start. They gave him a place to stay but only if he agreed to ''meet them halfway,'' by following the rules of their house.

It is fitting that Jimmy Wayne is using his ''Meet Me Halfway'' campaign to not only raise awareness but to raise funds for organizations that benefit homeless youth. I thank Jimmy Wayne for his work, and I look forward to congratulating him once he finishes this campaign.

ADDITIONAL STATEMENTS

TRIBUTE TO MAYOR DAVE MUNSON

• Mr. JOHNSON. Mr. President, I wish to recognize the lifetime of achievement by one of South Dakota's finest and most dedicated public servants. Dave Munson's distinguished tenure as mayor of South Dakota's largest city, Sioux Falls, followed a successful career in the financial industry and 24 years as an elected member of the South Dakota Legislature.

As a native of Sioux Falls, Mayor Munson married and raised his children in the city he loves, pursued a successful business career, and ultimately rose to the position of mayor. He has provided critical, consistent, and caring leadership to the residents of Sioux Falls during his terms in office.

Over the past decade, Sioux Falls has witnessed tremendous residential housing growth and business development. During Mayor Munson's tenure, an impressive sum of over 16,000 jobs have been added in the city. Tax valuation in the city has grown from $125 million in 2002 to $229 million today.

Sioux Falls continues to be a great place to work, live, and raise a family, and this has been reflected in numerous top national rankings for quality of life and job development. Most recently, Sioux Falls was named one of the top five cities in the Nation for job prospects by the Manpower Employment Outlook Survey. For the past 8 years, Forbes magazine has ranked Sioux Falls first out of 200 small metropolitan areas as the best places for businesses and careers. From adding 490 acres of parkland throughout Sioux Falls to increasing public safety by adding 50 police officers to the streets, from development of 23,000 acres on the east side of the thriving community to enhancing and improving neighborhoods, Mayor Munson has exhibited a progressive attitude to developing and maintaining Sioux Falls as one of the best cities in our Nation. A recent survey shows that 92 percent of Sioux Falls citizens say their community is a good or excellent place to live. Few city officials can tout such an extraordinary level of satisfaction.

I have enjoyed my working relationship and friendship with Mayor Munson over many years. I have appreciated his can-do attitude, his vision for the future of Sioux Falls, and his team-oriented approach to resolving issues. Most of all, I have enjoyed collaborating with him on several large-scale projects that will continue to enhance the quality of life in Sioux Falls for decades. For example, the roadway from ''Phillips to the Falls'' has been completed. Together, we ensured the future of the Orpheum Theater. We have long been partners to bring much needed water to Sioux Falls with the construction of the Lewis and Clark Regional Water System, which will meet the infrastructure needs for increased growth in the Sioux Falls area far into the future.

Mayor Munson has provided a lasting legacy of leadership that will benefit the citizens of Sioux Falls for generations to come. His dedication and commitment to the people of Sioux Falls is unmatched, and I commend his distinguished service as mayor. Another of his achievements, the illumination at Christmastime of the falls for which the city is named, will serve as an annual reminder of his leadership. As Mayor Munson concludes his final tenure, I thank him for his service, and I wish him all the best in his future endeavors.●

TRIBUTE TO LOUISIANA WWII VETERANS

● Ms. LANDRIEU. Mr. President, I would like to thank my colleagues for the time this morning to speak about a very special flight that just took place. The Louisiana HonorAir flight that came into Washington on Saturday, April 10 included a group of 82 World War II veterans from Louisiana. These veterans visited the various memorials and monuments that recognize the sacrifices of our Nation's invaluable servicemembers.

Louisiana HonorAir, a group based in Lafayette, LA, sponsored this latest trip—its 21st flight—to the Nation's Capital. The organization honors surviving Louisiana World War II veterans by giving them an opportunity to see the memorials dedicated to their service. On this trip, the veterans visited the World War II, Korea, Vietnam and Iwo Jima memorials. They traveled to Arlington National Cemetery to lay a wreath on the Tomb of the Unknown Soldier.

World War II was one of America's greatest triumphs, but was also a conflict rife with individual sacrifice and tragedy. More than 60 million people worldwide were killed, including 40 million civilians, and more than 400,000 American servicemembers were slain during the long war. The ultimate victory over enemies in the Pacific and in Europe is a testament to the valor of American soldiers, sailors, airmen and marines. The years 1941 to 1945 also witnessed an unprecedented mobilization of domestic industry, which supplied our military on two distant fronts.

In Louisiana, there are roughly 30,000 living WWII veterans, and each one has a heroic tale of achieving the noble victory of freedom over tyranny. The oldest in this HonorAir group was born in 1918. Some began their service as early as 1940, before the bombing of Pearl Harbor, and some members of this group served as late as 1972. This HonorAir group served in various branches of the military: 31 in the U.S. Army, 21 in the Navy, 16 in the Air Force, 7 in the Marine Corps, 2 in the Coast Guard, 2 in the Merchant Marines and 1 was a Women's Army Corps Member, WAC.

Our heroes trekked the world for their country. They served across the globe, participating in major invasions such as those at Iwo Jima, Okinawa, Guadalcanal, Leyte, the Phillippines, and southern France.

One was a prisoner of war in Germany, while others fought in the historic Battle of the Bulge or stormed the beaches at Normandy.

Many of these veterans have been decorated with multiple Purple Hearts, Bronze Star Medals, Air Medals and Navy Crosses.

These men and women, who have given so much for our country, truly represent our greatest generation. I ask the Senate to join me in honoring these 82 veterans, all Louisiana heroes, that we welcomed to Washington on April 10 and Louisiana HonorAir for making these trips a reality.●

RECOGNIZING SEA BAGS, INC.

● Ms. SNOWE. Mr. President, today I honor a Maine small business that has not only captured Maine history and tradition through their unique craft, but has also aimed to selflessly support various organizations and charities throughout the State of Maine for over a decade. Sea Bags, Inc., coowned by Maine natives Hannah Kubiak and Beth Shissler, is based in Maine's largest city, Portland, and has been using recycled sails to create inventive, environmentally friendly purses and tote bags that are ''sailed around the world'' and ''recycled in Maine.''

Sea Bags, Inc. was founded in 1999 on the principle that ''recycling is not just a fad, but a responsibility.'' And while they own a globally successful business, Hannah Kubiak and Beth Shissler have always emphasized making a positive and lasting impact locally. Ms. Kubiak, who grew up sailing in the famed seaside town of Kennebunkport, was inspired by her father, who would often brainstorm ways to reuse old sails. Additionally, Ms. Shissler travelled the world in her work for several large companies before being drawn home to put her business experience to use at Sea Bags. Their work has been featured in a variety of publications, including Vanity Fair; the New York Times; Vogue; and O, the Oprah Magazine.

Believing that everyone should have a second chance, Sea Bags has previously partnered with the Maine Department of Correction's Industries Program to engage inmates at the Maine Correctional Institute for Women in helping make the bags and teaching them job skills such as sewing. This 2-year collaboration helped the company keep up with the increased demand in recent years. In 2005, Sea Bags was selling roughly 60 items per year, and it now sells over 2,000 each month. In addition to its line of regular, everyday tote bags—which are water resistant and durable—the company also offers creative bath mats, coasters, and shaving kits. Sea Bags has also created a limited-edition line of ''Cure Bags'' to ''celebrate a cure'' for breast cancer. Fifty percent of all of the proceeds from Cure Bags goes to the Maine Cancer Foundation for breast cancer support and awareness programs.

When it comes to supporting Maine's timeless tradition of sailing, Sea Bags donates to the Sail Maine Scholarship Fund with the aim of helping underprivileged children learn how to sail. Sea Bags has teamed up with other local nautical organizations, including the Islesboro Yacht Club Youth Sailing Program, the Compass Project, and the

Maine Maritime Academy, to sustain the historic art of sailing. Additionally, for the 2008 Olympics, Sea Bags created a line of totes to support the quest of New England sailors Andy Horton and Brad Nichol, pledging $40,000 to help send the athletes to Beijing.

Hannah Kubiak and Beth Shissler have offered a vivid example of the difference a small business can make in a community locally, and globally, through a noble devotion to social responsibility. It is evident that through their distinctive dedication to promoting recycling and assisting charities, they have started a trend in responsible entrepreneurship that other small companies will surely emulate. I sincerely thank Ms. Kubiak and Ms. Shissler and everyone at Sea Bags, Inc. for their continued service to the State of Maine, and offer my best wishes for their future success.●

TRIBUTE TO ASHLEY VAN DEN TOP

● Mr. THUNE. Mr. President, today I recognize Ashley Van Den Top, an intern in my Sioux Falls, SD, office, for all of the hard work she has done for me, my staff, and the State of South Dakota over the past several months.

Ashley is a graduate of Western Christian High School in Rock Valley, IA. Currently she is attending National American University, where she is majoring in paralegal studies. She is a hard worker who has been dedicated to getting the most out of her internship experience.

I would like to extend my sincere thanks and appreciation to Ashley for all of the fine work she has done and wish her continued success in the years to come.●

RECOGNIZING DAKOTA BUSINESS FINANCE

● Mr. THUNE. Mr. President, today I recognize Dakota BUSINESS Finance, a company in South Dakota being awarded as the Certified Development Company of the year by the U.S. Small Business Administration. Dakota BUSINESS Finance will be presented with this award as part of the U.S. Small Business Administration's Small Business Week in Washington, DC, on May 23–25.

Since becoming a certified development company, Dakota BUSINESS Finance has become one of the fastest growing certified development companies in the Nation. Dakota BUSINESS Finance has created nearly 500 jobs after processing more than $45 million in approved SBA 504 loan applications to more than 50 applicants. The 504 loan program provides a number of financing options for businesses that are looking to procure land or other types of fixed assets.

Dakota BUSINESS Finance has also been recognized with the Asset Builder Award for Federal Fiscal Year 2009 by the South Dakota Small Business Administration's District Office. This award is for the largest approved load volume for a certified development company in South Dakota in 2009. Dakota BUSINESS Finance has come a long way, and I look forward to their continued success.

It is organizations such as Dakota BUSINESS Finance that keep South Dakota small businesses growing and flourishing. So it gives me great pleasure to commemorate Dakota BUSINESS Finance on this special occasion and wish them continued successes in the years to come.●

RECOGNIZING SIOUX FALLS NATIONAL WEATHER SERVICE

● Mr. THUNE. Mr. President, today I recognize the Sioux Falls National Weather Service, a public weather informer that has been serving the U.S. since 1870.

Volunteers began making weather observations in the Sioux Falls area in 1890 creating the basis for the Sioux Falls station. From its first local forecast to the public in 1955 to the harsh weather South Dakota experienced this past winter, the station has kept State residents apprised of current conditions.

There is a strong need for the weather service to effectively communicate information to the public regarding storms, floods, wildfires, tornados, hail, and blizzards. The Sioux Falls National Weather Service provides these advisories for the area to keep families safe and informed.

The Sioux Falls National Weather Service played a vital role in helping the news media inform South Dakotans about the snow storms that hit South Dakota last winter. I would like to offer my appreciation to the staff at the Sioux Falls Weather Forecast Office for their devotion to residents during times of critical need.●

TRIBUTE TO HENRY SHELTON

● Mr. WHITEHOUSE. Mr. President, today I wish to honor a Rhode Islander who has devoted his life to improving the lot of others. For decades now, the name Henry Shelton has rung out as a clarion for social justice and equality in our Ocean State. He is and has always been a voice for the little guy—the homeless veteran, the hungry child, or the underpaid laborer.

Most folks in Rhode Island know Henry as the founder and coordinator of the George Wiley Center, a nonprofit antipoverty organization based in Pawtucket. But before that, Henry was a Catholic priest for 16 years, during which he began organizing needy Rhode Islanders in Providence to elect leaders responsive to their needs. In 1973 he left the church to marry his beloved Carol, a former nun who shared his passion for advocacy.

Ever since then, Henry has been ''raising hell,'' as he might say, and fighting for Rhode Island's overlooked and underpaid. In 1974 he started the Coalition for Consumer Justice and in 1981 founded the George Wiley Center. Over the years Henry has organized sit-ins, battled budget cuts, fasted to get clothes for children on welfare, advocated to keep electricity rates down for low income residents, and even been arrested for disorderly conduct—a fact which may amuse those who know Henry as a peaceful and gentle man.

And last year, Henry fought through his toughest battle yet. Just before the New Year, Henry suffered a serious stroke which landed him in the hospital. Anyone with a friend or family member who has experienced a stroke knows that the recovery is often a slow and painful process, but none of this stopped Henry. In fact, the headline in the Providence Journal following his hospitalization read: ''Advocate for the poor, Henry Shelton, suffers stroke—but continue work from hospital.'' The paper went on to report that Henry organized a State house rally from his hospital bed.

This is the Henry I know, and who we in Rhode Island have known and loved for many years. This Monday in Rhode Island, the Fund for Community Progress will present Henry with its Profile in Courage Award, which the organization describes as a ''distinctive honor for those who have dedicated their lives to creating positive change in the community.'' Henry Shelton has generated enough positive change in his life to satisfy that requirement many times over.

And so today, Mr. President, I would like to thank Henry Shelton for a lifetime of selflessness and courage, and for always being a voice for those who needed one most.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Pate, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:18 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 5147. An act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and

Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. REID).

At 12:19 p.m., a message from the House of Representatives, delivered by Mrs. Cole, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3393. An act to amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars.

H.R. 5013. An act to amend title 10, United States Code, to provide for performance management of the defense acquisition system, and for other purposes.

H.R. 5148. An act to amend title 39, United States Code, to clarify the instances in which the term ''census'' may appear on mailable matter.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 264. Concurrent resolution authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

ENROLLED BILL SIGNED

The Acting President pro tempore (Mr. REID) reported that he had signed the following enrolled bill, which was previously signed by the Speaker of the House:

S. 3253. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3393. An act to amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5013. An act to amend title 10, United States Code, to provide for performance management of the defense acquisition system, and for other purposes; to the Committee on Armed Services.

H.R. 5148. An act to amend title 39, United States Code, to clarify the instances in which the term ''census'' may appear on mailable matter; to the Committee on Homeland Security and Governmental Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, April 29, 2010, she had presented to the President of the United States the following enrolled bill:

S. 3253. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5627. A communication from the Deputy Director of Regulations and Policy Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Prevention of Salmonella Enteritidis in Shell Eggs During Production, Storage, and Transportation; Change of Registration Date, Address, and Telephone Number; Technical Amendment'' (Docket No. FDA–2000–N–190) received in the Office of the President of the Senate on April 27, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5628. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Importation of Papayas From Colombia and Ecuador'' ((RIN0579–AC95)(Docket No. APHIS–2008–0050)) received in the Office of the President of the Senate on April 28, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5629. A communication from the Director of the Regulatory Review Group, Commodity Credit Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Direct and Counter-Cyclical Program and Average Crop Revenue Election Program, Disaster Assistance Programs, Marketing Assistance Loans and Loan Deficiency Payments Program, Supplemental Revenue Assistance Payments Program, and Payment Limitation and Payment Eligibility; Clarifying Amendments'' ((7 CFR 1400, 1412, and 1421)(RIN0560–AH84)) received in the Office of the President of the Senate on April 29, 2010; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5630. A communication from the Director of Defense Procurement and Acquisition Policy, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Defense Federal Acquisition Regulation Supplement; Service Contract Surveillance'' (DFARS Case 2008–D032) received in the Office of the President of the Senate on April 29, 2010; to the Committee on Armed Services.

EC–5631. A communication from the Secretary of Energy, transmitting a legislative proposal relative to the Department of Energy's efforts to develop a sustainable nuclear materials protection, control, and accounting system for the nuclear materials of the Russian Federation that is supported solely by the Russian Federation, received in the Office of the President of the Senate on April 6, 2010; to the Committee on Armed Services.

EC–5632. A communication from the General Counsel of the Department of Defense, transmitting a legislative proposal relative to the National Defense Authorization Bill for fiscal year 2011, received in the Office of the President of the Senate on March 17, 2010; to the Committee on Armed Services.

EC–5633. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations (75 FR 18070)'' ((44 CFR Part 65)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on April 27, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5634. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations (75 FR 18073)'' ((44 CFR Part 65)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on April 27, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5635. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations (75 FR 18074)'' ((44 CFR Part 65)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on April 27, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5636. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations (75 FR 18079)'' ((44 CFR Part 65)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on April 27, 2010; to th e Committee on Banking, Housing, and Urban Affairs.

EC–5637. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations (75 FR 18082)'' ((44 CFR Part 65)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on April 27, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5638. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations (75 FR 18084)'' ((44 CFR Part 65)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on April 27, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5639. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations (75 FR 18088)'' ((44 CFR Part 65)(Docket No. FEMA–2010–000)) received in the Office of the President of the Senate on April 27, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5640. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility (75 FR 19891)'' ((44 CFR Part 64)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on April 27, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5641. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations (75 FR 19895)'' ((44 CFR Part 67)(Docket No. FEMA–2010–0003)) received in the Office of the President of the Senate on April 27, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5642. A communication from the Chief Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Community Disaster Loans Program'' ((RIN1660–AA44)(Docket No. FEMA–2005–0051)) received during adjournment of the Senate in the Office of the President of the Senate on April 8, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5643. A communication from the Associate General Counsel for Legislation and Regulations, Office of Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Regulatory Reporting Requirements for the Indian Community Development Block Grant Program'' (RIN2577–AC79) received in the Office of the President of the Senate on April 29, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5644. A communication from the Associate General Counsel for Legislation and Regulations, Office of Housing—Federal Housing Commissioner, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Federal Housing Administration: Continuation of FHA Reform; Strengthening Risk Management Through Responsible FHA-Approved Lenders'' (RIN2502–AI81) received in the Office of the President of the Senate on April 29, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5645. A communication from the Assistant Director for Policy, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Somalia Sanctions Regulations'' (31 CFR Part 551) received in the Office of the President of the Senate on April 29, 2010; to the Committee on Banking, Housing, and Urban Affairs.

EC–5646. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to the situation in or in relation to the Democratic Republic of the Congo that was declared in Executive Order 13413 of October 27, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–5647. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to the stabilization of Iraq that was declared in Executive Order 13303 of May 22, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC–5648. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Syria that was declared in Executive Order 13338 of May 11, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–5649. A communication from the Acting Director of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska'' (RIN0648–XU89) received in the Office of the President of the Senate on April 26, 2010; to the Committee on Commerce, Science, and Transportation.

EC–5650. A communication from the Assistant Secretary of Land and Minerals Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Update of Revised and Reaffirmed Documents Incorporated by Reference'' (RIN1010–AD54) received in the Office of the President of the Senate on April 28, 2010; to the Committee on Energy and Natural Resources.

EC–5651. A communication from the Director of the Regulatory Management Division, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings'' (FRL No. 8823–6) received in the Office of the President of the Senate on April 28, 2010; to the Committee on Environment and Public Works.

EC–5652. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''LMSB Industry Director Directive on Domestic Production Deduction (DPD) No. 4'' (LMSB–4–0310–010) received in the Office of the President of the Senate on April 26, 2010; to the Committee on Finance.

EC–5653. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Specified Tax Credit Bonds'' (Notice No. 2010–35) received in the Office of the President of the Senate on April 28, 2010; to the Committee on Finance.

EC–5654. A communication from the Chief of the Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''LMSB Industry Director Directive Tier II—Extraterritorial Income Exclusion Effective Date and Transition Rules'' (LMSB–4–3010–011) received in the Office of the President of the Senate on April 26, 2010; to the Committee on Finance.

EC–5655. A communication from the Program Manager, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare and Medicaid Programs; Waiver of Disapproval of Nurse Aide Training Program in Certain Cases'' (RIN0938–AO82) received in the Office of the President of the Senate on April 26, 2010; to the Committee on Finance.

EC–5656. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of Homeland Security, transmitting, proposed legislation relative to Sportfishing and Recreational Boating Safety, received during adjournment of the Senate in the Office of the President of the Senate on April 2, 2010; to the Committee on Finance.

EC–5657. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 2010–0064–2010–0068); to the Committee on Foreign Relations.

EC–5658. A communication from the Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting, pursuant to law, the Agency's response to the GAO report entitled ''Iraqi Refugee Assistance: Improvements Needed in Measuring Progress, Assessing Needs, Tracking Funds, and Developing an International Strategic Plan''; to the Committee on Foreign Relations.

EC–5659. A communication from the Deputy Assistant Administrator, Bureau for Legislative and Public Affairs, U.S. Agency for International Development, transmitting, pursuant to law, the Agency's second fiscal year 2010 quarterly report relative to unobligated and unexpended appropriated funds; to the Committee on Foreign Relations.

EC–5660. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the second quarter for fiscal year 2009 quarterly report of the Department of Justice's Office of Privacy and Civil Liberties; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. AKAKA, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1237. A bill to amend title 38, United States Code, to expand the grant program for homeless veterans with special needs to include male homeless veterans with minor dependents and to establish a grant program for reintegration of homeless women veterans and homeless veterans with children, and for other purposes (Rept. No. 111–175).

By Mr. LEAHY, from the Committee on the Judiciary, without amendment:

S. 657. A bill to provide for media coverage of Federal court proceedings.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. LEAHY for the Committee on the Judiciary.

David B. Fein, of Connecticut, to be United States Attorney for the District of Connecticut for the term of four years.

Zane David Memeger, of Pennsylvania, to be United States Attorney for the Eastern District of Pennsylvania for the term of four years.

Clifton Timothy Massanelli, of Arkansas, to be United States Marshal for the Eastern District of Arkansas for the term of four years .

Paul Ward, of North Dakota, to be United States Marshal for the District of North Dakota for the term of four years.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BENNET (for himself, Mr. BAUCUS, and Mr. CRAPO):

S. 3278. A bill to establish the Meth Project Prevention Campaign Grant Program; to the Committee on the Judiciary.

By Mr. WYDEN (for himself, Ms. STABENOW, Mr. MERKLEY, Mr. SPECTER, Mrs. HAGAN, and Mr. HARKIN):

S. 3279. A bill to reauthorize the national small business tree planting program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. LEVIN (by request):

S. 3280. A bill to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense and for military construction, to prescribe military personnel strengths for such fiscal year, and for other purposes; to the Committee on Armed Services.

By Mr. SPECTER:

S. 3281. A bill to expand student loan forgiveness, to provide loan repayment assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER:

S. 3282. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity tax credit for employers of certain veterans; to the Committee on Finance.

By Mrs. BOXER:

S. 3283. A bill to designate Mt. Andrea Lawrence; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 3284. A bill to designate a Distinguished Flying Cross National Memorial at the March Field Air Museum in Riverside, California; to the Committee on Energy and Natural Resources.

By Mrs. LINCOLN (for herself and Mr. PRYOR):

S. 3285. A bill to help certain communities adversely affected by FEMA's flood mapping modernization program; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SPECTER:

S. 3286. A bill to require the Secretary of Veterans Affairs to carry out a pilot program on the award of grants to State and local government agencies and nonprofit organizations to provide assistance to veterans with their submittal of claims to the Veterans Benefits Administration, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BROWNBACK (for himself, Mr. ROBERTS, and Mr. BEGICH):

S. 3287. A bill to award a Congressional Gold Medal in honor of the recipients of assistance under the Servicemen's Readjustment Act of 1944 (commonly referred to as the ''GI Bill of Rights'') in recognition of the great contributions such recipients made to the Nation in both their military and civilian service and the contributions of Harry W. Colmery in initiating actions which led to the enactment of that Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LAUTENBERG (for himself and Mr. DURBIN):

S. 3288. A bill to amend the Internal Revenue Code to reduce tobacco smuggling, and for other purposes; to the Committee on Finance.

By Mr. CARDIN:

S. 3289. A bill to amend the American Recovery and Reinvestment Tax Act of 2009 to allow specified energy property grants to real estate investment trusts without regard to the ratable share income limitations; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. TESTER):

S. 3290. A bill to modify the purposes and operation of certain facilities of the Bureau of Reclamation to implement the water rights compact among the State of Montana, the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana, and the United States, and for other purposes; to the Committee on Indian Affairs.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 3291. A bill to establish Coltsville National Historical Park in the State of Connecticut, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER (for himself and Mr. CASEY):

S. 3292. A bill to amend the Richard B. Russell National School Lunch to establish a weekend and holiday feeding program to provide nutritious food to at-risk school children on weekends and during extended school holidays during the school year; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN (for himself, Mr. HATCH, Mr. DODD, Mr. REID, Ms. SNOWE, Ms. MIKULSKI, Ms. COLLINS, Mr. CASEY, Mr. RISCH, Mr. FRANKEN, and Mr. JOHANNS):

S. 3293. A bill to reauthorize the Special Olympics Sport and Empowerment Act of 2004, to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BURR (for himself, Mrs. HAGAN, and Mr. KAUFMAN):

S. Res. 505. A resolution congratulating the Duke University men's basketball team for winning the 2009–2010 NCAA Division I Men's Basketball National Championship; to the Committee on the Judiciary.

By Mr. BROWNBACK (for himself and Mr. CARDIN):

S. Res. 506. A resolution designating May 2010 as ''National X and Y Chromosomal Variations Awareness Month''; to the Committee on the Judiciary.

By Mr. MENENDEZ (for himself, Mr. HATCH, Mr. REID, Mr. LUGAR, Mr. DURBIN, Mr. BINGAMAN, Mr. LAUTENBERG, Mrs. MURRAY, Mr. CASEY, Mrs. GILLIBRAND, and Mr. AKAKA):

S. Res. 507. A resolution designating April 30, 2010, as ''Dia de los Ninos: Celebrating Young Americans''; considered and agreed to.

By Mr. JOHNSON (for himself and Mr. BENNETT):

S. Res. 508. A resolution recognizing June 2010 as National Hereditary Hemorrhagic Telangiecstasia (HHT) month established to increase awareness of HHT, which is a complex genetic blood vessel disorder that affects approximately 70,000 people in the United States; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BURRIS:

S. Res. 509. A resolution designating April 2010 as ''National STD Awareness Month''; to the Committee on the Judiciary.

By Mrs. LINCOLN (for herself, Mr. CHAMBLISS, Mrs. MURRAY, Mr. PRYOR, Mr. BAUCUS, Mr. CASEY, Mr. DURBIN, Mr. REID, Mr. KOHL, Mr. HARKIN, Mr. BENNET, Mr. BROWNBACK, Mr. GRASSLEY, Mr. CRAPO, Mr. LEAHY, and Mr. JOHANNS):

S. Con. Res. 62. A concurrent resolution congratulating the outstanding professional public servants, both past and present, of the Natural Resources Conservation Service on the occasion of its 75th anniversary; considered and agreed to.

ADDITIONAL COSPONSORS

S. 306

At the request of Mr. NELSON of Nebraska, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 306, a bill to promote biogas production, and for other purposes.

S. 471

At the request of Ms. SNOWE, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. 471, a bill to amend the Education Sciences Reform Act of 2002 to require the Statistics Commissioner to collect information from coeducational secondary schools on such schools' athletic programs, and for other purposes.

S. 653

At the request of Mr. CARDIN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 653, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the writing of the Star-Spangled Banner, and for other purposes.

S. 657

At the request of Mr. LEAHY, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 657, a bill to provide for media coverage of Federal court proceedings.

S. 934

At the request of Mr. HARKIN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 934, a bill to amend the Child Nutrition Act of 1966 to improve the nutrition and health of schoolchildren and protect the Federal investment in the national school lunch and breakfast programs by updating the national school nutrition standards for foods and beverages sold outside of school meals to conform to current nutrition science.

S. 1025

At the request of Ms. COLLINS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1025, a bill to prohibit termination of employment of volunteer firefighters and emergency medical personnel responding to emergencies or major disasters, and for other purposes.

S. 1055

At the request of Mrs. BOXER, the names of the Senator from New Hampshire (Mrs. SHAHEEN) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1055, a bill to grant the congressional gold medal, collectively, to the 100th Infantry Battalion and the 442nd Regimental Combat Team, United States Army, in recognition of their dedicated service during World War II.

S. 1233

At the request of Ms. LANDRIEU, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1233, a bill to reauthorize and improve the SBIR and STTR programs and for other purposes.

S. 1241

At the request of Mr. INHOFE, the name of the Senator from Idaho (Mr. RISCH) was added as a cosponsor of S. 1241, a bill to amend Public Law 106–206 to direct the Secretary of the Interior and the Secretary of Agriculture to require annual permits and assess annual fees for commercial filming activities on Federal land for film crews of 5 persons or fewer.

S. 1275

At the request of Mr. WARNER, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1275, a bill to establish a National Foundation on Physical Fitness and Sports to carry out activities to support and supplement the mission of the President's Council on Physical Fitness and Sports.

S. 1683

At the request of Mr. BENNET, the name of the Senator from Minnesota

(Ms. KLOBUCHAR) was added as a cosponsor of S. 1683, a bill to apply recaptured taxpayer investments toward reducing the national debt.

S. 2869

At the request of Ms. LANDRIEU, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2869, a bill to increase loan limits for small business concerns, to provide for low interest refinancing for small business concerns, and for other purposes.

S. 2881

At the request of Ms. SNOWE, the name of the Senator from Delaware (Mr. KAUFMAN) was added as a cosponsor of S. 2881, a bill to provide greater technical resources to FCC Commissioners.

S. 2989

At the request of Ms. LANDRIEU, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2989, a bill to improve the Small Business Act, and for other purposes.

S. 3039

At the request of Mr. UDALL of New Mexico, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 3039, a bill to prevent drunk driving injuries and fatalities, and for other purposes.

S. 3164

At the request of Mr. LAUTENBERG, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 3164, a bill to amend the Internal Revenue Code of 1986 to extend financing of the Superfund.

S. 3165

At the request of Ms. LANDRIEU, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3165, a bill to authorize the Administrator of the Small Business Administration to waive the non-Federal share requirement under certain programs.

S. 3178

At the request of Mr. BROWN of Ohio, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 3178, a bill to amend the Workforce Investment Act of 1998 to provide for the establishment of Youth Corps programs and provide for wider dissemination of the Youth Corps model.

S. 3181

At the request of Mrs. BOXER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3181, a bill to protect the rights of consumers to diagnose, service, maintain, and repair their motor vehicles, and for other purposes.

S. 3184

At the request of Mrs. BOXER, the name of the Senator from Rhode Island (Mr. WHITEHOUSE) was added as a cosponsor of S. 3184, a bill to provide United States assistance for the purpose of eradicating severe forms of trafficking in children in eligible countries through the implementation of Child Protection Compacts, and for other purposes.

S. 3190

At the request of Ms. LANDRIEU, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Idaho (Mr. RISCH) were added as cosponsors of S. 3190, a bill to reaffirm that the Small Business Reauthorization Act of 1997 does not limit a contracting officer's discretion regarding whether to make a contract available for award pursuant to any of the restricted competition programs authorized by the Small Business Act.

S. 3206

At the request of Mr. HARKIN, the names of the Senator from Maryland (Mr. CARDIN), the Senator from Vermont (Mr. LEAHY) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 3206, a bill to establish an Education Jobs Fund.

S. 3233

At the request of Mr. BARRASSO, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 3233, a bill to amend the Atomic Energy Act of 1954 to authorize the Secretary of Energy to barter, transfer, or sell surplus uranium from the inventory of the Department of Energy, and for other purposes.

S. 3234

At the request of Mrs. MURRAY, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 3234, a bill to improve employment, training, and placement services furnished to veterans, especially those serving in Operation Iraqi Freedom and Operation Enduring Freedom, and for other purposes.

S. 3260

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3260, a bill to enhance and further research into the prevention and treatment of eating disorders, to improve access to treatment of eating disorders, and for other purposes.

S. 3265

At the request of Mr. MCCAIN, the names of the Senator from Nebraska (Mr. JOHANNS) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. 3265, a bill to restore Second Amendment rights in the District of Columbia.

S. 3275

At the request of Mr. BAUCUS, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Kentucky (Mr. BUNNING) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 3275, a bill to extend the Caribbean Basin Economic Recovery Act, to provide customs support services to Haiti, and for other purposes.

S. CON. RES. 61

At the request of Mr. PRYOR, his name was added as a cosponsor of S. Con. Res. 61, a concurrent resolution expressing the sense of the Congress that general aviation pilots and industry should be recognized for the contributions made in response to Haiti earthquake relief efforts.

S. RES. 345

At the request of Mrs. BOXER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 345, a resolution deploring the rape and assault of women in Guinea and the killing of political protesters on September 28, 2009.

S. RES. 502

At the request of Mr. WYDEN, the names of the Senator from Colorado (Mr. UDALL) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. Res. 502, a resolution eliminating secret Senate holds.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself, Ms. STABENOW, Mr. MERKLEY, Mr. SPECTER, Mrs. HAGAN, and Mr. HARKIN):

S. 3279. A bill to reauthorize the national small business tree planting program, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Mr. WYDEN. Mr. President, today I am introducing the Small Business Environmental Stewardship Assistance Act of 2010, a companion bill to the legislation introduced in the House by another member of the Oregon delegation, Congressman SCHRADER. I am pleased to launch this legislation in the Senate and am joined today by Senator MERKLEY from my home State, as well as Senators STABENOW, SPECTER, and HARKIN.

Trees provide numerous benefits to our communities—from cleaner air to energy efficiency to more beautiful city streets. But trees and green spaces are also good for business and good for green job creation. Beyond the most obvious benefits of trees, studies have shown that businesses thrive in green, attractive, pedestrian-oriented retail environments. And this legislation will help America's small businesses and communities plant trees and enhance those kinds of environments. As a Senator from Oregon—a State that grows many of the trees that beautify cities around our Nation, including some of the very trees that grace the Capitol grounds—I also know how critical jobs in our nursery and landscaping sector can be. In my State, the industry provides 21,000 jobs and helps provide over $2 billion worth of economic activity.

This bill would reauthorize the National Small Business Tree Planting Program, which existed for several years in the 1990s. Between 1991 and 1994, more than 18,000 green industry firms were employed to plant more than 23 million trees across the country through the Small Business Administration program. This program had numerous successes, including in my home State where 109 tree planting

grants were administered between 1991 and 1994. Nearly 11,700 shade, landscape, and riparian area trees were planted.

The program would be authorized at $50 million a year between fiscal years 2011 and 2015. The funding provides grants to State forestry agencies to enable communities to plant trees around retail storefronts, rental housing units, and other public areas. This program requires a 25-percent match for any grant received under the program, including in-kind contributions such as the cost or value of providing care and maintenance for a period of 3 years after planting. Having a match requirement ensures that both private and community investments are made for the installation and care of trees funded by this program Ultimately, this program will lead to healthier, greener more vibrant communities and result in green jobs. I look forward to working with Senate cosponsors, the nursery industry, State foresters, and the bill's other supporters to advance this legislation to the President's desk.

By Mr. SPECTER:

S. 3281. A bill to expand student loan forgiveness, to provide loan repayment assistance, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. SPECTER. Mr. President, I seek recognition today to introduce an important piece of legislation entitled the Student Loan Forgiveness and Repayment Assistance Act of 2010.

This legislation is in response to the increasingly high cost of postsecondary education, an important issue that I recently discussed with Pennsylvania students. During this conversation I discussed the need for what I called an ''education bill of rights'' and today I am introducing a practical approach to increasing the accessibility and affordability of higher education.

On March 30, 2010, the President signed into law the Student Aid and Fiscal Responsibility Act, AFRA, as part of the healthcare and education reconciliation bill, which I am proud to have supported in the Senate. This historic legislation made an important investment in higher education, including: $36 billion to fund and strengthen the Pell Grant program, $2.55 billion to support Historically Black Colleges and Universities and Minority Serving Institutions, $1.5 billion to strengthen the Income Based Repayment, IBR, plan as well as several other student financial assistance and deficit reduction provisions.

These actions were an important first step, but we must do more. According to Campus Progress—the total federal student debt is more than $617 million; the average student today graduates college with student debt 25 percent higher than that of college graduates a decade ago; the average college senior graduated with $4,100 in credit card debt and $23,200 in student loans; almost 7 in 10 college graduates are burdened with educational debt; student debt is outpacing the starting salaries of jobs in teaching and social work; 38 percent of graduates delay buying their first house because of debt, 14 percent marriage, and 21 percent delay having children; and over 60 percent of minorities face a gap between their expected family contributions, grants and loans and the cost of their education. These troublesome statistics underscore the need for further action.

I strongly feel that education is our Nation's greatest capital investment. The legislation that I am introducing today reinforces this belief and helps us make several smart investments in our Nation's future. We must improve accessibility to higher education, and the key to accessibility is affordability. For these reasons, the Student Loan Forgiveness and Repayment Assistance Act of 2010 will focus on 5 key initiatives which help make prudent and targeted investments in higher education.

First, my bill will strengthen the IBR plan. The IBR plan is an important tool that helps borrowers afford their monthly student loan payments by capping a borrower's monthly payment based on his/her income and family size. Currently the IBR plan caps monthly payments at 15 percent of a borrower's discretionary income. SAFRA lowered the percentage to 10 percent starting in 2014, which will allow more borrowers to take advantage of this helpful plan. I propose to further reduce the percentage to 7 percent, thereby allowing more students to participate in the IBR plan. In addition to capping monthly payments, a borrower's remaining debt will be forgiven after 20 years of making qualified monthly payments. SAFRA reduced this threshold by 5 years from the original 25 year requirement. My legislation will further reduce the number of years that a borrower must make his/her payments before debt is forgiven to 15 years.

Second, the bill I am introducing will enhance the Public Service Loan Forgiveness Program. This program, which was created in 2007 by the College Cost Reduction and Access Act, discharges remaining student loan debt if the borrower is employed in public service for 10 years. This program not only provides important loan forgiveness, but it encourages essential public service. My legislation proposes to make the benefits of this program more generous and encourage greater public service participation. My bill would reduce the number of years, from 10 to 5 that a borrower must work in the public sector before being able to take advantage of this program. After the 5th year, a percentage of the borrower's debt will be incrementally forgiven each year, up until after the 10th year of public service when all remaining debt will be forgiven.

Third, my legislation will expand the student loan programs or health professions, primary care, and nursing by reducing the interest rate to 3.5 percent. My bill will also expand the health professions student loan program to include physician's assistants. Health care reform's embrace of some 32 million previously uninsured Americans has created a need for additional doctors and nurses. Ways must be found to make medical education more affordable and accompanying debt burdens less onerous. I believe my bill helps achieve this goal.

Fourth, my bill will enhance opportunities for minorities by creating a new pilot program administered by the U.S. Department of Education, which will provide funding opportunities for minority serving institutions. This program will provide grants on a competitive basis to eligible institutions based on a college's plan to increase enrollment and graduation rates without increasing costs to students. My legislation authorizes $100 million annually for this purpose, for 5 years.

Fifth and lastly, my legislation will establish an Assistant Secretary position to evaluate and promote accessibility and affordability in higher education. It is important that we have a person who can not only evaluate the efficacy of the programs that I have discussed and to make recommendations to Congress on how to improve them, but also to help make prospective students aware of how they can gain access to, and afford a higher education. As I said earlier, education is our greatest capital investment, and I believe that the Student Loan Forgiveness and Repayment Assistance Act of 2010 will help our nation make a smart investment in our future.

By Mr. SPECTER:

S. 3282. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity tax credit for employers of certain veterans; to the Committee on Finance.

Mr. SPECTER. Mr. President, the health and future of Pennsylvania's veterans has been a longstanding concern of mine. The first veteran I knew was my father, Harry Specter, a veteran of WWI.

My father received terrific care from the VA following his service to our Nation. I want to make sure today's veterans, whatever their age, receive the benefits and services we owe them.

I have had the privilege of serving for 6 of my nearly 30 years in the Senate as chairman of the Veterans Affairs Committee. Under my chairmanship from 1998 to 2002, funding for the VA increased by 28 percent, and from 2004 to 2006, funding increased a further 16 percent. Such funding increases have allowed the VA to expand to meet increasing challenges.

I want to note at this time that I recently cosponsored legislation to restore collective bargaining rights to VA medical personnel, as their well being is vital to ensuring that veterans get the best possible care.

The ongoing conflicts in Iraq and Afghanistan, coupled with the recession, have put tremendous stress on the VA, and necessitate further improvements. Today I will outline proposals for making improvements in five related areas: reducing the claims backlog; increasing veterans' employment opportunities; combating homelessness among veterans; widening education opportunities through the Post-9/11 GI Bill; and expanding veterans courts.

In a slap at the men and women who fight our wars, a court created by Congress expressly to handle appeals of veterans' disability claims turned down the appeal of a disabled Korean War veteran because he missed a filing deadline.

The veteran, David L. Henderson, served in the military from 1950 to 1952. He was discharged following a diagnosis of paranoid schizophrenia and assigned a 100 percent disability rating. In 2001, he applied for in-home care and was turned down by a regional Veterans Administration department.

The congressionally established Court of Appeals for Veterans Claims—the Veterans Court—then refused to hear his appeal on grounds that he missed the filing deadline by 15 days. A divided federal appeals court upheld the decision.

After fighting a war and suffering long-term disability as a result, Henderson in later life has been penalized because he took 135 days, instead of 120, to file his claims appeal.

The fact that he had good reason for missing the deadline didn't matter. His psychiatrist called him ''incapable of rational thought or deliberate decisionmaking.''

On April 12, 2010, I introduced the Fair Access to Veterans Benefits Act, to provide for the tolling of the timing of review for appeals of final decisions of the Board of Veterans' Appeals. Its main provision would require the United States Court of Appeals for Veterans Claims, known as the Veterans Court, to hear appeals by veterans of administrative decisions denying them benefits when circumstances beyond their control—sometimes the very service-related disabilities that entitle them to benefits—render them unable to meet the deadline for filing an appeal.

On January 28, 2010, I met with VA Secretary Eric Shinseki in my Washington, DC office. Secretary Shinseki identified reducing the VA claims backlog—which currently numbers 400,000—as being his top priority this year. The average processing time for an individual claim was 161 days in January 2010. This is simply too long.

In January 2010, Secretary Shinseki initiated a pilot project at the VA Pittsburgh Regional Office to identify opportunities to reduce the time required for the VA to request and receive evidence required to support veterans' claims. I believe that efforts such as this, which leverage the expertise of veterans' service organizations, will help to decrease significantly the claims backlog by streamlining each claims submission, and so improving the care and benefits given to our veterans. I recently requested that the Milcon/VA Appropriations Subcommittee increase funding by $1 million in fiscal year 2011 for costs associated with expanding the pilot program.

Beyond this pilot program, I am introducing legislation to give the Secretary of the Veterans Affairs the authority to award grants to state and local agencies, and non-profit organizations such as VSOs, to assist in collecting evidence and submitting claims. I believe this pre-submission assistance will aid the Veterans Benefits Administration in reducing the claims backlog.

The National Guard has played a vital role in ensuring our nation's security since September 11, 2001. The citizen soldiers and airmen serving in the Guard have been called upon to serve both domestically and overseas.

Current law protects Guardsmen who are called up to serve overseas from losing their civilian jobs, but the same degree of protection does not extend to domestic missions. After repeated deployments, Guardsmen could soon find themselves having to chose between critical national security missions—like protecting the southern border or responding to natural disasters—and keeping their civilian job due to a five-year cap on cumulative service for employment protection, which can be waived for overseas service but currently not domestic.

Legislation is needed to ensure that Guardsmen receive the same employment protection whether they are called to serve domestically or overseas.

Congress took an important step when it established a tax credit incentivizing the hiring of Iraq and Afghanistan veterans as part of the American Recovery and Reinvestment Act. This tax credit is set to expire in August 2011, and I am introducing legislation to extend through 2010 the veteran-specific provisions of the tax credit to assist recently discharged veterans secure employment.

On November 3, 2009, Secretary of Veterans Affairs Eric Shinseki unveiled an ambitious five-year plan to end homelessness among the nation's veterans. According to the VA's latest estimates, there are currently 107,000 homeless veterans, down from 131,000 in 2008.

The VA's fiscal year 2011 budget request includes $4.2 billion to prevent and reduce homelessness among Veterans—over $3.4 billion for core medical services and $799 million for specific homeless programs and expanded medical programs.

On November 11, 2009, I held a field hearing on the issue of unemployment and homelessness among veterans. Among those who testified were four formerly homeless veterans who have benefited from HUD–VASH vouchers and VA job training programs. The hearing highlighted the success of the HUD–VASH voucher program and the need to expand it, so I cosponsored Sen. REED's Zero Tolerance for Veterans Homelessness Act of 2009, which would increase the number of vouchers by 60,000 over the next four years. Additionally, two of the witnesses were single mothers. Their testimony underscored the importance of tailoring assistance to the needs of individual veterans, and to ensuring that the specific needs of veterans with special needs, such as homeless female veterans and homeless veterans with children are addressed. I cosponsored Senator MURRAY's Homeless Women Veterans and Homeless Veterans with Children Act, which would authorize $10 million a year in grants for five years to assist homeless veterans with special needs or dependents. I voted for this legislation when it was passed by the Veterans Affairs Committee on January 28, 2010.

The GI Bill of Rights, which had remained largely unchanged for over two decades, was in need of revision. I was pleased to cosponsor and advocate for the Post-9/11 GI bill, which was signed into law in June 2008. This bill, which went into effect in August 2009, will provide for this generation what the post-WWII GI Bill provided for veterans of that conflict. As our men and women serving today will continue to lead and serve our country tomorrow, it is in our best interest to ensure that they are afforded higher educational opportunities.

Yet there remain aspects of this legislation which need improvement. While all veterans deserve educational opportunities, they also deserve the right to choose where to secure their education. For some, a vocational program, apprenticeship, or on the job training is more appealing than a traditional university education. We should support such decisions, and so I recently cosponsored the Veterans Training Act, introduced by Senator LINCOLN, to make this enhancement.

Various studies report that between 20- and 50-percent of the veterans returning from the Iraq and Afghanistan wars will suffer from post-traumatic stress disorder, PTSD, depression, traumatic brain injury, TBI, or other mental disorders, and half of those veterans will not receive the mental health care they need.

The symptoms and subsequent behavior associated with PTSD and TBI, as well as the abuse of drugs and alcohol by veterans suffering from these symptoms, bring many of these veterans into contact with the criminal justice system. Veterans account for 9 of every 100 inmates in U.S. jails and prisons. In Pennsylvania state prisons, there are approximately 3,000 male and female military veterans currently incarcerated, according to Dr. Mark L. Dembert, Chief of Psychiatry, Bureau of Health Care Services, Pennsylvania

Department of Corrections. That number does not include those locked up in county jails.

The chief goal of the Veterans Court program is to direct veterans who have been charged with a crime into an intensely monitored network of support coordinated by the VA and the courts. While Veterans Courts are voluntary, they will offer participating veterans a pathway to rehabilitation and reduced rates of recidivism. Following my February 2010 hearing on veterans courts in Pittsburgh, I cosponsored legislation, S. 902, the Services, Education, and Rehabilitation for Veterans Act, introduced by Senators KERRY and MURKOWSKI, which would authorize the Attorney General to award grants up to $25 million over 5 years to assist States in the development of Veterans Courts.

Our freedom has been assured by the courageous service of our veterans. Our gratitude can best be shown by ensuring that their needs are met, whether medical, educational, professional or legal. I will continue to fight for treatment of our veterans worthy of the sacrifices they have made and dedication they have shown.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 3284. A bill to designate a Distinguished Flying Cross National Memorial at the March Field Air Museum in Riverside, California; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I rise today with my colleague, Senator FEINSTEIN, to introduce legislation to honor recipients of the Distinguished Flying Cross—the oldest military aviation award created by Congress.

This bill would designate the Distinguished Flying Cross National Memorial at March Field Air Museum in Riverside, California as the National Distinguished Flying Cross Memorial. Companion legislation was introduced in the House of Representatives by Congressman KEN CALVERT and recently passed by a vote of 410–0.

The Distinguished Flying Cross honors members of the armed forces who perform an act of ''heroism or extraordinary achievement while participating in an aerial flight.'' Since it was established by Congress in 1926, tens of thousands of brave Americans have been awarded the Distinguished Flying Cross, including Wilber and Orville Wright, Charles Lindbergh, Amelia Earhart, former President George H. W. Bush, Senator JOHN MCCAIN, former Senator John Glenn, Chuck Yeager, General Jimmy Doolittle, and Admiral Jim Stockdale.

More recently, it has been awarded to a number of American men and women serving our Nation in Iraq and Afghanistan. I am proud that so many of the service members who have received the prestigious Distinguished Flying Cross are from my home State of California.

This legislation has the support of the Distinguished Flying Cross Society, the Military Officers Association of America, the Air Force Association, the Air Force Sergeants Association, the Association of Naval Aviation, the Vietnam Helicopter Pilots Association, and the China Burma Indian Veterans Association.

This is a fitting tribute to those who have served our country with honor and distinction. I hope my colleagues will join me in honoring these brave service men and women by supporting this legislation, and I look forward to seeing it enacted into law.

By Mr. BAUCUS (for himself and Mr. TESTER):

S. 3290. A bill to modify the purposes and operation of certain facilities of the Bureau of Reclamation to implement the water rights compact among the State of Montana, the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana, and the United States, and for other purposes; to the Committee on Indian Affairs.

Mr. BAUCUS. Mr. President, I rise today to introduce the Blackfeet Water Rights Settlement Act, along with my good friend, Senator TESTER. We introduce this bill as a critical step in 2 decades of negotiations between the Blackfeet Nation, the State of Montana, and the U.S. The bill ratifies the water rights compact with the Blackfeet Nation. It confirms that the United States is a nation that honors its commitments to all its citizens, including those who belong to Tribal Nations.

Over 150 years ago, the United States and the Blackfeet people signed a treaty that created the Blackfeet Reservation on a tract of land the size of Delaware abutting what became Glacier National Park and the Canadian Border. Over 100 years ago, the U.S. Supreme Court ruled that such treaties imply a commitment to reserve sufficient water to satisfy both present and future needs of a Tribe. Honoring this particular commitment has been delayed for decades. With the introduction of this bill, we are on the brink of fulfilling that commitment.

The Blackfeet people call the mountains of their homeland the ''backbone of the world.'' When you visit their land, you can feel a shiver in your own backbone at its beauty and spiritual significance. These mountains are also the wellspring of the reservation's water. Their cirques and flanks, frozen for much of the year, store the crucial resource that makes the Great Plains inhabitable. The drainages and storage systems that define how the snow melts and the water flows are the principal subject of this legislation. This water is necessary for irrigation, livestock, fisheries, wildlife, homes, and other uses.

By ratifying this compact, Congress will both establish the federal reserved water rights of the Tribe and authorize funds to construct the infrastructure necessary to make the water available for use. This infrastructure includes rehabilitation of the Blackfeet Irrigation Project and construction of other water projects. It also mitigates the impacts of the Tribe's water rights on current non-tribal water users.

The Blackfeet Water Compact has already been ratified by the State of Montana. The Montana Legislature has appropriated $15 million toward the overall Blackfeet settlement and has committed to provide an additional $20 million in this bill.

The bill that Senator TESTER and I have introduced addresses a vital concern of the Blackfeet people and the State of Montana. It is time for the U.S. to honor its commitment to the Blackfeet Nation.

Mr. TESTER. Mr. President, I rise today to introduce the Blackfeet Water Settlement Act of 2010 with my friend and colleague, Senator BAUCUS. The bill will ratify the water rights compact negotiated for two decades by the Blackfeet Tribe, State of Montana and U.S. It will improve water infrastructure in the local area and, more importantly, create a self-sustaining homeland for the Blackfeet Nation. The bill enjoys broad support on the local, regional and national level. I look forward to working with my colleagues to enact it this year.

The time to implement this legislation is now. The United States and Blackfeet Tribe created the Blackfeet Reservation by treaty over 150 years ago. Over 100 years ago, the U.S. Supreme Court held that in creating Indian reservations, the government must provide enough water to sustain a permanent homeland for the American Indians living on them. This legislation will fulfill that law.

By ratifying the compact, this bill provides water for domestic and municipal use, irrigation and livestock, and for developing Reservation resources. It will also provide water to sustain reservation wildlife and fisheries located in the majestic Rocky Mountains, next door to Glacier National Park. Enacting this bill not only establishes the Tribe's federally reserved water rights, paper water, but also authorizes resources to construct the infrastructure that will deliver water to Reservation users, wet water.

The process of building critical infrastructure authorized by this bill will also create valuable reservation jobs, where the unemployment rate regularly reaches 70–80 percent. It authorizes funds to rehabilitate the Blackfeet Irrigation Project, construct water storage facilities, repair community water systems and promote economic development.

The bill enjoys strong support in Montana. The State of Montana ratified the Blackfeet Water Compact in 2009. The Montana Legislature has already appropriated $15 million toward the overall Blackfeet settlement. Most recently, the state supports provisions in this bill that commit it to provide an additional $10 million.

This bill is long past due. As Justice Hugo Black said in the 1960 Tuscarora

case: ''Great nations, like great men, should keep their word.'' It is time for this great Nation to keep its word to the Blackfeet people. Senator BAUCUS and I introduce this bill to do just that. With adequate water, infrastructure and jobs, the Blackfeet Nation will take another step to a secure future for many years to come.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 3291. A bill to establish Coltsville National Historical Park in the State of Connecticut, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. DODD. Mr. President, I rise today to introduce the Coltsville National Historic Park Act, which provides for the designation of the Coltsville Historic District in Hartford, Connecticut, as a national park. I would like to thank my colleague, Senator LIEBERMAN, for supporting this legislation, as well as my good friend, Congressman LARSON, who recently introduced an identical version of this bill in the House.

I recognize that when most of us think of national parks, we picture the vast, sprawling landscapes of Yellowstone and Yosemite. Clearly, Connecticut's smaller size precludes it from having a national park on the scale of these sites. In fact, Connecticut itself is only about twice the size of Yellowstone National Park and currently has only one national park, the Weir Farm National Historic Site, which spans 60 acres in the towns of Ridgefield and Wilton. But, while Connecticut may not possess the physical grandeur of our nation's largest parks, it is home to a rich national heritage that must be made accessible to every American.

Located in Hartford's Sheldon-Charter Oak neighborhood, Coltsville grew around Samuel Colt's firearms factory, a landmark red brick building with a blue onion dome, during the Industrial Revolution of the 19th century. Colt made Hartford the center of precision manufacturing. While Americans may associate the name Sam Colt with firearms, the Colt legacy goes far beyond. Colt was a key figure of the Industrial Revolution, contributing to the development of waterproof ammunition, underwater mines, and the telegraph. He was also the first American manufacturer to open a plant overseas. Colt set the standard for a nation that fast became known for its technological innovations and industrial productivity. It is also a little-known fact that after Colt's death in 1862, his widow, Elizabeth Hart Jarvis Colt, successfully managed Colt Industries for 42 years and presided over the company during its most prosperous years in a period when men dominated the industrial world.

Today, the Colt armory remains a beacon in the Hartford skyline, and Coltsville still boasts grand Victorian homes, including Armsmear, the home of Sam and Elizabeth Colt. Other nearby attractions include old mill housing, the Church of the Good Shepherd, and the Colt Memorial. A national park at Coltsville would be the main venue on a tour of Hartford that could include sites such as the houses of Mark Twain and Harriet Beecher Stowe and the riverfront. It would also be a prime destination for anyone taking an extended tour of historic and scenic New England.

A national park at Coltsville would include more than 200 acres and be comprised of both public and private space. The centerpiece would be a museum within the armory celebrating Sam Colt and the growth of American industry. The museum could hold the vast collection of Colt firearms that currently rests in the Museum of Connecticut History as well as other machinery and memorabilia from the Industrial Revolution. Private property which is currently located within the proposed boundaries of the park, such as artists' studios and condominiums, could remain private. In fact, a museum and visitors' center in the Colt armory itself would take up only part of the building, the rest of which could be left open for private development. The armory already houses a business that manufactures replica Colt firearms, which would only enhance the proposed museum.

In my capacity as Connecticut's senior Senator, I have fought hard alongside my colleagues in the State's Congressional delegation to help realize the goal of including this testament to America's industrial and manufacturing prowess within the National Park System. In 2003, we were successful in passing legislation that required the National Park Service to conduct a study assessing the feasibility of designating Coltsville as a national park. On July 22, 2008, Coltsville reached another critical milestone in this effort when it was designated as a National Historic Landmark by the Secretary of the Interior.

Unfortunately, Coltsville has not been immune from the devastating effects of the global financial crisis that began later that year. While the Park Service's report, which was finally released last November, found that Coltsville is nationally significant and suitable for inclusion in the Park System, its determination of feasibility largely hinged on the ability of a private developer to manage the site in conjunction with the Park Service. Given the challenges currently facing our Nation's economy, Coltsville has run into some difficulties with this requirement. As a result, the Park Service was unable to conclude that Coltsville met the feasibility standards for inclusion in the Park System.

That is why the legislation I introduced today with Senator LIEBERMAN is so timely and important. The Coltsville National Historic Park Act authorizes the establishment of a national park in Coltsville when the feasibility issues outlined in the Park Service's November 2009 study, namely those surrounding private management of the site, are resolved. Our bill also sets standards for administration of the park, and creates a local advisory commission to develop and implement an overarching management plan for the park. This legislative approach is supported by a variety of State and local stakeholders, and in my view, provides us with a great opportunity to jump-start efforts to bring Coltsville into compliance with Park Service feasibility standards.

I firmly believe that one of our most important obligations as Senators is to ensure that our Nation's vast array of natural treasures and historical landmarks are managed responsibly and preserved for the benefit of future generations. I urge my colleagues to join me in extending these protections to the Coltsville Historic District.

By Mr. SPECTER (for himself and Mr. CASEY):

S. 3292. A bill to amend the Richard B. Russell National School Lunch to establish a weekend and holiday feeding program to provide nutritious food to at-risk school children on weekends and during extended school holidays during the school year; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation titled The Weekends Without Hunger Act. This legislation will ensure that children who rely on free and reduced-price school meals have access to nutritious meals on the weekends and during other periods in which they are away from school.

Nearly 20 million school-age children, including more than one million in Pennsylvania, eat a free or reduced-price meal at school. Existing programs designed to ensure access to affordable meals for these disadvantaged children at home are inadequate. A Department of Agriculture survey released in November 2009 reported that 49 million Americans were unable to consistently get enough to eat during 2008; 17 million of them were children. A recently conducted survey by Drexel University shows that the number of children under the age of 6 experiencing very low food security has tripled since 2006.

The legislation I am introducing today addresses the food insecurity experienced by our Nation's school children by providing them a weekend feeding option. My legislation establishes a 5-year pilot program during which time eligible institutions, such as schools and food banks, may provide a free backpack of child-friendly, nonperishable food for the weekend. It is my intention to seek inclusion of The Weekends Without Hunger Act in the upcoming reauthorization of the Child Nutrition Act.

By Mr. HARKIN (for himself, Mr. HATCH, Mr. DODD, Mr. REID, Ms.

SNOWE, Ms. MIKULSKI, Ms. COLLINS, Mr. CASEY, Mr. RISCH, Mr. FRANKEN, and Mr. JOHANNS):

S. 3293. A bill to reauthorize the Special Olympics Sport and Empowerment Act of 2004, to provide assistance to Best Buddies to support the expansion and development of mentoring programs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. HARKIN. Mr. President, I have come to the floor, today, to introduce the Eunice Kennedy Shriver Act. I am very pleased that Senator HATCH has joined me in introducing this legislation, as well as Senator DODD, who has been a long time supporter of the Best Buddies program. We are also joined by 8 other co-sponsors, both Republicans and Democrats, demonstrating the bipartisan support for this legislation.

The Special Olympics program is respected around the world as a model and leader in using sport to end the isolation and stigmatization of individuals with intellectual disabilities. For more than 40 years, Special Olympics has encouraged skill development, sharing, courage and confidence through year-round sports training and athletic competition for children and adults with intellectual disabilities. Through their programs, Special Olympics has helped to ensure that millions of individuals with intellectual disabilities are assured of equal opportunities for community participation, access to appropriate health care, and inclusive education, and to experience life in a nondiscriminatory manner. Special Olympics gives athletes with intellectual disabilities the tools they need to be included in society, and it gives society the understanding and tools it needs to include them.

I can speak first-hand about what a rewarding experience it is for all of us who have been involved in Special Olympics. In 2006, my State of Iowa hosted the first USA National Summer Games. Thousands of athletes, volunteers, coaches, and families attended our Games, in addition to 30,000 fans and spectators. Ames, IA, was transformed into an Olympic Village, and it was thrilling to experience.

Similarly, the Best Buddies program is dedicated to ending the social isolation of people with intellectual disabilities by promoting peer support and friendships with their non-disabled peers. The aim is to increase the self-esteem, confidence and abilities of people with and without intellectual disabilities. Equally important, the Best Buddies program has provided opportunities for integrated employment for individuals with intellectual disabilities.

Research shows that participation in activities involving both people with intellectual disabilities and people without disabilities results in more positive support for inclusion in society, including in schools.

This new bill is named in honor of Eunice Kennedy Shriver, who devoted her life to improving the lives of people with intellectual disabilities around the world. Mrs. Shriver founded and fostered the development of Special Olympics and Best Buddies, both of which celebrate the possibilities of a world where all people, including those with disabilities, have meaningful opportunities for participation and inclusion.

In addition to reauthorizing the former Special Olympics Sports and Empowerment Act and providing an authorization for the Best Buddies program, this bill will also allow the Department of Education to award competitive grants to support increased opportunities for inclusive participation by individuals with intellectual disabilities in sports and recreation programs.

I am pleased to be the chief sponsor of this legislation, which will continue our support for these important programs which promote the extraordinary gifts and contributions of people with intellectual disabilities as well as broader community inclusion.

I urge all my colleagues to join with me, Senator HATCH, Senator DODD, Senator CASEY, Senator COLLINS, Senator FRANKEN, Senator JOHANNS, Senator MIKULSKI, Senator REID, Senator RISCH, and Senator SNOWE in supporting this very worthy bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3293

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Eunice Kennedy Shriver Act''.

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

Sec. 1. Short title; table of contents.

TITLE I—REAUTHORIZATION OF SPECIAL OLYMPICS ACT

Sec. 101. Reauthorization.

TITLE II—BEST BUDDIES

Sec. 201. Findings and purpose.
Sec. 202. Assistance for Best Buddies.
Sec. 203. Application and annual report.
Sec. 204. Authorization of appropriations.

TITLE III—ESTABLISHMENT OF EUNICE KENNEDY SHRIVER INSTITUTES FOR SPORT AND SOCIAL IMPACT

Sec. 301. Findings and purpose.
Sec. 302. Establishment of Institutes.
Sec. 303. Activities of Institutes.
Sec. 304. Authorization of appropriations.

TITLE I—REAUTHORIZATION OF SPECIAL OLYMPICS ACT

SEC. 101. REAUTHORIZATION.

Sections 2 through 5 of the Special Olympics Sport and Empowerment Act of 2004 (42 U.S.C. 15001 note) are amended to read as follows:

''SEC. 2. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress finds the following:

''(1) Special Olympics celebrates the possibilities of a world where everybody matters, everybody counts, and every person contributes.

''(2) The Government and the people of the United States recognize the dignity and value the giftedness of children and adults with intellectual disabilities.

''(3) The Government and the people of the United States recognize that children and adults with intellectual disabilities experience significant health disparities, including lack of access to primary care services and difficulties in accessing community-based prevention and treatment programs for chronic diseases.

''(4) The Government and the people of the United States are determined to end the isolation and stigmatization of people with intellectual disabilities, and to ensure that such people are assured of equal opportunities for community participation, access to appropriate health care, and inclusive education, and to experience life in a nondiscriminatory manner.

''(5) For more than 40 years, Special Olympics has encouraged skill development, sharing, courage, and confidence through year-round sports training and athletic competition for children and adults with intellectual disabilities.

''(6) Special Olympics provides year-round sports training and competitive opportunities to more than 3,000,000 athletes with intellectual disabilities in 26 sports and plans to expand the benefits of participation through sport to hundreds of thousands of people with intellectual disabilities within the United States and worldwide over the next 5 years.

''(7) Research shows that participation in activities involving both people with intellectual disabilities and nondisabled people results in more positive support for inclusion in society, including in schools.

''(8) Special Olympics has demonstrated its ability to provide a major positive effect on the quality of life of people with intellectual disabilities, improving their health and physical well-being, building their confidence and self-esteem, and giving them a voice to become active and productive members of their communities.

''(9) In society as a whole, Special Olympics has become a vehicle and platform for reducing prejudice, improving public health, promoting inclusion efforts in schools and communities, and encouraging society to value the contributions of all members.

''(10) The Government of the United States enthusiastically supports the Special Olympics movement, recognizes its importance in improving the lives of people with intellectual disabilities, and recognizes Special Olympics as a valued and important component of the global community.

''(b) PURPOSE.—The purposes of this Act are to—

''(1) provide support to Special Olympics to increase athlete participation in, and public awareness about, the Special Olympics movement, including efforts to promote broader community inclusion;

''(2) dispel negative stereotypes about people with intellectual disabilities;

''(3) build community engagement through sport involvement; and

''(4) promote the extraordinary gifts and contributions of people with intellectual disabilities.

''SEC. 3. ASSISTANCE FOR SPECIAL OLYMPICS.

''(a) EDUCATION ACTIVITIES.—The Secretary of Education may award grants to, or enter into contracts or cooperative agreements with, Special Olympics to carry out each of the following:

''(1) Activities to promote the expansion of Special Olympics, including activities to increase the full participation of people with intellectual disabilities in athletics, sports and recreation, and other inclusive school

and community activities with non-disabled people.

''(2) The design and implementation of Special Olympics education programs, including character education and volunteer programs that support the purposes of this Act, that can be integrated into classroom instruction and are consistent with academic content standards.

''(b) INTERNATIONAL ACTIVITIES.—The Secretary of State, acting through the Assistant Secretary of State for Educational and Cultural Affairs, may award grants to, or enter into contracts or cooperative agreements with, Special Olympics to carry out each of the following:

''(1) Activities to increase the participation of people with intellectual disabilities in Special Olympics outside of the United States.

''(2) Activities to improve the awareness outside of the United States of the abilities and unique contributions that people with intellectual disabilities can make to society.

''(c) HEALTHY ATHLETES.—

''(1) IN GENERAL.—The Secretary of Health and Human Services may award grants to, or enter into contracts or cooperative agreements with, Special Olympics for the implementation of on-site health assessments, screening for health problems, health education, community-based prevention, data collection, and referrals to direct health care services.

''(2) COORDINATION.—Activities under paragraph (1) shall be coordinated with appropriate health care entities, including private health care providers, entities carrying out local, State, Federal, or international programs, and the Department of Health and Human Services, as applicable.

''(d) LIMITATION.—Amounts appropriated to carry out this section shall not be used for direct treatment of diseases, medical conditions, or mental health conditions. Nothing in the preceding sentence shall be construed to limit the use of non-Federal funds by Special Olympics.

''SEC. 4. APPLICATION AND ANNUAL REPORT.

''(a) APPLICATION.—

''(1) IN GENERAL.—To be eligible for a grant, contract, or cooperative agreement under subsection (a), (b), or (c) of section 3, Special Olympics shall submit an application at such time, in such manner, and containing such information as the Secretary of Education, Secretary of State, or Secretary of Health and Human Services, as applicable, may require.

''(2) CONTENT.—At a minimum, an application under this subsection shall contain each of the following:

''(A) ACTIVITIES.—A description of activities to be carried out with the grant, contract, or cooperative agreement.

''(B) MEASURABLE GOALS.—A description of specific measurable annual benchmarks and long-term goals and objectives to be achieved through specified activities carried out with the grant, contract, or cooperative agreement, which specified activities shall include, at a minimum, each of the following activities:

''(i) Activities to increase the full participation of people with intellectual disabilities in athletics, sports and recreation, and other inclusive school and community activities with nondisabled people.

''(ii) Education programs that dispel negative stereotypes about people with intellectual disabilities.

''(iii) Activities to increase the participation of people with intellectual disabilities in Special Olympics outside of the United States.

''(iv) Health-related activities as described in section 3(c).

''(b) ANNUAL REPORT.—

''(1) IN GENERAL.—As a condition on receipt of any funds for a program under subsection (a), (b), or (c) of section 3, Special Olympics shall agree to submit an annual report at such time, in such manner, and containing such information as the Secretary of Education, Secretary of State, or Secretary of Health and Human Services, as applicable, may require.

''(2) CONTENT.—At a minimum, each annual report under this subsection shall describe—

''(A) the degree to which progress has been made toward meeting the annual benchmarks and long-term goals and objectives described in the applications submitted under subsection (a); and

''(B) demographic data about Special Olympics participants, including the number of people with intellectual disabilities served in each program referred to in paragraph (1).

''SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated—

''(1) for grants, contracts, or cooperative agreements under section 3(a), $9,500,000 for fiscal year 2011, and such sums as may be necessary for each of the 4 succeeding fiscal years;

''(2) for grants, contracts, or cooperative agreements under section 3(b), $4,500,000 for fiscal year 2011, and such sums as may be necessary for each of the 4 succeeding fiscal years; and

''(3) for grants, contracts, or cooperative agreements under section 3(c), $8,500,000 for fiscal year 2011, and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

TITLE II—BEST BUDDIES

SEC. 201. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Best Buddies operates the first national social and recreational program in the United States for people with intellectual disabilities.

(2) Best Buddies is dedicated to helping people with intellectual disabilities become part of mainstream society.

(3) Best Buddies is determined to end social isolation for people with intellectual disabilities by promoting meaningful friendships between them and their non-disabled peers in order to help increase the self-esteem, confidence, and abilities of people with and without intellectual disabilities.

(4) Since 1989, Best Buddies has enhanced the lives of people with intellectual disabilities by providing opportunities for 1-to-1 friendships and integrated employment.

(5) Best Buddies is an international organization spanning 1,300 middle school, high school, and college campuses.

(6) Best Buddies implements programs that will positively impact more than 700,000 individuals in 2010.

(7) The Best Buddies Middle Schools program matches middle school students with intellectual disabilities with other middle school students and supports 1-to-1 friendships between them.

(8) The Best Buddies High Schools program matches high school students with intellectual disabilities with other high school students and supports 1-to-1 friendships between them.

(9) The Best Buddies Colleges program matches adults with intellectual disabilities with college students and creates 1-to-1 friendships between them.

(10) The Best Buddies e-Buddies program supports e-mail friendships between people with and without intellectual disabilities.

(11) The Best Buddies Citizens program pairs adults with intellectual disabilities in 1-to-1 friendships with other people in the corporate and civic communities.

(12) The Best Buddies Jobs program promotes the integration of people with intellectual disabilities into the community through supported employment.

(b) PURPOSE.—The purposes of this Act are to—

(1) provide support to Best Buddies to increase participation in and public awareness about Best Buddies programs that serve people with intellectual disabilities;

(2) dispel negative stereotypes about people with intellectual disabilities; and

(3) promote the extraordinary contributions of people with intellectual disabilities.

SEC. 202. ASSISTANCE FOR BEST BUDDIES.

(a) EDUCATION ACTIVITIES.—The Secretary of Education may award grants to, or enter into contracts or cooperative agreements with, Best Buddies to carry out activities to promote the expansion of Best Buddies, including activities to increase the participation of people with intellectual disabilities in social relationships and other aspects of community life, including education and employment, within the United States.

(b) LIMITATIONS.—

(1) IN GENERAL.—Amounts appropriated to carry out this Act may not be used for direct treatment of diseases, medical conditions, or mental health conditions.

(2) ADMINISTRATIVE ACTIVITIES.—Not more than 5 percent of amounts appropriated to carry out this Act for a fiscal year may be used for administrative activities.

(c) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit the use of non-Federal funds by Best Buddies.

SEC. 203. APPLICATION AND ANNUAL REPORT.

(a) APPLICATION.—

(1) IN GENERAL.—To be eligible for a grant, contract, or cooperative agreement under section 202(a), Best Buddies shall submit an application at such time, in such manner, and containing such information as the Secretary of Education may require.

(2) CONTENT.—At a minimum, an application under this subsection shall contain the following:

(A) A description of activities to be carried out under the grant, contract, or cooperative agreement.

(B) Information on specific measurable goals and objectives to be achieved through activities carried out under the grant, contract, or cooperative agreement.

(b) ANNUAL REPORT.—

(1) IN GENERAL.—As a condition of receipt of any funds under section 202(a), Best Buddies shall agree to submit an annual report at such time, in such manner, and containing such information as the Secretary of Education may require.

(2) CONTENT.—At a minimum, each annual report under this subsection shall describe the degree to which progress has been made toward meeting the specific measurable goals and objectives described in the applications submitted under subsection (a).

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Education for grants, contracts, or cooperative agreements under section 202(a), $10,000,000 for fiscal year 2011 and such sums as may be necessary for each of the 4 succeeding fiscal years.

TITLE III—ESTABLISHMENT OF EUNICE KENNEDY SHRIVER INSTITUTES FOR SPORT AND SOCIAL IMPACT

SEC. 301. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) For more than 50 years, Eunice Kennedy Shriver dedicated her life, energies, and resources without bounds to improving the lives of people with intellectual and developmental disabilities around the world. She

stands as the iconic founder and leader of one of the most important disability rights movements in history.

(2) Eunice Kennedy Shriver founded and influenced the development of Special Olympics and Best Buddies, both of which celebrate the possibilities of a world where everybody matters, everybody counts, every person has value, and every person has worth.

(b) PURPOSE.—It is the purpose of this title to improve and advance opportunities for people with intellectual disabilities to fully participate and engage in inclusive sports and recreation, social activities, and other community opportunities, through—

(1) conducting research, data collection, and evaluation activities;

(2) providing technical assistance and training;

(3) fostering and promoting interdisciplinary collaboration, cooperation, and partnerships; and

(4) commemorating the work and contributions of Eunice Kennedy Shriver and encouraging others to emulate her leadership, including her efforts to encourage and promote greater social and community opportunities for people with intellectual disabilities and their families.

SEC. 302. ESTABLISHMENT OF INSTITUTES.

(a) IN GENERAL.—From the amount made available under section 304 that is not reserved under subsection (g), the Secretary of Education shall award competitive grants to one or more eligible entities for the purpose of establishing Eunice Kennedy Shriver Institutes for Sport and Social Impact (referred to in this title as ''Institutes'').

(b) ELIGIBLE ENTITY.—In this title, the term ''eligible entity'' means an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) with demonstrated expertise and experience in research, technical assistance, and training related to improving and advancing opportunities for people with intellectual disabilities to fully participate and engage in inclusive community opportunities, in partnership with a nonprofit organization with demonstrated expertise and experience in inclusive sports, recreation, social, educational, and community opportunities for people with intellectual disabilities.

(c) GRANT PERIOD.—Each grant awarded under this title shall be for a 3-year period.

(d) GRANT RECIPIENT CONTRIBUTION.—An eligible entity receiving a grant under this title shall provide a contribution (which may include an in-kind contribution), in an amount not less than 25 percent of the costs of the activities assisted under the grant, to carry out such activities.

(e) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this title shall be used to supplement, and not supplant, other Federal, State, and local funds expended to carry out the purpose of this title.

(f) APPLICATION.—An eligible entity that desires to receive a grant under this title shall submit an application to the Secretary of Education at such time, in such manner, and containing such information and assurances as the Secretary may require. Such application shall, at a minimum, include—

(1) a description of activities to be carried out consistent with section 303; and

(2) proposed annual measurable benchmarks and long-term goals and objectives to be achieved through such activities.

(g) RESERVATION OF FUNDS FOR NATIONAL ACTIVITIES.—From the amount appropriated under section 304, the Secretary of Education shall reserve not more than 10 percent to enter into a cooperative agreement, on a competitive basis, with an eligible entity for the purpose of implementing national coordination activities, including development of mechanisms for communication between grant recipients, dissemination of information resulting from activities under the grants, and technical assistance to grant recipients.

SEC. 303. ACTIVITIES OF INSTITUTES.

(a) IN GENERAL.—Each eligible entity that receives a grant under this title shall use the grant to advance the quality of life and inclusion of people with intellectual disabilities through research and evaluation, technical assistance, training, data collection, evaluation, collaboration, and dissemination of evidence-based best practices.

(b) REQUIRED ACTIVITIES.—

(1) IN GENERAL.—Each eligible entity receiving a grant under this title shall use grant funds to—

(A) establish a research agenda and annual measurable benchmarks and long-term goals, and conduct research and evaluation of evidence-based best practices, to improve the quality of life and further the social inclusion of people with intellectual disabilities, in cooperation and consultation with—

(i) people with intellectual disabilities;

(ii) family members of people with intellectual disabilities;

(iii) University Centers for Excellence in Developmental Disabilities Education, Research, and Service (as designated in section 151 of the Developmental Disabilities Act (42 U.S.C. 15061)); and

(iv) other relevant Federal, State, and local entities conducting research related to people with intellectual disabilities;

(B) provide training and technical assistance to people with intellectual disabilities, families of people with intellectual disabilities, nonprofit organizations, public entities, educational programs, recreation programs, and others to increase opportunities for inclusive participation by such people in sports and recreation, social opportunities, education, and the community, including provision of assistance to programs and entities serving primarily non-disabled people in order to successfully include people with intellectual disabilities in activities with non-disabled people;

(C) collect and analyze data related to barriers to, and factors assuring, access to full inclusion and participation in community and quality of life for people with intellectual disabilities, including demographic data; and

(D) report on the research, findings, conclusions, and recommendations resulting from the activities of the grant.

(2) RESEARCH AND EVALUATION.—Research, evaluation, and data collection described in paragraph (1)(A) shall include—

(A) best practices in preventive health and wellness for people with intellectual disabilities, including sports and recreational activities;

(B) identification of barriers to, and factors assuring, access to full inclusion and participation in community and quality of life for people with intellectual disabilities;

(C) best practices in supporting independence, community living, and inclusive social engagement for people with intellectual disabilities;

(D) physical and mental health disparities for people with intellectual disabilities; and

(E) other relevant activities related to the purpose of this title, as described by the eligible entity in the application submitted under section 302(f).

(c) REPORT.—Each recipient of a grant under this title shall prepare and submit to the Secretary of Education an annual report that includes information on progress made in achieving the projected goals and outcomes of the activities of the Institute for the previous year, including demographic information on the populations served and measurable accomplishments in advancing the quality of life and inclusion of people with intellectual disabilities in the community.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal years 2011 through 2015.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 505—CONGRATULATING THE DUKE UNIVERSITY MEN'S BASKETBALL TEAM FOR WINNING THE 2009–2010 NCAA DIVISION I MEN'S BASKETBALL NATIONAL CHAMPIONSHIP

Mr. BURR (for himself, Mrs. HAGAN, and Mr. KAUFMAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 505

Whereas on April 5, 2010, Duke University defeated Butler University by a score of 61–59 to win the 2009–2010 National Collegiate Athletic Association (referred to in this resolution as the ''NCAA'') Division I Men's Basketball National Championship;

Whereas Duke completed a record-breaking season, tying for first in the Atlantic Coast Conference (referred to in this resolution as the ''ACC'') regular season with a record of 13–3, winning the National Invitation Tournament Season Tip-Off, and winning the ACC tournament;

Whereas Coach Mike Krzyzewski won his fourth national championship, making him the second winningest coach of all time;

Whereas players Seth Curry, Jordan Davidson, Andre Dawkins, Steve Johnson, Ryan Kelly, Casey Peters, Mason Plumlee, Miles Plumlee, Jon Scheyer, Kyle Singler, Nolan Smith, Lance Thomas, Todd Zafirovski, and Brian Zoubek made up this year's national championship team;

Whereas forward Kyle Singler was named Most Outstanding Player of the Final Four, scoring 19 points in the championship game;

Whereas guard Jon Scheyer was named 2nd team All-American and 1st team All-ACC;

Whereas Kyle Singler was named 1st team All-ACC;

Whereas guard Nolan Smith was named 2nd team All-ACC;

Whereas forward Lance Thomas was named to the ACC All-Defensive team;

Whereas senior Brian Zoubek and freshman Ryan Kelly made the ACC All-Academic team;

Whereas Duke made their 34th appearance in the NCAA tournament;

Whereas Duke appeared in the national championship game for the 10th time, the eighth under Coach Krzyzewski and the fourth since 1999;

Whereas Duke was a number 1 seed in the tournament for the 11th time;

Whereas Duke finished the 2009–2010 season with a record of 35–5;

Whereas Duke went undefeated at home with 17 wins, setting a new school record;

Whereas Duke won its 1,000th game at home under Coach Krzyzewski against the University of Maryland on February 13, 2010;

Whereas Duke showed incredible dedication and respect for the game of basketball throughout the 2009–2010 season; and

Whereas Duke is to be congratulated for its sportsmanship, dedication, and commitment: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the Duke team for winning the 2010 NCAA Division I Men's Basketball Tournament;

(2) recognizes the achievements of the players and coaches; and

(3) directs the Secretary of the Senate to make available enrolled copies of this resolution to Duke University President Richard H. Brodhead, Athletic Director Kevin White, and Head Coach Mike Krzyzewski for appropriate display.

SENATE RESOLUTION 506—DESIGNATING MAY 2010 AS ''NATIONAL X AND Y CHROMOSOMAL VARIATIONS AWARENESS MONTH''

Mr. BROWNBACK (for himself and Mr. CARDIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 506

Whereas 1 in 500 children in the United States have X and Y chromosomal variations that cause complex learning disabilities, including reading, language, and motor-planning impairments;

Whereas 1 in 10 babies born every day has an X and Y chromosomal variation, but only 30 percent of those babies will ever receive the treatment needed in order to succeed academically;

Whereas, although all physicians, ancillary health care providers, and special educators are taught that genetic abnormalities can impact the development of a child, most practitioners receive insufficient information about X and Y chromosomal variations;

Whereas many health care and educational providers do not consider testing for X and Y chromosomal variations when the providers encounter a child who presents with developmental disabilities;

Whereas widespread misinformation about X and Y chromosomal variations causes unnecessary distress to families dealing with such a diagnosis;

Whereas, with greater national awareness about the existence of X and Y chromosomal variations, children with these disorders can be diagnosed and provided with the syndrome-specific medical care and academic intervention the children need to succeed academically, to prepare for the workforce, and to live full and productive lives; and

Whereas, with the proper diagnosis and intervention, children who have X and Y chromosomal variations can excel academically and in the workforce: Now, therefore, be it

Resolved, That the Senate—

(1) designates May 2010 as ''National X and Y Chromosomal Variations Awareness Month''; and

(2) encourages the appropriate organizations to recognize the month with appropriate activities.

SENATE RESOLUTION 507—DESIGNATING APRIL 30, 2010, AS ''DIA DE LOS NINOS: CELEBRATING YOUNG AMERICANS''

Mr. MENENDEZ (for himself, Mr. HATCH, Mr. REID, Mr. LUGAR, Mr. DURBIN, Mr. BINGAMAN, Mr. LAUTENBERG, Mrs. MURRAY, Mr. CASEY, Mrs. GILLIBRAND, and Mr. AKAKA) submitted the following resolution; which was considered and agreed to:

S. RES. 507

Whereas many nations throughout the world, and especially within the Western hemisphere, celebrate ''el Dia de los Niños'', or ''Day of the Children'', on April 30, in recognition and celebration of the future of the nations—their children;

Whereas children represent the hopes and dreams of the people of the United States and are the center of families in the United States;

Whereas children should be nurtured and invested in to preserve and enhance economic prosperity, democracy, and the spirit of the United States;

Whereas according to the latest Census report, there are more than 47,000,000 individuals of Hispanic descent living in the United States, nearly 16,000,000 of whom are children;

Whereas Hispanics in the United States, the youngest and fastest growing ethnic community in the Nation, continue the tradition of honoring their children on el Dia de los Niños, and wish to share this custom with the rest of the Nation;

Whereas the primary teachers of family values, morality, and culture are parents and family members, and people in the United States rely on children to pass on these family values, morals, and culture to future generations;

Whereas the importance of literacy and education are most often communicated to children through family members;

Whereas families should be encouraged to engage in family and community activities that include extended and elderly family members and that encourage children to explore and develop confidence;

Whereas the designation of a day to honor the children of the United States will help affirm for the people of the United States the significance of family, education, and community;

Whereas the designation of a day of special recognition for the children of the United States will provide an opportunity for children to reflect on their future, to articulate their aspirations, and to find comfort and security in the support of their family members and communities;

Whereas the National Latino Children's Institute, serving as a voice for children, has worked with cities throughout the Nation to declare April 30 as ''el Dia de los Niños: Celebrating Young Americans'', a day to bring together Hispanics and other communities nationwide to celebrate and uplift children; and

Whereas the children of a nation are the responsibility of all its people, and people should be encouraged to celebrate the gifts of children to society: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 30, 2010, as ''el Dia de los Niños: Celebrating Young Americans''; and

(2) calls on the people of the United States to join with all children, families, organizations, communities, churches, cities, and States across the Nation to observe the day with appropriate ceremonies, including activities that—

(A) center around children, and are free or minimal in cost so as to encourage and facilitate the participation of all our people;

(B) are positive and uplifting and that help children express their hopes and dreams;

(C) provide opportunities for children of all backgrounds to learn about one another's cultures and to share ideas;

(D) include all members of the family, especially extended and elderly family members, so as to promote greater communication among the generations within a family, enabling children to appreciate and benefit from the experiences and wisdom of their elderly family members;

(E) provide opportunities for families within a community to get acquainted; and

(F) provide children with the support they need to develop skills and confidence, and to find the inner strength and the will and fire of the human spirit to make their dreams come true.

SENATE RESOLUTION 508—RECOGNIZING JUNE 2010 AS NATIONAL HEREDITARY HEMORRHAGIC TELANGIECSTASIA (HHT) MONTH ESTABLISHED TO INCREASE AWARENESS OF HHT, WHICH IS A COMPLEX GENETIC BLOOD VESSEL DISORDER THAT AFFECTS APPROXIMATELY 70,000 PEOPLE IN THE UNITED STATES

Mr. JOHNSON (for himself and Mr. BENNETT) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 508

Whereas according to the HHT Foundation International, Hereditary Hemorrhagic Telangiecstasia (HHT), also referred to as Osler-Weber-Rendu Syndrome, is a long-neglected national health problem that affects approximately 70,000 (1 in 5,000) people in the United States and 1,200,000 people worldwide;

Whereas HHT is an autosomal dominant, uncommon complex genetic blood vessel disorder, characterized by telangiectases and artery-vein malformations that occurs in major organs including the lungs, brain, and liver, as well as the nasal mucosa, mouth, gastrointestinal tract, and skin of the face and hands;

Whereas left untreated, HHT can result in considerable morbidity and mortality and lead to acute and chronic health problems or sudden death;

Whereas according to the HHT Foundation International, 20 percent of those with HHT, regardless of age, suffer death and disability;

Whereas according to the HHT Foundation International, due to widespread lack of knowledge of the disorder among medical professionals, approximately 90 percent of the HHT population has not yet been diagnosed and is at risk for death or disability due to sudden rupture of the blood vessels in major organs in the body;

Whereas the HHT Foundation International estimates that 20 to 40 percent of complications and sudden death due to these ''vascular time bombs'' are preventable;

Whereas patients with HHT frequently receive fragmented care from practitioners who focus on 1 organ of the body, having little knowledge about involvement in other organs or the interrelation of the syndrome systemically;

Whereas HHT is associated with serious consequences if not treated early, yet the condition is amenable to early identification and diagnosis with suitable tests, and there are acceptable treatments available in already-established facilities such as the 8 HHT Treatment Centers of Excellence in the United States; and

Whereas adequate Federal funding is needed for education, outreach, and research to prevent death and disability, improve outcomes, reduce costs, and increase the quality of life for people living with HHT: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the need to pursue research to find better treatments, and eventually, a cure for HHT;

(2) recognizes and supports the HHT Foundation International as the only advocacy organization in the United States working to find a cure for HHT while saving the lives

and improving the well-being of individuals and families affected by HHT through research, outreach, education, and support;

(3) supports the designation of June 2010 as National Hereditary Hemorrhagic Telangiecstasia (HHT) month, to increase awareness of HHT;

(4) acknowledges the need to identify the approximately 90 percent of the HHT population that has not yet been diagnosed and is at risk for death or disability due to sudden rupture of the blood vessels in major organs in the body;

(5) recognizes the importance of comprehensive care centers in providing complete care and treatment for each patient with HHT;

(6) recognizes that stroke, lung, and brain hemorrhages can be prevented through early diagnosis, screening, and treatment of HHT;

(7) recognizes severe hemorrhages in the nose and gastrointestinal tract can be controlled through intervention, and that heart failure can be managed through proper diagnosis of HHT and treatments;

(8) recognizes that a leading medical and academic institution estimated that $6,600,000,000 of 1-time health care costs can be saved through aggressive management of HHT in the at-risk population; and

(9) encourages the people of the United States and interested groups to observe and support the month through appropriate programs and activities that promote public awareness of HHT and potential treatments for it.

SENATE RESOLUTION 509—DESIGNATING APRIL 2010 AS ''NATIONAL STD AWARENESS MONTH''

Mr. BURRIS submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 509

Whereas sexually transmitted infections (referred to in this preamble as ''STIs'') (also commonly known as sexually transmitted diseases, or ''STDs'') are a major public health challenge for the United States in economic and human terms;

Whereas the United States has the highest rate of people with STIs in the industrialized world, with an estimated 19,000,000 new cases occurring each year;

Whereas, each year, approximately ½ of the new cases of STIs occur in young people between the ages of 15 to 24;

Whereas all people of the United States have an interest in STIs because every community is impacted and everyone pays for the cost of the infections, either directly or indirectly;

Whereas, according to the Centers for Disease Control and Prevention (referred to in this preamble as ''CDC''), STIs impose a tremendous economic burden on the United States, with direct medical costs for treating STIs as high as $15,900,000 per year;

Whereas, in 2008, the CDC estimated that 1 in 4 young women between the ages of 14 and 19 in the United States, or 3,200,000 teenage girls, and nearly 1 in 2 African-American young women are infected with 1 or more of the most common sexually transmitted infections, including the human papillomavirus (referred to in this preamble as ''HPV''), chlamydia, herpes simplex virus, and trichomoniasis;

Whereas, in 2010, CDC data indicated that 1 in 6 Americans between the ages of 14 and 49 years old are infected with type 2 of the herpes simplex virus, a lifelong and incurable infection, and that of the group of infected Americans, African-American women were the most affected group, with a prevalence rate of 48 percent;

Whereas poverty and lack of access to quality health care exacerbate the rate of infection with the human immunodeficiency virus (referred to in this preamble as ''HIV'') and other STIs;

Whereas men who have sex with men continue to be disproportionately impacted by STIs, accounting for 63 percent of all syphilis cases in 2008 as compared to only 4 percent of STIs in 2000;

Whereas racial disparities in rates of STIs are among the worst health disparities in the United States for any health condition;

Whereas most STIs have been associated with increased risk of HIV transmission and are likely contributing to the ongoing HIV epidemic in the United States;

Whereas the CDC reports that the 2 most common STIs among young women are HPV, with 18 percent infected, and chlamydia, with 4 percent infected;

Whereas the long-term health effects of HPV and chlamydia are especially severe for women and include infertility and cervical cancer;

Whereas vaccination, screening, and early treatment can prevent some of the most devastating effects of STIs;

Whereas high STI infection rates in the United States demonstrate the need for better ways to reach the individuals most at risk for infection;

Whereas the CDC recommends—

(1) annual chlamydia screenings for sexually active women 25 years of age and younger;

(2) HPV vaccination for girls and women between the ages of 11 and 26 who have not been vaccinated, or who have not completed the full series of shots; and

(3) screening for HIV, syphilis, chlamydia, and gonorrhea at least once a year for men who have sex with men and who are not in a long-term, mutually monogamous relationship;

Whereas chlamydia can lead to pelvic inflammatory disease, chronic pelvic pain, infertility, and tubular pregnancies, which can affect the health and well-being of a woman throughout her lifetime;

Whereas STIs can be transmitted from infected mothers to infants during childbirth and can cause severe health consequences in the infants;

Whereas STIs often cause social stigma and may have a serious psychological impact among the individuals who are infected;

Whereas people protect themselves against STIs through participation in programs that provide comprehensive and medically accurate health information and screening and treatment services, including title X of the Public Health Service Act (42 U.S.C. 300 et seq.) and the STI prevention program of the CDC;

Whereas school-based STI screening programs have been highly successful in cases in which the programs are implemented and are effective at preventing the spread of STIs among adolescents;

Whereas the sexual and reproductive health needs of men must be more thoroughly recognized and better addressed by the public health and medical provider community in order to more effectively combat the spread of STIs;

Whereas STI programs in State and local health departments that are funded through the Division of STD Prevention of the CDC are the frontline of the defense of the United States against the spread of STIs;

Whereas STI screening, vaccination, and other prevention strategies for sexually active women should be among the highest public health priorities; and

Whereas the CDC observes April as ''National STD Awareness Month'': Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2010 as ''National STD Awareness Month'';

(2) encourages the Federal Government, States, localities, and nonprofit organizations to observe the month with appropriate programs and activities, with the goal of increasing public knowledge of the risks of sexually transmitted infections (referred to in this resolution as ''STIs'') and protecting people of all ages;

(3) recognizes the human toll of STIs and the importance of making the prevention, diagnosis, and treatment of STIs an urgent public health priority;

(4) calls on all people of the United States to learn about STIs and the prevention approaches recommended for STIs; and

(5) encourages all sexually active individuals to get tested for STIs and to seek appropriate care if infected.

SENATE CONCURRENT RESOLUTION 62—CONGRATULATING THE OUTSTANDING PROFESSIONAL PUBLIC SERVANTS, BOTH PAST AND PRESENT, OF THE NATURAL RESOURCES CONSERVATION SERVICE ON THE OCCASION OF ITS 75TH ANNIVERSARY

Mrs. LINCOLN (for herself, Mr. CHAMBLISS, Mrs. MURRAY, Mr. PRYOR, Mr. BAUCUS, Mr. CASEY, Mr. DURBIN, Mr. REID, Mr. KOHL, Mr. HARKIN, Mr. BENNET, Mr. BROWNBACK, Mr. GRASSLEY, Mr. CRAPO, Mr. LEAHY, and Mr. JOHANNS) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 62

Whereas the well-being of the United States is dependent on productive soils along with abundant and high-quality water and related natural resources;

Whereas the Natural Resources Conservation Service (in this resolution referred to as ''NRCS'') was established as the Soil Conservation Service in the Department of Agriculture in 1935 to assist farmers, ranchers, and other landowners in protecting soil and water resources on private lands;

Whereas Hugh Hammond Bennett, the first Chief of the Soil Conservation Service and the ''father of soil conservation'', led the creation of the modern soil conservation movement that established soil and water conservation as a national priority;

Whereas the NRCS, with the assistance of President Franklin D. Roosevelt, State governments, and local partners, developed a new mechanism of American conservation service delivery, which brings together private individuals with Federal, State, and local governments to achieve common conservation objectives;

Whereas the NRCS provides a vital public service by supplying technical expertise and financial assistance to cooperating private landowners for the conservation of soil and water resources;

Whereas the NRCS, as authorized by Congress, has developed and provided land conservation programs that have resulted in the restoration and preservation of millions of acres of wetlands, forests, and grasslands that provide innumerable benefits to the general public in the form of recreational opportunities, wildlife habitat, water quality, and reduced soil erosion;

Whereas the NRCS is the world leader in soil science and soil surveying;

Whereas the NRCS is the national leader in the inventory of natural resources on private

lands, providing national leaders and the public with the status and trends related to these resources and helping forecast the availability of critical water supplies;

Whereas the NRCS has helped communities develop and implement thousands of locally led projects that continue to provide flood control, soil conservation, water supply, and recreational benefits to all Americans, while providing business and job creation opportunities as well;

Whereas, since its establishment, the NRCS has developed, tested, and demonstrated conservation practices, helped develop the science and art of conservation, and continues to strive toward innovation;

Whereas the NRCS encourages and works with landowners and land users to adopt conservation practices and technologies in a voluntary manner to address natural resource concerns;

Whereas NRCS employees serve in offices in every State and territory, while other employees assist other countries and governments;

Whereas, while some NRCS employees work directly with landowners, other employees serve in support of NRCS field operations, but all work toward a common goal of improving the condition of all natural resources found on private lands, knowing when they succeed, all Americans benefit; and

Whereas the NRCS has been ''helping people, help the land'' for 75 years: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) congratulates the outstanding conservation professionals of the Natural Resources Conservation Service on the occasion of the 75th anniversary of the Natural Resources Conservation Service;

(2) recognizes the vital role conservation plays in the well-being of the United States;

(3) expresses its continued commitment to the conservation of natural resources on private lands in both the national interest and as a national priority; and

(4) recognizes the services that the Natural Resources Conservation Service provides to the United States by helping farmers, ranchers, and other landowners to protect soil, water, and related natural resources.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3736. Mr. WEBB (for himself, Mrs. BOXER, Mr. SANDERS, Mrs. MURRAY, Mrs. LINCOLN, Mr. DURBIN, and Mr. BURRIS) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table.

SA 3737. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra.

SA 3738. Mr. SANDERS (for himself, Mr. FEINGOLD, Mr. DEMINT, Mr. LEAHY, Mr. MCCAIN, Mr. WYDEN, Mr. GRASSLEY, Mr. DORGAN, Mr. VITTER, Mrs. BOXER, Mr. BROWNBACK, Mr. RISCH, Mr. WICKER, Mr. GRAHAM, Mr. HATCH, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3739. Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) proposed an amendment to the bill S. 3217, supra.

SA 3740. Mr. SANDERS (for himself, Mr. LEAHY, Mr. HARKIN, Mr. WHITEHOUSE, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3741. Mr. NELSON, of Florida submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3742. Mr. McCAIN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3743. Mr. CORKER (for himself and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3744. Mrs. HAGAN (for herself, Mr. DURBIN, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3745. Mrs. HAGAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3746. Mr. WHITEHOUSE (for himself, Mr. MERKLEY, Mr. DURBIN, Mr. SANDERS, Mr. LEVIN, and Mr. BURRIS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3747. Mr. BENNET (for himself, Mr. ISAKSON, Ms. KLOBUCHAR, Mr. TESTER, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3748. Mrs. FEINSTEIN (for herself, Mr. GREGG, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3749. Mr. TESTER (for himself, Mr. CONRAD, Mrs. MURRAY, Mr. BURRIS, and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3750. Mr. TESTER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

SA 3751. Mr. NELSON, of Florida submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3736. Mr. WEBB (for himself, Mrs. BOXER, Mr. SANDERS, Mrs. MURRAY, Mrs. LINCOLN, Mr. DURBIN, and Mr. BURRIS) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers form abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

TITLE XIII—TAXPAYER FAIRNESS ACT

SEC. 1301. SHORT TITLE.

This title may be cited as the ''Taxpayer Fairness Act''.

SEC. 1302. FINDINGS.

Congress finds the following:

(1) During the years 2008 and 2009, the Nation's largest financial firms received extraordinary and unprecedented assistance from the public.

(2) Such assistance was critical to the success and in many cases the survival of these firms during the year 2009.

(3) High earners at such firms should contribute a portion of any excessive bonuses obtained for the year 2009 to help the Nation reduce the public debt and recover from the recession.

SEC. 1303. EXCISE TAXES ON EXCESSIVE 2009 BONUSES RECEIVED FROM MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

(a) IMPOSITION OF TAX.—Chapter 46 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 4999A. EXCESSIVE 2009 BONUSES RECEIVED FROM MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

''(a) IMPOSITION OF TAX.—There is hereby imposed on any person who receives a covered excessive 2009 bonus a tax equal to 50 percent of the amount of such bonus.

''(b) DEFINITION.—For purposes of this section, the term 'covered excessive 2009 bonus' has the meaning given such term by section 280I(b).

''(c) ADMINISTRATIVE PROVISIONS AND SPECIAL RULES.—

''(1) WITHHOLDING.—

''(A) IN GENERAL.—In the case of any covered excessive 2009 bonus which is treated as wages for purposes of section 3402, the amount otherwise required to be deducted and withheld under such section shall be increased by the amount of the tax imposed by this section on such bonus.

''(B) BONUSES PAID BEFORE ENACTMENT.—In the case of any covered excessive 2009 bonus to which subparagraph (A) applies which is paid before the date of the enactment of this section, no penalty, addition to tax, or interest shall be imposed with respect to any failure to deduct and withhold the tax imposed by this section on such bonus.

''(2) TREATMENT OF TAX.—For purposes of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A.

''(3) NOTICE REQUIREMENTS.—The Secretary shall require each major Federal emergency economic assistance recipient (as defined in section 280I(d)(1)) to notify, as soon as practicable after the date of the enactment of this section and at such other times as the Secretary determines appropriate, the Secretary and each covered employee (as defined in section 280I(e)) of the amount of covered excessive 2009 bonuses to which this section applies and the amount of tax deducted and withheld on such bonuses.

''(4) SECRETARIAL AUTHORITY.—The Secretary may prescribe such regulations, rules, and guidance of general applicability as may be necessary to carry out the provisions of this section, including—

''(A) to prescribe the due date and manner of payment of the tax imposed by this section with respect to any covered excessive 2009 bonus paid before the date of the enactment of this section, and

''(B) to prevent—

''(i) the recharacterization of a bonus payment as a payment which is not a bonus payment in order to avoid the purposes of this section,

''(ii) the treatment as other than an additional 2009 bonus payment of any payment of increased wages or other payments to a covered employee who receives a bonus payment subject to this section in order to reimburse such covered employee for the tax imposed by this section with regard to such bonus, or

''(iii) the avoidance of the purposes of this section through the use of partnerships or other pass-thru entities.''.

(b) CLERICAL AMENDMENTS.—

(1) The heading and table of sections for chapter 46 of the Internal Revenue Code of 1986 are amended to read as follows:

''CHAPTER 46—TAXES ON CERTAIN EXCESSIVE REMUNERATION

''Sec. 4999. Golden parachute payments.

''Sec. 4999A. Excessive 2009 bonuses received from major recipients of Federal emergency economic assistance.''.

(2) The item relating to chapter 46 in the table of chapters for subtitle D of such Code is amended to read as follows:

''Chapter 46. Taxes on certain excessive remuneration.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of covered excessive 2009 bonuses after December 31, 2008, in taxable years ending after such date.

SEC. 1304. LIMITATION ON DEDUCTION OF AMOUNTS PAID AS EXCESSIVE 2009 BONUSES BY MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 280I. EXCESSIVE 2009 BONUSES PAID BY MAJOR RECIPIENTS OF FEDERAL EMERGENCY ECONOMIC ASSISTANCE.

''(a) GENERAL RULE.—The deduction allowed under this chapter with respect to the amount of any covered excessive 2009 bonus shall not exceed 50 percent of the amount of such bonus.

''(b) COVERED EXCESSIVE 2009 BONUS.—For purposes of this section, the term 'covered excessive 2009 bonus' means any 2009 bonus payment paid during any calendar year to a covered employee by any major Federal emergency economic assistance recipient, to the extent that the aggregate of such 2009 bonus payments (without regard to the date on which such payments are paid) with respect to such employee exceeds the dollar amount of the compensation received by the President under section 102 of title 3, United States Code, for calendar year 2009.

''(c) 2009 BONUS PAYMENT.—

''(1) IN GENERAL.—The term '2009 bonus payment' means any payment which—

''(A) is a payment for services rendered,

''(B) is in addition to any amount payable to a covered employee for services performed by such covered employee at a regular hourly, daily, weekly, monthly, or similar periodic rate,

''(C) in the case of a retention bonus, is paid for continued service during calendar year 2009 or 2010, and

''(D) in the case of a payment not described in subparagraph (C), is attributable to services performed by a covered employee during calendar year 2009 (without regard to the year in which such payment is paid).

Such term does not include payments to an employee as commissions, contributions to any qualified retirement plan (as defined in section 4974(c)), welfare and fringe benefits, overtime pay, or expense reimbursements. In the case of a payment which is attributable to services performed during multiple calendar years, such payment shall be treated as a 2009 bonus payment to the extent it is attributable to services performed during calendar year 2009.

''(2) DEFERRED DEDUCTION BONUS PAYMENTS.—

''(A) IN GENERAL.—The term '2009 bonus payment' includes payments attributable to services performed in 2009 which are paid in the form of remuneration (within the meaning of section 162(m)(4)(E)) for which the deduction under this chapter (determined without regard to this section) for such payment is allowable in a subsequent taxable year.

''(B) TIMING OF DEFERRED DEDUCTION BONUS PAYMENTS.—For purposes of this section and section 4999A, the amount of any payment described in subparagraph (A) (as determined in the year in which the deduction under this chapter, determined without regard to this section, for such payment would be allowable) shall be treated as having been made in the calendar year in which any interest in such amount is granted to a covered employee (without regard to the date on which any portion of such interest vests).

''(3) RETENTION BONUS.—The term 'retention bonus' means any bonus payment (without regard to the date such payment is paid) to a covered employee which—

''(A) is contingent on the completion of a period of service with a major Federal emergency economic assistance recipient, the completion of a specific project or other activity for the major Federal emergency economic assistance recipient, or such other circumstances as the Secretary may prescribe, and

''(B) is not based on the performance of the covered employee (other than a requirement that the employee not be separated from employment for cause).

A bonus payment shall not be treated as based on performance for purposes of subparagraph (B) solely because the amount of the payment is determined by reference to a previous bonus payment which was based on performance.

''(d) MAJOR FEDERAL EMERGENCY ECONOMIC ASSISTANCE RECIPIENT.—For purposes of this section—

''(1) IN GENERAL.—The term 'major Federal emergency economic assistance recipient' means—

''(A) any financial institution (within the meaning of section 3 of the Emergency Economic Stabilization Act of 2008) if at any time after December 31, 2007, the Federal Government acquires—

''(i) an equity interest in such person pursuant to a program authorized by the Emergency Economic Stabilization Act of 2008 or the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343), or

''(ii) any warrant (or other right) to acquire any equity interest with respect to such person pursuant to any such program,

but only if the total value of the equity interest described in clauses (i) and (ii) in such person is not less than $5,000,000,000,

''(B) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, and

''(C) any person which is a member of the same affiliated group (as defined in section 1504, determined without regard to subsection (b) thereof) as a person described in subparagraph (A) or (B).

''(2) TREATMENT OF CONTROLLED GROUPS.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as a single employer with respect to any covered employee.

''(e) COVERED EMPLOYEE.—For purposes of this section, the term 'covered employee' means, with respect to any major Federal emergency economic assistance recipient—

''(1) any employee of such recipient, and

''(2) any director of such recipient who is not an employee.

In the case of any major Federal emergency economic assistance recipient which is a partnership or other unincorporated trade or business, the term 'employee' shall include employees of such recipient within the meaning of section 401(c)(1).

''(f) REGULATIONS.—The Secretary may prescribe such regulations, rules, and guidance of general applicability as may be necessary to carry out the provisions of this section, including—

''(1) to prescribe the due date and manner of reporting and payment of any increase in the tax imposed by this chapter due to the application of this section to any covered excessive 2009 bonus paid before the date of the enactment of this section, and

''(2) to prevent—

''(A) the recharacterization of a bonus payment as a payment which is not a bonus payment in order to avoid the purposes of this section, or

''(B) the avoidance of the purposes of this section through the use of partnerships or other pass-thru entities.''.

(b) CLERICAL AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 280I. Excessive 2009 bonuses paid by major recipients of Federal emergency economic assistance.''.

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (F) of section 162(m)(4) of the Internal Revenue Code of 1986 is amended—

(A) by inserting ''AND EXCESSIVE 2009 BONUSES'' after ''PAYMENTS'' in the heading,

(B) by striking ''the amount'' and inserting ''the total amounts'', and

(C) by inserting ''or 280I'' before the period.

(2) Subparagraph (A) of section 3121(v)(2) of such Code is amended by inserting '', to any covered excessive 2009 bonus (as defined in section 280I(b)),'' after ''section 280G(b))''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of covered excessive 2009 bonuses after December 31, 2008, in taxable years ending after such date.

SA 3737. Mrs. BOXER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

At the end of title II, add the following:

SEC. 212. PROHIBITION ON TAXPAYER FUNDING.

(a) LIQUIDATION REQUIRED.—All financial companies put into receivership under this title shall be liquidated. No taxpayer funds

shall be used to prevent the liquidation of any financial company under this title.

(b) RECOVERY OF FUNDS.—All funds expended in the liquidation of a financial company under this title shall be recovered from the disposition of assets of such financial company, or shall be the responsibility of the financial sector, through assessments.

(c) NO LOSSES TO TAXPAYERS.—Taxpayers shall bear no losses from the exercise of any authority under this title.

SA 3738. Mr. SANDERS (for himself, Mr. FEINGOLD, Mr. DEMINT, Mr. LEAHY, Mr. MCCAIN, Mr. WYDEN, Mr. GRASSLEY, Mr. DORGAN, Mr. VITTER, Mrs. BOXER, Mr. BROWNBACK, Mr. RISCH, Mr. WICKER, Mr. GRAHAM, Mr. HATCH, and Mr. CRAPO) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1525, strike line 20 and all that follows through page 1528 line 3 and insert the following: ''to the taxpayers of such assistance.''.

SEC. 1152. INDEPENDENT AUDIT OF THE BOARD OF GOVERNORS.

(a) AMENDMENTS TO SECTION 714.—Section 714 of title 31, United States Code, is amended—

(1) in subsection (a), by striking ''the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.'' and inserting ''and the Office of the Comptroller of the Currency.'';

(2) in subsection (b), by striking all after ''has consented in writing.'' and inserting the following: ''Audits of the Federal Reserve Board and Federal reserve banks shall not include unreleased transcripts or minutes of meetings of the Board of Governors or of the Federal Open Market Committee. To the extent that an audit deals with individual market actions, records related to such actions shall only be released by the Comptroller General after 180 days have elapsed following the effective date of such actions.'';

(3) in subsection (c)(1), in the first sentence, by striking ''subsection,'' and inserting ''subsection or in the audits or audit reports referring or relating to the Federal Reserve Board or Reserve Banks,''; and

(4) by adding at the end the following:

''(f) AUDIT OF AND REPORT ON THE FEDERAL RESERVE SYSTEM.—

''(1) IN GENERAL.—An audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks under subsection (b) shall be completed within 12 months of the enactment of the Restoring American Financial Stability Act of 2010.

''(2) REPORT.—

''(A) REQUIRED.—A report on the audit referred to in paragraph (1) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such audit is completed and made available to—

''(i) the Speaker of the House of Representatives;

''(ii) the majority and minority leaders of the House of Representatives;

''(iii) the majority and minority leaders of the Senate;

''(iv) the Chairman and Ranking Member of the appropriate committees and each subcommittee of jurisdiction in the House of Representatives and the Senate; and

''(v) any other Member of Congress who requests it.

''(B) CONTENTS.—The report under subparagraph (A) shall include a detailed description of the findings and conclusion of the Comptroller General with respect to the audit that is the subject of the report.

''(3) CONSTRUCTION.—Nothing in this subsection shall be construed—

''(A) as interference in or dictation of monetary policy to the Federal Reserve System by the Congress or the Government Accountability Office; or

''(B) to limit the ability of the Government Accountability Office to perform additional audits of the Board of Governors of the Federal Reserve System or of the Federal reserve banks.''.

SEC. 1153. PUBLICATION OF BOARD ACTIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Board of Governors shall publish on its website, with respect to all loans and other financial assistance it has provided since December 1, 2007 under the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility, the Term Asset-Backed Securities Loan Facility, the Primary Dealer Credit Facility, the Commercial Paper Funding Facility, the Term Securities Lending Facility, the Term Auction Facility, the agency Mortgage-Backed Securities program, foreign currency liquidity swap lines, and any other program created as a result of the third undesignated paragraph of section 13 of the Federal Reserve Act—

(1) the identity of each business, individual, entity, or foreign central bank to which the Board of Governors has provided such assistance;

(2) the type of financial assistance provided to that business, individual, entity, or foreign central bank;

(3) the value or amount of that financial assistance;

(4) the date on which the financial assistance was provided;

(5) the specific terms of any repayment expected, including the repayment time period, interest charges, collateral, limitations on executive compensation or dividends, and other material terms; and

(6) the specific rationale for providing assistance in each instance.

(b) TIMING.—The Board of Governors shall publish information required by subsection (a)—

(1) not later than 30 days after the date of enactment of this Act; and

(2) in updated form, not less frequently than once annually.

SA 3739. Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) proposed an amendment to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Restoring American Financial Stability Act of 2010''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Severability.
Sec. 4. Effective date.

TITLE I—FINANCIAL STABILITY

Sec. 101. Short title.
Sec. 102. Definitions.

Subtitle A—Financial Stability Oversight Council

Sec. 111. Financial Stability Oversight Council established.
Sec. 112. Council authority.
Sec. 113. Authority to require supervision and regulation of certain nonbank financial companies.
Sec. 114. Registration of nonbank financial companies supervised by the Board of Governors.
Sec. 115. Enhanced supervision and prudential standards for nonbank financial companies supervised by the Board of Governors and certain bank holding companies.
Sec. 116. Reports.
Sec. 117. Treatment of certain companies that cease to be bank holding companies.
Sec. 118. Council funding.
Sec. 119. Resolution of supervisory jurisdictional disputes among member agencies.
Sec. 120. Additional standards applicable to activities or practices for financial stability purposes.
Sec. 121. Mitigation of risks to financial stability.

Subtitle B—Office of Financial Research

Sec. 151. Definitions.
Sec. 152. Office of Financial Research established.
Sec. 153. Purpose and duties of the Office.
Sec. 154. Organizational structure; responsibilities of primary programmatic units.
Sec. 155. Funding.
Sec. 156. Transition oversight.

Subtitle C—Additional Board of Governors Authority for Certain Nonbank Financial Companies and Bank Holding Companies

Sec. 161. Reports by and examinations of nonbank financial companies supervised by the Board of Governors.
Sec. 162. Enforcement.
Sec. 163. Acquisitions.
Sec. 164. Prohibition against management interlocks between certain financial companies.
Sec. 165. Enhanced supervision and prudential standards for nonbank financial companies supervised by the Board of Governors and certain bank holding companies.
Sec. 166. Early remediation requirements.
Sec. 167. Affiliations.
Sec. 168. Regulations.
Sec. 169. Avoiding duplication.
Sec. 170. Safe harbor.

TITLE II—ORDERLY LIQUIDATION AUTHORITY

Sec. 201. Definitions.
Sec. 202. Orderly Liquidation Authority Panel.
Sec. 203. Systemic risk determination.
Sec. 204. Orderly liquidation.
Sec. 205. Orderly liquidation of covered brokers and dealers.
Sec. 206. Mandatory terms and conditions for all orderly liquidation actions.
Sec. 207. Directors not liable for acquiescing in appointment of receiver.
Sec. 208. Dismissal and exclusion of other actions.

Sec. 209. Rulemaking; non-conflicting law.
Sec. 210. Powers and duties of the corporation.
Sec. 211. Miscellaneous provisions.
TITLE III—TRANSFER OF POWERS TO THE COMPTROLLER OF THE CURRENCY, THE CORPORATION, AND THE BOARD OF GOVERNORS
Sec. 300. Short title.
Sec. 301. Purposes.
Sec. 302. Definition.
Subtitle A—Transfer of Powers and Duties
Sec. 311. Transfer date.
Sec. 312. Powers and duties transferred.
Sec. 313. Abolishment.
Sec. 314. Amendments to the Revised Statutes.
Sec. 315. Federal information policy.
Sec. 316. Savings provisions.
Sec. 317. References in Federal law to Federal banking agencies.
Sec. 318. Funding.
Sec. 319. Contracting and leasing authority.
Subtitle B—Transitional Provisions
Sec. 321. Interim use of funds, personnel, and property.
Sec. 322. Transfer of employees.
Sec. 323. Property transferred.
Sec. 324. Funds transferred.
Sec. 325. Disposition of affairs.
Sec. 326. Continuation of services.
Subtitle C—Federal Deposit Insurance Corporation
Sec. 331. Deposit insurance reforms.
Sec. 332. Management of the Federal Deposit Insurance Corporation.
Subtitle D—Termination of Federal Thrift Charter
Sec. 341. Termination of Federal savings associations.
Sec. 342. Branching.
TITLE IV—REGULATION OF ADVISERS TO HEDGE FUNDS AND OTHERS
Sec. 401. Short title.
Sec. 402. Definitions.
Sec. 403. Elimination of private adviser exemption; limited exemption for foreign private advisers; limited intrastate exemption.
Sec. 404. Collection of systemic risk data; reports; examinations; disclosures.
Sec. 405. Disclosure provision eliminated.
Sec. 406. Clarification of rulemaking authority.
Sec. 407. Exemption of venture capital fund advisers.
Sec. 408. Exemption of and record keeping by private equity fund advisers.
Sec. 409. Family offices.
Sec. 410. State and Federal responsibilities; asset threshold for Federal registration of investment advisers.
Sec. 411. Custody of client assets.
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Sec. 413. GAO study and report on accredited investors.
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Sec. 521. Reporting, payment, and allocation of premium taxes.
Sec. 522. Regulation of nonadmitted insurance by insured's home State.
Sec. 523. Participation in national producer database.
Sec. 524. Uniform standards for surplus lines eligibility.
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Sec. 527. Definitions.
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Sec. 542. Severability.
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Sec. 605. Assuring consistent oversight of permissible activities of depository institution subsidiaries of holding companies.
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Sec. 727. Public reporting of swap transaction data.
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SEC. 2. DEFINITIONS.

As used in this Act, the following definitions shall apply, except as the context otherwise requires or as otherwise specifically provided in this Act:

(1) AFFILIATE.—The term ''affiliate'' means any company that controls, is controlled by, or is under common control with another company.

(2) APPROPRIATE FEDERAL BANKING AGENCY.—On and after the transfer date, the term ''appropriate Federal banking agency'' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), as amended by title III.

(3) BOARD OF GOVERNORS.—The term ''Board of Governors'' means the Board of Governors of the Federal Reserve System.

(4) BUREAU.—The term ''Bureau'' means the Bureau of Consumer Financial Protection established under title X.

(5) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission, except in the context of the Commodity Futures Trading Commission.

(6) CORPORATION.—The term ''Corporation'' means the Federal Deposit Insurance Corporation.

(7) COUNCIL.—The term ''Council'' means the Financial Stability Oversight Council established under title I.

(8) CREDIT UNION.—The term ''credit union'' means a Federal credit union, State credit union, or State-chartered credit union, as those terms are defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(9) FEDERAL BANKING AGENCY.—The term—

(A) ''Federal banking agency'' means, individually, the Board of Governors, the Office of the Comptroller of the Currency, and the Corporation; and

(B) ''Federal banking agencies'' means all of the agencies referred to in subparagraph (A), collectively.

(10) FUNCTIONALLY REGULATED SUBSIDIARY.—The term ''functionally regulated subsidiary'' has the same meaning as in section 5(c)(5) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(5)).

(11) PRIMARY FINANCIAL REGULATORY AGENCY.—The term ''primary financial regulatory agency'' means—

(A) the appropriate Federal banking agency, with respect to institutions described in section 3(q) of the Federal Deposit Insurance Act, except to the extent that an institution is or the activities of an institution are otherwise subject to the jurisdiction of an agency listed in subparagraph (B), (C), (D), or (E);

(B) the Securities and Exchange Commission, with respect to—

(i) any broker or dealer that is registered with the Commission under the Securities Exchange Act of 1934;

(ii) any investment company that is registered with the Commission under the Investment Company Act of 1940;

(iii) any investment adviser that is registered with the Commission under the Investment Advisers Act of 1940, with respect to the investment advisory activities of such company and activities that are incidental to such advisory activities; and

(iv) any clearing agency registered with the Commission under the Securities Exchange Act of 1934;

(C) the Commodity Futures Trading Commission, with respect to any futures commission merchant, any commodity trading adviser, and any commodity pool operator registered with the Commodity Futures Trading Commission under the Commodity Exchange Act, with respect to the commodities activities of such entity and activities that are incidental to such commodities activities;

(D) the State insurance authority of the State in which an insurance company is domiciled, with respect to the insurance activities and activities that are incidental to such insurance activities of an insurance company that is subject to supervision by the State insurance authority under State insurance law; and

(E) the Federal Housing Finance Agency, with respect to Federal Home Loan Banks or the Federal Home Loan Bank System, and with respect to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(12) PRUDENTIAL STANDARDS.—The term ''prudential standards'' means enhanced supervision and regulatory standards developed by the Board of Governors under section 115 or 165.

(13) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(14) SECURITIES TERMS.—The—

(A) terms ''broker'', ''dealer'', ''issuer'', ''nationally recognized statistical ratings organization'', ''security'', and ''securities laws'' have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(B) term ''investment adviser'' has the same meaning as in section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2); and

(C) term ''investment company'' has the same meaning as in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3).

(15) STATE.—The term ''State'' means any State, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

(16) TRANSFER DATE.—The term ''transfer date'' means the date established under section 311.

(17) OTHER INCORPORATED DEFINITIONS.—

(A) FEDERAL DEPOSIT INSURANCE ACT.—The terms ''affiliate'', ''bank'', ''bank holding company'', ''control'' (when used with respect to a depository institution), ''deposit'', ''depository institution'', ''Federal depository institution'', ''Federal savings association'', ''foreign bank'', ''including'', ''insured branch'', ''insured depository institution'', ''national member bank'', ''national nonmember bank'', ''savings association'', ''State bank'', ''State depository institution'', ''State member bank'', ''State nonmember bank'', ''State savings association'', and ''subsidiary'' have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(B) HOLDING COMPANIES.—The term—

(i) ''bank holding company'' has the same meaning as in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841);

(ii) ''financial holding company'' has the same meaning as in section 2(p) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(p)); and

(iii) ''savings and loan holding company'' has the same meaning as in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a(a)).

SEC. 3. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 4. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act or the amendments made by this Act, this Act and such amendments shall take effect 1 day after the date of enactment of this Act.

TITLE I—FINANCIAL STABILITY

SEC. 101. SHORT TITLE.

This title may be cited as the ''Financial Stability Act of 2010''.

SEC. 102. DEFINITIONS.

(a) IN GENERAL.—For purposes of this title, unless the context otherwise requires, the following definitions shall apply:

(1) BANK HOLDING COMPANY.—The term ''bank holding company'' has the same meaning as in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841). A foreign bank or company that is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956, pursuant to section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)), shall be treated as a bank holding company for purposes of this title.

(2) CHAIRPERSON.—The term ''Chairperson'' means the Chairperson of the Council.

(3) MEMBER AGENCY.—The term ''member agency'' means an agency represented by a voting member of the Council.

(4) NONBANK FINANCIAL COMPANY DEFINITIONS.—

(A) FOREIGN NONBANK FINANCIAL COMPANY.—The term ''foreign nonbank financial company'' means a company (other than a company that is, or is treated in the United States as, a bank holding company or a subsidiary thereof) that is—

(i) incorporated or organized in a country other than the United States; and

(ii) substantially engaged in, including through a branch in the United States, activities in the United States that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956).

(B) U.S. NONBANK FINANCIAL COMPANY.—The term ''U.S. nonbank financial company'' means a company (other than a bank holding company or a subsidiary thereof, or a Farm Credit System institution chartered and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et. seq.)) that is—

(i) incorporated or organized under the laws of the United States or any State; and

(ii) substantially engaged in activities in the United States that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956).

(C) NONBANK FINANCIAL COMPANY.—The term ''nonbank financial company'' means a U.S. nonbank financial company and a foreign nonbank financial company.

(D) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD OF GOVERNORS.—The term ''nonbank financial company supervised by the Board of Governors'' means a nonbank financial company that the Council has determined under section 113 shall be supervised by the Board of Governors.

(5) OFFICE OF FINANCIAL RESEARCH.—The term ''Office of Financial Research'' means the office established under section 152.

(6) SIGNIFICANT INSTITUTIONS.—The terms ''significant nonbank financial company'' and ''significant bank holding company'' have the meanings given those terms by rule of the Board of Governors.

(b) DEFINITIONAL CRITERIA.—The Board of Governors shall establish, by regulation, the criteria to determine whether a company is substantially engaged in activities in the United States that are financial in nature (as defined in section 4(k) of the Bank Holding Company Act of 1956) for purposes of the definitions of the terms ''U.S. nonbank financial company'' and ''foreign nonbank financial company'' under subsection (a)(4).

(c) FOREIGN NONBANK FINANCIAL COMPANIES.—For purposes of the authority of the Board of Governors under this title with respect to foreign nonbank financial companies, references in this title to ''company'' or ''subsidiary'' include only the United States activities and subsidiaries of such foreign company.

Subtitle A—Financial Stability Oversight Council

SEC. 111. FINANCIAL STABILITY OVERSIGHT COUNCIL ESTABLISHED.

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

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

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

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

(B) the Chairman of the Board of Governors;

(C) the Comptroller of the Currency;

(D) the Director of the Bureau;

(E) the Chairman of the Commission;

(F) the Chairperson of the Corporation;

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

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

(I) an independent member appointed by the President, by and with the advice and consent of the Senate, having insurance expertise.

(2) NONVOTING MEMBERS.—The Director of the Office of Financial Research—

(A) shall serve in an advisory capacity as a nonvoting member of the Council; and

(B) may not be excluded from any of the proceedings, meetings, discussions, or deliberations of the Council.

(c) TERMS; VACANCY.—

(1) TERMS.—The independent member of the Council shall serve for a term of 6 years.

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

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

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

(e) MEETINGS.—

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

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

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

(g) NONAPPLICABILITY OF FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council, or to any special advisory, technical, or professional committee appointed by the Council, except that, if an advisory, technical, or professional committee has one or more members who are not employees of or affiliated with the United States Government, the Council shall publish a list of the names of the members of such committee.

(h) ASSISTANCE FROM FEDERAL AGENCIES.—Any department or agency of the United States may provide to the Council and any special advisory, technical, or professional committee appointed by the Council, such services, funds, facilities, staff, and other support services as the Council may determine advisable.

(i) COMPENSATION OF MEMBERS.—

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

(2) COMPENSATION FOR NON-FEDERAL MEMBER.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

''Independent Member of the Financial Stability Oversight Council (1).''.

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

SEC. 112. COUNCIL AUTHORITY.

(a) PURPOSES AND DUTIES OF THE COUNCIL.—

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

(A) to identify risks to the financial stability of the United States that could arise

from the material financial distress or failure of large, interconnected bank holding companies or nonbank financial companies;

(B) to promote market discipline, by eliminating expectations on the part of shareholders, creditors, and counterparties of such companies that the Government will shield them from losses in the event of failure; and

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

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

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

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

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

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

(E) recommend to the member agencies general supervisory priorities and principles reflecting the outcome of discussions among the member agencies;

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

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

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

(I) identify systemically important financial market utilities and payment, clearing, and settlement activities (as that term is defined in title VIII), and require such utilities and activities to be subject to standards established by the Board of Governors;

(J) make recommendations to primary financial regulatory agencies to apply new or heightened standards and safeguards for financial activities or practices that could create or increase risks of significant liquidity, credit, or other problems spreading among bank holding companies, nonbank financial companies, and United States financial markets;

(K) make determinations regarding exemptions in title VII, where necessary;

(L) provide a forum for—

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

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

(M) annually report to and testify before Congress on—

(i) the activities of the Council;

(ii) significant financial market developments and potential emerging threats to the financial stability of the United States;

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

(iv) recommendations—

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

(II) to promote market discipline; and

(III) to maintain investor confidence.

(b) AUTHORITY TO OBTAIN INFORMATION.—

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

(A) to monitor the financial services marketplace to identify potential risks to the financial stability of the United States; or

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

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

(3) FINANCIAL DATA COLLECTION.—

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

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

(4) BACK-UP EXAMINATION BY THE BOARD OF GOVERNORS.—If the Council is unable to determine whether the financial activities of a nonbank financial company pose a threat to the financial stability of the United States, based on information or reports obtained under paragraph (3), discussions with management, and publicly available information, the Council may request the Board of Governors, and the Board of Governors is authorized, to conduct an examination of the nonbank financial company for the sole purpose of determining whether the nonbank financial company should be supervised by the Board of Governors for purposes of this title.

(5) CONFIDENTIALITY.—

(A) IN GENERAL.—The Council, the Office of Financial Research, and the other member agencies shall maintain the confidentiality of any data, information, and reports submitted under this subsection and subtitle B.

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

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

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

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

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

(2) CONSIDERATIONS.—Each determination under paragraph (1) shall be based on a consideration by the Council of—

(A) the degree of leverage of the company;

(B) the amount and nature of the financial assets of the company;

(C) the amount and types of the liabilities of the company, including the degree of reliance on short-term funding;

(D) the extent and types of the off-balance-sheet exposures of the company;

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

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

(G) the recommendation, if any, of a member of the Council;

(H) the operation of, or ownership interest in, any clearing, settlement, or payment business of the company;

(I) the extent to which—

(i) assets are managed rather than owned by the company; and

(ii) ownership of assets under management is diffuse; and

(J) any other factors that the Council deems appropriate.

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

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

(2) CONSIDERATIONS.—Each determination under paragraph (1) shall be based on a consideration by the Council of—

(A) the degree of leverage of the company;

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

(C) the amount and types of the liabilities of the company used to fund activities and operations in the United States, including the degree of reliance on short-term funding;

(D) the extent of the United States-related off-balance-sheet exposure of the company;

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

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

(G) the recommendation, if any, of a member of the Council;

(H) the extent to which—

(i) assets are managed rather than owned by the company; and

(ii) ownership of assets under management is diffuse; and

(I) any other factors that the Council deems appropriate.

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

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

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

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

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

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

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

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

(e) EMERGENCY EXCEPTION.—

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

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

(3) OPPORTUNITY FOR HEARING.—The Council shall allow a nonbank financial company to request, in writing, an opportunity for a written or oral hearing before the Council to contest a waiver or modification under this paragraph, not later than 10 days after the date of receipt of notice of the waiver or modification by the company. Upon receipt of a timely request, the Council shall fix a time (not later than 15 days after the date of receipt of the request) and place at which the nonbank financial company may appear, personally or through counsel, to submit written materials (or, at the sole discretion of the Council, oral testimony and oral argument).

(4) NOTICE OF FINAL DETERMINATION.—Not later than 30 days after the date of any hearing under paragraph (3), the Council shall notify the subject nonbank financial company of the final determination of the Council under this paragraph, which shall contain a statement of the basis for the decision of the Council.

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

(g) JUDICIAL REVIEW.—If the Council makes a final determination under this section with respect to a nonbank financial company, such nonbank financial company may, not later than 30 days after the date of receipt of the notice of final determination under subsection (d)(3) or (e)(4), bring an action in the United States district court for the judicial district in which the home office of such nonbank financial company is located, or in the United States District Court for the District of Columbia, for an order requiring that the final determination be rescinded, and the court shall, upon review, dismiss such action or direct the final determination to be rescinded. Review of such an action shall be limited to whether the final determination made under this section was arbitrary and capricious.

SEC. 114. REGISTRATION OF NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS.

Not later than 180 days after the date of a final Council determination under section 113 that a nonbank financial company is to be supervised by the Board of Governors, such company shall register with the Board of Governors, on forms prescribed by the Board of Governors, which shall include such information as the Board of Governors, in consultation with the Council, may deem necessary or appropriate to carry out this title.

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

(a) IN GENERAL.—

(1) PURPOSE.—In order to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress or failure of large, interconnected financial institutions, the Council may make recommendations to the Board of Governors concerning the establishment and refinement of prudential standards and reporting and disclosure requirements applicable to nonbank financial companies supervised by the Board of Governors and large, interconnected bank holding companies, that—

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

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

(2) LIMITATION ON BANK HOLDING COMPANIES.—Any standards recommended under subsections (b) through (f) shall not apply to any bank holding company with total consolidated assets of less than $50,000,000,000. The Council may recommend an asset threshold greater than $50,000,000,000 for the applicability of any particular standard under those subsections.

(b) DEVELOPMENT OF PRUDENTIAL STANDARDS.—

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

(A) risk-based capital requirements;

(B) leverage limits;

(C) liquidity requirements;

(D) resolution plan and credit exposure report requirements;

(E) concentration limits;

(F) a contingent capital requirement;

(G) enhanced public disclosures; and

(H) overall risk management requirements.

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

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

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

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

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

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

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

(B) to the extent possible, ensure that small changes in the factors listed in subsections (a) and (b) of section 113 would not result in sharp, discontinuous changes in the prudential standards established under paragraph (1).

(c) CONTINGENT CAPITAL.—

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

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

(B) an evaluation of the characteristics and amounts of convertible debt that should be required;

(C) an analysis of potential prudential standards that should be used to determine whether the contingent capital of a company would be converted to equity in times of financial stress;

(D) an evaluation of the costs to companies, the effects on the structure and operation of credit and other financial markets, and other economic effects of requiring contingent capital;

(E) an evaluation of the effects of such requirement on the international competitiveness of companies subject to the requirement and the prospects for international coordination in establishing such requirement; and

(F) recommendations for implementing regulations.

(2) REPORT.—The Council shall submit a report to Congress regarding the study required by paragraph (1) not later than 2 years after the date of enactment of this Act.

(3) RECOMMENDATIONS.—

(A) IN GENERAL.—Subsequent to submitting a report to Congress under paragraph (2), the Council may make recommendations to the

Board of Governors to require any nonbank financial company supervised by the Board of Governors and any bank holding company described in subsection (a) to maintain a minimum amount of long-term hybrid debt that is convertible to equity in times of financial stress.

(B) FACTORS TO CONSIDER.—In making recommendations under this subsection, the Council shall consider—

(i) an appropriate transition period for implementation of a conversion under this subsection;

(ii) the factors described in subsection (b)(3);

(iii) capital requirements applicable to a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), and subsidiaries thereof;

(iv) results of the study required by paragraph (1); and

(v) any other factor that the Council deems appropriate.

(d) RESOLUTION PLAN AND CREDIT EXPOSURE REPORTS.—

(1) RESOLUTION PLAN.—The Council may make recommendations to the Board of Governors concerning the requirement that each nonbank financial company supervised by the Board of Governors and each bank holding company described in subsection (a) report periodically to the Council, the Board of Governors, and the Corporation, the plan of such company for rapid and orderly resolution in the event of material financial distress or failure.

(2) CREDIT EXPOSURE REPORT.—The Council may make recommendations to the Board of Governors concerning the advisability of requiring each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a) to report periodically to the Council, the Board of Governors, and the Corporation on—

(A) the nature and extent to which the company has credit exposure to other significant nonbank financial companies and significant bank holding companies; and

(B) the nature and extent to which other such significant nonbank financial companies and significant bank holding companies have credit exposure to that company.

(e) CONCENTRATION LIMITS.—In order to limit the risks that the failure of any individual company could pose to nonbank financial companies supervised by the Board of Governors or bank holding companies described in subsection (a), the Council may make recommendations to the Board of Governors to prescribe standards to limit such risks, as set forth in section 165.

(f) ENHANCED PUBLIC DISCLOSURES.—The Council may make recommendations to the Board of Governors to require periodic public disclosures by bank holding companies described in subsection (a) and by nonbank financial companies supervised by the Board of Governors, in order to support market evaluation of the risk profile, capital adequacy, and risk management capabilities thereof.

SEC. 116. REPORTS.

(a) IN GENERAL.—Subject to subsection (b), the Council, acting through the Office of Financial Research, may require a bank holding company with total consolidated assets of $50,000,000,000 or greater or a nonbank financial company supervised by the Board of Governors, and any subsidiary thereof, to submit certified reports to keep the Council informed as to—

(1) the financial condition of the company;

(2) systems for monitoring and controlling financial, operating, and other risks;

(3) transactions with any subsidiary that is a depository institution; and

(4) the extent to which the activities and operations of the company and any subsidiary thereof, could, under adverse circumstances, have the potential to disrupt financial markets or affect the overall financial stability of the United States.

(b) USE OF EXISTING REPORTS.—

(1) IN GENERAL.—For purposes of compliance with subsection (a), the Council, acting through the Office of Financial Research, shall, to the fullest extent possible, use—

(A) reports that a bank holding company, nonbank financial company supervised by the Board of Governors, or any functionally regulated subsidiary of such company has been required to provide to other Federal or State regulatory agencies;

(B) information that is otherwise required to be reported publicly; and

(C) externally audited financial statements.

(2) AVAILABILITY.—Each bank holding company described in subsection (a) and nonbank financial company supervised by the Board of Governors, and any subsidiary thereof, shall provide to the Council, at the request of the Council, copies of all reports referred to in paragraph (1).

(3) CONFIDENTIALITY.—The Council shall maintain the confidentiality of the reports obtained under subsection (a) and paragraph (1)(A) of this subsection.

SEC. 117. TREATMENT OF CERTAIN COMPANIES THAT CEASE TO BE BANK HOLDING COMPANIES.

(a) APPLICABILITY.—This section shall apply to any entity or a successor entity that—

(1) was a bank holding company having total consolidated assets equal to or greater than $50,000,000,000 as of January 1, 2010; and

(2) received financial assistance under or participated in the Capital Purchase Program established under the Troubled Asset Relief Program authorized by the Emergency Economic Stabilization Act of 2008.

(b) TREATMENT.—If an entity described in subsection (a) ceases to be a bank holding company at any time after January 1, 2010, then such entity shall be treated as a nonbank financial company supervised by the Board of Governors, as if the Council had made a determination under section 113 with respect to that entity.

(c) APPEAL.—

(1) REQUEST FOR HEARING.—An entity may request, in writing, an opportunity for a written or oral hearing before the Council to appeal its treatment as a nonbank financial company supervised by the Board of Governors in accordance with this section. Upon receipt of the request, the Council shall fix a time (not later than 30 days after the date of receipt of the request) and place at which such entity may appear, personally or through counsel, to submit written materials (or, at the sole discretion of the Council, oral testimony and oral argument).

(2) DECISION.—

(A) PROPOSED DECISION.—Not later than 60 days after the date of a hearing under paragraph (1), the Council shall submit a report to, and may testify before, the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the proposed decision of the Council regarding an appeal under paragraph (1), which report shall include a statement of the basis for the proposed decision of the Council.

(B) NOTICE OF FINAL DECISION.—The Council shall notify the subject entity of the final decision of the Council regarding an appeal under paragraph (1), which notice shall contain a statement of the basis for the final decision of the Council, not later than 60 days after the later of—

(i) the date of the submission of the report under subparagraph (A); or

(ii) if the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Financial Services of the House of Representatives holds one or more hearings regarding such report, the date of the last such hearing.

(C) CONSIDERATIONS.—In making a decision regarding an appeal under paragraph (1), the Council shall consider whether the company meets the standards under section 113(a) or 113(b), as applicable, and the definition of the term ''nonbank financial company'' under section 102. The decision of the Council shall be final, subject to the review under paragraph (3).

(3) REVIEW.—If the Council denies an appeal under this subsection, the Council shall, not less frequently than annually, review and reevaluate the decision.

SEC. 118. COUNCIL FUNDING.

Any expenses of the Council shall be treated as expenses of, and paid by, the Office of Financial Research.

SEC. 119. RESOLUTION OF SUPERVISORY JURISDICTIONAL DISPUTES AMONG MEMBER AGENCIES.

(a) REQUEST FOR DISPUTE RESOLUTION.—The Council shall resolve a dispute among 2 or more member agencies, if—

(1) a member agency has a dispute with another member agency about the respective jurisdiction over a particular bank holding company, nonbank financial company, or financial activity or product (excluding matters for which another dispute mechanism specifically has been provided under Federal law);

(2) the Council determines that the disputing agencies cannot, after a demonstrated good faith effort, resolve the dispute without the intervention of the Council; and

(3) any of the member agencies involved in the dispute—

(A) provides all other disputants prior notice of the intent to request dispute resolution by the Council; and

(B) requests in writing, not earlier than 14 days after providing the notice described in subparagraph (A), that the Council resolve the dispute.

(b) COUNCIL DECISION.—The Council shall resolve each dispute described in subsection (a)—

(1) within a reasonable time after receiving the dispute resolution request;

(2) after consideration of relevant information provided by each agency party to the dispute; and

(3) by agreeing with 1 of the disputants regarding the entirety of the matter, or by determining a compromise position.

(c) FORM AND BINDING EFFECT.—A Council decision under this section shall—

(1) be in writing;

(2) include an explanation of the reasons therefor; and

(3) be binding on all Federal agencies that are parties to the dispute.

SEC. 120. ADDITIONAL STANDARDS APPLICABLE TO ACTIVITIES OR PRACTICES FOR FINANCIAL STABILITY PURPOSES.

(a) IN GENERAL.—The Council may issue recommendations to the primary financial regulatory agencies to apply new or heightened standards and safeguards, including standards enumerated in section 115, for a financial activity or practice conducted by bank holding companies or nonbank financial companies under their respective jurisdictions, if the Council determines that the conduct of such activity or practice could create or increase the risk of significant liquidity, credit, or other problems spreading among bank holding companies and nonbank financial companies or the financial markets of the United States.

(b) PROCEDURE FOR RECOMMENDATIONS TO REGULATORS.—

(1) NOTICE AND OPPORTUNITY FOR COMMENT.—The Council shall consult with the primary financial regulatory agencies and provide notice to the public and opportunity for comment for any proposed recommendation that the primary financial regulatory agencies apply new or heightened standards and safeguards for a financial activity or practice.

(2) CRITERIA.—The new or heightened standards and safeguards for a financial activity or practice recommended under paragraph (1)—

(A) shall take costs to long-term economic growth into account; and

(B) may include prescribing the conduct of the activity or practice in specific ways (such as by limiting its scope, or applying particular capital or risk management requirements to the conduct of the activity) or prohibiting the activity or practice.

(c) IMPLEMENTATION OF RECOMMENDED STANDARDS.—

(1) ROLE OF PRIMARY FINANCIAL REGULATORY AGENCY.—

(A) IN GENERAL.—Each primary financial regulatory agency may impose, require reports regarding, examine for compliance with, and enforce standards in accordance with this section with respect to those entities for which it is the primary financial regulatory agency.

(B) RULE OF CONSTRUCTION.—The authority under this paragraph is in addition to, and does not limit, any other authority of a primary financial regulatory agency. Compliance by an entity with actions taken by a primary financial regulatory agency under this section shall be enforceable in accordance with the statutes governing the respective jurisdiction of the primary financial regulatory agency over the entity, as if the agency action were taken under those statutes.

(2) IMPOSITION OF STANDARDS.—The primary financial regulatory agency shall impose the standards recommended by the Council in accordance with subsection (a), or similar standards that the Council deems acceptable, or shall explain in writing to the Council, not later than 90 days after the date on which the Council issues the recommendation, why the agency has determined not to follow the recommendation of the Council.

(d) REPORT TO CONGRESS.—The Council shall report to Congress on—

(1) any recommendations issued by the Council under this section;

(2) the implementation of, or failure to implement such recommendation on the part of a primary financial regulatory agency; and

(3) in any case in which no primary financial regulatory agency exists for the nonbank financial company conducting financial activities or practices referred to in subsection (a), recommendations for legislation that would prevent such activities or practices from threatening the stability of the financial system of the United States.

(e) EFFECT OF RESCISSION OF IDENTIFICATION.—

(1) NOTICE.—The Council may recommend to the relevant primary financial regulatory agency that a financial activity or practice no longer requires any standards or safeguards implemented under this section.

(2) DETERMINATION OF PRIMARY FINANCIAL REGULATORY AGENCY TO CONTINUE.—

(A) IN GENERAL.—Upon receipt of a recommendation under paragraph (1), a primary financial regulatory agency that has imposed standards under this section shall determine whether standards that it has imposed under this section should remain in effect.

(B) APPEAL PROCESS.—Each primary financial regulatory agency that has imposed standards under this section shall promulgate regulations to establish a procedure under which entities under its jurisdiction may appeal a determination by such agency under this paragraph that standards imposed under this section should remain in effect.

SEC. 121. MITIGATION OF RISKS TO FINANCIAL STABILITY.

(a) MITIGATORY ACTIONS.—If the Board of Governors determines that a bank holding company with total consolidated assets of $50,000,000,000 or more, or a nonbank financial company supervised by the Board of Governors, poses a grave threat to the financial stability of the United States, the Board of Governors, upon an affirmative vote of not fewer than ⅔ of the Council members then serving, shall require the subject company—

(1) to terminate one or more activities;

(2) to impose conditions on the manner in which the company conducts one or more activities; or

(3) if the Board of Governors determines that such action is inadequate to mitigate a threat to the financial stability of the United States in its recommendation, to sell or otherwise transfer assets or off-balance-sheet items to unaffiliated entities.

(b) NOTICE AND HEARING.—

(1) IN GENERAL.—The Board of Governors, in consultation with the Council, shall provide to a company described in subsection (a) written notice that such company is being considered for mitigatory action pursuant to this section, including an explanation of the basis for, and description of, the proposed mitigatory action.

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

(3) DECISION.—Not later than 60 days after the date of a hearing under paragraph (2), or not later than 60 days after the provision of a notice under paragraph (1) if no hearing was held, the Board of Governors shall notify the company of the final decision of the Board of Governors, including the results of the vote of the Council, as described in subsection (a).

(c) FACTORS FOR CONSIDERATION.—The Board of Governors and the Council shall take into consideration the factors set forth in subsection (a) or (b) of section 113, as applicable, in a determination described in subsection (a) and in a decision described in subsection (b).

(d) APPLICATION TO FOREIGN FINANCIAL COMPANIES.—The Board of Governors may prescribe regulations regarding the application of this section to foreign nonbank financial companies supervised by the Board of Governors and foreign-based bank holding companies, giving due regard to the principle of national treatment and competitive equity.

Subtitle B—Office of Financial Research

SEC. 151. DEFINITIONS.

For purposes of this subtitle—

(1) the terms ''Office'' and ''Director'' mean the Office of Financial Research established under this subtitle and the Director thereof, respectively;

(2) the term ''financial company'' has the same meaning as in title II, and includes an insured depository institution and an insurance company;

(3) the term ''Data Center'' means the data center established under section 154;

(4) the term ''Research and Analysis Center'' means the research and analysis center established under section 154;

(5) the term ''financial transaction data'' means the structure and legal description of a financial contract, with sufficient detail to describe the rights and obligations between counterparties and make possible an independent valuation;

(6) the term ''position data''—

(A) means data on financial assets or liabilities held on the balance sheet of a financial company, where positions are created or changed by the execution of a financial transaction; and

(B) includes information that identifies counterparties, the valuation by the financial company of the position, and information that makes possible an independent valuation of the position;

(7) the term ''financial contract'' means a legally binding agreement between 2 or more counterparties, describing rights and obligations relating to the future delivery of items of intrinsic or extrinsic value among the counterparties; and

(8) the term ''financial instrument'' means a financial contract in which the terms and conditions are publicly available, and the roles of one or more of the counterparties are assignable without the consent of any of the other counterparties (including common stock of a publicly traded company, government bonds, or exchange traded futures and options contracts).

SEC. 152. OFFICE OF FINANCIAL RESEARCH ESTABLISHED.

(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Office of Financial Research.

(b) DIRECTOR.—

(1) IN GENERAL.—The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) TERM OF SERVICE.—The Director shall serve for a term of 6 years, except that, in the event that a successor is not nominated and confirmed by the end of the term of service of a Director, the Director may continue to serve until such time as the next Director is appointed and confirmed.

(3) EXECUTIVE LEVEL.—The Director shall be compensated at level III of the Executive Schedule.

(4) PROHIBITION ON DUAL SERVICE.—The individual serving in the position of Director may not, during such service, also serve as the head of any financial regulatory agency.

(5) RESPONSIBILITIES, DUTIES, AND AUTHORITY.—The Director shall have sole discretion in the manner in which the Director fulfills the responsibilities and duties and exercises the authorities described in this subtitle.

(c) BUDGET.—The Director, in consultation with the Chairperson, shall establish the annual budget of the Office.

(d) OFFICE PERSONNEL.—

(1) IN GENERAL.—The Director, in consultation with the Chairperson, may fix the number of, and appoint and direct, all employees of the Office.

(2) COMPENSATION.—The Director, in consultation with the Chairperson, shall fix, adjust, and administer the pay for all employees of the Office, without regard to chapter 51 or subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(3) COMPARABILITY.—Section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b(a)) is amended—

(A) by striking ''Finance Board,'' and inserting ''Finance Board, the Office of Financial Research, and the Bureau of Consumer Financial Protection''; and

(B) by striking ''and the Office of Thrift Supervision,''.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—Any department or agency of the United States may provide to the Office and any special advisory, technical, or professional committees appointed by the Office, such services, funds, facilities, staff, and other support services as the Office may determine advisable. Any Federal Government employee may be detailed to the Office without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(g) CONTRACTING AND LEASING AUTHORITY.—Notwithstanding the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) or any other provision of law, the Director may—

(1) enter into and perform contracts, execute instruments, and acquire, in any lawful manner, such goods and services, or personal or real property (or property interest), as the Director deems necessary to carry out the duties and responsibilities of the Office; and

(2) hold, maintain, sell, lease, or otherwise dispose of the property (or property interest) acquired under paragraph (1).

(h) NON-COMPETE.—The Director and any staff of the Office who has had access to the transaction or position data maintained by the Data Center or other business confidential information about financial entities required to report to the Office, may not, for a period of 1 year after last having access to such transaction or position data or business confidential information, be employed by or provide advice or consulting services to a financial company, regardless of whether that entity is required to report to the Office. For staff whose access to business confidential information was limited, the Director may provide, on a case-by-case basis, for a shorter period of post-employment prohibition, provided that the shorter period does not compromise business confidential information.

(i) TECHNICAL AND PROFESSIONAL ADVISORY COMMITTEES.—The Office, in consultation with the Chairperson, may appoint such special advisory, technical, or professional committees as may be useful in carrying out the functions of the Office, and the members of such committees may be staff of the Office, or other persons, or both.

(j) FELLOWSHIP PROGRAM.—The Office, in consultation with the Chairperson, may establish and maintain an academic and professional fellowship program, under which qualified academics and professionals shall be invited to spend not longer than 2 years at the Office, to perform research and to provide advanced training for Office personnel.

(k) EXECUTIVE SCHEDULE COMPENSATION.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

''Director of the Office of Financial Research.''.

SEC. 153. PURPOSE AND DUTIES OF THE OFFICE.

(a) PURPOSE AND DUTIES.—The purpose of the Office is to support the Council in fulfilling the purposes and duties of the Council, as set forth in subtitle A, and to support member agencies, by—

(1) collecting data on behalf of the Council, and providing such data to the Council and member agencies;

(2) standardizing the types and formats of data reported and collected;

(3) performing applied research and essential long-term research;

(4) developing tools for risk measurement and monitoring;

(5) performing other related services;

(6) making the results of the activities of the Office available to financial regulatory agencies; and

(7) assisting such member agencies in determining the types and formats of data authorized by this Act to be collected by such member agencies.

(b) ADMINISTRATIVE AUTHORITY.—The Office may—

(1) share data and information, including software developed by the Office, with the Council and member agencies, which shared data, information, and software—

(A) shall be maintained with at least the same level of security as is used by the Office; and

(B) may not be shared with any individual or entity without the permission of the Council;

(2) sponsor and conduct research projects; and

(3) assist, on a reimbursable basis, with financial analyses undertaken at the request of other Federal agencies that are not member agencies.

(c) RULEMAKING AUTHORITY.—

(1) SCOPE.—The Office, in consultation with the Chairperson, shall issue rules, regulations, and orders only to the extent necessary to carry out the purposes and duties described in paragraphs (1), (2), and (7) of subsection (a).

(2) STANDARDIZATION.—Member agencies, in consultation with the Office, shall implement regulations promulgated by the Office under paragraph (1) to standardize the types and formats of data reported and collected on behalf of the Council, as described in subsection (a)(2). If a member agency fails to implement such regulations prior to the expiration of the 3-year period following the date of publication of final regulations, the Office, in consultation with the Chairperson, may implement such regulations with respect to the financial entities under the jurisdiction of the member agency.

(d) TESTIMONY.—

(1) IN GENERAL.—The Director of the Office shall report to and testify before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives annually on the activities of the Office, including the work of the Data Center and the Research and Analysis Center, and the assessment of the Office of significant financial market developments and potential emerging threats to the financial stability of the United States.

(2) NO PRIOR REVIEW.—No officer or agency of the United States shall have any authority to require the Director to submit the testimony required under paragraph (1) or other Congressional testimony to any officer or agency of the United States for approval, comment, or review prior to the submission of such testimony. Any such testimony to Congress shall include a statement that the views expressed therein are those of the Director and do not necessarily represent the views of the President.

(e) ADDITIONAL REPORTS.—The Director may provide additional reports to Congress concerning the financial stability of the United States. The Director shall notify the Council of any such additional reports provided to Congress.

(f) SUBPOENA.—

(1) IN GENERAL.—The Director may require, by subpoena, the production of the data requested under subsection (a)(1) and section 154(b)(1), but only upon a written finding by the Director that—

(A) such data is required to carry out the functions described under this subtitle; and

(B) the Office has coordinated with such agency, as required under section 154(b)(1)(B)(ii).

(2) FORMAT.—Subpoenas under paragraph (1) shall bear the signature of the Director, and shall be served by any person or class of persons designated by the Director for that purpose.

(3) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena, the subpoena shall be enforceable by order of any appropriate district court of the United States. Any failure to obey the order of the court may be punished by the court as a contempt of court.

SEC. 154. ORGANIZATIONAL STRUCTURE; RESPONSIBILITIES OF PRIMARY PROGRAMMATIC UNITS.

(a) IN GENERAL.—There are established within the Office, to carry out the programmatic responsibilities of the Office—

(1) the Data Center; and

(2) the Research and Analysis Center.

(b) DATA CENTER.—

(1) GENERAL DUTIES.—

(A) DATA COLLECTION.—The Data Center, on behalf of the Council, shall collect, validate, and maintain all data necessary to carry out the duties of the Data Center, as described in this subtitle. The data assembled shall be obtained from member agencies, commercial data providers, publicly available data sources, and financial entities under subparagraph (B).

(B) AUTHORITY.—

(i) IN GENERAL.—The Office may, as determined by the Council or by the Director in consultation with the Council, require the submission of periodic and other reports from any financial company for the purpose of assessing the extent to which a financial activity or financial market in which the financial company participates, or the financial company itself, poses a threat to the financial stability of the United States.

(ii) MITIGATION OF REPORT BURDEN.—Before requiring the submission of a report from any financial company that is regulated by a member agency or any primary financial regulatory agency, the Office shall coordinate with such agencies and shall, whenever possible, rely on information available from such agencies.

(C) RULEMAKING.—The Office shall promulgate regulations pursuant to subsections (a)(1), (a)(2), (a)(7), and (c)(1) of section 153 regarding the type and scope of the data to be collected by the Data Center under this paragraph.

(2) RESPONSIBILITIES.—

(A) PUBLICATION.—The Data Center shall prepare and publish, in a manner that is easily accessible to the public—

(i) a financial company reference database;

(ii) a financial instrument reference database; and

(iii) formats and standards for Office data, including standards for reporting financial transaction and position data to the Office.

(B) CONFIDENTIALITY.—The Data Center shall not publish any confidential data under subparagraph (A).

(3) INFORMATION SECURITY.—The Director shall ensure that data collected and maintained by the Data Center are kept secure and protected against unauthorized disclosure.

(4) CATALOG OF FINANCIAL ENTITIES AND INSTRUMENTS.—The Data Center shall maintain a catalog of the financial entities and instruments reported to the Office.

(5) AVAILABILITY TO THE COUNCIL AND MEMBER AGENCIES.—The Data Center shall make data collected and maintained by the Data Center available to the Council and member agencies, as necessary to support their regulatory responsibilities.

(6) OTHER AUTHORITY.—The Office shall, after consultation with the member agencies, provide certain data to financial industry participants and to the general public to increase market transparency and facilitate research on the financial system, to the extent that intellectual property rights are not violated, business confidential information is properly protected, and the sharing of such information poses no significant threats to the financial system of the United States.

(c) RESEARCH AND ANALYSIS CENTER.—

(1) GENERAL DUTIES.—The Research and Analysis Center, on behalf of the Council, shall develop and maintain independent analytical capabilities and computing resources—

(A) to develop and maintain metrics and reporting systems for risks to the financial stability of the United States;

(B) to monitor, investigate, and report on changes in system-wide risk levels and patterns to the Council and Congress;

(C) to conduct, coordinate, and sponsor research to support and improve regulation of financial entities and markets;

(D) to evaluate and report on stress tests or other stability-related evaluations of financial entities overseen by the member agencies;

(E) to maintain expertise in such areas as may be necessary to support specific requests for advice and assistance from financial regulators;

(F) to investigate disruptions and failures in the financial markets, report findings, and make recommendations to the Council based on those findings;

(G) to conduct studies and provide advice on the impact of policies related to systemic risk; and

(H) to promote best practices for financial risk management.

(d) REPORTING RESPONSIBILITIES.—

(1) REQUIRED REPORTS.—Not later than 2 years after the date of enactment of this Act, and not later than 120 days after the end of each fiscal year thereafter, the Office shall prepare and submit a report to Congress.

(2) CONTENT.—Each report required by this subsection shall assess the state of the United States financial system, including—

(A) an analysis of any threats to the financial stability of the United States;

(B) the status of the efforts of the Office in meeting the mission of the Office; and

(C) key findings from the research and analysis of the financial system by the Office.

SEC. 155. FUNDING.

(a) FINANCIAL RESEARCH FUND.—

(1) FUND ESTABLISHED.—There is established in the Treasury of the United States a separate fund to be known as the ''Financial Research Fund''.

(2) FUND RECEIPTS.—All amounts provided to the Office under subsection (c), and all assessments that the Office receives under subsection (d) shall be deposited into the Financial Research Fund.

(3) INVESTMENTS AUTHORIZED.—

(A) AMOUNTS IN FUND MAY BE INVESTED.—The Director may request the Secretary to invest the portion of the Financial Research Fund that is not, in the judgment of the Director, required to meet the needs of the Office.

(B) ELIGIBLE INVESTMENTS.—Investments shall be made by the Secretary in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Financial Research Fund, as determined by the Director.

(4) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Financial Research Fund shall be credited to and form a part of the Financial Research Fund.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Funds obtained by, transferred to, or credited to the Financial Research Fund shall be immediately available to the Office, and shall remain available until expended, to pay the expenses of the Office in carrying out the duties and responsibilities of the Office.

(2) FEES, ASSESSMENTS, AND OTHER FUNDS NOT GOVERNMENT FUNDS.—Funds obtained by, transferred to, or credited to the Financial Research Fund shall not be construed to be Government funds or appropriated monies.

(3) AMOUNTS NOT SUBJECT TO APPORTIONMENT.—Notwithstanding any other provision of law, amounts in the Financial Research Fund shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or under any other authority, or for any other purpose.

(c) INTERIM FUNDING.—During the 2-year period following the date of enactment of this Act, the Board of Governors shall provide to the Office an amount sufficient to cover the expenses of the Office.

(d) PERMANENT SELF-FUNDING.—

(1) IN GENERAL.—Beginning 2 years after the date of enactment of this Act, the Secretary shall establish, by regulation, and with the approval of the Council, an assessment schedule, including the assessment base and rates, applicable to bank holding companies with total consolidated assets of $50,000,000,000 or greater and nonbank financial companies supervised by the Board of Governors, that takes into account differences among such companies, based on the considerations for establishing the prudential standards under section 115, to collect assessments equal to the estimated total expenses of the Office.

(2) SHORTFALL.—To the extent that the assessments under paragraph (1) do not fully cover the total expenses of the Office, the Board of Governors shall provide to the Office an amount sufficient to cover the difference.

SEC. 156. TRANSITION OVERSIGHT.

(a) PURPOSE.—The purpose of this section is to ensure that the Office—

(1) has an orderly and organized startup;

(2) attracts and retains a qualified workforce; and

(3) establishes comprehensive employee training and benefits programs.

(b) REPORTING REQUIREMENT.—

(1) IN GENERAL.—The Office shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that includes the plans described in paragraph (2).

(2) PLANS.—The plans described in this paragraph are as follows:

(A) TRAINING AND WORKFORCE DEVELOPMENT PLAN.—The Office shall submit a training and workforce development plan that includes, to the extent practicable—

(i) identification of skill and technical expertise needs and actions taken to meet those requirements;

(ii) steps taken to foster innovation and creativity;

(iii) leadership development and succession planning; and

(iv) effective use of technology by employees.

(B) WORKPLACE FLEXIBILITY PLAN.—The Office shall submit a workforce flexibility plan that includes, to the extent practicable—

(i) telework;

(ii) flexible work schedules;

(iii) phased retirement;

(iv) reemployed annuitants;

(v) part-time work;

(vi) job sharing;

(vii) parental leave benefits and childcare assistance;

(viii) domestic partner benefits;

(ix) other workplace flexibilities; or

(x) any combination of the items described in clauses (i) through (ix).

(C) RECRUITMENT AND RETENTION PLAN.—The Office shall submit a recruitment and retention plan that includes, to the extent practicable, provisions relating to—

(i) the steps necessary to target highly qualified applicant pools with diverse backgrounds;

(ii) streamlined employment application processes;

(iii) the provision of timely notification of the status of employment applications to applicants; and

(iv) the collection of information to measure indicators of hiring effectiveness.

(c) EXPIRATION.—The reporting requirement under subsection (b) shall terminate 5 years after the date of enactment of this Act.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect—

(1) a collective bargaining agreement, as that term is defined in section 7103(a)(8) of title 5, United States Code, that is in effect on the date of enactment of this Act; or

(2) the rights of employees under chapter 71 of title 5, United States Code.

Subtitle C—Additional Board of Governors Authority for Certain Nonbank Financial Companies and Bank Holding Companies

SEC. 161. REPORTS BY AND EXAMINATIONS OF NONBANK FINANCIAL COMPANIES BY THE BOARD OF GOVERNORS.

(a) REPORTS.—

(1) IN GENERAL.—The Board of Governors may require each nonbank financial company supervised by the Board of Governors, and any subsidiary thereof, to submit reports under oath, to keep the Board of Governors informed as to—

(A) the financial condition of the company or subsidiary, systems of the company or subsidiary for monitoring and controlling financial, operating, and other risks, and the extent to which the activities and operations of the company or subsidiary pose a threat to the financial stability of the United States; and

(B) compliance by the company or subsidiary with the requirements of this subtitle.

(2) USE OF EXISTING REPORTS AND INFORMATION.—In carrying out subsection (a), the Board of Governors shall, to the fullest extent possible, use—

(A) reports and supervisory information that a nonbank financial company or subsidiary thereof has been required to provide to other Federal or State regulatory agencies;

(B) information otherwise obtainable from Federal or State regulatory agencies;

(C) information that is otherwise required to be reported publicly; and

(D) externally audited financial statements of such company or subsidiary.

(3) AVAILABILITY.—Upon the request of the Board of Governors, a nonbank financial company supervised by the Board of Governors, or a subsidiary thereof, shall promptly provide to the Board of Governors any information described in paragraph (2).

(b) EXAMINATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the Board of Governors may examine any nonbank financial company supervised by the Board of Governors and any subsidiary of such company, to determine—

(A) the nature of the operations and financial condition of the company and such subsidiary;

(B) the financial, operational, and other risks within the company that may pose a threat to the safety and soundness of such company or to the financial stability of the United States;

(C) the systems for monitoring and controlling such risks; and

(D) compliance by the company with the requirements of this subtitle.

(2) USE OF EXAMINATION REPORTS AND INFORMATION.—For purposes of this subsection, the Board of Governors shall, to the fullest extent possible, rely on reports of examination of any depository institution subsidiary or functionally regulated subsidiary made by the primary financial regulatory agency for that subsidiary, and on information described in subsection (a)(2).

(c) COORDINATION WITH PRIMARY FINANCIAL REGULATORY AGENCY.—The Board of Governors shall—

(1) provide to the primary financial regulatory agency for any company or subsidiary, reasonable notice before requiring a report, requesting information, or commencing an examination of such subsidiary under this section; and

(2) avoid duplication of examination activities, reporting requirements, and requests for information, to the extent possible.

SEC. 162. ENFORCEMENT.

(a) IN GENERAL.—Except as provided in subsection (b), a nonbank financial company supervised by the Board of Governors and any subsidiaries of such company (other than any depository institution subsidiary) shall be subject to the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the same manner and to the same extent as if the company were a bank holding company, as provided in section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)).

(b) ENFORCEMENT AUTHORITY FOR FUNCTIONALLY REGULATED SUBSIDIARIES.—

(1) REFERRAL.—If the Board of Governors determines that a condition, practice, or activity of a depository institution subsidiary or functionally regulated subsidiary of a nonbank financial company supervised by the Board of Governors does not comply with the regulations or orders prescribed by the Board of Governors under this Act, or otherwise poses a threat to the financial stability of the United States, the Board of Governors may recommend, in writing, to the primary financial regulatory agency for the subsidiary that such agency initiate a supervisory action or enforcement proceeding. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

(2) BACK-UP AUTHORITY OF THE BOARD OF GOVERNORS.—If, during the 60-day period beginning on the date on which the primary financial regulatory agency receives a recommendation under paragraph (1), the primary financial regulatory agency does not take supervisory or enforcement action against a subsidiary that is acceptable to the Board of Governors, the Board of Governors (upon a vote of its members) may take the recommended supervisory or enforcement action, as if the subsidiary were a bank holding company subject to supervision by the Board of Governors.

SEC. 163. ACQUISITIONS.

(a) ACQUISITIONS OF BANKS; TREATMENT AS A BANK HOLDING COMPANY.—For purposes of section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842), a nonbank financial company supervised by the Board of Governors shall be deemed to be, and shall be treated as, a bank holding company.

(b) ACQUISITION OF NONBANK COMPANIES.—

(1) PRIOR NOTICE FOR LARGE ACQUISITIONS.—Notwithstanding section 4(k)(6)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)(6)(B)), a bank holding company with total consolidated assets equal to or greater than $50,000,000,000 or a nonbank financial company supervised by the Board of Governors shall not acquire direct or indirect ownership or control of any voting shares of any company (other than an insured depository institution) that is engaged in activities described in section 4(k) of the Bank Holding Company Act of 1956 having total consolidated assets of $10,000,000,000 or more, without providing written notice to the Board of Governors in advance of the transaction.

(2) EXEMPTIONS.—The prior notice requirement in paragraph (1) shall not apply with regard to the acquisition of shares that would qualify for the exemptions in section 4(c) or section 4(k)(4)(E) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c) and (k)(4)(E)).

(3) NOTICE PROCEDURES.—The notice procedures set forth in section 4(j)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)(1)), without regard to section 4(j)(3) of that Act, shall apply to an acquisition of any company (other than an insured depository institution) by a bank holding company with total consolidated assets equal to or greater than $50,000,000,000 or a nonbank financial company supervised by the Board of Governors, as described in paragraph (1), including any such company engaged in activities described in section 4(k) of that Act.

(4) STANDARDS FOR REVIEW.—In addition to the standards provided in section 4(j)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)(2)), the Board of Governors shall consider the extent to which the proposed acquisition would result in greater or more concentrated risks to global or United States financial stability or the United States economy.

SEC. 164. PROHIBITION AGAINST MANAGEMENT INTERLOCKS BETWEEN CERTAIN FINANCIAL COMPANIES.

A nonbank financial company supervised by the Board of Governors shall be treated as a bank holding company for purposes of the Depository Institutions Management Interlocks Act (12 U.S.C. 3201 et seq.), except that the Board of Governors shall not exercise the authority provided in section 7 of that Act (12 U.S.C. 3207) to permit service by a management official of a nonbank financial company supervised by the Board of Governors as a management official of any bank holding company with total consolidated assets equal to or greater than $50,000,000,000, or other nonaffiliated nonbank financial company supervised by the Board of Governors (other than to provide a temporary exemption for interlocks resulting from a merger, acquisition, or consolidation).

SEC. 165. ENHANCED SUPERVISION AND PRUDENTIAL STANDARDS FOR NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS AND CERTAIN BANK HOLDING COMPANIES.

(a) IN GENERAL.—

(1) PURPOSE.—In order to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress or failure of large, interconnected financial institutions, the Board of Governors shall, on its own or pursuant to recommendations by the Council under section 115, establish prudential standards and reporting and disclosure requirements applicable to nonbank financial companies supervised by the Board of Governors and large, interconnected bank holding companies that—

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

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

(2) LIMITATION ON BANK HOLDING COMPANIES.—Any standards established under subsections (b) through (f) shall not apply to any bank holding company with total consolidated assets of less than $50,000,000,000, but the Board of Governors may establish an asset threshold greater than $50,000,000,000 for the applicability of any particular standard under subsections (b) through (f).

(b) DEVELOPMENT OF PRUDENTIAL STANDARDS.—

(1) IN GENERAL.—

(A) REQUIRED STANDARDS.—The Board of Governors shall, by regulation or order, establish prudential standards for nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), that shall include—

(i) risk-based capital requirements;

(ii) leverage limits;

(iii) liquidity requirements;

(iv) resolution plan and credit exposure report requirements; and

(v) concentration limits.

(B) ADDITIONAL STANDARDS AUTHORIZED.—The Board of Governors may, by regulation or order, establish prudential standards for nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), that include—

(i) a contingent capital requirement;

(ii) enhanced public disclosures; and

(iii) overall risk management requirements.

(2) PRUDENTIAL STANDARDS FOR FOREIGN FINANCIAL COMPANIES.—In applying the standards set forth in paragraph (1) to foreign nonbank financial companies supervised by the Board of Governors and to foreign-based bank holding companies, the Board of Governors shall give due regard to the principle of national treatment and competitive equity.

(3) CONSIDERATIONS.—In prescribing prudential standards under paragraph (1), the Board of Governors shall—

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

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

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

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

(iv) any other factors that the Board of Governors determines appropriate;

(B) to the extent possible, ensure that small changes in the factors listed in subsections (a) and (b) of section 113 would not result in sharp, discontinuous changes in the prudential standards established under paragraph (1) of this subsection; and

(C) take into account any recommendations of the Council under section 115.

(4) REPORT.—The Board of Governors shall submit an annual report to Congress regarding the implementation of the prudential standards required pursuant to paragraph (1), including the use of such standards to mitigate risks to the financial stability of the United States.

(c) CONTINGENT CAPITAL.—

(1) IN GENERAL.—Subsequent to submission by the Council of a report to Congress under section 115(c), the Board of Governors may promulgate regulations that require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to maintain a minimum amount of long-term hybrid debt that is convertible to equity in times of financial stress.

(2) FACTORS TO CONSIDER.—In establishing regulations under this subsection, the Board of Governors shall consider—

(A) the results of the study undertaken by the Council, and any recommendations of the Council, under section 115(c);

(B) an appropriate transition period for implementation of a conversion under this subsection;

(C) the factors described in subsection (b)(3)(A);

(D) capital requirements applicable to the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), and subsidiaries thereof; and

(E) any other factor that the Board of Governors deems appropriate.

(d) RESOLUTION PLAN AND CREDIT EXPOSURE REPORTS.—

(1) RESOLUTION PLAN.—The Board of Governors shall require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to report periodically to the Board of Governors, the Council, and the Corporation the plan of such company for rapid and orderly resolution in the event of material financial distress or failure.

(2) CREDIT EXPOSURE REPORT.—The Board of Governors shall require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to report periodically to the Board of Governors, the Council, and the Corporation on—

(A) the nature and extent to which the company has credit exposure to other significant nonbank financial companies and significant bank holding companies; and

(B) the nature and extent to which other significant nonbank financial companies and significant bank holding companies have credit exposure to that company.

(3) REVIEW.—The Board of Governors and the Corporation shall review the information provided in accordance with this section by each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a).

(4) NOTICE OF DEFICIENCIES.—If the Board of Governors and the Corporation jointly determine, based on their review under paragraph (3), that the resolution plan of a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) is not credible or would not facilitate an orderly resolution of the company under title 11, United States Code—

(A) the Board of Governors and the Corporation shall notify the company, as applicable, of the deficiencies in the resolution plan; and

(B) the company shall resubmit the resolution plan within a time frame determined by the Board of Governors and the Corporation, with revisions demonstrating that the plan is credible and would result in an orderly resolution under title 11, United States Code, including any proposed changes in business operations and corporate structure to facilitate implementation of the plan.

(5) FAILURE TO RESUBMIT CREDIBLE PLAN.—

(A) IN GENERAL.—If a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) fails to timely resubmit the resolution plan as required under paragraph (4), with such revisions as are required under subparagraph (B), the Board of Governors and the Corporation may jointly impose more stringent capital, leverage, or liquidity requirements, or restrictions on the growth, activities, or operations of the company, or any subsidiary thereof, until such time as the company resubmits a plan that remedies the deficiencies.

(B) DIVESTITURE.—The Board of Governors and the Corporation, in consultation with the Council, may direct a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), by order, to divest certain assets or operations identified by the Board of Governors and the Corporation, to facilitate an orderly resolution of such company under title 11, United States Code, in the event of the failure of such company, in any case in which—

(i) the Board of Governors and the Corporation have jointly imposed more stringent requirements on the company pursuant to subparagraph (A); and

(ii) the company has failed, within the 2-year period beginning on the date of the imposition of such requirements under subparagraph (A), to resubmit the resolution plan with such revisions as were required under paragraph (4)(B).

(6) RULES.—Not later than 18 months after the date of enactment of this Act, the Board of Governors and the Corporation shall jointly issue final rules implementing this subsection.

(e) CONCENTRATION LIMITS.—

(1) STANDARDS.—In order to limit the risks that the failure of any individual company could pose to a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), the Board of Governors, by regulation, shall prescribe standards that limit such risks.

(2) LIMITATION ON CREDIT EXPOSURE.—The regulations prescribed by the Board of Governors under paragraph (1) shall prohibit each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a) from having credit exposure to any unaffiliated company that exceeds 25 percent of the capital stock and surplus (or such lower amount as the Board of Governors may determine by regulation to be necessary to mitigate risks to the financial stability of the United States) of the company.

(3) CREDIT EXPOSURE.—For purposes of paragraph (2), ''credit exposure'' to a company means—

(A) all extensions of credit to the company, including loans, deposits, and lines of credit;

(B) all repurchase agreements and reverse repurchase agreements with the company;

(C) all securities borrowing and lending transactions with the company, to the extent that such transactions create credit exposure for the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a);

(D) all guarantees, acceptances, or letters of credit (including endorsement or standby letters of credit) issued on behalf of the company;

(E) all purchases of or investment in securities issued by the company;

(F) counterparty credit exposure to the company in connection with a derivative transaction between the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) and the company; and

(G) any other similar transactions that the Board of Governors, by regulation, determines to be a credit exposure for purposes of this section.

(4) ATTRIBUTION RULE.—For purposes of this subsection, any transaction by a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) with any person is a transaction with a company, to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that company.

(5) RULEMAKING.—The Board of Governors may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out this subsection.

(6) EXEMPTIONS.—The Board of Governors may, by regulation or order, exempt transactions, in whole or in part, from the definition of ''credit exposure'' for purposes of this subsection, if the Board of Governors finds that the exemption is in the public interest and is consistent with the purpose of this subsection.

(7) TRANSITION PERIOD.—

(A) IN GENERAL.—This subsection and any regulations and orders of the Board of Governors under this subsection shall not be effective until 3 years after the date of enactment of this Act.

(B) EXTENSION AUTHORIZED.—The Board of Governors may extend the period specified in subparagraph (A) for not longer than an additional 2 years.

(f) ENHANCED PUBLIC DISCLOSURES.—The Board of Governors may prescribe, by regulation, periodic public disclosures by nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a) in order to support market evaluation of the risk profile, capital adequacy, and risk management capabilities thereof.

(g) RISK COMMITTEE.—

(1) NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS.—The Board of Governors shall require each nonbank financial company supervised by the Board of Governors that is a publicly traded company to establish a risk committee, as set forth in paragraph (3), not later than 1 year after the date of receipt of a notice of final determination under section 113(d)(3) with respect to such nonbank financial company supervised by the Board of Governors.

(2) CERTAIN BANK HOLDING COMPANIES.—

(A) MANDATORY REGULATIONS.—The Board of Governors shall issue regulations requiring each bank holding company that is a publicly traded company and that has total consolidated assets of not less than $10,000,000,000 to establish a risk committee, as set forth in paragraph (3).

(B) PERMISSIVE REGULATIONS.—The Board of Governors may require each bank holding company that is a publicly traded company and that has total consolidated assets of less than $10,000,000,000 to establish a risk committee, as set forth in paragraph (3), as determined necessary or appropriate by the Board of Governors to promote sound risk management practices.

(3) RISK COMMITTEE.—A risk committee required by this subsection shall—

(A) be responsible for the oversight of the enterprise-wide risk management practices of the nonbank financial company supervised by the Board of Governors or bank holding company described in subsection (a), as applicable;

(B) include such number of independent directors as the Board of Governors may determine appropriate, based on the nature of operations, size of assets, and other appropriate criteria related to the nonbank financial company supervised by the Board of

Governors or a bank holding company described in subsection (a), as applicable; and

(C) include at least 1 risk management expert having experience in identifying, assessing, and managing risk exposures of large, complex firms.

(4) RULEMAKING.—The Board of Governors shall issue final rules to carry out this subsection, not later than 1 year after the transfer date, to take effect not later than 15 months after the transfer date.

(h) STRESS TESTS.—The Board of Governors shall conduct analyses in which nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a) are subject to evaluation of whether the companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions. The Board of Governors may develop and apply such other analytic techniques as are necessary to identify, measure, and monitor risks to the financial stability of the United States.

SEC. 166. EARLY REMEDIATION REQUIREMENTS.

(a) IN GENERAL.—The Board of Governors, in consultation with the Council and the Corporation, shall prescribe regulations establishing requirements to provide for the early remediation of financial distress of a nonbank financial company supervised by the Board of Governors or a bank holding company described in section 165(a), except that nothing in this subsection authorizes the provision of financial assistance from the Federal Government.

(b) PURPOSE OF THE EARLY REMEDIATION REQUIREMENTS.—The purpose of the early remediation requirements under subsection (a) shall be to establish a series of specific remedial actions to be taken by a nonbank financial company supervised by the Board of Governors or a bank holding company described in section 165(a) that is experiencing increasing financial distress, in order to minimize the probability that the company will become insolvent and the potential harm of such insolvency to the financial stability of the United States.

(c) REMEDIATION REQUIREMENTS.—The regulations prescribed by the Board of Governors under subsection (a) shall—

(1) define measures of the financial condition of the company, including regulatory capital, liquidity measures, and other forward-looking indicators; and

(2) establish requirements that increase in stringency as the financial condition of the company declines, including—

(A) requirements in the initial stages of financial decline, including limits on capital distributions, acquisitions, and asset growth; and

(B) requirements at later stages of financial decline, including a capital restoration plan and capital-raising requirements, limits on transactions with affiliates, management changes, and asset sales.

SEC. 167. AFFILIATIONS.

(a) AFFILIATIONS.—Nothing in this subtitle shall be construed to require a nonbank financial company supervised by the Board of Governors, or a company that controls a nonbank financial company supervised by the Board of Governors, to conform the activities thereof to the requirements of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843).

(b) REQUIREMENT.—

(1) IN GENERAL.—If a nonbank financial company supervised by the Board of Governors conducts activities other than those that are determined to be financial in nature or incidental thereto under section 4(k) of the Bank Holding Company Act of 1956, the Board of Governors may require such company to establish and conduct such activities that are determined to be financial in nature or incidental thereto in an intermediate holding company established pursuant to regulation of the Board of Governors, not later than 90 days after the date on which the nonbank financial company supervised by the Board of Governors was notified of the determination under section 113(a).

(2) INTERNAL FINANCIAL ACTIVITIES.—For purposes of this subsection, activities that are determined to be financial in nature or incidental thereto under section 4(k) of the Bank Holding Company Act of 1956, as described in paragraph (1), shall not include internal financial activities conducted for a nonbank financial company supervised by the Board of Governors or any affiliate, including internal treasury, investment, and employee benefit functions. With respect to any internal financial activity of such company during the year prior to the date of enactment of this Act, such company may continue to engage in such activity as long as at least ⅔ of the assets or ⅔ of the revenues generated from the activity are from or attributable to such company, subject to review by the Board of Governors, to determine whether engaging in such activity presents undue risk to such company or to the financial stability of the United States.

(c) REGULATIONS.—The Board of Governors—

(1) shall promulgate regulations to establish the criteria for determining whether to require a nonbank financial company supervised by the Board of Governors to establish an intermediate holding company under subsection (a); and

(2) may promulgate regulations to establish any restrictions or limitations on transactions between an intermediate holding company or a nonbank financial company supervised by the Board of Governors and its affiliates, as necessary to prevent unsafe and unsound practices in connection with transactions between such company, or any subsidiary thereof, and its parent company or affiliates that are not subsidiaries of such company, except that such regulations shall not restrict or limit any transaction in connection with the bona fide acquisition or lease by an unaffiliated person of assets, goods, or services.

SEC. 168. REGULATIONS.

Except as otherwise specified in this subtitle, not later than 18 months after the transfer date, the Board of Governors shall issue final regulations to implement this subtitle and the amendments made by this subtitle.

SEC. 169. AVOIDING DUPLICATION.

The Board of Governors shall take any action that the Board of Governors deems appropriate to avoid imposing requirements under this subtitle that are duplicative of requirements applicable to bank holding companies and nonbank financial companies under other provisions of law.

SEC. 170. SAFE HARBOR.

(a) REGULATIONS.—The Board of Governors shall promulgate regulations on behalf of, and in consultation with, the Council setting forth the criteria for exempting certain types or classes of U.S. nonbank financial companies or foreign nonbank financial companies from supervision by the Board of Governors.

(b) CONSIDERATIONS.—In developing the criteria under subsection (a), the Board of Governors shall take into account the factors for consideration described in subsections (a) and (b) of section 113 in determining whether a U.S. nonbank financial company or foreign nonbank financial company shall be supervised by the Board of Governors.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require supervision by the Board of Governors of a U.S. nonbank financial company or foreign nonbank financial company, if such company does not meet the criteria for exemption established under subsection (a).

(d) UPDATE.—The Board of Governors shall, in consultation with the Council, review the regulations promulgated under subsection (a), not less frequently than every 5 years, and based upon the review, the Board of Governors may revise such regulations on behalf of, and in consultation with, the Council to update as necessary the criteria set forth in such regulations.

(e) TRANSITION PERIOD.—No revisions under subsection (d) shall take effect before the end of the 2-year period after the date of publication of such revisions in final form.

(f) REPORT.—The Chairperson of the Board of Governors and the Chairperson of the Council shall submit a joint report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives not later than 30 days after the date of the issuance in final form of the regulations under subsection (a), or any subsequent revision to such regulations under subsection (d), as applicable. Such report shall include, at a minimum, the rationale for exemption and empirical evidence to support the criteria for exemption.

TITLE II—ORDERLY LIQUIDATION AUTHORITY

SEC. 201. DEFINITIONS.

In this title, the following definitions shall apply:

(1) ADMINISTRATIVE EXPENSES OF THE RECEIVER.—The term ''administrative expenses of the receiver'' includes—

(A) the actual, necessary costs and expenses incurred by the Corporation as receiver for a covered financial company in liquidating a covered financial company; and

(B) any obligations that the Corporation as receiver for a covered financial company determines are necessary and appropriate to facilitate the smooth and orderly liquidation of the covered financial company.

(2) BANKRUPTCY CODE.—The term ''Bankruptcy Code'' means title 11, United States Code.

(3) BRIDGE FINANCIAL COMPANY.—The term ''bridge financial company'' means a new financial company organized by the Corporation in accordance with section 210(h) for the purpose of resolving a covered financial company.

(4) CLAIM.—The term ''claim'' means any right of payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(5) COMPANY.—The term ''company'' has the same meaning as in section 2(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(b)), except that such term includes any company described in paragraph (11), the majority of the securities of which are owned by the United States or any State.

(6) COVERED BROKER OR DEALER.—The term ''covered broker or dealer'' means a covered financial company that is a broker or dealer that—

(A) is registered with the Commission under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)); and

(B) is a member of SIPC.

(7) COVERED FINANCIAL COMPANY.—The term ''covered financial company''—

(A) means a financial company for which a determination has been made under section 203(b); and

(B) does not include an insured depository institution.

(8) COVERED SUBSIDIARY.—The term ''covered subsidiary'' means a subsidiary of a covered financial company, other than—

(A) an insured depository institution;

(B) an insurance company; or

(C) a covered broker or dealer.

(9) DEFINITIONS RELATING TO COVERED BROKERS AND DEALERS.—The terms ''customer'', ''customer name securities'', ''customer property'', and ''net equity'' in the context of a covered broker or dealer, have the same meanings as in section 16 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78lll).

(10) FINANCIAL COMPANY.—The term ''financial company'' means any company that—

(A) is incorporated or organized under any provision of Federal law or the laws of any State;

(B) is—

(i) a bank holding company, as defined in section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)), and including any company described in paragraph (5);

(ii) a nonbank financial company supervised by the Board of Governors;

(iii) any company that is predominantly engaged in activities that the Board of Governors has determined are financial in nature or incidental thereto for purposes of section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)) other than a company described in clause (i) or (ii); or

(iv) any subsidiary of any company described in any of clauses (i) through (iii) (other than a subsidiary that is an insured depository institution or an insurance company); and

(C) is not a Farm Credit System institution chartered under and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 et seq.).

(11) FUND.—The term ''Fund'' means the Orderly Liquidation Fund established under section 210(n).

(12) INSURANCE COMPANY.—The term ''insurance company'' means any entity that is—

(A) engaged in the business of insurance;

(B) subject to regulation by a State insurance regulator; and

(C) covered by a State law that is designed to specifically deal with the rehabilitation, liquidation, or insolvency of an insurance company.

(13) NONBANK FINANCIAL COMPANY.—The term ''nonbank financial company'' has the same meaning as in section 102(a)(4)(C).

(14) NONBANK FINANCIAL COMPANY SUPERVISED BY THE BOARD OF GOVERNORS.—The term ''nonbank financial company supervised by the Board of Governors'' has the same meaning as in section 102(a)(3)(D).

(15) PANEL.—The term ''Panel'' means the Orderly Liquidation Authority Panel established under section 202.

(16) SIPC.—The term ''SIPC'' means the Securities Investor Protection Corporation.

SEC. 202. ORDERLY LIQUIDATION AUTHORITY PANEL.

(a) ORDERLY LIQUIDATION AUTHORITY PANEL.—

(1) ESTABLISHMENT.—There is established in the United States Bankruptcy Court for the District of Delaware, an Orderly Liquidation Authority Panel. The Chief Judge of the United States Bankruptcy Court for the District of Delaware shall appoint judges to the Panel, consistent with paragraph (2). In making such appointments, the Chief Judge shall consider the expertise in financial matters of each judge.

(2) COMPOSITION.—The Panel shall be composed of 3 judges from the United States Bankruptcy Court for the District of Delaware.

(3) JURISDICTION.—The Panel shall have original and exclusive jurisdiction of proceedings to consider petitions by the Secretary under subsection (b)(1).

(b) COMMENCEMENT OF ORDERLY LIQUIDATION.—

(1) PETITION TO PANEL.—

(A) ORDERLY LIQUIDATION AUTHORITY PANEL.—

(i) PETITION TO PANEL.—Subsequent to a determination by the Secretary under section 203 that a financial company meets the criteria in section 203(b), the Secretary, upon notice to the Corporation and the covered financial company, shall petition the Panel for an order authorizing the Secretary to appoint the Corporation as receiver.

(ii) FORM AND CONTENT OF ORDER.—The Secretary shall present all relevant findings and the recommendation made pursuant to section 203(a) to the Panel. The petition shall be filed under seal.

(iii) DETERMINATION.—On a strictly confidential basis, and without any prior public disclosure, the Panel, after notice to the covered financial company and a hearing in which the covered financial company may oppose the petition, shall determine, within 24 hours of receipt of the petition filed by the Secretary, whether the determination of the Secretary that the covered financial company is in default or in danger of default is supported by substantial evidence.

(iv) ISSUANCE OF ORDER.—If the Panel determines that the determination of the Secretary that the covered financial company is in default or in danger of default—

(I) is supported by substantial evidence, the Panel shall issue an order immediately authorizing the Secretary to appoint the Corporation as receiver of the covered financial company; or

(II) is not supported by substantial evidence, the Panel shall immediately provide to the Secretary a written statement of each reason supporting its determination, and afford the Secretary an immediate opportunity to amend and refile the petition under clause (i).

(B) EFFECT OF DETERMINATION.—The determination of the Panel under subparagraph (A) shall be final, and shall be subject to appeal only in accordance with paragraph (2). The decision shall not be subject to any stay or injunction pending appeal. Upon conclusion of its proceedings under subparagraph (A), the Panel shall provide immediately for the record a written statement of each reason supporting the decision of the Panel, and shall provide copies thereof to the Secretary and the covered financial company.

(C) CRIMINAL PENALTIES.—A person who recklessly discloses a determination of the Secretary under section 203(b) or a petition of the Secretary under subparagraph (A), or the pendency of court proceedings as provided for under subparagraph (A), shall be fined not more than $250,000, or imprisoned for not more than 5 years, or both.

(2) APPEAL OF DECISIONS OF THE PANEL.—

(A) APPEAL TO COURT OF APPEALS.—

(i) IN GENERAL.—Subject to clause (ii), the United States Court of Appeals for the Third Circuit shall have jurisdiction of an appeal of a final decision of the Panel filed by the Secretary or a covered financial company, through its board of directors, notwithstanding section 210(a)(1)(A)(i), not later than 30 days after the date on which the decision of the Panel is rendered or deemed rendered under this subsection.

(ii) CONDITION OF JURISDICTION.—The Court of Appeals shall have jurisdiction of an appeal by a covered financial company only if the covered financial company did not acquiesce or consent to the appointment of a receiver by the Secretary under paragraph (1)(A).

(iii) EXPEDITION.—The Court of Appeals shall consider any appeal under this subparagraph on an expedited basis.

(iv) SCOPE OF REVIEW.—For an appeal taken under this subparagraph, review shall be limited to whether the determination of the Secretary that a covered financial company is in default or in danger of default is supported by substantial evidence.

(B) APPEAL TO THE SUPREME COURT.—

(i) IN GENERAL.—A petition for a writ of certiorari to review a decision of the Court of Appeals under subparagraph (A) may be filed by the Secretary or the covered financial company, through its board of directors, notwithstanding section 210(a)(1)(A)(i), with the Supreme Court of the United States, not later than 30 days after the date of the final decision of the Court of Appeals, and the Supreme Court shall have discretionary jurisdiction to review such decision.

(ii) WRITTEN STATEMENT.—In the event of a petition under clause (i), the Court of Appeals shall immediately provide for the record a written statement of each reason for its decision.

(iii) EXPEDITION.—The Supreme Court shall consider any petition under this subparagraph on an expedited basis.

(iv) SCOPE OF REVIEW.—Review by the Supreme Court under this subparagraph shall be limited to whether the determination of the Secretary that the covered financial company is in default or in danger of default is supported by substantial evidence.

(c) ESTABLISHMENT AND TRANSMITTAL OF RULES AND PROCEDURES.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Panel shall establish such rules and procedures as may be necessary to ensure the orderly conduct of proceedings, including rules and procedures to ensure that the 24-hour deadline is met and that the Secretary shall have an ongoing opportunity to amend and refile petitions under subsection (b)(1). The rules and procedures shall include provisions for the appointment of judges to the Panel, such that the composition of the Panel is established in advance of the filing of a petition under subsection (b).

(2) PUBLICATION OF RULES.—The rules and procedures established under paragraph (1), and any modifications of such rules and procedures, shall be recorded and shall be transmitted to—

(A) each judge of the Panel;

(B) the Chief Judge of the United States Bankruptcy Court for the District of Delaware;

(C) the Committee on the Judiciary of the Senate;

(D) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(E) the Committee on the Judiciary of the House of Representatives; and

(F) the Committee on Financial Services of the House of Representatives.

(d) PROVISIONS APPLICABLE TO FINANCIAL COMPANIES.—

(1) BANKRUPTCY CODE.—Except as provided in this subsection, the provisions of the Bankruptcy Code and rules issued thereunder, and not the provisions of this title, shall apply to financial companies that are not covered financial companies for which the Corporation has been appointed as receiver.

(2) THIS TITLE.—The provisions of this title shall exclusively apply to and govern all matters relating to covered financial companies for which the Corporation is appointed as receiver, and no provisions of the Bankruptcy Code or the rules issued thereunder shall apply in such cases.

(e) STUDY OF BANKRUPTCY AND ORDERLY LIQUIDATION PROCESS FOR FINANCIAL COMPANIES.—

(1) STUDY.—

(A) IN GENERAL.—The Administrative Office of the United States Courts and the Comptroller General of the United States shall each monitor the activities of the Panel, and each such Office shall conduct separate studies regarding the bankruptcy and orderly liquidation process for financial companies under the Bankruptcy Code.

(B) ISSUES TO BE STUDIED.—In conducting the study under subparagraph (A), the Administrative Office of the United States Courts and the Comptroller General of the United States each shall evaluate—

(i) the effectiveness of chapter 7 or chapter 11 of the Bankruptcy Code in facilitating the orderly liquidation or reorganization of financial companies;

(ii) ways to maximize the efficiency and effectiveness of the Panel; and

(iii) ways to make the orderly liquidation process under the Bankruptcy Code for financial companies more effective.

(2) REPORTS.—Not later than 1 year after the date of enactment of this Act, in each successive year until the third year, and every fifth year after that date of enactment, the Administrative Office of the United States Courts and the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Financial Services and the Committee on the Judiciary of the House of Representatives separate reports summarizing the results of the studies conducted under paragraph (1).

(f) STUDY OF INTERNATIONAL COORDINATION RELATING TO BANKRUPTCY PROCESS FOR FINANCIAL COMPANIES.—

(1) STUDY.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding international coordination relating to the orderly liquidation of financial companies under the Bankruptcy Code.

(B) ISSUES TO BE STUDIED.—In conducting the study under subparagraph (A), the Comptroller General of the United States shall evaluate, with respect to the bankruptcy process for financial companies—

(i) the extent to which international coordination currently exists;

(ii) current mechanisms and structures for facilitating international cooperation;

(iii) barriers to effective international coordination; and

(iv) ways to increase and make more effective international coordination.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on the Judiciary of the Senate and the Committee on Financial Services and the Committee on the Judiciary of the House of Representatives and the Secretary a report summarizing the results of the study conducted under paragraph (1).

SEC. 203. SYSTEMIC RISK DETERMINATION.

(a) WRITTEN RECOMMENDATION AND DETERMINATION.—

(1) VOTE REQUIRED.—

(A) IN GENERAL.—On their own initiative, or at the request of the Secretary, the Corporation and the Board of Governors shall consider whether to make a written recommendation described in paragraph (2) with respect to whether the Secretary should appoint the Corporation as receiver for a financial company. Such recommendation shall be made upon a vote of not fewer than ⅔ of the members of the Board of Governors then serving and ⅔ of the members of the board of directors of the Corporation then serving.

(B) CASES INVOLVING COVERED BROKERS OR DEALERS.—In the case of a covered broker or dealer, or in which the largest United States subsidiary (as measured by total assets as of the end of the previous calendar quarter) of a financial company is a covered broker or dealer, the Commission and the Board of Governors, at the request of the Secretary, or on their own initiative, shall consider whether to make the written recommendation described in paragraph (2) with respect to the financial company. Subject to the requirements in paragraph (2), such recommendation shall be made upon a vote of not fewer than ⅔ of the members of the Board of Governors then serving and the members of the Commission then serving, and in consultation with the Corporation.

(2) RECOMMENDATION REQUIRED.—Any written recommendation pursuant to paragraph (1) shall contain—

(A) an evaluation of whether the financial company is in default or in danger of default;

(B) a description of the effect that the default of the financial company would have on financial stability in the United States;

(C) a recommendation regarding the nature and the extent of actions to be taken under this title regarding the financial company;

(D) an evaluation of the likelihood of a private sector alternative to prevent the default of the financial company;

(E) an evaluation of why a case under the Bankruptcy Code is not appropriate for the financial company; and

(F) an evaluation of the effects on creditors, counterparties, and shareholders of the financial company and other market participants.

(b) DETERMINATION BY THE SECRETARY.—Notwithstanding any other provision of Federal or State law, the Secretary shall take action in accordance with section 202(b)(1)(A), if, upon the written recommendation under subsection (a), the Secretary (in consultation with the President) determines that—

(1) the financial company is in default or in danger of default;

(2) the failure of the financial company and its resolution under otherwise applicable Federal or State law would have serious adverse effects on financial stability in the United States;

(3) no viable private sector alternative is available to prevent the default of the financial company;

(4) any effect on the claims or interests of creditors, counterparties, and shareholders of the financial company and other market participants as a result of actions to be taken under this title is appropriate, given the impact that any action taken under this title would have on financial stability in the United States;

(5) any action under section 204 would avoid or mitigate such adverse effects, taking into consideration the effectiveness of the action in mitigating potential adverse effects on the financial system, the cost to the general fund of the Treasury, and the potential to increase excessive risk taking on the part of creditors, counterparties, and shareholders in the financial company; and

(6) a Federal regulatory agency has ordered the financial company to convert all of its convertible debt instruments that are subject to the regulatory order.

(c) DOCUMENTATION AND REVIEW.—

(1) IN GENERAL.—The Secretary shall—

(A) document any determination under subsection (b);

(B) retain the documentation for review under paragraph (2); and

(C) notify the covered financial company and the Corporation of such determination.

(2) REPORT TO CONGRESS.—Not later than 24 hours after the date of appointment of the Corporation as receiver for a covered financial company, the Secretary shall provide written notice of the recommendations and determinations reached in accordance with subsections (a) and (b) to the Majority Leader and the Minority Leader of the Senate and the Speaker and the Minority Leader of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, which shall consist of a summary of the basis for the determination, including, to the extent available at the time of the determination—

(A) the size and financial condition of the covered financial company;

(B) the sources of capital and credit support that were available to the covered financial company;

(C) the operations of the covered financial company that could have had a significant impact on financial stability, markets, or both;

(D) identification of the banks and financial companies which may be able to provide the services offered by the covered financial company;

(E) any potential international ramifications of resolution of the covered financial company under other applicable insolvency law;

(F) an estimate of the potential effect of the resolution of the covered financial company under other applicable insolvency law on the financial stability of the United States;

(G) the potential effect of the appointment of a receiver by the Secretary on consumers;

(H) the potential effect of the appointment of a receiver by the Secretary on the financial system, financial markets, and banks and other financial companies; and

(I) whether resolution of the covered financial company under other applicable insolvency law would cause banks or other financial companies to experience severe liquidity distress.

(3) REPORTS TO CONGRESS AND THE PUBLIC.—

(A) IN GENERAL.—Not later than 60 days after the date of appointment of the Corporation as receiver for a covered financial company, the Corporation, as receiver, shall—

(i) prepare reports setting forth information on the assets and liabilities of the covered financial company as of the date of the appointment;

(ii) file such reports with the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives; and

(iii) publish such reports on an online website maintained by the Corporation.

(B) AMENDMENTS.—The Corporation shall, on a timely basis, not less frequently than quarterly, amend or revise and resubmit the reports prepared under this paragraph, as necessary.

(4) DEFAULT OR IN DANGER OF DEFAULT.—For purposes of this title, a financial company shall be considered to be in default or in danger of default if, as determined in accordance with subsection (b)—

(A) a case has been, or likely will promptly be, commenced with respect to the financial company under the Bankruptcy Code;

(B) the financial company has incurred, or is likely to incur, losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the company to avoid such depletion;

(C) the assets of the financial company are, or are likely to be, less than its obligations to creditors and others; or

(D) the financial company is, or is likely to be, unable to pay its obligations (other than

those subject to a bona fide dispute) in the normal course of business.

(5) GAO REVIEW.—The Comptroller General of the United States shall review and report to Congress on any determination under subsection (b), that results in the appointment of the Corporation as receiver, including—

(A) the basis for the determination;

(B) the purpose for which any action was taken pursuant thereto;

(C) the likely effect of the determination and such action on the incentives and conduct of financial companies and their creditors, counterparties, and shareholders; and

(D) the likely disruptive effect of the determination and such action on the reasonable expectations of creditors, counterparties, and shareholders, taking into account the impact any action under this title would have on financial stability in the United States, including whether the rights of such parties will be disrupted.

(d) CORPORATION POLICIES AND PROCEDURES.—As soon as is practicable after the date of enactment of this Act, the Corporation shall establish policies and procedures that are acceptable to the Secretary governing the use of funds available to the Corporation to carry out this title, including the terms and conditions for the provision and use of funds under sections 204(d), 210(h)(2)(G)(iv), and 210(h)(9).

(e) TREATMENT OF INSURANCE COMPANIES AND INSURANCE COMPANY SUBSIDIARIES.—

(1) IN GENERAL.—Notwithstanding subsection (b), if an insurance company is a covered financial company or a subsidiary or affiliate of a covered financial company, the liquidation or rehabilitation of such insurance company, and any subsidiary or affiliate of such company that is not excepted under paragraph (2), shall be conducted as provided under such State law.

(2) EXCEPTION FOR SUBSIDIARIES AND AFFILIATES.—The requirement of paragraph (1) shall not apply with respect to any subsidiary or affiliate of an insurance company that is not itself an insurance company.

(3) BACKUP AUTHORITY.—Notwithstanding paragraph (1), with respect to a covered financial company described in paragraph (1), if, after the end of the 60-day period beginning on the date on which a determination is made under section 202(b) with respect to such company, the appropriate regulatory agency has not filed the appropriate judicial action in the appropriate State court to place such company into orderly liquidation under the laws and requirements of the State, the Corporation shall have the authority to stand in the place of the appropriate regulatory agency and file the appropriate judicial action in the appropriate State court to place such company into orderly liquidation under the laws and requirements of the State.

SEC. 204. ORDERLY LIQUIDATION.

(a) PURPOSE OF ORDERLY LIQUIDATION AUTHORITY.—It is the purpose of this title to provide the necessary authority to liquidate failing financial companies that pose a significant risk to the financial stability of the United States in a manner that mitigates such risk and minimizes moral hazard. The authority provided in this title shall be exercised in the manner that best fulfills such purpose, with the strong presumption that—

(1) creditors and shareholders will bear the losses of the financial company;

(2) management responsible for the condition of the financial company will not be retained; and

(3) the Corporation and other appropriate agencies will take all steps necessary and appropriate to assure that all parties, including management and third parties, having responsibility for the condition of the financial company bear losses consistent with their responsibility, including actions for damages, restitution, and recoupment of compensation and other gains not compatible with such responsibility.

(b) CORPORATION AS RECEIVER.—Upon the appointment of the Corporation under section 202, the Corporation shall act as the receiver for the covered financial company, with all of the rights and obligations set forth in this title.

(c) CONSULTATION.—The Corporation, as receiver—

(1) shall consult with the primary financial regulatory agency or agencies of the covered financial company and its covered subsidiaries for purposes of ensuring an orderly liquidation of the covered financial company;

(2) may consult with, or under subsection (a)(1)(B)(v) or (a)(1)(L) of section 210, acquire the services of, any outside experts, as appropriate to inform and aid the Corporation in the orderly liquidation process;

(3) shall consult with the primary financial regulatory agency or agencies of any subsidiaries of the covered financial company that are not covered subsidiaries, and coordinate with such regulators regarding the treatment of such solvent subsidiaries and the separate resolution of any such insolvent subsidiaries under other governmental authority, as appropriate; and

(4) shall consult with the Commission and the Securities Investor Protection Corporation in the case of any covered financial company for which the Corporation has been appointed as receiver that is a broker or dealer registered with the Commission under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) and is a member of the Securities Investor Protection Corporation, for the purpose of determining whether to transfer to a bridge financial company organized by the Corporation as receiver, without consent of any customer, customer accounts of the covered financial company.

(d) FUNDING FOR ORDERLY LIQUIDATION.—Upon its appointment as receiver for a covered financial company, and thereafter as the Corporation may, in its discretion, determine to be necessary or appropriate, the Corporation may make available to the receivership, subject to the conditions set forth in section 206 and subject to the plan described in section 210(n)(13), funds for the orderly liquidation of the covered financial company.

SEC. 205. ORDERLY LIQUIDATION OF COVERED BROKERS AND DEALERS.

(a) APPOINTMENT OF SIPC AS TRUSTEE FOR PROTECTION OF CUSTOMER SECURITIES AND PROPERTY.—Upon the appointment of the Corporation as receiver for any covered broker or dealer, the Corporation shall appoint, without any need for court approval, the Securities Investor Protection Corporation to act as trustee for liquidation under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) of the covered broker or dealer.

(b) POWERS AND DUTIES OF SIPC.—

(1) IN GENERAL.—Except as provided in this section, upon its appointment as trustee for the liquidation of a covered broker or dealer, SIPC shall have all of the powers and duties provided by the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), including, without limitation, all rights of action against third parties, but shall have no powers or duties with respect to assets and liabilities transferred by the Corporation from the covered broker or dealer to any bridge financial company established in accordance with this title.

(2) LIMITATION OF POWERS.—The exercise by SIPC of powers and functions as trustee under subsection (a) shall not impair or impede the exercise of the powers and duties of the Corporation with regard to—

(A) any action, except as otherwise provided in this title—

(i) to make funds available under section 204(d);

(ii) to organize, establish, operate, or terminate any bridge financial company;

(iii) to transfer assets and liabilities;

(iv) to enforce or repudiate contracts; or

(v) to take any other action relating to such bridge financial company under section 210; or

(B) determining claims under subsection (d).

(3) QUALIFIED FINANCIAL CONTRACTS.—Notwithstanding any provision of the Securities Investor Protection Act of 1970 to the contrary (including section 5(b)(2)(C) of that Act (15 U.S.C. 78eee(b)(2)(C))), the rights and obligations of any party to a qualified financial contract (as that term is defined in section 210(c)(8)) to which a covered broker or dealer described in subsection (a) is a party shall be governed exclusively by section 210, including the limitations and restrictions contained in section 210(c)(10)(B).

(c) LIMITATION ON COURT ACTION.—Except as otherwise provided in this title, no court may take any action, including any action pursuant to the Securities Investor Protection Act of 1970 or the Bankruptcy Code, to restrain or affect the exercise of powers or functions of the Corporation as receiver for a covered broker or dealer and any claims against the Corporation as such receiver shall be determined in accordance with subsection (e) and such claims shall be limited to money damages.

(d) ACTIONS BY CORPORATION AS RECEIVER.—

(1) IN GENERAL.—Notwithstanding any other provision of this title, no action taken by the Corporation, as receiver with respect to a covered broker or dealer, shall—

(A) adversely affect the rights of a customer to customer property or customer name securities;

(B) diminish the amount or timely payment of net equity claims of customers; or

(C) otherwise impair the recoveries provided to a customer under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.).

(2) NET PROCEEDS.—The net proceeds from any transfer, sale, or disposition of assets by the Corporation as receiver for the covered broker or dealer shall be for the benefit of the estate of the covered broker or dealer, as provided in this title.

(e) CLAIMS AGAINST THE CORPORATION AS RECEIVER.—Any claim against the Corporation as receiver for a covered broker or dealer for assets transferred to a bridge financial company established with respect to such covered broker or dealer—

(1) shall be determined in accordance with section 210(a)(2); and

(2) may be reviewed by the appropriate district or territorial court of the United States in accordance with section 210(a)(5).

(f) SATISFACTION OF CUSTOMER CLAIMS.—

(1) OBLIGATIONS TO CUSTOMERS.—Notwithstanding any other provision of this title, all obligations of a covered broker or dealer or of any bridge financial company established with respect to such covered broker or dealer to a customer relating to, or net equity claims based upon, customer property shall be promptly discharged by the delivery of securities or the making of payments to or for the account of such customer, in a manner and in an amount at least as beneficial to the customer as would have been the case had the covered broker or dealer been subject to a proceeding under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) without the appointment of the Corporation as receiver, and with a filing date

as of the date on which the Corporation is appointed as receiver.

(2) SATISFACTION OF CLAIMS BY SIPC.—SIPC, as trustee for a covered broker or dealer, shall satisfy customer claims in the manner and amount provided under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), as if the appointment of the Corporation as receiver had not occurred, and with a filing date as of the date on which the Corporation is appointed as receiver. The Corporation shall satisfy customer claims, to the extent that a customer would have received more securities or cash with respect to the allocation of customer property had the covered financial company been subject to a proceeding under the Securities Investor Protection Act (15 U.S.C. 78aaa et seq.) without the appointment of the Corporation as receiver, and with a filing date as of the date on which the Corporation is appointed as receiver.

(g) PRIORITIES.—

(1) CUSTOMER PROPERTY.—As trustee for a covered broker or dealer, SIPC shall allocate customer property and deliver customer name securities in accordance with section 8(c) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff–2(c)).

(2) OTHER CLAIMS.—All claims other than those described in paragraph (1) (including any unpaid claim by a customer for the allowed net equity claim of such customer from customer property) shall be paid in accordance with the priorities in section 210(b).

(h) RULEMAKING.—The Commission and the Corporation, after consultation with SIPC, shall jointly issue rules to implement this section.

SEC. 206. MANDATORY TERMS AND CONDITIONS FOR ALL ORDERLY LIQUIDATION ACTIONS.

In taking action under this title, the Corporation shall—

(1) determine that such action is necessary for purposes of the financial stability of the United States, and not for the purpose of preserving the covered financial company;

(2) ensure that the shareholders of a covered financial company do not receive payment until after all other claims and the Fund are fully paid;

(3) ensure that unsecured creditors bear losses in accordance with the priority of claim provisions in section 210;

(4) ensure that management responsible for the failed condition of the covered financial company is removed (if such management has not already been removed at the time at which the Corporation is appointed receiver); and

(5) not take an equity interest in or become a shareholder of any covered financial company or any covered subsidiary.

SEC. 207. DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF RECEIVER.

The members of the board of directors (or body performing similar functions) of a covered financial company shall not be liable to the shareholders or creditors thereof for acquiescing in or consenting in good faith to the appointment of the Corporation as receiver for the covered financial company under section 203.

SEC. 208. DISMISSAL AND EXCLUSION OF OTHER ACTIONS.

(a) IN GENERAL.—Effective as of the date of the appointment of the Corporation as receiver for the covered financial company under section 202 or the appointment of SIPC as trustee for a covered broker or dealer under section 205, as applicable, any case or proceeding commenced with respect to the covered financial company under the Bankruptcy Code or the Securities Investor Protection Act of 1970 shall be dismissed, upon notice to the Bankruptcy Court (with respect to a case commenced under the Bankruptcy Code), and upon notice to SIPC (with respect to a covered broker or dealer) and no such case or proceeding may be commenced with respect to a covered financial company at any time while the orderly liquidation is pending.

(b) REVESTING OF ASSETS.—Effective as of the date of appointment of the Corporation as receiver, the assets of a covered financial company shall, to the extent they have vested in any entity other than the covered financial company as a result of any case or proceeding commenced with respect to the covered financial company under the Bankruptcy Code, the Securities Investor Protection Act of 1970, or any similar provision of State liquidation or insolvency law applicable to the covered financial company, revest in the covered financial company.

(c) LIMITATION.—Notwithstanding subsections (a) and (b), any order entered or other relief granted by a bankruptcy court prior to the date of appointment of the Corporation as receiver shall continue with the same validity as if an orderly liquidation had not been commenced.

SEC. 209. RULEMAKING; NON-CONFLICTING LAW.

The Corporation shall, in consultation with the Council, prescribe such rules or regulations as the Corporation considers necessary or appropriate to implement this title, including rules and regulations with respect to the rights, interests, and priorities of creditors, counterparties, security entitlement holders, or other persons with respect to any covered financial company or any assets or other property of or held by such covered financial company. To the extent possible, the Corporation shall seek to harmonize applicable rules and regulations promulgated under this section with the insolvency laws that would otherwise apply to a covered financial company.

SEC. 210. POWERS AND DUTIES OF THE CORPORATION.

(a) POWERS AND AUTHORITIES.—

(1) GENERAL POWERS.—

(A) SUCCESSOR TO COVERED FINANCIAL COMPANY.—The Corporation shall, upon appointment as receiver for a covered financial company under this title, succeed to—

(i) all rights, titles, powers, and privileges of the covered financial company and its assets, and of any stockholder, member, officer, or director of such company; and

(ii) title to the books, records, and assets of any previous receiver or other legal custodian of such covered financial company.

(B) OPERATION OF THE COVERED FINANCIAL COMPANY DURING THE PERIOD OF ORDERLY LIQUIDATION.—The Corporation, as receiver for a covered financial company, may—

(i) take over the assets of and operate the covered financial company with all of the powers of the members or shareholders, the directors, and the officers of the covered financial company, and conduct all business of the covered financial company;

(ii) collect all obligations and money owed to the covered financial company;

(iii) perform all functions of the covered financial company, in the name of the covered financial company;

(iv) manage the assets and property of the covered financial company, consistent with maximization of the value of the assets in the context of the orderly liquidation; and

(v) provide by contract for assistance in fulfilling any function, activity, action, or duty of the Corporation as receiver.

(C) FUNCTIONS OF COVERED FINANCIAL COMPANY OFFICERS, DIRECTORS, AND SHAREHOLDERS.—

(i) IN GENERAL.—The Corporation may provide for the exercise of any function by any member or stockholder, director, or officer of any covered financial company for which the Corporation has been appointed as receiver under this title.

(ii) PRESUMPTION.—There shall be a strong presumption that the Corporation, as receiver for a covered financial company, will remove management responsible for the failed condition of the covered financial company.

(D) ADDITIONAL POWERS AS RECEIVER.—The Corporation shall, as receiver for a covered financial company, and subject to all legally enforceable and perfected security interests and all legally enforceable security entitlements in respect of assets held by the covered financial company, liquidate, and wind-up the affairs of a covered financial company, including taking steps to realize upon the assets of the covered financial company, in such manner as the Corporation deems appropriate, including through the sale of assets, the transfer of assets to a bridge financial company established under subsection (h), or the exercise of any other rights or privileges granted to the receiver under this section.

(E) ADDITIONAL POWERS WITH RESPECT TO FAILING SUBSIDIARIES OF A COVERED FINANCIAL COMPANY.—

(i) IN GENERAL.—In any case in which a receiver is appointed for a covered financial company under section 202, the Corporation may appoint itself as receiver of any subsidiary (other than an insured depository institution, any covered broker or dealer, or an insurance company) of the covered financial company that is organized under Federal law or the laws of any State, if the Corporation and the Secretary jointly determine that—

(I) the subsidiary is in default or in danger of default;

(II) such action would avoid or mitigate serious adverse effects on the financial stability or economic conditions of the United States; and

(III) such action would facilitate the orderly liquidation of the covered financial company.

(ii) TREATMENT AS COVERED FINANCIAL COMPANY.—If the Corporation is appointed as receiver of a subsidiary of a covered financial company under clause (i), the subsidiary shall thereafter be considered a covered financial company under this title, and the Corporation shall thereafter have all the powers and rights with respect to that subsidiary as it has with respect to a covered financial company under this title.

(F) ORGANIZATION OF BRIDGE COMPANIES.—The Corporation, as receiver for a covered financial company, may organize a bridge financial company under subsection (h).

(G) MERGER; TRANSFER OF ASSETS AND LIABILITIES.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the Corporation, as receiver for a covered financial company, may—

(I) merge the covered financial company with another company; or

(II) transfer any asset or liability of the covered financial company (including any assets and liabilities held by the covered financial company for security entitlement holders, any customer property, or any assets and liabilities associated with any trust or custody business) without obtaining any approval, assignment, or consent with respect to such transfer.

(ii) FEDERAL AGENCY APPROVAL; ANTITRUST REVIEW.—With respect to a transaction described in clause (i)(I) that requires approval by a Federal agency—

(I) the transaction may not be consummated before the 5th calendar day after the date of approval by the Federal agency responsible for such approval;

(II) if, in connection with any such approval, a report on competitive factors is required, the Federal agency responsible for such approval shall promptly notify the Attorney General of the United States of the proposed transaction, and the Attorney General shall provide the required report not later than 10 days after the date of the request; and

(III) if notification under section 7A of the Clayton Act is required with respect to such transaction, then the required waiting period shall end on the 15th day after the date on which the Attorney General and the Federal Trade Commission receive such notification, unless the waiting period is terminated earlier under subsection (b)(2) of such section 7A, or is extended pursuant to subsection (e)(2) of such section 7A.

(iii) SETOFF.—Subject to the other provisions of this title, any transferee of assets from a receiver, including a bridge financial company, shall be subject to such claims or rights as would prevail over the rights of such transferee in such assets under applicable noninsolvency law.

(H) PAYMENT OF VALID OBLIGATIONS.—The Corporation, as receiver for a covered financial company, shall, to the extent that funds are available, pay all valid obligations of the covered financial company that are due and payable at the time of the appointment of the Corporation as receiver, in accordance with the prescriptions and limitations of this title.

(I) APPLICABLE NONINSOLVENCY LAW.—Except as may otherwise be provided in this title, the applicable noninsolvency law shall be determined by the noninsolvency choice of law rules otherwise applicable to the claims, rights, titles, persons, or entities at issue.

(J) SUBPOENA AUTHORITY.—

(i) IN GENERAL.—The Corporation, as receiver for a covered financial company, may, for purposes of carrying out any power, authority, or duty with respect to the covered financial company (including determining any claim against the covered financial company and determining and realizing upon any asset of any person in the course of collecting money due the covered financial company), exercise any power established under section 8(n) of the Federal Deposit Insurance Act, as if the Corporation were the appropriate Federal banking agency for the covered financial company, and the covered financial company were an insured depository institution.

(ii) RULE OF CONSTRUCTION.—This subparagraph may not be construed as limiting any rights that the Corporation, in any capacity, might otherwise have to exercise any powers described in clause (i) or under any other provision of law.

(K) INCIDENTAL POWERS.—The Corporation, as receiver for a covered financial company, may exercise all powers and authorities specifically granted to receivers under this title, and such incidental powers as shall be necessary to carry out such powers under this title.

(L) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management and disposition of assets from the covered financial company, the Corporation, as receiver for a covered financial company, may utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, legal, and brokerage services, if such services are available in the private sector, and the Corporation determines that utilization of such services is practicable, efficient, and cost effective.

(M) SHAREHOLDERS AND CREDITORS OF COVERED FINANCIAL COMPANY.—Notwithstanding any other provision of law, the Corporation, as receiver for a covered financial company, shall succeed by operation of law to the rights, titles, powers, and privileges described in subparagraph (A), and shall terminate all rights and claims that the stockholders and creditors of the covered financial company may have against the assets of the covered financial company or the Corporation arising out of their status as stockholders or creditors, except for their right to payment, resolution, or other satisfaction of their claims, as permitted under this section. The Corporation shall ensure that shareholders and unsecured creditors bear losses, consistent with the priority of claims provisions under this section.

(N) COORDINATION WITH FOREIGN FINANCIAL AUTHORITIES.—The Corporation, as receiver for a covered financial company, shall coordinate, to the maximum extent possible, with the appropriate foreign financial authorities regarding the orderly liquidation of any covered financial company that has assets or operations in a country other than the United States.

(O) RESTRICTION ON TRANSFERS TO BRIDGE FINANCIAL COMPANY.—

(i) SECTION OF ACCOUNTS FOR TRANSFER.—If the Corporation establishes one or more bridge financial companies with respect to a covered broker or dealer, the Corporation shall transfer to a bridge financial company, all customer accounts of the covered financial company, unless the Corporation, after consulting with the Commission and SIPC, determines that—

(I) the customer accounts are likely to be promptly transferred to another covered broker or dealer; or

(II) the transfer of the accounts to a bridge financial company would materially interfere with the ability of the Corporation to avoid or mitigate serious adverse effects on financial stability or economic conditions in the United States.

(ii) TRANSFER OF PROPERTY.—SIPC, as trustee for the liquidation of the covered broker or dealer, and the Commission, shall provide any and all reasonable assistance necessary to complete such transfers by the Corporation.

(iii) CUSTOMER CONSENT AND COURT APPROVAL NOT REQUIRED.—Neither customer consent nor court approval shall be required to transfer any customer accounts and associated customer property to a bridge financial company in accordance with this section.

(iv) NOTIFICATION OF SIPC AND SHARING OF INFORMATION.—The Corporation shall identify to SIPC the customer accounts and associated customer property transferred to the bridge financial company. The Corporation and SIPC shall cooperate in the sharing of any information necessary for each entity to discharge its obligations under this title and under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.) including by providing access to the books and records of the covered financial company and any bridge financial company established in accordance with this title.

(2) DETERMINATION OF CLAIMS.—

(A) IN GENERAL.—The Corporation, as receiver for a covered financial company, shall report on claims, as set forth in section 203(c)(3). Subject to paragraph (4) of this subsection, the Corporation, as receiver for a covered financial company, shall determine claims in accordance with the requirements of this subsection and regulations prescribed under section 209.

(B) NOTICE REQUIREMENTS.—The Corporation, as receiver for a covered financial company, in any case involving the liquidation or winding up of the affairs of a covered financial company, shall—

(i) promptly publish a notice to the creditors of the covered financial company to present their claims, together with proof, to the receiver by a date specified in the notice, which shall be not earlier than 90 days after the date of publication of such notice; and

(ii) republish such notice 1 month and 2 months, respectively, after the date of publication under clause (i).

(C) MAILING REQUIRED.—The Corporation as receiver shall mail a notice similar to the notice published under clause (i) or (ii) of subparagraph (B), at the time of such publication, to any creditor shown on the books and records of the covered financial company—

(i) at the last address of the creditor appearing in such books;

(ii) in any claim filed by the claimant; or

(iii) upon discovery of the name and address of a claimant not appearing on the books and records of the covered financial company, not later than 30 days after the date of the discovery of such name and address.

(3) PROCEDURES FOR RESOLUTION OF CLAIMS.—

(A) DECISION PERIOD.—

(i) IN GENERAL.—Prior to the 180th day after the date on which a claim against a covered financial company is filed with the Corporation as receiver, or such later date as may be agreed as provided in clause (ii), the Corporation shall notify the claimant whether it accepts or objects to the claim, in accordance with subparagraphs (B), (C), and (D).

(ii) EXTENSION OF TIME.—By written agreement executed not later than 180 days after the date on which a claim against a covered financial company is filed with the Corporation, the period described in clause (i) may be extended by written agreement between the claimant and the Corporation. Failure to notify the claimant of any disallowance within the time period set forth in clause (i), as it may be extended by agreement under this clause, shall be deemed to be a disallowance of such claim, and the claimant may file or continue an action in court, as provided in paragraph (4).

(iii) MAILING OF NOTICE SUFFICIENT.—The requirements of clause (i) shall be deemed to be satisfied if the notice of any decision with respect to any claim is mailed to the last address of the claimant which appears—

(I) on the books, records, or both of the covered financial company;

(II) in the claim filed by the claimant; or

(III) in documents submitted in proof of the claim.

(iv) CONTENTS OF NOTICE OF DISALLOWANCE.—If the Corporation as receiver objects to any claim filed under clause (i), the notice to the claimant shall contain—

(I) a statement of each reason for the disallowance; and

(II) the procedures required to file or continue an action in court, as provided in paragraph (4).

(B) ALLOWANCE OF PROVEN CLAIM.—The receiver shall allow any claim received by the receiver on or before the date specified in the notice under paragraph (2)(B)(i), which is proved to the satisfaction of the receiver.

(C) DISALLOWANCE OF CLAIMS FILED AFTER END OF FILING PERIOD.—

(i) IN GENERAL.—Except as provided in clause (ii), claims filed after the date specified in the notice published under paragraph (2)(B)(i) shall be disallowed, and such disallowance shall be final.

(ii) CERTAIN EXCEPTIONS.—Clause (i) shall not apply with respect to any claim filed by a claimant after the date specified in the notice published under paragraph (2)(B)(i), and such claim may be considered by the receiver under subparagraph (B), if—

(I) the claimant did not receive notice of the appointment of the receiver in time to file such claim before such date; and

(II) such claim is filed in time to permit payment of such claim.

(D) AUTHORITY TO DISALLOW CLAIMS.—

(i) IN GENERAL.—The Corporation may object to any portion of any claim by a creditor or claim of a security, preference, setoff, or priority which is not proved to the satisfaction of the Corporation.

(ii) PAYMENTS TO UNDERSECURED CREDITORS.—In the case of a claim against a covered financial company that is secured by any property or other asset of such covered financial company, the receiver—

(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim; and

(II) may not make any payment with respect to such unsecured portion of the claim, other than in connection with the disposition of all claims of unsecured creditors of the covered financial company.

(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to—

(I) any extension of credit from any Federal reserve bank, or the Corporation, to any covered financial company; or

(II) subject to clause (ii), any legally enforceable and perfected security interest in the assets of the covered financial company securing any such extension of credit.

(E) LEGAL EFFECT OF FILING.—

(i) STATUTE OF LIMITATIONS TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (8), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the date of appointment of the receiver for the covered financial company.

(4) JUDICIAL DETERMINATION OF CLAIMS.—

(A) IN GENERAL.—Subject to subparagraph (B), a claimant may file suit on a claim (or continue an action commenced before the date of appointment of the Corporation as receiver) in the district or territorial court of the United States for the district within which the principal place of business of the covered financial company is located (and such court shall have jurisdiction to hear such claim).

(B) TIMING.—A claim under subparagraph (A) may be filed before the end of the 60-day period beginning on the earlier of—

(i) the end of the period described in paragraph (3)(A)(i) (or, if extended by agreement of the Corporation and the claimant, the period described in paragraph (3)(A)(ii)) with respect to any claim against a covered financial company for which the Corporation is receiver; or

(ii) the date of any notice of disallowance of such claim pursuant to paragraph (3)(A)(i).

(C) STATUTE OF LIMITATIONS.—If any claimant fails to file suit on such claim (or to continue an action on such claim commenced before the date of appointment of the Corporation as receiver) prior to the end of the 60-day period described in subparagraph (B), the claim shall be deemed to be disallowed (other than any portion of such claim which was allowed by the receiver) as of the end of such period, such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

(5) EXPEDITED DETERMINATION OF CLAIMS.—

(A) PROCEDURE REQUIRED.—The Corporation shall establish a procedure for expedited relief outside of the claims process established under paragraph (3), for any claimant that alleges—

(i) the existence of a legally valid and enforceable or perfected security interest in property of a covered financial company, or is an entitlement holder that has obtained control of any legally valid and enforceable security entitlement in respect of any asset held by the covered financial company for which the Corporation has been appointed receiver; and

(ii) that irreparable injury will occur if the claims procedure established under paragraph (3) is followed.

(B) DETERMINATION PERIOD.—Prior to the end of the 90-day period beginning on the date on which a claim is filed in accordance with the procedures established pursuant to subparagraph (A), the Corporation shall—

(i) determine—

(I) whether to allow or disallow such claim, or any portion thereof; or

(II) whether such claim should be determined pursuant to the procedures established pursuant to paragraph (3);

(ii) notify the claimant of the determination; and

(iii) if the claim is disallowed, provide a statement of each reason for the disallowance and the procedure for obtaining a judicial determination.

(C) PERIOD FOR FILING OR RENEWING SUIT.—Any claimant who files a request for expedited relief shall be permitted to file suit (or continue a suit filed before the date of appointment of the Corporation as receiver seeking a determination of the rights of the claimant with respect to such security interest (or such security entitlement) after the earlier of—

(i) the end of the 90-day period beginning on the date of the filing of a request for expedited relief; or

(ii) the date on which the Corporation denies the claim or a portion thereof.

(D) STATUTE OF LIMITATIONS.—If an action described in subparagraph (C) is not filed, or the motion to renew a previously filed suit is not made, before the end of the 30-day period beginning on the date on which such action or motion may be filed in accordance with subparagraph (C), the claim shall be deemed to be disallowed as of the end of such period (other than any portion of such claim which was allowed by the receiver), such disallowance shall be final, and the claimant shall have no further rights or remedies with respect to such claim.

(E) LEGAL EFFECT OF FILING.—

(i) STATUTE OF LIMITATIONS TOLLED.—For purposes of any applicable statute of limitations, the filing of a claim with the receiver shall constitute a commencement of an action.

(ii) NO PREJUDICE TO OTHER ACTIONS.—Subject to paragraph (8), the filing of a claim with the receiver shall not prejudice any right of the claimant to continue any action which was filed before the appointment of the Corporation as receiver for the covered financial company.

(6) AGREEMENTS AGAINST INTEREST OF THE RECEIVER.—No agreement that tends to diminish or defeat the interest of the Corporation as receiver in any asset acquired by the receiver under this section shall be valid against the receiver, unless such agreement—

(A) is in writing;

(B) was executed by an authorized officer or representative of the covered financial company, or confirmed in the ordinary course of business by the covered financial company; and

(C) has been, since the time of its execution, an official record of the company or the party claiming under the agreement provides documentation, acceptable to the receiver, of such agreement and its authorized execution or confirmation by the covered financial company.

(7) PAYMENT OF CLAIMS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Corporation as receiver may, in its discretion and to the extent that funds are available, pay creditor claims, in such manner and amounts as are authorized under this section, which are—

(i) allowed by the receiver;

(ii) approved by the receiver pursuant to a final determination pursuant to paragraph (3) or (5), as applicable; or

(iii) determined by the final judgment of a court of competent jurisdiction.

(B) LIMITATION.—A creditor shall, in no event, receive less than the amount that the creditor is entitled to receive under paragraphs (2) and (3) of subsection (d), as applicable.

(C) PAYMENT OF DIVIDENDS ON CLAIMS.—The Corporation as receiver may, in its sole discretion, and to the extent otherwise permitted by this section, pay dividends on proven claims at any time, and no liability shall attach to the Corporation as receiver, by reason of any such payment or for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

(D) RULEMAKING BY THE CORPORATION.—The Corporation may prescribe such rules, including definitions of terms, as the Corporation deems appropriate to establish an interest rate for or to make payments of post-insolvency interest to creditors holding proven claims against the receivership estate of a covered financial company, except that no such interest shall be paid until the Corporation as receiver has satisfied the principal amount of all creditor claims.

(8) SUSPENSION OF LEGAL ACTIONS.—

(A) IN GENERAL.—After the appointment of the Corporation as receiver for a covered financial company, the Corporation may request a stay in any judicial action or proceeding in which such covered financial company is or becomes a party, for a period of not to exceed 90 days.

(B) GRANT OF STAY BY ALL COURTS REQUIRED.—Upon receipt of a request by the Corporation pursuant to subparagraph (A), the court shall grant such stay as to all parties.

(9) ADDITIONAL RIGHTS AND DUTIES.—

(A) PRIOR FINAL ADJUDICATION.—The Corporation shall abide by any final, non-appealable judgment of any court of competent jurisdiction that was rendered before the appointment of the Corporation as receiver.

(B) RIGHTS AND REMEDIES OF RECEIVER.—In the event of any appealable judgment, the Corporation as receiver shall—

(i) have all the rights and remedies available to the covered financial company (before the date of appointment of the Corporation as receiver under section 202) and the Corporation, including removal to Federal court and all appellate rights; and

(ii) not be required to post any bond in order to pursue such remedies.

(C) NO ATTACHMENT OR EXECUTION.—No attachment or execution may be issued by any court upon assets in the possession of the Corporation as receiver for a covered financial company.

(D) LIMITATION ON JUDICIAL REVIEW.—Except as otherwise provided in this title, no court shall have jurisdiction over—

(i) any claim or action for payment from, or any action seeking a determination of rights with respect to, the assets of any covered financial company for which the Corporation has been appointed receiver, including any assets which the Corporation may acquire from itself as such receiver; or

(ii) any claim relating to any act or omission of such covered financial company or the Corporation as receiver.

(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as receiver in connection with any covered financial company for which the Corporation is acting as receiver under this section, the Corporation shall, to the greatest extent practicable, conduct its operations in a manner that—

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

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

(iii) mitigates the potential for serious adverse effects to the financial system;

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

(v) prohibits discrimination on the basis of race, sex, or ethnic group in the solicitation and consideration of offers.

(10) STATUTE OF LIMITATIONS FOR ACTIONS BROUGHT BY RECEIVER.—

(A) IN GENERAL.—Notwithstanding any provision of any contract, the applicable statute of limitations with regard to any action brought by the Corporation as receiver for a covered financial company shall be—

(i) in the case of any contract claim, the longer of—

(I) the 6-year period beginning on the date on which the claim accrues; or

(II) the period applicable under State law; and

(ii) in the case of any tort claim, the longer of—

(I) the 3-year period beginning on the date on which the claim accrues; or

(II) the period applicable under State law.

(B) DATE ON WHICH A CLAIM ACCRUES.—For purposes of subparagraph (A), the date on which the statute of limitations begins to run on any claim described in subparagraph (A) shall be the later of—

(i) the date of the appointment of the Corporation as receiver under this title; or

(ii) the date on which the cause of action accrues.

(C) REVIVAL OF EXPIRED STATE CAUSES OF ACTION.—

(i) IN GENERAL.—In the case of any tort claim described in clause (ii) for which the applicable statute of limitations under State law has expired not more than 5 years before the date of appointment of the Corporation as receiver for a covered financial company, the Corporation may bring an action as receiver on such claim without regard to the expiration of the statute of limitations.

(ii) CLAIMS DESCRIBED.—A tort claim referred to in clause (i) is a claim arising from fraud, intentional misconduct resulting in unjust enrichment, or intentional misconduct resulting in substantial loss to the covered financial company.

(11) AVOIDABLE TRANSFERS.—

(A) FRAUDULENT TRANSFERS.—The Corporation, as receiver for any covered financial company, may avoid a transfer of any interest of the covered financial company in property, or any obligation incurred by the covered financial company, that was made or incurred at or within 2 years before the time of commencement, if—

(i) the covered financial company voluntarily or involuntarily—

(I) made such transfer or incurred such obligation with actual intent to hinder, delay, or defraud any entity to which the covered financial company was or became, on or after the date on which such transfer was made or such obligation was incurred, indebted; or

(II) received less than a reasonably equivalent value in exchange for such transferor obligation; and

(ii) the covered financial company voluntarily or involuntarily—

(I) was insolvent on the date that such transfer was made or such obligation was incurred, or became insolvent as a result of such transfer or obligation;

(II) was engaged in business or a transaction, or was about to engage in business or a transaction, for which any property remaining with the covered financial company was an unreasonably small capital;

(III) intended to incur, or believed that the covered financial company would incur, debts that would be beyond the ability of the covered financial company to pay as such debts matured; or

(IV) made such transfer to or for the benefit of an insider, or incurred such obligation to or for the benefit of an insider, under an employment contract and not in the ordinary course of business.

(B) PREFERENTIAL TRANSFERS.—The Corporation as receiver for any covered financial company may avoid a transfer of an interest of the covered financial company in property—

(i) to or for the benefit of a creditor;

(ii) for or on account of an antecedent debt that was owed by the covered financial company before the transfer was made;

(iii) that was made while the covered financial company was insolvent;

(iv) that was made—

(I) 90 days or less before the date on which the Corporation was appointed receiver; or

(II) more than 90 days, but less than 1 year before the date on which the Corporation was appointed receiver, if such creditor at the time of the transfer was an insider; and

(v) that enables the creditor to receive more than the creditor would receive if—

(I) the covered financial company had been liquidated under chapter 7 of the Bankruptcy Code;

(II) the transfer had not been made; and

(III) the creditor received payment of such debt to the extent provided by the provisions of chapter 7 of the Bankruptcy Code.

(C) POST-RECEIVERSHIP TRANSACTIONS.—The Corporation as receiver for any covered financial company may avoid a transfer of property of the receivership that occurred after the Corporation was appointed receiver that was not authorized under this title by the Corporation as receiver.

(D) RIGHT OF RECOVERY.—To the extent that a transfer is avoided under subparagraph (A), (B), or (C), the Corporation may recover, for the benefit of the covered financial company, the property transferred or, if a court so orders, the value of such property (at the time of such transfer) from—

(i) the initial transferee of such transfer or the person for whose benefit such transfer was made; or

(ii) any immediate or mediate transferee of any such initial transferee.

(E) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Corporation may not recover under subparagraph (D)(ii) from—

(i) any transferee that takes for value, including in satisfaction of or to secure a present or antecedent debt, in good faith, and without knowledge of the voidability of the transfer avoided; or

(ii) any immediate or mediate good faith transferee of such transferee.

(F) DEFENSES.—Subject to the other provisions of this title—

(i) a transferee or obligee from which the Corporation seeks to recover a transfer or to avoid an obligation under subparagraph (A), (B), (C), or (D) shall have the same defenses available to a transferee or obligee from which a trustee seeks to recover a transfer or avoid an obligation under; and

(ii) the authority of the Corporation to recover a transfer or avoid an obligation shall be subject to subsections (b) and (c) of section 546, section 547(c), and section 548(c) of the Bankruptcy Code.

(G) RIGHTS UNDER THIS SECTION.—The rights of the Corporation as receiver under this section shall be superior to any rights of a trustee or any other party (other than a Federal agency) under the Bankruptcy Code.

(H) RULES OF CONSTRUCTION; DEFINITIONS.—For purposes of—

(i) subparagraphs (A) and (B)—

(I) the term ''insider'' has the same meaning as in section 101(31) of the Bankruptcy Code;

(II) a transfer is made when such transfer is so perfected that a bona fide purchaser from the covered financial company against whom applicable law permits such transfer to be perfected cannot acquire an interest in the property transferred that is superior to the interest in such property of the transferee, but if such transfer is not so perfected before the date on which the Corporation is appointed as receiver for the covered financial company, such transfer is made immediately before the date of such appointment; and

(III) the term ''value'' means property, or satisfaction or securing of a present or antecedent debt of the covered financial company, but does not include an unperformed promise to furnish support to the covered financial company; and

(ii) subparagraph (B)—

(I) the covered financial company is presumed to have been insolvent on and during the 90-day period immediately preceding the date of appointment of the Corporation as receiver; and

(II) the term ''insolvent'' has the same meaning as in section 101(32) of the Bankruptcy Code.

(12) SETOFF.—

(A) GENERALLY.—Except as otherwise provided in this title, any right of a creditor to offset a mutual debt owed by the creditor to any covered financial company that arose before the Corporation was appointed as receiver for the covered financial company against a claim of such creditor may be asserted if enforceable under applicable noninsolvency law, except to the extent that—

(i) the claim of the creditor against the covered financial company is disallowed;

(ii) the claim was transferred, by an entity other than the covered financial company, to the creditor—

(I) after the Corporation was appointed as receiver of the covered financial company; or

(II)(aa) after the 90-day period preceding the date on which the Corporation was appointed as receiver for the covered financial company; and

(bb) while the covered financial company was insolvent (except for a setoff in connection with a qualified financial contract); or

(iii) the debt owed to the covered financial company was incurred by the covered financial company—

(I) after the 90-day period preceding the date on which the Corporation was appointed as receiver for the covered financial company;

(II) while the covered financial company was insolvent; and

(III) for the purpose of obtaining a right of setoff against the covered financial company (except for a setoff in connection with a qualified financial contract).

(B) INSUFFICIENCY.—

(i) IN GENERAL.—Except with respect to a setoff in connection with a qualified financial contract, if a creditor offsets a mutual debt owed to the covered financial company against a claim of the covered financial company on or within the 90-day period preceding the date on which the Corporation is

appointed as receiver for the covered financial company, the Corporation may recover from the creditor the amount so offset, to the extent that any insufficiency on the date of such setoff is less than the insufficiency on the later of—

(I) the date that is 90 days before the date on which the Corporation is appointed as receiver for the covered financial company; or

(II) the first day on which there is an insufficiency during the 90-day period preceding the date on which the Corporation is appointed as receiver for the covered financial company.

(ii) DEFINITION OF INSUFFICIENCY.—In this subparagraph, the term ''insufficiency'' means the amount, if any, by which a claim against the covered financial company exceeds a mutual debt owed to the covered financial company by the holder of such claim.

(C) INSOLVENCY.—The term ''insolvent'' has the same meaning as in section 101(32) of the Bankruptcy Code.

(D) PRESUMPTION OF INSOLVENCY.—For purposes of this paragraph, the covered financial company is presumed to have been insolvent on and during the 90-day period preceding the date of appointment of the Corporation as receiver.

(E) LIMITATION.—Nothing in this paragraph (12) shall be the basis for any right of setoff where no such right exists under applicable noninsolvency law.

(F) PRIORITY CLAIM.—Except as otherwise provided in this title, the Corporation as receiver for the covered financial company may sell or transfer any assets free and clear of the setoff rights of any party, except that such party shall be entitled to a claim, subordinate to the claims payable under subparagraphs (A), (B), and (C) of subsection (b)(1), but senior to all other unsecured liabilities defined in subsection (b)(1)(D), in an amount equal to the value of such setoff rights.

(13) ATTACHMENT OF ASSETS AND OTHER INJUNCTIVE RELIEF.—Subject to paragraph (14), any court of competent jurisdiction may, at the request of the Corporation as receiver for a covered financial company, issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the Corporation under the control of the court and appointing a trustee to hold such assets.

(14) STANDARDS.—

(A) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (13), without regard to the requirement that the applicant show that the injury, loss, or damage is irreparable and immediate.

(B) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of the State provide substantially similar protections of the right of the parties to due process as provided under Rule 65 (as modified with respect to such proceeding by subparagraph (A)), the relief sought by the Corporation pursuant to paragraph (14) may be requested under the laws of such State.

(15) TREATMENT OF CLAIMS ARISING FROM BREACH OF CONTRACTS EXECUTED BY THE CORPORATION AS RECEIVER.—Notwithstanding any other provision of this title, any final and non-appealable judgment for monetary damages entered against the Corporation as receiver for a covered financial company for the breach of an agreement executed or approved by the Corporation after the date of its appointment shall be paid as an administrative expense of the receiver. Nothing in this paragraph shall be construed to limit the power of a receiver to exercise any rights under contract or law, including to terminate, breach, cancel, or otherwise discontinue such agreement.

(16) ACCOUNTING AND RECORDKEEPING REQUIREMENTS.—

(A) IN GENERAL.—The Corporation as receiver for a covered financial company shall, consistent with the accounting and reporting practices and procedures established by the Corporation, maintain a full accounting of each receivership or other disposition of any covered financial company.

(B) ANNUAL ACCOUNTING OR REPORT.—With respect to each receivership to which the Corporation is appointed, the Corporation shall make an annual accounting or report, as appropriate, available to the Secretary and the Comptroller General of the United States.

(C) AVAILABILITY OF REPORTS.—Any report prepared pursuant to subparagraph (B) and section 203(c)(3) shall be made available to the public by the Corporation.

(D) RECORDKEEPING REQUIREMENT.—

(i) IN GENERAL.—The Corporation shall prescribe such regulations and establish such retention schedules as are necessary to maintain the documents and records of the Corporation generated in exercising the authorities of this title and the records of a covered financial company for which the Corporation is appointed receiver, with due regard for—

(I) the avoidance of duplicative record retention; and

(II) the expected evidentiary needs of the Corporation as receiver for a covered financial company and the public regarding the records of covered financial companies.

(ii) RETENTION OF RECORDS.—Unless otherwise required by applicable Federal law or court order, the Corporation may not, at any time, destroy any records that are subject to clause (i).

(iii) RECORDS DEFINED.—As used in this subparagraph, the terms ''records'' and ''records of a covered financial company'' mean any document, book, paper, map, photograph, microfiche, microfilm, computer or electronically-created record generated or maintained by the covered financial company in the course of and necessary to its transaction of business.

(b) PRIORITY OF EXPENSES AND UNSECURED CLAIMS.—

(1) IN GENERAL.—Unsecured claims against a covered financial company, or the Corporation as receiver for such covered financial company under this section, that are proven to the satisfaction of the receiver shall have priority in the following order:

(A) Administrative expenses of the receiver.

(B) Any amounts owed to the United States, unless the United States agrees or consents otherwise.

(C) Any other general or senior liability of the covered financial company (which is not a liability described under subparagraph (D) or (E)).

(D) Any obligation subordinated to general creditors (which is not an obligation described under subparagraph (E)).

(E) Any obligation to shareholders, members, general partners, limited partners, or other persons, with interests in the equity of the covered financial company arising as a result of their status as shareholders, members, general partners, limited partners, or other persons with interests in the equity of the covered financial company.

(2) POST-RECEIVERSHIP FINANCING PRIORITY.—In the event that the Corporation, as receiver for a covered financial company, is unable to obtain unsecured credit for the covered financial company from commercial sources, the Corporation as receiver may obtain credit or incur debt on the part of the covered financial company, which shall have priority over any or all administrative expenses of the receiver under paragraph (1)(A).

(3) CLAIMS OF THE UNITED STATES.—Unsecured claims of the United States shall, at a minimum, have a higher priority than liabilities of the covered financial company that count as regulatory capital.

(4) CREDITORS SIMILARLY SITUATED.—All claimants of a covered financial company that are similarly situated under paragraph (1) shall be treated in a similar manner, except that the Corporation as receiver may take any action (including making payments, subject to subsection (o)(1)(E)(ii)) that does not comply with this subsection, if—

(A) the Corporation determines that such action is necessary—

(i) to maximize the value of the assets of the covered financial company;

(ii) to maximize the present value return from the sale or other disposition of the assets of the covered financial company; or

(iii) to minimize the amount of any loss realized upon the sale or other disposition of the assets of the covered financial company; and

(B) all claimants that are similarly situated under paragraph (1) receive not less than the amount provided in paragraphs (2) and (3) of subsection (d).

(5) SECURED CLAIMS UNAFFECTED.—This section shall not affect secured claims or security entitlements in respect of assets or property held by the covered financial company, except to the extent that the security is insufficient to satisfy the claim, and then only with regard to the difference between the claim and the amount realized from the security.

(6) PRIORITY OF EXPENSES AND UNSECURED CLAIMS IN THE ORDERLY LIQUIDATION OF SIPC MEMBER.—Where the Corporation is appointed as receiver for a covered broker or dealer, unsecured claims against such covered broker or dealer, or the Corporation as receiver for such covered broker or dealer under this section, that are proven to the satisfaction of the receiver under section 205(e), shall have the priority prescribed in paragraph (1), except that—

(A) SIPC shall be entitled to recover administrative expenses incurred in performing its responsibilities under section 205 on an equal basis with the Corporation, in accordance with paragraph (1)(A);

(B) the Corporation shall be entitled to recover any amounts paid to customers or to SIPC pursuant to section 205(f), in accordance with paragraph (1)(B);

(C) SIPC shall be entitled to recover any amounts paid out of the SIPC Fund to meet its obligations under section 205 and under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), which claim shall be subordinate to the claims payable under subparagraphs (A) and (B) of paragraph (1), but senior to all other claims; and

(D) the Corporation may, after paying any proven claims to customers under section 205 and the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), and as provided above, pay dividends on other proven claims, in its discretion, and to the extent that funds are available, in accordance with the priorities set forth in paragraph (1).

(c) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF RECEIVER.—

(1) AUTHORITY TO REPUDIATE CONTRACTS.—In addition to any other rights that a receiver may have, the Corporation as receiver for any covered financial company may disaffirm or repudiate any contract or lease—

(A) to which the covered financial company is a party;

(B) the performance of which the Corporation as receiver, in the discretion of the Corporation, determines to be burdensome; and

(C) the disaffirmance or repudiation of which the Corporation as receiver determines, in the discretion of the Corporation, will promote the orderly administration of the affairs of the covered financial company.

(2) TIMING OF REPUDIATION.—The Corporation, as receiver for any covered financial company, shall determine whether or not to exercise the rights of repudiation under this section within a reasonable period of time.

(3) CLAIMS FOR DAMAGES FOR REPUDIATION.—

(A) IN GENERAL.—Except as provided in paragraphs (4), (5), and (6) and in subparagraphs (C), (D), and (E) of this paragraph, the liability of the Corporation as receiver for a covered financial company for the disaffirmance or repudiation of any contract pursuant to paragraph (1) shall be—

(i) limited to actual direct compensatory damages; and

(ii) determined as of—

(I) the date of the appointment of the Corporation as receiver; or

(II) in the case of any contract or agreement referred to in paragraph (8), the date of the disaffirmance or repudiation of such contract or agreement.

(B) NO LIABILITY FOR OTHER DAMAGES.—For purposes of subparagraph (A), the term ''actual direct compensatory damages'' does not include—

(i) punitive or exemplary damages;

(ii) damages for lost profits or opportunity; or

(iii) damages for pain and suffering.

(C) MEASURE OF DAMAGES FOR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In the case of any qualified financial contract or agreement to which paragraph (8) applies, compensatory damages shall be—

(i) deemed to include normal and reasonable costs of cover or other reasonable measures of damages utilized in the industries for such contract and agreement claims; and

(ii) paid in accordance with this paragraph and subsection (d), except as otherwise specifically provided in this subsection.

(D) MEASURE OF DAMAGES FOR REPUDIATION OR DISAFFIRMANCE OF DEBT OBLIGATION.—In the case of any debt for borrowed money or evidenced by a security, actual direct compensatory damages shall be no less than the amount lent plus accrued interest plus any accreted original issue discount as of the date the Corporation was appointed receiver of the covered financial company and, to the extent that an allowed secured claim is secured by property the value of which is greater than the amount of such claim and any accrued interest through the date of repudiation or disaffirmance, such accrued interest pursuant to paragraph (1).

(E) MEASURE OF DAMAGES FOR REPUDIATION OR DISAFFIRMANCE OF CONTINGENT OBLIGATION.—In the case of any contingent obligation of a covered financial company consisting of any obligation under a guarantee, letter of credit, loan commitment, or similar credit obligation, the Corporation may, by rule or regulation, prescribe that actual direct compensatory damages shall be no less than the estimated value of the claim as of the date the Corporation was appointed receiver of the covered financial company, as such value is measured based on the likelihood that such contingent claim would become fixed and the probable magnitude thereof.

(4) LEASES UNDER WHICH THE COVERED FINANCIAL COMPANY IS THE LESSEE.—

(A) IN GENERAL.—If the Corporation as receiver disaffirms or repudiates a lease under which the covered financial company is the lessee, the receiver shall not be liable for any damages (other than damages determined pursuant to subparagraph (B)) for the disaffirmance or repudiation of such lease.

(B) PAYMENTS OF RENT.—Notwithstanding subparagraph (A), the lessor under a lease to which subparagraph (A) would otherwise apply shall—

(i) be entitled to the contractual rent accruing before the later of the date on which—

(I) the notice of disaffirmance or repudiation is mailed; or

(II) the disaffirmance or repudiation becomes effective, unless the lessor is in default or breach of the terms of the lease;

(ii) have no claim for damages under any acceleration clause or other penalty provision in the lease; and

(iii) have a claim for any unpaid rent, subject to all appropriate offsets and defenses, due as of the date of the appointment which shall be paid in accordance with this paragraph and subsection (d).

(5) LEASES UNDER WHICH THE COVERED FINANCIAL COMPANY IS THE LESSOR.—

(A) IN GENERAL.—If the Corporation as receiver for a covered financial company repudiates an unexpired written lease of real property of the covered financial company under which the covered financial company is the lessor and the lessee is not, as of the date of such repudiation, in default, the lessee under such lease may either—

(i) treat the lease as terminated by such repudiation; or

(ii) remain in possession of the leasehold interest for the balance of the term of the lease, unless the lessee defaults under the terms of the lease after the date of such repudiation.

(B) PROVISIONS APPLICABLE TO LESSEE REMAINING IN POSSESSION.—If any lessee under a lease described in subparagraph (A) remains in possession of a leasehold interest pursuant to clause (ii) of subparagraph (A)—

(i) the lessee—

(I) shall continue to pay the contractual rent pursuant to the terms of the lease after the date of the repudiation of such lease; and

(II) may offset against any rent payment which accrues after the date of the repudiation of the lease, any damages which accrue after such date due to the nonperformance of any obligation of the covered financial company under the lease after such date; and

(ii) the Corporation as receiver shall not be liable to the lessee for any damages arising after such date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II).

(6) CONTRACTS FOR THE SALE OF REAL PROPERTY.—

(A) IN GENERAL.—If the receiver repudiates any contract (which meets the requirements of subsection (a)(6)) for the sale of real property, and the purchaser of such real property under such contract is in possession and is not, as of the date of such repudiation, in default, such purchaser may either—

(i) treat the contract as terminated by such repudiation; or

(ii) remain in possession of such real property.

(B) PROVISIONS APPLICABLE TO PURCHASER REMAINING IN POSSESSION.—If any purchaser of real property under any contract described in subparagraph (A) remains in possession of such property pursuant to clause (ii) of subparagraph (A)—

(i) the purchaser—

(I) shall continue to make all payments due under the contract after the date of the repudiation of the contract; and

(II) may offset against any such payments any damages which accrue after such date due to the nonperformance (after such date) of any obligation of the covered financial company under the contract; and

(ii) the Corporation as receiver shall—

(I) not be liable to the purchaser for any damages arising after such date as a result of the repudiation, other than the amount of any offset allowed under clause (i)(II);

(II) deliver title to the purchaser in accordance with the provisions of the contract; and

(III) have no obligation under the contract other than the performance required under subclause (II).

(C) ASSIGNMENT AND SALE ALLOWED.—

(i) IN GENERAL.—No provision of this paragraph shall be construed as limiting the right of the Corporation as receiver to assign the contract described in subparagraph (A) and sell the property, subject to the contract and the provisions of this paragraph.

(ii) NO LIABILITY AFTER ASSIGNMENT AND SALE.—If an assignment and sale described in clause (i) is consummated, the Corporation as receiver shall have no further liability under the contract described in subparagraph (A) or with respect to the real property which was the subject of such contract.

(7) PROVISIONS APPLICABLE TO SERVICE CONTRACTS.—

(A) SERVICES PERFORMED BEFORE APPOINTMENT.—In the case of any contract for services between any person and any covered financial company for which the Corporation has been appointed receiver, any claim of such person for services performed before the date of appointment shall be—

(i) a claim to be paid in accordance with subsections (a), (b), and (d); and

(ii) deemed to have arisen as of the date on which the receiver was appointed.

(B) SERVICES PERFORMED AFTER APPOINTMENT AND PRIOR TO REPUDIATION.—If, in the case of any contract for services described in subparagraph (A), the Corporation as receiver accepts performance by the other person before making any determination to exercise the right of repudiation of such contract under this section—

(i) the other party shall be paid under the terms of the contract for the services performed; and

(ii) the amount of such payment shall be treated as an administrative expense of the receivership.

(C) ACCEPTANCE OF PERFORMANCE NO BAR TO SUBSEQUENT REPUDIATION.—The acceptance by the Corporation as receiver for services referred to in subparagraph (B) in connection with a contract described in subparagraph (B) shall not affect the right of the Corporation as receiver to repudiate such contract under this section at any time after such performance.

(8) CERTAIN QUALIFIED FINANCIAL CONTRACTS.—

(A) RIGHTS OF PARTIES TO CONTRACTS.—Subject to subsection (a)(8) and paragraphs (9) and (10) of this subsection, and notwithstanding any other provision of this section, any other provision of Federal law, or the law of any State, no person shall be stayed or prohibited from exercising—

(i) any right that such person has to cause the termination, liquidation, or acceleration of any qualified financial contract with a covered financial company which arises upon the date of appointment of the Corporation as receiver for such covered financial company at any time after such appointment;

(ii) any right under any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts described in clause (i); or

(iii) any right to offset or net out any termination value, payment amount, or other transfer obligation arising under or in connection with 1 or more contracts or agreements described in clause (i), including any master agreement for such contracts or agreements.

(B) APPLICABILITY OF OTHER PROVISIONS.—Subsection (a)(8) shall apply in the case of any judicial action or proceeding brought against the Corporation as receiver referred to in subparagraph (A), or the subject covered financial company, by any party to a contract or agreement described in subparagraph (A)(i) with such covered financial company.

(C) CERTAIN TRANSFERS NOT AVOIDABLE.—

(i) IN GENERAL.—Notwithstanding subsection (a)(11), (a)(12), or (c)(12), section 5242 of the Revised Statutes of the United States, or any other provision of Federal or State law relating to the avoidance of preferential or fraudulent transfers, the Corporation, whether acting as the Corporation or as receiver for a covered financial company, may not avoid any transfer of money or other property in connection with any qualified financial contract with a covered financial company.

(ii) EXCEPTION FOR CERTAIN TRANSFERS.—Clause (i) shall not apply to any transfer of money or other property in connection with any qualified financial contract with a covered financial company if the transferee had actual intent to hinder, delay, or defraud such company, the creditors of such company, or the Corporation as receiver appointed for such company.

(D) CERTAIN CONTRACTS AND AGREEMENTS DEFINED.—For purposes of this subsection, the following definitions shall apply:

(i) QUALIFIED FINANCIAL CONTRACT.—The term ''qualified financial contract'' means any securities contract, commodity contract, forward contract, repurchase agreement, swap agreement, and any similar agreement that the Corporation determines by regulation, resolution, or order to be a qualified financial contract for purposes of this paragraph.

(ii) SECURITIES CONTRACT.—The term ''securities contract''—

(I) means a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan, any interest in a mortgage loan, a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof), or any option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option, and including any repurchase or reverse repurchase transaction on any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such repurchase or reverse repurchase transaction is a ''repurchase agreement'', as defined in clause (v));

(II) does not include any purchase, sale, or repurchase obligation under a participation in a commercial mortgage loan unless the Corporation determines by regulation, resolution, or order to include any such agreement within the meaning of such term;

(III) means any option entered into on a national securities exchange relating to foreign currencies;

(IV) means the guarantee (including by novation) by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interests therein, group or index of securities, certificates of deposit or mortgage loans or interests therein (including any interest therein or based on the value thereof) or an option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, mortgage loan, interest, group or index, or option (whether or not such settlement is in connection with any agreement or transaction referred to in subclauses (I) through (XII) (other than subclause (II)));

(V) means any margin loan;

(VI) means any extension of credit for the clearance or settlement of securities transactions;

(VII) means any loan transaction coupled with a securities collar transaction, any prepaid securities forward transaction, or any total return swap transaction coupled with a securities sale transaction;

(VIII) means any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

(IX) means any combination of the agreements or transactions referred to in this clause;

(X) means any option to enter into any agreement or transaction referred to in this clause;

(XI) means a master agreement that provides for an agreement or transaction referred to in any of subclauses (I) through (X), other than subclause (II), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this clause, except that the master agreement shall be considered to be a securities contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in any of subclauses (I) through (X), other than subclause (II); and

(XII) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

(iii) COMMODITY CONTRACT.—The term ''commodity contract'' means—

(I) with respect to a futures commission merchant, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade;

(II) with respect to a foreign futures commission merchant, a foreign future;

(III) with respect to a leverage transaction merchant, a leverage transaction;

(IV) with respect to a clearing organization, a contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization, or commodity option traded on, or subject to the rules of, a contract market or board of trade that is cleared by such clearing organization;

(V) with respect to a commodity options dealer, a commodity option;

(VI) any other agreement or transaction that is similar to any agreement or transaction referred to in this clause;

(VII) any combination of the agreements or transactions referred to in this clause;

(VIII) any option to enter into any agreement or transaction referred to in this clause;

(IX) a master agreement that provides for an agreement or transaction referred to in any of subclauses (I) through (VIII), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this clause, except that the master agreement shall be considered to be a commodity contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in any of subclauses (I) through (VIII); or

(X) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this clause, including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in this clause.

(iv) FORWARD CONTRACT.—The term ''forward contract'' means—

(I) a contract (other than a commodity contract) for the purchase, sale, or transfer of a commodity or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade, or product or byproduct thereof, with a maturity date that is more than 10 days after the date on which the contract is entered into, including a repurchase or reverse repurchase transaction (whether or not such repurchase or reverse repurchase transaction is a ''repurchase agreement'', as defined in clause (v)), consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any other similar agreement;

(II) any combination of agreements or transactions referred to in subclauses (I) and (III);

(III) any option to enter into any agreement or transaction referred to in subclause (I) or (II);

(IV) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), or (III), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this clause, except that the master agreement shall be considered to be a forward contract under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), or (III); or

(V) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (II), (III), or (IV), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

(v) REPURCHASE AGREEMENT.—The term ''repurchase agreement'' (which definition also applies to a reverse repurchase agreement)—

(I) means an agreement, including related terms, which provides for the transfer of one or more certificates of deposit, mortgage related securities (as such term is defined in section 3 of the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities (which, for purposes of this clause, means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development, as determined by regulation or order adopted by the Board of Governors), or securities that are direct obligations of, or that are fully guaranteed by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests with a simultaneous agreement by such transferee to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, mortgage loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds, or any other similar agreement;

(II) does not include any repurchase obligation under a participation in a commercial mortgage loan, unless the Corporation determines, by regulation, resolution, or order to include any such participation within the meaning of such term;

(III) means any combination of agreements or transactions referred to in subclauses (I) and (IV);

(IV) means any option to enter into any agreement or transaction referred to in subclause (I) or (III);

(V) means a master agreement that provides for an agreement or transaction referred to in subclause (I), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this clause, except that the master agreement shall be considered to be a repurchase agreement under this subclause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (III), or (IV); and

(VI) means any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subclause (I), (III), (IV), or (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such subclause.

(vi) SWAP AGREEMENT.—The term ''swap agreement'' means—

(I) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange, precious metals, or other commodity agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a total return, credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement; weather swap, option, future, or forward agreement; an emissions swap, option, future, or forward agreement; or an inflation swap, option, future, or forward agreement;

(II) any agreement or transaction that is similar to any other agreement or transaction referred to in this clause and that is of a type that has been, is presently, or in the future becomes, the subject of recurrent dealings in the swap or other derivatives markets (including terms and conditions incorporated by reference in such agreement) and that is a forward, swap, future, option, or spot transaction on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, quantitative measures associated with an occurrence, extent of an occurrence, or contingency associated with a financial, commercial, or economic consequence, or economic or financial indices or measures of economic or financial risk or value;

(III) any combination of agreements or transactions referred to in this clause;

(IV) any option to enter into any agreement or transaction referred to in this clause;

(V) a master agreement that provides for an agreement or transaction referred to in subclause (I), (II), (III), or (IV), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is not a swap agreement under this clause, except that the master agreement shall be considered to be a swap agreement under this clause only with respect to each agreement or transaction under the master agreement that is referred to in subclause (I), (II), (III), or (IV); and

(VI) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in any of clauses (I) through (V), including any guarantee or reimbursement obligation in connection with any agreement or transaction referred to in any such clause.

(vii) DEFINITIONS RELATING TO DEFAULT.—When used in this paragraph and paragraph (10)—

(I) the term ''default'' means, with respect to a covered financial company, any adjudication or other official decision by any court of competent jurisdiction, or other public authority pursuant to which the Corporation has been appointed receiver; and

(II) the term ''in danger of default'' means a covered financial company with respect to which the Corporation or appropriate State authority has determined that—

(aa) in the opinion of the Corporation or such authority—

(AA) the covered financial company is not likely to be able to pay its obligations in the normal course of business; and

(BB) there is no reasonable prospect that the covered financial company will be able to pay such obligations without Federal assistance; or

(bb) in the opinion of the Corporation or such authority—

(AA) the covered financial company has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and

(BB) there is no reasonable prospect that the capital will be replenished without Federal assistance.

(viii) TREATMENT OF MASTER AGREEMENT AS ONE AGREEMENT.—Any master agreement for any contract or agreement described in any of clauses (i) through (vi) (or any master agreement for such master agreement or agreements), together with all supplements to such master agreement, shall be treated as a single agreement and a single qualified financial contact. If a master agreement contains provisions relating to agreements or transactions that are not themselves qualified financial contracts, the master agreement shall be deemed to be a qualified financial contract only with respect to those transactions that are themselves qualified financial contracts.

(ix) TRANSFER.—The term ''transfer'' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with property or with an interest in property, including retention of title as a security interest and foreclosure of the equity of redemption of the covered financial company.

(x) PERSON.—The term ''person'' includes any governmental entity in addition to any entity included in the definition of such term in section 1, title 1, United States Code.

(E) CLARIFICATION.—No provision of law shall be construed as limiting the right or power of the Corporation, or authorizing any court or agency to limit or delay, in any manner, the right or power of the Corporation to transfer any qualified financial contract in accordance with paragraphs (9) and (10) of this subsection or to disaffirm or repudiate any such contract in accordance with subsection (c)(1).

(F) WALKAWAY CLAUSES NOT EFFECTIVE.—

(i) IN GENERAL.—Notwithstanding the provisions of subparagraph (A) of this paragraph and sections 403 and 404 of the Federal Deposit Insurance Corporation Improvement Act of 1991, no walkaway clause shall be enforceable in a qualified financial contract of a covered financial company in default.

(ii) LIMITED SUSPENSION OF CERTAIN OBLIGATIONS.—In the case of a qualified financial contract referred to in clause (i), any payment or delivery obligations otherwise due from a party pursuant to the qualified financial contract shall be suspended from the time at which the Corporation is appointed as receiver until the earlier of—

(I) the time at which such party receives notice that such contract has been transferred pursuant to paragraph (10)(A); or

(II) 5:00 p.m. (eastern time) on the 5th business day following the date of the appointment of the Corporation as receiver.

(iii) WALKAWAY CLAUSE DEFINED.—For purposes of this subparagraph, the term ''walkaway clause'' means any provision in a qualified financial contract that suspends, conditions, or extinguishes a payment obligation of a party, in whole or in part, or does not create a payment obligation of a party that would otherwise exist, solely because of the status of such party as a nondefaulting party in connection with the insolvency of a covered financial company that is a party to the contract or the appointment of or the exercise of rights or powers by the Corporation as receiver for such covered financial company, and not as a result of the exercise by a party of any right to offset, setoff, or net obligations that exist under the contract, any other contract between those parties, or applicable law.

(iv) CERTAIN OBLIGATIONS TO CLEARING ORGANIZATIONS.—In the event that the Corporation has been appointed as receiver for a covered financial company which is a party to any qualified financial contract cleared by or subject to the rules of a clearing organization (as defined in subsection (c)(9)(D)), the receiver shall use its best efforts to meet all margin, collateral, and settlement obligations of the covered financial company that arise under qualified financial contracts (other than any margin, collateral, or settlement obligation that is not enforceable against the receiver under paragraph (8)(F)(i) or paragraph (10)(B)), as required by the rules of the clearing organization when due, and such obligations shall not be suspended pursuant to paragraph (8)(F)(ii). Notwithstanding paragraph (8)(F)(ii) or (10)(B), if the receiver fails to satisfy any such margin, collateral, or settlement obligations under the rules of the clearing organization, the clearing organization shall have the immediate right to exercise, and shall not be stayed from exercising, all of its rights and remedies under its rules and applicable law with respect to any qualified financial contract of the covered financial company, including, without limitation, the right to liquidate all positions and collateral of such covered financial company under the company's qualified financial contracts, and suspend or cease to act for such covered financial company, all in accordance with the rules of the clearing organization.

(G) RECORDKEEPING.—

(i) JOINT RULEMAKING.—The Federal primary financial regulatory agencies shall jointly prescribe regulations requiring that financial companies maintain such records with respect to qualified financial contracts (including market valuations) that the Federal primary financial regulatory agencies determine to be necessary or appropriate in order to assist the Corporation as receiver for a covered financial company in being able to exercise its rights and fulfill its obligations under this paragraph or paragraph (9) or (10).

(ii) TIMEFRAME.—The Federal primary financial regulatory agencies shall prescribe joint final or interim final regulations not later than 24 months after the date of enactment of this Act.

(iii) BACK-UP RULEMAKING AUTHORITY.—If the Federal primary financial regulatory

agencies do not prescribe joint final or interim final regulations within the time frame in clause (ii), the Chairperson of the Council shall prescribe, in consultation with the Corporation, the regulations required by clause (i).

(iv) CATEGORIZATION AND TIERING.—The joint regulations prescribed under clause (i) shall, as appropriate, differentiate among financial companies by taking into consideration their size, risk, complexity, leverage, frequency and dollar amount of qualified financial contracts, interconnectedness to the financial system, and any other factors deemed appropriate.

(9) TRANSFER OF QUALIFIED FINANCIAL CONTRACTS.—

(A) IN GENERAL.—In making any transfer of assets or liabilities of a covered financial company in default, which includes any qualified financial contract, the Corporation as receiver for such covered financial company shall either—

(i) transfer to one financial institution, other than a financial institution for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed or which is otherwise the subject of a bankruptcy or insolvency proceeding—

(I) all qualified financial contracts between any person or any affiliate of such person and the covered financial company in default;

(II) all claims of such person or any affiliate of such person against such covered financial company under any such contract (other than any claim which, under the terms of any such contract, is subordinated to the claims of general unsecured creditors of such company);

(III) all claims of such covered financial company against such person or any affiliate of such person under any such contract; and

(IV) all property securing or any other credit enhancement for any contract described in subclause (I) or any claim described in subclause (II) or (III) under any such contract; or

(ii) transfer none of the qualified financial contracts, claims, property or other credit enhancement referred to in clause (i) (with respect to such person and any affiliate of such person).

(B) TRANSFER TO FOREIGN BANK, FINANCIAL INSTITUTION, OR BRANCH OR AGENCY THEREOF.—In transferring any qualified financial contracts and related claims and property under subparagraph (A)(i), the Corporation as receiver for the covered financial company shall not make such transfer to a foreign bank, financial institution organized under the laws of a foreign country, or a branch or agency of a foreign bank or financial institution unless, under the law applicable to such bank, financial institution, branch or agency, to the qualified financial contracts, and to any netting contract, any security agreement or arrangement or other credit enhancement related to one or more qualified financial contracts, the contractual rights of the parties to such qualified financial contracts, netting contracts, security agreements or arrangements, or other credit enhancements are enforceable substantially to the same extent as permitted under this section.

(C) TRANSFER OF CONTRACTS SUBJECT TO THE RULES OF A CLEARING ORGANIZATION.—In the event that the Corporation as receiver for a financial institution transfers any qualified financial contract and related claims, property, or credit enhancement pursuant to subparagraph (A)(i) and such contract is cleared by or subject to the rules of a clearing organization, the clearing organization shall not be required to accept the transferee as a member by virtue of the transfer.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) the term ''financial institution'' means a broker or dealer, a depository institution, a futures commission merchant, a bridge financial company, or any other institution determined by the Corporation, by regulation, to be a financial institution; and

(ii) the term ''clearing organization'' has the same meaning as in section 402 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

(10) NOTIFICATION OF TRANSFER.—

(A) IN GENERAL.—

(i) NOTICE.—The Corporation shall provide notice in accordance with clause (ii), if—

(I) the Corporation as receiver for a covered financial company in default or in danger of default transfers any assets or liabilities of the covered financial company; and

(II) the transfer includes any qualified financial contract.

(ii) TIMING.—The Corporation as receiver for a covered financial company shall notify any person who is a party to any contract described in clause (i) of such transfer not later than 5:00 p.m. (eastern time) on the 5th business day following the date of the appointment of the Corporation as receiver.

(B) CERTAIN RIGHTS NOT ENFORCEABLE.—

(i) RECEIVERSHIP.—A person who is a party to a qualified financial contract with a covered financial company may not exercise any right that such person has to terminate, liquidate, or net such contract under paragraph (8)(A) solely by reason of or incidental to the appointment under this section of the Corporation as receiver for the covered financial company (or the insolvency or financial condition of the covered financial company for which the Corporation has been appointed as receiver)—

(I) until 5:00 p.m. (eastern time) on the 5th business day following the date of the appointment; or

(II) after the person has received notice that the contract has been transferred pursuant to paragraph (9)(A).

(ii) NOTICE.—For purposes of this paragraph, the Corporation as receiver for a covered financial company shall be deemed to have notified a person who is a party to a qualified financial contract with such covered financial company, if the Corporation has taken steps reasonably calculated to provide notice to such person by the time specified in subparagraph (A).

(C) TREATMENT OF BRIDGE FINANCIAL COMPANY.—For purposes of paragraph (9), a bridge financial company shall not be considered to be a covered financial company for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed, or which is otherwise the subject of a bankruptcy or insolvency proceeding.

(D) BUSINESS DAY DEFINED.—For purposes of this paragraph, the term ''business day'' means any day other than any Saturday, Sunday, or any day on which either the New York Stock Exchange or the Federal Reserve Bank of New York is closed.

(11) DISAFFIRMANCE OR REPUDIATION OF QUALIFIED FINANCIAL CONTRACTS.—In exercising the rights of disaffirmance or repudiation of the Corporation as receiver with respect to any qualified financial contract to which a covered financial company is a party, the Corporation shall either—

(A) disaffirm or repudiate all qualified financial contracts between—

(i) any person or any affiliate of such person; and

(ii) the covered financial company in default; or

(B) disaffirm or repudiate none of the qualified financial contracts referred to in subparagraph (A) (with respect to such person or any affiliate of such person).

(12) CERTAIN SECURITY AND CUSTOMER INTERESTS NOT AVOIDABLE.—No provision of this subsection shall be construed as permitting the avoidance of any—

(A) legally enforceable or perfected security interest in any of the assets of any covered financial company, except in accordance with subsection (a)(11); or

(B) legally enforceable interest in customer property, security entitlements in respect of assets or property held by the covered financial company for any security entitlement holder.

(13) AUTHORITY TO ENFORCE CONTRACTS.—

(A) IN GENERAL.—The Corporation, as receiver for a covered financial company, may enforce any contract, other than a liability insurance contract of a director or officer, a financial institution bond entered into by the covered financial company, notwithstanding any provision of the contract providing for termination, default, acceleration, or exercise of rights upon, or solely by reason of, insolvency, the appointment of or the exercise of rights or powers by the Corporation as receiver, the filing of the petition pursuant to section 202(c)(1), or the issuance of the recommendations or determination, or any actions or events occurring in connection therewith or as a result thereof, pursuant to section 203.

(B) CERTAIN RIGHTS NOT AFFECTED.—No provision of this paragraph may be construed as impairing or affecting any right of the Corporation as receiver to enforce or recover under a liability insurance contract of a director or officer or financial institution bond under other applicable law.

(C) CONSENT REQUIREMENT AND IPSO FACTO CLAUSES.—

(i) IN GENERAL.—Except as otherwise provided by this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which the covered financial company is a party (and no provision in any such contract providing for such default, termination, or acceleration shall be enforceable), or to obtain possession of or exercise control over any property of the covered financial company or affect any contractual rights of the covered financial company, without the consent of the Corporation as receiver for the covered financial company during the 90 day period beginning from the appointment of the Corporation as receiver.

(ii) EXCEPTIONS.—No provision of this subparagraph shall apply to a director or officer liability insurance contract or a financial institution bond, to the rights of parties to certain qualified financial contracts pursuant to paragraph (8), or to the rights of parties to netting contracts pursuant to subtitle A of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.), or shall be construed as permitting the Corporation as receiver to fail to comply with otherwise enforceable provisions of such contract.

(D) CONTRACTS TO EXTEND CREDIT.—Notwithstanding any other provision in this title, if the Corporation as receiver enforces any contract to extend credit to the covered financial company or bridge financial company, any valid and enforceable obligation to repay such debt shall be paid by the Corporation as receiver, as an administrative expense of the receivership.

(14) EXCEPTION FOR FEDERAL RESERVE BANKS AND CORPORATION SECURITY INTEREST.—No provision of this subsection shall apply with respect to—

(A) any extension of credit from any Federal reserve bank or the Corporation to any covered financial company; or

(B) any security interest in the assets of the covered financial company securing any such extension of credit.

(15) SAVINGS CLAUSE.—The meanings of terms used in this subsection are applicable for purposes of this subsection only, and shall not be construed or applied so as to challenge or affect the characterization, definition, or treatment of any similar terms under any other statute, regulation, or rule, including the Gramm-Leach-Bliley Act, the Legal Certainty for Bank Products Act of 2000, the securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), and the Commodity Exchange Act.

(16) ENFORCEMENT OF CONTRACTS GUARANTEED BY THE COVERED FINANCIAL COMPANY.—

(A) IN GENERAL.—The Corporation, as receiver for a covered financial company or as receiver for a subsidiary of a covered financial company (including an insured depository institution) shall have the power to enforce contracts of subsidiaries or affiliates of the covered financial company, the obligations under which are guaranteed or otherwise supported by or linked to the covered financial company, notwithstanding any contractual right to cause the termination, liquidation, or acceleration of such contracts based solely on the insolvency, financial condition, or receivership of the covered financial company, if—

(i) such guaranty or other support and all related assets and liabilities are transferred to and assumed by a bridge financial company or a third party (other than a third party for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed, or which is otherwise the subject of a bankruptcy or insolvency proceeding) within the same period of time as the Corporation is entitled to transfer the qualified financial contracts of such covered financial company; or

(ii) the Corporation, as receiver, otherwise provides adequate protection with respect to such obligations.

(B) RULE OF CONSTRUCTION.—For purposes of this paragraph, a bridge financial company shall not be considered to be a third party for which a conservator, receiver, trustee in bankruptcy, or other legal custodian has been appointed, or which is otherwise the subject of a bankruptcy or insolvency proceeding.

(d) VALUATION OF CLAIMS IN DEFAULT.—

(1) IN GENERAL.—Notwithstanding any other provision of Federal law or the law of any State, and regardless of the method utilized by the Corporation for a covered financial company, including transactions authorized under subsection (h), this subsection shall govern the rights of the creditors of any such covered financial company.

(2) MAXIMUM LIABILITY.—The maximum liability of the Corporation, acting as receiver for a covered financial company or in any other capacity, to any person having a claim against the Corporation as receiver or the covered financial company for which the Corporation is appointed shall equal the amount that such claimant would have received if—

(A) the Corporation had not been appointed receiver with respect to the covered financial company; and

(B) the covered financial company had been liquidated under chapter 7 of the Bankruptcy Code, or any similar provision of State insolvency law applicable to the covered financial company.

(3) SPECIAL PROVISION FOR ORDERLY LIQUIDATION BY SIPC.—The maximum liability of the Corporation, acting as receiver or in its corporate capacity for any covered broker or dealer to any customer of such covered broker or dealer, with respect to customer property of such customer, shall be—

(A) equal to the amount that such customer would have received with respect to such customer property in a case initiated by SIPC under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.); and

(B) determined as of the close of business on the date on which the Corporation is appointed as receiver.

(4) ADDITIONAL PAYMENTS AUTHORIZED.—

(A) IN GENERAL.—Subject to subsection (o)(1)(E)(ii), the Corporation, with the approval of the Secretary, may make additional payments or credit additional amounts to or with respect to or for the account of any claimant or category of claimants of the covered financial company, if the Corporation determines that such payments or credits are necessary or appropriate to minimize losses to the Corporation as receiver from the orderly liquidation of the covered financial company under this section.

(B) LIMITATION.—Notwithstanding any other provision of Federal or State law, or the constitution of any State, the Corporation shall not be obligated, as a result of having made any payment under subparagraph (A) or credited any amount described in subparagraph (A) to or with respect to or for the account of any claimant or category of claimants, to make payments to any other claimant or category of claimants.

(C) MANNER OF PAYMENT.—The Corporation may make payments or credit amounts under subparagraph (A) directly to the claimants or may make such payments or credit such amounts to a company other than a covered financial company or a bridge financial company established with respect thereto in order to induce such other company to accept liability for such claims.

(e) LIMITATION ON COURT ACTION.—Except as provided in this title, no court may take any action to restrain or affect the exercise of powers or functions of the receiver hereunder, and any remedy against the Corporation or receiver shall be limited to money damages determined in accordance with this title.

(f) LIABILITY OF DIRECTORS AND OFFICERS.—

(1) IN GENERAL.—A director or officer of a covered financial company may be held personally liable for monetary damages in any civil action described in paragraph (2) by, on behalf of, or at the request or direction of the Corporation, which action is prosecuted wholly or partially for the benefit of the Corporation—

(A) acting as receiver for such covered financial company;

(B) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed by the Corporation as receiver; or

(C) acting based upon a suit, claim, or cause of action purchased from, assigned by, or otherwise conveyed in whole or in part by a covered financial company or its affiliate in connection with assistance provided under this title.

(2) ACTIONS COVERED.—Paragraph (1) shall apply with respect to actions for gross negligence, including any similar conduct or conduct that demonstrates a greater disregard of a duty of care (than gross negligence) including intentional tortious conduct, as such terms are defined and determined under applicable State law.

(3) SAVINGS CLAUSE.—Nothing in this subsection shall impair or affect any right of the Corporation under other applicable law.

(g) DAMAGES.—In any proceeding related to any claim against a director, officer, employee, agent, attorney, accountant, or appraiser of a covered financial company, or any other party employed by or providing services to a covered financial company, recoverable damages determined to result from the improvident or otherwise improper use or investment of any assets of the covered financial company shall include principal losses and appropriate interest.

(h) BRIDGE FINANCIAL COMPANIES.—

(1) ORGANIZATION.—

(A) PURPOSE.—The Corporation, as receiver for one or more covered financial companies or in anticipation of being appointed receiver for one or more covered financial companies, may organize one or more bridge financial companies in accordance with this subsection.

(B) AUTHORITIES.—Upon the creation of a bridge financial company under subparagraph (A) with respect to a covered financial company, such bridge financial company may—

(i) assume such liabilities (including liabilities associated with any trust or custody business, but excluding any liabilities that count as regulatory capital) of such covered financial company as the Corporation may, in its discretion, determine to be appropriate;

(ii) purchase such assets (including assets associated with any trust or custody business) of such covered financial company as the Corporation may, in its discretion, determine to be appropriate; and

(iii) perform any other temporary function which the Corporation may, in its discretion, prescribe in accordance with this section.

(2) CHARTER AND ESTABLISHMENT.—

(A) ESTABLISHMENT.—Except as provided in subparagraph (H), where the covered financial company is a covered broker or dealer, the Corporation, as receiver for a covered financial company, may grant a Federal charter to and approve articles of association for one or more bridge financial company or companies, with respect to such covered financial company which shall, by operation of law and immediately upon issuance of its charter and approval of its articles of association, be established and operate in accordance with, and subject to, such charter, articles, and this section.

(B) MANAGEMENT.—Upon its establishment, a bridge financial company shall be under the management of a board of directors appointed by the Corporation.

(C) ARTICLES OF ASSOCIATION.—The articles of association and organization certificate of a bridge financial company shall have such terms as the Corporation may provide, and shall be executed by such representatives as the Corporation may designate.

(D) TERMS OF CHARTER; RIGHTS AND PRIVILEGES.—Subject to and in accordance with the provisions of this subsection, the Corporation shall—

(i) establish the terms of the charter of a bridge financial company and the rights, powers, authorities, and privileges of a bridge financial company granted by the charter or as an incident thereto; and

(ii) provide for, and establish the terms and conditions governing, the management (including the bylaws and the number of directors of the board of directors) and operations of the bridge financial company.

(E) TRANSFER OF RIGHTS AND PRIVILEGES OF COVERED FINANCIAL COMPANY.—

(i) IN GENERAL.—Notwithstanding any other provision of Federal or State law, the Corporation may provide for a bridge financial company to succeed to and assume any rights, powers, authorities, or privileges of the covered financial company with respect to which the bridge financial company was established and, upon such determination by the Corporation, the bridge financial company shall immediately and by operation of

law succeed to and assume such rights, powers, authorities, and privileges.

(ii) EFFECTIVE WITHOUT APPROVAL.—Any succession to or assumption by a bridge financial company of rights, powers, authorities, or privileges of a covered financial company under clause (i) or otherwise shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

(F) CORPORATE GOVERNANCE AND ELECTION AND DESIGNATION OF BODY OF LAW.—To the extent permitted by the Corporation and consistent with this section and any rules, regulations, or directives issued by the Corporation under this section, a bridge financial company may elect to follow the corporate governance practices and procedures that are applicable to a corporation incorporated under the general corporation law of the State of Delaware, or the State of incorporation or organization of the covered financial company with respect to which the bridge financial company was established, as such law may be amended from time to time.

(G) CAPITAL.—

(i) CAPITAL NOT REQUIRED.—Notwithstanding any other provision of Federal or State law, a bridge financial company may, if permitted by the Corporation, operate without any capital or surplus, or with such capital or surplus as the Corporation may in its discretion determine to be appropriate.

(ii) NO CONTRIBUTION BY THE CORPORATION REQUIRED.—The Corporation is not required to pay capital into a bridge financial company or to issue any capital stock on behalf of a bridge financial company established under this subsection.

(iii) AUTHORITY.—If the Corporation determines that such action is advisable, the Corporation may cause capital stock or other securities of a bridge financial company established with respect to a covered financial company to be issued and offered for sale in such amounts and on such terms and conditions as the Corporation may, in its discretion, determine.

(iv) OPERATING FUNDS IN LIEU OF CAPITAL AND IMPLEMENTATION PLAN.—Upon the organization of a bridge financial company, and thereafter as the Corporation may, in its discretion, determine to be necessary or advisable, the Corporation may make available to the bridge financial company, subject to the plan described in subsection (n)(13), funds for the operation of the bridge financial company in lieu of capital.

(H) BRIDGE BROKERS OR DEALERS.—

(i) IN GENERAL.—The Corporation, as receiver for a covered broker or dealer, may approve articles of association for one or more bridge financial companies with respect to such covered broker or dealer, which bridge financial company or companies shall, by operation of law and immediately upon approval of its articles of association—

(I) be established and deemed registered with the Commission under the Securities Exchange Act of 1934 and a member of SIPC;

(II) operate in accordance with such articles and this section; and

(III) succeed to any and all registrations and memberships of the covered financial company with or in any self-regulatory organizations.

(ii) OTHER REQUIREMENTS.—Except as provided in clause (i), and notwithstanding any other provision of this section, the bridge financial company shall be subject to the Federal securities laws and all requirements with respect to being a member of a self-regulatory organization, unless exempted from any such requirements by the Commission, as is necessary or appropriate in the public interest or for the protection of investors.

(iii) TREATMENT OF CUSTOMERS.—Except as otherwise provided by this title, any customer of the covered broker or dealer whose account is transferred to a bridge financial company shall have all the rights, privileges, and protections under section 205(f) and under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.), that such customer would have had if the account were not transferred from the covered financial company under this subparagraph.

(iv) OPERATION OF BRIDGE BROKERS OR DEALERS.—Notwithstanding any other provision of this title, the Corporation shall not operate any bridge financial company created by the Corporation under this title with respect to a covered broker or dealer in such a manner as to adversely affect the ability of customers to promptly access their customer property in accordance with applicable law.

(3) INTERESTS IN AND ASSETS AND OBLIGATIONS OF COVERED FINANCIAL COMPANY.—Notwithstanding paragraph (1) or (2) or any other provision of law—

(A) a bridge financial company shall assume, acquire, or succeed to the assets or liabilities of a covered financial company (including the assets or liabilities associated with any trust or custody business) only to the extent that such assets or liabilities are transferred by the Corporation to the bridge financial company in accordance with, and subject to the restrictions set forth in, paragraph (1)(B); and

(B) a bridge financial company shall not assume, acquire, or succeed to any obligation that a covered financial company for which the Corporation has been appointed receiver may have to any shareholder, member, general partner, limited partner, or other person with an interest in the equity of the covered financial company that arises as a result of the status of that person having an equity claim in the covered financial company.

(4) BRIDGE FINANCIAL COMPANY TREATED AS BEING IN DEFAULT FOR CERTAIN PURPOSES.—A bridge financial company shall be treated as a covered financial company in default at such times and for such purposes as the Corporation may, in its discretion, determine.

(5) TRANSFER OF ASSETS AND LIABILITIES.—

(A) AUTHORITY OF CORPORATION.—The Corporation, as receiver for a covered financial company, may transfer any assets and liabilities of a covered financial company (including any assets or liabilities associated with any trust or custody business) to one or more bridge financial companies, in accordance with and subject to the restrictions of paragraph (1).

(B) SUBSEQUENT TRANSFERS.—At any time after the establishment of a bridge financial company with respect to a covered financial company, the Corporation, as receiver, may transfer any assets and liabilities of such covered financial company as the Corporation may, in its discretion, determine to be appropriate in accordance with and subject to the restrictions of paragraph (1).

(C) TREATMENT OF TRUST OR CUSTODY BUSINESS.—For purposes of this paragraph, the trust or custody business, including fiduciary appointments, held by any covered financial company is included among its assets and liabilities.

(D) EFFECTIVE WITHOUT APPROVAL.—The transfer of any assets or liabilities, including those associated with any trust or custody business of a covered financial company, to a bridge financial company shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto.

(E) EQUITABLE TREATMENT OF SIMILARLY SITUATED CREDITORS.—The Corporation shall treat all creditors of a covered financial company that are similarly situated under subsection (b)(1), in a similar manner in exercising the authority of the Corporation under this subsection to transfer any assets or liabilities of the covered financial company to one or more bridge financial companies established with respect to such covered financial company, except that the Corporation may take any action (including making payments, subject to subsection (o)(1)(E)(ii)) that does not comply with this subparagraph, if—

(i) the Corporation determines that such action is necessary—

(I) to maximize the value of the assets of the covered financial company;

(II) to maximize the present value return from the sale or other disposition of the assets of the covered financial company; or

(III) to minimize the amount of any loss realized upon the sale or other disposition of the assets of the covered financial company; and

(ii) all creditors that are similarly situated under subsection (b)(1) receive not less than the amount provided under paragraphs (2) and (3) of subsection (d).

(F) LIMITATION ON TRANSFER OF LIABILITIES.—Notwithstanding any other provision of law, the aggregate amount of liabilities of a covered financial company that are transferred to, or assumed by, a bridge financial company from a covered financial company may not exceed the aggregate amount of the assets of the covered financial company that are transferred to, or purchased by, the bridge financial company from the covered financial company.

(6) STAY OF JUDICIAL ACTION.—Any judicial action to which a bridge financial company becomes a party by virtue of its acquisition of any assets or assumption of any liabilities of a covered financial company shall be stayed from further proceedings for a period of not longer than 45 days (or such longer period as may be agreed to upon the consent of all parties) at the request of the bridge financial company.

(7) AGREEMENTS AGAINST INTEREST OF THE BRIDGE FINANCIAL COMPANY.—No agreement that tends to diminish or defeat the interest of the bridge financial company in any asset of a covered financial company acquired by the bridge financial company shall be valid against the bridge financial company, unless such agreement—

(A) is in writing;

(B) was executed by an authorized officer or representative of the covered financial company or confirmed in the ordinary course of business by the covered financial company; and

(C) has been on the official record of the company, since the time of its execution, or with which, the party claiming under the agreement provides documentation of such agreement and its authorized execution or confirmation by the covered financial company that is acceptable to the receiver.

(8) NO FEDERAL STATUS.—

(A) AGENCY STATUS.—A bridge financial company is not an agency, establishment, or instrumentality of the United States.

(B) EMPLOYEE STATUS.—Representatives for purposes of paragraph (1)(B), directors, officers, employees, or agents of a bridge financial company are not, solely by virtue of service in any such capacity, officers or employees of the United States. Any employee of the Corporation or of any Federal instrumentality who serves at the request of the Corporation as a representative for purposes of paragraph (1)(B), director, officer, employee, or agent of a bridge financial company shall not—

(i) solely by virtue of service in any such capacity lose any existing status as an officer or employee of the United States for purposes of title 5, United States Code, or any other provision of law; or

(ii) receive any salary or benefits for service in any such capacity with respect to a bridge financial company in addition to such salary or benefits as are obtained through employment with the Corporation or such Federal instrumentality.

(9) FUNDING AUTHORIZED.—The Corporation may, subject to the plan described in subsection (n)(13), provide funding to facilitate any transaction described in subparagraph (A), (B), (C), or (D) of paragraph (13) with respect to any bridge financial company, or facilitate the acquisition by a bridge financial company of any assets, or the assumption of any liabilities, of a covered financial company for which the Corporation has been appointed receiver.

(10) EXEMPT TAX STATUS.—Notwithstanding any other provision of Federal or State law, a bridge financial company, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

(11) FEDERAL AGENCY APPROVAL; ANTITRUST REVIEW.—If a transaction involving the merger or sale of a bridge financial company requires approval by a Federal agency, the transaction may not be consummated before the 5th calendar day after the date of approval by the Federal agency responsible for such approval with respect thereto. If, in connection with any such approval a report on competitive factors from the Attorney General is required, the Federal agency responsible for such approval shall promptly notify the Attorney General of the proposed transaction and the Attorney General shall provide the required report within 10 days of the request. If a notification is required under section 7A of the Clayton Act with respect to such transaction, the required waiting period shall end on the 15th day after the date on which the Attorney General and the Federal Trade Commission receive such notification, unless the waiting period is terminated earlier under section 7A(b)(2) of the Clayton Act, or extended under section 7A(e)(2) of that Act.

(12) DURATION OF BRIDGE FINANCIAL COMPANY.—Subject to paragraphs (13) and (14), the status of a bridge financial company as such shall terminate at the end of the 2-year period following the date on which it was granted a charter. The Corporation may, in its discretion, extend the status of the bridge financial company as such for no more than 3 additional 1-year periods.

(13) TERMINATION OF BRIDGE FINANCIAL COMPANY STATUS.—The status of any bridge financial company as such shall terminate upon the earliest of—

(A) the date of the merger or consolidation of the bridge financial company with a company that is not a bridge financial company;

(B) at the election of the Corporation, the sale of a majority of the capital stock of the bridge financial company to a company other than the Corporation and other than another bridge financial company;

(C) the sale of 80 percent, or more, of the capital stock of the bridge financial company to a person other than the Corporation and other than another bridge financial company;

(D) at the election of the Corporation, either the assumption of all or substantially all of the liabilities of the bridge financial company by a company that is not a bridge financial company, or the acquisition of all or substantially all of the assets of the bridge financial company by a company that is not a bridge financial company, or other entity as permitted under applicable law; and

(E) the expiration of the period provided in paragraph (12), or the earlier dissolution of the bridge financial company, as provided in paragraph (15).

(14) EFFECT OF TERMINATION EVENTS.—

(A) MERGER OR CONSOLIDATION.—A merger or consolidation, described in paragraph (12)(A) shall be conducted in accordance with, and shall have the effect provided in, the provisions of applicable law. For the purpose of effecting such a merger or consolidation, the bridge financial company shall be treated as a corporation organized under the laws of the State of Delaware (unless the law of another State has been selected by the bridge financial company in accordance with paragraph (2)(F)), and the Corporation shall be treated as the sole shareholder thereof, notwithstanding any other provision of State or Federal law.

(B) CHARTER CONVERSION.—Following the sale of a majority of the capital stock of the bridge financial company, as provided in paragraph (13)(B), the Corporation may amend the charter of the bridge financial company to reflect the termination of the status of the bridge financial company as such, whereupon the company shall have all of the rights, powers, and privileges under its constituent documents and applicable Federal or State law. In connection therewith, the Corporation may take such steps as may be necessary or convenient to reincorporate the bridge financial company under the laws of a State and, notwithstanding any provisions of Federal or State law, such State-chartered corporation shall be deemed to succeed by operation of law to such rights, titles, powers, and interests of the bridge financial company as the Corporation may provide, with the same effect as if the bridge financial company had merged with the State-chartered corporation under provisions of the corporate laws of such State.

(C) SALE OF STOCK.—Following the sale of 80 percent or more of the capital stock of a bridge financial company, as provided in paragraph (13)(C), the company shall have all of the rights, powers, and privileges under its constituent documents and applicable Federal or State law. In connection therewith, the Corporation may take such steps as may be necessary or convenient to reincorporate the bridge financial company under the laws of a State and, notwithstanding any provisions of Federal or State law, the State-chartered corporation shall be deemed to succeed by operation of law to such rights, titles, powers and interests of the bridge financial company as the Corporation may provide, with the same effect as if the bridge financial company had merged with the State-chartered corporation under provisions of the corporate laws of such State.

(D) ASSUMPTION OF LIABILITIES AND SALE OF ASSETS.—Following the assumption of all or substantially all of the liabilities of the bridge financial company, or the sale of all or substantially all of the assets of the bridge financial company, as provided in paragraph (13)(D), at the election of the Corporation, the bridge financial company may retain its status as such for the period provided in paragraph (12) or may be dissolved at the election of the Corporation.

(E) AMENDMENTS TO CHARTER.—Following the consummation of a transaction described in subparagraph (A), (B), (C), or (D) of paragraph (13), the charter of the resulting company shall be amended to reflect the termination of bridge financial company status, if appropriate.

(15) DISSOLUTION OF BRIDGE FINANCIAL COMPANY.—

(A) IN GENERAL.—Notwithstanding any other provision of Federal or State law, if the status of a bridge financial company as such has not previously been terminated by the occurrence of an event specified in subparagraph (A), (B), (C), or (D) of paragraph (13)—

(i) the Corporation may, in its discretion, dissolve the bridge financial company in accordance with this paragraph at any time; and

(ii) the Corporation shall promptly commence dissolution proceedings in accordance with this paragraph upon the expiration of the 2-year period following the date on which the bridge financial company was chartered, or any extension thereof, as provided in paragraph (12).

(B) PROCEDURES.—The Corporation shall remain the receiver for a bridge financial company for the purpose of dissolving the bridge financial company. The Corporation as receiver for a bridge financial company shall wind up the affairs of the bridge financial company in conformity with the provisions of law relating to the liquidation of covered financial companies under this title. With respect to any such bridge financial company, the Corporation as receiver shall have all the rights, powers, and privileges and shall perform the duties related to the exercise of such rights, powers, or privileges granted by law to the Corporation as receiver for a covered financial company under this title and, notwithstanding any other provision of law, in the exercise of such rights, powers, and privileges, the Corporation shall not be subject to the direction or supervision of any State agency or other Federal agency.

(16) AUTHORITY TO OBTAIN CREDIT.—

(A) IN GENERAL.—A bridge financial company may obtain unsecured credit and issue unsecured debt.

(B) INABILITY TO OBTAIN CREDIT.—If a bridge financial company is unable to obtain unsecured credit or issue unsecured debt, the Corporation may authorize the obtaining of credit or the issuance of debt by the bridge financial company—

(i) with priority over any or all of the obligations of the bridge financial company;

(ii) secured by a lien on property of the bridge financial company that is not otherwise subject to a lien; or

(iii) secured by a junior lien on property of the bridge financial company that is subject to a lien.

(C) LIMITATIONS.—

(i) IN GENERAL.—The Corporation, after notice and a hearing, may authorize the obtaining of credit or the issuance of debt by a bridge financial company that is secured by a senior or equal lien on property of the bridge financial company that is subject to a lien, only if—

(I) the bridge financial company is unable to otherwise obtain such credit or issue such debt; and

(II) there is adequate protection of the interest of the holder of the lien on the property with respect to which such senior or equal lien is proposed to be granted.

(ii) HEARING.—The hearing required pursuant to this subparagraph shall be before a court of the United States, which shall have jurisdiction to conduct such hearing.

(D) BURDEN OF PROOF.—In any hearing under this paragraph, the Corporation has the burden of proof on the issue of adequate protection.

(E) QUALIFIED FINANCIAL CONTRACTS.—No credit or debt obtained or issued by a bridge financial company may contain terms that impair the rights of a counterparty to a qualified financial contract upon a default by the bridge financial company, other than the priority of such counterparty's unsecured claim (after the exercise of rights) relative to the priority of the bridge financial company's obligations in respect of such credit or debt, unless such counterparty consents in writing to any such impairment.

(17) EFFECT ON DEBTS AND LIENS.—The reversal or modification on appeal of an authorization under this subsection to obtain credit or issue debt, or of a grant under this section of a priority or a lien, does not affect the validity of any debt so issued, or any priority or lien so granted, to an entity that extended such credit in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and the issuance of such debt, or the granting of such priority or lien, were stayed pending appeal.

(i) SHARING RECORDS.—If the Corporation has been appointed as receiver for a covered financial company, other Federal regulators shall make all records relating to the covered financial company available to the Corporation, which may be used by the Corporation in any manner that the Corporation determines to be appropriate.

(j) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—

(1) TIME FOR FILING NOTICE OF APPEAL.—The notice of appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against a director, officer, employee, agent, attorney, accountant, or appraiser of the covered financial company, or any other person employed by or providing services to a covered financial company, shall be filed not later than 30 days after the date of entry of the order. The hearing of the appeal shall be held not later than 120 days after the date of the notice of appeal. The appeal shall be decided not later than 180 days after the date of the notice of appeal.

(2) SCHEDULING.—The court shall expedite the consideration of any case brought by the Corporation against a director, officer, employee, agent, attorney, accountant, or appraiser of a covered financial company or any other person employed by or providing services to a covered financial company. As far as practicable, the court shall give such case priority on its docket.

(3) JUDICIAL DISCRETION.—The court may modify the schedule and limitations stated in paragraphs (1) and (2) in a particular case, based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.

(k) FOREIGN INVESTIGATIONS.—The Corporation, as receiver for any covered financial company, and for purposes of carrying out any power, authority, or duty with respect to a covered financial company—

(1) may request the assistance of any foreign financial authority and provide assistance to any foreign financial authority in accordance with section 8(v) of the Federal Deposit Insurance Act, as if the covered financial company were an insured depository institution, the Corporation were the appropriate Federal banking agency for the company, and any foreign financial authority were the foreign banking authority; and

(2) may maintain an office to coordinate foreign investigations or investigations on behalf of foreign financial authorities.

(l) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—The Corporation may not enter into any agreement or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as receiver for a covered financial company.

(m) LIQUIDATION OF CERTAIN COVERED FINANCIAL COMPANIES OR BRIDGE FINANCIAL COMPANIES.—

(1) IN GENERAL.—Except as specifically provided in this section, and notwithstanding any other provision of law, the Corporation, in connection with the liquidation of any covered financial company or bridge financial company with respect to which the Corporation has been appointed as receiver, shall—

(A) in the case of any covered financial company or bridge financial company that is or has a subsidiary that is a stockbroker, but is not a member of the Securities Investor Protection Corporation, apply the provisions of subchapter III of chapter 7 of the Bankruptcy Code, in respect of the distribution to any customer of all customer name securities and customer property, as if such covered financial company or bridge financial company were a debtor for purposes of such subchapter; or

(B) in the case of any covered financial company or bridge financial company that is a commodity broker, apply the provisions of subchapter IV of chapter 7 the Bankruptcy Code, in respect of the distribution to any customer of all customer property, as if such covered financial company or bridge financial company were a debtor for purposes of such subchapter.

(2) DEFINITIONS.—For purposes of this subsection—

(A) the terms ''customer'', ''customer name securities'', and ''customer property'' have the same meanings as in section 741 of title 11, United States Code; and

(B) the terms ''commodity broker'' and ''stockbroker'' have the same meanings as in section 101 of the Bankruptcy Code.

(n) ORDERLY LIQUIDATION FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a separate fund to be known as the ''Orderly Liquidation Fund'', which shall be available to the Corporation to carry out the authorities contained in this title, for the cost of actions authorized by this title, including the orderly liquidation of covered financial companies, payment of administrative expenses, the payment of principal and interest by the Corporation on obligations issued under paragraph (9), and the exercise of the authorities of the Corporation under this title.

(2) PROCEEDS.—Amounts received by the Corporation, including assessments received under subsection (o), proceeds of obligations issued under paragraph (9), interest and other earnings from investments, and repayments to the Corporation by covered financial companies, shall be deposited into the Fund.

(3) MANAGEMENT.—The Corporation shall manage the Fund in accordance with this subsection and the policies and procedures established under section 203(d).

(4) INVESTMENTS.—The Corporation shall invest amounts in the Fund in accordance with paragraph (8).

(5) TARGET SIZE OF THE FUND.—The target size of the Fund (in this section referred to as ''target size'') shall be $50,000,000,000, adjusted for inflation on a periodic basis by the Corporation.

(6) INITIAL CAPITALIZATION PERIOD.—The Corporation shall impose risk-based assessments as provided under subsection (o), during the period beginning one year after the date of enactment of this Act and ending on the date on which the Fund reaches the target size (in this section referred to as the ''initial capitalization period''), provided that the initial capitalization period shall be not shorter than 5 years, and not longer than 10 years, after the date of enactment of this Act. The Corporation, with the approval of the Secretary, may extend the initial capitalization period for a longer period, as determined necessary by the Corporation, if the Corporation is appointed receiver for a covered financial company under this title and the Fund incurs a loss before the expiration of such period.

(7) MAINTAINING THE FUND.—Upon the expiration of the initial capitalization period, the Corporation shall suspend assessments, except as set forth in subsection (o)(1).

(8) INVESTMENTS.—At the request of the Corporation, the Secretary may invest such portion of amounts held in the Fund that are not, in the judgment of the Corporation, required to meet the current needs of the Corporation, in obligations of the United States having suitable maturities, as determined by the Corporation. The interest on and the proceeds from the sale or redemption of such obligations shall be credited to the Fund.

(9) AUTHORITY TO ISSUE OBLIGATIONS.—

(A) CORPORATION AUTHORIZED TO ISSUE OBLIGATIONS.—Upon appointment by the Secretary of the Corporation as receiver for a covered financial company, the Corporation is authorized to issue obligations to the Secretary.

(B) SECRETARY AUTHORIZED TO PURCHASE OBLIGATIONS.—The Secretary may, under such terms and conditions as the Secretary may require, purchase or agree to purchase any obligations issued under subparagraph (A), and for such purpose, the Secretary is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under chapter 31 of title 31, United States Code, are extended to include such purchases.

(C) INTEREST RATE.—Each purchase of obligations by the Secretary under this paragraph shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity.

(D) SECRETARY AUTHORIZED TO SELL OBLIGATIONS.—The Secretary may sell, upon such terms and conditions as the Secretary shall determine, any of the obligations acquired under this paragraph.

(E) PUBLIC DEBT TRANSACTIONS.—All purchases and sales by the Secretary of such obligations under this paragraph shall be treated as public debt transactions of the United States, and the proceeds from the sale of any obligations acquired by the Secretary under this paragraph shall be deposited into the Treasury of the United States as miscellaneous receipts.

(10) MAXIMUM OBLIGATION LIMITATION.—The Corporation may not, in connection with the orderly liquidation of a covered financial company, issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of such obligations outstanding under this subsection would exceed the sum of—

(A) the amount of cash or the cash equivalents held by the Fund; and

(B) the amount that is equal to 90 percent of the fair value of assets from each covered financial company that are available to repay the Corporation.

(11) RULEMAKING.—The Corporation and the Secretary shall jointly, in consultation with the Council, prescribe regulations governing the calculation of the maximum obligation limitation defined in this paragraph.

(12) RELIANCE ON PRIVATE SECTOR FUNDING.—The Corporation may exercise its authority under paragraph (9) only after the cash and cash equivalents held by the Fund have been drawn down to facilitate the orderly liquidation of a covered financial company.

(13) RULE OF CONSTRUCTION.—

(A) IN GENERAL.—Nothing in this section shall be construed to affect the authority of the Corporation under subsection (a) or (b) of section 14 or section 15(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1824,

1825(c)(5)), the management of the Deposit Insurance Fund by the Corporation, or the resolution of insured depository institutions, provided that—

(i) none of the authorities contained in this title shall be used to assist the Deposit Insurance Fund with any of the other responsibilities of the Corporation under applicable law other than this title; and

(ii) the authorities of the Corporation relating to the Deposit Insurance Fund, or any other responsibilities of the Corporation, shall not be used to assist a covered financial company pursuant to this title.

(B) VALUATION.—For purposes of determining the amount of obligations under this subsection—

(i) the Corporation shall include as an obligation any contingent liability of the Corporation pursuant to this title; and

(ii) the Corporation shall value any contingent liability at its expected cost to the Corporation.

(14) ORDERLY LIQUIDATION PLAN.—Amounts in the Fund shall be available to the Corporation with regard to a covered financial company for which the Corporation is appointed receiver after the Corporation has developed an orderly liquidation plan that is acceptable to the Secretary with regard to such covered financial company, including the provision and use of funds under section 204(d) and subsection (h)(2)(G)(iv) and (h)(9) of this section. The Corporation may, at any time, amend any orderly liquidation plan approved by the Secretary with the concurrence of the Secretary.

(o) ASSESSMENTS.—

(1) RISK-BASED ASSESSMENTS.—

(A) ASSESSMENTS TO CAPITALIZE THE FUND.—

(i) IN GENERAL.—Except as provided under subparagraph (C)(ii), the Corporation shall impose risk-based assessments on eligible financial companies to capitalize the Fund during the initial capitalization period, taking into account the considerations set forth in paragraph (4).

(ii) SUSPENSION OF ASSESSMENTS.—The Corporation shall suspend the imposition of assessments under clause (i) following a determination by the Corporation that the Fund has reached the target size described in subsection (n).

(B) ELIGIBLE FINANCIAL COMPANIES DEFINED.—For purposes of this subsection, the term ''eligible financial company'' means any bank holding company with total consolidated assets equal to or greater than $50,000,000,000 and any nonbank financial company supervised by the Board of Governors.

(C) ADDITIONAL ASSESSMENTS.—The Corporation shall charge one or more risk-based assessments in accordance with the provisions of subparagraph (E), if—

(i) the Fund falls below the target size after the initial capitalization period, in order to restore the Fund to the target size over a period of time determined by the Corporation;

(ii) the Corporation is appointed receiver for a covered financial company and the Fund incurs a loss during the initial capitalization period with respect to that covered financial company; or

(iii) such assessments are necessary to pay in full the obligations issued by the Corporation to the Secretary within 60 months of the date of issuance of such obligations.

(D) EXTENSIONS AUTHORIZED.—The Corporation may, with the approval of the Secretary, extend the time period under subparagraph (C)(iii), if the Corporation determines that an extension is necessary to avoid a serious adverse effect on the financial system of the United States.

(E) APPLICATION OF ADDITIONAL ASSESSMENTS.—To meet the requirements of subparagraph (C), the Corporation shall, taking into account the considerations set forth in paragraph (4), impose assessments—

(i) on—

(I) eligible financial companies; and

(II) financial companies with total consolidated assets over $50,000,000,000 that are not eligible financial companies; and

(ii) at a substantially higher rate than otherwise would be assessed on any financial company that received payments or credit pursuant to subsection (b)(4), (d)(4), or (h)(5)(E).

(F) NEW ELIGIBLE FINANCIAL COMPANIES.—The Corporation shall impose an assessment, in an amount determined by the Corporation in consultation with the Secretary and taking into account the considerations set forth in paragraph (4), on any company that becomes an eligible financial company after the initial capitalization period.

(2) GRADUATED ASSESSMENT RATE.—The Corporation shall impose assessments on a graduated basis, with financial companies having greater assets being assessed at a higher rate.

(3) NOTIFICATION AND PAYMENT.—The Corporation shall notify each financial company of that company's assessment under this subsection. Any financial company subject to assessment under this subsection shall pay such assessment in accordance with the regulations prescribed pursuant to paragraph (6).

(4) RISK-BASED ASSESSMENT CONSIDERATIONS.—In imposing assessments under this subsection, the Corporation shall—

(A) take into account economic conditions generally affecting financial companies, so as to allow assessments to be lower during less favorable economic conditions;

(B) take into account any assessments imposed on—

(i) an insured depository institution subsidiary of a financial company pursuant to section 7 or section 13(c)(4)(G) of the Federal Deposit Insurance Act (12 U.S.C. 1817, 1823(c)(4)(G));

(ii) a financial company or subsidiary of such company that is a member of SIPC pursuant to section 4 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ddd); and

(iii) a financial company or subsidiary of such company that is an insurance company pursuant to applicable State law to cover (or reimburse payments made to cover) the costs of rehabilitation, liquidation, or other State insolvency proceeding with respect to one or more insurance companies;

(C) take into account the financial condition of the financial company, including the extent and type of off-balance-sheet exposures of the financial company;

(D) take into account the risks presented by the financial company to the financial stability of the United States economy;

(E) take into account the extent to which the financial company or group of financial companies has benefitted, or likely would benefit, from the orderly liquidation of a covered financial company and the use of the Fund under this title;

(F) distinguish among different classes of assets or different types of financial companies (including distinguishing among different types of financial companies, based on their levels of capital and leverage) in order to establish comparable assessment bases among financial companies subject to this subsection;

(G) establish the parameters for the graduated assessment requirement in paragraph (2); and

(H) take into account such other factors as the Corporation deems appropriate.

(5) COLLECTION OF INFORMATION.—The Corporation may impose on covered financial companies such collection of information requirements as the Corporation deems necessary to carry out this subsection after the appointment of the Corporation as receiver under this title.

(6) RULEMAKING.—

(A) IN GENERAL.—The Corporation shall, in consultation with the Secretary and the Council, prescribe regulations to carry out this subsection.

(B) EQUITABLE TREATMENT.—The regulations prescribed under subparagraph (A) shall take into account the differences in risks posed to the financial stability of the United States by financial companies, the differences in the liability structures of financial companies, and the different bases for other assessments that such financial companies may be required to pay, to ensure that assessed financial companies are treated equitably and that assessments under this subsection reflect such differences.

(p) UNENFORCEABILITY OF CERTAIN AGREEMENTS.—

(1) IN GENERAL.—No provision described in paragraph (2) shall be enforceable against or impose any liability on any person, as such enforcement or liability shall be contrary to public policy.

(2) PROHIBITED PROVISIONS.—A provision described in this paragraph is any term contained in any existing or future standstill, confidentiality, or other agreement that, directly or indirectly—

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

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

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

all or part of any covered financial company, including any liabilities, assets, or interest therein, in connection with any transaction in which the Corporation exercises its authority under this title.

(q) OTHER EXEMPTIONS.—

(1) IN GENERAL.—When acting as a receiver under this title—

(A) the Corporation, including its franchise, its capital, reserves and surplus, and its income, shall be exempt from all taxation imposed by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed, except that, notwithstanding the failure of any person to challenge an assessment under State law of the value of such property, such value, and the tax thereon, shall be determined as of the period for which such tax is imposed;

(B) no property of the Corporation shall be subject to levy, attachment, garnishment, foreclosure, or sale without the consent of the Corporation, nor shall any involuntary lien attach to the property of the Corporation; and

(C) the Corporation shall not be liable for any amounts in the nature of penalties or fines, including those arising from the failure of any person to pay any real property, personal property, probate, or recording tax or any recording or filing fees when due; and

(D) the Corporation shall be exempt from all prosecution by the United States or any State, county, municipality, or local authority for any criminal offense arising under Federal, State, county, municipal, or local law, which was allegedly committed by the covered financial company, or persons acting on behalf of the covered financial company,

prior to the appointment of the Corporation as receiver.

(2) LIMITATION.—Paragraph (1) shall not apply with respect to any tax imposed (or other amount arising) under the Internal Revenue Code of 1986.

(r) CERTAIN SALES OF ASSETS PROHIBITED.—

(1) PERSONS WHO ENGAGED IN IMPROPER CONDUCT WITH, OR CAUSED LOSSES TO, COVERED FINANCIAL COMPANIES.—The Corporation shall prescribe regulations which, at a minimum, shall prohibit the sale of assets of a covered financial company by the Corporation to—

(A) any person who—

(i) has defaulted, or was a member of a partnership or an officer or director of a corporation that has defaulted, on 1 or more obligations, the aggregate amount of which exceeds $1,000,000, to such covered financial company;

(ii) has been found to have engaged in fraudulent activity in connection with any obligation referred to in clause (i); and

(iii) proposes to purchase any such asset in whole or in part through the use of the proceeds of a loan or advance of credit from the Corporation or from any covered financial company;

(B) any person who participated, as an officer or director of such covered financial company or of any affiliate of such company, in a material way in any transaction that resulted in a substantial loss to such covered financial company; or

(C) any person who has demonstrated a pattern or practice of defalcation regarding obligations to such covered financial company.

(2) CONVICTED DEBTORS.—Except as provided in paragraph (3), a person may not purchase any asset of such institution from the receiver, if that person—

(A) has been convicted of an offense under section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, or of conspiring to commit such an offense, affecting any covered financial company; and

(B) is in default on any loan or other extension of credit from such covered financial company which, if not paid, will cause substantial loss to the Fund or the Corporation.

(3) SETTLEMENT OF CLAIMS.—Paragraphs (1) and (2) shall not apply to the sale or transfer by the Corporation of any asset of any covered financial company to any person, if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of 1 or more claims that have been, or could have been, asserted by the Corporation against the person.

(4) DEFINITION OF DEFAULT.—For purposes of this subsection, the term ''default'' means a failure to comply with the terms of a loan or other obligation to such an extent that the property securing the obligation is foreclosed upon.

SEC. 211. MISCELLANEOUS PROVISIONS.

(a) CLARIFICATION OF PROHIBITION REGARDING CONCEALMENT OF ASSETS FROM RECEIVER OR LIQUIDATING AGENT.—Section 1032(1) of title 18, United States Code, is amended by inserting ''the Federal Deposit Insurance Corporation acting as receiver for a covered financial company, in accordance with title II of the Restoring American Financial Stability Act of 2010,'' before ''or the National Credit''.

(b) CONFORMING AMENDMENT.—Section 1032 of title 18, United States Code, is amended in the section heading, by striking ''**of financial institution**''.

(c) FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.—Section 403(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4403(a)) is amended by inserting ''section 210(c) of the Restoring American Financial Stability Act of 2010, section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617(d)),'' after ''section 11(e) of the Federal Deposit Insurance Act,''.

TITLE III—TRANSFER OF POWERS TO THE COMPTROLLER OF THE CURRENCY, THE CORPORATION, AND THE BOARD OF GOVERNORS

SEC. 300. SHORT TITLE.

This title may be cited as the ''Enhancing Financial Institution Safety and Soundness Act of 2010''.

SEC. 301. PURPOSES.

The purposes of this title are—

(1) to provide for the safe and sound operation of the banking system of the United States;

(2) to preserve and protect the dual system of Federal and State-chartered depository institutions;

(3) to ensure the fair and appropriate supervision of each depository institution, regardless of the size or type of charter of the depository institution; and

(4) to streamline and rationalize the supervision of depository institutions and the holding companies of depository institutions.

SEC. 302. DEFINITION.

In this title, the term ''transferred employee'' means, as the context requires, an employee transferred to the Office of the Comptroller of the Currency or the Corporation under section 322.

Subtitle A—Transfer of Powers and Duties

SEC. 311. TRANSFER DATE.

(a) TRANSFER DATE.—Except as provided in subsection (b), the term ''transfer date'' means the date that is 1 year after the date of enactment of this Act.

(b) EXTENSION PERMITTED.—

(1) NOTICE REQUIRED.—The Secretary, in consultation with the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chairman of the Board of Governors, and the Chairperson of the Corporation, may extend the period under subsection (a) and designate a transfer date that is not later than 18 months after the date of enactment of this Act, if the Secretary transmits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

(A) a written determination that commencement of the orderly process to implement this title is not feasible by the date that is 1 year after the date of enactment of this Act;

(B) an explanation of why an extension is necessary to commence the process of orderly implementation of this title;

(C) the transfer date designated under this subsection; and

(D) a description of the steps that will be taken to initiate the process of an orderly and timely implementation of this title within the extended time period.

(2) PUBLICATION OF NOTICE.—Not later than 270 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register notice of any transfer date designated under paragraph (1).

SEC. 312. POWERS AND DUTIES TRANSFERRED.

(a) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the transfer date.

(b) FUNCTIONS OF THE OFFICE OF THRIFT SUPERVISION.—

(1) SAVINGS AND LOAN HOLDING COMPANY FUNCTIONS TRANSFERRED.—

(A) BOARD OF GOVERNORS.—There are transferred to the Board of Governors all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision (including the authority to issue orders) relating to—

(i) the supervision of—

(I) any savings and loan holding company—

(aa) having $50,000,000,000 or more in total consolidated assets; or

(bb) that is a foreign bank; and

(II) any subsidiary (other than a depository institution) of a savings and loan holding company described in subclause (I); and

(ii) all rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to savings and loan holding companies.

(B) COMPTROLLER OF THE CURRENCY.—Except as provided in subparagraph (A), there are transferred to the Office of the Comptroller of the Currency all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision (including the authority to issue orders) relating to the supervision of—

(i) any savings and loan holding company (other than a foreign bank)—

(I) having less than $50,000,000,000 in total consolidated assets; and

(II) having—

(aa) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

(bb) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions exceed the total consolidated assets of all subsidiaries that are State depository institutions; and

(ii) any subsidiary (other than a depository institution) of a savings and loan holding company described in clause (i).

(C) CORPORATION.—Except as provided in subparagraph (A), there are transferred to the Corporation all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision (including the authority to issue orders) relating to the supervision of—

(i) any savings and loan holding company (other than a foreign bank)—

(I) having less than $50,000,000,000 in total consolidated assets; and

(II) having—

(aa) a subsidiary that is an insured depository institution, if all such insured depository institutions are State depository institutions; or

(bb) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are State depository institutions exceed the total consolidated assets of all subsidiaries that are Federal depository institutions; and

(ii) any subsidiary (other than a depository institution) of a savings and loan holding company described in clause (i).

(2) ALL OTHER FUNCTIONS TRANSFERRED.—

(A) BOARD OF GOVERNORS.—All rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision under section 11 of the Home Owners' Loan Act (12 U.S.C. 1468) relating to transactions with affiliates and extensions of credit to executive officers, directors, and principal shareholders is transferred to the Board of Governors.

(B) COMPTROLLER OF THE CURRENCY.—Except as provided in subparagraph (A), there are transferred to the Comptroller of the Currency all functions of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to Federal savings associations.

(C) CORPORATION.—Except as provided in paragraph (1), all functions of the Office of Thrift Supervision and the Director of the

Office of Thrift Supervision relating to State savings associations are transferred to the Corporation.

(D) COMPTROLLER OF THE CURRENCY AND THE CORPORATION.—All rulemaking authority of the Office of Thrift Supervision and the Director of the Office of Thrift Supervision relating to savings associations is transferred to, and shall be exercised jointly by, the Comptroller of the Currency and the Corporation.

(c) CERTAIN FUNCTIONS OF THE BOARD OF GOVERNORS.—

(1) BANK HOLDING COMPANY FUNCTIONS TRANSFERRED.—

(A) COMPTROLLER OF THE CURRENCY.—Except as provided in subparagraph (C), there are transferred to the Office of the Comptroller of the Currency all functions of the Board of Governors (including any Federal reserve bank) relating to the supervision of—

(i) any bank holding company (other than a foreign bank)—

(I) having less than $50,000,000,000 in total consolidated assets; and

(II) having—

(aa) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

(bb) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions exceed the total consolidated assets of all subsidiaries that are State depository institutions; and

(ii) any subsidiary (other than a depository institution) of a bank holding company that is described in clause (i).

(B) CORPORATION.—Except as provided in subparagraph (C), there are transferred to the Corporation all functions of the Board of Governors (including any Federal reserve bank) relating to the supervision of—

(i) any bank holding company (other than a foreign bank)—

(I) having less than $50,000,000,000 in total consolidated assets; and

(II) having—

(aa) a subsidiary that is an insured depository institution, if all such insured depository institutions are State depository institutions; or

(bb) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are State depository institutions exceed the total consolidated assets of all subsidiaries that are Federal depository institutions; and

(ii) any subsidiary (other than a depository institution) of a bank holding company that is described in clause (i).

(C) RULEMAKING AUTHORITY.—No rulemaking authority of the Board of Governors is transferred to the Office of the Comptroller of the Currency or the Corporation under this paragraph.

(2) OTHER FUNCTIONS TRANSFERRED.—There are transferred to the Corporation all functions (other than rulemaking authority under the Federal Reserve Act) of the Board of Governors (and any Federal reserve bank) relating to the supervision of insured State member banks.

(d) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) is amended by striking paragraphs (1) through (4) and inserting the following:

''(1) the Office of the Comptroller of the Currency, in the case of—

''(A) any national banking association;

''(B) any Federal branch or agency of a foreign bank;

''(C) any bank holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions exceed the total consolidated assets of all subsidiaries that are State depository institutions;

''(D) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (C);

''(E) any Federal savings association;

''(F) any savings and loan holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions exceed the total consolidated assets of all subsidiaries that are State depository institutions; and

''(G) any subsidiary (other than a depository institution) of a savings and loan holding company that is described in subparagraph (F);

''(2) the Federal Deposit Insurance Corporation, in the case of—

''(A) any insured State bank;

''(B) any foreign bank having an insured branch;

''(C) any State savings association;

''(D) any bank holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are State depository institutions exceed the total consolidated assets of all subsidiaries that are Federal depository institutions;

''(E) any subsidiary (other than a depository institution) of a bank holding company that is described in subparagraph (D);

''(F) any savings and loan holding company (other than a foreign bank)—

''(i) having less than $50,000,000,000 in total consolidated assets; and

''(ii) having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are State depository institutions exceed the total consolidated assets of all subsidiaries that are Federal depository institutions; and

''(G) any subsidiary (other than a depository institution) of a savings and loan holding company that is described in subparagraph (F);

''(3) the Board of Governors of the Federal Reserve System, in the case of—

''(A) any noninsured State member bank;

''(B) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978;

''(C) any foreign bank which does not operate an insured branch;

''(D) any agency or commercial lending company other than a Federal agency;

''(E) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Financial Institutions Supervisory Act of 1966;

''(F) any bank holding company having total consolidated assets of $50,000,000,000 or more, any bank holding company that is a foreign bank, and any subsidiary (other than a depository institution) of such a bank holding company; and

''(G) any savings and loan holding company having total consolidated assets of $50,000,000,000 or more, any savings and loan holding company that is a foreign bank, and any subsidiary (other than a depository institution) of such a savings and loan holding company.''.

(2) CERTAIN REFERENCES IN THE BANK HOLDING COMPANY ACT OF 1956.—

(A) COMPTROLLER OF THE CURRENCY.—On or after the transfer date, in the case of a bank holding company described in section 3(q)(1)(C) of the Federal Deposit Insurance Act, as amended by this Act, any reference in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) to the Board of Governors shall be deemed to be a reference to the Office of the Comptroller of the Currency.

(B) CORPORATION.—On or after the transfer date, in the case of a bank holding company described in section 3(q)(2)(D) of the Federal Deposit Insurance Act, as amended by this Act, any reference in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) to the Board of Governors shall be deemed to be a reference to the Corporation.

(C) RULE OF CONSTRUCTION.—Notwithstanding subparagraph (A) or (B), the Board of Governors shall retain all rulemaking authority under the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.).

(3) CONSULTATION IN HOLDING COMPANY RULEMAKING.—

(A) BANK HOLDING COMPANIES.—Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following:

''(h) CONSULTATION IN RULEMAKING.—Before proposing or adopting regulations under this Act that apply to bank holding companies having less than $50,000,000,000 in total consolidated assets, the Board of Governors shall consult with the Comptroller of the Currency and the Federal Deposit Insurance Corporation as to the terms of such regulations.''.

(B) SAVINGS AND LOAN HOLDING COMPANIES.—

(i) HOME OWNERS' LOAN ACT.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by adding at the end the following:

''(u) CONSULTATION IN RULEMAKING.—Before proposing or adopting regulations under this section that apply to savings and loan holding companies having less than $50,000,000,000 in total consolidated assets, the Board of Governors shall consult with the Comptroller of the Currency and the Federal Deposit Insurance Corporation as to the terms of such regulations.''.

(ii) FEDERAL DEPOSIT INSURANCE ACT.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended—

(I) in subsection (d)(2), by inserting '', in consultation with the Corporation and the

Comptroller of the Currency,'' after ''System''; and

(II) in subsection (e)(2), by striking ''Director of the Office of Thrift Supervision'' and inserting ''Board of Governors of the Federal Reserve System, in consultation with the Corporation and the Comptroller of the Currency,''.

(4) FEDERAL DEPOSIT INSURANCE ACT.—

(A) APPLICATION.—Section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended to read as follows:

''(3) APPLICATION TO BANK HOLDING COMPANIES, SAVINGS AND LOAN HOLDING COMPANIES, AND EDGE AND AGREEMENT CORPORATIONS.—

''(A) APPLICATION.—This subsection, subsections (c) through (s) and subsection (u) of this section, and section 50 shall apply to—

''(i) any bank holding company, and any subsidiary (other than a bank) of a bank holding company, as those terms are defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841), as if such company or subsidiary was an insured depository institution for which the appropriate Federal banking agency for the bank holding company was the appropriate Federal banking agency;

''(ii) any savings and loan holding company, and any subsidiary (other than a depository institution) of a savings and loan holding company, as those terms are defined in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a), as if such company or subsidiary was an insured depository institution for which the appropriate Federal banking agency for the savings and loan holding company was the appropriate Federal banking agency; and

''(iii) any organization organized and operated under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.) or operating under section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.) and any noninsured State member bank, as if such organization was a bank holding company for which the Board of Governors of the Federal Reserve System was the appropriate Federal banking agency.

''(B) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to alter or affect the authority of an appropriate Federal banking agency to initiate enforcement proceedings, issue directives, or take other remedial action under any other provision of law.''.

(B) CONFORMING AMENDMENT.—Section 8(b)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(9)) is amended to read as follows:

''(9) [Reserved].''.

(e) DETERMINATION OF TOTAL CONSOLIDATED ASSETS.—

(1) REGULATIONS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors, in order to avoid disruptive transfers of regulatory responsibility, shall issue joint regulations that specify—

(i) the source of data for determining the total consolidated assets of a depository institution, bank holding company, or savings and loan holding company for purposes of this Act, and the amendments made by this Act, including the amendments to section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)); and

(ii) the interval and frequency at which the total consolidated assets of a depository institution, bank holding company, or savings and loan holding company will be determined.

(B) CONTENT.—The regulations issued under subparagraph (A)—

(i) shall use information contained in the reports described in paragraph (2), other regulatory reports, audited financial statements, or other comparable sources;

(ii) shall establish the frequency with which the total consolidated assets of depository institutions, bank holding companies, and savings and loan companies are determined, at an interval that—

(I) avoids undue disruption in regulatory oversight;

(II) facilitates nondisruptive transfers of regulatory responsibility; and

(III) is not shorter than 2 years; and

(iii) may provide for more frequent determinations of the total consolidated assets of a depository institution, bank holding company, or savings and loan holding company, to take into account a transaction outside the ordinary course of business, including a merger, acquisition, or other circumstance, as determined jointly by the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors, by rule.

(2) INTERIM PROVISIONS.—Until the date on which final regulations issued under paragraph (1) are effective, for purposes this Act, and the amendments made by this Act, including the amendments to section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), the total consolidated assets of—

(A) a depository institution shall be determined by reference to the total consolidated assets reported in the most recent Consolidated Report of Income and Condition or Thrift Financial Report (or any successor thereto) filed by the depository institution with the Corporation or the Office of Thrift Supervision before the transfer date;

(B) a bank holding company shall be determined by reference to the total consolidated assets reported in the most recent Consolidated Financial Statements for Bank Holding Companies (commonly referred to as the ''FR Y–9C'', or any successor thereto) filed by the bank holding company with the Board of Governors before the transfer date; and

(C) a savings and loan holding company shall be determined by reference to the total consolidated assets reported in the applicable schedule of the most recent Thrift Financial Report (or any successor thereto) filed by the savings and loan holding company with the Office of Thrift Supervision before the transfer date.

(f) CONSUMER PROTECTION.—Nothing in this section may be construed to limit or otherwise affect the transfer of powers under title X.

SEC. 313. ABOLISHMENT.

Effective 90 days after the transfer date, the Office of Thrift Supervision and the position of Director of the Office of Thrift Supervision are abolished.

SEC. 314. AMENDMENTS TO THE REVISED STATUTES.

(a) AMENDMENT TO SECTION 324.—Section 324 of the Revised Statutes of the United States (12 U.S.C. 1) is amended to read as follows:

''SEC. 324. COMPTROLLER OF THE CURRENCY.

''(a) OFFICE OF THE COMPTROLLER OF THE CURRENCY ESTABLISHED.—There is established in the Department of the Treasury a bureau to be known as the 'Office of the Comptroller of the Currency' which is charged with assuring the safety and soundness of, and compliance with laws and regulations, fair access to financial services, and fair treatment of customers by, the institutions and other persons subject to its jurisdiction.

''(b) COMPTROLLER OF THE CURRENCY.—

''(1) IN GENERAL.—The chief officer of the Office of the Comptroller of the Currency shall be known as the Comptroller of the Currency. The Comptroller of the Currency shall perform the duties of the Comptroller of the Currency under the general direction of the Secretary of the Treasury. The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Comptroller of the Currency, and may not intervene in any matter or proceeding before the Comptroller of the Currency (including agency enforcement actions), unless otherwise specifically provided by law.

''(2) ADDITIONAL AUTHORITY.—The Comptroller of the Currency shall have the same authority with respect to functions transferred to the Comptroller of the Currency under the Enhancing Financial Institution Safety and Soundness Act of 2010 (including matters that were within the jurisdiction of the Director of the Office of Thrift Supervision or the Office of Thrift Supervision on the day before the transfer date under that Act) as was vested in the Director of the Office of Thrift Supervision on the transfer date under that Act.''.

(b) AMENDMENT TO SECTION 329.—Section 329 of the Revised Statutes of the United States (12 U.S.C. 11) is amended by inserting before the period at the end the following: ''or any Federal savings association''.

(c) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the transfer date.

SEC. 315. FEDERAL INFORMATION POLICY.

Section 3502(5) of title 44, United States Code, is amended by inserting ''Office of the Comptroller of the Currency,'' after ''the Securities and Exchange Commission,''.

SEC. 316. SAVINGS PROVISIONS.

(a) OFFICE OF THRIFT SUPERVISION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Sections 312(b) and 313 shall not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, the Office of Thrift Supervision, or any other person, that existed on the day before the transfer date.

(2) CONTINUATION OF SUITS.—This title shall not abate any action or proceeding commenced by or against the Director of the Office of Thrift Supervision or the Office of Thrift Supervision before the transfer date, except that, for any action or proceeding arising out of a function of the Director of the Office of Thrift Supervision or the Office of Thrift Supervision that is transferred to the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, the Corporation, the Chairman of the Board of Governors, or the Board of Governors by this subtitle, the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, the Corporation, the Chairman of the Board of Governors, or the Board of Governors shall be substituted for the Director of the Office of Thrift Supervision or the Office of Thrift Supervision, as appropriate, as a party to the action or proceeding as of the transfer date.

(b) BOARD OF GOVERNORS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 312(c) shall not affect the validity of any right, duty, or obligation of the United States, the Board of Governors, any Federal reserve bank, or any other person, that existed on the day before the transfer date.

(2) CONTINUATION OF SUITS.—This title shall not abate any action or proceeding commenced by or against the Board of Governors or a Federal reserve bank before the transfer date, except that, for any action or proceeding arising out of a function of the Board of Governors or a Federal reserve bank transferred to the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, or the Corporation by this subtitle,

the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, or the Corporation shall be substituted for the Board of Governors or the Federal reserve bank, as appropriate, as a party to the action or proceeding, as of the transfer date.

(c) CONTINUATION OF EXISTING ORDERS, RESOLUTIONS, DETERMINATIONS, AGREEMENTS, REGULATIONS, AND OTHER MATERIALS.—

(1) OFFICE OF THRIFT SUPERVISION.—All orders, resolutions, determinations, agreements, regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials that have been issued, made, prescribed, or allowed to become effective by the Office of Thrift Supervision, or by a court of competent jurisdiction, in the performance of functions of the Office of Thrift Supervision that are transferred by this subtitle and that are in effect on the day before the transfer date, shall continue in effect according to the terms of those materials, and shall be enforceable by or against the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as appropriate, until modified, terminated, set aside, or superseded in accordance with applicable law by the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as appropriate, by any court of competent jurisdiction, or by operation of law.

(2) BOARD OF GOVERNORS.—All orders, resolutions, determinations, agreements, regulations, interpretative rules, other interpretations, guidelines, procedures, and other advisory materials, that have been issued, made, prescribed, or allowed to become effective by the Board of Governors, or by a court of competent jurisdiction, in the performance of functions of the Board of Governors that are transferred by this subtitle and that are in effect on the day before the transfer date, shall continue in effect according to the terms of those materials, and shall be enforceable by or against the Office of the Comptroller of the Currency or the Corporation, as appropriate, until modified, terminated, set aside, or superseded in accordance with applicable law by the Office of the Comptroller of the Currency or the Corporation, as appropriate, by any court of competent jurisdiction, or by operation of law.

(d) IDENTIFICATION OF REGULATIONS CONTINUED.—

(1) BY THE OFFICE OF THE COMPTROLLER OF THE CURRENCY.—Not later than the transfer date, the Office of the Comptroller of the Currency shall—

(A) in consultation with the Corporation, identify the regulations continued under subsection (c) that will be enforced by the Office of the Comptroller of the Currency; and

(B) publish a list of such regulations in the Federal Register.

(2) BY THE CORPORATION.—Not later than the transfer date, the Corporation shall—

(A) in consultation with the Office of the Comptroller of the Currency, identify the regulations continued under subsection (c) that will be enforced by the Corporation; and

(B) publish a list of such regulations in the Federal Register.

(3) BY THE BOARD OF GOVERNORS.—Not later than the transfer date, the Board of Governors shall—

(A) in consultation with the Office of the Comptroller of the Currency and the Corporation, identify the regulations continued under subsection (c) that will be enforced by the Board of Governors; and

(B) publish a list of such regulations in the Federal Register.

(e) STATUS OF REGULATIONS PROPOSED OR NOT YET EFFECTIVE.—

(1) PROPOSED REGULATIONS.—Any proposed regulation of the Office of Thrift Supervision or the Board of Governors, which that agency, in performing functions transferred by this subtitle, has proposed before the transfer date, but has not published as a final regulation before that date, shall be deemed to be a proposed regulation of the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as appropriate, according to its terms.

(2) REGULATIONS NOT YET EFFECTIVE.—Any interim or final regulation of the Office of Thrift Supervision or the Board of Governors, which that agency, in performing functions transferred by this subtitle, has published before the transfer date, but which has not become effective before that date, shall become effective as a regulation of the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as appropriate, according to its terms.

SEC. 317. REFERENCES IN FEDERAL LAW TO FEDERAL BANKING AGENCIES.

(a) DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION AND THE OFFICE OF THRIFT SUPERVISION.—Except as provided in section 312(d)(2), on and after the transfer date, any reference in Federal law to the Director of the Office of Thrift Supervision or the Office of Thrift Supervision, in connection with any function of the Director of the Office of Thrift Supervision or the Office of Thrift Supervision transferred under section 312(b) or any other provision of this subtitle, shall be deemed to be a reference to the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, the Corporation, the Chairman of the Board of Governors, or the Board of Governors, as appropriate.

(b) BOARD OF GOVERNORS.—Except as provided in section 312(d)(2), on and after the transfer date, any reference in Federal law to the Board of Governors or any Federal reserve bank, in connection with any function of the Board of Governors or any Federal reserve bank transferred under section 312(c) or any other provision of this subtitle, shall be deemed to be a reference to the Comptroller of the Currency, the Office of the Comptroller of the Currency, the Chairperson of the Corporation, or the Corporation, as appropriate.

SEC. 318. FUNDING.

(a) FUNDING OF OFFICE OF THE COMPTROLLER OF THE CURRENCY.—

(1) AUTHORITY TO COLLECT ASSESSMENTS, FEES, AND OTHER CHARGES, AND TO RECEIVE TRANSFERRED FUNDS.—Chapter 4 of title LXII of the Revised Statutes is amended by inserting after section 5240 (12 U.S.C. 481, 482) the following:

''SEC. 5240A. The Comptroller of the Currency may collect an assessment, fee, or other charge from any entity described in section 3(q)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(1)), as the Comptroller determines is necessary or appropriate to carry out the responsibilities of the Office of the Comptroller of the Currency. The Comptroller of the Currency also may collect an assessment, fee, or other charge from any entity, the activities of which are supervised by the Comptroller of the Currency under section 6 of the Bank Holding Company Act of 1956, as the Comptroller determines is necessary or appropriate to carry out the responsibilities of the Office of the Comptroller of the Currency in connection with such activities. In establishing the amount of an assessment, fee, or charge collected from an entity under this section, the Comptroller of the Currency may take into account the funds transferred to the Office of the Comptroller of the Currency under this section, the nature and scope of the activities of the entity, the amount and type of assets that the entity holds, the financial and managerial condition of the entity, and any other factor, as the Comptroller of the Currency determines is appropriate. Funds derived from any assessment, fee, or charge collected or payment made pursuant to this section may be deposited by the Comptroller of the Currency in accordance with the provisions of section 5234. Such funds shall not be construed to be Government funds or appropriated monies, and shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or any other provision of law. The authority of the Comptroller of the Currency under this section shall be in addition to the authority under section 5240.

''The Comptroller of the Currency shall have sole authority to determine the manner in which the obligations of the Office of the Comptroller of the Currency shall be incurred and its disbursements and expenses allowed and paid, in accordance with this section.''.

(2) PROMOTING PARITY IN SUPERVISION FEES.—

(A) PROPOSAL REQUIRED.—

(i) IN GENERAL.—The Comptroller of the Currency shall submit to the Board of Directors of the Corporation a proposal to promote parity in the examination fees paid by State and Federal depository institutions having total consolidated assets of less than $50,000,000,000.

(ii) CONTENTS.—The proposal submitted under clause (i) shall recommend a transfer from the Corporation to the Office of the Comptroller of the Currency of a percentage of the amount that the Office of the Comptroller of the Currency estimates is necessary or appropriate to carry out the responsibilities of the Office of the Comptroller of the Currency associated with the supervision of Federal depository institutions having total consolidated assets of less than $50,000,000,000.

(iii) DATA COLLECTION.—The Corporation shall assist the Office of the Comptroller of the Currency in collecting data relative to the supervision of State depository institutions to develop the proposal submitted under clause (i).

(B) VOTE.—Not later than 60 days after the date of receipt of the proposal under subparagraph (A), the Board of Directors of the Corporation shall—

(i) vote on the proposal; and

(ii) promptly implement a plan to periodically transfer to the Office of the Comptroller of the Currency a percentage of the amount that the Office of the Comptroller of the Currency estimates is necessary or appropriate to carry out the responsibilities of the Office of the Comptroller of the Currency associated with the supervision of Federal depository institutions having total consolidated assets of less than $50,000,000,000, as approved by the Board of Directors of the Corporation.

(C) REPORT TO CONGRESS.—Not later than 30 days after date of the vote of the Board of Directors of the Corporation under subparagraph (B), the Corporation shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report describing—

(i) the proposal made to the Board of Directors of the Corporation by the Comptroller of the Currency; and

(ii) the decision resulting from the vote of the Board of Directors of the Corporation.

(D) FAILURE TO APPROVE PLAN.—If, on the date that is 2 years after the date of enactment of this Act, the Board of Directors of the Corporation has failed to approve a plan

under subparagraph (B), the Council shall approve a plan using the dispute resolution procedures under section 119.

(b) FUNDING OF BOARD OF GOVERNORS.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following:

''(s) ASSESSMENTS, FEES, AND OTHER CHARGES FOR CERTAIN COMPANIES.—

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

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

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

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

''(C) all nonbank financial companies supervised by the Board under section 113 of the Restoring American Financial Stability Act of 2010.''.

(c) CORPORATION EXAMINATION FEES.—Section 10(e) of the Federal Deposit Insurance Act (12 U.S.C. 1820(e)) is amended by striking paragraph (1) and inserting the following:

''(1) REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS.—The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) or of any entity described in section 3(q)(2) may be assessed by the Corporation against the institution or entity to meet the expenses of the Corporation in carrying out such examinations, or as the Corporation determines is necessary or appropriate to carry out the responsibilities of the Corporation. The Corporation may also collect an assessment, fee, or other charge from any entity, the activities of which are supervised by the Corporation under section 6 of the Bank Holding Company Act of 1956, as the Corporation determines is necessary or appropriate to carry out the responsibilities of the Corporation in connection with such activities.''.

(d) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the transfer date.

SEC. 319. CONTRACTING AND LEASING AUTHORITY.

Notwithstanding the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) or any other provision of law, the Office of the Comptroller of the Currency may—

(1) enter into and perform contracts, execute instruments, and acquire, in any lawful manner, such goods and services, or personal or real property (or property interest) as the Comptroller deems necessary to carry out the duties and responsibilities of the Office of the Comptroller of the Currency; and

(2) hold, maintain, sell, lease, or otherwise dispose of the property (or property interest) acquired under paragraph (1).

Subtitle B—Transitional Provisions

SEC. 321. INTERIM USE OF FUNDS, PERSONNEL, AND PROPERTY.

(a) OFFICE OF THRIFT SUPERVISION.—

(1) IN GENERAL.—Before the transfer date, the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors shall—

(A) consult and cooperate with the Office of Thrift Supervision to facilitate the orderly transfer of functions to the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors in accordance with this title;

(B) determine jointly, from time to time—

(i) the amount of funds necessary to pay any expenses associated with the transfer of functions (including expenses for personnel, property, and administrative services) during the period beginning on the date of enactment of this Act and ending on the transfer date;

(ii) which personnel are appropriate to facilitate the orderly transfer of functions by this title; and

(iii) what property and administrative services are necessary to support the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors during the period beginning on the date of enactment of this Act and ending on the transfer date; and

(C) take such actions as may be necessary to provide for the orderly implementation of this title.

(2) AGENCY CONSULTATION.—When requested jointly by the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors to do so before the transfer date, the Office of Thrift Supervision shall—

(A) pay to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, from funds obtained by the Office of Thrift Supervision through assessments, fees, or other charges that the Office of Thrift Supervision is authorized by law to impose, such amounts as the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly determine to be necessary under paragraph (1);

(B) detail to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, such personnel as the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly determine to be appropriate under paragraph (1); and

(C) make available to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, such property and provide to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, as applicable, such administrative services as the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly determine to be necessary under paragraph (1).

(3) NOTICE REQUIRED.—The Office of the Comptroller of the Currency, the Corporation, and the Board of Governors shall jointly give the Office of Thrift Supervision reasonable prior notice of any request that the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly intend to make under paragraph (2).

(b) BOARD OF GOVERNORS.—

(1) IN GENERAL.—Before the transfer date, the Office of the Comptroller of the Currency and the Corporation shall—

(A) consult and cooperate with the Board of Governors to facilitate the orderly transfer of functions to the Office of the Comptroller of the Currency and the Corporation in accordance with this title;

(B) determine jointly, from time to time—

(i) the amount of funds necessary to pay any expenses associated with the transfer of functions (including expenses for personnel, property, and administrative services) during the period beginning on the date of enactment of this Act and ending on the transfer date;

(ii) which personnel are appropriate to facilitate the orderly transfer of functions by this title; and

(iii) what property and administrative services are necessary to support the Office of the Comptroller of the Currency and the Corporation during the period beginning on the date of enactment of this Act and ending on the transfer date; and

(C) take such actions as may be necessary to provide for the orderly implementation of this title.

(2) AGENCY CONSULTATION.—When requested jointly by the Office of the Comptroller of the Currency and the Corporation to do so before the transfer date, the Board of Governors shall—

(A) pay to the Office of the Comptroller of the Currency or the Corporation, as applicable, from funds obtained by the Board of Governors through assessments, fees, or other charges that the Board of Governors is authorized by law to impose, such amounts as the Office of the Comptroller of the Currency and the Corporation jointly determine to be necessary under paragraph (1);

(B) detail to the Office of the Comptroller of the Currency or the Corporation, as applicable, such personnel as the Office of the Comptroller of the Currency and the Corporation jointly determine to be appropriate under paragraph (1); and

(C) make available to the Office of the Comptroller of the Currency or the Corporation, as applicable, such property and provide to the Office of the Comptroller of the Currency or the Corporation, as applicable, such administrative services as the Office of the Comptroller of the Currency and the Corporation jointly determine to be necessary under paragraph (1).

(3) NOTICE REQUIRED.—The Office of the Comptroller of the Currency and the Corporation shall jointly give the Board of Governors reasonable prior notice of any request that the Office of the Comptroller of the Currency and the Corporation jointly intend to make under paragraph (2).

SEC. 322. TRANSFER OF EMPLOYEES.

(a) IN GENERAL.—

(1) OFFICE OF THRIFT SUPERVISION EMPLOYEES.—

(A) IN GENERAL.—All employees of the Office of Thrift Supervision shall be transferred to the Office of the Comptroller of the Currency or the Corporation for employment in accordance with this section.

(B) ALLOCATING EMPLOYEES FOR TRANSFER TO RECEIVING AGENCIES.—The Director of the Office of Thrift Supervision, the Comptroller of the Currency, and the Chairperson of the Corporation shall—

(i) jointly determine the number of employees of the Office of Thrift Supervision necessary to perform or support the functions that are transferred to the Office of the Comptroller of the Currency or the Corporation by this title; and

(ii) consistent with the determination under clause (i), jointly identify employees of the Office of Thrift Supervision for transfer to the Office of the Comptroller of the Currency or the Corporation.

(2) BOARD OF GOVERNORS.—The Comptroller of the Currency, the Chairperson of the Corporation, and the Chairman of the Board of Governors shall—

(A) jointly determine the number of employees of the Board of Governors (including employees of the Federal reserve banks who, on the day before the transfer date, are performing functions on behalf of the Board of Governors) necessary to perform or support the functions that are transferred to the Office of the Comptroller of the Currency or the Corporation under this title; and

(B) consistent with the determination under subparagraph (A), jointly identify employees of the Board of Governors (including employees of the Federal reserve banks who, on the day before the transfer date, are performing functions on behalf of the Board of Governors) for transfer to the Office of the Comptroller of the Currency or the Corporation.

(3) EMPLOYEES TRANSFERRED; SERVICE PERIODS CREDITED.—For purposes of this section, periods of service with a Federal home loan bank, a joint office of Federal home loan banks, or a Federal reserve bank shall be credited as periods of service with a Federal agency.

(4) APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE TRANSFERRED.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any appointment authority of the Office of Thrift Supervision or the Board of Governors under Federal law that relates to the functions transferred under section 312, including the regulations of the Office of Personnel Management, for filling the positions of employees in the excepted service shall be transferred to the Comptroller of the Currency or the Chairperson of the Corporation, as appropriate.

(B) DECLINING TRANSFERS ALLOWED.—The Office of the Comptroller of the Currency or the Chairperson of the Corporation may decline to accept a transfer of authority under subparagraph (A) (and the employees appointed under that authority) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character.

(5) ADDITIONAL APPOINTMENT AUTHORITY.—Notwithstanding any other provision of law, the Office of the Comptroller of the Currency and the Corporation may appoint transferred employees to positions in the Office of the Comptroller of the Currency or the Corporation, respectively. For purposes of this paragraph, an employee transferred from any Federal reserve bank shall be treated as an employee of the Board of Governors.

(b) TIMING OF TRANSFERS AND POSITION ASSIGNMENTS.—Each employee to be transferred under subsection (a)(1) shall—

(1) be transferred not later than 90 days after the transfer date; and

(2) receive notice of the position assignment of the employee not later than 120 days after the effective date of the transfer of the employee.

(c) TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the transfer of employees under this subtitle shall be deemed a transfer of functions for the purpose of section 3503 of title 5, United States Code.

(2) PRIORITY.—If any provision of this subtitle conflicts with any protection provided to a transferred employee under section 3503 of title 5, United States Code, the provisions of this subtitle shall control.

(d) EMPLOYEE STATUS AND ELIGIBILITY.—The transfer of functions and employees under this subtitle, and the abolishment of the Office of Thrift Supervision under section 313, shall not affect the status of the transferred employees as employees of an agency of the United States under any provision of law.

(e) EQUAL STATUS AND TENURE POSITIONS.—

(1) STATUS AND TENURE.—

(A) OFFICE OF THRIFT SUPERVISION.—Each transferred employee from the Office of Thrift Supervision shall be placed in a position at the Office of the Comptroller of the Currency or the Corporation with the same status and tenure as the transferred employee held on the day before the date on which the employee was transferred.

(B) BOARD OF GOVERNORS.—Each transferred employee from the Board of Governors or from a Federal reserve bank shall be placed in a position with the same status and tenure as employees of the Office of the Comptroller of the Currency or the Corporation who perform similar functions and have similar periods of service.

(2) FUNCTIONS.—To the extent practicable, each transferred employee shall be placed in a position at the Office of the Comptroller of the Currency or the Corporation, as applicable, responsible for the same functions and duties as the transferred employee had on the day before the date on which the employee was transferred, in accordance with the expertise and preferences of the transferred employee.

(f) NO ADDITIONAL CERTIFICATION REQUIREMENTS.—An examiner who is a transferred employee shall not be subject to any additional certification requirements before being placed in a comparable position at the Office of the Comptroller of the Currency or the Corporation, if the examiner carries out examinations of the same type of institutions as an employee of the Office of the Comptroller of the Currency or the Corporation as the employee was responsible for carrying out before the date on which the employee was transferred.

(g) PERSONNEL ACTIONS LIMITED.—

(1) 2-YEAR PROTECTION.—Except as provided in paragraph (2), during the 2-year period beginning on the transfer date, an employee holding a permanent position on the day before the date on which the employee was transferred shall not be involuntarily separated or involuntarily reassigned outside the locality pay area (as defined by the Office of Personnel Management) of the employee.

(2) EXCEPTIONS.—The Comptroller of the Currency and the Chairperson of the Corporation, as applicable, may—

(A) separate a transferred employee for cause, including for unacceptable performance; or

(B) terminate an appointment to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character.

(h) PAY.—

(1) 2-YEAR PROTECTION.—Except as provided in paragraph (2), during the 2-year period beginning on the date on which the employee was transferred under this subtitle, a transferred employee shall be paid at a rate that is not less than the basic rate of pay, including any geographic differential, that the transferred employee received during the pay period immediately preceding the date on which the employee was transferred.

(2) EXCEPTIONS.—The Comptroller of the Currency, the Chairperson of the Corporation, or the Chairman of the Board of Governors may reduce the rate of basic pay of a transferred employee—

(A) for cause, including for unacceptable performance; or

(B) with the consent of the transferred employee.

(3) PROTECTION ONLY WHILE EMPLOYED.—This subsection shall apply to a transferred employee only during the period that the transferred employee remains employed by Office of the Comptroller of the Currency or the Corporation.

(4) PAY INCREASES PERMITTED.—Nothing in this subsection shall limit the authority of the Comptroller of the Currency or the Chairperson of the Corporation to increase the pay of a transferred employee.

(i) BENEFITS.—

(1) RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES.—

(A) IN GENERAL.—

(i) CONTINUATION OF EXISTING RETIREMENT PLAN.—Each transferred employee shall remain enrolled in the retirement plan of the transferred employee, for as long as the transferred employee is employed by the Office of the Comptroller of the Currency or the Corporation.

(ii) EMPLOYER'S CONTRIBUTION.—The Comptroller of the Currency or the Chairperson of the Corporation, as appropriate, shall pay any employer contributions to the existing retirement plan of each transferred employee, as required under each such existing retirement plan.

(B) OPTION FOR EMPLOYEES TRANSFERRED FROM FEDERAL RESERVE SYSTEM TO BE SUBJECT TO FEDERAL EMPLOYEE RETIREMENT PROGRAM.—

(i) ELECTION.—Any transferred employee who was enrolled in a Federal Reserve System retirement plan on the day before the date of the transfer of the employee to the Office of the Comptroller of the Currency or the Corporation may, during the period beginning 6 months after the transfer date and ending 1 year after the transfer date, elect to be subject to the Federal employee retirement program.

(ii) EFFECTIVE DATE OF COVERAGE.—For any employee making an election under clause (i), coverage by the Federal employee retirement program shall begin 1 year after the transfer date.

(C) AGENCY PARTICIPATION IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN.—

(i) SEPARATE ACCOUNT IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN ESTABLISHED.—A separate account in the Federal Reserve System retirement plan shall be established for employees transferred to the Office of the Comptroller of the Currency or the Corporation under this title who do not make the election under subparagraph (B).

(ii) FUNDS ATTRIBUTABLE TO TRANSFERRED EMPLOYEES REMAINING IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN TRANSFERRED.—The proportionate share of funds in the Federal Reserve System retirement plan, including the proportionate share of any funding surplus in that plan, attributable to a transferred employee who does not make the election under subparagraph (B), shall be transferred to the account established under clause (i).

(iii) EMPLOYER CONTRIBUTIONS DEPOSITED.—The Office of the Comptroller of the Currency or the Corporation, as appropriate, shall deposit into the account established under clause (i) the employer contributions that the Office of the Comptroller of the Currency or the Corporation, respectively, makes on behalf of transferred employees who do not make an election under subparagraph (B).

(iv) ACCOUNT ADMINISTRATION.—The Office of the Comptroller of the Currency or the Corporation, as appropriate, shall administer the account established under clause (i) as a participation employer in the Federal Reserve System retirement plan.

(D) DEFINITION.—In this paragraph, the term ''existing retirement plan'' means, with respect to a transferred employee, the retirement plan (including the Financial Institutions Retirement Fund), and any associated thrift savings plan, of the agency from which the employee was transferred in which the employee was enrolled on the day before the date on which the employee was transferred.

(2) BENEFITS OTHER THAN RETIREMENT BENEFITS.—

(A) DURING FIRST YEAR.—

(i) EXISTING PLANS CONTINUE.—During the 1-year period following the transfer date, each transferred employee may retain membership in any employee benefit program (other than a retirement benefit program) of the agency from which the employee was transferred under this title, including any dental, vision, long term care, or life insurance program to which the employee belonged on the day before the transfer date.

(ii) EMPLOYER'S CONTRIBUTION.—The Office of the Comptroller of the Currency or the Corporation, as appropriate, shall pay any employer cost required to extend coverage in the benefit program to the transferred employee as required under that program or negotiated agreements.

(B) DENTAL, VISION, OR LIFE INSURANCE AFTER FIRST YEAR.—If, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or the Corporation determines that the Office of the Comptroller of the Currency or the Corporation, as the case may be, will not continue to participate in any dental, vision, or life insurance program of an agency from which an employee was transferred, a transferred employee who is a member of the program may, before the decision takes effect and without regard to any regularly scheduled open season, elect to enroll in—

(i) the enhanced dental benefits program established under chapter 89A of title 5, United States Code;

(ii) the enhanced vision benefits established under chapter 89B of title 5, United States Code; and

(iii) the Federal Employees' Group Life Insurance Program established under chapter 87 of title 5, United States Code, without regard to any requirement of insurability.

(C) LONG TERM CARE INSURANCE AFTER 1ST YEAR.—If, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or the Corporation determines that the Office of the Comptroller of the Currency or the Corporation, as appropriate, will not continue to participate in any long term care insurance program of an agency from which an employee transferred, a transferred employee who is a member of such a program may, before the decision takes effect, elect to apply for coverage under the Federal Long Term Care Insurance Program established under chapter 90 of title 5, United States Code, under the underwriting requirements applicable to a new active workforce member, as described in part 875 of title 5, Code of Federal Regulations (or any successor thereto).

(D) CONTRIBUTION OF TRANSFERRED EMPLOYEE.—

(i) IN GENERAL.—Subject to clause (ii), a transferred employee who is enrolled in a plan under the Federal Employees Health Benefits Program shall pay any employee contribution required under the plan.

(ii) COST DIFFERENTIAL.—The Office of the Comptroller of the Currency or the Corporation, as applicable, shall pay any difference in cost between the employee contribution required under the plan provided to transferred employees by the agency from which the employee transferred on the date of enactment of this Act and the plan provided by the Office of the Comptroller of the Currency or the Corporation, as the case may be, under this section.

(iii) FUNDS TRANSFER.—The Office of the Comptroller of the Currency or the Corporation, as the case may be, shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Comptroller of the Currency or the Chairperson of the Corporation, as the case may be, and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing any benefits under this subparagraph that are not otherwise paid for by a transferred employee under clause (i).

(E) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS.—

(i) IN GENERAL.—An annuitant, as defined in section 8901 of title 5, United States Code, who is enrolled in a life insurance plan administered by an agency from which employees are transferred under this title on the day before the transfer date shall be eligible for coverage by a life insurance plan under sections 8706(b), 8714a, 8714b, or 8714c of title 5, United States Code, or by a life insurance plan established by the Office of the Comptroller of the Currency or the Corporation, as applicable, without regard to any regularly scheduled open season or any requirement of insurability.

(ii) CONTRIBUTION OF TRANSFERRED EMPLOYEE.—

(I) IN GENERAL.—Subject to subclause (II), a transferred employee enrolled in a life insurance plan under this subparagraph shall pay any employee contribution required by the plan.

(II) COST DIFFERENTIAL.—The Office of the Comptroller of the Currency or the Corporation, as the case may be, shall pay any difference in cost between the benefits provided by the agency from which the employee transferred on the date of enactment of this Act and the benefits provided under this section.

(III) FUNDS TRANSFER.—The Office of the Comptroller of the Currency or the Corporation, as the case may be, shall transfer to the Federal Employees' Group Life Insurance Fund established under section 8714 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Comptroller of the Currency or the Chairperson of the Corporation, as the case may be, and the Office of Management and Budget, to be necessary to reimburse the Federal Employees' Group Life Insurance Fund for the cost to the Federal Employees' Group Life Insurance Fund of providing benefits under this subparagraph not otherwise paid for by a transferred employee under subclause (I).

(IV) CREDIT FOR TIME ENROLLED IN OTHER PLANS.—For any transferred employee, enrollment in a life insurance plan administered by the agency from which the employee transferred, immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for purposes of section 8706(b)(1)(A) of title 5, United States Code.

(j) INCORPORATION INTO AGENCY PAY SYSTEM.—Not later than 2 years after the transfer date, the Comptroller of the Currency and the Chairperson of the Corporation shall place each transferred employee into the established pay system and structure of the appropriate employing agency.

(k) EQUITABLE TREATMENT.—In administering the provisions of this section, the Comptroller of the Currency and the Chairperson of the Corporation—

(1) may not take any action that would unfairly disadvantage a transferred employee relative to any other employee of the Office of the Comptroller of the Currency or the Corporation on the basis of prior employment by the Office of Thrift Supervision, the Board of Governors, or a Federal reserve bank; and

(2) may take such action as is appropriate in an individual case to ensure that a transferred employee receives equitable treatment, with respect to the status, tenure, pay, benefits (other than benefits under programs administered by the Office of Personnel Management), and accrued leave or vacation time for prior periods of service with any Federal agency of the transferred employee.

(l) REORGANIZATION.—

(1) IN GENERAL.—If the Comptroller of the Currency or the Chairperson of the Corporation determines, during the 2-year period beginning 1 year after the transfer date, that a reorganization of the staff of the Office of the Comptroller of the Currency or the Corporation, respectively, is required, the reorganization shall be deemed a ''major reorganization'' for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

(2) SERVICE CREDIT.—For purposes of this subsection, periods of service with a Federal home loan bank, a joint office of Federal home loan banks or a Federal reserve bank shall be credited as periods of service with a Federal agency.

SEC. 323. PROPERTY TRANSFERRED.

(a) PROPERTY DEFINED.—For purposes of this section, the term ''property'' includes all real property (including leaseholds) and all personal property, including computers, furniture, fixtures, equipment, books, accounts, records, reports, files, memoranda, paper, reports of examination, work papers, and correspondence related to such reports, and any other information or materials.

(b) PROPERTY OF THE OFFICE OF THRIFT SUPERVISION.—Not later than 90 days after the transfer date, all property of the Office of Thrift Supervision that the Comptroller of the Currency and the Chairperson of the Corporation jointly determine is used, on the day before the transfer date, to perform or support the functions of the Office of Thrift Supervision transferred to the Office of the Comptroller of the Currency or the Corporation under this title, shall be transferred to the Office of the Comptroller of the Currency or the Corporation in a manner consistent with the transfer of employees under this subtitle.

(c) PROPERTY OF THE BOARD OF GOVERNORS.—

(1) IN GENERAL.—Not later than 90 days after the transfer date, all property of the Board of Governors that the Office of the Comptroller of the Currency, the Corporation, and the Board of Governors jointly determine is used, on the day before the transfer date, to perform or support the functions of the Board of Governor transferred to the Office of the Comptroller of the Currency or the Corporation under this title, shall be transferred to the Office of the Comptroller of the Currency or the Corporation in a manner consistent with the transfer of employees under this subtitle.

(2) PROPERTY OF FEDERAL RESERVE BANKS.—Any property of any Federal reserve bank that, on the day before the transfer date, is used to perform or support the functions of the Board of Governors transferred to the Office of the Comptroller of the Currency or the Corporation by this title shall be treated as property of the Board of Governors for purposes of paragraph (1).

(d) CONTRACTS RELATED TO PROPERTY TRANSFERRED.—Each contract, agreement, lease, license, permit, and similar arrangement relating to property transferred to the Office of the Comptroller of the Currency or the Corporation by this section shall be transferred to the Office of the Comptroller of the Currency or the Corporation, as appropriate, together with the property to which it relates.

(e) PRESERVATION OF PROPERTY.—Property identified for transfer under this section shall not be altered, destroyed, or deleted before transfer under this section.

SEC. 324. FUNDS TRANSFERRED.

The funds that, on the day before the transfer date, the Director of the Office of Thrift Supervision (in consultation with the Comptroller of the Currency, the Chairperson of the Corporation, and the Chairman of the Board of Governors) determines are not necessary to dispose of the affairs of the Office of Thrift Supervision under section 325 and are available to the Office of Thrift Supervision to pay the expenses of the Office of Thrift Supervision—

(1) relating to the functions of the Office of Thrift Supervision transferred under section

312(b)(1)(B), shall be transferred to the Office of the Comptroller of the Currency on the transfer date;

(2) relating to the functions of the Office of Thrift Supervision transferred under section 312(b)(1)(C), shall be transferred to the Corporation on the transfer date; and

(3) relating to the functions of the Office of Thrift Supervision transferred under section 312(b)(1)(A), shall be transferred to the Board of Governors on the transfer date.

SEC. 325. DISPOSITION OF AFFAIRS.

(a) AUTHORITY OF DIRECTOR.—During the 90-day period beginning on the transfer date, the Director of the Office of Thrift Supervision—

(1) shall, solely for the purpose of winding up the affairs of the Office of Thrift Supervision relating to any function transferred to the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors under this title—

(A) manage the employees of the Office of Thrift Supervision who have not yet been transferred and provide for the payment of the compensation and benefits of the employees that accrue before the date on which the employees are transferred under this title; and

(B) manage any property of the Office of Thrift Supervision, until the date on which the property is transferred under section 323; and

(2) may take any other action necessary to wind up the affairs of the Office of Thrift Supervision.

(b) STATUS OF DIRECTOR.—

(1) IN GENERAL.—Notwithstanding the transfer of functions under this subtitle, during the 90-day period beginning on the transfer date, the Director of the Office of Thrift Supervision shall retain and may exercise any authority vested in the Director of the Office of Thrift Supervision on the day before the transfer date, only to the extent necessary—

(A) to wind up the Office of Thrift Supervision; and

(B) to carry out the transfer under this subtitle during such 90-day period.

(2) OTHER PROVISIONS.—For purposes of paragraph (1), the Director of the Office of Thrift Supervision shall, during the 90-day period beginning on the transfer date, continue to be—

(A) treated as an officer of the United States; and

(B) entitled to receive compensation at the same annual rate of basic pay that the Director of the Office of Thrift Supervision received on the day before the transfer date.

(c) AUTHORITY OF CHAIRMAN OF THE BOARD OF GOVERNORS.—During the 90-day period beginning on the transfer date, the Chairman of the Board of Governors shall—

(1) manage the employees of the Board of Governors who have not yet been transferred under this title and provide for the payment of the compensation and benefits of the employees that accrue before the date on which the employees are transferred under this title; and

(2) manage any property of the Board of Governors that is transferred under this title, until the date on which the property is transferred under section 323.

SEC. 326. CONTINUATION OF SERVICES.

Any agency, department, or other instrumentality of the United States, and any successor to any such agency, department, or instrumentality, that was, before the transfer date, providing support services to the Office of Thrift Supervision or the Board of Governors in connection with functions transferred to the Office of the Comptroller of the Currency, the Corporation or the Board of Governors under this title, shall—

(1) continue to provide such services, subject to reimbursement by the Office of the Comptroller of the Currency, the Corporation, or the Board of Governors, until the transfer of functions under this title is complete; and

(2) consult with the Comptroller of the Currency, the Chairperson of the Corporation, or the Chairman of the Board of Governors, as appropriate, to coordinate and facilitate a prompt and orderly transition.

Subtitle C—Federal Deposit Insurance Corporation

SEC. 331. DEPOSIT INSURANCE REFORMS.

(a) SIZE DISTINCTIONS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(1) by striking subparagraph (D); and

(2) by redesignating subparagraph (C) as subparagraph (D).

(b) ASSESSMENT BASE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Corporation shall amend the regulations issued by the Corporation under section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) to define the term ''assessment base'' with respect to an insured depository institution for purposes of that section 7(b)(2), as an amount equal to—

(A) the average total consolidated assets of the insured depository institution during the assessment period; minus

(B) the sum of—

(i) the average tangible equity of the insured depository institution during the assessment period; and

(ii) the average long-term unsecured debt of the insured depository institution during the assessment period.

(2) DETERMINATION.—If, not later than 1 year after the date of enactment of this Act, the Corporation submits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, in writing, a finding that an amendment to the rules of the Corporation regarding the definition of the term ''assessment base'', as provided in paragraph (1), would reduce the effectiveness of the risk-based assessment system of the Corporation or increase the risk of loss to the Deposit Insurance Fund, the Corporation may—

(A) continue in effect the definition of the term ''assessment base'', as in effect on the day before the date of enactment of this Act; or

(B) establish, by rule, a definition of the term ''assessment base'' that the Corporation deems appropriate.

SEC. 332. MANAGEMENT OF THE FEDERAL DEPOSIT INSURANCE CORPORATION.

(a) IN GENERAL.—Section 2 of the Federal Deposit Insurance Act (12 U.S.C. 1812) is amended—

(1) in subsection (a)(1)(B), by striking ''Director of the Office of Thrift Supervision'' and inserting ''Director of the Consumer Financial Protection Bureau'';

(2) by amending subsection (d)(2) to read as follows:

''(2) ACTING OFFICIALS MAY SERVE.—In the event of a vacancy in the Office of the Comptroller of the Currency and pending the appointment of a successor, or during the absence or disability of the Comptroller of the Currency, the acting Comptroller of the Currency shall be a member of the Board of Directors in the place of the Comptroller of the Currency.''; and

(3) in subsection (f)(2), by striking ''or of the Office of Thrift Supervision''.

(b) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on the transfer date.

Subtitle D—Termination of Federal Thrift Charter

SEC. 341. TERMINATION OF FEDERAL SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Beginning on the date of enactment of this Act, the Director of the Office of Thrift Supervision, or the Comptroller of the Currency, may not issue a charter for a Federal savings association under section 5 of the Home Owners' Loan Act (12 U.S.C. 1464).

(b) CONFORMING AMENDMENT.—Section 5(a) of the Home Owner's Loan Act (12 U.S.C. 1464(a)) is amended to read as follows:

''(a) IN GENERAL.—In order to provide thrift institutions for the deposit of funds and for the extension of credit for homes and other goods and services, the Comptroller of the Currency is authorized, under such regulations as the Comptroller of the Currency may prescribe, to provide for the examination, operation, and regulation of associations to be known as 'Federal savings associations' (including Federal savings banks), giving primary consideration to the best practices of thrift institutions in the United States. The lending and investment powers conferred by this section are intended to encourage such institutions to provide credit for housing safely and soundly.''.

(c) PROSPECTIVE REPEAL.—Effective on the date on which the Comptroller of the Currency determines that no Federal savings associations exist, section 5 of the Home Owner's Loan Act (12 U.S.C. 1464) is repealed.

SEC. 342. BRANCHING.

Notwithstanding the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or any other provision of Federal or State law, a savings association that becomes a bank may continue to operate any branch or agency that the savings association operated immediately before the savings association became a bank.

TITLE IV—REGULATION OF ADVISERS TO HEDGE FUNDS AND OTHERS

SEC. 401. SHORT TITLE.

This title may be cited as the ''Private Fund Investment Advisers Registration Act of 2010''.

SEC. 402. DEFINITIONS.

(a) INVESTMENT ADVISERS ACT OF 1940 DEFINITIONS.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) is amended by adding at the end the following:

''(29) The term 'private fund' means an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3), but for section 3(c)(1) or 3(c)(7) of that Act.

''(30) The term 'foreign private adviser' means any investment adviser who—

''(A) has no place of business in the United States;

''(B) has, in total, fewer than 15 clients who are domiciled in or residents of the United States;

''(C) has aggregate assets under management attributable to clients in the United States and investors in the United States in private funds advised by the investment adviser of less than $25,000,000, or such higher amount as the Commission may, by rule, deem appropriate in accordance with the purposes of this title; and

''(D) neither—

''(i) holds itself out generally to the public in the United States as an investment adviser; nor

''(ii) acts as—

''(I) an investment adviser to any investment company registered under the Investment Company Act of 1940; or

''(II) a company that has elected to be a business development company pursuant to

section 54 of the Investment Company Act of 1940 (15 U.S.C. 80a–53), and has not withdrawn its election.''.

(b) OTHER DEFINITIONS.—As used in this title, the terms ''investment adviser'' and ''private fund'' have the same meanings as in section 202 of the Investment Advisers Act of 1940, as amended by this title.

SEC. 403. ELIMINATION OF PRIVATE ADVISER EXEMPTION; LIMITED EXEMPTION FOR FOREIGN PRIVATE ADVISERS; LIMITED INTRASTATE EXEMPTION.

Section 203(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(b)) is amended—

(1) in paragraph (1), by inserting '', other than an investment adviser who acts as an investment adviser to any private fund,'' before ''all of whose'';

(2) by striking paragraph (3) and inserting the following:

''(3) any investment adviser that is a foreign private adviser;''; and

(3) in paragraph (5), by striking ''or'' at the end;

(4) in paragraph (6), by striking the period at the end and inserting ''; or''; and

(5) by adding at the end the following:

''(7) any investment adviser, other than any entity that has elected to be regulated or is regulated as a business development company pursuant to section 54 of the Investment Company Act of 1940 (15 U.S.C. 80a–54), who solely advises—

''(A) small business investment companies that are licensees under the Small Business Investment Act of 1958;

''(B) entities that have received from the Small Business Administration notice to proceed to qualify for a license as a small business investment company under the Small Business Investment Act of 1958, which notice or license has not been revoked; or

''(C) applicants that are affiliated with 1 or more licensed small business investment companies described in subparagraph (A) and that have applied for another license under the Small Business Investment Act of 1958, which application remains pending.''.

SEC. 404. COLLECTION OF SYSTEMIC RISK DATA; REPORTS; EXAMINATIONS; DISCLOSURES.

Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

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

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

''(b) RECORDS AND REPORTS OF PRIVATE FUNDS.—

''(1) IN GENERAL.—The Commission may require any investment adviser registered under this title—

''(A) to maintain such records of, and file with the Commission such reports regarding, private funds advised by the investment adviser, as necessary and appropriate in the public interest and for the protection of investors, or for the assessment of systemic risk by the Financial Stability Oversight Council (in this subsection referred to as the 'Council'); and

''(B) to provide or make available to the Council those reports or records or the information contained therein.

''(2) TREATMENT OF RECORDS.—The records and reports of any private fund to which an investment adviser registered under this title provides investment advice shall be deemed to be the records and reports of the investment adviser.

''(3) REQUIRED INFORMATION.—The records and reports required to be maintained by a private fund and subject to inspection by the Commission under this subsection shall include, for each private fund advised by the investment adviser, a description of—

''(A) the amount of assets under management and use of leverage;

''(B) counterparty credit risk exposure;

''(C) trading and investment positions;

''(D) valuation policies and practices of the fund;

''(E) types of assets held;

''(F) side arrangements or side letters, whereby certain investors in a fund obtain more favorable rights or entitlements than other investors;

''(G) trading practices; and

''(H) such other information as the Commission, in consultation with the Council, determines is necessary and appropriate in the public interest and for the protection of investors or for the assessment of systemic risk, which may include the establishment of different reporting requirements for different classes of fund advisers, based on the type or size of private fund being advised.

''(4) MAINTENANCE OF RECORDS.—An investment adviser registered under this title shall maintain such records of private funds advised by the investment adviser for such period or periods as the Commission, by rule, may prescribe as necessary and appropriate in the public interest and for the protection of investors, or for the assessment of systemic risk.

''(5) FILING OF RECORDS.—The Commission shall issue rules requiring each investment adviser to a private fund to file reports containing such information as the Commission deems necessary and appropriate in the public interest and for the protection of investors or for the assessment of systemic risk.

''(6) EXAMINATION OF RECORDS.—

''(A) PERIODIC AND SPECIAL EXAMINATIONS.—The Commission—

''(i) shall conduct periodic inspections of all records of private funds maintained by an investment adviser registered under this title in accordance with a schedule established by the Commission; and

''(ii) may conduct at any time and from time to time such additional, special, and other examinations as the Commission may prescribe as necessary and appropriate in the public interest and for the protection of investors, or for the assessment of systemic risk.

''(B) AVAILABILITY OF RECORDS.—An investment adviser registered under this title shall make available to the Commission any copies or extracts from such records as may be prepared without undue effort, expense, or delay, as the Commission or its representatives may reasonably request.

''(7) INFORMATION SHARING.—

''(A) IN GENERAL.—The Commission shall make available to the Council copies of all reports, documents, records, and information filed with or provided to the Commission by an investment adviser under this subsection as the Council may consider necessary for the purpose of assessing the systemic risk posed by a private fund.

''(B) CONFIDENTIALITY.—The Council shall maintain the confidentiality of information received under this paragraph in all such reports, documents, records, and information, in a manner consistent with the level of confidentiality established by the Commission pursuant to paragraph (8). The Council shall be exempt from section 552 of title 5, United States Code, with respect to any information in any report, document, record, or information made available, to the Council under this subsection.''.

''(8) COMMISSION CONFIDENTIALITY OF REPORTS.—Notwithstanding any other provision of law, the Commission may not be compelled to disclose any report or information contained therein required to be filed with the Commission under this subsection, except that nothing in this subsection authorizes the Commission—

''(A) to withhold information from Congress, upon an agreement of confidentiality; or

''(B) prevent the Commission from complying with—

''(i) a request for information from any other Federal department or agency or any self-regulatory organization requesting the report or information for purposes within the scope of its jurisdiction; or

''(ii) an order of a court of the United States in an action brought by the United States or the Commission.

''(9) OTHER RECIPIENTS CONFIDENTIALITY.—Any department, agency, or self-regulatory organization that receives reports or information from the Commission under this subsection shall maintain the confidentiality of such reports, documents, records, and information in a manner consistent with the level of confidentiality established for the Commission under paragraph (8).

''(10) PUBLIC INFORMATION EXCEPTION.—

''(A) IN GENERAL.—The Commission, the Council, and any other department, agency, or self-regulatory organization that receives information, reports, documents, records, or information from the Commission under this subsection, shall be exempt from the provisions of section 552 of title 5, United States Code, with respect to any such report, document, record, or information. Any proprietary information of an investment adviser ascertained by the Commission from any report required to be filed with the Commission pursuant to this subsection shall be subject to the same limitations on public disclosure as any facts ascertained during an examination, as provided by section 210(b) of this title.

''(B) PROPRIETARY INFORMATION.—For purposes of this paragraph, proprietary information includes—

''(i) sensitive, non-public information regarding the investment or trading strategies of the investment adviser;

''(ii) analytical or research methodologies;

''(iii) trading data;

''(iv) computer hardware or software containing intellectual property; and

''(v) any additional information that the Commission determines to be proprietary.

''(11) ANNUAL REPORT TO CONGRESS.—The Commission shall report annually to Congress on how the Commission has used the data collected pursuant to this subsection to monitor the markets for the protection of investors and the integrity of the markets.''.

SEC. 405. DISCLOSURE PROVISION ELIMINATED.

Section 210(c) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–10(c)) is amended by inserting before the period at the end the following: ''or for purposes of assessment of potential systemic risk''.

SEC. 406. CLARIFICATION OF RULEMAKING AUTHORITY.

Section 211 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–11) is amended—

(1) in subsection (a), by inserting before the period at the end of the first sentence the following: '', including rules and regulations defining technical, trade, and other terms used in this title, except that the Commission may not define the term 'client' for purposes of paragraphs (1) and (2) of section 206 to include an investor in a private fund managed by an investment adviser, if such private fund has entered into an advisory contract with such adviser''; and

(2) by adding at the end the following:

''(e) DISCLOSURE RULES ON PRIVATE FUNDS.—The Commission and the Commodity Futures Trading Commission shall, after consultation with the Council but not later than 12 months after the date of enactment of the Private Fund Investment Advisers Registration Act of 2010, jointly promulgate rules to establish the form and content

of the reports required to be filed with the Commission under subsection 204(b) and with the Commodity Futures Trading Commission by investment advisers that are registered both under this title and the Commodity Exchange Act (7 U.S.C. 1a et seq.).''.

SEC. 407. EXEMPTION OF VENTURE CAPITAL FUND ADVISERS.

Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3) is amended by adding at the end the following:

''(1) EXEMPTION OF VENTURE CAPITAL FUND ADVISERS.—No investment adviser shall be subject to the registration requirements of this title with respect to the provision of investment advice relating to a venture capital fund. Not later than 6 months after the date of enactment of this subsection, the Commission shall issue final rules to define the term 'venture capital fund' for purposes of this subsection.''.

SEC. 408. EXEMPTION OF AND RECORD KEEPING BY PRIVATE EQUITY FUND ADVISERS.

Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3) is amended by adding at the end the following:

''(m) EXEMPTION OF AND REPORTING BY PRIVATE EQUITY FUND ADVISERS.—

''(1) IN GENERAL.—Except as provided in this subsection, no investment adviser shall be subject to the registration or reporting requirements of this title with respect to the provision of investment advice relating to a private equity fund or funds.

''(2) MAINTENANCE OF RECORDS AND ACCESS BY COMMISSION.—Not later than 6 months after the date of enactment of this subsection, the Commission shall issue final rules—

''(A) to require investment advisers described in paragraph (1) to maintain such records and provide to the Commission such annual or other reports as the Commission taking into account fund size, governance, investment strategy, risk, and other factors, as the Commission determines necessary and appropriate in the public interest and for the protection of investors; and

''(B) to define the term 'private equity fund' for purposes of this subsection.''.

SEC. 409. FAMILY OFFICES.

(a) IN GENERAL.—Section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)) is amended by striking ''or (G)'' and inserting the following: ''; (G) any family office, as defined by rule, regulation, or order of the Commission, in accordance with the purposes of this title; or (H)''.

(b) RULEMAKING.—The rules, regulations, or orders issued by the Commission pursuant to section 202(a)(11)(G) of the Investment Advisers Act of 1940, as added by this section, regarding the definition of the term ''family office'' shall provide for an exemption that—

(1) is consistent with the previous exemptive policy of the Commission, as reflected in exemptive orders for family offices in effect on the date of enactment of this Act; and

(2) recognizes the range of organizational, management, and employment structures and arrangements employed by family offices.

SEC. 410. STATE AND FEDERAL RESPONSIBILITIES; ASSET THRESHOLD FOR FEDERAL REGISTRATION OF INVESTMENT ADVISERS.

Section 203A(a)(1) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3a(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking ''$25,000,000'' and inserting ''$100,000,000''; and

(B) by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) is an adviser to a company that has elected to be a business development company pursuant to section 54 of the Investment Company Act of 1940, and has not withdrawn its election.''.

SEC. 411. CUSTODY OF CLIENT ASSETS.

The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by adding at the end the following new section:

''SEC. 223. CUSTODY OF CLIENT ACCOUNTS.

''An investment adviser registered under this title shall take such steps to safeguard client assets over which such adviser has custody, including, without limitation, verification of such assets by an independent public accountant, as the Commission may, by rule, prescribe.''.

SEC. 412. ADJUSTING THE ACCREDITED INVESTOR STANDARD FOR INFLATION.

The Commission shall, by rule—

(1) increase the financial threshold for an accredited investor, as set forth in the rules of the Commission under the Securities Act of 1933, by calculating an amount that is greater than the amount in effect on the date of enactment of this Act of $200,000 income for a natural person (or $300,000 for a couple) and $1,000,000 in assets, as the Commission determines is appropriate and in the public interest, in light of price inflation since those figures were determined; and

(2) adjust that threshold not less frequently than once every 5 years, to reflect the percentage increase in the cost of living.

SEC. 413. GAO STUDY AND REPORT ON ACCREDITED INVESTORS.

The Comptroller General of the United States shall conduct a study on the appropriate criteria for determining the financial thresholds or other criteria needed to qualify for accredited investor status and eligibility to invest in private funds, and shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of such study not later than 1 year after the date of enactment of this Act.

SEC. 414. GAO STUDY ON SELF-REGULATORY ORGANIZATION FOR PRIVATE FUNDS.

The Comptroller General of the United States shall—

(1) conduct a study of the feasibility of forming a self-regulatory organization to oversee private funds; and

(2) submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of such study, not later than 1 year after the date of enactment of this Act.

SEC. 415. COMMISSION STUDY AND REPORT ON SHORT SELLING.

(a) STUDY.—The Division of Risk, Strategy, and Financial Innovation of the Commission shall conduct a study, taking into account current scholarship, on the state of short selling on national securities exchanges and in the over-the-counter markets, with particular attention to the impact of recent rule changes and the incidence of—

(1) the failure to deliver shares sold short; or

(2) delivery of shares on the fourth day following the short sale transaction.

(b) REPORT.—The Division of Risk, Strategy, and Financial Innovation shall submit a report, together with any recommendations for market improvements, including consideration of real time reporting of short sale positions, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study conducted under subsection (a), not later than 2 years after the date of enactment of this Act.

SEC. 416. TRANSITION PERIOD.

Except as otherwise provided in this title, this title and the amendments made by this title shall become effective 1 year after the date of enactment of this Act, except that any investment adviser may, at the discretion of the investment adviser, register with the Commission under the Investment Advisers Act of 1940 during that 1-year period, subject to the rules of the Commission.

TITLE V—INSURANCE

Subtitle A—Office of National Insurance

SEC. 501. SHORT TITLE.

This subtitle may be cited as the ''Office of National Insurance Act of 2010''.

SEC. 502. ESTABLISHMENT OF OFFICE OF NATIONAL INSURANCE.

(a) ESTABLISHMENT OF OFFICE.—Subchapter I of chapter 3 of subtitle I of title 31, United States Code, is amended—

(1) by redesignating section 312 as section 315;

(2) by redesignating section 313 as section 312; and

(3) by inserting after section 312 (as so redesignated) the following new sections:

''SEC. 313. OFFICE OF NATIONAL INSURANCE.

''(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Office of National Insurance.

''(b) LEADERSHIP.—The Office shall be headed by a Director, who shall be appointed by the Secretary of the Treasury. The position of Director shall be a career reserved position in the Senior Executive Service, as that position is defined under section 3132 of title 5, United States Code.

''(c) FUNCTIONS.—

''(1) AUTHORITY PURSUANT TO DIRECTION OF SECRETARY.—The Office, pursuant to the direction of the Secretary, shall have the authority—

''(A) to monitor all aspects of the insurance industry, including identifying issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the United States financial system;

''(B) to recommend to the Financial Stability Oversight Council that it designate an insurer, including the affiliates of such insurer, as an entity subject to regulation as a nonbank financial company supervised by the Board of Governors pursuant to title I of the Restoring American Financial Stability Act of 2010;

''(C) to assist the Secretary in administering the Terrorism Insurance Program established in the Department of the Treasury under the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note);

''(D) to coordinate Federal efforts and develop Federal policy on prudential aspects of international insurance matters, including representing the United States, as appropriate, in the International Association of Insurance Supervisors (or a successor entity) and assisting the Secretary in negotiating International Insurance Agreements on Prudential Measures;

''(E) to determine, in accordance with subsection (f), whether State insurance measures are preempted by International Insurance Agreements on Prudential Measures;

''(F) to consult with the States (including State insurance regulators) regarding insurance matters of national importance and prudential insurance matters of international importance; and

''(G) to perform such other related duties and authorities as may be assigned to the Office by the Secretary.

''(2) ADVISORY FUNCTIONS.—The Office shall advise the Secretary on major domestic and prudential international insurance policy issues.

''(d) SCOPE.—The authority of the Office shall extend to all lines of insurance except health insurance, as such insurance is determined by the Secretary based on section 2791 of the Public Health Service Act (42 U.S.C. 300gg–91), and crop insurance, as established by the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

''(e) GATHERING OF INFORMATION.—

''(1) IN GENERAL.—In carrying out the functions required under subsection (c), the Office may—

''(A) receive and collect data and information on and from the insurance industry and insurers;

''(B) enter into information-sharing agreements;

''(C) analyze and disseminate data and information; and

''(D) issue reports regarding all lines of insurance except health insurance.

''(2) COLLECTION OF INFORMATION FROM INSURERS AND AFFILIATES.—

''(A) IN GENERAL.—Except as provided in paragraph (3), the Office may require an insurer, or any affiliate of an insurer, to submit such data or information as the Office may reasonably require in carrying out the functions described under subsection (c).

''(B) RULE OF CONSTRUCTION.—Notwithstanding any other provision of this section, for purposes of subparagraph (A), the term 'insurer' means any person that is authorized to write insurance or reinsure risks and issue contracts or policies in 1 or more States.

''(3) EXCEPTION FOR SMALL INSURERS.—Paragraph (2) shall not apply with respect to any insurer or affiliate thereof that meets a minimum size threshold that the Office may establish, whether by order or rule.

''(4) ADVANCE COORDINATION.—Before collecting any data or information under paragraph (2) from an insurer, or any affiliate of an insurer, the Office shall coordinate with each relevant State insurance regulator (or other relevant Federal or State regulatory agency, if any, in the case of an affiliate of an insurer) to determine if the information to be collected is available from, or may be obtained in a timely manner by, such State insurance regulator, individually or collectively, another regulatory agency, or publicly available sources. Notwithstanding any other provision of law, each such relevant State insurance regulator or other Federal or State regulatory agency is authorized to provide to the Office such data or information.

''(5) CONFIDENTIALITY.—

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

''(B) CONTINUED APPLICATION OF PRIOR CONFIDENTIALITY AGREEMENTS.—Any requirement under Federal or State law to the extent otherwise applicable, or any requirement pursuant to a written agreement in effect between the original source of any nonpublicly available data or information and the source of such data or information to the Office, regarding the privacy or confidentiality of any data or information in the possession of the source to the Office, shall continue to apply to such data or information after the data or information has been provided pursuant to this subsection to the Office.

''(C) INFORMATION SHARING AGREEMENT.—Any data or information obtained by the Office may be made available to State insurance regulators, individually or collectively, through an information sharing agreement that—

''(i) shall comply with applicable Federal law; and

''(ii) shall not constitute a waiver of, or otherwise affect, any privilege under Federal or State law (including the rules of any Federal or State Court) to which the data or information is otherwise subject.

''(D) AGENCY DISCLOSURE REQUIREMENTS.—Section 552 of title 5, United States Code, shall apply to any data or information submitted to the Office by an insurer or an affiliate of an insurer.

''(6) SUBPOENAS AND ENFORCEMENT.—The Director shall have the power to require by subpoena the production of the data or information requested under paragraph (2), but only upon a written finding by the Director that such data or information is required to carry out the functions described under subsection (c) and that the Office has coordinated with such regulator or agency as required under paragraph (4). Subpoenas shall bear the signature of the Director and shall be served by any person or class of persons designated by the Director for that purpose. In the case of contumacy or failure to obey a subpoena, the subpoena shall be enforceable by order of any appropriate district court of the United States. Any failure to obey the order of the court may be punished by the court as a contempt of court.

''(f) PREEMPTION OF STATE INSURANCE MEASURES.—

''(1) STANDARD.—A State insurance measure shall be preempted if, and only to the extent that the Director determines, in accordance with this subsection, that the measure—

''(A) results in less favorable treatment of a non-United States insurer domiciled in a foreign jurisdiction that is subject to an international insurance agreement on prudential measures than a United States insurer domiciled, licensed, or otherwise admitted in that State; and

''(B) is inconsistent with an International Insurance Agreement on Prudential Measures.

''(2) DETERMINATION.—

''(A) NOTICE OF POTENTIAL INCONSISTENCY.—Before making any determination under paragraph (1), the Director shall—

''(i) notify and consult with the appropriate State regarding any potential inconsistency or preemption;

''(ii) cause to be published in the Federal Register notice of the issue regarding the potential inconsistency or preemption, including a description of each State insurance measure at issue and any applicable International Insurance Agreement on Prudential Measures;

''(iii) provide interested parties a reasonable opportunity to submit written comments to the Office; and

''(iv) consider any comments received.

''(B) SCOPE OF REVIEW.—For purposes of this subsection, the determination of the Director regarding State insurance measures shall be limited to the subject matter contained within the international insurance agreement on prudential measure involved.

''(C) NOTICE OF DETERMINATION OF INCONSISTENCY.—Upon making any determination under paragraph (1), the Director shall—

''(i) notify the appropriate State of the determination and the extent of the inconsistency;

''(ii) establish a reasonable period of time, which shall not be less than 30 days, before the determination shall become effective; and

''(iii) notify the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of the inconsistency.

''(3) NOTICE OF EFFECTIVENESS.—Upon the conclusion of the period referred to in paragraph (2)(C)(ii), if the basis for such determination still exists, the determination shall become effective and the Director shall—

''(A) cause to be published a notice in the Federal Register that the preemption has become effective, as well as the effective date; and

''(B) notify the appropriate State.

''(4) LIMITATION.—No State may enforce a State insurance measure to the extent that such measure has been preempted under this subsection.

''(g) APPLICABILITY OF ADMINISTRATIVE PROCEDURES ACT.—Determinations of inconsistency made pursuant to subsection (f)(2) shall be subject to the applicable provisions of subchapter II of chapter 5 of title 5, United States Code (relating to administrative procedure), and chapter 7 of such title (relating to judicial review).

''(h) REGULATIONS, POLICIES, AND PROCEDURES.—The Secretary may issue orders, regulations, policies, and procedures to implement this section.

''(i) CONSULTATION.—The Director shall consult with State insurance regulators, individually or collectively, to the extent the Director determines appropriate, in carrying out the functions of the Office.

''(j) SAVINGS PROVISIONS.—Nothing in this section shall—

''(1) preempt—

''(A) any State insurance measure that governs any insurer's rates, premiums, underwriting, or sales practices;

''(B) any State coverage requirements for insurance;

''(C) the application of the antitrust laws of any State to the business of insurance; or

''(D) any State insurance measure governing the capital or solvency of an insurer, except to the extent that such State insurance measure results in less favorable treatment of a non-United State insurer than a United States insurer;

''(2) be construed to alter, amend, or limit any provision of the Consumer Financial Protection Agency Act of 2010; or

''(3) affect the preemption of any State insurance measure otherwise inconsistent with and preempted by Federal law.

''(k) RETENTION OF EXISTING STATE REGULATORY AUTHORITY.—Nothing in this section or section 314 shall be construed to establish or provide the Office or the Department of the Treasury with general supervisory or regulatory authority over the business of insurance.

''(l) ANNUAL REPORT TO CONGRESS.—Beginning September 30, 2011, the Director shall submit a report on or before September 30 of each calendar year to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the insurance industry, any actions taken by the Office pursuant to subsection (f) (regarding preemption of inconsistent State insurance measures), and any other information as deemed relevant by the Director or as requested by such Committees.

''(m) STUDY AND REPORT ON REGULATION OF INSURANCE.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Director shall conduct a study and submit a report to Congress on how to modernize and improve the system of insurance regulation in the United States.

''(2) CONSIDERATIONS.—The study and report required under paragraph (1) shall be based on and guided by the following considerations:

''(A) Systemic risk regulation with respect to insurance.

''(B) Capital standards and the relationship between capital allocation and liabilities, including standards relating to liquidity and duration risk.

''(C) Consumer protection for insurance products and practices, including gaps in state regulation.

''(D) The degree of national uniformity of state insurance regulation.

''(E) The regulation of insurance companies and affiliates on a consolidated basis.

''(F) International coordination of insurance regulation.

''(3) ADDITIONAL FACTORS.—The study and report required under paragraph (1) shall also examine the following factors:

''(A) The costs and benefits of potential Federal regulation of insurance across various lines of insurance (except health insurance).

''(B) The feasibility of regulating only certain lines of insurance at the Federal level, while leaving other lines of insurance to be regulated at the State level.

''(C) The ability of any potential Federal regulation or Federal regulators to eliminate or minimize regulatory arbitrage.

''(D) The impact that developments in the regulation of insurance in foreign jurisdictions might have on the potential Federal regulation of insurance.

''(E) The ability of any potential Federal regulation or Federal regulator to provide robust consumer protection for policyholders.

''(F) The potential consequences of subjecting insurance companies to a Federal resolution authority, including the effects of any Federal resolution authority—

''(i) on the operation of State insurance guaranty fund systems, including the loss of guaranty fund coverage if an insurance company is subject to a Federal resolution authority;

''(ii) on policyholder protection, including the loss of the priority status of policyholder claims over other unsecured general creditor claims;

''(iii) in the case of life insurance companies, the loss of the special status of separate account assets and separate account liabilities; and

''(iv) on the international competitiveness of insurance companies.

''(G) Such other factors as the Director determines necessary or appropriate, consistent with the principles set forth in paragraph (2).

''(4) REQUIRED RECOMMENDATIONS.—The study and report required under paragraph (1) shall also contain any legislative, administrative, or regulatory recommendations, as the Director determines appropriate, to carry out or effectuate the findings set forth in such report.

''(5) CONSULTATION.—With respect to the study and report required under paragraph (1), the Director shall consult with the National Association of Insurance Commissioners, consumer organizations, representatives of the insurance industry and policyholders, and other organizations and experts, as appropriate.

''(n) USE OF EXISTING RESOURCES.—To carry out this section, the Office may employ personnel, facilities, and any other resource of the Department of the Treasury available to the Secretary.

''(o) DEFINITIONS.—In this section and section 314, the following definitions shall apply:

''(1) AFFILIATE.—The term 'affiliate' means, with respect to an insurer, any person who controls, is controlled by, or is under common control with the insurer.

''(2) INSURER.—The term 'insurer' means any person engaged in the business of insurance, including reinsurance.

''(3) INTERNATIONAL INSURANCE AGREEMENT ON PRUDENTIAL MEASURES.—The term 'International Insurance Agreement on Prudential Measures' means a written bilateral or multilateral agreement entered into between the United States and a foreign government, authority, or regulatory entity regarding prudential measures applicable to the business of insurance or reinsurance.

''(4) NON-UNITED STATES INSURER.—The term 'non-United States insurer' means an insurer that is organized under the laws of a jurisdiction other than a State, but does not include any United States branch of such an insurer.

''(5) OFFICE.—The term 'Office' means the Office of National Insurance established by this section.

''(6) STATE INSURANCE MEASURE.—The term 'State insurance measure' means any State law, regulation, administrative ruling, bulletin, guideline, or practice relating to or affecting prudential measures applicable to insurance or reinsurance.

''(7) STATE INSURANCE REGULATOR.—The term 'State insurance regulator' means any State regulatory authority responsible for the supervision of insurers.

''(8) UNITED STATES INSURER.—The term 'United States insurer' means—

''(A) an insurer that is organized under the laws of a State; or

''(B) a United States branch of a non-United States insurer.

''(p) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Office for each fiscal year such sums as may be necessary.

''SEC. 314. INTERNATIONAL INSURANCE AGREEMENTS ON PRUDENTIAL MEASURES.

''(a) IN GENERAL.—The Secretary of the Treasury is authorized to negotiate and enter into International Insurance Agreements on Prudential Measures on behalf of the United States.

''(b) SAVINGS PROVISION.—Nothing in this section or section 313 shall be construed to affect the development and coordination of United States international trade policy or the administration of the United States trade agreements program. It is to be understood that the negotiation of International Insurance Agreements on Prudential Measures under such sections is consistent with the requirement of this subsection.

''(c) CONSULTATION.—The Secretary shall consult with the United States Trade Representative on the negotiation of International Insurance Agreements on Prudential Measures, including prior to initiating and concluding any such agreements.''.

(b) DUTIES OF SECRETARY.—Section 321(a) of title 31, United States Code, is amended—

(1) in paragraph (7), by striking ''; and'' and inserting a semicolon;

(2) in paragraph (8)(C), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(9) advise the President on major domestic and international prudential policy issues in connection with all lines of insurance except health insurance.''.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 3 of title 31, United States Code, is amended by striking the item relating to section 312 and inserting the following new items:

''Sec. 312. Terrorism and financial intelligence.
''Sec. 313. Office of National Insurance.
''Sec. 314. International insurance agreements on prudential measures.
''Sec. 315. Continuing in office.''.

Subtitle B—State-based Insurance Reform

SEC. 511. SHORT TITLE.

This subtitle may be cited as the ''Nonadmitted and Reinsurance Reform Act of 2010''.

SEC. 512. EFFECTIVE DATE.

Except as otherwise specifically provided in this subtitle, this subtitle shall take effect upon the expiration of the 12-month period beginning on the date of the enactment of this subtitle.

PART I—NONADMITTED INSURANCE

SEC. 521. REPORTING, PAYMENT, AND ALLOCATION OF PREMIUM TAXES.

(a) HOME STATE'S EXCLUSIVE AUTHORITY.—No State other than the home State of an insured may require any premium tax payment for nonadmitted insurance.

(b) ALLOCATION OF NONADMITTED PREMIUM TAXES.—

(1) IN GENERAL.—The States may enter into a compact or otherwise establish procedures to allocate among the States the premium taxes paid to an insured's home State described in subsection (a).

(2) EFFECTIVE DATE.—Except as expressly otherwise provided in such compact or other procedures, any such compact or other procedures—

(A) if adopted on or before the expiration of the 330-day period that begins on the date of the enactment of this subtitle, shall apply to any premium taxes that, on or after such date of enactment, are required to be paid to any State that is subject to such compact or procedures; and

(B) if adopted after the expiration of such 330-day period, shall apply to any premium taxes that, on or after January 1 of the first calendar year that begins after the expiration of such 330-day period, are required to be paid to any State that is subject to such compact or procedures.

(3) REPORT.—Upon the expiration of the 330-day period referred to in paragraph (2), the NAIC may submit a report to the Committee on Financial Services and Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate identifying and describing any compact or other procedures for allocation among the States of premium taxes that have been adopted during such period by any States.

(4) NATIONWIDE SYSTEM.—The Congress intends that each State adopt nationwide uniform requirements, forms, and procedures, such as an interstate compact, that provides for the reporting, payment, collection, and allocation of premium taxes for nonadmitted insurance consistent with this section.

(c) ALLOCATION BASED ON TAX ALLOCATION REPORT.—To facilitate the payment of premium taxes among the States, an insured's home State may require surplus lines brokers and insureds who have independently procured insurance to annually file tax allocation reports with the insured's home State detailing the portion of the nonadmitted insurance policy premium or premiums attributable to properties, risks, or exposures located in each State. The filing of a nonadmitted insurance tax allocation report and the payment of tax may be made by a person authorized by the insured to act as its agent.

SEC. 522. REGULATION OF NONADMITTED INSURANCE BY INSURED'S HOME STATE.

(a) HOME STATE AUTHORITY.—Except as otherwise provided in this section, the placement of nonadmitted insurance shall be subject to the statutory and regulatory requirements solely of the insured's home State.

(b) BROKER LICENSING.—No State other than an insured's home State may require a surplus lines broker to be licensed in order to sell, solicit, or negotiate nonadmitted insurance with respect to such insured.

(c) ENFORCEMENT PROVISION.—With respect to section 521 and subsections (a) and (b) of this section, any law, regulation, provision, or action of any State that applies or purports to apply to nonadmitted insurance sold to, solicited by, or negotiated with an insured whose home State is another State shall be preempted with respect to such application.

(d) WORKERS' COMPENSATION EXCEPTION.—This section may not be construed to preempt any State law, rule, or regulation that restricts the placement of workers' compensation insurance or excess insurance for self-funded workers' compensation plans with a nonadmitted insurer.

SEC. 523. PARTICIPATION IN NATIONAL PRODUCER DATABASE.

After the expiration of the 2-year period beginning on the date of the enactment of this subtitle, a State may not collect any fees relating to licensing of an individual or entity as a surplus lines broker in the State unless the State has in effect at such time laws or regulations that provide for participation by the State in the national insurance producer database of the NAIC, or any other equivalent uniform national database, for the licensure of surplus lines brokers and the renewal of such licenses.

SEC. 524. UNIFORM STANDARDS FOR SURPLUS LINES ELIGIBILITY.

A State may not—

(1) impose eligibility requirements on, or otherwise establish eligibility criteria for, nonadmitted insurers domiciled in a United States jurisdiction, except in conformance with such requirements and criteria in sections 5A(2) and 5C(2)(a) of the Non-Admitted Insurance Model Act, unless the State has adopted nationwide uniform requirements, forms, and procedures developed in accordance with section 521(b) of this subtitle that include alternative nationwide uniform eligibility requirements; or

(2) prohibit a surplus lines broker from placing nonadmitted insurance with, or procuring nonadmitted insurance from, a nonadmitted insurer domiciled outside the United States that is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the NAIC.

SEC. 525. STREAMLINED APPLICATION FOR COMMERCIAL PURCHASERS.

A surplus lines broker seeking to procure or place nonadmitted insurance in a State for an exempt commercial purchaser shall not be required to satisfy any State requirement to make a due diligence search to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from admitted insurers if—

(1) the broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and

(2) the exempt commercial purchaser has subsequently requested in writing the broker to procure or place such insurance from a nonadmitted insurer.

SEC. 526. GAO STUDY OF NONADMITTED INSURANCE MARKET.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the nonadmitted insurance market to determine the effect of the enactment of this part on the size and market share of the nonadmitted insurance market for providing coverage typically provided by the admitted insurance market.

(b) CONTENTS.—The study shall determine and analyze—

(1) the change in the size and market share of the nonadmitted insurance market and in the number of insurance companies and insurance holding companies providing such business in the 18-month period that begins upon the effective date of this subtitle;

(2) the extent to which insurance coverage typically provided by the admitted insurance market has shifted to the nonadmitted insurance market;

(3) the consequences of any change in the size and market share of the nonadmitted insurance market, including differences in the price and availability of coverage available in both the admitted and nonadmitted insurance markets;

(4) the extent to which insurance companies and insurance holding companies that provide both admitted and nonadmitted insurance have experienced shifts in the volume of business between admitted and nonadmitted insurance; and

(5) the extent to which there has been a change in the number of individuals who have nonadmitted insurance policies, the type of coverage provided under such policies, and whether such coverage is available in the admitted insurance market.

(c) CONSULTATION WITH NAIC.—In conducting the study under this section, the Comptroller General shall consult with the NAIC.

(d) REPORT.—The Comptroller General shall complete the study under this section and submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives regarding the findings of the study not later than 30 months after the effective date of this subtitle.

SEC. 527. DEFINITIONS.

For purposes of this part, the following definitions shall apply:

(1) ADMITTED INSURER.—The term ''admitted insurer'' means, with respect to a State, an insurer licensed to engage in the business of insurance in such State.

(2) AFFILIATE.—The term ''affiliate'' means, with respect to an insured, any entity that controls, is controlled by, or is under common control with the insured.

(3) AFFILIATED GROUP.—The term ''affiliated group'' means any group of entities that are all affiliated.

(4) CONTROL.—An entity has ''control'' over another entity if—

(A) the entity directly or indirectly or acting through 1 or more other persons owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity; or

(B) the entity controls in any manner the election of a majority of the directors or trustees of the other entity.

(5) EXEMPT COMMERCIAL PURCHASER.—The term ''exempt commercial purchaser'' means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

(A) The person employs or retains a qualified risk manager to negotiate insurance coverage.

(B) The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of $100,000 in the immediately preceding 12 months.

(C)(i) The person meets at least 1 of the following criteria:

(I) The person possesses a net worth in excess of $20,000,000, as such amount is adjusted pursuant to clause (ii).

(II) The person generates annual revenues in excess of $50,000,000, as such amount is adjusted pursuant to clause (ii).

(III) The person employs more than 500 full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than 1,000 employees in the aggregate.

(IV) The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least $30,000,000, as such amount is adjusted pursuant to clause (ii).

(V) The person is a municipality with a population in excess of 50,000 persons.

(ii) Effective on the fifth January 1 occurring after the date of the enactment of this subtitle and each fifth January 1 occurring thereafter, the amounts in subclauses (I), (II), and (IV) of clause (i) shall be adjusted to reflect the percentage change for such 5-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

(6) HOME STATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''home State'' means, with respect to an insured—

(i) the State in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or

(ii) if 100 percent of the insured risk is located out of the State referred to in subparagraph (A), the State to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

(B) AFFILIATED GROUPS.—If more than 1 insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term ''home State'' means the home State, as determined pursuant to subparagraph (A), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

(7) INDEPENDENTLY PROCURED INSURANCE.—The term ''independently procured insurance'' means insurance procured directly by an insured from a nonadmitted insurer.

(8) NAIC.—The term ''NAIC'' means the National Association of Insurance Commissioners or any successor entity.

(9) NONADMITTED INSURANCE.—The term ''nonadmitted insurance'' means any property and casualty insurance permitted to be placed directly or through a surplus lines broker with a nonadmitted insurer eligible to accept such insurance.

(10) NON-ADMITTED INSURANCE MODEL ACT.—The term ''Non-Admitted Insurance Model Act'' means the provisions of the Non-Admitted Insurance Model Act, as adopted by the NAIC on August 3, 1994, and amended on September 30, 1996, December 6, 1997, October 2, 1999, and June 8, 2002.

(11) NONADMITTED INSURER.—The term ''nonadmitted insurer''—

(A) means, with respect to a State, an insurer not licensed to engage in the business of insurance in such State; but

(B) does not include a risk retention group, as that term is defined in section 2(a)(4) of the Liability Risk Retention Act of 1986 (15 U.S.C. 3901(a)(4)).

(12) QUALIFIED RISK MANAGER.—The term ''qualified risk manager'' means, with respect to a policyholder of commercial insurance, a person who meets all of the following requirements:

(A) The person is an employee of, or third party consultant retained by, the commercial policyholder.

(B) The person provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis, and purchase of insurance.

(C) The person—

(i)(I) has a bachelor's degree or higher from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by a State insurance commissioner or

other State regulatory official or entity to demonstrate minimum competence in risk management; and

(II)(aa) has 3 years of experience in risk financing, claims administration, loss prevention, risk and insurance analysis, or purchasing commercial lines of insurance; or

(bb) has 1 of the following designations:

(AA) a designation as a Chartered Property and Casualty Underwriter (in this subparagraph referred to as ''CPCU'') issued by the American Institute for CPCU/Insurance Institute of America;

(BB) a designation as an Associate in Risk Management (ARM) issued by the American Institute for CPCU/Insurance Institute of America;

(CC) a designation as Certified Risk Manager (CRM) issued by the National Alliance for Insurance Education & Research;

(DD) a designation as a RIMS Fellow (RF) issued by the Global Risk Management Institute; or

(EE) any other designation, certification, or license determined by a State insurance commissioner or other State insurance regulatory official or entity to demonstrate minimum competency in risk management;

(ii)(I) has at least 7 years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; and

(II) has any 1 of the designations specified in subitems (AA) through (EE) of clause (i)(II)(bb);

(iii) has at least 10 years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; or

(iv) has a graduate degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by a State insurance commissioner or other State regulatory official or entity to demonstrate minimum competence in risk management.

(13) PREMIUM TAX.—The term ''premium tax'' means, with respect to surplus lines or independently procured insurance coverage, any tax, fee, assessment, or other charge imposed by a government entity directly or indirectly based on any payment made as consideration for an insurance contract for such insurance, including premium deposits, assessments, registration fees, and any other compensation given in consideration for a contract of insurance.

(14) SURPLUS LINES BROKER.—The term ''surplus lines broker'' means an individual, firm, or corporation which is licensed in a State to sell, solicit, or negotiate insurance on properties, risks, or exposures located or to be performed in a State with nonadmitted insurers.

PART II—REINSURANCE

SEC. 531. REGULATION OF CREDIT FOR REINSURANCE AND REINSURANCE AGREEMENTS.

(a) CREDIT FOR REINSURANCE.—If the State of domicile of a ceding insurer is an NAIC-accredited State, or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, and recognizes credit for reinsurance for the insurer's ceded risk, then no other State may deny such credit for reinsurance.

(b) ADDITIONAL PREEMPTION OF EXTRATERRITORIAL APPLICATION OF STATE LAW.—In addition to the application of subsection (a), all laws, regulations, provisions, or other actions of a State that is not the domiciliary State of the ceding insurer, except those with respect to taxes and assessments on insurance companies or insurance income, are preempted to the extent that they—

(1) restrict or eliminate the rights of the ceding insurer or the assuming insurer to resolve disputes pursuant to contractual arbitration to the extent such contractual provision is not inconsistent with the provisions of title 9, United States Code;

(2) require that a certain State's law shall govern the reinsurance contract, disputes arising from the reinsurance contract, or requirements of the reinsurance contract;

(3) attempt to enforce a reinsurance contract on terms different than those set forth in the reinsurance contract, to the extent that the terms are not inconsistent with this part; or

(4) otherwise apply the laws of the State to reinsurance agreements of ceding insurers not domiciled in that State.

SEC. 532. REGULATION OF REINSURER SOLVENCY.

(a) DOMICILIARY STATE REGULATION.—If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, such State shall be solely responsible for regulating the financial solvency of the reinsurer.

(b) NONDOMICILIARY STATES.—

(1) LIMITATION ON FINANCIAL INFORMATION REQUIREMENTS.—If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, no other State may require the reinsurer to provide any additional financial information other than the information the reinsurer is required to file with its domiciliary State.

(2) RECEIPT OF INFORMATION.—No provision of this section shall be construed as preventing or prohibiting a State that is not the State of domicile of a reinsurer from receiving a copy of any financial statement filed with its domiciliary State.

SEC. 533. DEFINITIONS.

For purposes of this part, the following definitions shall apply:

(1) CEDING INSURER.—The term ''ceding insurer'' means an insurer that purchases reinsurance.

(2) DOMICILIARY STATE.—The terms ''State of domicile'' and ''domiciliary State'' mean, with respect to an insurer or reinsurer, the State in which the insurer or reinsurer is incorporated or entered through, and licensed.

(3) REINSURANCE.—The term ''reinsurance'' means the assumption by an insurer of all or part of a risk undertaken originally by another insurer.

(4) REINSURER.—

(A) IN GENERAL.—The term ''reinsurer'' means an insurer to the extent that the insurer—

(i) is principally engaged in the business of reinsurance;

(ii) does not conduct significant amounts of direct insurance as a percentage of its net premiums; and

(iii) is not engaged in an ongoing basis in the business of soliciting direct insurance.

(B) DETERMINATION.—A determination of whether an insurer is a reinsurer shall be made under the laws of the State of domicile in accordance with this paragraph.

PART III—RULE OF CONSTRUCTION

SEC. 541. RULE OF CONSTRUCTION.

Nothing in this subtitle or the amendments made by this subtitle shall be construed to modify, impair, or supersede the application of the antitrust laws. Any implied or actual conflict between this subtitle and any amendments to this subtitle and the antitrust laws shall be resolved in favor of the operation of the antitrust laws.

SEC. 542. SEVERABILITY.

If any section or subsection of this subtitle, or any application of such provision to any person or circumstance, is held to be unconstitutional, the remainder of this subtitle, and the application of the provision to any other person or circumstance, shall not be affected.

TITLE VI—IMPROVEMENTS TO REGULATION OF BANK AND SAVINGS ASSOCIATION HOLDING COMPANIES AND DEPOSITORY INSTITUTIONS

SEC. 601. SHORT TITLE.

This title may be cited as the ''Bank and Savings Association Holding Company and Depository Institution Regulatory Improvements Act of 2010''.

SEC. 602. DEFINITION.

In this title, the term ''commercial firm'' means any entity that derives not less than 15 percent of the consolidated annual gross revenues of the entity, including all affiliates of the entity, from engaging in activities that are not financial in nature or incidental to activities that are financial in nature, as provided in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

SEC. 603. MORATORIUM AND STUDY ON TREATMENT OF CREDIT CARD BANKS, INDUSTRIAL LOAN COMPANIES, AND CERTAIN OTHER COMPANIES UNDER THE BANK HOLDING COMPANY ACT OF 1956.

(a) MORATORIUM.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''credit card bank'' means an institution described in section 2(c)(2)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(F));

(B) the term ''industrial bank'' means an institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)); and

(C) the term ''trust bank'' means an institution described in section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)).

(2) MORATORIUM ON PROVISION OF DEPOSIT INSURANCE.—The Corporation may not approve an application for deposit insurance under section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815) that is received after November 10, 2009, for an industrial bank, a credit card bank, or a trust bank that is directly or indirectly owned or controlled by a commercial firm.

(3) CHANGE IN CONTROL.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the appropriate Federal banking agency shall disapprove a change in control, as provided in section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)), of an industrial bank, a credit card bank, or a trust bank if the change in control would result in direct or indirect control of the industrial bank, credit card bank, or trust bank by a commercial firm.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply to a change in control of an industrial bank, credit card bank, or trust bank that—

(i) is in danger of default, as determined by the appropriate Federal banking agency; or

(ii) results from the merger or whole acquisition of a commercial firm that directly or indirectly controls the industrial bank, credit card bank, or trust bank in a bona fide merger with or acquisition by another commercial firm, as determined by the appropriate Federal banking agency.

(4) SUNSET.—This subsection shall cease to have effect 3 years after the date of enactment of this Act.

(b) GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF EXCEPTIONS UNDER THE BANK HOLDING COMPANY ACT OF 1956.—

(1) STUDY REQUIRED.—The Comptroller General of the United States shall carry out a study to determine whether it is necessary,

in order to strengthen the safety and soundness of institutions or the stability of the financial system, to eliminate the exceptions under section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) for institutions described in—

(A) section 2(a)(5)(E) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(E));

(B) section 2(a)(5)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)(5)(F));

(C) section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D));

(D) section 2(c)(2)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(F));

(E) section 2(c)(2)(H) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)); and

(F) section 2(c)(2)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(B)).

(2) CONTENT OF STUDY.—

(A) IN GENERAL.—The study required under paragraph (1), with respect to the institutions referenced in each of subparagraphs (A) through (E) of paragraph (1), shall, to the extent feasible be based on information provided to the Comptroller General by the appropriate Federal or State regulator, and shall—

(i) identify the types and number of institutions excepted from section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) under each of the subparagraphs described in subparagraphs (A) through (E) of paragraph (1);

(ii) generally describe the size and geographic locations of the institutions described in clause (i);

(iii) determine the extent to which the institutions described in clause (i) are held by holding companies that are commercial firms;

(iv) determine whether the institutions described in clause (i) have any affiliates that are commercial firms;

(v) identify the Federal banking agency responsible for the supervision of the institutions described in clause (i) on and after the transfer date;

(vi) determine the adequacy of the Federal bank regulatory framework applicable to each category of institution described in clause (i), including any restrictions (including limitations on affiliate transactions or cross-marketing) that apply to transactions between an institution, the holding company of the institution, and any other affiliate of the institution; and

(vii) evaluate the potential consequences of subjecting the institutions described in clause (i) to the requirements of the Bank Holding Company Act of 1956, including with respect to the availability and allocation of credit, the stability of the financial system and the economy, the safe and sound operation of each category of institution, and the impact on the types of activities in which such institutions, and the holding companies of such institutions, may engage.

(B) SAVINGS ASSOCIATIONS.—With respect to institutions described in paragraph (1)(F), the study required under paragraph (1) shall—

(i) determine the adequacy of the Federal bank regulatory framework applicable to such institutions, including any restrictions (including limitations on affiliate transactions or cross-marketing) that apply to transactions between an institution, the holding company of the institution, and any other affiliate of the institution; and

(ii) evaluate the potential consequences of subjecting the institutions described in paragraph (1)(F) to the requirements of the Bank Holding Company Act of 1956, including with respect to the availability and allocation of credit, the stability of the financial system and the economy, the safe and sound operation of such institutions, and the impact on the types of activities in which such institutions, and the holding companies of such institutions, may engage.

(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the study required under paragraph (1).

SEC. 604. REPORTS AND EXAMINATIONS OF HOLDING COMPANIES; REGULATION OF FUNCTIONALLY REGULATED SUBSIDIARIES.

(a) REPORTS BY BANK HOLDING COMPANIES.—Sections 5(c)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(1)) is amended—

(1) by striking subparagraph (B) and inserting the following:

''(B) USE OF EXISTING REPORTS AND OTHER SUPERVISORY INFORMATION.—The appropriate Federal banking agency for a bank holding company shall, to the fullest extent possible, use—

''(i) reports and other supervisory information that the bank holding company or any subsidiary thereof has been required to provide to other Federal or State regulatory agencies;

''(ii) externally audited financial statements of the bank holding company or subsidiary;

''(iii) information otherwise available from Federal or State regulatory agencies; and

''(iv) information that is otherwise required to be reported publicly.''; and

(2) by adding at the end the following:

''(C) AVAILABILITY.—Upon the request of the appropriate Federal banking agency for a bank holding company, the bank holding company or a subsidiary of the bank holding company shall promptly provide to the appropriate Federal banking agency any information described in clauses (i) through (iii) of subparagraph (B).''.

(b) EXAMINATIONS OF BANK HOLDING COMPANIES.—Section 5(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(2)) is amended to read as follows:

''(2) EXAMINATIONS.—

''(A) IN GENERAL.—The appropriate Federal banking agency for a bank holding company may make examinations of the bank holding company and each subsidiary of the bank holding company in order to—

''(i) inform such appropriate Federal banking agency of—

''(I) the nature of the operations and financial condition of the bank holding company and the subsidiary;

''(II) the financial, operational, and other risks within the bank holding company system that may pose a threat to—

''(aa) the safety and soundness of the bank holding company or of any depository institution subsidiary of the bank holding company; or

''(bb) the stability of the financial system of the United States; and

''(III) the systems of the bank holding company for monitoring and controlling the risks described in subclause (II); and

''(ii) enforce the compliance of the bank holding company and the subsidiary with this Act and any other Federal law that such appropriate Federal banking agency has specific jurisdiction to enforce against the bank holding company or subsidiary.

''(B) USE OF REPORTS TO REDUCE EXAMINATIONS.—For purposes of this paragraph, the appropriate Federal banking agency for a bank holding company shall, to the fullest extent possible, rely on—

''(i) examination reports made by other Federal or State regulatory agencies relating to the bank holding company and any subsidiary of the bank holding company; and

''(ii) the reports and other information required under paragraph (1).

''(C) COORDINATION WITH OTHER REGULATORS.—The appropriate Federal banking agency for a bank holding company shall—

''(i) provide reasonable notice to, and consult with, the appropriate Federal banking agency or State regulatory agency of a subsidiary that is a depository institution or a functionally regulated subsidiary before commencing an examination of the subsidiary under this section; and

''(ii) to the fullest extent possible, avoid duplication of examination activities, reporting requirements, and requests for information.''.

(c) AUTHORITY TO REGULATE FUNCTIONALLY REGULATED SUBSIDIARIES OF BANK HOLDING COMPANIES.—The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended—

(1) in section 5(c) (12 U.S.C. 1844(c)), by striking paragraphs (3) and (4) and inserting the following:

''(3) [Reserved]

''(4) [Reserved]''; and

(2) by striking section 10A (12 U.S.C. 1848a).

(d) ACQUISITIONS OF BANKS.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end the following:

''(7) FINANCIAL STABILITY.—In every case, the appropriate Federal banking agency of a bank holding company shall take into consideration the extent to which a proposed acquisition, merger, or consolidation would result in greater or more concentrated risks to the stability of the United States banking or financial system.''.

(e) ACQUISITIONS OF NONBANKS.—

(1) NOTICE PROCEDURES.—Section 4(j)(2)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(j)(2)(A)) is amended by striking ''or unsound banking practices'' and inserting ''unsound banking practices, or risk to the stability of the United States banking or financial system''.

(2) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—Section 4(k)(6)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)(6)(B)) is amended to read as follows:

''(B) APPROVAL NOT REQUIRED FOR CERTAIN FINANCIAL ACTIVITIES.—

''(i) IN GENERAL.—Except as provided in clause (ii), a financial holding company may commence any activity or acquire any company, pursuant to paragraph (4) or any regulation prescribed or order issued under paragraph (5), without prior approval of the appropriate Federal banking agency for the financial holding company.

''(ii) EXCEPTION.—A financial holding company may not acquire a company, without the prior approval of the appropriate Federal banking agency for the financial holding company, in a transaction in which the total consolidated assets to be acquired by the financial holding company exceed $25,000,000,000.''.

(f) BANK MERGER ACT TRANSACTIONS.—Section 18(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(5)) is amended, in the matter immediately following subparagraph (B), by striking ''and the convenience and needs of the community to be served'' and inserting ''the convenience and needs of the community to be served, and the risk to the stability of the United States banking or financial system''.

(g) REPORTS BY SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(b)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)(2) is amended—

(1) by striking ''Each savings'' and inserting the following:

''(A) IN GENERAL.—Each savings''; and

(2) by adding at the end the following:

''(B) USE OF EXISTING REPORTS AND OTHER SUPERVISORY INFORMATION.—The appropriate Federal banking agency for a savings and loan holding company shall, to the fullest extent possible, use—

''(i) reports and other supervisory information that the savings and loan holding company or any subsidiary thereof has been required to provide to other Federal or State regulatory agencies;

''(ii) externally audited financial statements of the savings and loan holding company or subsidiary;

''(iii) information that is otherwise available from Federal or State regulatory agencies; and

''(iv) information that is otherwise required to be reported publicly.

''(C) AVAILABILITY.—Upon the request of the appropriate Federal banking agency for a savings and loan holding company, the savings and loan holding company or a subsidiary of the savings and loan holding company shall promptly provide to the appropriate Federal banking agency any information described in clauses (i) through (iii) of subparagraph (B).''.

(h) EXAMINATION OF SAVINGS AND LOAN HOLDING COMPANIES.—

(1) DEFINITIONS.—Section 2 of the Home Owners' Loan Act (12 U.S.C. 1462) is amended by adding at the end the following:

''(10) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

''(11) FUNCTIONALLY REGULATED SUBSIDIARY.—The term 'functionally regulated subsidiary' has the same meaning as in section 5(c)(5) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(5)).''.

(2) EXAMINATION.—Section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)) is amended by striking paragraph (4) and inserting the following:

''(4) EXAMINATIONS.—

''(A) IN GENERAL.—The appropriate Federal banking agency for a savings and loan holding company may make examinations of the savings and loan holding company and each subsidiary of the savings and loan holding company system, in order to—

''(i) inform such appropriate Federal banking agency of—

''(I) the nature of the operations and financial condition of the savings and loan holding company and the subsidiary;

''(II) the financial, operational, and other risks within the savings and loan holding company that may pose a threat to—

''(aa) the safety and soundness of the savings and loan holding company or of any depository institution subsidiary of the savings and loan holding company; or

''(bb) the stability of the financial system of the United States; and

''(III) the systems of the savings and loan holding company for monitoring and controlling the risks described in subclause (II); and

''(ii) enforce the compliance of the savings and loan holding company and the subsidiary with this Act and any other Federal law that such appropriate Federal banking agency has specific jurisdiction to enforce against the savings and loan holding company or subsidiary.

''(B) USE OF REPORTS TO REDUCE EXAMINATIONS.—For purposes of this subsection, the appropriate Federal banking agency for a savings and loan holding company shall, to the fullest extent possible, rely on—

''(i) the examination reports made by other Federal or State regulatory agencies relating to the savings and loan holding company and any subsidiary; and

''(ii) the reports and other information required under paragraph (2).

''(C) COORDINATION WITH OTHER REGULATORS.—The appropriate Federal banking agency for a savings and loan holding company shall—

''(i) provide reasonable notice to, and consult with, the appropriate Federal banking agency or State regulatory agency of a subsidiary that is a depository institution or a functionally regulated subsidiary before commencing an examination of the subsidiary under this section; and

''(ii) to the fullest extent possible, avoid duplication of examination activities, reporting requirements, and requests for information.''.

(i) EFFECTIVE DATE.—The amendments made by this section shall take effect on the transfer date.

SEC. 605. ASSURING CONSISTENT OVERSIGHT OF PERMISSIBLE ACTIVITIES OF DEPOSITORY INSTITUTION SUBSIDIARIES OF HOLDING COMPANIES.

Section 6 of the Bank Holding Company Act of 1956 (12 U.S.C. 1845) is amended to read as follows:

''SEC. 6. ASSURING CONSISTENT OVERSIGHT OF PERMISSIBLE ACTIVITIES OF DEPOSITORY INSTITUTION SUBSIDIARIES OF HOLDING COMPANIES.

''(a) DEFINITIONS.—

''(1) DEFINITIONS.—In this section—

''(A) the term 'depository institution holding company' has the same meaning as in section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w));

''(B) the term 'functionally regulated subsidiary' has the same meaning as in section 5(c)(5); and

''(C) the term 'lead Federal banking agency' means—

''(i) the Office of the Comptroller of the Currency, in the case of any depository institution holding company having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are Federal depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are Federal depository institutions exceed the total consolidated assets of all subsidiaries that are State depository institutions; and

''(ii) the Federal Deposit Insurance Corporation, in the case of any depository institution holding company having—

''(I) a subsidiary that is an insured depository institution, if all such insured depository institutions are State depository institutions; or

''(II) a subsidiary that is a Federal depository institution and a subsidiary that is a State depository institution, if the total consolidated assets of all subsidiaries that are State depository institutions exceed the total consolidated assets of all subsidiaries that are Federal depository institutions.

''(2) DETERMINATION OF TOTAL CONSOLIDATED ASSETS.—For purposes of paragraph (1)(A), the total consolidated assets of a depository institution shall be determined in the same manner that total consolidated assets of depository institutions are determined for purposes of section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

''(b) LEAD AGENCY SUPERVISION.—

''(1) IN GENERAL.—The lead Federal banking agency for each depository institution holding company shall make examinations of the activities of each nondepository institution subsidiary (other than a functionally regulated subsidiary) of the depository institution holding company that are permissible for depository institution subsidiaries of the depository institution holding company, to determine whether the activities—

''(A) present safety and soundness risks to any depository institution subsidiary of the depository institution holding company;

''(B) are conducted in accordance with applicable law; and

''(C) are subject to appropriate systems for monitoring and controlling the financial, operating, and other risks of the activity and protecting the depository institution subsidiaries of the holding company.

''(2) PROCESS FOR EXAMINATION.—An examination under paragraph (1) shall be carried out under the authority of the lead Federal banking agency, as if the nondepository institution subsidiary were an insured depository institution for which the lead Federal banking agency is the appropriate Federal banking agency.

''(c) COORDINATION.—For each depository institution holding company for which the Board of Governors is the appropriate Federal banking agency, the lead Federal banking agency of the depository institution holding company shall coordinate the supervision of the activities of subsidiaries described in subsection (b) with the Board of Governors, in a manner that—

''(1) avoids duplication;

''(2) shares information relevant to the supervision of the depository institution holding company by each agency;

''(3) achieves the objectives of subsection (b); and

''(4) ensures that the depository institution holding company and the subsidiaries of the depository institution holding company are not subject to conflicting supervisory demands by the 2 agencies.

''(d) REFERRALS FOR ENFORCEMENT.—

''(1) RECOMMENDATION OF ACTION BY BOARD OF GOVERNORS.—The lead Federal banking agency for a depository institution holding company, based on information obtained pursuant to the responsibilities of the agency under subsection (b), may submit to the Board of Governors, in writing, a recommendation that the Board of Governors take enforcement action against a nondepository institution subsidiary (other than a functionally regulated subsidiary) of the depository institution holding company, together with an explanation of the concerns giving rise to the recommendation.

''(2) BACK-UP AUTHORITY OF THE LEAD FEDERAL BANKING AGENCY.—If, within the 60-day period beginning on the date on which the Board of Governors receives a recommendation under paragraph (1), the Board of Governors does not take enforcement action against a nondepository institution subsidiary or provide a plan for enforcement action that is acceptable to the lead Federal banking agency, the lead Federal banking agency (upon the authorization of the Comptroller, or the Federal Deposit Insurance Corporation, upon a vote of its members, as applicable) may take the recommended enforcement action, in the same manner as if the subsidiary were an insured depository institution for which the lead Federal banking agency is the appropriate Federal banking agency.''.

SEC. 606. REQUIREMENTS FOR FINANCIAL HOLDING COMPANIES TO REMAIN WELL CAPITALIZED AND WELL MANAGED.

(a) AMENDMENT.—Section 4(l)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(l)(1)) is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) by redesignating subparagraph (C) as subparagraph (D);

(3) by inserting after subparagraph (B) the following:

''(C) the bank holding company is well capitalized and well managed; and''; and

(4) in subparagraph (D)(ii), as so redesignated, by striking ''subparagraphs (A) and

(B)'' and inserting ''subparagraphs (A), (B), and (C)''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the transfer date.

SEC. 607. STANDARDS FOR INTERSTATE ACQUISITIONS.

(a) ACQUISITION OF BANKS.—Section 3(d)(1)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)(1)(A)) is amended by striking ''adequately capitalized and adequately managed'' and inserting ''well capitalized and well managed''.

(b) INTERSTATE BANK MERGERS.—Section 44(b)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(b)(4)(B)) is amended by striking ''will continue to be adequately capitalized and adequately managed'' and inserting ''will be well capitalized and well managed''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the transfer date.

SEC. 608. ENHANCING EXISTING RESTRICTIONS ON BANK TRANSACTIONS WITH AFFILIATES.

(a) AFFILIATE TRANSACTIONS.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking subparagraph (D) and inserting the following:

''(D) any investment fund with respect to which a member bank or affiliate thereof is an investment adviser; and''; and

(B) in paragraph (7)—

(i) in subparagraph (A), by inserting before the semicolon at the end the following: '', including a purchase of assets subject to an agreement to repurchase'';

(ii) in subparagraph (C), by striking '', including assets subject to an agreement to repurchase,'';

(iii) in subparagraph (D)—

(I) by inserting ''or other debt obligations'' after ''acceptance of securities''; and

(II) by striking ''or'' at the end; and

(iv) by adding at the end the following:

''(F) a transaction with an affiliate that involves the borrowing or lending of securities, to the extent that the transaction causes a member bank or a subsidiary to have credit exposure to the affiliate; or

''(G) a derivative transaction, as defined in paragraph (3) of section 5200(b) of the Revised Statutes of the United States (12 U.S.C. 84(b)), with an affiliate, to the extent that the transaction causes a member bank or a subsidiary to have credit exposure to the affiliate;'';

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''subsidiary'' and all that follows through ''time of the transaction'' and inserting ''subsidiary, and any credit exposure of a member bank or a subsidiary to an affiliate resulting from a securities borrowing or lending transaction, or a derivative transaction, shall be secured at all times''; and

(ii) in each of subparagraphs (A) through (D), by striking ''or letter of credit'' and inserting ''letter of credit, or credit exposure'';

(B) by striking paragraph (2);

(C) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively;

(D) in paragraph (2), as so redesignated, by inserting before the period at the end '', or credit exposure to an affiliate resulting from a securities borrowing or lending transaction, or derivative transaction''; and

(E) in paragraph (3), as so redesignated—

(i) by inserting ''or other debt obligations'' after ''securities''; and

(ii) by striking ''or guarantee'' and all that follows through ''behalf of,'' and inserting ''guarantee, acceptance, or letter of credit issued on behalf of, or credit exposure from a securities borrowing or lending transaction, or derivative transaction to,'';

(3) in subsection (d)(4), in the matter preceding subparagraph (A), by striking ''or issuing'' and all that follows through ''behalf of,'' and inserting ''issuing a guarantee, acceptance, or letter of credit on behalf of, or having credit exposure resulting from a securities borrowing or lending transaction, or derivative transaction to,''; and

(4) in subsection (f)—

(A) in paragraph (2)—

(i) by striking ''or order'';

(ii) by striking ''if it finds'' and all that follows through the end of the paragraph and inserting the following: ''if—

''(i) the Board finds the exemption to be in the public interest and consistent with the purposes of this section, and notifies the Federal Deposit Insurance Corporation of such finding; and

''(ii) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice of the finding under clause (i), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.'';

(iii) by striking the Board and inserting the following:

''(A) IN GENERAL.—The Board''; and

(iv) by adding at the end the following:

''(B) ADDITIONAL EXEMPTIONS.—

''(i) NATIONAL BANKS.—The Comptroller of the Currency may, by order, exempt a transaction of a national bank from the requirements of this section if—

''(I) the Board and the Office of the Comptroller of the Currency jointly find the exemption to be in the public interest and consistent with the purposes of this section and notify the Federal Deposit Insurance Corporation of such finding; and

''(II) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice of the finding under subclause (I), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.

''(ii) STATE BANKS.—The Federal Deposit Insurance Corporation may, by order, exempt a transaction of a State bank from the requirements of this section if—

''(I) the Board and the Federal Deposit Insurance Corporation jointly find that the exemption is in the public interest and consistent with the purposes of this section; and

''(II) the Federal Deposit Insurance Corporation finds that the exemption does not present an unacceptable risk to the Deposit Insurance Fund.''; and

(B) by adding at the end the following:

''(4) AMOUNTS OF COVERED TRANSACTIONS.—The Board may issue such regulations or interpretations as the Board determines are necessary or appropriate with respect to the manner in which a netting agreement may be taken into account in determining the amount of a covered transaction between a member bank or a subsidiary and an affiliate, including the extent to which netting agreements between a member bank or a subsidiary and an affiliate may be taken into account in determining whether a covered transaction is fully secured for purposes of subsection (d)(4). An interpretation under this paragraph with respect to a specific member bank, subsidiary, or affiliate shall be issued jointly with the appropriate Federal banking agency for such member bank, subsidiary, or affiliate.''.

(b) TRANSACTIONS WITH AFFILIATES.—Section 23B(e) of the Federal Reserve Act (12 U.S.C. 371c–1(e)) is amended—

(1) by striking the undesignated matter following subparagraph (B);

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the clause margins accordingly;

(3) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the subparagraph margins accordingly;

(4) by striking ''The Board'' and inserting the following:

''(1) IN GENERAL.—The Board'';

(5) in paragraph (1)(B), as so redesignated—

(A) in the matter preceding clause (i), by inserting before ''regulations'' the following: ''subject to paragraph (2), if the Board finds that an exemption or exclusion is in the public interest and is consistent with the purposes of this section, and notifies the Federal Deposit Insurance Corporation of such finding,''; and

(B) in clause (ii), by striking the comma at the end and inserting a period; and

(6) by adding at the end the following:

''(2) EXCEPTION.—The Board may grant an exemption or exclusion under this subsection only if, during the 60-day period beginning on the date of receipt of notice of the finding from the Board under paragraph (1)(B), the Federal Deposit Insurance Corporation does not object, in writing, to such exemption or exclusion, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.''.

(c) HOME OWNERS' LOAN ACT.—Section 11 of the Home Owners' Loan Act (12 U.S.C. 1468) is amended by adding at the end the following:

''(d) EXEMPTIONS.—

''(1) FEDERAL SAVINGS ASSOCIATIONS.—The Comptroller of the Currency may, by order, exempt a transaction of a Federal savings association from the requirements of this section if—

''(A) the Board and the Office of the Comptroller of the Currency jointly find the exemption to be in the public interest and consistent with the purposes of this section and notify the Federal Deposit Insurance Corporation of such finding; and

''(B) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice of the finding under subparagraph (A), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.

''(2) STATE SAVINGS ASSOCIATION.—The Federal Deposit Insurance Corporation may, by order, exempt a transaction of a State savings association from the requirements of this section if the Board and the Federal Deposit Insurance Corporation jointly find that—

''(A) the exemption is in the public interest and consistent with the purposes of this section; and

''(B) the exemption does not present an unacceptable risk to the Deposit Insurance Fund.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the transfer date.

SEC. 609. ELIMINATING EXCEPTIONS FOR TRANSACTIONS WITH FINANCIAL SUBSIDIARIES.

(a) AMENDMENT.—Section 23A(e) of the Federal Reserve Act (12 U.S.C. 371c(e)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

(b) PROSPECTIVE APPLICATION OF AMENDMENT.—The amendments made by this section shall apply with respect to any covered transaction between a bank and a subsidiary of the bank, as those terms are defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c), that is entered into on or after the date of enactment of this Act.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the transfer date.

SEC. 610. LENDING LIMITS APPLICABLE TO CREDIT EXPOSURE ON DERIVATIVE TRANSACTIONS, REPURCHASE AGREEMENTS, REVERSE REPURCHASE AGREEMENTS, AND SECURITIES LENDING AND BORROWING TRANSACTIONS.

(a) NATIONAL BANKS.—Section 5200(b) of the Revised Statutes of the United States (12 U.S.C. 84(b)) is amended—

(1) in paragraph (1), by striking ''shall include'' and all that follows through the end of the paragraph and inserting the following: ''shall include—

''(A) all direct or indirect advances of funds to a person made on the basis of any obligation of that person to repay the funds or repayable from specific property pledged by or on behalf of the person;

''(B) to the extent specified by the Comptroller of the Currency, any liability of a national banking association to advance funds to or on behalf of a person pursuant to a contractual commitment; and

''(C) any credit exposure to a person arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the national banking association and the person;'';

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) the term 'derivative transaction' includes any transaction that is a contract, agreement, swap, warrant, note, or option 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, one or more commodities, securities, currencies, interest or other rates, indices, or other assets.''.

(b) SAVINGS ASSOCIATIONS.—Section 5(u)(3) of the Home Owners' Loan Act (12 U.S.C. 1464(u)(3)) is amended by striking ''Director'' each place that term appears and inserting ''Comptroller of the Currency''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the transfer date.

SEC. 611. APPLICATION OF NATIONAL BANK LENDING LIMITS TO INSURED STATE BANKS.

(a) AMENDMENT.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:

''(y) APPLICATION OF LENDING LIMITS TO INSURED STATE BANKS.—Section 5200 of the Revised Statutes of the United States (12 U.S.C. 84) shall apply to each insured State bank, in the same manner and to the same extent as if the insured State bank were a national banking association.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 1 year after the transfer date.

SEC. 612. RESTRICTION ON CONVERSIONS OF TROUBLED BANKS.

(a) CONVERSION OF A NATIONAL BANKING ASSOCIATION TO A STATE BANK.—The Act entitled ''An Act to provide for the conversion of national banking associations into and their merger or consolidation with State banks, and for other purposes.'' (12 U.S.C. 214 et seq.) is amended by adding at the end the following:

''SEC. 10. PROHIBITION ON CONVERSION.

''A national banking association may not convert to a State bank or State savings association during any period in which the national banking association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, the Comptroller of the Currency with respect to a significant supervisory matter.''.

(b) CONVERSION OF A STATE BANK TO A NATIONAL BANK.—Section 5154 of the Revised Statutes of the United States (12 U.S.C. 35) is amended by adding at the end the following: ''The Comptroller of the Currency may not approve the conversion of a State bank or State savings association to a national banking association during any period in which the State bank or State savings association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, a State bank supervisor or the appropriate Federal banking agency with respect to a significant supervisory matter.''.

(c) CONVERSION OF A FEDERAL SAVINGS ASSOCIATION TO A NATIONAL OR STATE BANK OR STATE SAVINGS ASSOCIATION.—Section 5(i) of the Home Owners' Loan Act (12 U.S.C. 1464(i)) is amended by adding at the end the following:

''(6) LIMITATION ON CERTAIN CONVERSIONS BY FEDERAL SAVINGS ASSOCIATIONS.—A Federal savings association may not convert to a national bank or State bank or State savings association during any period in which the Federal savings association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, the Office of Thrift Supervision or the Comptroller of the Currency with respect to a significant supervisory matter.''.

SEC. 613. DE NOVO BRANCHING INTO STATES.

(a) NATIONAL BANKS.—Section 5155(g)(1)(A) of the Revised Statutes of the United States (12 U.S.C. 36(g)(1)(A)) is amended to read as follows:

''(A) the law of the State in which the branch is located, or is to be located, would permit establishment of the branch, if the national bank were a State bank chartered by such State; and''.

(b) STATE INSURED BANKS.—Section 18(d)(4)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(4)(A)(i)) is amended to read as follows:

''(i) the law of the State in which the branch is located, or is to be located, would permit establishment of the branch, if the bank were a State bank chartered by such State; and''.

SEC. 614. LENDING LIMITS TO INSIDERS.

(a) EXTENSIONS OF CREDIT.—Section 22(h)(9)(D)(i) of the Federal Reserve Act (12 U.S.C. 375b(9)(D)(i)) is amended—

(1) by striking the period at the end and inserting ''; or'';

(2) by striking ''a person'' and inserting ''the person'';

(3) by striking ''extends credit by making'' and inserting the following: ''extends credit to a person by—

''(I) making''; and

(4) by adding at the end the following:

''(II) having credit exposure to the person arising from a derivative transaction (as defined in section 5200(b) of the Revised Statutes of the United States (12 U.S.C. 84(b))), repurchase agreement, reverse repurchase agreement, securities lending transaction, or securities borrowing transaction between the member bank and the person.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the transfer date.

SEC. 615. LIMITATIONS ON PURCHASES OF ASSETS FROM INSIDERS.

(a) AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following:

''(z) GENERAL PROHIBITION ON SALE OF ASSETS.—

''(1) IN GENERAL.—An insured depository institution may not purchase an asset from, or sell an asset to, an executive officer, director, or principal shareholder of the insured depository institution, or any related interest of such person (as such terms are defined in section 22(h) of Federal Reserve Act), unless—

''(A) the transaction is on market terms; and

''(B) if the transaction represents more than 10 percent of the capital stock and surplus of the insured depository institution, the transaction has been approved in advance by a majority of the members of the board of directors of the insured depository institution who do not have an interest in the transaction.

''(2) RULEMAKING.—The Board of Governors of the Federal Reserve System may issue such rules as may be necessary to define terms and to carry out the purposes this subsection. Before proposing or adopting a rule under this paragraph, the Board of Governors of the Federal Reserve System shall consult with the Comptroller of the Currency and the Corporation as to the terms of the rule.''.

(b) AMENDMENTS TO THE FEDERAL RESERVE ACT.—Section 22(d) of the Federal Reserve Act (12 U.S.C. 375) is amended to read as follows:

''(d) [Reserved]''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the transfer date.

SEC. 616. REGULATIONS REGARDING CAPITAL LEVELS OF HOLDING COMPANIES.

(a) CAPITAL LEVELS OF BANK HOLDING COMPANIES.—Section 5(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(b)) is amended by inserting after ''regulations'' the following: ''(including regulations relating to the capital requirements of bank holding companies)''.

(b) CAPITAL LEVELS OF SAVINGS AND LOAN HOLDING COMPANIES.—Section 10(g)(1) of the Home Owners' Loan Act (12 U.S.C. 1467a(g)(1)) is amended by inserting after ''orders'' the following: ''(including regulations relating to capital requirements for savings and loan holding companies)''.

(c) SOURCE OF STRENGTH.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 38 (12 U.S.C. 1831o) the following:

''SEC. 38A. SOURCE OF STRENGTH.

''(a) HOLDING COMPANIES.—The appropriate Federal banking agency for a bank holding company or savings and loan holding company shall require the bank holding company or savings and loan holding company to serve as a source of financial strength for any subsidiary of the bank holding company or savings and loan holding company that is a depository institution.

''(b) OTHER COMPANIES.—If an insured depository institution is not the subsidiary of a bank holding company or savings and loan holding company, the appropriate Federal banking agency for the insured depository institution shall require any company that directly or indirectly controls the insured depository institution to serve as a source of financial strength for such institution.

''(c) REPORTS.—The appropriate Federal banking agency for an insured depository institution described in subsection (b) may, from time to time, require the company, or

a company that directly or indirectly controls the insured depository institution to submit a report, under oath, for the purposes of—

''(1) assessing the ability of such company to comply with the requirement under subsection (b); and

''(2) enforcing the compliance of such company with the requirement under subsection (b).

''(d) RULES.—Not later than 1 year after the transfer date, as defined in section 311 of the Enhancing Financial Institution Safety and Soundness Act of 2010, the appropriate Federal banking agencies shall jointly issue final rules to carry out this section.

''(e) DEFINITION.—In this section, the term 'source of financial strength' means the ability of a company that directly or indirectly owns or controls an insured depository institution to provide financial assistance to such insured depository institution in the event of the financial distress of the insured depository institution.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the transfer date.

SEC. 617. ELIMINATION OF ELECTIVE INVESTMENT BANK HOLDING COMPANY FRAMEWORK.

(a) AMENDMENT.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by striking subsection (i); and

(2) by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the transfer date.

SEC. 618. SECURITIES HOLDING COMPANIES.

(a) DEFINITIONS.—In this section—

(1) the term ''associated person of a securities holding company'' means a person directly or indirectly controlling, controlled by, or under common control with, a securities holding company;

(2) the term ''foreign bank'' has the same meaning as in section 1(b)(7) of the International Banking Act of 1978 (12 U.S.C. 3101(b)(7));

(3) the term ''insured bank'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(4) the term ''securities holding company''—

(A) means—

(i) a person (other than a natural person) that owns or controls 1 or more brokers or dealers registered with the Commission; and

(ii) the associated persons of a person described in clause (i); and

(B) does not include a person that is—

(i) a nonbank financial company supervised by the Board under title I;

(ii) an affiliate of an insured bank (other than an institution described in subparagraphs (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)) or an affiliate of a savings association;

(iii) a foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a));

(iv) a foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.); or

(v) subject to comprehensive consolidated supervision by a foreign regulator;

(5) the term ''supervised securities holding company'' means a securities holding company that is supervised by the Board of Governors under this section; and

(6) the terms ''affiliate'', ''bank'', ''bank holding company'', ''company'', ''control'', ''savings association'', and ''subsidiary'' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

(b) SUPERVISION OF A SECURITIES HOLDING COMPANY NOT HAVING A BANK OR SAVINGS ASSOCIATION AFFILIATE.—

(1) IN GENERAL.—A securities holding company that is required by a foreign regulator or provision of foreign law to be subject to comprehensive consolidated supervision may register with the Board of Governors under paragraph (2) to become a supervised securities holding company. Any securities holding company filing such a registration shall be supervised in accordance with this section, and shall comply with the rules and orders prescribed by the Board of Governors applicable to supervised securities holding companies.

(2) REGISTRATION AS A SUPERVISED SECURITIES HOLDING COMPANY.—

(A) REGISTRATION.—A securities holding company that elects to be subject to comprehensive consolidated supervision shall register by filing with the Board of Governors such information and documents as the Board of Governors, by regulation, may prescribe as necessary or appropriate in furtherance of the purposes of this section.

(B) EFFECTIVE DATE.—A securities holding company that registers under subparagraph (A) shall be deemed to be a supervised securities holding company, effective on the date that is 45 days after the date of receipt of the registration information and documents under subparagraph (A) by the Board of Governors, or within such shorter period as the Board of Governors, by rule or order, may determine.

(c) SUPERVISION OF SECURITIES HOLDING COMPANIES.—

(1) RECORDKEEPING AND REPORTING.—

(A) RECORDKEEPING AND REPORTING REQUIRED.—Each supervised securities holding company and each affiliate of a supervised securities holding company shall make and keep for periods determined by the Board of Governors such records, furnish copies of such records, and make such reports, as the Board of Governors determines to be necessary or appropriate to carry out this section, to prevent evasions thereof, and to monitor compliance by the supervised securities holding company or affiliate with applicable provisions of law.

(B) FORM AND CONTENTS.—

(i) IN GENERAL.—Any record or report required to be made, furnished, or kept under this paragraph shall—

(I) be prepared in such form and according to such specifications (including certification by a registered public accounting firm), as the Board of Governors may require; and

(II) be provided promptly to the Board of Governors at any time, upon request by the Board of Governors.

(ii) CONTENTS.—Records and reports required to be made, furnished, or kept under this paragraph may include—

(I) a balance sheet or income statement of the supervised securities holding company or an affiliate of a supervised securities holding company;

(II) an assessment of the consolidated capital and liquidity of the supervised securities holding company;

(III) a report by an independent auditor attesting to the compliance of the supervised securities holding company with the internal risk management and internal control objectives of the supervised securities holding company; and

(IV) a report concerning the extent to which the supervised securities holding company or affiliate has complied with the provisions of this section and any regulations prescribed and orders issued under this section.

(2) USE OF EXISTING REPORTS.—

(A) IN GENERAL.—The Board of Governors shall, to the fullest extent possible, accept reports in fulfillment of the requirements of this paragraph that a supervised securities holding company or an affiliate of a supervised securities holding company has been required to provide to another regulatory agency or a self-regulatory organization.

(B) AVAILABILITY.—A supervised securities holding company or an affiliate of a supervised securities holding company shall promptly provide to the Board of Governors, at the request of the Board of Governors, any report described in subparagraph (A), as permitted by law.

(3) EXAMINATION AUTHORITY.—

(A) FOCUS OF EXAMINATION AUTHORITY.—The Board of Governors may make examinations of any supervised securities holding company and any affiliate of a supervised securities holding company to carry out this subsection, to prevent evasions thereof, and to monitor compliance by the supervised securities holding company or affiliate with applicable provisions of law.

(B) DEFERENCE TO OTHER EXAMINATIONS.—For purposes of this subparagraph, the Board of Governors shall, to the fullest extent possible, use the reports of examination made by other appropriate Federal or State regulatory authorities with respect to any functionally regulated subsidiary or any institution described in subparagraph (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)).

(d) CAPITAL AND RISK MANAGEMENT.—

(1) IN GENERAL.—The Board of Governors shall, by regulation or order, prescribe capital adequacy and other risk management standards for supervised securities holding companies that are appropriate to protect the safety and soundness of the supervised securities holding companies and address the risks posed to financial stability by supervised securities holding companies.

(2) DIFFERENTIATION.—In imposing standards under this subsection, the Board of Governors may differentiate among supervised securities holding companies on an individual basis, or by category, taking into consideration the requirements under paragraph (3).

(3) CONTENT.—Any standards imposed on a supervised securities holding company under this subsection shall take into account—

(A) the differences among types of business activities carried out by the supervised securities holding company;

(B) the amount and nature of the financial assets of the supervised securities holding company;

(C) the amount and nature of the liabilities of the supervised securities holding company, including the degree of reliance on short-term funding;

(D) the extent and nature of the off-balance sheet exposures of the supervised securities holding company;

(E) the extent and nature of the transactions and relationships of the supervised securities holding company with other financial companies;

(F) the importance of the supervised securities holding company as a source of credit for households, businesses, and State and local governments, and as a source of liquidity for the financial system; and

(G) the nature, scope, and mix of the activities of the supervised securities holding company.

(4) NOTICE.—A capital requirement imposed under this subsection may not take effect earlier than 180 days after the date on which a supervised securities holding company is provided notice of the capital requirement.

(e) EXCEPTION FOR BANKS.—No bank shall be subject to any of the requirements set forth in subsections (c) and (d).

(f) OTHER PROVISIONS OF LAW APPLICABLE TO SUPERVISED SECURITIES HOLDING COMPANIES.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Subsections (b), (c) through (s), and (u) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) shall apply to any supervised securities holding company, and to any subsidiary (other than a bank or an institution described in subparagraph (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2))) of a supervised securities holding company, in the same manner as such subsections apply to a bank holding company for which the Board of Governors is the appropriate Federal banking agency. For purposes of applying such subsections to a supervised securities holding company or a subsidiary (other than a bank or an institution described in subparagraph (D), (F), or (H) of section 2(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2))) of a supervised securities holding company, the Board of Governors shall be deemed the appropriate Federal banking agency for the supervised securities holding company or subsidiary.

(2) BANK HOLDING COMPANY ACT OF 1956.—Except as the Board of Governors may otherwise provide by regulation or order, a supervised securities holding company shall be subject to the provisions of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) in the same manner and to the same extent a bank holding company is subject to such provisions, except that a supervised securities holding company may not, by reason of this paragraph, be deemed to be a bank holding company for purposes of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843).

SEC. 619. RESTRICTIONS ON CAPITAL MARKET ACTIVITY BY BANKS AND BANK HOLDING COMPANIES.

(a) DEFINITIONS.—In this section—

(1) the terms ''hedge fund'' and ''private equity fund'' mean a company or other entity that is exempt from registration as an investment company pursuant to section 3(c)(1) or 3(c)(7) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(1) or 80a–3(c)(7)), or a similar fund, as jointly determined by the appropriate Federal banking agencies;

(2) the term ''proprietary trading''—

(A) means purchasing or selling, or otherwise acquiring or disposing of, stocks, bonds, options, commodities, derivatives, or other financial instruments by an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company, for the trading book (or such other portfolio as the Federal banking agencies may determine) of such institution, company, or subsidiary; and

(B) subject to such restrictions as the Federal banking agencies may determine, does not include purchasing or selling, or otherwise acquiring or disposing of, stocks, bonds, options, commodities, derivatives, or other financial instruments on behalf of a customer, as part of market making activities, or otherwise in connection with or in facilitation of customer relationships, including risk-mitigating hedging activities related to such a purchase, sale, acquisition, or disposal; and

(3) the term ''sponsoring'', when used with respect to a hedge fund or private equity fund, means—

(A) serving as a general partner, managing member, or trustee of the fund;

(B) in any manner selecting or controlling (or having employees, officers, directors, or agents who constitute) a majority of the directors, trustees, or management of the fund; or

(C) sharing with the fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

(b) PROHIBITION ON PROPRIETARY TRADING.—

(1) IN GENERAL.—Subject to the recommendations and modifications of the Council under subsection (g), and except as provided in paragraph (2) or (3), the appropriate Federal banking agencies shall, through a rulemaking under subsection (g), jointly prohibit proprietary trading by an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company.

(2) EXCEPTED OBLIGATIONS.—

(A) IN GENERAL.—The prohibition under this subsection shall not apply with respect to an investment that is otherwise authorized by Federal law in—

(i) obligations of the United States or any agency of the United States, including obligations fully guaranteed as to principal and interest by the United States or an agency of the United States;

(ii) obligations, participations, or other instruments of, or issued by, the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, including obligations fully guaranteed as to principal and interest by such entities; and

(iii) obligations of any State or any political subdivision of a State.

(B) CONDITIONS.—The appropriate Federal banking agencies may impose conditions on the conduct of investments described in subparagraph (A).

(C) RULE OF CONSTRUCTION.—Nothing in subparagraph (A) may be construed to grant any authority to any person that is not otherwise provided in Federal law.

(3) FOREIGN ACTIVITIES.—An investment or activity conducted by a company pursuant to paragraph (9) or (13) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) solely outside of the United States shall not be subject to the prohibition under paragraph (1), provided that the company is not directly or indirectly controlled by a company that is organized under the laws of the United States or of a State.

(c) PROHIBITION ON SPONSORING AND INVESTING IN HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to the recommendations and modifications of the Council under subsection (g), the appropriate Federal banking agencies shall, through a rulemaking under subsection (g), jointly prohibit an insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or any subsidiary of such institution or company, from sponsoring or investing in a hedge fund or a private equity fund.

(2) APPLICATION TO FOREIGN ACTIVITIES OF FOREIGN FIRMS.—An investment or activity conducted by a company pursuant to paragraph (9) or (13) of section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) solely outside of the United States shall not be subject to the prohibitions and restrictions under paragraph (1), provided that the company is not directly or indirectly controlled by a company that is organized under the laws of the United States or of a State.

(d) INVESTMENTS IN SMALL BUSINESS INVESTMENT COMPANIES AND INVESTMENTS DESIGNED TO PROMOTE THE PUBLIC WELFARE.—

(1) IN GENERAL.—A prohibition imposed by the appropriate Federal banking agencies under subsection (c) shall not apply with respect an investment otherwise authorized under Federal law that is—

(A) an investment in a small business investment company, as that term is defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662); or

(B) designed primarily to promote the public welfare, as provided in the 11th paragraph of section 5136 of the Revised Statutes (12 U.S.C. 24).

(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) may be construed to grant any authority to any person that is not otherwise provided in Federal law.

(e) LIMITATIONS ON RELATIONSHIPS WITH HEDGE FUNDS AND PRIVATE EQUITY FUNDS.—

(1) COVERED TRANSACTIONS.—An insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund may not enter into a covered transaction, as defined in section 23A of the Federal Reserve Act (12 U.S.C. 371c) with such hedge fund or private equity fund.

(2) AFFILIATION.—An insured depository institution, a company that controls, directly or indirectly, an insured depository institution or is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), and any subsidiary of such institution or company that serves, directly or indirectly, as the investment manager or investment adviser to a hedge fund or private equity fund shall be subject to section 23B of the Federal Reserve Act (12 U.S.C. 371c–1) as if such institution, company, or subsidiary were a member bank and such hedge fund or private equity fund were an affiliate.

(f) CAPITAL AND QUANTITATIVE LIMITATIONS FOR CERTAIN NONBANK FINANCIAL COMPANIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to the recommendations and modifications of the Council under subsection (g), the Board of Governors shall adopt rules imposing additional capital requirements and specifying additional quantitative limits for nonbank financial companies supervised by the Board of Governors under section 113 that engage in proprietary trading or sponsoring and investing in hedge funds and private equity funds.

(2) EXCEPTIONS.—The rules under this subsection shall not apply with respect to the trading of an investment that is otherwise authorized by Federal law—

(A) in obligations of the United States or any agency of the United States, including obligations fully guaranteed as to principal and interest by the United States or an agency of the United States;

(B) in obligations, participations, or other instruments of, or issued by, the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation, including obligations fully guaranteed as to principal and interest by such entities;

(C) in obligations of any State or any political subdivision of a State;

(D) in a small business investment company, as that term is defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662); or

(E) that is designed primarily to promote the public welfare, as provided in the 11th paragraph of section 5136 of the Revised Statutes (12 U.S.C. 24).

(g) COUNCIL STUDY AND RULEMAKING.—

(1) STUDY AND RECOMMENDATIONS.—Not later than 6 months after the date of enactment of this Act, the Council—

(A) shall complete a study of the definitions under subsection (a) and the other provisions under subsections (b) through (f), to assess the extent to which the definitions under subsection (a) and the implementation of subsections (a) through (f) would—

(i) promote and enhance the safety and soundness of depository institutions and the affiliates of depository institutions;

(ii) protect taxpayers and enhance financial stability by minimizing the risk that depository institutions and the affiliates of depository institutions will engage in unsafe and unsound activities;

(iii) limit the inappropriate transfer of Federal subsidies from institutions that benefit from deposit insurance and liquidity facilities of the Federal Government to unregulated entities;

(iv) reduce inappropriate conflicts of interest between the self-interest of depository institutions, affiliates of depository institutions, and financial companies supervised by the Board, and the interests of the customers of such institutions and companies;

(v) raise the cost of credit or other financial services, reduce the availability of credit or other financial services, or impose other costs on households and businesses in the United States;

(vi) limit activities that have caused undue risk or loss in depository institutions, affiliates of depository institutions, and financial companies supervised by the Board of Governors, or that might reasonably be expected to create undue risk or loss in such institutions, affiliates, and companies; and

(vii) appropriately accommodates the business of insurance within an insurance company subject to regulation in accordance with State insurance company investment laws;

(B) shall make recommendations regarding the definitions under subsection (a) and the implementation of other provisions under subsections (b) through (f), including any modifications to the definitions, prohibitions, requirements, and limitations contained therein that the Council determines would more effectively implement the purposes of this section; and

(C) may make recommendations for prohibiting the conduct of the activities described in subsections (b) and (c) above a specific threshold amount and imposing additional capital requirements on activities conducted below such threshold amount.

(2) RULEMAKING.—Not earlier than the date of completion of the study required under paragraph (1), and not later than 9 months after the date of completion of such study—

(A) the appropriate Federal banking agencies shall jointly issue final regulations implementing subsections (b) through (e), which shall reflect any recommendations or modifications made by the Council pursuant to paragraph (1)(B); and

(B) the Board of Governors shall issue final regulations implementing subsection (f), which shall reflect any recommendations or modifications made by the Council pursuant to paragraph (1)(B).

(h) TRANSITION.—

(1) IN GENERAL.—The final regulations issued by the appropriate Federal banking agencies and the Board of Governors under subsection (g)(2) shall provide that, effective 2 years after the date on which such final regulations are issued, no insured depository institution, company that controls, directly or indirectly, an insured depository institution, company that is treated as a bank holding company for purposes of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or subsidiary of such institution or company, may retain any investment or relationship prohibited under such regulations.

(2) EXTENSION.—

(A) IN GENERAL.—The appropriate Federal banking agency for an insured depository institution or a company described in paragraph (1) may, upon the application of any such company, extend the 2-year period under paragraph (1) with respect to such company, if the appropriate Federal banking agency determines that an extension would not be detrimental to the public interest.

(B) TIME PERIOD FOR EXTENSION.—An extension granted under subparagraph (A) may not exceed—

(i) 1 year for each determination made by the appropriate Federal banking agency under subparagraph (A); and

(ii) a total of 3 years with respect to any 1 company.

SEC. 620. CONCENTRATION LIMITS ON LARGE FINANCIAL FIRMS.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by adding at the end the following:

"SEC. 13. CONCENTRATION LIMITS ON LARGE FINANCIAL FIRMS.

''(a) DEFINITIONS.—In this section—

''(1) the term 'Council' means the Financial Stability Oversight Council;

''(2) the term 'financial company' means—

''(A) an insured depository institution;

''(B) a bank holding company;

''(C) a savings and loan holding company;

''(D) a company that controls an insured depository institution;

''(E) a nonbank financial company supervised by the Board under title I of the Restoring American Financial Stability Act of 2010; and

''(F) a foreign bank or company that is treated as a bank holding company for purposes of this Act; and

''(3) the term 'liabilities' means—

''(A) with respect to a United States financial company—

''(i) the total risk-weighted assets of the financial company, as determined under the risk-based capital rules applicable to bank holding companies, as adjusted to reflect exposures that are deducted from regulatory capital; less

''(ii) the total regulatory capital of the financial company under the risk-based capital rules applicable to bank holding companies;

''(B) with respect to a foreign-based financial company—

''(i) the total risk-weighted assets of the United States operations of the financial company, as determined under the applicable risk-based capital rules, as adjusted to reflect exposures that are deducted from regulatory capital; less

''(ii) the total regulatory capital of the United States operations of the financial company, as determined under the applicable risk-based capital rules; and

''(C) with respect to an insurance company or other nonbank financial company supervised by the Board, such assets of the company as the Board shall specify by rule, in order to provide for consistent and equitable treatment of such companies.

''(b) CONCENTRATION LIMIT.—Subject to the recommendations by the Council under subsection (e), a financial company may not merge or consolidate with, acquire all or substantially all of the assets of, or otherwise acquire control of, another company, if the total consolidated liabilities of the acquiring financial company upon consummation of the transaction would exceed 10 percent of the aggregate consolidated liabilities of all financial companies at the end of the calendar year preceding the transaction.

''(c) EXCEPTION TO CONCENTRATION LIMIT.—With the prior written consent of the Board, the concentration limit under subsection (b) shall not apply to an acquisition—

''(1) of a bank in default or in danger of default;

''(2) with respect to which assistance is provided by the Federal Deposit Insurance Corporation under section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)); or

''(3) that would result only in a de minimis increase in the liabilities of the financial company.

''(d) RULEMAKING AND GUIDANCE.—The Board shall issue regulations implementing this section in accordance with the recommendations of the Council under subsection (e), including the definition of terms, as necessary. The Board may issue interpretations or guidance regarding the application of this section to an individual financial company or to financial companies in general.

''(e) COUNCIL STUDY AND RULEMAKING.—

''(1) STUDY AND RECOMMENDATIONS.—Not later than 6 months after the date of enactment of this section, the Council shall—

''(A) complete a study of the extent to which the concentration limit under this section would affect financial stability, moral hazard in the financial system, the efficiency and competitiveness of United States financial firms and financial markets, and the cost and availability of credit and other financial services to households and businesses in the United States; and

''(B) make recommendations regarding any modifications to the concentration limit that the Council determines would more effectively implement this section.

''(2) RULEMAKING.—Not later than 9 months after the date of completion of the study under paragraph (1), and notwithstanding subsections (b) and (d), the Board shall issue final regulations implementing this section, which shall reflect any recommendations by the Council under paragraph (1)(B).''.

TITLE VII—WALL STREET TRANSPARENCY AND ACCOUNTABILITY

SEC. 701. SHORT TITLE.

This title may be cited as the ''Wall Street Transparency and Accountability Act of 2010''.

Subtitle A—Regulation of Over-the-Counter Swaps Markets

PART I—REGULATORY AUTHORITY

SEC. 711. DEFINITIONS.

In this subtitle, the terms ''prudential regulator'', ''swap'', ''swap dealer'', ''major swap participant'', ''swap data repository'', ''associated person of a swap dealer or major swap participant'', ''eligible contract participant'', ''swap execution facility'', ''security-based swap'', ''security-based swap dealer'', ''major security-based swap participant'', ''swap data repository'', and ''associated person of a security-based swap dealer or major security-based swap participant'' have the meanings given the terms in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

SEC. 712. REVIEW OF REGULATORY AUTHORITY.

(a) REGULATORY AUTHORITY.—

(1) IN GENERAL.—Except as provided in paragraphs (4) and (8), the Commodity Futures Trading Commission and the Securities

and Exchange Commission shall each prescribe such regulations as may be necessary to carry out the purposes of this title.

(2) COORDINATION, CONSISTENCY, AND COMPARABILITY.—Both Commissions required under paragraph (1) to prescribe regulations shall consult and coordinate with each other for the purposes of assuring, to the extent possible, that the regulations prescribed by each such Commission are consistent and comparable with the regulations prescribed by the other.

(3) PROCEDURES AND DEADLINE.—Such regulations shall be prescribed in accordance with applicable requirements of title 5, United States Code, and, shall be issued in final form not later than 180 days after the date of enactment of this Act.

(4) APPLICABILITY.—The requirements of paragraph (1) shall not apply to an order issued—

(A) in connection with or arising from a violation or potential violation of any provision of the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(B) in connection with or arising from a violation or potential violation of any provision of the securities laws; or

(C) in any proceeding that is conducted on the record in accordance with sections 556 and 557 of title 5, United States Code.

(5) EFFECT.—Nothing in this subsection authorizes any consultation or procedure for consultation that is not consistent with the requirements of subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the ''Administrative Procedure Act'').

(6) RULES; ORDERS.—In developing and promulgating rules or orders pursuant to this subsection, each Commission shall consider the views of the prudential regulators.

(7) TREATMENT OF SIMILAR PRODUCTS AND ENTITIES.—

(A) IN GENERAL.—In adopting rules and orders under this subsection, the Commodity Futures Trading Commission and the Securities and Exchange Commission shall treat functionally or economically similar products or entities described in paragraphs (1) and (2) in a similar manner.

(B) EFFECT.—Nothing in this subtitle requires the Commodity Futures Trading Commission or the Securities and Exchange Commission to adopt joint rules or orders that treat functionally or economically similar products or entities described in paragraphs (1) and (2) in an identical manner.

(8) MIXED SWAPS.—The Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly prescribe such regulations regarding mixed swaps, as described in section 1a(47)(D) of the Commodity Exchange Act (7 U.S.C. 1a(47)(D)) and in section (68)(D) of the Securities Exchange Act of 1934 (15 U.S.C. (68)(D)), as may be necessary to carry out the purposes of this title.

(b) LIMITATION.—

(1) COMMODITY FUTURES TRADING COMMISSION.—Nothing in this title, unless specifically provided, confers jurisdiction on the Commodity Futures Trading Commission to issue a rule, regulation, or order providing for oversight or regulation of—

(A) security-based swaps; or

(B) with regard to its activities or functions concerning security-based swaps—

(i) security-based swap dealers;

(ii) major security-based swap participants;

(iii) security-based swap data repositories;

(iv) persons associated with a security-based swap dealer or major security-based swap participant;

(v) eligible contract participants with respect to security-based swaps; or

(vi) swap execution facilities with respect to security-based swaps.

(2) SECURITIES AND EXCHANGE COMMISSION.—Nothing in this title, unless specifically provided, confers jurisdiction on the Securities and Exchange Commission or State securities regulators to issue a rule, regulation, or order providing for oversight or regulation of—

(A) swaps; or

(B) with regard to its activities or functions concerning swaps—

(i) swap dealers;

(ii) major swap participants;

(iii) swap data repositories;

(iv) persons associated with a swap dealer or major swap participant;

(v) eligible contract participants with respect to swaps; or

(vi) swap execution facilities with respect to swaps.

(3) PROHIBITION ON CERTAIN FUTURES ASSOCIATIONS AND NATIONAL SECURITIES ASSOCIATIONS.—

(A) FUTURES ASSOCIATIONS.—Notwithstanding any other provision of law (including regulations), unless otherwise authorized by this title, no futures association registered under section 17 of the Commodity Exchange Act (7 U.S.C. 21) may issue a rule, regulation, or order for the oversight or regulation of, or otherwise assert jurisdiction over, for any purpose, any security-based swap, except that this shall not limit the authority of a national futures association to examine for compliance with and enforce its rules on advertising and capital adequacy.

(B) NATIONAL SECURITIES ASSOCIATIONS.—Notwithstanding any other provision of law (including regulations), unless otherwise authorized by this title, no national securities association registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*–3) may issue a rule, regulation, or order for the oversight or regulation of, or otherwise assert jurisdiction over, for any purpose, any swap, except that this shall not limit the authority of a national securities association to examine for compliance with and enforce its rules on advertising and capital adequacy.

(c) OBJECTION TO COMMISSION REGULATION.—

(1) FILING OF PETITION FOR REVIEW.—

(A) IN GENERAL.—If either Commission referred to in this section determines that a final rule, regulation, or order of the other Commission conflicts with subsection (a)(4) or (b), then the complaining Commission may obtain review of the final rule, regulation, or order in the United States Court of Appeals for the District of Columbia Circuit by filing in the court, not later than 60 days after the date of publication of the final rule, regulation, or order, a written petition requesting that the rule, regulation, or order be set aside.

(B) EXPEDITED PROCEEDING.—A proceeding described in subparagraph (A) shall be expedited by the United States Court of Appeals for the District of Columbia Circuit.

(2) TRANSMITTAL OF PETITION AND RECORD.—

(A) IN GENERAL.—A copy of a petition described in paragraph (1) shall be transmitted not later than 1 business day after the date of filing by the complaining Commission to the Secretary of the responding Commission.

(B) DUTY OF RESPONDING COMMISSION.—On receipt of the copy of a petition described in paragraph (1), the responding Commission shall file with the United States Court of Appeals for the District of Columbia Circuit—

(i) a copy of the rule, regulation, or order under review (including any documents referred to therein); and

(ii) any other materials prescribed by the United States Court of Appeals for the District of Columbia Circuit.

(3) STANDARD OF REVIEW.—The United States Court of Appeals for the District of Columbia Circuit shall—

(A) give deference to the views of neither Commission; and

(B) determine to affirm or set aside a rule, regulation, or order of the responding Commission under this subsection, based on the determination of the court as to whether the rule, regulation, or order is in conflict with subsection (a)(4) or (b), as applicable.

(4) JUDICIAL STAY.—The filing of a petition by the complaining Commission pursuant to paragraph (1) shall operate as a stay of the rule, regulation, or order until the date on which the determination of the United States Court of Appeals for the District of Columbia Circuit is final (including any appeal of the determination).

(d) ADOPTION OF RULES ON UNCLEARED SWAPS.—Notwithstanding subsections (b) and (c), the Commodity Futures Trading Commission and the Securities and Exchange Commission shall, after consulting with each other Commission, adopt rules—

(1) to require the maintenance of records of all activities relating to transactions in swaps and security-based swaps under the respective jurisdictions of the Commodity Futures Trading Commission and the Securities and Exchange Commission that are uncleared;

(2) to make available, consistent with section 8 of the Commodity Exchange Act (7 U.S.C. 12), to the Securities and Exchange Commission information relating to swaps transactions that are uncleared; and

(3) to make available to the Commodity Futures Trading Commission information relating to security-based swaps transactions that are uncleared.

(e) DEFINITIONS.—Notwithstanding subsections (b) and (c), the Commodity Futures Trading Commission and the Securities and Exchange Commission shall jointly adopt rules to define the term ''security-based swap agreement'' in section 1a(47)(A)(v) of the Commodity Exchange Act (7 U.S.C. 1a(47)(A)(v)) and in section 3(a)(78) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(78)).

(f) GLOBAL RULEMAKING TIMEFRAME.—Unless otherwise provided in a particular provision of this title, or an amendment made by this title, the Commodity Futures Trading Commission or the Securities and Exchange Commission, or both, shall individually, and not jointly, promulgate rules and regulations required of each Commission under this title or an amendment made by this title not later than 180 days after the date of enactment of this Act.

(g) EXPEDITED RULEMAKING PROCESS.—The Commodity Futures Trading Commission or the Securities and Exchange Commission, or both, may use emergency and expedited procedures (including any administrative or other procedure as appropriate) to carry out this title and the amendments made by this title if, in either of the Commissions' discretion, it considers it necessary to do so.

SEC. 713. RECOMMENDATIONS FOR CHANGES TO PORTFOLIO MARGINING LAWS.

Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the prudential regulators shall submit to the appropriate committees of Congress recommendations for legislative changes to the Federal laws to facilitate the portfolio margining of securities and commodity futures and options, commodity options, swaps, and other financial instrument positions.

SEC. 714. ABUSIVE SWAPS.

The Commodity Futures Trading Commission or the Securities and Exchange Commission, or both, individually may, by rule or order—

(1) collect information as may be necessary concerning the markets for any types of—

(A) swap (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)); or

(B) security-based swap (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)); and

(2) issue a report with respect to any types of swaps or security-based swaps that the Commodity Futures Trading Commission or the Securities and Exchange Commission determines to be detrimental to—

(A) the stability of a financial market; or

(B) participants in a financial market.

SEC. 715. AUTHORITY TO PROHIBIT PARTICIPATION IN SWAP ACTIVITIES.

Except as provided in section 4 of the Commodity Exchange Act (7 U.S.C. 6) (as amended by section 738), if the Commodity Futures Trading Commission or the Securities and Exchange Commission determines that the regulation of swaps or security-based swaps markets in a foreign country undermines the stability of the United States financial system, either Commission, in consultation with the Secretary of the Treasury, may prohibit an entity domiciled in the foreign country from participating in the United States in any swap or security-based swap activities.

SEC. 716. PROHIBITION AGAINST FEDERAL GOVERNMENT BAILOUTS OF SWAPS ENTITIES.

(a) PROHIBITION ON FEDERAL ASSISTANCE.—Notwithstanding any other provision of law (including regulations), no Federal assistance may be provided to any swaps entity with respect to any swap, security-based swap, or other activity of the swaps entity.

(b) DEFINITIONS.—In this section:

(1) FEDERAL ASSISTANCE.—The term ''Federal assistance'' means the use of any funds, including advances from any Federal Reserve credit facility, discount window, or pursuant to the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343) (relating to emergency lending authority), Federal Deposit Insurance Corporation insurance, or guarantees for the purpose of—

(A) making any loan to, or purchasing any stock, equity interest, or debt obligation of, any swaps entity;

(B) purchasing the assets of any swaps entity;

(C) guaranteeing any loan or debt issuance of any swaps entity; or

(D) entering into any assistance arrangement (including tax breaks), loss sharing, or profit sharing with any swaps entity.

(2) SWAPS ENTITY.—The term ''swaps entity'' means any swap dealer, security-based swap dealer, major swap participant, major security-based swap participant, swap execution facility, designated contract market, national securities exchange, central counterparty, clearing house, clearing agency, or derivatives clearing organization that is registered under—

(A) the Commodity Exchange Act (7 U.S.C. 1 et seq.);

(B) the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); or

(C) any other Federal or State law (including regulations).

SEC. 717. NEW PRODUCT APPROVAL—CFTC–SEC PROCESS.

(a) AMENDMENTS TO THE COMMODITY EXCHANGE ACT.—Section 2(a)(1)(C) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(C)) is amended—

(1) in clause (i) by striking ''This'' and inserting ''(I) Except as provided in subclause (II), this''; and

(2) by adding at the end of clause (i) the following:

''(II) This Act shall apply to and the Commission shall have jurisdiction with respect to accounts, agreements, and transactions involving, and may permit the listing for trading pursuant to section 5c(c) of, a put, call, or other option on 1 or more securities (as defined in section 2(a)(1) of the Securities Act of 1933 or section 3(a)(10) of the Securities Exchange Act of 1934 on the date of enactment of the Futures Trading Act of 1982), including any group or index of such securities, or any interest therein or based on the value thereof, that is exempted by the Securities and Exchange Commission pursuant to section 36(a)(1) of the Securities Exchange Act of 1934 with the condition that the Commission exercise concurrent jurisdiction over such put, call, or other option; *provided*, however, that nothing in this paragraph shall be construed to affect the jurisdiction and authority of the Securities and Exchange Commission over such put, call, or other option.''.

(b) AMENDMENT TO THE SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 is amended by adding the following section after section 3A (15 U.S.C. 78c–1):

''SEC. 3B. SECURITIES-RELATED DERIVATIVES.

''(a) Any agreement, contract, or transaction (or class thereof) that is exempted by the Commodity Futures Trading Commission pursuant to section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) with the condition that the Commission exercise concurrent jurisdiction over such agreement, contract, or transaction (or class thereof) shall be deemed a security for purposes of the securities laws.

''(b) With respect to any agreement, contract, or transaction (or class thereof) that is exempted by the Commodity Futures Trading Commission pursuant to section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) with the condition that the Commission exercise concurrent jurisdiction over such agreement, contract, or transaction (or class thereof), references in the securities laws to the 'purchase' or 'sale' of a security shall be deemed to include the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under such agreement, contract, or transaction, as the context may require.''.

(c) AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.—Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by adding at the end the following:

''(10) Notwithstanding the provisions of paragraph (2), the time period within which the Commission is required by order to approve a proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved is stayed pending a determination by the Commission upon the request of the Commodity Futures Trading Commission or its Chairman that the Commission issue a determination as to whether a product that is the subject of such proposed rule change is a security pursuant to section 718 of the Wall Street Transparency and Accountability Act of 2010.''.

(d) AMENDMENT TO COMMODITY EXCHANGE ACT.—Section 5c(c)(1) of the Commodity Exchange Act (7 U.S.C. 7a–2(c)(1)) is amended—

(1) by striking ''Subject to paragraph (2)'' and inserting the following:

''(A) ELECTION.—Subject to paragraph (2)''; and

(2) by adding at the end the following:

''(B) CERTIFICATION.—The certification of a product pursuant to this paragraph shall be stayed pending a determination by the Commission upon the request of the Securities and Exchange Commission or its Chairman that the Commission issue a determination as to whether the product that is the subject of such certification is a contract of sale of a commodity for future delivery, an option on such a contract, or an option on a commodity pursuant to section 718 of the Wall Street Transparency and Accountability Act of 2010.''.

SEC. 718. DETERMINING STATUS OF NOVEL DERIVATIVE PRODUCTS.

(a) PROCESS FOR DETERMINING THE STATUS OF A NOVEL DERIVATIVE PRODUCT.—

(1) NOTICE.—

(A) IN GENERAL.—Any person filing a proposal to list or trade a novel derivative product that may have elements of both securities and contracts of sale of a commodity for future delivery (or options on such contracts or options on commodities) may concurrently provide notice and furnish a copy of such filing with both the Securities and Exchange Commission and the Commodity Futures Trading Commission. Any such notice shall state that notice has been made with both Commissions.

(B) NOTIFICATION.—If no concurrent notice is made pursuant to subparagraph (A), within 5 business days after determining that a proposal that seeks to list or trade a novel derivative product may have elements of both securities and contracts of sale of a commodity for future delivery (or options on such contracts or options on commodities), the Securities and Exchange Commission or the Commodity Futures Trading Commission, as applicable, shall notify the other Commission and provide a copy of such filing to the other Commission.

(2) REQUEST FOR DETERMINATION.—

(A) IN GENERAL.—No later than 21 days after receipt of a notice under paragraph (1), or upon its own initiative if no such notice is received, the Commodity Futures Trading Commission may request that the Securities and Exchange Commission issue a determination as to whether a product is a security, as defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).

(B) REQUEST.—No later than 21 days after receipt of a notice under paragraph (1), or upon its own initiative if no such notice is received, the Securities and Exchange Commission may request that the Commodity Futures Trading Commission issue a determination as to whether a product is a contract of sale of a commodity for future delivery, an option on such a contract, or an option on a commodity subject to the Commodity Futures Trading Commission's exclusive jurisdiction under section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)).

(C) REQUIREMENT RELATING TO REQUEST.—A request under subparagraph (A) or (B) shall be made by submitting such request, in writing, to the Securities and Exchange Commission or the Commodity Futures Trading Commission, as applicable.

(D) EFFECT.—Nothing in this paragraph shall be construed to prevent—

(i) the Commodity Futures Trading Commission from requesting that the Securities and Exchange Commission grant an exemption pursuant to section 36(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78mm(a)(1)) with respect to a product that is the subject of a filing under paragraph (1); or

(ii) the Securities and Exchange Commission from requesting that the Commodity Futures Trading Commission grant an exemption pursuant to section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) with respect to a product that is the subject of a filing under paragraph (1).

Provided, however, that nothing in this subparagraph shall be construed to require the Commodity Futures Trading Commission or

the Securities and Exchange Commission to issue an exemption requested pursuant to this subparagraph; *provided further*, That an order granting or denying an exemption described in this subparagraph and issued under paragraph (3)(B) shall not be subject to judicial review pursuant to subsection (b).

(E) WITHDRAWAL OF REQUEST.—A request under subparagraph (A) or (B) may be withdrawn by the Commission making the request at any time prior to a determination being made pursuant to paragraph (3) for any reason by providing written notice to the head of the other Commission.

(3) DETERMINATION.—Notwithstanding any other provision of law, no later than 120 days after the date of receipt of a request—

(A) under subparagraph (A) or (B) of paragraph (2), unless such request has been withdrawn pursuant to paragraph (2)(E), the Securities and Exchange Commission or the Commodity Futures Trading Commission, as applicable, shall, by order, issue the determination requested in subparagraph (A) or (B) of paragraph (2), as applicable, and the reasons therefore; or

(B) under paragraph (2)(D), unless such request has been withdrawn, the Securities and Exchange Commission or the Commodity Futures Trading Commission, as applicable, shall grant an exemption or provide reasons for not granting such exemption, provided that any decision by the Securities and Exchange Commission not to grant such exemption shall not be reviewable under section 25 of the Securities Exchange Act of 1934 (15 U.S.C. 78y).

(b) JUDICIAL RESOLUTION.—

(1) IN GENERAL.—The Commodity Futures Trading Commission or the Securities and Exchange Commission may petition the United States Court of Appeals for the District of Columbia Circuit for review of a final order of the other Commission, with respect to a novel derivative product that may have elements of both securities and contracts of sale of a commodity for future delivery (or options on such contracts or options on commodities) that it believes affects its statutory jurisdiction, including an order or orders issued under subsection (a)(3)(A), by filing in such court, within 60 days after the date of entry of such order, a written petition requesting a review of the order. Any such proceeding shall be expedited by the Court of Appeals.

(2) TRANSMITTAL OF PETITION AND RECORD.—A copy of a petition described in paragraph (1) shall be transmitted not later than 1 business day after filing by the complaining Commission to the responding Commission. On receipt of the petition, the responding Commission shall file with the court a copy of the order under review and any documents referred to therein, and any other materials prescribed by the court.

(3) STANDARD OF REVIEW.—The court, in considering a petition filed pursuant to paragraph (1), shall give no deference to, or presumption in favor of, the views of either Commission.

(4) JUDICIAL STAY.—The filing of a petition by the complaining Commission pursuant to paragraph (1) shall operate as a stay of the order, until the date on which the determination of the court is final (including any appeal of the determination).

PART II—REGULATION OF SWAP MARKETS

SEC. 721. DEFINITIONS.

(a) IN GENERAL.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by redesignating paragraphs (2), (3) and (4), (5) through (17), (18) through (23), (24) through (28), (29), (30), (31) through (33), and (34) as paragraphs (6), (8) and (9), (11) through (23), (26) through (31), (34) through (38), (40), (41), (44) through (46), and (51), respectively;

(2) by inserting after paragraph (1) the following:

''(2) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the meaning given the term in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(3) ASSOCIATED PERSON OF A SECURITY-BASED SWAP DEALER OR MAJOR SECURITY-BASED SWAP PARTICIPANT.—The term 'associated person of a security-based swap dealer or major security-based swap participant' has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

''(4) ASSOCIATED PERSON OF A SWAP DEALER OR MAJOR SWAP PARTICIPANT.—

''(A) IN GENERAL.—The term 'associated person of a swap dealer or major swap participant' means—

''(i) any partner, officer, director, or branch manager of a swap dealer or major swap participant (including any individual who holds a similar status or performs a similar function with respect to any partner, officer, director, or branch manager of a swap dealer or major swap participant);

''(ii) any person that directly or indirectly controls, is controlled by, or is under common control with, a swap dealer or major swap participant; and

''(iii) any employee of a swap dealer or major swap participant.

''(B) EXCLUSION.—Other than for purposes of section 4s(b)(6), the term 'associated person of a swap dealer or major swap participant' does not include any person associated with a swap dealer or major swap participant the functions of which are solely clerical or ministerial.

''(5) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.'';

(3) by inserting after paragraph (6) (as redesignated by paragraph (1)) the following:

''(7) CLEARED SWAP.—The term 'cleared swap' means any swap that is, directly or indirectly, submitted to and cleared by a derivatives clearing organization registered with the Commission.'';

(4) in paragraph (9) (as redesignated by paragraph (1)), by striking ''except onions'' and all that follows through the period at the end and inserting the following: ''except onions (as provided in section 13-1) and motion picture box office receipts (or any index, measure, value, or data related to such receipts), and all services, rights, and interests (except motion picture box office receipts, or any index, measure, value or data related to such receipts) in which contracts for future delivery are presently or in the future dealt in.'';

(5) by inserting after paragraph (9) (as redesignated by paragraph (1)) the following:

''(10) COMMODITY POOL.—

''(A) IN GENERAL.—The term 'commodity pool' means any investment trust, syndicate, or similar form of enterprise operated for the purpose of trading in commodity interests, including any—

''(i) commodity for future delivery, security futures product, or swap;

''(ii) agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);

''(iii) commodity option authorized under section 4c; or

''(iv) leverage transaction authorized under section 19.

''(B) FURTHER DEFINITION.—The Commission, by rule or regulation, may include within, or exclude from, the term 'commodity pool' any investment trust, syndicate, or similar form of enterprise if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(6) by striking paragraph (11) (as redesignated by paragraph (1)) and inserting the following:

''(11) COMMODITY POOL OPERATOR.—

''(A) IN GENERAL.—The term 'commodity pool operator' means any person—

''(i) engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in commodity interest, including any—

''(I) commodity for future delivery, security futures product, or swap;

''(II) agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);

''(III) commodity option authorized under section 4c; or

''(IV) leverage transaction authorized under section 19; or

''(ii) who is registered with the Commission as a commodity pool operator.

''(B) FURTHER DEFINITION.—The Commission, by rule or regulation, may include within, or exclude from, the term 'commodity pool operator' any person engaged in a business that is of the nature of a commodity pool, investment trust, syndicate, or similar form of enterprise if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(7) in paragraph (12) (as redesignated by paragraph (1)), in subparagraph (A)—

(A) in clause (i)—

(i) in subclause (I), by striking ''made or to be made on or subject to the rules of a contract market or derivatives transaction execution facility'' and inserting '', security futures product, or swap'';

(ii) by redesignating subclauses (II) and (III) as subclauses (III) and (IV);

(iii) by inserting after subclause (I) the following:

''(II) any agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i)''; and

(iv) in subclause (IV) (as so redesignated), by striking ''or'' ;

(B) in clause (ii), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(iii) is registered with the Commission as a commodity trading advisor; or

''(iv) the Commission, by rule or regulation, may include if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(8) in paragraph (17) (as redesignated by paragraph (1)), in subparagraph (A), in the matter preceding clause (i), by striking ''paragraph (12)(A)'' and inserting ''paragraph (18)(A)'';

(9) in paragraph (18) (as redesignated by paragraph (1))—

(A) in subparagraph (A)—

(i) in the matter following clause (vii)(III)—

(I) by striking ''section 1a (11)(A)'' and inserting ''paragraph (17)(A)''; and

(II) by striking ''$25,000,000'' and inserting ''$50,000,000''; and

(ii) in clause (xi), in the matter preceding subclause (I), by striking ''total assets in an amount'' and inserting ''amounts invested on a discretionary basis, the aggregate of which is'';

(10) by striking paragraph (22) (as redesignated by paragraph (1)) and inserting the following:

''(22) FLOOR BROKER.—

''(A) IN GENERAL.—The term 'floor broker' means any person—

''(i) who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person—

''(I) any commodity for future delivery, security futures product, or swap; or

''(II) any commodity option authorized under section 4c; or

''(ii) who is registered with the Commission as a floor broker.

''(B) FURTHER DEFINITION.—The Commission, by rule or regulation, may include within, or exclude from, the term 'floor broker' any person in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged who trades for any other person if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(11) by striking paragraph (23) (as redesignated by paragraph (1)) and inserting the following:

''(23) FLOOR TRADER.—

''(A) IN GENERAL.—The term 'floor trader' means any person—

''(i) who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, purchases, or sells solely for such person's own account—

''(I) any commodity for future delivery, security futures product, or swap; or

''(II) any commodity option authorized under section 4c; or

''(ii) who is registered with the Commission as a floor trader.

''(B) FURTHER DEFINITION.—The Commission, by rule or regulation, may include within, or exclude from, the term 'floor trader' any person in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged who trades solely for such person's own account if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(12) by inserting after paragraph (23) (as redesignated by paragraph (1)) the following:

''(24) FOREIGN EXCHANGE FORWARD.—The term 'foreign exchange forward' means a transaction that solely involves the exchange of 2 different currencies on a specific future date at a fixed rate agreed upon on the inception of the contract covering the exchange.

''(25) FOREIGN EXCHANGE SWAP.—The term 'foreign exchange swap' means a transaction that solely involves—

''(A) an exchange of 2 different currencies on a specific date at a fixed rate that is agreed upon on the inception of the contract covering the exchange; and

''(B) a reverse exchange of the 2 currencies described in subparagraph (A) at a later date and at a fixed rate that is agreed upon on the inception of the contract covering the exchange.'';

(13) by striking paragraph (28) (as redesignated by paragraph (1)) and inserting the following:

''(28) FUTURES COMMISSION MERCHANT.—

''(A) IN GENERAL.—The term 'futures commission merchant' means an individual, association, partnership, corporation, or trust—

''(i) that—

''(I) is engaged in soliciting or in accepting orders for—

''(aa) the purchase or sale of a commodity for future delivery;

''(bb) a security futures product;

''(cc) a swap;

''(dd) any agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);

''(ee) any commodity option authorized under section 4c; or

''(ff) any leverage transaction authorized under section 19; or

''(II) is acting as a counterparty in any agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i); and

''(III) in or in connection with the activities described in subclause (I) or (II), accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom; or

''(ii) that is registered with the Commission as a futures commission merchant.

''(B) FURTHER DEFINITION.—The Commission, by rule or regulation, may include within, or exclude from, the term 'futures commission merchant' any person who engages in soliciting or accepting orders for, or acting as a counterparty in, any agreement, contract, or transaction subject to this Act, and who accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom, if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(14) in paragraph (30) (as redesignated by paragraph (1)), in subparagraph (B), by striking ''state'' and inserting ''State'';

(15) by striking paragraph (31) (as redesignated by paragraph (1)) and inserting the following:

''(31) INTRODUCING BROKER.—

''(A) IN GENERAL.—The term 'introducing broker' means any person (except an individual who elects to be and is registered as an associated person of a futures commission merchant)—

''(i) who—

''(I) is engaged in soliciting or in accepting orders for—

''(aa) the purchase or sale of any commodity for future delivery, security futures product, or swap;

''(bb) any agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);

''(cc) any commodity option authorized under section 4c; or

''(dd) any leverage transaction authorized under section 19; and

''(II) does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom; or

''(ii) who is registered with the Commission as an introducing broker.

''(B) FURTHER DEFINITION.—The Commission, by rule or regulation, may include within, or exclude from, the term 'introducing broker' any person who engages in soliciting or accepting orders for any agreement, contract, or transaction subject to this Act, and who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom, if the Commission determines that the rule or regulation will effectuate the purposes of this Act.'';

(16) by inserting after paragraph (31) (as redesignated by paragraph (1)) the following:

''(32) MAJOR SECURITY-BASED SWAP PARTICIPANT.—The term 'major security-based swap participant' has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

''(33) MAJOR SWAP PARTICIPANT.—

''(A) IN GENERAL.—The term 'major swap participant' means any person who is not a swap dealer, and—

''(i) maintains a substantial position in swaps for any of the major swap categories as determined by the Commission, excluding—

''(I) positions held for hedging or mitigating commercial risk; and

''(II) positions maintained by any employee benefit plan (or any contract held by such a plan) as defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) for the primary purpose of hedging or mitigating any risk directly associated with the operation of the plan; or

''(ii) whose outstanding swaps create substantial counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets; or

''(iii)(I) is a financial entity, other than an entity predominantly engaged in providing financing for the purchase of an affiliate's merchandise or manufactured goods, that is highly leveraged relative to the amount of capital it holds; and

''(II) maintains a substantial position in outstanding swaps in any major swap category as determined by the Commission.

''(B) DEFINITION OF SUBSTANTIAL POSITION.—For purposes of subparagraph (A), the Commission shall define by rule or regulation the term 'substantial position' at the threshold that the Commission determines to be prudent for the effective monitoring, management, and oversight of entities that are systemically important or can significantly impact the financial system of the United States.

''(C) SCOPE OF DESIGNATION.—For purposes of subparagraph (A), a person may be designated as a major swap participant for 1 or more categories of swaps without being classified as a major swap participant for all classes of swaps.

''(D) CAPITAL.—In setting capital requirements for a person that is designated as a major swap participant for a single type or single class or category of swaps or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in and the other activities conducted by that person that are not otherwise subject to regulation applicable to that person by virtue of the status of the person as a major swap participant.'';

(17) by inserting after paragraph (38) (as redesignated by paragraph (1)) the following:

''(39) PRUDENTIAL REGULATOR.—The term 'prudential regulator' means—

''(A) the Office of the Comptroller of the Currency, in the case of—

''(i) any national banking association;

''(ii) any Federal branch or agency of a foreign bank; or

''(iii) any Federal savings association;

''(B) the Federal Deposit Insurance Corporation, in the case of—

''(i) any insured State bank;

''(ii) any foreign bank having an insured branch; or

''(iii) any State savings association;

''(C) the Board of Governors of the Federal Reserve System, in the case of—

''(i) any noninsured State member bank;

''(ii) any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act (12 U.S.C. 221 et seq.) which is made applicable under the International Banking Act of 1978 (12 U.S.C. 3101 et seq.);

''(iii) any foreign bank which does not operate an insured branch;

''(iv) any agency or commercial lending company other than a Federal agency; or

''(v) supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978 (12 U.S.C. 3105(c)(1)), including such proceedings under the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1464 et seq.); and

''(D) the Farm Credit Administration, in the case of a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant that is an institution chartered under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).'';

(18) in paragraph (40) (as redesignated by paragraph (1))—

(A) by striking subparagraph (B);

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

(C) in subparagraph (C) (as so redesignated), by striking ''and'';

(D) by inserting after subparagraph (C) (as so redesignated) the following:

''(D) a swap execution facility registered under section 5h;

''(E) a swap data repository; and'';

(19) by inserting after paragraph (41) (as redesignated by paragraph (1)) the following:

''(42) SECURITY-BASED SWAP.—The term 'security-based swap' has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

''(43) SECURITY-BASED SWAP DEALER.—The term 'security-based swap dealer' has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).'';

(20) in paragraph (46) (as redesignated by paragraph (1)), by striking ''subject to section 2(h)(7)'' and inserting ''subject to section 2(h)(5)'';

(21) by inserting after paragraph (46) (as redesignated by paragraph (1)) the following:

''(47) SWAP.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'swap' means any agreement, contract, or transaction—

''(i) that is a put, call, cap, floor, collar, or similar option of any kind that is for the purchase or sale, or based on the value, of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind;

''(ii) that provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, nonoccurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence;

''(iii) that provides on an executory basis for the exchange, on a fixed or contingent basis, of 1 or more payments based on the value or level of 1 or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind, or any interest therein or based on the value thereof, and that transfers, as between the parties to the transaction, in whole or in part, the financial risk associated with a future change in any such value or level without also conveying a current or future direct or indirect ownership interest in an asset (including any enterprise or investment pool) or liability that incorporates the financial risk so transferred, including any agreement, contract, or transaction commonly known as—

''(I) an interest rate swap;

''(II) a rate floor;

''(III) a rate cap;

''(IV) a rate collar;

''(V) a cross-currency rate swap;

''(VI) a basis swap;

''(VII) a currency swap;

''(VIII) a foreign exchange swap;

''(IX) a total return swap;

''(X) an equity index swap;

''(XI) an equity swap;

''(XII) a debt index swap;

''(XIII) a debt swap;

''(XIV) a credit spread;

''(XV) a credit default swap;

''(XVI) a credit swap;

''(XVII) a weather swap;

''(XVIII) an energy swap;

''(XIX) a metal swap;

''(XX) an agricultural swap;

''(XXI) an emissions swap; and

''(XXII) a commodity swap;

''(iv) that is an agreement, contract, or transaction that is, or in the future becomes commonly known to the trade as a swap;

''(v) including any security-based swap agreement which meets the definition of 'swap agreement' as defined in section 206A of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) of which a material term is based on the price, yield, value, or volatility of any security or any group or index of securities, or any interest therein; or

''(vi) that is any combination or permutation of, or option on, any agreement, contract, or transaction described in any of clauses (i) through (v).

''(B) EXCLUSIONS.—The term 'swap' does not include—

''(i) any contract of sale of a commodity for future delivery (or option on such a contract), leverage contract authorized under section 19, security futures product, or agreement, contract, or transaction described in section 2(c)(2)(C)(i) or section 2(c)(2)(D)(i);

''(ii) any sale of a nonfinancial commodity or security for deferred shipment or delivery, so long as the transaction is intended to be physically settled;

''(iii) any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof, that is subject to—

''(I) the Securities Act of 1933 (15 U.S.C. 77a et seq.); and

''(II) the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

''(iv) any put, call, straddle, option, or privilege relating to a foreign currency entered into on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a));

''(v) any agreement, contract, or transaction providing for the purchase or sale of 1 or more securities on a fixed basis that is subject to—

''(I) the Securities Act of 1933 (15 U.S.C. 77a et seq.); and

''(II) the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

''(vi) any agreement, contract, or transaction providing for the purchase or sale of 1 or more securities on a contingent basis that is subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless the agreement, contract, or transaction predicates the purchase or sale on the occurrence of a bona fide contingency that might reasonably be expected to affect or be affected by the creditworthiness of a party other than a party to the agreement, contract, or transaction;

''(vii) any note, bond, or evidence of indebtedness that is a security, as defined in section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a));

''(viii) any agreement, contract, or transaction that is—

''(I) based on a security; and

''(II) entered into directly or through an underwriter (as defined in section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a))) by the issuer of such security for the purposes of raising capital, unless the agreement, contract, or transaction is entered into to manage a risk associated with capital raising;

''(ix) any agreement, contract, or transaction a counterparty of which is a Federal Reserve bank, the Federal Government, or a Federal agency that is expressly backed by the full faith and credit of the United States; and

''(x) any security-based swap, other than a security-based swap as described in subparagraph (D).

''(C) RULE OF CONSTRUCTION REGARDING MASTER AGREEMENTS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the term 'swap' includes a master agreement that provides for an agreement, contract, or transaction that is a swap under subparagraph (A), together with each supplement to any master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a swap pursuant to subparagraph (A).

''(ii) EXCEPTION.—For purposes of clause (i), the master agreement shall be considered to be a swap only with respect to each agreement, contract, or transaction covered by the master agreement that is a swap pursuant to subparagraph (A).

''(D) MIXED SWAP.—The term 'security-based swap' includes any agreement, contract, or transaction that is as described in section 3(a)(68)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(68)(A)) and also is based on the value of 1 or more interest or other rates, currencies, commodities, instruments of indebtedness, indices, quantitative measures, other financial or economic interest or property of any kind (other than a single security or a narrow-based security index), or the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence (other than an event described in subparagraph (A)(iii)).

''(E) TREATMENT OF FOREIGN EXCHANGE SWAPS AND FORWARDS.—

''(i) IN GENERAL.—Foreign exchange swaps and foreign exchange forwards shall be considered swaps under this paragraph unless the Secretary makes a written determination that either foreign exchange swaps or foreign exchange forwards or both—

''(I) should be not be regulated as swaps under this Act; and

''(II) are not structured to evade the Wall Street Transparency and Accountability Act of 2010 in violation of any rule promulgated by the Commission pursuant to section 111(c) of that Act.

''(ii) CONGRESSIONAL NOTICE; EFFECTIVENESS.—The Secretary shall submit any written determination under clause (i) to the appropriate committees of Congress, including the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. Any such written determination by the Secretary shall not be effective until it is submitted to the appropriate committees of Congress.

''(iii) REPORTING.—Notwithstanding a written determination by the Secretary under clause (i), all foreign exchange swaps and foreign exchange forwards shall be reported to either a swap data repository, or, if there is no swap data repository that would accept such swaps or forwards, to the Commission pursuant to section 4r within such time period as the Commission may by rule or regulation prescribe.

''(iv) BUSINESS STANDARDS.—Notwithstanding clauses (ix) and (x) of subparagraph (B) and clause (ii), any party to a foreign exchange swap or forward that is a swap dealer or major swap participant shall conform to the business conduct standards contained in section 4s(h).

''(v) SECRETARY.—For purposes of this subparagraph only, the term 'Secretary' means the Secretary of the Treasury.

''(F) EXCEPTION FOR CERTAIN FOREIGN EXCHANGE SWAPS AND FORWARDS.—

''(i) REGISTERED ENTITIES.—Any foreign exchange swap and any foreign exchange forward that is listed and traded on or subject to the rules of a designated contract market or a swap execution facility, or that is cleared by a derivatives clearing organization shall not be exempt from any provision of this Act or amendments made by the Wall Street Transparency and Accountability Act of 2010 prohibiting fraud or manipulation.

''(ii) RETAIL TRANSACTIONS.—Nothing in subparagraph (E) shall affect, or be construed to affect, the applicability of this Act or the jurisdiction of the Commission with respect to agreements, contracts, or transactions in foreign currency pursuant to section 2(c)(2).

''(48) SWAP DATA REPOSITORY.—The term 'swap data repository' means any person that collects, calculates, prepares, or maintains information or records with respect to transactions or positions in, or the terms and conditions of, swaps entered into by third parties.

''(49) SWAP DEALER.—

''(A) IN GENERAL.—The term 'swap dealer' means any person who—

''(i) holds itself out as a dealer in swaps;

''(ii) makes a market in swaps;

''(iii) regularly engages in the purchase and sale of swaps in the ordinary course of business; or

''(iv) engages in any activity causing the person to be commonly known in the trade as a dealer or market maker in swaps.

''(B) INCLUSION.—A person may be designated as a swap dealer for a single type or single class or category of swap or activities and considered not to be a swap dealer for other types, classes, or categories of swaps or activities.

''(C) CAPITAL.—In setting capital requirements for a person that is designated as a swap dealer for a single type or single class or category of swap or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of swaps or classes of swaps or categories of swaps engaged in and the other activities conducted by that person that are not otherwise subject to regulation applicable to that person by virtue of the status of the person as a swap dealer.

''(D) EXCEPTION.—The term 'swap dealer' does not include a person that buys or sells swaps for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

''(50) SWAP EXECUTION FACILITY.—The term 'swap execution facility' means a facility in which multiple participants have the ability to execute or trade swaps by accepting bids and offers made by other participants that are open to multiple participants in the facility or system, through any means of interstate commerce, including any trading facility, that—

''(A) facilitates the execution of swaps between persons; and

''(B) is not a designated contract market.''; and

(22) in paragraph (51) (as redesignated by paragraph (1)), in subparagraph (A)(i), by striking ''partipants'' and inserting ''participants''.

(b) AUTHORITY TO DEFINE TERMS.—The Commodity Futures Trading Commission may adopt a rule to define—

(1) the term ''commercial risk''; and

(2) any other term included in an amendment to the Commodity Exchange Act (7 U.S.C. 1 et seq.) made by this subtitle.

(c) MODIFICATION OF DEFINITIONS.—To include transactions and entities that have been structured to evade this subtitle (or an amendment made by this subtitle), the Commodity Futures Trading Commission shall adopt a rule to further define the terms ''swap'', ''swap dealer'', ''major swap participant'', and ''eligible contract participant''.

(d) EXEMPTIONS.—Section 4(c)(1) of the Commodity Exchange Act (7 U.S.C. 6(c)(1)) is amended by striking ''except that'' and all that follows through the period at the end and inserting the following: ''except that—

''(A) unless the Commission is expressly authorized by any provision described in this subparagraph to grant exemptions, with respect to amendments made by subtitle A of the Wall Street Transparency and Accountability Act of 2010—

''(i) with respect to—

''(I) paragraphs (2), (3), (4), (5), and (7), clause (vii)(III) of paragraph (17), paragraphs (23), (24), (31), (32), (38), (39), (41), (42), (46), (47), (48), and (49) of section 1a, and sections 2(a)(13), 2(c)(D), 4a(a), 4a(b), 4d(c), 4d(d), 4r, 4s, 5b(a), 5b(b), 5(d), 5(g), 5(h), 5b(c), 5b(i), 8e, and 21; and

''(II) section 206(e) of the Gramm-Leach-Bliley Act (Public Law 106–102; 15 U.S.C. 78c note); and

''(ii) in subsection (c) of section 111 and section 132; and

''(B) the Commission and the Securities and Exchange Commission may by rule, regulation, or order jointly exclude any agreement, contract, or transaction from section 2(a)(1)(D)) if the Commission determines that the exemption would be consistent with the public interest.''.

(e) CONFORMING AMENDMENTS.—

(1) Section 2(c)(2)(B)(i)(II) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)) is amended—

(A) in item (cc)—

(i) in subitem (AA), by striking ''section 1a(20)'' and inserting ''section 1a''; and

(ii) in subitem (BB), by striking ''section 1a(20)'' and inserting ''section 1a''; and

(B) in item (dd), by striking ''section 1a(12)(A)(ii)'' and inserting ''section 1a(18)(A)(ii)''.

(2) Section 4m(3) of the Commodity Exchange Act (7 U.S.C. 6m(3)) is amended by striking ''section 1a(6)'' and inserting ''section 1a''.

(3) Section 4q(a)(1) of the Commodity Exchange Act (7 U.S.C. 6o–1(a)(1)) is amended by striking ''section 1a(4)'' and inserting ''section 1a(9)''.

(4) Section 5(e)(1) of the Commodity Exchange Act (7 U.S.C. 7(e)(1)) is amended by striking ''section 1a(4)'' and inserting ''section 1a(9)''.

(5) Section 5a(b)(2)(F) of the Commodity Exchange Act (7 U.S.C. 7a(b)(2)(F)) is amended by striking ''section 1a(4)'' and inserting ''section 1a(9)''.

(6) Section 5b(a) of the Commodity Exchange Act (7 U.S.C. 7a–1(a)) is amended, in the matter preceding paragraph (1), by striking ''section 1a(9)'' and inserting ''section 1a''.

(7) Section 5c(c)(2)(B) of the Commodity Exchange Act (7 U.S.C. 7a–2(c)(2)(B)) is amended by striking ''section 1a(4)'' and inserting ''section 1a(9)''.

(8) Section 6(g)(5)(B)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(g)(5)(B)(i)) is amended—

(A) in subclause (I), by striking ''section 1a(12)(B)(ii)'' and inserting ''section 1a(18)(B)(ii)''; and

(B) in subclause (II), by striking ''section 1a(12)'' and inserting ''section 1a(18)''.

(9) The Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27 et seq.) is amended—

(A) in section 402—

(i) in subsection (a)(7), by striking ''section 1a(20)'' and inserting ''section 1a'';

(ii) in subsection (b)(2), by striking ''section 1a(12)'' and inserting ''section 1a'';

(iii) in subsection (c), by striking ''section 1a(4)'' and inserting ''section 1a''; and

(iv) in subsection (d)—

(I) in the matter preceding paragraph (1), by striking ''section 1a(4)'' and inserting ''section 1a(9)'';

(II) in paragraph (1)—

(aa) in subparagraph (A), by striking ''section 1a(12)'' and inserting ''section 1a''; and

(bb) in subparagraph (B), by striking ''section 1a(33)'' and inserting ''section 1a'';

(III) in paragraph (2)—

(aa) in subparagraph (A), by striking ''section 1a(10)'' and inserting ''section 1a'';

(bb) in subparagraph (B), by striking ''section 1a(12)(B)(ii)'' and inserting ''section 1a(18)(B)(ii)'';

(cc) in subparagraph (C), by striking ''section 1a(12)'' and inserting ''section 1a(18)''; and

(dd) in subparagraph (D), by striking ''section 1a(13)'' and inserting ''section 1a''; and

(B) in section 404(1), by striking ''section 1a(4)'' and inserting ''section 1a''.

SEC. 722. JURISDICTION.

(a) EXCLUSIVE JURISDICTION.—Section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)) is amended in the first sentence—

(1) by inserting ''the Wall Street Transparency and Accountability Act of 2010 (including an amendment made by that Act) and'' after ''otherwise provided in'';

(2) by striking ''(c) through (i) of this section'' and inserting ''(c) and (f)'';

(3) by striking ''contracts of sale'' and inserting ''swaps or contracts of sale''; and

(4) by striking ''or derivatives transaction execution facility registered pursuant to section 5 or 5a'' and inserting ''pursuant to section 5''.

(b) REGULATION OF SWAPS UNDER FEDERAL AND STATE LAW.—Section 12 of the Commodity Exchange Act (7 U.S.C. 16) is amended by adding at the end the following:

''(h) REGULATION OF SWAPS AS INSURANCE UNDER STATE LAW.—A swap—

''(1) shall not be considered to be insurance; and

''(2) may not be regulated as an insurance contract under the law of any State.''.

(c) AGREEMENTS, CONTRACTS, AND TRANSACTIONS TRADED ON AN ORGANIZED EXCHANGE.—Section 2(c)(2)(A) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(A)) is amended—

(1) in clause (i), by striking ''or'' at the end;

(2) by redesignating clause (ii) as clause (iii); and

(3) by inserting after clause (i) the following:

''(ii) a swap; or''.

(d) APPLICABILITY.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) (as amended by section 723(a)(3)) is amended by adding at the end the following:

''(i) APPLICABILITY.—The provisions of this Act relating to swaps that were enacted by the Wall Street Transparency and Accountability Act of 2010 (including any rule prescribed or regulation promulgated under that Act), shall not apply to activities outside the United States unless those activities—

''(1) have a direct and significant connection with activities in, or effect on, commerce of the United States; or

''(2) contravene such rules or regulations as the Commission may prescribe or promulgate as are necessary or appropriate to prevent the evasion of any provision of this Act that was enacted by the Wall Street Transparency and Accountability Act of 2010.''.

SEC. 723. CLEARING.

(a) CLEARING REQUIREMENT.—

(1) IN GENERAL.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(A) by striking subsections (d), (e), (g), and (h); and

(B) by redesignating subsection (i) as subsection (g).

(2) SWAPS; LIMITATION ON PARTICIPATION.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) (as amended by paragraph (1)) is amended by inserting after subsection (c) the following:

''(d) SWAPS.—Nothing in this Act (other than subparagraphs (A), (B), (C), and (D) of subsection (a)(1), subsections (f) and (g), sections 1a, 2(c)(2)(A)(ii), 2(e), 2(h), 4(c), 4a, 4b, and 4b-1, subsections (a), (b), and (g) of section 4c, sections 4d, 4e, 4f, 4g, 4h, 4i, 4j, 4k, 4l, 4m, 4n, 4o, 4p, 4r, 4s, 4t, 5, 5b, 5c, 5e, and 5h, subsections (c) and (d) of section 6, sections 6c, 6d, 8, 8a, and 9, subsections (e)(2) and (f) of section 12, subsections (a) and (b) of section 13, sections 17, 20, 21, and 22(a)(4), and any other provision of this Act that is applicable to registered entities and Commission registrants) governs or applies to a swap.

''(e) LIMITATION ON PARTICIPATION.—It shall be unlawful for any person, other than an eligible contract participant, to enter into a swap unless the swap is entered into on, or subject to the rules of, a board of trade designated as a contract market under section 5.''.

(3) MANDATORY CLEARING OF SWAPS.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by inserting after subsection (g) (as redesignated by paragraph (1)(B)) the following:

''(h) CLEARING REQUIREMENT.—

''(1) SUBMISSION.—

''(A) IN GENERAL.—Except as provided in paragraphs (9) and (10), any person who is a party to a swap shall submit such swap for clearing to a derivatives clearing organization that is registered under this Act or a derivatives clearing organization that is exempt from registration under section 5b(j) of this Act.

''(B) OPEN ACCESS.—The rules of a registered derivatives clearing organization shall—

''(i) prescribe that all swaps with the same terms and conditions are economically equivalent and may be offset with each other within the derivatives clearing organization; and

''(ii) provide for nondiscriminatory clearing of a swap executed bilaterally or on or through the rules of an unaffiliated designated contract market or swap execution facility, subject to the requirements of section 5(b).

''(2) COMMISSION APPROVAL.—

''(A) IN GENERAL.—A derivatives clearing organization shall submit to the Commission for prior approval any group, category, type, or class of swaps that the derivatives clearing organization seeks to accept for clearing, which submission the Commission shall make available to the public.

''(B) DEADLINE.—The Commission shall take final action on a request submitted pursuant to subparagraph (A) not later than 90 days after submission of the request, unless the derivatives clearing organization submitting the request agrees to an extension of the time limitation established under this subparagraph.

''(C) APPROVAL.—The Commission shall approve, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, any request submitted pursuant to subparagraph (A) if the Commission finds that the request is consistent with section 5b(c)(2). The Commission shall not approve any such request if the Commission does not make such finding.

''(D) RULES.—The Commission shall adopt rules for a derivatives clearing organization's submission for approval, pursuant to this paragraph, of any group, category, type, or class of swaps that the derivative clearing organization seeks to accept for clearing.

''(3) STAY OF CLEARING REQUIREMENT.—At any time after issuance of an approval pursuant to paragraph (2):

''(A) REVIEW PROCESS.—The Commission, on application of a counterparty to a swap or on its own initiative, may stay the clearing requirement of paragraph (1) until the Commission completes a review of the terms of the swap, or the group, category, type, or class of swaps, and the clearing arrangement.

''(B) DEADLINE.—The Commission shall complete a review undertaken pursuant to subparagraph (A) not later than 90 days after issuance of the stay, unless the derivatives clearing organization that clears the swap, or the group, category, type, or class of swaps, agrees to an extension of the time limitation established under this subparagraph.

''(C) DETERMINATION.—Upon completion of the review undertaken pursuant to subparagraph (A)—

''(i) the Commission may determine, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, that the swap, or the group, category, type, or class of swaps, must be cleared pursuant to this subsection if the Commission finds that such clearing—

''(I) is consistent with section 5b(c)(2); and

''(II) is otherwise in the public interest, for the protection of investors, and consistent with the purposes of this Act;

''(ii) the Commission may determine that the clearing requirement of paragraph (1) shall not apply to the swap, or the group, category, type, or class of swaps; or

''(iii) if a determination is made that the clearing requirement of paragraph (1) shall no longer apply, then it shall still be permissible to clear such swap, or the group, category, type, or class of swaps.

''(D) RULES.—The Commission shall adopt rules for reviewing, pursuant to this paragraph, a derivatives clearing organization's clearing of a swap, or a group, category, type, or class of swaps that the Commission has accepted for clearing.

''(4) SWAPS REQUIRED TO BE ACCEPTED FOR CLEARING.—

''(A) RULEMAKING.—The Commission shall adopt rules to further identify any group, category, type, or class of swaps not submitted for approval under paragraph (2) that the Commission deems should be accepted for clearing. In adopting such rules, the Commission shall take into account the following factors:

''(i) The extent to which any of the terms of the group, category, type, or class of swaps, including price, are disseminated to third parties or are referenced in other agreements, contracts, or transactions.

''(ii) The volume of transactions in the group, category, type, or class of swaps.

''(iii) The extent to which the terms of the group, category, type, or class of swaps are similar to the terms of other agreements, contracts, or transactions that are cleared.

''(iv) Whether any differences in the terms of the group, category, type, or class of swaps, compared to other agreements, contracts, or transactions that are cleared, are of economic significance.

''(v) Whether a derivatives clearing organization is prepared to clear the group, category, type, or class of swaps and such derivatives clearing organization has in place effective risk management systems.

''(vi) Any other factors the Commission determine to be appropriate.

''(B) OTHER DESIGNATIONS.—At any time after the adoption of the rules required under subparagraph (A), the Commission may separately designate a particular swap or class of swaps as subject to the clearing requirement in paragraph (1), taking into account the factors described in clauses (i) through (vi) of subparagraph (A) and the rules adopted under such subparagraph.

''(C) IN GENERAL.—In accordance with subparagraph (A), the Commission shall, consistent with the public interest, adopt rules under the expedited process described in subparagraph (D) to establish criteria for determining that a swap, or any group, category, type, or class of swap is required to be cleared.

''(D) EXPEDITED RULEMAKING AUTHORITY.—

''(i) PROCEDURE.—The promulgation of regulations under subparagraph (A) may be made without regard to—

''(I) the notice and comment provisions of section 553 of title 5, United States Code; and

''(II) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

''(ii) AGENCY RULEMAKING.—In carrying out subparagraph (A), the Commission shall use the authority provided under section 808 of title 5, United States Code.

''(5) PREVENTION OF EVASION.—

''(A) IN GENERAL.—The Commission may prescribe rules under this subsection (and issue interpretations of rules prescribed under this subsection) as determined by the Commission to be necessary to prevent evasions of the mandatory clearing requirements under this Act.

''(B) DUTY OF COMMISSION TO INVESTIGATE AND TAKE CERTAIN ACTIONS.—To the extent the Commission finds that a particular swap, group, category, type, or class of swaps would otherwise be subject to mandatory clearing but no derivatives clearing organization has listed the swap, group, category, type, or class of swaps for clearing, the Commission shall—

''(i) investigate the relevant facts and circumstances;

''(ii) within 30 days issue a public report containing the results of the investigation; and

''(iii) take such actions as the Commission determines to be necessary and in the public interest, which may include requiring the retaining of adequate margin or capital by parties to the swap, group, category, type, or class of swaps.

''(C) EFFECT ON AUTHORITY.—Nothing in this paragraph shall—

''(i) authorize the Commission to require a derivatives clearing organization to list for clearing a swap, group, category, type, or class of swaps if the clearing of the swap, group, category, type, or class of swaps would adversely affect the business operations of the derivatives clearing organization, threaten the financial integrity of the derivatives clearing organization, or pose a systemic risk to the derivatives clearing organization; and

''(ii) affect the authority of the Commission to enforce the open access provisions of paragraph (1) with respect to a swap, group,

category, type, or class of swaps that is listed for clearing by a derivatives clearing organization.

''(6) REQUIRED REPORTING.—

''(A) BOTH COUNTERPARTIES.—Both counterparties to a swap that is not cleared by any derivatives clearing organization shall report such a swap either to a registered swap repository described in section 21 or, if there is no repository that would accept the swap, to the Commission pursuant to section 4r.

''(B) TIMING.—Counterparties to a swap shall submit the reports required under subparagraph (A) not later than such time period as the Commission may by rule or regulation prescribe.

''(7) TRANSITION RULES.—

''(A) REPORTING TRANSITION RULES.—Rules adopted by the Commission under this section shall provide for the reporting of data, as follows:

''(i) SWAPS ENTERED INTO BEFORE DATE OF ENACTMENT OF THIS SUBSECTION.—Swaps entered into before the date of the enactment of this subsection shall be reported to a registered swap repository or the Commission not later than 180 days after the effective date of this subsection.

''(ii) SWAPS ENTERED INTO ON OR AFTER DATE OF ENACTMENT OF THIS SUBSECTION.—Swaps entered into on or after such date of enactment shall be reported to a registered swap repository or the Commission not later than the later of—

''(I) 90 days after such effective date; or

''(II) such other time after entering into the swap as the Commission may prescribe by rule or regulation.

''(B) CLEARING TRANSITION RULES.—

''(i) SWAPS ENTERED INTO BEFORE THE DATE OF THE ENACTMENT OF THIS SUBSECTION.—Swaps entered into before the date of the enactment of this subsection are exempt from the clearing requirements of this subsection if reported pursuant to subparagraph (A)(i).

''(ii) SWAPS ENTERED INTO BEFORE APPLICATION OF CLEARING REQUIREMENT.—Swaps entered into before application of the clearing requirement pursuant to this subsection are exempt from the clearing requirements of this subsection if reported pursuant to subparagraph (A)(ii).

''(8) TRADE EXECUTION.—

''(A) IN GENERAL.—With respect to transactions involving swaps subject to the clearing requirement of paragraph (1), counterparties shall—

''(i) execute the transaction on a board of trade designated as a contract market under section 5; or

''(ii) execute the transaction on a swap execution facility registered under section 5h or a swap execution facility that is exempt from registration under section 5h(f) of this Act.

''(B) EXCEPTION.—The requirements of clauses (i) and (ii) of subparagraph (A) shall not apply if no board of trade or swap execution facility makes the swap available to trade or a swap transactions where a commercial end user opts to use the clearing exemption under paragraph (9).

''(9) REQUIRED EXEMPTION.—Subject to paragraph (4), the Commission shall exempt a swap from the requirements of paragraphs (1) and (8) and any rules issued under this subsection, if no derivatives clearing organization registered under this Act or no derivatives clearing organization that is exempt from registration under section 5b(j) of this Act will accept the swap from clearing.

''(10) END USER CLEARING EXEMPTION.—

''(A) DEFINITION OF COMMERCIAL END USER.—

''(i) IN GENERAL.—In this paragraph, the term 'commercial end user' means any person other than a financial entity described in clause (ii) who, as its primary business activity, owns, uses, produces, processes, manufactures, distributes, merchandises, or markets goods, services, or commodities (which shall include but not be limited to coal, natural gas, electricity, ethanol, crude oil, gasoline, propane, distillates, and other hydrocarbons) either individually or in a fiduciary capacity.

''(ii) FINANCIAL ENTITY.—The term 'financial entity' means—

''(I) a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant;

''(II) a person predominantly engaged in activities that are in the business of banking or financial in nature, as defined in Section 4(k) of the Bank Holding Company Act of 1956;

''(III) a person predominantly engaged in activities that are financial in nature;

''(IV) a commodity pool or a private fund as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)); or

''(V) a person that is registered or required to be registered with the Commission.

''(B) END USER CLEARING EXEMPTION.—

''(i) IN GENERAL.—Subject to clause (ii), in the event that a swap is subject to the mandatory clearing requirement under paragraph (1), and 1 of the counterparties to the swap is a commercial end user, that counterparty—

''(I)(aa) may elect not to clear the swap, as required under paragraph (1); or

''(bb) may elect to require clearing of the swap; and

''(II) if the end user makes an election under subclause (I)(bb), shall have the sole right to select the derivatives clearing organization at which the swap will be cleared.

''(ii) LIMITATION.—A commercial end user may only make an election under clause (i) if the end user is using the swap to hedge its own commercial risk.

''(C) TREATMENT OF AFFILIATES.—

''(i) IN GENERAL.—An affiliate of a commercial end user (including affiliate entities predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the commercial end user) may make an election under subparagraph (B)(i) only if the affiliate, acting on behalf of the commercial end user and as an agent, uses the swap to hedge or mitigate the commercial risk of the commercial end user parent or other affiliate of the commercial end user that is not a financial entity.

''(ii) PROHIBITION RELATING TO CERTAIN AFFILIATES.—An affiliate of a commercial end user shall not use the exemption under subparagraph (B) if the affiliate is—

''(I) a swap dealer;

''(II) a security-based swap dealer;

''(III) a major swap participant;

''(IV) a major security-based swap participant;

''(V) an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3), but for paragraph (1) or (7) of subsection (c) of that Act (15 U.S.C. 80a–3(c));

''(VI) a commodity pool;

''(VII) a bank holding company with over $50,000,000,000 in consolidated assets; or

''(VIII) an affiliate of any entity described in subclauses (I) through (VII).

''(D) ABUSE OF EXEMPTION.—The Commission may prescribe such rules or issue interpretations of the rules as the Commission determines to be necessary to prevent abuse of the exemption described in subparagraph (B). The Commission may also request information from those entities claiming the clearing exemption as necessary to prevent abuse of the exemption described in subparagraph (B).

''(E) OPTION TO CLEAR.—

''(i) SWAPS REQUIRED TO BE CLEARED ENTERED INTO WITH A FINANCIAL ENTITY.—With respect to any swap that is required to be cleared by a derivatives clearing organization and entered into by a swap dealer or a major swap participant with a financial entity, the financial entity shall have the sole right to select the derivatives clearing organization at which the swap will be cleared.

''(ii) SWAPS NOT REQUIRED TO BE CLEARED ENTERED INTO WITH A FINANCIAL ENTITY OR COMMERCIAL END USER.—With respect to any swap that is not required to be cleared by a derivatives clearing organization and entered into by a swap dealer or a major swap participant with a financial entity or commercial end user, the financial entity or commercial end user—

''(I) may elect to require clearing of the swap; and

''(II) shall have the sole right to select the derivatives clearing organization at which the swap will be cleared.''.

(b) COMMODITY EXCHANGE ACT.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended by adding at the end the following:

''(j) AUDIT COMMITTEE APPROVAL.—Exemptions from the requirements of subsection (h)(2)(F) to clear a swap and subsection (b) to trade a swap through a board of trade or swap execution facility shall be available to a counterparty that is an issuer of securities that are registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports pursuant to section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o) only if the issuer's audit committee has reviewed and approved its decision to enter into swaps that are subject to such exemptions.''.

(c) GRANDFATHER PROVISIONS.—

(1) LEGAL CERTAINTY FOR CERTAIN TRANSACTIONS IN EXEMPT COMMODITIES.—Not later than 60 days after the date of enactment of this Act, a person may submit to the Commodity Futures Trading Commission a petition to remain subject to section 2(h) of the Commodity Exchange Act (7 U.S.C. 2(h)) (as in effect on the day before the date of enactment of this Act).

(2) CONSIDERATION; AUTHORITY OF COMMODITY FUTURES TRADING COMMISSION.—The Commodity Futures Trading Commission—

(A) shall consider any petition submitted under subparagraph (A) in a prompt manner; and

(B) may allow a person to continue operating subject to section 2(h) of the Commodity Exchange Act (7 U.S.C. 2(h)) (as in effect on the day before the date of enactment of this Act) for not longer than a 1-year period.

(3) AGRICULTURAL SWAPS.—

(A) IN GENERAL.—Except as provided in paragraph (2), no person shall offer to enter into, enter into, or confirm the execution of, any swap in an agricultural commodity (as defined by the Commodity Futures Trading Commission).

(B) EXCEPTION.—Notwithstanding paragraph (1), a person may offer to enter into, enter into, or confirm the execution of, any swap in an agricultural commodity pursuant to section 4(c) of the Commodity Exchange Act (7 U.S.C. 6(c)) or any rule, regulation, or order issued thereunder (including any rule, regulation, or order in effect as of the date of enactment of this Act) by the Commodity Futures Trading Commission to allow swaps under such terms and conditions as the Commission shall prescribe.

(4) REQUIRED REPORTING.—If the exception described in paragraph (2) applies, and there is no facility that makes the swap available to trade, the counterparties shall comply with any recordkeeping and transaction reporting requirements that may be prescribed

by the Commission with respect to swaps subject to the requirements of paragraph (1).

SEC. 724. SWAPS; SEGREGATION AND BANKRUPTCY TREATMENT.

(a) SEGREGATION REQUIREMENTS FOR CLEARED SWAPS.—Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) (as amended by section 732) is amended by adding at the end the following:

''(f) SWAPS.—

''(1) REGISTRATION REQUIREMENT.—It shall be unlawful for any person to accept any money, securities, or property (or to extend any credit in lieu of money, securities, or property) from, for, or on behalf of a swaps customer to margin, guarantee, or secure a swap cleared by or through a derivatives clearing organization (including money, securities, or property accruing to the customer as the result of such a swap), unless the person shall have registered under this Act with the Commission as a futures commission merchant, and the registration shall not have expired nor been suspended nor revoked.

''(2) CLEARED SWAPS.—

''(A) SEGREGATION REQUIRED.—A futures commission merchant shall treat and deal with all money, securities, and property of any swaps customer received to margin, guarantee, or secure a swap cleared by or though a derivatives clearing organization (including money, securities, or property accruing to the swaps customer as the result of such a swap) as belonging to the swaps customer.

''(B) COMMINGLING PROHIBITED.—Money, securities, and property of a swaps customer described in subparagraph (A) shall be separately accounted for and shall not be commingled with the funds of the futures commission merchant or be used to margin, secure, or guarantee any trades or contracts of any swaps customer or person other than the person for whom the same are held.

''(3) EXCEPTIONS.—

''(A) USE OF FUNDS.—

''(i) IN GENERAL.—Notwithstanding paragraph (2), money, securities, and property of a swaps customer of a futures commission merchant described in paragraph (2) may, for convenience, be commingled and deposited in the same 1 or more accounts with any bank or trust company or with a derivatives clearing organization.

''(ii) WITHDRAWAL.—Notwithstanding paragraph (2), such share of the money, securities, and property described in clause (i) as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle a cleared swap with a derivatives clearing organization, or with any member of the derivatives clearing organization, may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with the cleared swap.

''(B) COMMISSION ACTION.—Notwithstanding paragraph (2), in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, any money, securities, or property of the swaps customer of a futures commission merchant described in paragraph (2) may be commingled and deposited as provided in this section with any other money, securities, or property received by the futures commission merchant and required by the Commission to be separately accounted for and treated and dealt with as belonging to the swaps customer of the futures commission merchant.

''(4) PERMITTED INVESTMENTS.—Money described in paragraph (2) may be invested in obligations of the United States, in general obligations of any State or of any political subdivision of a State, and in obligations fully guaranteed as to principal and interest by the United States, or in any other investment that the Commission may by rule or regulation prescribe, and such investments shall be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.

''(5) COMMODITY CONTRACT.—A swap cleared by or through a derivatives clearing organization shall be considered to be a commodity contract as such term is defined in section 761 of title 11, United States Code, with regard to all money, securities, and property of any swaps customer received by a futures commission merchant or a derivatives clearing organization to margin, guarantee, or secure the swap (including money, securities, or property accruing to the customer as the result of the swap).

''(6) PROHIBITION.—It shall be unlawful for any person, including any derivatives clearing organization and any depository institution, that has received any money, securities, or property for deposit in a separate account or accounts as provided in paragraph (2) to hold, dispose of, or use any such money, securities, or property as belonging to the depositing futures commission merchant or any person other than the swaps customer of the futures commission merchant.''.

(b) BANKRUPTCY TREATMENT OF CLEARED SWAPS.—Section 761 of title 11, United States Code, is amended—

(1) in paragraph (4), by striking subparagraph (F) and inserting the following:

''(F)(i) any other contract, option, agreement, or transaction that is similar to a contract, option, agreement, or transaction referred to in this paragraph; and

''(ii) with respect to a futures commission merchant or a clearing organization, any other contract, option, agreement, or transaction, in each case, that is cleared by a clearing organization;''; and

(2) in paragraph (9)(A)(i), by striking ''the commodity futures account'' and inserting ''a commodity contract account''.

(c) SEGREGATION REQUIREMENTS FOR UNCLEARED SWAPS.—Section 4s of the Commodity Exchange Act (as added by section 731) is amended by adding at the end the following:

''(l) SEGREGATION REQUIREMENTS.—

''(1) SEGREGATION OF ASSETS HELD AS COLLATERAL IN UNCLEARED SWAP TRANSACTIONS.—

''(A) NOTIFICATION.—A swap dealer or major swap participant shall be required to notify the counterparty of the swap dealer or major swap participant at the beginning of a swap transaction that the counterparty has the right to require segregation of the funds or other property supplied to margin, guarantee, or secure the obligations of the counterparty.

''(B) SEGREGATION AND MAINTENANCE OF FUNDS.—At the request of a counterparty to a swap that provides funds or other property to a swap dealer or major swap participant to margin, guarantee, or secure the obligations of the counterparty, the swap dealer or major swap participant shall—

''(i) segregate the funds or other property for the benefit of the counterparty; and

''(ii) in accordance with such rules and regulations as the Commission may promulgate, maintain the funds or other property in a segregated account separate from the assets and other interests of the swap dealer or major swap participant.

''(2) APPLICABILITY.—The requirements described in paragraph (1) shall—

''(A) apply only to a swap between a counterparty and a swap dealer or major swap participant that is not submitted for clearing to a derivatives clearing organization; and

''(B)(i) not apply to variation margin payments; or

''(ii) not preclude any commercial arrangement regarding—

''(I) the investment of segregated funds or other property that may only be invested in such investments as the Commission may permit by rule or regulation; and

''(II) the related allocation of gains and losses resulting from any investment of the segregated funds or other property.

''(3) USE OF INDEPENDENT THIRD-PARTY CUSTODIANS.—The segregated account described in paragraph (1) shall be—

''(A) carried by an independent third-party custodian; and

''(B) designated as a segregated account for and on behalf of the counterparty.

''(4) REPORTING REQUIREMENT.—If the counterparty does not choose to require segregation of the funds or other property supplied to margin, guarantee, or secure the obligations of the counterparty, the swap dealer or major swap participant shall report to the counterparty of the swap dealer or major swap participant on a quarterly basis that the back office procedures of the swap dealer or major swap participant relating to margin and collateral requirements are in compliance with the agreement of the counterparties.''.

SEC. 725. DERIVATIVES CLEARING ORGANIZATIONS.

(a) REGISTRATION REQUIREMENT.—Section 5b of the Commodity Exchange Act (7 U.S.C. 7a–1) is amended by striking subsections (a) and (b) and inserting the following:

''(a) REGISTRATION REQUIREMENT.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for a derivatives clearing organization, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a derivatives clearing organization with respect to—

''(A) a contract of sale of a commodity for future delivery (or an option on the contract of sale) or option on a commodity, in each case, unless the contract or option is—

''(i) excluded from this Act by subsection (a)(1)(C)(i), (c), or (f) of section 2; or

''(ii) a security futures product cleared by a clearing agency registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.); or

''(B) a swap.

''(2) EXCEPTION.—Paragraph (1) shall not apply to a derivatives clearing organization that is registered with the Commission.

''(b) VOLUNTARY REGISTRATION.—A person that clears 1 or more agreements, contracts, or transactions that are not required to be cleared under this Act may register with the Commission as a derivatives clearing organization.''.

(b) REGISTRATION FOR DEPOSITORY INSTITUTIONS AND CLEARING AGENCIES; EXEMPTIONS; COMPLIANCE OFFICER; ANNUAL REPORTS.—Section 5b of the Commodity Exchange Act (7 U.S.C. 7a–1) is amended by adding at the end the following:

''(g) REQUIRED REGISTRATION FOR DEPOSITORY INSTITUTIONS AND CLEARING AGENCIES.—A person that is required to be registered as a derivatives clearing organization under this section shall register with the Commission regardless of whether the person is also licensed as a depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) or a clearing agency registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

''(h) EXISTING DEPOSITORY INSTITUTIONS AND CLEARING AGENCIES.—

''(1) IN GENERAL.—A depository institution or clearing agency registered with the Securities and Exchange Commission under the

Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) that is required to be registered as a derivatives clearing organization under this section is deemed to be registered under this section to the extent that, before the date of enactment of this subsection—

''(A) the depository institution cleared swaps as a multilateral clearing organization; or

''(B) the clearing agency cleared swaps.

''(2) CONVERSION OF DEPOSITORY INSTITUTIONS.—A depository institution to which this paragraph applies may, by the vote of the shareholders owning not less than 51 percent of the voting interests of the depository institution, be converted into a State corporation, partnership, limited liability company, or similar legal form pursuant to a plan of conversion, if the conversion is not in contravention of applicable State law.

''(i) EXEMPTIONS.—The Commission may exempt, conditionally or unconditionally, a derivatives clearing organization from registration under this section for the clearing of swaps if the Commission determines that the derivatives clearing organization is subject to comparable, comprehensive supervision and regulation by the Securities and Exchange Commission or the appropriate government authorities in the home country of the organization. Such conditions may include, but are not limited to, requiring that the derivatives clearing organization be available for inspection by the Commission and make available all information requested by the Commission.

''(j) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each derivatives clearing organization shall designate an individual to serve as a chief compliance officer.

''(2) DUTIES.—The chief compliance officer shall—

''(A) report directly to the board or to the senior officer of the derivatives clearing organization;

''(B) review the compliance of the derivatives clearing organization with respect to the core principles described in subsection (c)(2);

''(C) in consultation with the board of the derivatives clearing organization, a body performing a function similar to the board of the derivatives clearing organization, or the senior officer of the derivatives clearing organization, resolve any conflicts of interest that may arise;

''(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(E) ensure compliance with this Act (including regulations) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;

''(F) establish procedures for the remediation of noncompliance issues identified by the compliance officer through any—

''(i) compliance office review;

''(ii) look-back;

''(iii) internal or external audit finding;

''(iv) self-reported error; or

''(v) validated complaint; and

''(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(3) ANNUAL REPORTS.—

''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(i) the compliance of the derivatives clearing organization of the compliance officer with respect to this Act (including regulations); and

''(ii) each policy and procedure of the derivatives clearing organization of the compliance officer (including the code of ethics and conflict of interest policies of the derivatives clearing organization).

''(B) REQUIREMENTS.—A compliance report under subparagraph (A) shall—

''(i) accompany each appropriate financial report of the derivatives clearing organization that is required to be furnished to the Commission pursuant to this section; and

''(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.''.

(c) CORE PRINCIPLES FOR DERIVATIVES CLEARING ORGANIZATIONS.—Section 5b(c) of the Commodity Exchange Act (7 U.S.C. 7a–1(c)) is amended by striking paragraph (2) and inserting the following:

''(2) CORE PRINCIPLES FOR DERIVATIVES CLEARING ORGANIZATIONS.—

''(A) COMPLIANCE.—

''(i) IN GENERAL.—To be registered and to maintain registration as a derivatives clearing organization, a derivatives clearing organization shall comply with each core principle described in this paragraph and any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).

''(ii) DISCRETION OF DERIVATIVES CLEARING ORGANIZATION.—Subject to any rule or regulation prescribed by the Commission, a derivatives clearing organization shall have reasonable discretion in establishing the manner by which the derivatives clearing organization complies with each core principle described in this paragraph.

''(B) FINANCIAL RESOURCES.—

''(i) IN GENERAL.—Each derivatives clearing organization shall have adequate financial, operational, and managerial resources, as determined by the Commission, to discharge each responsibility of the derivatives clearing organization.

''(ii) MINIMUM AMOUNT OF FINANCIAL RESOURCES.—Each derivatives clearing organization shall possess financial resources that, at a minimum, exceed the total amount that would—

''(I) enable the organization to meet its financial obligations to its members and participants notwithstanding a default by the member or participant creating the largest financial exposure for that organization in extreme but plausible market conditions; and

''(II) enable the derivatives clearing organization to cover the operating costs of the derivatives clearing organization for a period of 1 year (as calculated on a rolling basis).

''(C) PARTICIPANT AND PRODUCT ELIGIBILITY.—

''(i) IN GENERAL.—Each derivatives clearing organization shall establish—

''(I) appropriate admission and continuing eligibility standards (including sufficient financial resources and operational capacity to meet obligations arising from participation in the derivatives clearing organization) for members of, and participants in, the derivatives clearing organization; and

''(II) appropriate standards for determining the eligibility of agreements, contracts, and transactions submitted to the derivatives clearing organization for clearing.

''(ii) REQUIRED PROCEDURES.—Each derivatives clearing organization shall establish and implement procedures to verify, on an ongoing basis, the compliance of each participation and membership requirement of the derivatives clearing organization.

''(iii) REQUIREMENTS.—The participation and membership requirements of each derivatives clearing organization shall—

''(I) be objective;

''(II) be publicly disclosed; and

''(III) permit fair and open access.

''(D) RISK MANAGEMENT.—

''(i) IN GENERAL.—Each derivatives clearing organization shall ensure that the derivatives clearing organization possesses the ability to manage the risks associated with discharging the responsibilities of the derivatives clearing organization through the use of appropriate tools and procedures.

''(ii) MEASUREMENT OF CREDIT EXPOSURE.—Each derivatives clearing organization shall—

''(I) not less than once during each business day of the derivatives clearing organization, measure the credit exposures of the derivatives clearing organization to each member and participant of the derivatives clearing organization; and

''(II) monitor each exposure described in subclause (I) periodically during the business day of the derivatives clearing organization.

''(iii) LIMITATION OF EXPOSURE TO POTENTIAL LOSSES FROM DEFAULTS.—Each derivatives clearing organization, through margin requirements and other risk control mechanisms, shall limit the exposure of the derivatives clearing organization to potential losses from defaults by members and participants of the derivatives clearing organization to ensure that—

''(I) the operations of the derivatives clearing organization would not be disrupted; and

''(II) nondefaulting members or participants would not be exposed to losses that nondefaulting members or participants cannot anticipate or control.

''(iv) MARGIN REQUIREMENTS.—The margin required from each member and participant of a derivatives clearing organization shall be sufficient to cover potential exposures in normal market conditions.

''(v) REQUIREMENTS REGARDING MODELS AND PARAMETERS.—Each model and parameter used in setting margin requirements under clause (iv) shall be—

''(I) risk-based; and

''(II) reviewed on a regular basis.

''(E) SETTLEMENT PROCEDURES.—Each derivatives clearing organization shall—

''(i) complete money settlements on a timely basis (but not less frequently than once each business day);

''(ii) employ money settlement arrangements to eliminate or strictly limit the exposure of the derivatives clearing organization to settlement bank risks (including credit and liquidity risks from the use of banks to effect money settlements);

''(iii) ensure that money settlements are final when effected;

''(iv) maintain an accurate record of the flow of funds associated with each money settlement;

''(v) possess the ability to comply with each term and condition of any permitted netting or offset arrangement with any other clearing organization;

''(vi) regarding physical settlements, establish rules that clearly state each obligation of the derivatives clearing organization with respect to physical deliveries; and

''(vii) ensure that each risk arising from an obligation described in clause (vi) is identified and managed.

''(F) TREATMENT OF FUNDS.—

''(i) REQUIRED STANDARDS AND PROCEDURES.—Each derivatives clearing organization shall establish standards and procedures that are designed to protect and ensure the safety of member and participant funds and assets.

''(ii) HOLDING OF FUNDS AND ASSETS.—Each derivatives clearing organization shall hold member and participant funds and assets in a manner by which to minimize the risk of loss or of delay in the access by the derivatives clearing organization to the assets and funds.

''(iii) PERMISSIBLE INVESTMENTS.—Funds and assets invested by a derivatives clearing organization shall be held in instruments with minimal credit, market, and liquidity risks.

''(G) DEFAULT RULES AND PROCEDURES.—

''(i) IN GENERAL.—Each derivatives clearing organization shall have rules and procedures designed to allow for the efficient, fair, and safe management of events during which members or participants—

''(I) become insolvent; or

''(II) otherwise default on the obligations of the members or participants to the derivatives clearing organization.

''(ii) DEFAULT PROCEDURES.—Each derivatives clearing organization shall—

''(I) clearly state the default procedures of the derivatives clearing organization;

''(II) make publicly available the default rules of the derivatives clearing organization; and

''(III) ensure that the derivatives clearing organization may take timely action—

''(aa) to contain losses and liquidity pressures; and

''(bb) to continue meeting each obligation of the derivatives clearing organization.

''(H) RULE ENFORCEMENT.—Each derivatives clearing organization shall—

''(i) maintain adequate arrangements and resources for—

''(I) the effective monitoring and enforcement of compliance with the rules of the derivatives clearing organization; and

''(II) the resolution of disputes;

''(ii) have the authority and ability to discipline, limit, suspend, or terminate the activities of a member or participant due to a violation by the member or participant of any rule of the derivatives clearing organization; and

''(iii) report to the Commission regarding rule enforcement activities and sanctions imposed against members and participants as provided in clause (ii).

''(I) SYSTEM SAFEGUARDS.—Each derivatives clearing organization shall—

''(i) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk through the development of appropriate controls and procedures, and automated systems, that are reliable, secure, and have adequate scalable capacity;

''(ii) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allows for—

''(I) the timely recovery and resumption of operations of the derivatives clearing organization; and

''(II) the fulfillment of each obligation and responsibility of the derivatives clearing organization; and

''(iii) periodically conduct tests to verify that the backup resources of the derivatives clearing organization are sufficient to ensure daily processing, clearing, and settlement.

''(J) REPORTING.—Each derivatives clearing organization shall provide to the Commission all information that the Commission determines to be necessary to conduct oversight of the derivatives clearing organization.

''(K) RECORDKEEPING.—Each derivatives clearing organization shall maintain records of all activities related to the business of the derivatives clearing organization as a derivatives clearing organization—

''(i) in a form and manner that is acceptable to the Commission; and

''(ii) for a period of not less than 5 years.

''(L) PUBLIC INFORMATION.—

''(i) IN GENERAL.—Each derivatives clearing organization shall provide to market participants sufficient information to enable the market participants to identify and evaluate accurately the risks and costs associated with using the services of the derivatives clearing organization.

''(ii) AVAILABILITY OF INFORMATION.—Each derivatives clearing organization shall make information concerning the rules and operating procedures governing the clearing and settlement systems of the derivatives clearing organization available to market participants.

''(iii) PUBLIC DISCLOSURE.—Each derivatives clearing organization shall disclose publicly and to the Commission information concerning—

''(I) the terms and conditions of each contract, agreement, and other transaction cleared and settled by the derivatives clearing organization;

''(II) each clearing and other fee that the derivatives clearing organization charges the members and participants of the derivatives clearing organization;

''(III) the margin-setting methodology, and the size and composition, of the financial resource package of the derivatives clearing organization;

''(IV) daily settlement prices, volume, and open interest for each contract settled or cleared by the derivatives clearing organization; and

''(V) any other matter relevant to participation in the settlement and clearing activities of the derivatives clearing organization.

''(M) INFORMATION-SHARING.—Each derivatives clearing organization shall—

''(i) enter into, and abide by the terms of, each appropriate and applicable domestic and international information-sharing agreement; and

''(ii) use relevant information obtained from each agreement described in clause (i) in carrying out the risk management program of the derivatives clearing organization.

''(N) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, a derivatives clearing organization shall not—

''(i) adopt any rule or take any action that results in any unreasonable restraint of trade; or

''(ii) impose any material anticompetitive burden.

''(O) GOVERNANCE FITNESS STANDARDS.—

''(i) GOVERNANCE ARRANGEMENTS.—Each derivatives clearing organization shall establish governance arrangements that are transparent—

''(I) to fulfill public interest requirements; and

''(II) to support the objectives of owners and participants.

''(ii) FITNESS STANDARDS.—Each derivatives clearing organization shall establish and enforce appropriate fitness standards for—

''(I) directors;

''(II) members of any disciplinary committee;

''(III) members of the derivatives clearing organization;

''(IV) any other individual or entity with direct access to the settlement or clearing activities of the derivatives clearing organization; and

''(V) any party affiliated with any individual or entity described in this clause.

''(P) CONFLICTS OF INTEREST.—Each derivatives clearing organization shall—

''(i) establish and enforce rules to minimize conflicts of interest in the decision-making process of the derivatives clearing organization; and

''(ii) establish a process for resolving conflicts of interest described in clause (i).

''(Q) COMPOSITION OF GOVERNING BOARDS.—Each derivatives clearing organization shall ensure that the composition of the governing board or committee of the derivatives clearing organization includes market participants.

''(R) LEGAL RISK.—Each derivatives clearing organization shall have a well-founded, transparent, and enforceable legal framework for each aspect of the activities of the derivatives clearing organization.

''(S) MODIFICATION OF CORE PRINCIPLES.—The Commission may conform the core principles established in this paragraph to reflect evolving United States and international standards.''.

(d) CONFLICTS OF INTEREST.—The Commodity Futures Trading Commission shall adopt rules mitigating conflicts of interest in connection with the conduct of business by a swap dealer or a major swap participant with a derivatives clearing organization, board of trade, or a swap execution facility that clears or trades swaps in which the swap dealer or major swap participant has a material debt or material equity investment.

(e) REPORTING REQUIREMENTS.—Section 5b of the Commodity Exchange Act (7 U.S.C. 7a–1) (as amended by subsection (b)) is amended by adding at the end the following:

''(k) REPORTING REQUIREMENTS.—

''(1) DUTY OF DERIVATIVES CLEARING ORGANIZATIONS.—Each derivatives clearing organization that clears swaps shall provide to the Commission all information that is determined by the Commission to be necessary to perform each responsibility of the Commission under this Act.

''(2) DATA COLLECTION AND MAINTENANCE REQUIREMENTS.—The Commission shall adopt data collection and maintenance requirements for swaps cleared by derivatives clearing organizations that are comparable to the corresponding requirements for—

''(A) swaps data reported to swap data repositories; and

''(B) swaps traded on swap execution facilities.

''(3) REPORTS ON SECURITY-BASED SWAP AGREEMENTS TO BE SHARED WITH THE SECURITIES AND EXCHANGE COMMISSION.—

''(A) IN GENERAL.—A derivatives clearing organization that clears security-based swap agreements (as defined in section 3(a)(79) of the Securities Exchange Act) shall, upon request, make available to the Securities and Exchange Commission all books and records relating to such security-based swap agreements, consistent with the confidentiality and disclosure requirements of section 8.

''(B) JURISDICTION.—Nothing in this paragraph shall affect the exclusive jurisdiction of the Commission to prescribe record-keeping and reporting requirements for a derivatives clearing organization that is registered with the Commission.''

''(4) INFORMATION SHARING.—Subject to section 8, and upon request, the Commission shall share information collected under paragraph (2) with—

''(A) the Board;

''(B) the Securities and Exchange Commission;

''(C) each appropriate prudential regulator;

''(D) the Financial Stability Oversight Council;

''(E) the Department of Justice; and

''(F) any other person that the Commission determines to be appropriate, including—

''(i) foreign financial supervisors (including foreign futures authorities);

''(ii) foreign central banks; and

''(iii) foreign ministries.

''(5) CONFIDENTIALITY AND INDEMNIFICATION AGREEMENT.—Before the Commission may share information with any entity described in paragraph (4)—

''(A) the Commission shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 8 relating

to the information on swap transactions that is provided; and

''(B) each entity shall agree to indemnify the Commission for any expenses arising from litigation relating to the information provided under section 8.

''(6) PUBLIC INFORMATION.—Each derivatives clearing organization that clears swaps shall provide to the Commission (including any designee of the Commission) information under paragraph (2) in such form and at such frequency as is required by the Commission to comply with the public reporting requirements contained in section 2(a)(13).''.

(f) PUBLIC DISCLOSURE.—Section 8(e) of the Commodity Exchange Act (7 U.S.C. 12(e)) is amended in the last sentence—

(1) by inserting '', central bank and ministries,'' after ''department'' each place it appears; and

(2) by striking ''. is a party.'' and inserting '', is a party.''.

(g) LEGAL CERTAINTY FOR IDENTIFIED BANKING PRODUCTS.—

(1) REPEALS.—The Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27 et seq.) is amended—

(A) by striking sections 404 and 407 (7 U.S.C. 27b, 27e);

(B) in section 402 (7 U.S.C. 27), by striking subsection (d); and

(C) in section 408 (7 U.S.C. 27f)—

(i) in subsection (c)—

(I) by striking ''in the case'' and all that follows through ''a hybrid'' and inserting ''in the case of a hybrid'';

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

(III) by striking paragraph (2);

(ii) by striking subsection (b); and

(iii) by redesignating subsection (c) as subsection (b).

(2) LEGAL CERTAINTY FOR BANK PRODUCTS ACT OF 2000.—Section 403 of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27a) is amended to read as follows:

''SEC. 403. EXCLUSION OF IDENTIFIED BANKING PRODUCT.

''(a) EXCLUSION.—Except as provided in subsection (b) or (c)—

''(1) the Commodity Exchange Act (7 U.S.C. 1 et seq.) shall not apply to, and the Commodity Futures Trading Commission shall not exercise regulatory authority under the Commodity Exchange Act (7 U.S.C. 1 et seq.) with respect to, an identified banking product; and

''(2) the definitions of 'security-based swap' in section 3(a)(68) of the Securities Exchange Act of 1934 and 'security-based swap agreement' in section 3(a)(79) of the Securities Exchange Act of 1934 do not include any identified bank product.

''(b) EXCEPTION.—An appropriate Federal banking agency may except an identified banking product of a bank under its regulatory jurisdiction from the exclusion in subsection (a) if the agency determines, in consultation with the Commodity Futures Trading Commission and the Securities and Exchange Commission, that the product—

''(1) would meet the definition of a 'swap' under section 1a(46) of the Commodity Exchange Act (7 U.S.C. 1a) or a 'security-based swap' under that section 3(a)(68) of the Securities Exchange Act of 1934; and

''(2) has become known to the trade as a swap or security-based swap, or otherwise has been structured as an identified banking product for the purpose of evading the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), the Securities Act of 1933 (15 U.S.C. 77a et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

''(c) EXCEPTION.—The exclusions in subsection (a) shall not apply to an identified bank product that—

''(1) is a product of a bank that is not under the regulatory jurisdiction of an appropriate Federal banking agency;

''(2) meets the definition of swap in section 1a(46) of the Commodity Exchange Act or security-based swap in section 3(a)(68) of the Securities Exchange Act of 1934; and

''(3) has become known to the trade as a swap or security-based swap, or otherwise has been structured as an identified banking product for the purpose of evading the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), the Securities Act of 1933 (15 U.S.C. 77a et seq.), or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).''.

SEC. 726. RULEMAKING ON CONFLICT OF INTEREST.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the Commodity Futures Trading Commission shall determine whether to adopt rules to establish limits on the control of any derivatives clearing organization that clears swaps, or swap execution facility or board of trade designated as a contract market that posts swaps or makes swaps available for trading, by a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)) with total consolidated assets of $50,000,000,000 or more, a nonbank financial company (as defined in section 102) supervised by the Board of Governors of the Federal Reserve System, an affiliate of such a bank holding company or nonbank financial company, a swap dealer, major swap participant, or associated person of a swap dealer or major swap participant.

(b) PURPOSES.—The Commission shall adopt rules if it determines, after the review described in subsection (a), that such rules are necessary or appropriate to improve the governance of, or to mitigate systemic risk, promote competition, or mitigate conflicts of interest in connection with a swap dealer or major swap participant's conduct of business with, a derivatives clearing organization, contract market, or swap execution facility that clears or posts swaps or makes swaps available for trading and in which such swap dealer or major swap participant has a material debt or equity investment.

SEC. 727. PUBLIC REPORTING OF SWAP TRANSACTION DATA.

Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)) is amended by adding at the end the following:

''(13) PUBLIC AVAILABILITY OF SWAP TRANSACTION DATA.—

''(A) DEFINITION OF REAL-TIME PUBLIC REPORTING.—In this paragraph, the term 'real-time public reporting' means to report data relating to a swap transaction as soon as technologically practicable after the time at which the swap transaction has been executed.

''(B) PURPOSE.—The purpose of this section is to authorize the Commission to make swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery.

''(C) GENERAL RULE.—The Commission is authorized and required to provide by rule for the public availability of swap transaction and pricing data as follows:

''(i) With respect to those swaps that are subject to the mandatory clearing requirement described in subsection (h)(2) (including those swaps that are exempted from the requirement pursuant to subsection (h)(10)), the Commission shall require real-time public reporting for such transactions.

''(ii) With respect to those swaps that are not subject to the mandatory clearing requirement described in subsection (h)(2), but are cleared at a registered derivatives clearing organization, the Commission shall require real-time public reporting for such transactions.

''(iii) With respect to swaps that are not cleared at a registered derivatives clearing organization and which are reported to a swap data repository or the Commission under subsection (h), the Commission shall make available to the public, in a manner that does not disclose the business transactions and market positions of any person, aggregate data on such swap trading volumes and positions.

''(iv) With respect to swaps that are exempt from the requirements of subsection (h)(1), pursuant to subsection (h)(10), the Commission shall require real-time public reporting for such transactions.

''(D) REGISTERED ENTITIES AND PUBLIC REPORTING.—The Commission may require registered entities to publicly disseminate the swap transaction and pricing data required to be reported under this paragraph.

''(E) RULEMAKING REQUIRED.—With respect to the rule providing for the public availability of transaction and pricing data for swaps described in clauses (i) and (ii) of subparagraph (C), the rule promulgated by the Commission shall contain provisions—

''(i) to ensure such information does not identify the participants;

''(ii) to specify the criteria for determining what constitutes a large notional swap transaction (block trade) for particular markets and contracts;

''(iii) to specify the appropriate time delay for reporting large notional swap transactions (block trades) to the public; and

''(iv) that take into account whether the public disclosure will materially reduce market liquidity.

''(F) TIMELINESS OF REPORTING.—Parties to a swap (including agents of the parties to a swap) shall be responsible for reporting swap transaction information to the appropriate registered entity in a timely manner as may be prescribed by the Commission.

''(14) SEMIANNUAL AND ANNUAL PUBLIC REPORTING OF AGGREGATE SWAP DATA.—

''(A) IN GENERAL.—In accordance with subparagraph (B), the Commission shall issue a written report on a semiannual and annual basis to make available to the public information relating to—

''(i) the trading and clearing in the major swap categories; and

''(ii) the market participants and developments in new products.

''(B) USE; CONSULTATION.—In preparing a report under subparagraph (A), the Commission shall—

''(i) use information from swap data repositories and derivatives clearing organizations; and

''(ii) consult with the Office of the Comptroller of the Currency, the Bank for International Settlements, and such other regulatory bodies as may be necessary.''.

SEC. 728. SWAP DATA REPOSITORIES.

The Commodity Exchange Act is amended by inserting after section 20 (7 U.S.C. 24) the following:

''SEC. 21. SWAP DATA REPOSITORIES.

''(a) REGISTRATION REQUIREMENT.—

''(1) IN GENERAL.—It shall be unlawful for any person, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a swap data repository.

''(2) INSPECTION AND EXAMINATION.—Each registered swap data repository shall be subject to inspection and examination by any representative of the Commission.

''(3) COMPLIANCE WITH CORE PRINCIPLES.—

''(A) IN GENERAL.—To be registered, and maintain registration, as a swap data repository, the swap data repository shall comply with—

''(i) the core principles described in this subsection; and

''(ii) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).

''(B) REASONABLE DISCRETION OF SWAP DATA REPOSITORY.—Unless otherwise determined by the Commission by rule or regulation, a swap data repository described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the swap data repository complies with the core principles described in this subsection.

''(b) STANDARD SETTING.—

''(1) DATA IDENTIFICATION.—The Commission shall prescribe standards that specify the data elements for each swap that shall be collected and maintained by each registered swap data repository.

''(2) DATA COLLECTION AND MAINTENANCE.—The Commission shall prescribe data collection and data maintenance standards for swap data repositories.

''(3) COMPARABILITY.—The standards prescribed by the Commission under this subsection shall be comparable to the data standards imposed by the Commission on derivatives clearing organizations in connection with their clearing of swaps.

''(4) SHARING OF INFORMATION WITH SECURITIES AND EXCHANGE COMMISSION.—Registered swap data repositories shall make available to the Securities and Exchange Commission, upon request, all books and records relating to security-based swap agreements that are maintained by such swap data repository, consistent with the confidentiality and disclosure requirements of section 8. Nothing in this paragraph shall affect the exclusive jurisdiction of the Commission to prescribe recordkeeping and reporting requirements for a swap data repository that is registered with the Commission.

''(c) DUTIES.—A swap data repository shall—

''(1) accept data prescribed by the Commission for each swap under subsection (b);

''(2) confirm with both counterparties to the swap the accuracy of the data that was submitted;

''(3) maintain the data described in paragraph (1) in such form, in such manner, and for such period as may be required by the Commission;

''(4)(A) provide direct electronic access to the Commission (or any designee of the Commission, including another registered entity); and

''(B) provide the information described in paragraph (1) in such form and at such frequency as the Commission may require to comply with the public reporting requirements contained in section 2(a)(13);

''(5) at the direction of the Commission, establish automated systems for monitoring, screening, and analyzing swap data, including compliance and frequency of end user clearing exemption claims by individual and affiliated entities;

''(6) maintain the privacy of any and all swap transaction information that the swap data repository receives from a swap dealer, counterparty, or any other registered entity; and

''(7) on a confidential basis pursuant to section 8, upon request, and after notifying the Commission of the request, make available all data obtained by the swap data repository, including individual counterparty trade and position data, to—

''(A) each appropriate prudential regulator;

''(B) the Financial Stability Oversight Council;

''(C) the Securities and Exchange Commission;

''(D) the Department of Justice; and

''(E) any other person that the Commission determines to be appropriate, including—

''(i) foreign financial supervisors (including foreign futures authorities);

''(ii) foreign central banks;

''(iii) foreign ministries; and

''(8) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allows for the timely recovery and resumption of operations and the fulfillment of the responsibilities and obligations of the organization.

''(d) CONFIDENTIALITY AND INDEMNIFICATION AGREEMENT.—Before the swap data repository may share information with any entity described above—

''(1) the swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 8 relating to the information on swap transactions that is provided; and

''(2) each entity shall agree to indemnify the swap data repository and the Commission for any expenses arising from litigation relating to the information provided under section 8.

''(e) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each swap data repository shall designate an individual to serve as a chief compliance officer.

''(2) DUTIES.—The chief compliance officer shall—

''(A) report directly to the board or to the senior officer of the swap data repository;

''(B) review the compliance of the swap data repository with respect to the core principles described in subsection (f);

''(C) in consultation with the board of the swap data repository, a body performing a function similar to the board of the swap data repository, or the senior officer of the swap data repository, resolve any conflicts of interest that may arise;

''(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(E) ensure compliance with this Act (including regulations) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;

''(F) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any—

''(i) compliance office review;

''(ii) look-back;

''(iii) internal or external audit finding;

''(iv) self-reported error; or

''(v) validated complaint; and

''(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(3) ANNUAL REPORTS.—

''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(i) the compliance of the swap data repository of the chief compliance officer with respect to this Act (including regulations); and

''(ii) each policy and procedure of the swap data repository of the chief compliance officer (including the code of ethics and conflict of interest policies of the swap data repository).

''(B) REQUIREMENTS.—A compliance report under subparagraph (A) shall—

''(i) accompany each appropriate financial report of the swap data repository that is required to be furnished to the Commission pursuant to this section; and

''(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.

''(f) CORE PRINCIPLES APPLICABLE TO SWAP DATA REPOSITORIES.—

''(1) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, a swap data repository shall not

''(A) adopt any rule or take any action that results in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on the trading, clearing, or reporting of transactions.

''(2) GOVERNANCE ARRANGEMENTS.—Each swap data repository shall establish governance arrangements that are transparent—

''(A) to fulfill public interest requirements; and

''(B) to support the objectives of the Federal Government, owners, and participants.

''(3) CONFLICTS OF INTEREST.—Each swap data repository shall—

''(A) establish and enforce rules to minimize conflicts of interest in the decision-making process of the swap data repository; and

''(B) establish a process for resolving conflicts of interest described in subparagraph (A).

''(g) REQUIRED REGISTRATION FOR SWAP DATA REPOSITORIES.—Any person that is required to be registered as a swap data repository under this section shall register with the Commission regardless of whether that person is also licensed as a bank or registered with the Securities and Exchange Commission as a swap data repository.

''(h) RULES.—The Commission shall adopt rules governing persons that are registered under this section.''.

SEC. 729. REPORTING AND RECORDKEEPING.

The Commodity Exchange Act is amended by inserting after section 4q (7 U.S.C. 6o-1) the following:

''SEC. 4r. REPORTING AND RECORDKEEPING FOR UNCLEARED SWAPS.

''(a) REQUIRED REPORTING OF SWAPS NOT ACCEPTED BY ANY DERIVATIVES CLEARING ORGANIZATION.—

''(1) IN GENERAL.—Each swap that is not accepted for clearing by any derivatives clearing organization shall be reported to—

''(A) a swap data repository described in section 21; or

''(B) in the case in which there is no swap data repository that would accept the swap, to the Commission pursuant to this section within such time period as the Commission may by rule or regulation prescribe.

''(2) TRANSITION RULE FOR PREENACTMENT SWAPS.—

''(A) SWAPS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE WALL STREET TRANSPARENCY AND ACCOUNTABILITY ACT OF 2010.—Each swap entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the terms of which have not expired as of the date of enactment of that Act, shall be reported to a registered swap data repository or the Commission by a date that is not later than—

''(i) 30 days after issuance of the interim final rule; or

''(ii) such other period as the Commission determines to be appropriate.

''(B) COMMISSION RULEMAKING.—The Commission shall promulgate an interim final rule within 90 days of the date of enactment of this section providing for the reporting of each swap entered into before the date of enactment as referenced in subparagraph (A).

''(C) EFFECTIVE DATE.—The reporting provisions described in this section shall be effective upon the enactment of this section.

''(3) REPORTING OBLIGATIONS.—

''(A) SWAPS IN WHICH ONLY 1 COUNTERPARTY IS A SWAP DEALER OR MAJOR SWAP PARTICIPANT.—With respect to a swap in which only 1 counterparty is a swap dealer or major swap participant, the swap dealer or major swap participant shall report the swap as required under paragraphs (1) and (2).

''(B) SWAPS IN WHICH 1 COUNTERPARTY IS A SWAP DEALER AND THE OTHER A MAJOR SWAP PARTICIPANT.—With respect to a swap in which 1 counterparty is a swap dealer and the other a major swap participant, the swap dealer shall report the swap as required under paragraphs (1) and (2).

''(C) OTHER SWAPS.—With respect to any other swap not described in subparagraph (A) or (B), the counterparties to the swap shall select a counterparty to report the swap as required under paragraphs (1) and (2).

''(b) DUTIES OF CERTAIN INDIVIDUALS.—Any individual or entity that enters into a swap shall meet each requirement described in subsection (c) if the individual or entity did not—

''(1) clear the swap in accordance with section 2(h)(1); or

''(2) have the data regarding the swap accepted by a swap data repository in accordance with rules (including timeframes) adopted by the Commission under section 21.

''(c) REQUIREMENTS.—An individual or entity described in subsection (b) shall—

''(1) upon written request from the Commission, provide reports regarding the swaps held by the individual or entity to the Commission in such form and in such manner as the Commission may request; and

''(2) maintain books and records pertaining to the swaps held by the individual or entity in such form, in such manner, and for such period as the Commission may require, which shall be open to inspection by—

''(A) any representative of the Commission;

''(B) an appropriate prudential regulator;

''(C) the Securities and Exchange Commission;

''(D) the Financial Stability Oversight Council; and

''(E) the Department of Justice.

''(d) IDENTICAL DATA.—In prescribing rules under this section, the Commission shall require individuals and entities described in subsection (b) to submit to the Commission a report that contains data that is not less comprehensive than the data required to be collected by swap data repositories under section 21.''.

SEC. 730. LARGE SWAP TRADER REPORTING.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by adding after section 4s (as added by section 731) the following:

''SEC. 4t. LARGE SWAP TRADER REPORTING.

''(a) PROHIBITION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to enter into any swap that the Commission determines to perform a significant price discovery function with respect to registered entities if—

''(A) the person directly or indirectly enters into the swap during any 1 day in an amount equal to or in excess of such amount as shall be established periodically by the Commission; and

''(B) the person directly or indirectly has or obtains a position in the swap equal to or in excess of such amount as shall be established periodically by the Commission.

''(2) EXCEPTION.—Paragraph (1) shall not apply if—

''(A) the person files or causes to be filed with the properly designated officer of the Commission such reports regarding any transactions or positions described in subparagraphs (A) and (B) of paragraph (1) as the Commission may require by rule or regulation; and

''(B) in accordance with the rules and regulations of the Commission, the person keeps books and records of all such swaps and any transactions and positions in any related commodity traded on or subject to the rules of any board of trade, and of cash or spot transactions in, inventories of, and purchase and sale commitments of, such a commodity.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—Books and records described in subsection (a)(2)(B) shall—

''(A) show such complete details concerning all transactions and positions as the Commission may prescribe by rule or regulation;

''(B) be open at all times to inspection and examination by any representative of the Commission; and

''(C) be open at all times to inspection and examination by the Securities and Exchange Commission, to the extent such books and records relate to transactions in security-based swap agreements (as that term is defined in section 3(a)(79) of the Securities Exchange Act of 1934), and consistent with the confidentiality and disclosure requirements of section 8.

''(2) JURISDICTION.—Nothing in paragraph (1) shall affect the exclusive jurisdiction of the Commission to prescribe recordkeeping and reporting requirements for large swap traders under this section.

''(c) APPLICABILITY.—For purposes of this section, the swaps, futures, and cash or spot transactions and positions of any person shall include the swaps, futures, and cash or spot transactions and positions of any persons directly or indirectly controlled by the person.

''(d) SIGNIFICANT PRICE DISCOVERY FUNCTION.—In making a determination as to whether a swap performs or affects a significant price discovery function with respect to registered entities, the Commission shall consider the factors described in section 4a(a)(3).''.

SEC. 731. REGISTRATION AND REGULATION OF SWAP DEALERS AND MAJOR SWAP PARTICIPANTS.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 4r (as added by section 729) the following:

''SEC. 4s. REGISTRATION AND REGULATION OF SWAP DEALERS AND MAJOR SWAP PARTICIPANTS.

''(a) REGISTRATION.—

''(1) SWAP DEALERS.—It shall be unlawful for any person to act as a swap dealer unless the person is registered as a swap dealer with the Commission.

''(2) MAJOR SWAP PARTICIPANTS.—It shall be unlawful for any person to act as a major swap participant unless the person is registered as a major swap participant with the Commission.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—A person shall register as a swap dealer or major swap participant by filing a registration application with the Commission.

''(2) CONTENTS.—

''(A) IN GENERAL.—The application shall be made in such form and manner as prescribed by the Commission, and shall contain such information, as the Commission considers necessary concerning the business in which the applicant is or will be engaged.

''(B) CONTINUAL REPORTING.—A person that is registered as a swap dealer or major swap participant shall continue to submit to the Commission reports that contain such information pertaining to the business of the person as the Commission may require.

''(3) EXPIRATION.—Each registration under this section shall expire at such time as the Commission may prescribe by rule or regulation.

''(4) RULES.—Except as provided in subsections (c), (e), and (f), the Commission may prescribe rules applicable to non-bank swap dealers and non-bank major swap participants, including rules that limit the activities of swap dealers and major swap participants.

''(5) TRANSITION.—Rules under this section shall provide for the registration of swap dealers and major swap participants not later than 1 year after the date of enactment of the Wall Street Transparency and Accountability Act of 2010.

''(6) STATUTORY DISQUALIFICATION.—Except to the extent otherwise specifically provided by rule, regulation, or order, it shall be unlawful for a swap dealer or a major swap participant to permit any person associated with a swap dealer or a major swap participant who is subject to a statutory disqualification to effect or be involved in effecting swaps on behalf of the swap dealer or major swap participant, if the swap dealer or major swap participant knew, or in the exercise of reasonable care should have known, of the statutory disqualification.

''(c) DUAL REGISTRATION.—

''(1) SWAP DEALER.—Any person that is required to be registered as a swap dealer under this section shall register with the Commission regardless of whether the person also is a depository institution or is registered with the Securities and Exchange Commission as a security-based swap dealer.

''(2) MAJOR SWAP PARTICIPANT.—Any person that is required to be registered as a major swap participant under this section shall register with the Commission regardless of whether the person also is a depository institution or is registered with the Securities and Exchange Commission as a major security-based swap participant.

''(d) RULEMAKINGS.—

''(1) IN GENERAL.—The Commission shall adopt rules for persons that are registered as swap dealers or major swap participants under this section.

''(2) EXCEPTION FOR PRUDENTIAL REQUIREMENTS.—

''(A) IN GENERAL.—The Commission may not prescribe rules imposing prudential requirements on swap dealers or major swap participants for which there is a prudential regulator.

''(B) APPLICABILITY.—Subparagraph (A) does not limit the authority of the Commission to prescribe appropriate business conduct, reporting, and recordkeeping requirements to protect investors.

''(e) CAPITAL AND MARGIN REQUIREMENTS.—

''(1) IN GENERAL.—

''(A) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—Each registered swap dealer and major swap participant that is a depository institution, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall meet such minimum capital requirements and minimum initial and variation margin requirements as the appropriate Federal banking agency shall by rule or regulation prescribe under paragraph (2)(A) to help ensure the safety and soundness of the swap dealer or major swap participant.

''(B) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—Each registered swap dealer and major swap participant that is not a depository institution, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall meet such minimum capital requirements and minimum initial and variation margin requirements as the Commission and the Securities and Exchange Commission shall by rule or regulation prescribe under paragraph (2)(B) to help ensure the safety and soundness of the swap dealer or major swap participant.

''(2) RULES.—

''(A) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—The appropriate Federal banking agencies, in consultation with the Commission and the Securities and Exchange Commission, shall adopt rules imposing capital and margin requirements under this subsection for swap dealers and major swap participants that are depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(B) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—The Commission shall adopt rules imposing capital and margin requirements under this subsection for swap dealers and major swap participants that are not depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(3) CAPITAL.—

''(A) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—The capital requirements prescribed under paragraph (2)(A) for swap dealers and major swap participants that are depository institutions shall contain—

''(i) a capital requirement that is greater than zero for swaps that are cleared by a registered derivatives clearing organization or a derivatives clearing organization that is exempt from registration under section 5b(j); and

''(ii) to offset the greater risk to the swap dealer or major swap participant and to the financial system arising from the use of swaps that are not cleared, substantially higher capital requirements for swaps that are not cleared by a registered derivatives clearing organization or a derivatives clearing organization that is exempt from registration under section 5b(j) than for swaps that are cleared.

''(B) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—The capital requirements prescribed under paragraph (2)(B) for swap dealers and major swap participants that are not depository institutions shall be as strict as or stricter than the capital requirements prescribed for swap dealers and major swap participants that are depository institutions under paragraph (2)(A).

''(C) RULE OF CONSTRUCTION.—

''(i) IN GENERAL.—Nothing in this section shall limit, or be construed to limit, the authority—

''(I) of the Commission to set financial responsibility rules for a futures commission merchant or introducing broker registered pursuant to section 4f(a) (except for section 4f(a)(3)) in accordance with section 4f(b); or

''(II) of the Securities and Exchange Commission to set financial responsibility rules for a broker or dealer registered pursuant to section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(b)) (except for section 15(b)(11) of that Act (15 U.S.C. 78*o*(b)(11)) in accordance with section 15(c)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(c)(3)).

''(ii) FUTURES COMMISSION MERCHANTS AND OTHER DEALERS.—A futures commission merchant, introducing broker, broker, or dealer shall maintain sufficient capital to comply with the stricter of any applicable capital requirements to which such futures commission merchant, introducing broker, broker, or dealer is subject to under this Act or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.).

''(4) MARGIN.—

''(A) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—The appropriate Federal banking agency for swap dealers and major swap participants that are depository institutions shall impose both initial and variation margin requirements in accordance with paragraph (2)(A) on all swaps that are not cleared by a registered derivatives clearing organization or a derivatives clearing organization that is exempt from registration under section 5b(j) .

''(B) SWAP DEALERS AND MAJOR SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—The Commission and the Securities and Exchange Commission shall impose both initial and variation margin requirements in accordance with paragraph (2)(B) for swap dealers and major swap participants that are not depository institutions on all swaps that are not cleared by a registered derivatives clearing organization or a derivatives clearing organization that is exempt from registration under section 5b(j). Any such initial and variation margin requirements shall be as strict as or stricter than the margin requirements prescribed under paragraph (4)(A).

''(5) MARGIN REQUIREMENTS.—In prescribing margin requirements under this subsection, the appropriate Federal banking agency with respect to swap dealers and major swap participants that are depository institutions and the Commission with respect to swap dealers and major swap participants that are not depository institutions may permit the use of noncash collateral, as the agency or the Commission determines to be consistent with—

''(A) preserving the financial integrity of markets trading swaps; and

''(B) preserving the stability of the United States financial system.

''(6) COMPARABILITY OF CAPITAL AND MARGIN REQUIREMENTS.—

''(A) IN GENERAL.—The appropriate Federal banking agencies, the Commission, and the Securities and Exchange Commission shall periodically (but not less frequently than annually) consult on minimum capital requirements and minimum initial and variation margin requirements.

''(B) COMPARABILITY.—The entities described in subparagraph (A) shall, to the maximum extent practicable, establish and maintain comparable minimum capital requirements and minimum initial and variation margin requirements, including the use of non cash collateral, for—

''(i) swap dealers; and

''(ii) major swap participants.

''(7) REQUESTED MARGIN.—If any party to a swap that is exempt from the margin requirements of paragraph (4)(A)(i) pursuant to the provisions of paragraph (4)(A)(ii), or from the margin requirements of paragraph (4)(B)(i) pursuant to the provisions of paragraph (4)(B)(ii), requests that such swap be margined, then—

''(A) the exemption shall not apply; and

''(B) the counterparty to such swap shall provide the requested margin.

''(8) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—Paragraph (4) shall not apply to initial and variation margin for swaps in which 1 of the counterparties is not—

''(A) a swap dealer;

''(B) a major swap participant; or

''(C) a financial entity as described in section 2(h)(9)(A)(ii), and such counterparty is eligible for and utilizing the commercial end user clearing exemption under section 2(h)(9).

''(f) REPORTING AND RECORDKEEPING.—

''(1) IN GENERAL.—Each registered swap dealer and major swap participant—

''(A) shall make such reports as are required by the Commission by rule or regulation regarding the transactions and positions and financial condition of the registered swap dealer or major swap participant;

''(B)(i) for which there is a prudential regulator, shall keep books and records of all activities related to the business as a swap dealer or major swap participant in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and

''(ii) for which there is no prudential regulator, shall keep books and records in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and

''(C) shall keep books and records described in subparagraph (B) open to inspection and examination by any representative of the Commission.

''(2) RULES.—The Commission shall adopt rules governing reporting and recordkeeping for swap dealers and major swap participants.

''(g) DAILY TRADING RECORDS.—

''(1) IN GENERAL.—Each registered swap dealer and major swap participant shall maintain daily trading records of the swaps of the registered swap dealer and major swap participant and all related records (including related cash or forward transactions) and recorded communications, including electronic mail, instant messages, and recordings of telephone calls, for such period as may be required by the Commission by rule or regulation.

''(2) INFORMATION REQUIREMENTS.—The daily trading records shall include such information as the Commission shall require by rule or regulation.

''(3) COUNTERPARTY RECORDS.—Each registered swap dealer and major swap participant shall maintain daily trading records for each counterparty in a manner and form that is identifiable with each swap transaction.

''(4) AUDIT TRAIL.—Each registered swap dealer and major swap participant shall maintain a complete audit trail for conducting comprehensive and accurate trade reconstructions.

''(5) RULES.—The Commission shall adopt rules governing daily trading records for swap dealers and major swap participants.

''(h) BUSINESS CONDUCT STANDARDS.—

''(1) IN GENERAL.—Each registered swap dealer and major swap participant shall conform with such business conduct standards as may be prescribed by the Commission by rule or regulation that relate to—

''(A) fraud, manipulation, and other abusive practices involving swaps (including swaps that are offered but not entered into);

''(B) diligent supervision of the business of the registered swap dealer and major swap participant;

''(C) adherence to all applicable position limits; and

''(D) such other matters as the Commission determines to be appropriate.

''(2) SPECIAL RULE; FIDUCIARY DUTIES TO CERTAIN ENTITIES.—

''(A) GOVERNMENTAL ENTITIES.—A swap dealer that provides advice regarding, or offers to enter into, or enters into a swap with a State, State agency, city, county, municipality, or other political subdivision of a State or a Federal agency shall have a fiduciary duty to the State, State agency, city, county, municipality, or other political subdivision of a State, or the Federal agency, as appropriate.

''(B) PENSION PLANS; ENDOWMENTS; RETIREMENT PLANS.—A swap dealer that provides advice regarding, or offers to enter into, or enters into a swap with a pension plan, endowment, or retirement plan shall have a fiduciary duty to the pension plan, endowment, or retirement plan, as appropriate.

''(3) BUSINESS CONDUCT REQUIREMENTS.—Business conduct requirements adopted by the Commission shall—

''(A) establish the standard of care for a swap dealer or major swap participant to

verify that any counterparty meets the eligibility standards for an eligible contract participant;

''(B) require disclosure by the swap dealer or major swap participant to any counterparty to the transaction (other than a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant) of—

''(i) information about the material risks and characteristics of the swap;

''(ii) the source and amount of any fees or other material remuneration that the swap dealer or major swap participant would directly or indirectly expect to receive in connection with the swap;

''(iii) any other material incentives or conflicts of interest that the swap dealer or major swap participant may have in connection with the swap; and

''(iv)(I) for cleared swaps, upon the request of the counterparty, the daily mark from the appropriate derivatives clearing organization; and

''(II) for uncleared swaps, the daily mark of the swap dealer or the major swap participant;

''(C) establish a standard of conduct for a swap dealer or major swap participant to communicate in a fair and balanced manner based on principles of fair dealing and good faith;

''(D) establish a standard of conduct for a swap dealer or major swap participant, with respect to a counterparty that is an eligible contract participant within the meaning of subclause (I) or (II) of clause (vii) of section 1a(18) of this Act, to have a reasonable basis to believe that the counterparty has an independent representative that—

''(i) has sufficient knowledge to evaluate the transaction and risks;

''(ii) is not subject to a statutory disqualification;

''(iii) is independent of the swap dealer or major swap participant;

''(iv) undertakes a duty to act in the best interests of the counterparty it represents;

''(v) makes appropriate disclosures; and

''(vi) will provide written representations to the eligible contract participant regarding fair pricing and the appropriateness of the transaction; and

''(E) establish such other standards and requirements as the Commission may determine are appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act.

''(4) RULES.—The Commission shall prescribe rules under this subsection governing business conduct standards for swap dealers and major swap participants.

''(i) DOCUMENTATION AND BACK OFFICE STANDARDS.—

''(1) IN GENERAL.—Each registered swap dealer and major swap participant shall conform with such standards as may be prescribed by the Commission by rule or regulation that relate to timely and accurate confirmation, processing, netting, documentation, and valuation of all swaps.

''(2) RULES.—The Commission shall adopt rules governing documentation and back office standards for swap dealers and major swap participants.

''(j) DUTIES.—Each registered swap dealer and major swap participant at all times shall comply with the following requirements:

''(1) MONITORING OF TRADING.—The swap dealer or major swap participant shall monitor its trading in swaps to prevent violations of applicable position limits.

''(2) RISK MANAGEMENT PROCEDURES.—The swap dealer or major swap participant shall establish robust and professional risk management systems adequate for managing the day-to-day business of the swap dealer or major swap participant.

''(3) DISCLOSURE OF GENERAL INFORMATION.—The swap dealer or major swap participant shall disclose to the Commission and to the prudential regulator for the swap dealer or major swap participant, as applicable, information concerning—

''(A) terms and conditions of its swaps;

''(B) swap trading operations, mechanisms, and practices;

''(C) financial integrity protections relating to swaps; and

''(D) other information relevant to its trading in swaps.

''(4) ABILITY TO OBTAIN INFORMATION.—The swap dealer or major swap participant shall—

''(A) establish and enforce internal systems and procedures to obtain any necessary information to perform any of the functions described in this section; and

''(B) provide the information to the Commission and to the prudential regulator for the swap dealer or major swap participant, as applicable, on request.

''(5) CONFLICTS OF INTEREST.—The swap dealer and major swap participant shall implement conflict-of-interest systems and procedures that—

''(A) establish structural and institutional safeguards to ensure that the activities of any person within the firm relating to research or analysis of the price or market for any commodity or swap or acting in a role of providing clearing activities or making determinations as to accepting clearing customers are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of persons whose involvement in pricing, trading, or clearing activities might potentially bias their judgment or supervision and contravene the core principles of open access and the business conduct standards described in this Act; and

''(B) address such other issues as the Commission determines to be appropriate.

''(6) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, a swap dealer or major swap participant shall not—

''(A) adopt any process or take any action that results in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on trading or clearing.

''(k) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each swap dealer and major swap participant shall designate an individual to serve as a chief compliance officer.

''(2) DUTIES.—The chief compliance officer shall—

''(A) report directly to the board or to the senior officer of the swap dealer or major swap participant;

''(B) review the compliance of the swap dealer or major swap participant with respect to the swap dealer and major swap participant requirements described in this section;

''(C) in consultation with the board of directors, a body performing a function similar to the board, or the senior officer of the organization, resolve any conflicts of interest that may arise;

''(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(E) ensure compliance with this Act (including regulations) relating to swaps, including each rule prescribed by the Commission under this section;

''(F) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any—

''(i) compliance office review;

''(ii) look-back;

''(iii) internal or external audit finding;

''(iv) self-reported error; or

''(v) validated complaint; and

''(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(3) ANNUAL REPORTS.—

''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(i) the compliance of the swap dealer or major swap participant with respect to this Act (including regulations); and

''(ii) each policy and procedure of the swap dealer or major swap participant of the chief compliance officer (including the code of ethics and conflict of interest policies).

''(B) REQUIREMENTS.—A compliance report under subparagraph (A) shall—

''(i) accompany each appropriate financial report of the swap dealer or major swap participant that is required to be furnished to the Commission pursuant to this section; and

''(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.''.

SEC. 732. CONFLICTS OF INTEREST.

Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by inserting after subsection (b) the following:

''(c) CONFLICTS OF INTEREST.—The Commission shall require that futures commission merchants and introducing brokers implement conflict-of-interest systems and procedures that—

''(1) establish structural and institutional safeguards to ensure that the activities of any person within the firm relating to research or analysis of the price or market for any commodity are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of persons whose involvement in trading or clearing activities might potentially bias the judgment or supervision of the persons; and

''(2) address such other issues as the Commission determines to be appropriate.

''(d) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each futures commission merchant shall designate an individual to serve as a chief compliance officer.

''(2) DUTIES.—The chief compliance officer shall—

''(A) report directly to the board or to the senior officer of the futures commission merchant;

''(B) review the compliance of the futures commission merchant with respect to requirements described in this section;

''(C) in consultation with the board of directors, a body performing a function similar to the board, or the senior officer of the organization, resolve any conflicts of interest that may arise;

''(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(E) ensure compliance with this Act (including regulations and each rule prescribed by the Commission under this section) relating, but not limited, to—

''(i) contracts of sale of a commodity for future delivery;

''(ii) options on the contracts described in clause (i);

''(iii) commodity options;

''(iv) retail commodity transactions;

''(v) security futures products;

''(vi) leverage contracts; and

''(vii) swaps;

''(F) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any—

''(i) compliance office review;

''(ii) look-back;

''(iii) internal or external audit finding;

''(iv) self-reported error; or

''(v) validated complaint; and

''(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(3) ANNUAL REPORTS.—

''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(i) the compliance of the futures commission merchant with respect to this Act (including regulations); and

''(ii) each policy and procedure of the futures commission merchant of the chief compliance officer (including the code of ethics and conflict of interest policies).

''(B) REQUIREMENTS.—A compliance report under subparagraph (A) shall—

''(i) accompany each appropriate financial report of the futures commission merchant that is required to be furnished to the Commission pursuant to this section; and

''(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.''.

SEC. 733. SWAP EXECUTION FACILITIES.

The Commodity Exchange Act is amended by inserting after section 5g (7 U.S.C. 7b-2) the following:

''SEC. 5h. SWAP EXECUTION FACILITIES.

''(a) REGISTRATION.—

''(1) IN GENERAL.—No person may operate a facility for the trading or processing of swaps unless the facility is registered as a swap execution facility or as a designated contract market under this section.

''(2) DUAL REGISTRATION.—Any person that is registered as a swap execution facility under this section shall register with the Commission regardless of whether the person also is registered with the Securities and Exchange Commission as a swap execution facility.

''(b) TRADING AND TRADE PROCESSING.—A swap execution facility that is registered under subsection (a) may—

''(1) make available for trading any swap; and

''(2) facilitate trade processing of any swap.

''(c) IDENTIFICATION OF FACILITY USED TO TRADE SWAPS BY CONTRACT MARKETS.—A board of trade that operates a contract market shall, to the extent that the board of trade also operates a swap execution facility and uses the same electronic trade execution system for listing and executing trades of swaps on or through the contract market and the swap execution facility, identify whether the electronic trading of such swaps is taking place on or through the contract market or the swap execution facility.

''(d) CORE PRINCIPLES FOR SWAP EXECUTION FACILITIES.—

''(1) COMPLIANCE WITH CORE PRINCIPLES.—

''(A) IN GENERAL.—To be registered, and maintain registration, as a swap execution facility, the swap execution facility shall comply with—

''(i) the core principles described in this subsection; and

''(ii) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).

''(B) REASONABLE DISCRETION OF SWAP EXECUTION FACILITY.—Unless otherwise determined by the Commission by rule or regulation, a swap execution facility described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the swap execution facility complies with the core principles described in this subsection.

''(2) COMPLIANCE WITH RULES.—A swap execution facility shall—

''(A) monitor and enforce compliance with any rule of the swap execution facility, including—

''(i) the terms and conditions of the swaps traded or processed on or through the swap execution facility; and

''(ii) any limitation on access to the swap execution facility;

''(B) establish and enforce trading, trade processing, and participation rules that will deter abuses and have the capacity to detect, investigate, and enforce those rules, including means—

''(i) to provide market participants with impartial access to the market; and

''(ii) to capture information that may be used in establishing whether rule violations have occurred;

''(C) establish rules governing the operation of the facility, including rules specifying trading procedures to be used in entering and executing orders traded or posted on the facility, including block trades; and

''(D) provide by its rules that when a swap dealer or major swap participant enters into or facilitates a swap that is subject to the mandatory clearing requirement of section 2(h)(2)(F), the swap dealer or major swap participant shall be responsible for compliance with the mandatory trading requirement of section 113(d) of the Wall Street Transparency and Accountability Act of 2010.

''(3) SWAPS NOT READILY SUSCEPTIBLE TO MANIPULATION.—The swap execution facility shall permit trading only in swaps that are not readily susceptible to manipulation.

''(4) MONITORING OF TRADING AND TRADE PROCESSING.—The swap execution facility shall—

''(A) establish and enforce rules or terms and conditions defining, or specifications detailing—

''(i) trading procedures to be used in entering and executing orders traded on or through the facilities of the swap execution facility; and

''(ii) procedures for trade processing of swaps on or through the facilities of the swap execution facility; and

''(B) monitor trading in swaps to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

''(5) ABILITY TO OBTAIN INFORMATION.—The swap execution facility shall—

''(A) establish and enforce rules that will allow the facility to obtain any necessary information to perform any of the functions described in this section;

''(B) provide the information to the Commission on request; and

''(C) have the capacity to carry out such international information-sharing agreements as the Commission may require.

''(6) POSITION LIMITS OR ACCOUNTABILITY.—

''(A) IN GENERAL.—To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, a swap execution facility that is a trading facility shall adopt for each of the contracts of the facility, as is necessary and appropriate, position limitations or position accountability for speculators.

''(B) POSITION LIMITS.—For any contract that is subject to a position limitation established by the Commission pursuant to section 4a(a), the swap execution facility shall set its position limitation at a level no higher than the Commission limitation.

''(C) POSITION ENFORCEMENT.—For any contract that is subject to a position limitation established by the Commission pursuant to section 4a(a), a swap execution facility shall reject any proposed swap transaction if, based on information readily available to a swap execution facility, any proposed swap transaction would cause a swap execution facility customer that would be a party to such swap transaction to exceed such position limitation.

''(7) FINANCIAL INTEGRITY OF TRANSACTIONS.—The swap execution facility shall establish and enforce rules and procedures for ensuring the financial integrity of swaps entered on or through the facilities of the swap execution facility, including the clearance and settlement of the swaps pursuant to section 2(h)(1).

''(8) EMERGENCY AUTHORITY.—The swap execution facility shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, as is necessary and appropriate, including the authority to liquidate or transfer open positions in any swap or to suspend or curtail trading in a swap.

''(9) TIMELY PUBLICATION OF TRADING INFORMATION.—

''(A) IN GENERAL.—The swap execution facility shall make public timely information on price, trading volume, and other trading data on swaps to the extent prescribed by the Commission.

''(B) CAPACITY OF SWAP EXECUTION FACILITY.—The swap execution facility shall be required to have the capacity to electronically capture trade information with respect to transactions executed on the facility.

''(10) RECORDKEEPING AND REPORTING.—

''(A) IN GENERAL.—A swap execution facility shall—

''(i) maintain records of all activities relating to the business of the facility, including a complete audit trail, in a form and manner acceptable to the Commission for a period of 5 years; and

''(ii) report to the Commission, in a form and manner acceptable to the Commission, such information as the Commission determines to be necessary or appropriate for the Commission to perform the duties of the Commission under this Act.

''(B) REQUIREMENTS.—The Commission shall adopt data collection and reporting requirements for swap execution facilities that are comparable to corresponding requirements for derivatives clearing organizations and swap data repositories.

''(11) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, the swap execution facility shall not—

''(A) adopt any rules or taking any actions that result in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on trading or clearing.

''(12) CONFLICTS OF INTEREST.—The swap execution facility shall—

''(A) establish and enforce rules to minimize conflicts of interest in its decision-making process; and

''(B) establish a process for resolving the conflicts of interest.

''(13) FINANCIAL RESOURCES.—

''(A) IN GENERAL.—The swap execution facility shall have adequate financial, operational, and managerial resources to discharge each responsibility of the swap execution facility.

''(B) DETERMINATION OF RESOURCE ADEQUACY.—The financial resources of a swap execution facility shall be considered to be

adequate if the value of the financial resources exceeds the total amount that would enable the swap execution facility to cover the operating costs of the swap execution facility for a 1-year period, as calculated on a rolling basis.

''(14) SYSTEM SAFEGUARDS.—The swap execution facility shall—

''(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and automated systems, that—

''(i) are reliable and secure; and

''(ii) have adequate scalable capacity;

''(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that are designed to allow for—

''(i) the timely recovery and resumption of operations; and

''(ii) the fulfillment of the responsibilities and obligation of the swap execution facility; and

''(C) periodically conduct tests to verify that the backup resources of the swap execution facility are sufficient to ensure continued—

''(i) order processing and trade matching;

''(ii) price reporting;

''(iii) market surveillance and

''(iv) maintenance of a comprehensive and accurate audit trail.

''(15) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(A) IN GENERAL.—Each swap execution facility shall designate an individual to serve as a chief compliance officer.

''(B) DUTIES.—The chief compliance officer shall—

''(i) report directly to the board or to the senior officer of the facility;

''(ii) review compliance with the core principles in this subsection;

''(iii) in consultation with the board of the facility, a body performing a function similar to that of a board, or the senior officer of the facility, resolve any conflicts of interest that may arise;

''(iv) be responsible for establishing and administering the policies and procedures required to be established pursuant to this section;

''(v) ensure compliance with this Act and the rules and regulations issued under this Act, including rules prescribed by the Commission pursuant to this section; and

''(vi) establish procedures for the remediation of noncompliance issues found during compliance office reviews, look backs, internal or external audit findings, self-reported errors, or through validated complaints.

''(C) REQUIREMENTS FOR PROCEDURES.—In establishing procedures under subparagraph (B)(vi), the chief compliance officer shall design the procedures to establish the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(D) ANNUAL REPORTS.—

''(i) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(I) the compliance of the swap execution facility with this Act; and

''(II) the policies and procedures, including the code of ethics and conflict of interest policies, of the swap execution facility.

''(ii) REQUIREMENTS.—The chief compliance officer shall—

''(I) submit each report described in clause (i) with the appropriate financial report of the swap execution facility that is required to be submitted to the Commission pursuant to this section; and

''(II) include in the report a certification that, under penalty of law, the report is accurate and complete.

''(e) EXEMPTIONS.—The Commission may exempt, conditionally or unconditionally, a swap execution facility from registration under this section if the Commission finds that the facility is subject to comparable, comprehensive supervision and regulation on a consolidated basis by the Securities and Exchange Commission, a prudential regulator, or the appropriate governmental authorities in the home country of the facility.

''(f) RULES.—The Commission shall prescribe rules governing the regulation of alternative swap execution facilities under this section.''.

SEC. 734. DERIVATIVES TRANSACTION EXECUTION FACILITIES AND EXEMPT BOARDS OF TRADE.

(a) IN GENERAL.—Sections 5a and 5d of the Commodity Exchange Act (7 U.S.C. 7a, 7a-3) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(A) in subsection (a)(1)(A), in the first sentence, by striking ''or 5a''; and

(B) in paragraph (2) of subsection (g) (as redesignated by section 723(a)(1)(B)), by striking ''section 5a of this Act'' and all that follows through ''5d of this Act'' and inserting ''section 5b of this Act''.

(2) Section 6(g)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(g)(1)(A)) is amended—

(A) by striking ''that—'' and all that follows through ''(i) has been designated'' and inserting ''that has been designated'';

(B) by striking ''; or'' and inserting ''; and'' and

(C) by striking clause (ii).

SEC. 735. DESIGNATED CONTRACT MARKETS.

(a) CRITERIA FOR DESIGNATION.—Section 5 of the Commodity Exchange Act (7 U.S.C. 7) is amended by striking subsection (b).

(b) CORE PRINCIPLES FOR CONTRACT MARKETS.—Section 5 of the Commodity Exchange Act (7 U.S.C. 7) is amended by striking subsection (d) and inserting the following:

''(d) CORE PRINCIPLES FOR CONTRACT MARKETS.—

''(1) DESIGNATION AS CONTRACT MARKET.—

''(A) IN GENERAL.—To be designated, and maintain a designation, as a contract market, a board of trade shall comply with—

''(i) any core principle described in this subsection; and

''(ii) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).

''(B) REASONABLE DISCRETION OF CONTRACT MARKET.—Unless otherwise determined by the Commission by rule or regulation, a board of trade described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the board of trade complies with the core principles described in this subsection.

''(2) COMPLIANCE WITH RULES.—

''(A) IN GENERAL.—The board of trade shall establish, monitor, and enforce compliance with the rules of the contract market, including—

''(i) access requirements;

''(ii) the terms and conditions of any contracts to be traded on the contract market; and

''(iii) rules prohibiting abusive trade practices on the contract market.

''(B) CAPACITY OF CONTRACT MARKET.—The board of trade shall have the capacity to detect, investigate, and apply appropriate sanctions to any person that violates any rule of the contract market.

''(C) REQUIREMENT OF RULES.—The rules of the contract market shall provide the board of trade with the ability and authority to obtain any necessary information to perform any function described in this subsection, including the capacity to carry out such international information-sharing agreements as the Commission may require.

''(3) CONTRACTS NOT READILY SUBJECT TO MANIPULATION.—The board of trade shall list on the contract market only contracts that are not readily susceptible to manipulation.

''(4) PREVENTION OF MARKET DISRUPTION.—The board of trade shall have the capacity and responsibility to prevent manipulation, price distortion, and disruptions of the delivery or cash-settlement process through market surveillance, compliance, and enforcement practices and procedures, including—

''(A) methods for conducting real-time monitoring of trading; and

''(B) comprehensive and accurate trade reconstructions.

''(5) POSITION LIMITATIONS OR ACCOUNTABILITY.—

''(A) IN GENERAL.—To reduce the potential threat of market manipulation or congestion (especially during trading in the delivery month), the board of trade shall adopt for each contract of the board of trade, as is necessary and appropriate, position limitations or position accountability for speculators.

''(B) MAXIMUM ALLOWABLE POSITION LIMITATION.—For any contract that is subject to a position limitation established by the Commission pursuant to section 4a(a), the board of trade shall set the position limitation of the board of trade at a level not higher than the position limitation established by the Commission.

''(6) EMERGENCY AUTHORITY.—The board of trade, in consultation or cooperation with the Commission, shall adopt rules to provide for the exercise of emergency authority, as is necessary and appropriate, including the authority—

''(A) to liquidate or transfer open positions in any contract;

''(B) to suspend or curtail trading in any contract; and

''(C) to require market participants in any contract to meet special margin requirements.

''(7) AVAILABILITY OF GENERAL INFORMATION.—The board of trade shall make available to market authorities, market participants, and the public accurate information concerning—

''(A) the terms and conditions of the contracts of the contract market; and

''(B)(i) the rules, regulations, and mechanisms for executing transactions on or through the facilities of the contract market; and

''(ii) the rules and specifications describing the operation of the contract market's—

''(I) electronic matching platform; or

''(II) trade execution facility.

''(8) DAILY PUBLICATION OF TRADING INFORMATION.—The board of trade shall make public daily information on settlement prices, volume, open interest, and opening and closing ranges for actively traded contracts on the contract market.

''(9) EXECUTION OF TRANSACTIONS.—

''(A) IN GENERAL.—The board of trade shall provide a competitive, open, and efficient market and mechanism for executing transactions that protects the price discovery process of trading in the centralized market of the board of trade.

''(B) RULES.—The rules of the board of trade may authorize, for bona fide business purposes—

''(i) transfer trades or office trades;

''(ii) an exchange of—

''(I) futures in connection with a cash commodity transaction;

''(II) futures for cash commodities; or

''(III) futures for swaps; or

''(iii) a futures commission merchant, acting as principal or agent, to enter into or confirm the execution of a contract for the purchase or sale of a commodity for future delivery if the contract is reported, recorded, or cleared in accordance with the rules of the contract market or a derivatives clearing organization.

''(10) TRADE INFORMATION.—The board of trade shall maintain rules and procedures to provide for the recording and safe storage of all identifying trade information in a manner that enables the contract market to use the information—

''(A) to assist in the prevention of customer and market abuses; and

''(B) to provide evidence of any violations of the rules of the contract market.

''(11) FINANCIAL INTEGRITY OF TRANSACTIONS.—The board of trade shall establish and enforce—

''(A) rules and procedures for ensuring the financial integrity of transactions entered into on or through the facilities of the contract market (including the clearance and settlement of the transactions with a derivatives clearing organization); and

''(B) rules to ensure—

''(i) the financial integrity of any—

''(I) futures commission merchant; and

''(II) introducing broker; and

''(ii) the protection of customer funds.

''(12) PROTECTION OF MARKETS AND MARKET PARTICIPANTS.—The board of trade shall establish and enforce rules—

''(A) to protect markets and market participants from abusive practices committed by any party, including abusive practices committed by a party acting as an agent for a participant; and

''(B) to promote fair and equitable trading on the contract market.

''(13) DISCIPLINARY PROCEDURES.—The board of trade shall establish and enforce disciplinary procedures that authorize the board of trade to discipline, suspend, or expel members or market participants that violate the rules of the board of trade, or similar methods for performing the same functions, including delegation of the functions to third parties.

''(14) DISPUTE RESOLUTION.—The board of trade shall establish and enforce rules regarding, and provide facilities for alternative dispute resolution as appropriate for, market participants and any market intermediaries.

''(15) GOVERNANCE FITNESS STANDARDS.—The board of trade shall establish and enforce appropriate fitness standards for directors, members of any disciplinary committee, members of the contract market, and any other person with direct access to the facility (including any party affiliated with any person described in this paragraph).

''(16) CONFLICTS OF INTEREST.—The board of trade shall establish and enforce rules—

''(A) to minimize conflicts of interest in the decision-making process of the contract market; and

''(B) to establish a process for resolving conflicts of interest described in subparagraph (A).

''(17) COMPOSITION OF GOVERNING BOARDS OF CONTRACT MARKETS.—The governance arrangements of the board of trade shall be designed to promote the objectives of market participants.

''(18) RECORDKEEPING.—The board of trade shall maintain records of all activities relating to the business of the contract market—

''(A) in a form and manner that is acceptable to the Commission; and

''(B) for a period of at least 5 years.

''(19) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this Act, the board of trade shall not—

''(A) adopt any rule or taking any action that results in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on trading on the contract market.

''(20) SYSTEM SAFEGUARDS.—The board of trade shall—

''(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and the development of automated systems, that are reliable, secure, and have adequate scalable capacity;

''(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that allow for the timely recovery and resumption of operations and the fulfillment of the responsibilities and obligations of the board of trade; and

''(C) periodically conduct tests to verify that backup resources are sufficient to ensure continued order processing and trade matching, price reporting, market surveillance, and maintenance of a comprehensive and accurate audit trail.

''(21) FINANCIAL RESOURCES.—

''(A) IN GENERAL.—The board of trade shall have adequate financial, operational, and managerial resources to discharge each responsibility of the board of trade.

''(B) DETERMINATION OF ADEQUACY.—The financial resources of the board of trade shall be considered to be adequate if the value of the financial resources exceeds the total amount that would enable the contract market to cover the operating costs of the contract market for a 1-year period, as calculated on a rolling basis.''.

SEC. 736. MARGIN.

Section 8a(7) of the Commodity Exchange Act (7 U.S.C. 12a(7)) is amended—

(1) in subparagraph (C), by striking '', excepting the setting of levels of margin'';

(2) by redesignating subparagraphs (D) through (F) as subparagraphs (E) through (G), respectively; and

(3) by inserting after subparagraph (C) the following:

''(D) margin requirements, provided that the rules, regulations, or orders shall—

''(i) be limited to protecting the financial integrity of the derivatives clearing organization;

''(ii) be designed for risk management purposes to protect the financial integrity of transactions; and

''(iii) not set specific margin amounts;''.

SEC. 737. POSITION LIMITS.

(a) AGGREGATE POSITION LIMITS.—Section 4a(a) of the Commodity Exchange Act (7 U.S.C. 6a(a)) is amended—

(1) by inserting after ''(a)'' the following:

''(1) IN GENERAL.—'';

(2) in the first sentence, by striking ''on electronic trading facilities with respect to a significant price discovery contract'' and inserting ''swaps that perform or affect a significant price discovery function with respect to registered entities'';

(3) in the second sentence—

(A) by inserting '', including any group or class of traders,'' after ''held by any person''; and

(B) by striking ''on an electronic trading facility with respect to a significant price discovery contract,'' and inserting ''swaps traded on or subject to the rules of an swaps execution facility, or swaps not traded on or subject to the rules of an swaps execution facility that perform a significant price discovery function with respect to a registered entity,''; and

(4) by adding at the end the following:

''(2) AGGREGATE POSITION LIMITS.—The Commission shall, by rule or regulation, establish limits (including related hedge exemption provisions) on the aggregate number or amount of positions in contracts based on the same underlying commodity (as defined by the Commission) that may be held by any person, including any group or class of traders, for each month across—

''(A) contracts listed by designated contract markets;

''(B) with respect to an agreement, contract, or transaction that settles against, or in relation to, any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, contracts traded on a foreign board of trade that provides members or other participants located in the United States with direct access to the electronic trading and order matching system of the foreign board of trade;

''(C) swaps traded on or subject to the rules of a swap execution facility; and

''(D) swaps not traded on or subject to the rules of a swap execution facility that perform or affect a significant price discovery function with respect to a registered entity.

''(3) SIGNIFICANT PRICE DISCOVERY FUNCTION.—In making a determination as to whether a swap performs or affects a significant price discovery function with respect to registered entities, the Commission shall consider, as appropriate, the following factors:

''(A) PRICE LINKAGE.—The extent to which the swap uses or otherwise relies on a daily or final settlement price, or other major price parameter, of another contract traded on a registered entity based on the same underlying commodity, to value a position, transfer or convert a position, financially settle a position, or close out a position.

''(B) ARBITRAGE.—The extent to which the price for the swap is sufficiently related to the price of another contract traded on a registered entity based on the same underlying commodity so as to permit market participants to effectively arbitrage between the markets by simultaneously maintaining positions or executing trades in the swaps on a frequent and recurring basis.

''(C) MATERIAL PRICE REFERENCE.—The extent to which, on a frequent and recurring basis, bids, offers, or transactions in a contract traded on a registered entity are directly based on, or are determined by referencing, the price generated by the swap.

''(D) MATERIAL LIQUIDITY.—The extent to which the volume of swaps being traded in the commodity is sufficient to have a material effect on another contract traded on a registered entity.

''(E) OTHER MATERIAL FACTORS.—Such other material factors as the Commission specifies by rule or regulation as relevant to determine whether a swap serves a significant price discovery function with respect to a regulated market.

''(4) EXEMPTIONS.—The Commission, by rule, regulation, or order, may exempt, conditionally or unconditionally, any person or class of persons, any swap or class of swaps, or any transaction or class of transactions from any requirement that the Commission establishes under this section with respect to position limits.''.

(b) CONFORMING AMENDMENTS.—Section 4a(b) of the Commodity Exchange Act (7 U.S.C. 6a(b)) is amended—

(1) in paragraph (1), by striking ''or derivatives transaction execution facility or facilities or electronic trading facility'' and inserting ''or swap execution facility or facilities''; and

(2) in paragraph (2), by striking ''or derivatives transaction execution facility or facilities or electronic trading facility'' and inserting ''or swap execution facility''.

SEC. 738. FOREIGN BOARDS OF TRADE.

(a) IN GENERAL.—Section 4(b) of the Commodity Exchange Act (7 U.S.C. 6(b)) is amended—

(1) in the first sentence, by striking ''The Commission'' and inserting the following:

''(2) PERSONS LOCATED IN THE UNITED STATES.—

''(A) IN GENERAL.—The Commission'';

(2) in the second sentence, by striking ''Such rules and regulations'' and inserting the following:

''(B) DIFFERENT REQUIREMENTS.—Rules and regulations described in subparagraph (A)'';

(3) in the third sentence—

(A) by striking ''No rule or regulation'' and inserting the following:

''(C) PROHIBITION.—Except as provided in paragraphs (1) and (2), no rule or regulation'';

(B) by striking ''that (1) requires'' and inserting the following: ''that—

''(i) requires''; and

(C) by striking ''market, or (2) governs'' and inserting the following: ''market; or

''(ii) governs''; and

(4) by inserting before paragraph (2) (as designated by paragraph (1)) the following:

''(1) FOREIGN BOARDS OF TRADE.—

''(A) IN GENERAL.—It shall be unlawful for a foreign board of trade to provide to the members of the foreign board of trade or other participants located in the United States direct access to the electronic trading and order-matching system of the foreign board of trade with respect to an agreement, contract, or transaction that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, unless the Commission determines that—

''(i) the foreign board of trade makes public daily trading information regarding the agreement, contract, or transaction that is comparable to the daily trading information published by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

''(ii) the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade)—

''(I) adopts position limits (including related hedge exemption provisions) for the agreement, contract, or transaction that are comparable to the position limits (including related hedge exemption provisions) adopted by the registered entity for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles;

''(II) has the authority to require or direct market participants to limit, reduce, or liquidate any position the foreign board of trade (or the foreign futures authority that oversees the foreign board of trade) determines to be necessary to prevent or reduce the threat of price manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process;

''(III) agrees to promptly notify the Commission, with regard to the agreement, contract, or transaction that settles against any price (including the daily or final settlement price) of 1 or more contracts listed for trading on a registered entity, of any change regarding—

''(aa) the information that the foreign board of trade will make publicly available;

''(bb) the position limits that the foreign board of trade or foreign futures authority will adopt and enforce;

''(cc) the position reductions required to prevent manipulation, excessive speculation as described in section 4a, price distortion, or disruption of delivery or the cash settlement process; and

''(dd) any other area of interest expressed by the Commission to the foreign board of trade or foreign futures authority;

''(IV) provides information to the Commission regarding large trader positions in the agreement, contract, or transaction that is comparable to the large trader position information collected by the Commission for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles; and

''(V) provides the Commission such information as is necessary to publish reports on aggregate trader positions for the agreement, contract, or transaction traded on the foreign board of trade that are comparable to such reports on aggregate trader positions for the 1 or more contracts against which the agreement, contract, or transaction traded on the foreign board of trade settles.

''(B) EXISTING FOREIGN BOARDS OF TRADE.—Subparagraph (A) shall not be effective with respect to any foreign board of trade to which, prior to the date of enactment of this paragraph, the Commission granted direct access permission until the date that is 180 days after that date of enactment.''.

(b) LIABILITY OF REGISTERED PERSONS TRADING ON A FOREIGN BOARD OF TRADE.—Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by inserting ''or by subsection (e)'' after ''Unless exempted by the Commission pursuant to subsection (c)''; and

(2) by adding at the end the following:

''(e) LIABILITY OF REGISTERED PERSONS TRADING ON A FOREIGN BOARD OF TRADE.—A person registered with the Commission, or exempt from registration by the Commission, under this Act may not be found to have violated subsection (a) with respect to a transaction in, or in connection with, a contract of sale of a commodity for future delivery if the person has reason to believe that the transaction and the contract is made on or subject to the rules of a foreign board of trade that has complied with paragraphs (1) and (2) of subsection (b).''.

(c) CONTRACT ENFORCEMENT FOR FOREIGN FUTURES CONTRACTS.—Section 22(a) of the Commodity Exchange Act (7 U.S.C. 25(a)) (as amended by section 739) is amended by adding at the end the following:

''(6) CONTRACT ENFORCEMENT FOR FOREIGN FUTURES CONTRACTS.—A contract of sale of a commodity for future delivery traded or executed on or through the facilities of a board of trade, exchange, or market located outside the United States for purposes of section 4(a) shall not be void, voidable, or unenforceable, and a party to such a contract shall not be entitled to rescind or recover any payment made with respect to the contract, based on the failure of the foreign board of trade to comply with any provision of this Act.''.

SEC. 739. LEGAL CERTAINTY FOR SWAPS.

Section 22(a) of the Commodity Exchange Act (7 U.S.C. 25(a)) is amended by striking paragraph (4) and inserting the following:

''(4) CONTRACT ENFORCEMENT BETWEEN ELIGIBLE COUNTERPARTIES.—

''(A) IN GENERAL.—No hybrid instrument sold to any investor shall be void, voidable, or unenforceable, and no party to a hybrid instrument shall be entitled to rescind, or recover any payment made with respect to, the hybrid instrument under this section or any other provision of Federal or State law, based solely on the failure of the hybrid instrument to comply with the terms or conditions of section 2(f) or regulations of the Commission.

''(B) SWAPS.—No agreement, contract, or transaction between eligible contract participants or persons reasonably believed to be eligible contract participants shall be void, voidable, or unenforceable, and no party to an agreement, contract, or transaction shall be entitled to rescind, or recover any payment made with respect to, the agreement, contract, or transaction under this section or any other provision of Federal or State law, based solely on the failure of the agreement, contract, or transaction—

''(i) to meet the definition of a swap under section 1a; or

''(ii) to be cleared in accordance with section 2(h)(1).

''(5) LEGAL CERTAINTY FOR LONG-TERM SWAPS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE WALL STREET TRANSPARENCY AND ACCOUNTABILITY ACT OF 2010.—

''(A) IN GENERAL.—Any swap entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the terms of which have not expired as of the date of enactment, shall not be subject to the mandatory clearing requirements under this Act.

''(B) EFFECT ON SWAPS.—Unless specifically reserved in the applicable bilateral trading agreement, neither the enactment of the Wall Street Transparency and Accountability Act of 2010, nor any requirement under that Act or an amendment made by that Act, shall constitute a termination event, force majeure, illegality, increased costs, regulatory change, or similar event under a bilateral trading agreement (including any related credit support arrangement) that would permit a party to terminate, renegotiate, modify, amend, or supplement 1 or more transactions under the bilateral trading agreement.

''(C) POSITION LIMITS.—Any position limit established under the Wall Street Transparency and Accountability Act of 2010 shall not apply to a position acquired in good faith prior to the effective date of any rule, regulation, or order under the Act that establishes the position limit; provided, however, that such positions shall be attributed to the trader if the trader's position is increased after the effective date such position limit rule, regulation, or order.''.

SEC. 740. MULTILATERAL CLEARING ORGANIZATIONS.

Sections 408 and 409 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4421, 4422) are repealed.

SEC. 741. ENFORCEMENT.

(a) ENFORCEMENT AUTHORITY.—The Commodity Exchange Act is amended by inserting after section 4b (7 U.S.C. 6b) the following:

''SEC. 4b–1. ENFORCEMENT AUTHORITY.

''(a) COMMISSION.—Except as provided in subsections (b), (c), and (d), the Commission shall have primary authority to enforce the amendments made by the Wall Street Transparency and Accountability Act of 2010 with respect to any person.

''(b) APPROPRIATE FEDERAL BANKING AGENCIES.—The appropriate Federal banking agency for swap dealers or major swap participants that are depository institutions, as that term is defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall have exclusive authority to enforce the provisions of section 4s(e) and other prudential requirements of this Act, with respect to depository institutions that are swap dealers or major swap participants.

''(c) REFERRALS.—

''(1) PRUDENTIAL REGULATORS.—If the prudential regulator for a swap dealer or major swap participant has cause to believe that the swap dealer or major swap participant, or any affiliate or division of the swap dealer or major swap participant, may have engaged in conduct that constitutes a violation

of the nonprudential requirements of this Act (including section 4s or rules adopted by the Commission under that section), the prudential regulator shall promptly notify the Commission in a written report that includes—

''(A) a request that the Commission initiate an enforcement proceeding under this Act; and

''(B) an explanation of the facts and circumstances that led to the preparation of the written report.

''(2) COMMISSION.—If the Commission has cause to believe that a swap dealer or major swap participant that has a prudential regulator may have engaged in conduct that constitutes a violation of any prudential requirement of section 4s or rules adopted by the Commission under that section, the Commission may notify the prudential regulator of the conduct in a written report that includes—

''(A) a request that the prudential regulator initiate an enforcement proceeding under this Act or any other Federal law (including regulations); and

''(B) an explanation of the concerns of the Commission, and a description of the facts and circumstances, that led to the preparation of the written report.

''(d) BACKSTOP ENFORCEMENT AUTHORITY.—

''(1) INITIATION OF ENFORCEMENT PROCEEDING BY PRUDENTIAL REGULATOR.—If the Commission does not initiate an enforcement proceeding before the end of the 90-day period beginning on the date on which the Commission receives a written report under subsection (c)(1), the prudential regulator may initiate an enforcement proceeding.

''(2) INITIATION OF ENFORCEMENT PROCEEDING BY COMMISSION.—If the prudential regulator does not initiate an enforcement proceeding before the end of the 90-day period beginning on the date on which the prudential regulator receives a written report under subsection (c)(2), the Commission may initiate an enforcement proceeding.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 4b of the Commodity Exchange Act (7 U.S.C. 6b) is amended—

(A) in subsection (a)(2), by striking ''or other agreement, contract, or transaction subject to paragraphs (1) and (2) of section 5a(g),'' and inserting ''or swap,'';

(B) in subsection (b), by striking ''or other agreement, contract or transaction subject to paragraphs (1) and (2) of section 5a(g),'' and inserting ''or swap,''; and

(C) by adding at the end the following:

''(e) It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any registered entity, in or in connection with any order to make, or the making of, any contract of sale of any commodity for future delivery (or option on such a contract), or any swap, on a group or index of securities (or any interest therein or based on the value thereof)—

''(1) to employ any device, scheme, or artifice to defraud;

''(2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

''(3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.''.

(2) Section 4c(a)(1) of the Commodity Exchange Act (7 U.S.C. 6c(a)(1)) is amended by inserting ''or swap'' before ''if the transaction is used or may be used''.

(3) Section 6(c) of the Commodity Exchange Act (7 U.S.C. 9) is amended in the first sentence by inserting ''or of any swap,'' before ''or has willfully made''.

(4) Section 6(d) of the Commodity Exchange Act (7 U.S.C. 13b) is amended in the first sentence, in the matter preceding the proviso, by inserting ''or of any swap,'' before ''or otherwise is violating''.

(5) Section 6c(a) of the Commodity Exchange Act (7 U.S.C. 13a-1(a)) is amended in the matter preceding the proviso by inserting ''or any swap'' after ''commodity for future delivery''.

(6) Section 9 of the Commodity Exchange Act (7 U.S.C. 13) is amended—

(A) in subsection (a)—

(i) in paragraph (2), by inserting ''or of any swap,'' before ''or to corner''; and

(ii) in paragraph (4), by inserting ''swap data repository,'' before ''or futures association'' and

(B) in subsection (e)(1)—

(i) by inserting ''swap data repository,'' before ''or registered futures association''; and

(ii) by inserting '', or swaps,'' before ''on the basis''.

(7) Section 9(a) of the Commodity Exchange Act (7 U.S.C. 13(a)) is amended by adding at the end the following:

''(6) Any person to abuse the end user clearing exemption under section 2(h)(4), as determined by the Commission.''.

(8) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end the following:

''(11) SWAPS.—

''(A) IN GENERAL.—Subject to subparagraph (B), this section shall apply to any swap dealer, major swap participant, security-based swap dealer, major security-based swap participant, derivatives clearing organization, swap data repository, or swap execution facility, regardless of whether the dealer, participant, organization, repository, or facility is an insured depository institution, for which the Board, the Corporation, or the Office of the Comptroller of the Currency is the appropriate Federal banking agency or prudential regulator for purposes of the amendments made by the Wall Street Transparency and Accountability Act of 2010.

''(B) LIMITATION.—The authority described in subparagraph (A) shall be limited by, and exercised in accordance with, section 4b–1 of the Commodity Exchange Act.''.

(9) Section 2(c)(2)(B) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)) is amended—

(A) by striking ''(dd),'' each place it appears;

(B) in clause (iii), by inserting '', and accounts or pooled investment vehicles described in clause (vi),'' before ''shall be subject to''; and

(C) by adding at the end the following:

''(vi) This Act applies to, and the Commission shall have jurisdiction over, an account or pooled investment vehicle that is offered for the purpose of trading, or that trades, any agreement, contract, or transaction in foreign currency described in clause (i).''.

(10) Section 2(c)(2)(C) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(C)) is amended—

(A) by striking ''(dd),'' each place it appears;

(B) in clause (ii)(I), by inserting '', and accounts or pooled investment vehicles described in clause (vii),'' before ''shall be subject to''; and

(C) by adding at the end the following:

''(vii) This Act applies to, and the Commission shall have jurisdiction over, an account or pooled investment vehicle that is offered for the purpose of trading, or that trades, any agreement, contract, or transaction in foreign currency described in clause (i).''.

(11) Section 1a(19)(A)(iv)(II) of the Commodity Exchange Act (7 U.S.C. 1a(19)(A)(iv)(II)) (as redesignated by section 721(a)(1)) is amended by inserting before the semicolon at the end the following: ''provided, however, that for purposes of section 2(c)(2)(B)(vi) and section 2(c)(2)(C)(vii), the term 'eligible contract participant' shall not include a commodity pool in which any participant is not otherwise an eligible contract participant''.

SEC. 742. RETAIL COMMODITY TRANSACTIONS.

(a) IN GENERAL.—Section 2(c) of the Commodity Exchange Act (7 U.S.C. 2(c)) is amended—

(1) in paragraph (1), by striking ''(to the extent provided in section 5a(g)), 5b, 5d, or 12(e)(2)(B))'' and inserting '', 5b, or 12(e)(2)(B))''; and

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

''(D) RETAIL COMMODITY TRANSACTIONS.—

''(i) APPLICABILITY.—Except as provided in clause (ii), this subparagraph shall apply to any agreement, contract, or transaction in any commodity that is—

''(I) entered into with, or offered to (even if not entered into with), a person that is not an eligible contract participant or eligible commercial entity; and

''(II) entered into, or offered (even if not entered into), on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.

''(ii) EXCEPTIONS.—This subparagraph shall not apply to—

''(I) an agreement, contract, or transaction described in paragraph (1) or subparagraphs (A), (B), or (C), including any agreement, contract, or transaction specifically excluded from subparagraph (A), (B), or (C);

''(II) any security;

''(III) a contract of sale that—

''(aa) results in actual delivery within 28 days or such other period as the Commission may determine by rule or regulation based upon the typical commercial practice in cash or spot markets for the commodity involved; or

''(bb) creates an enforceable obligation to deliver between a seller and a buyer that have the ability to deliver and accept delivery, respectively, in connection with the line of business of the seller and buyer; or

''(IV) an agreement, contract, or transaction that is listed on a national securities exchange registered under section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or

''(V) an identified banking product, as defined in section 402(b) of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C.27(b)).

''(iii) ENFORCEMENT.—Sections 4(a), 4(b), and 4b apply to any agreement, contract, or transaction described in clause (i), as if the agreement, contract, or transaction was a contract of sale of a commodity for future delivery.

''(iv) ELIGIBLE COMMERCIAL ENTITY.—For purposes of this subparagraph, an agricultural producer, packer, or handler shall be considered to be an eligible commercial entity for any agreement, contract, or transaction for a commodity in connection with the line of business of the agricultural producer, packer, or handler.

''(v) ACTUAL DELIVERY.—For purposes of clause (ii)(III), the term 'actual delivery' does not include delivery to a third party in a financed transaction in which the commodity is held as collateral.''.

(b) GRAMM-LEACH-BLILEY ACT.—Section 206(a) of the Gramm-Leach-Bliley Act (Public Law 106–102; 15 U.S.C. 78c note) is amended, in the matter preceding paragraph (1), by striking ''For purposes of'' and inserting ''Except as provided in subsection (e), for purposes of''.

(c) CONFORMING AMENDMENTS RELATING TO RETAIL FOREIGN EXCHANGE TRANSACTIONS.—

(1) Section 2(c)(2)(B)(i)(II) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)(B)(i)(II)) is amended—

(A) in item (aa), by inserting ''United States'' before ''financial institution'';

(B) by striking items (dd) and (ff);

(C) by redesignating items (ee) and (gg) as items (dd) and (ff), respectively; and

(D) in item (dd) (as so redesignated), by striking the semicolon and inserting ''; or''.

(2) Section 2(c)(2) of the Commodity Exchange Act (7 U.S.C. 2(c)(2)) (as amended by subsection (a)(2)) is amended by adding at the end the following:

''(E) PROHIBITION.—

''(i) DEFINITION OF FEDERAL REGULATORY AGENCY.—In this subparagraph, the term 'Federal regulatory agency' means—

''(I) the Commission;

''(II) the Securities and Exchange Commission;

''(III) an appropriate Federal banking agency;

''(IV) the National Credit Union Association; and

''(V) the Farm Credit Administration.

''(ii) PROHIBITION.—A person described in subparagraph (B)(i)(II) for which there is a Federal regulatory agency shall not offer to, or enter into with, a person that is not an eligible contract participant, any agreement, contract, or transaction in foreign currency described in subparagraph (B)(i)(I) except pursuant to a rule or regulation of a Federal regulatory agency allowing the agreement, contract, or transaction under such terms and conditions as the Federal regulatory agency shall prescribe.

''(iii) REQUIREMENTS OF RULES AND REGULATIONS.—

''(I) IN GENERAL.—The rules and regulations described in clause (ii) shall prescribe appropriate requirements with respect to—

''(aa) disclosure;

''(bb) recordkeeping;

''(cc) capital and margin;

''(dd) reporting;

''(ee) business conduct;

''(ff) documentation; and

''(gg) such other standards or requirements as the Federal regulatory agency shall determine to be necessary.

''(II) TREATMENT.—The rules or regulations described in clause (ii) shall treat all agreements, contracts, and transactions in foreign currency described in subparagraph (B)(i)(I), and all agreements, contracts, and transactions in foreign currency that are functionally or economically similar to agreements, contracts, or transactions described in subparagraph (B)(i)(I), similarly.''.

SEC. 743. OTHER AUTHORITY.

Unless otherwise provided by the amendments made by this subtitle, the amendments made by this subtitle do not divest any appropriate Federal banking agency, the Commodity Futures Trading Commission, the Securities and Exchange Commission, or other Federal or State agency of any authority derived from any other applicable law.

SEC. 744. RESTITUTION REMEDIES.

Section 6c(d) of the Commodity Exchange Act (7 U.S.C. 13a–1(d)) is amended by adding at the end the following:

''(3) EQUITABLE REMEDIES.—In any action brought under this section, the Commission may seek, and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation, equitable remedies including—

''(A) restitution to persons who have sustained losses proximately caused by such violation (in the amount of such losses); and

''(B) disgorgement of gains received in connection with such violation.''.

SEC. 745. ENHANCED COMPLIANCE BY REGISTERED ENTITIES.

(a) CORE PRINCIPLES FOR CONTRACT MARKETS.—Section 5(d) of the Commodity Exchange Act (7 U.S.C. 7(d)) (as amended by section 735(b)) is amended by striking paragraph (1) and inserting the following:

''(1) DESIGNATION.—

''(A) IN GENERAL.—To be designated as, and to maintain the designation of, a board of trade as a contract market, the board of trade shall comply with—

''(i) the core principles described in this subsection; and

''(ii) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).

''(B) DISCRETION OF BOARD OF TRADE.—Unless the Commission determines otherwise by rule or regulation, the board of trade shall have reasonable discretion in establishing the manner by which the board of trade complies with each core principle.''.

(b) CORE PRINCIPLES.—Section 5b(c)(2) of the Commodity Exchange Act (7 U.S.C. 7a–1(c)(2)) (as amended by section 725(c)) is amended by striking subparagraph (A) and inserting the following:

''(A) REGISTRATION.—

''(i) IN GENERAL.—To be registered and to maintain registration as a derivatives clearing organization, a derivatives clearing organization shall comply with—

''(I) the core principles described in this paragraph; and

''(II) any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5).

''(ii) DISCRETION OF COMMISSION.—Unless the Commission determines otherwise by rule or regulation, a derivatives clearing organization shall have reasonable discretion in establishing the manner by which the derivatives clearing organization complies with each core principle.''.

(c) EFFECT OF INTERPRETATION.—Section 5c(a) of the Commodity Exchange Act (7 U.S.C. 7a–2(a)) is amended by striking paragraph (2) and inserting the following:

''(2) EFFECT OF INTERPRETATION.—An interpretation issued under paragraph (1) may provide the exclusive means for complying with each section described in paragraph (1).''.

(d) NEW CONTRACTS, NEW RULES, AND RULE AMENDMENTS.—

(1) IN GENERAL.—A registered entity may elect to list for trading or accept for clearing any new contract, or other instrument, or may elect to approve and implement any new rule or rule amendment, by providing to the Commission (and the Secretary of the Treasury, in the case of a contract of sale of a government security for future delivery (or option on such a contract) or a rule or rule amendment specifically related to such a contract) a written certification that the new contract or instrument or clearing of the new contract or instrument, new rule, or rule amendment complies with this Act (including regulations under this Act).

(2) RULE REVIEW.—The new rule or rule amendment described in paragraph (1) shall become effective, pursuant to the certification of the registered entity, on the date that is 10 business days after the date on which the Commission receives the certification (or such shorter period as determined by the Commission by rule or regulation) unless the Commission notifies the registered entity within such time that it is staying the certification because there exist novel or complex issues that require additional time to analyze, an inadequate explanation by the submitting registered entity, or a potential inconsistency with this Act (including regulations under this Act).

(3) STAY OF CERTIFICATION FOR RULES.—

(A) A notification by the Commission pursuant to paragraph (2) shall stay the certification of the new rule or rule amendment for up to an additional 90 days from the date of the notification.

(B) A rule or rule amendment subject to a stay pursuant to subparagraph (A) shall become effective, pursuant to the certification of the registered entity, at the expiration of the period described in subparagraph (A) unless the Commission—

(i) withdraws the stay prior to that time; or

(ii) notifies the registered entity during such period that it objects to the proposed certification on the grounds that it is inconsistent with this Act (including regulations under this Act).

(4) PRIOR APPROVAL.—

(A) IN GENERAL.—A registered entity may request that the Commission grant prior approval to any new contract or other instrument, new rule, or rule amendment.

(B) PRIOR APPROVAL REQUIRED.—Notwithstanding any other provision of this section, a designated contract market shall submit to the Commission for prior approval each rule amendment that materially changes the terms and conditions, as determined by the Commission, in any contract of sale for future delivery of a commodity specifically enumerated in section 1a(10) (or any option thereon) traded through its facilities if the rule amendment applies to contracts and delivery months which have already been listed for trading and have open interest.

(C) DEADLINE.—If prior approval is requested under subparagraph (A), the Commission shall take final action on the request not later than 90 days after submission of the request, unless the person submitting the request agrees to an extension of the time limitation established under this subparagraph.

(5) APPROVAL.—

(A) RULES.—The Commission shall approve a new rule, or rule amendment, of a registered entity unless the Commission finds that the new rule, or rule amendment, is inconsistent with this subtitle (including regulations).

(B) CONTRACTS AND INSTRUMENTS.—The Commission shall approve a new contract or other instrument unless the Commission finds that the new contract or other instrument would violate this subtitle (including regulations).

(C) SPECIAL RULE FOR REVIEW AND APPROVAL OF EVENT CONTRACTS AND SWAPS CONTRACTS.—

(i) EVENT CONTRACTS.—In connection with the listing of agreements, contracts, transactions, or swaps in excluded commodities that are based upon the occurrence, extent of an occurrence, or contingency (other than a change in the price, rate, value, or levels of a commodity described in section 1a(2)(i)), by a designated contract market or swap execution facility, the Commission may determine that such agreements, contracts, or transactions are contrary to the public interest if the agreements, contracts, or transactions involve—

(I) activity that is unlawful under any Federal or State law;

(II) terrorism;

(III) assassination;

(IV) war;

(V) gaming; or

(VI) other similar activity determined by the Commission, by rule or regulation, to be contrary to the public interest.

(ii) PROHIBITION.—No agreement, contract, or transaction determined by the Commission to be contrary to the public interest under clause (i) may be listed or made available for clearing or trading on or through a registered entity.

(iii) SWAPS CONTRACTS.—

(I) IN GENERAL.—In connection with the listing of a swap for clearing by a derivatives clearing organization, the Commission shall determine, upon request or on its own motion, the initial eligibility, or the continuing qualification, of a derivatives clearing organization to clear such a swap under those criteria, conditions, or rules that the Commission, in its discretion, determines.

(II) REQUIREMENTS.—Any such criteria, conditions, or rules shall consider—

(aa) the financial integrity of the derivatives clearing organization; and

(bb) any other factors which the Commission determines may be appropriate.

(iv) DEADLINE.—The Commission shall take final action under clauses (i) and (ii) in not later than 90 days from the commencement of its review unless the party seeking to offer the contract or swap agrees to an extension of this time limitation.

(e) VIOLATION OF CORE PRINCIPLES.—Section 5c of the Commodity Exchange Act (7 U.S.C. 7a–2) is amended by striking subsection (d).

SEC. 746. INSIDER TRADING.

Section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) is amended by adding at the end the following:

''(3) CONTRACT OF SALE.—It shall be unlawful for any employee or agent of any department or agency of the Federal Government who, by virtue of the employment or position of the employee or agent, acquires information that may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, or any swap, and which information has not been disseminated by the department or agency of the Federal Government holding or creating the information in a manner which makes it generally available to the trading public, or disclosed in a criminal, civil, or administrative hearing, or in a congressional, administrative, or Government Accountability Office report, hearing, audit, or investigation, to use the information in his personal capacity and for personal gain to enter into, or offer to enter into—

''(A) a contract of sale of a commodity for future delivery (or option on such a contract);

''(B) an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or

''(C) a swap.

''(4) NONPUBLIC INFORMATION.—

''(A) IMPARTING OF NONPUBLIC INFORMATION.—It shall be unlawful for any employee or agent of any department or agency of the Federal Government who, by virtue of the employment or position of the employee or agent, acquires information that may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, or any swap, and which information has not been disseminated by the department or agency of the Federal Government holding or creating the information in a manner which makes it generally available to the trading public, or disclosed in a criminal, civil, or administrative hearing, or in a congressional, administrative, or Government Accountability Office report, hearing, audit, or investigation, to impart the information in his personal capacity and for personal gain with intent to assist another person, directly or indirectly, to use the information to enter into, or offer to enter into—

''(i) a contract of sale of a commodity for future delivery (or option on such a contract);

''(ii) an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or

''(iii) a swap.

''(B) KNOWING USE.—It shall be unlawful for any person who receives information imparted by any employee or agent of any department or agency of the Federal Government as described in subparagraph (A) to knowingly use such information to enter into, or offer to enter into—

''(i) a contract of sale of a commodity for future delivery (or option on such a contract);

''(ii) an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or

''(iii) a swap.

''(C) THEFT OF NONPUBLIC INFORMATION.—It shall be unlawful for any person to steal, convert, or misappropriate, by any means whatsoever, information held or created by any department or agency of the Federal Government that may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, or any swap, where such person knows, or acts in reckless disregard of the fact, that such information has not been disseminated by the department or agency of the Federal Government holding or creating the information in a manner which makes it generally available to the trading public, or disclosed in a criminal, civil, or administrative hearing, or in a congressional, administrative, or Government Accountability Office report, hearing, audit, or investigation, and to use such information, or to impart such information with the intent to assist another person, directly or indirectly, to use such information to enter into, or offer to enter into—

''(i) a contract of sale of a commodity for future delivery (or option on such a contract);

''(ii) an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a)); or

''(iii) a swap.

Provided, however, that nothing in this subparagraph shall preclude a person that has provided information concerning, or generated by, the person, its operations or activities, to any employee or agent of any department or agency of the Federal Government, voluntarily or as required by law, from using such information to enter into, or offer to enter into, a contract of sale, option, or swap described in clauses (i), (ii), or (iii).''.

SEC. 747. ANTIDISRUPTIVE PRACTICES AUTHORITY.

Section 4c(a) of the Commodity Exchange Act (7 U.S.C. 6c(a)) (as amended by section 746) is amended by adding at the end the following:

''(5) DISRUPTIVE PRACTICES.—It shall be unlawful for any person to engage in any trading, practice, or conduct on or subject to the rules of a registered entity that—

''(A) violates bids or offers;

''(B) demonstrates intentional or reckless disregard for the orderly execution of transactions during the closing period; or

''(C) is, is of the character of, or is commonly known to the trade as, 'spoofing' (bidding or offering with the intent to cancel the bid or offer before execution).

''(6) RULEMAKING AUTHORITY.—The Commission may make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to prohibit the trading practices described in paragraph (5) and any other trading practice that is disruptive of fair and equitable trading.

''(7) USE OF SWAPS TO DEFRAUD.—It shall be unlawful for any person to enter into a swap knowing, or acting in reckless disregard of the fact, that its counterparty will use the swap as part of a device, scheme, or artifice to defraud any third party.''.

SEC. 748. COMMODITY WHISTLEBLOWER INCENTIVES AND PROTECTION.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by adding at the end the following:

"SEC. 23. COMMODITY WHISTLEBLOWER INCENTIVES AND PROTECTION.

''(a) DEFINITIONS.—In this section:

''(1) COVERED JUDICIAL OR ADMINISTRATIVE ACTION.—The term 'covered judicial or administrative action' means any judicial or administrative action brought by the Commission under this Act that results in monetary sanctions exceeding $1,000,000.

''(2) FUND.—The term 'Fund' means the Commodity Futures Trading Commission Customer Protection Fund established under subsection (g).

''(3) MONETARY SANCTIONS.—The term 'monetary sanctions', when used with respect to any judicial or administrative action means—

''(A) any monies, including penalties, disgorgement, restitution, and interest ordered to be paid; and

''(B) any monies deposited into a disgorgement fund or other fund pursuant to section 308(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(b)), as a result of such action or any settlement of such action.

''(4) ORIGINAL INFORMATION.—The term 'original information' means information that—

''(A) is derived from the independent knowledge or analysis of a whistleblower;

''(B) is not known to the Commission from any other source, unless the whistleblower is the original source of the information; and

''(C) is not exclusively derived from an allegation made in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is a source of the information.

''(5) RELATED ACTION.—The term 'related action', when used with respect to any judicial or administrative action brought by the Commission under this Act, means any judicial or administrative action brought by an entity described in subclauses (i) through (vi) of subsection (g)(2)(B) that is based upon the original information provided by a whistleblower pursuant to subsection (a) that led to the successful enforcement of the Commission action.

''(6) SUCCESSFUL RESOLUTION.—The term 'successful resolution', when used with respect to any judicial or administrative action brought by the Commission under this Act, includes any settlement of such action.

''(7) WHISTLEBLOWER.—The term 'whistleblower' means any individual, or 2 or more individuals acting jointly, who provides information relating to a violation of this Act to the Commission, in a manner established by rule or regulation, by the Commission.

''(b) AWARDS.—

''(1) IN GENERAL.—In any covered judicial or administrative action, or related action, the Commission, under regulations prescribed by the Commission and subject to subsection (c), shall pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to the Commission that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to—

''(A) not less than 10 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions; and

''(B) not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.

''(2) PAYMENT OF AWARDS.—Any amount paid under paragraph (1) shall be paid from the Fund.

''(c) DETERMINATION OF AMOUNT OF AWARD; DENIAL OF AWARD.—

''(1) DETERMINATION OF AMOUNT OF AWARD.—

''(A) DISCRETION.—The determination of the amount of an award made under subsection (b) shall be in the discretion of the Commission.

''(B) CRITERIA.—In determining the amount of an award made under subsection (b), the Commission shall take into account—

''(i) the significance of the information provided by the whistleblower to the success of the covered judicial or administrative action;

''(ii) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action;

''(iii) the programmatic interest of the Commission in deterring violations of the Act (including regulations under the Act) by making awards to whistleblowers who provide information that leads to the successful enforcement of such laws; and

''(iv) such additional relevant factors as the Commission may establish by rule or regulation.

''(2) DENIAL OF AWARD.—No award under subsection (b) shall be made—

''(A) to any whistleblower who is, or was at the time the whistleblower acquired the original information submitted to the Commission, a member, officer, or employee of—

''(i) a appropriate regulatory agency;

''(ii) the Department of Justice;

''(iii) a registered entity;

''(iv) a registered futures association; or

''(v) a self-regulatory organization as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)); or

''(vi) a law enforcement organization;

''(B) to any whistleblower who is convicted of a criminal violation related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section;

''(C) to any whistleblower who submits information to the Commission that is based on the facts underlying the covered action submitted previously by another whistleblower;

''(D) to any whistleblower who fails to submit information to the Commission in such form as the Commission may, by rule or regulation, require.

''(d) REPRESENTATION.—

''(1) PERMITTED REPRESENTATION.—Any whistleblower who makes a claim for an award under subsection (b) may be represented by counsel.

''(2) REQUIRED REPRESENTATION.—

''(A) IN GENERAL.—Any whistleblower who anonymously makes a claim for an award under subsection (b) shall be represented by counsel if the whistleblower submits the information upon which the claim is based.

''(B) DISCLOSURE OF IDENTITY.—Prior to the payment of an award, a whistleblower shall disclose the identity of the whistleblower and provide such other information as the Commission may require, directly or through counsel for the whistleblower.

''(e) NO CONTRACT NECESSARY.—No contract with the Commission is necessary for any whistleblower to receive an award under subsection (b), unless otherwise required by the Commission, by rule or regulation.

''(f) APPEALS.—

''(1) IN GENERAL.—Any determination made under this section, including whether, to whom, or in what amount to make awards, shall be in the discretion of the Commission.

''(2) APPEALS.—Any determination described in paragraph (1) may be appealed to the appropriate court of appeals of the United States not more than 30 days after the determination is issued by the Commission.

''(3) REVIEW.—The court shall review the determination made by the Commission in accordance with section 7064 of title 5, United States Code.

''(g) COMMODITY FUTURES TRADING COMMISSION CUSTOMER PROTECTION FUND.—

''(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the 'Commodity Futures Trading Commission Customer Protection Fund'.

''(2) USE OF FUND.—The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for—

''(A) the payment of awards to whistleblowers as provided in subsection (a); and

''(B) the funding of customer education initiatives designed to help customers protect themselves against fraud or other violations of this Act, or the rules and regulations thereunder.

''(3) DEPOSITS AND CREDITS.—There shall be deposited into or credited to the Fund—

''(A) any monetary judgment collected by the Commission in any judicial or administrative action brought by the Commission under this Act, that is not otherwise distributed to victims of a violation of this Act or the rules and regulations thereunder underlying such action, unless the balance of the Fund at the time the monetary judgment is collected exceeds $100,000,000; and

''(B) all income from investments made under paragraph (4).

''(4) INVESTMENTS.—

''(A) AMOUNTS IN FUND MAY BE INVESTED.—The Commission may request the Secretary of the Treasury to invest the portion of the Fund that is not, in the Commission's judgment, required to meet the current needs of the Fund.

''(B) ELIGIBLE INVESTMENTS.—Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Commission.

''(C) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to, and form a part of, the Fund.

''(5) REPORTS TO CONGRESS.—Not later than October 30 of each year, the Commission shall transmit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committee on Agriculture of the House of Representatives a report on—

''(A) the Commission's whistleblower award program under this section, including a description of the number of awards granted and the types of cases in which awards were granted during the preceding fiscal year;

''(B) customer education initiatives described in paragraph (2)(B) that were funded by the Fund during the preceding fiscal year;

''(C) the balance of the Fund at the beginning of the preceding fiscal year;

''(D) the amounts deposited into or credited to the Fund during the preceding fiscal year;

''(E) the amount of earnings on investments of amounts in the Fund during the preceding fiscal year;

''(F) the amount paid from the Fund during the preceding fiscal year to whistleblowers pursuant to subsection (b);

''(G) the amount paid from the Fund during the preceding fiscal year for customer education initiatives described in paragraph (2)(B);

''(H) the balance of the Fund at the end of the preceding fiscal year; and

''(I) a complete set of audited financial statements, including a balance sheet, income statement, and cash flow analysis.

''(h) PROTECTION OF WHISTLEBLOWERS.—

''(1) PROHIBITION AGAINST RETALIATION.—

''(A) IN GENERAL.—No employer may discharge, demote, suspend, threaten, harass, directly or indirectly, or in any other manner discriminate against, a whistleblower in the terms and conditions of employment because of any lawful act done by the whistleblower—

''(i) in providing information to the Commission in accordance with subsection (b); or

''(ii) in assisting in any investigation or judicial or administrative action of the Commission based upon or related to such information.

''(B) ENFORCEMENT.—

''(i) CAUSE OF ACTION.—An individual who alleges discharge or other discrimination in violation of subparagraph (A) may bring an action under this subsection in the appropriate district court of the United States for the relief provided in subparagraph (C), unless the individual who is alleging discharge or other discrimination in violation of subparagraph (A) is an employee of the federal government, in which case the individual shall only bring an action under section 1221 of title 5 United States Code.

''(ii) SUBPOENAS.—A subpoena requiring the attendance of a witness at a trial or hearing conducted under this subsection may be served at any place in the United States.

''(iii) STATUTE OF LIMITATIONS.—An action under this subsection may not be brought more than 2 years after the date on which the violation reported in subparagraph (A) is committed.

''(C) RELIEF.—Relief for an individual prevailing in an action brought under subparagraph (B) shall include—

''(i) reinstatement with the same seniority status that the individual would have had, but for the discrimination;

''(ii) the amount of back pay otherwise owed to the individual, with interest; and

''(iii) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney's fees.

''(2) CONFIDENTIALITY.—

''(A) INFORMATION PROVIDED.—

''(i) IN GENERAL.—Except as provided in subparagraph (B), all information provided to the Commission by a whistleblower shall be confidential and privileged as an evidentiary matter (and shall not be subject to civil discovery or other legal process) in any proceeding in any Federal or State court or administrative agency, and shall be exempt from disclosure, in the hands of a department or agency of the Federal Government, under section 552 of title 5, United States Code (commonly known as the 'Freedom of Information Act') or otherwise, unless and until required to be disclosed to a defendant or respondent in connection with a public proceeding instituted by the Commission or any entity described in subparagraph (B).

''(ii) CONSTRUCTION.—For purposes of section 552 of title 5, United States Code, this paragraph shall be considered to be a statute described in subsection (b)(3)(B) of that section.

''(iii) EFFECT.—Nothing in this paragraph is intended to limit the ability of the Attorney General to present such evidence to a

grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.

''(B) AVAILABILITY TO GOVERNMENT AGENCIES.—

''(i) IN GENERAL.—Without the loss of its status as confidential and privileged in the hands of the Commission, all information referred to in subparagraph (A) may, in the discretion of the Commission, when determined by the Commission to be necessary or appropriate to accomplish the purposes of this Act and protect customers and in accordance with clause (ii), be made available to—

''(I) the Department of Justice;

''(II) an appropriate department or agency of the Federal Government, acting within the scope of its jurisdiction;

''(III) a registered entity, registered futures association, or self-regulatory organization as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a));

''(IV) a State attorney general in connection with any criminal investigation;

''(V) an appropriate department or agency of any State, acting within the scope of its jurisdiction; and

''(VI) a foreign futures authority.

''(ii) MAINTENANCE OF INFORMATION.—Each of the entities, agencies, or persons described in clause (i) shall maintain information described in that clause as confidential and privileged, in accordance with the requirements in subparagraph (A).

''(3) RIGHTS RETAINED.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law, or under any collective bargaining agreement.

''(i) RULEMAKING AUTHORITY.—The Commission shall have the authority to issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section consistent with the purposes of this section.

''(j) IMPLEMENTING RULES.—The Commission shall issue final rules or regulations implementing the provisions of this section not later than 270 days after the date of enactment of the Wall Street Transparency and Accountability Act of 2010.

''(k) ORIGINAL INFORMATION.—Information submitted to the Commission by a whistleblower in accordance with rules or regulations implementing this section shall not lose its status as original information solely because the whistleblower submitted such information prior to the effective date of such rules or regulations, provided such information was submitted after the date of enactment of the Wall Street Transparency and Accountability Act of 2010.

''(l) AWARDS.—A whistleblower may receive an award pursuant to this section regardless of whether any violation of a provision of this Act, or a rule or regulation thereunder, underlying the judicial or administrative action upon which the award is based occurred prior to the date of enactment of the Wall Street Transparency and Accountability Act of 2010.

''(m) PROVISION OF FALSE INFORMATION.—A whistleblower who knowingly and willfully makes any false, fictitious, or fraudulent statement or representation, or who makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall not be entitled to an award under this section and shall be subject to prosecution under section 1001 of title 18, United States Code.''.

SEC. 749. CONFORMING AMENDMENTS.

(a) Section 2(c)(1) of the Commodity Exchange Act (7 U.S.C. 2(c)(1)) is amended, in the matter preceding subparagraph (A), by striking ''5a (to the extent provided in section 5a(g)),''.

(b) Section 4d of the Commodity Exchange Act (7 U.S.C. 6d) (as amended by section 724) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''engage as'' and inserting ''be a''; and

(ii) by striking ''or introducing broker'' and all that follows through ''or derivatives transaction execution facility'';

(B) in paragraph (1), by striking ''or introducing broker''; and

(C) in paragraph (2), by striking ''if a futures commission merchant,''; and

(2) by adding at the end the following:

''(g) It shall be unlawful for any person to be an introducing broker unless such person shall have registered under this Act with the Commission as an introducing broker and such registration shall not have expired nor been suspended nor revoked.''.

(c) Section 4m(3) of the Commodity Exchange Act (7 U.S.C. 6m(3)) is amended—

(1) by striking ''(3) Subsection (1) of this section'' and inserting the following:

''(3) EXCEPTION.—

''(A) IN GENERAL.—Paragraph (1)''; and

(2) by striking ''to any investment trust'' and all that follows through the period at the end and inserting the following: ''to any commodity pool that is engaged primarily in trading commodity interests.

''(B) ENGAGED PRIMARILY.—For purposes of subparagraph (A), a commodity trading advisor or a commodity pool shall be considered to be 'engaged primarily' in the business of being a commodity trading advisor or commodity pool if it is or holds itself out to the public as being engaged primarily, or proposes to engage primarily, in the business of advising on commodity interests or investing, reinvesting, owning, holding, or trading in commodity interests, respectively.

''(C) COMMODITY INTERESTS.—For purposes of this paragraph, commodity interests shall include contracts of sale of a commodity for future delivery, options on such contracts, security futures, swaps, leverage contracts, foreign exchange, spot and forward contracts on physical commodities, and any monies held in an account used for trading commodity interests.''.

(d) Section 5c of the Commodity Exchange Act (7 U.S.C. 7a-2) is amended—

(1) in subsection (a)(1)—

(A) by striking '', 5a(d),''; and

(B) by striking ''and section (2)(h)(7) with respect to significant price discovery contracts,''; and

(2) in subsection (f)(1), by striking ''section 4d(c) of this Act'' and inserting ''section 4d(e)''.

(e) Section 5e of the Commodity Exchange Act (7 U.S.C. 7b) is amended by striking ''or revocation of the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract,''.

(f) Section 6(b) of the Commodity Exchange Act (7 U.S.C. 8(b)) is amended in the first sentence by striking '', or to revoke the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract,''.

(g) Section 12(e)(2)(B) of the Commodity Exchange Act (7 U.S.C. 16(e)(2)(B)) is amended—

(1) by striking ''section 2(c), 2(d), 2(f), or 2(g) of this Act'' and inserting ''section 2(c), 2(f), or 2(i) of this Act''; and

(2) by striking ''2(h) or''.

(h) Section 17(r)(1) of the Commodity Exchange Act (7 U.S.C. 21(r)(1)) is amended by striking ''section 4d(c) of this Act'' and inserting ''section 4d(e)''.

(i) Section 22(b)(1)(A) of the Commodity Exchange Act (7 U.S.C. 25(b)(1)(A)) is amended by striking ''section 2(h)(7) or''.

(j) Section 408(2)(C) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4421(2)(C)) is amended—

(1) by striking ''section 2(c), 2(d), 2(f), or (2)(g) of such Act'' and inserting ''section 2(c), 2(f), or 2(i) of that Act''; and

(2) by striking ''2(h) or''.

SEC. 750. STUDY ON OVERSIGHT OF CARBON MARKETS.

(a) INTERAGENCY WORKING GROUP.—There is established to carry out this section an interagency working group (referred to in this section as the ''interagency group'') composed of the following members or designees:

(1) The Chairman of the Commodity Futures Trading Commission (referred to in this section as the ''Commission''), who shall serve as Chairman of the interagency group.

(2) The Secretary of Agriculture.

(3) The Secretary of the Treasury.

(4) The Chairman of the Securities and Exchange Commission.

(5) The Administrator of the Environmental Protection Agency.

(6) The Chairman of the Federal Energy Regulatory Commission.

(7) The Commissioner of the Federal Trade Commission.

(8) The Administrator of the Energy Information Administration.

(b) ADMINISTRATIVE SUPPORT.—The Commission shall provide the interagency group such administrative support services as are necessary to enable the interagency group to carry out the functions of the interagency group under this section.

(c) CONSULTATION.—In carrying out this section, the interagency group shall consult with representatives of exchanges, clearinghouses, self-regulatory bodies, major carbon market participants, consumers, and the general public, as the interagency group determines to be appropriate.

(d) STUDY.—The interagency group shall conduct a study on the oversight of existing and prospective carbon markets to ensure an efficient, secure, and transparent carbon market, including oversight of spot markets and derivative markets.

(e) REPORT.—Not later than 180 days after the date of enactment of this Act, the interagency group shall submit to Congress a report on the results of the study conducted under subsection (b), including recommendations for the oversight of existing and prospective carbon markets to ensure an efficient, secure, and transparent carbon market, including oversight of spot markets and derivative markets.

SEC. 751. ENERGY AND ENVIRONMENTAL MARKETS ADVISORY COMMITTEE.

Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)) (as amended by section 727) is amended by adding at the end the following:

''(15) ENERGY AND ENVIRONMENTAL MARKETS ADVISORY COMMITTEE.—

''(A) ESTABLISHMENT.—

''(i) IN GENERAL.—An Energy and Environmental Markets Advisory Committee is hereby established.

''(ii) MEMBERSHIP.—The Committee shall have 9 members.

''(iii) ACTIVITIES.—The Committee's objectives and scope of activities shall be—

''(I) to conduct public meetings;

''(II) to submit reports and recommendations to the Commission (including dissenting or minority views, if any); and

''(III) otherwise to serve as a vehicle for discussion and communication on matters of concern to exchanges, firms, end users, and regulators regarding energy and environmental markets and their regulation by the Commission.

''(B) REQUIREMENTS.—

''(i) IN GENERAL.—The Committee shall hold public meetings at such intervals as are necessary to carry out the functions of the Committee, but not less frequently than 2 times per year.

''(ii) MEMBERS.—Members shall be appointed to 3-year terms, but may be removed for cause by vote of the Commission.

''(C) APPOINTMENT.—The Commission shall appoint members with a wide diversity of opinion and who represent a broad spectrum of interests, including hedgers and consumers.

''(D) REIMBURSEMENT.—Members shall be entitled to per diem and travel expense reimbursement by the Commission.

''(E) FACA.—The Committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).''.

SEC. 752. INTERNATIONAL HARMONIZATION.

In order to promote effective and consistent global regulation of swaps and security-based swaps, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Financial Stability Oversight Council, and the Treasury Department—

(1) shall, both individually and collectively, consult and coordinate with foreign regulatory authorities on the establishment of consistent international standards with respect to the regulation of such swaps; and

(2) may, both individually and collectively, agree to such information-sharing arrangements as may be deemed to be necessary or appropriate in the public interest or for the protection of investors and swap counterparties.

SEC. 753. EFFECTIVE DATE.

Unless otherwise provided in this title, this subtitle shall take effect on the date that is 180 days after the date of enactment of this Act.

Subtitle B—Regulation of Security-Based Swap Markets

SEC. 761. DEFINITIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934.

(a) DEFINITIONS.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended—

(1) in subparagraphs (A) and (B) of paragraph (5), by inserting ''(not including security-based swaps, other than security-based swaps with or for persons that are not eligible contract participants)'' after ''securities'' each place that term appears;

(2) in paragraph (10), by inserting ''security-based swap,'' after ''security future,'';

(3) in paragraph (13), by adding at the end the following: ''For security-based swaps, such terms include the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap, as the context may require.'';

(4) in paragraph (14), by adding at the end the following: ''For security-based swaps, such terms include the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap, as the context may require.'';

(5) in paragraph (39)—

(A) in subparagraph (B)(i)—

(i) in subclause (I), by striking ''or government securities dealer'' and inserting ''government securities dealer, security-based swap dealer, or major security-based swap participant''; and

(ii) in subclause (II), by inserting ''security-based swap dealer, major security-based swap participant,'' after ''government securities dealer,'';

(B) in subparagraph (C), by striking ''or government securities dealer'' and inserting ''government securities dealer, security-based swap dealer, or major security-based swap participant''; and

(C) in subparagraph (D), by inserting ''security-based swap dealer, major security-based swap participant,'' after ''government securities dealer,''; and

(6) by adding at the end the following:

''(65) ELIGIBLE CONTRACT PARTICIPANT.—The term 'eligible contract participant' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(66) MAJOR SWAP PARTICIPANT.—The term 'major swap participant' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(67) MAJOR SECURITY-BASED SWAP PARTICIPANT.—

''(A) IN GENERAL.—The term 'major security-based swap participant' means any person—

''(i) who is not a security-based swap dealer; and

''(ii)(I) who maintains a substantial position in security-based swaps for any of the major security-based swap categories, as such categories are determined by the Commission, excluding—

''(aa) positions held for hedging or mitigating commercial risk; and

''(bb) positions maintained by any employee benefit plan (or any contract held by such a plan), as that term is defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002), for the primary purpose of hedging or mitigating any risk directly associated with the operation of the plan;

''(II) whose outstanding security-based swaps create substantial counterparty exposure that could have serious adverse effects on the financial stability of the United States banking system or financial markets; or

''(III) that is a financial entity that—

''(aa) is highly leveraged relative to the amount of capital such entity holds; and

''(bb) maintains a substantial position in outstanding security-based swaps in any major security-based swap category, as such categories are determined by the Commission.

''(B) DEFINITION OF SUBSTANTIAL POSITION.—For purposes of subparagraph (A), the Commission shall define, by rule or regulation, the term 'substantial position' at the threshold that the Commission determines to be prudent for the effective monitoring, management, and oversight of entities that are systemically important or can significantly impact the financial system of the United States.

''(C) SCOPE OF DESIGNATION.—For purposes of subparagraph (A), a person may be designated as a major security-based swap participant for 1 or more categories of security-based swaps without being classified as a major security-based swap participant for all classes of security-based swaps.

''(D) CAPITAL.—In setting capital requirements for a person that is designated as a major security-based swap participant for a single type or single class or category of security-based swap or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of security-based swaps or classes of security-based swaps or categories of security-based swaps engaged in and the other activities conducted by that person that are not otherwise subject to regulation applicable to that person by virtue of the status of the person as a major security-based swap participant.

''(68) SECURITY-BASED SWAP.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'security-based swap' means any agreement, contract, or transaction that—

''(i) is a swap, as that term is defined under section 1a of the Commodity Exchange Act; and

''(ii) is based on—

''(I) an index that is a narrow-based security index, including any interest therein or on the value thereof;

''(II) a single security or loan, including any interest therein or on the value thereof; or

''(III) the occurrence, nonoccurrence, or extent of the occurrence of an event relating to a single issuer of a security or the issuers of securities in a narrow-based security index, provided that such event directly affects the financial statements, financial condition, or financial obligations of the issuer.

''(B) RULE OF CONSTRUCTION REGARDING MASTER AGREEMENTS.—The term 'security-based swap' shall be construed to include a master agreement that provides for an agreement, contract, or transaction that is a security-based swap pursuant to subparagraph (A), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a security-based swap pursuant to subparagraph (A), except that the master agreement shall be considered to be a security-based swap only with respect to each agreement, contract, or transaction under the master agreement that is a security-based swap pursuant to subparagraph (A).

''(C) EXCLUSIONS.—The term 'security-based swap' does not include any agreement, contract, or transaction that meets the definition of a security-based swap only because such agreement, contract, or transaction references, is based upon, or settles through the transfer, delivery, or receipt of an exempted security under paragraph (12), as in effect on the date of enactment of the Futures Trading Act of 1982 (other than any municipal security as defined in paragraph (29) as in effect on the date of enactment of the Futures Trading Act of 1982), unless such agreement, contract, or transaction is of the character of, or is commonly known in the trade as, a put, call, or other option.

''(D) MIXED SWAP.—The term 'security-based swap' includes any agreement, contract, or transaction that is as described in subparagraph (A) and also is based on the value of 1 or more interest or other rates, currencies, commodities, instruments of indebtedness, indices, quantitative measures, other financial or economic interest or property of any kind (other than a single security or a narrow-based security index), or the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence (other than an event described in subparagraph (A)(ii)(III)).

''(69) SWAP.—The term 'swap' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(70) PERSON ASSOCIATED WITH A SECURITY-BASED SWAP DEALER OR MAJOR SECURITY-BASED SWAP PARTICIPANT.—

''(A) IN GENERAL.—The term 'person associated with a security-based swap dealer or major security-based swap participant' or 'associated person of a security-based swap dealer or major security-based swap participant' means—

''(i) any partner, officer, director, or branch manager of such security-based swap dealer or major security-based swap participant (or any person occupying a similar status or performing similar functions);

''(ii) any person directly or indirectly controlling, controlled by, or under common

control with such security-based swap dealer or major security-based swap participant; or

''(iii) any employee of such security-based swap dealer or major security-based swap participant.

''(B) EXCLUSION.—Other than for purposes of section 15F(l)(2), the term 'person associated with a security-based swap dealer or major security-based swap participant' or 'associated person of a security-based swap dealer or major security-based swap participant' does not include any person associated with a security-based swap dealer or major security-based swap participant whose functions are solely clerical or ministerial.

''(71) SECURITY-BASED SWAP DEALER.—

''(A) IN GENERAL.—The term 'security-based swap dealer' means any person who—

''(i) holds themself out as a dealer in security-based swaps;

''(ii) makes a market in security-based swaps;

''(iii) regularly engages in the purchase and sale of security-based swaps in the ordinary course of a business; or

''(iv) engages in any activity causing it to be commonly known in the trade as a dealer or market maker in security-based swaps.

''(B) DESIGNATION BY TYPE OR CLASS.—A person may be designated as a security-based swap dealer for a single type or single class or category of security-based swap or activities and considered not to be a security-based swap dealer for other types, classes, or categories of security-based swaps or activities.

''(C) CAPITAL.—In setting capital requirements for a person that is designated as a security-based swap dealer for a single type or single class or category of security-based swap or activities, the prudential regulator and the Commission shall take into account the risks associated with other types of security-based swaps or classes of security-based swaps or categories of security-based swaps engaged in and the other activities conducted by that person that are not otherwise subject to regulation applicable to that person by virtue of the status of the person as a security-based swap dealer.

''(72) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

''(73) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

''(74) PRUDENTIAL REGULATOR.—The term 'prudential regulator' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(75) SECURITY-BASED SWAP DATA REPOSITORY.—The term 'security-based swap data repository' means any person that collects, calculates, prepares, or maintains information or records with respect to transactions or positions in, or the terms and conditions of, security-based swaps entered into by third parties.

''(76) SWAP DEALER.—The term 'swap dealer' has the same meaning as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(77) SWAP EXECUTION FACILITY.—The term 'swap execution facility' means a facility in which multiple participants have the ability to execute or trade security-based swaps by accepting bids and offers made by other participants that are open to multiple participants in the facility or system, or confirmation facility, that—

''(A) facilitates the execution of security-based swaps between persons; and

''(B) is not a designated contract market.

''(78) SECURITY-BASED SWAP AGREEMENT.—

''(A) IN GENERAL.—For purposes of sections 9, 10, 16, 20, and 21A of this Act, and section 17 of the Securities Act of 1933 (15 U.S.C. 77q), the term 'security-based swap agreement' means a swap agreement as defined in section 206A of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note) of which a material term is based on the price, yield, value, or volatility of any security or any group or index of securities, or any interest therein.

''(B) EXCLUSIONS.—The term 'security-based swap agreement' does not include any security-based swap.''.

(b) AUTHORITY TO FURTHER DEFINE TERMS.—The Securities and Exchange Commission may, by rule, further define the terms ''security-based swap'', ''security-based swap dealer'', ''major security-based swap participant'', and ''eligible contract participant'' with regard to security-based swaps (as such terms are defined in the amendments made by subsection (a)) for the purpose of including transactions and entities that have been structured to evade this subtitle or the amendments made by this subtitle.

(c) OTHER INCORPORATED DEFINITIONS.—Except as the context otherwise requires, in this subtitle, the terms ''prudential regulator'', ''swap'', ''swap dealer'', ''major swap participant'', ''swap data repository'', ''associated person of a swap dealer or major swap participant'', ''eligible contract participant'', ''swap execution facility'', ''security-based swap'', ''security-based swap dealer'', ''major security-based swap participant'', ''security-based swap data repository'', and ''associated person of a security-based swap dealer or major security-based swap participant'' have the same meanings as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a), as amended by this Act.

SEC. 762. REPEAL OF PROHIBITION ON REGULATION OF SECURITY-BASED SWAP AGREEMENTS.

(a) REPEAL.—Sections 206B and 206C of the Gramm-Leach-Bliley Act (Public Law 106–102; 15 U.S.C. 78c note) are repealed.

(b) CONFORMING AMENDMENTS TO THE SECURITIES ACT OF 1933.—

(1) Section 2A of the Securities Act of 1933 (15 U.S.C. 77b-1) is amended—

(A) by striking subsection (a) and reserving that subsection; and

(B) by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'' each place that such term appears and inserting ''(as defined in section 3(a)(78) of the Securities Exchange Act of 1934)''.

(2) Section 17 of the Securities Act of 1933 (15 U.S.C. 77q) is amended—

(A) in subsection (a)—

(i) by inserting ''(including security-based swaps)'' after ''securities''; and

(ii) by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'' and inserting ''(as defined in section 3(a)(78) of the Securities Exchange Act)''; and

(B) in subsection (d), by striking ''206B of the Gramm-Leach-Bliley Act'' and inserting ''3(a)(78) of the Securities Exchange Act of 1934''.

(c) CONFORMING AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in section 3A (15 U.S.C. 78c–1)—

(A) by striking subsection (a) and reserving that subsection; and

(B) by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'' each place that the term appears;

(2) in section 9 (15 U.S.C. 78i)—

(A) in subsection (a), by striking paragraphs (2) through (5) and inserting the following:

''(2) To effect, alone or with 1 or more other persons, a series of transactions in any security registered on a national securities exchange, any security not so registered, or in connection with any security-based swap or security-based swap agreement with respect to such security creating actual or apparent active trading in such security, or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others.

''(3) If a dealer, broker, security-based swap dealer, major security-based swap participant, or other person selling or offering for sale or purchasing or offering to purchase the security, a security-based swap, or a security-based swap agreement with respect to such security, to induce the purchase or sale of any security registered on a national securities exchange, any security not so registered, any security-based swap, or any security-based swap agreement with respect to such security by the circulation or dissemination in the ordinary course of business of information to the effect that the price of any such security will or is likely to rise or fall because of market operations of any 1 or more persons conducted for the purpose of raising or depressing the price of such security.

''(4) If a dealer, broker, security-based swap dealer, major security-based swap participant, or other person selling or offering for sale or purchasing or offering to purchase the security, a security-based swap, or security-based swap agreement with respect to such security, to make, regarding any security registered on a national securities exchange, any security not so registered, any security-based swap, or any security-based swap agreement with respect to such security, for the purpose of inducing the purchase or sale of such security, such security-based swap, or such security-based swap agreement any statement which was at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, and which that person knew or had reasonable ground to believe was so false or misleading.

''(5) For a consideration, received directly or indirectly from a broker, dealer, security-based swap dealer, major security-based swap participant, or other person selling or offering for sale or purchasing or offering to purchase the security, a security-based swap, or security-based swap agreement with respect to such security, to induce the purchase of any security registered on a national securities exchange, any security not so registered, any security-based swap, or any security-based swap agreement with respect to such security by the circulation or dissemination of information to the effect that the price of any such security will or is likely to rise or fall because of the market operations of any 1 or more persons conducted for the purpose of raising or depressing the price of such security.''; and

(B) in subsection (i), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'';

(3) in section 10 (15 U.S.C. 78j)—

(A) in subsection (b), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act),'' each place that term appears; and

(B) in the matter following subsection (b), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'';

(4) in section 15 (15 U.S.C. 78o)—

(A) in subsection (c)(1)(A), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act),'';

(B) in subparagraphs (B) and (C) of subsection (c)(1), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'' each place that term appears;

(C) by redesignating subsection (i), as added by section 303(f) of the Commodity Futures Modernization Act of 2000 (Public Law 106–554; 114 Stat. 2763A–455)), as subsection (j); and

(D) in subsection (j), as redesignated by subparagraph (C), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'';

(5) in section 16 (15 U.S.C. 78p)—

(A) in subsection (a)(2)(C), by striking ''(as defined in section 206(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note))'';

(B) in subsection (a)(3)(B), by inserting ''or security-based swaps'' after ''security-based swap agreement'';

(C) in the first sentence of subsection (b), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'';

(D) in the third sentence of subsection (b), by striking ''(as defined in section 206B of the Gramm-Leach Bliley Act)'' and inserting ''or a security-based swap''; and

(E) in subsection (g), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'';

(6) in section 20 (15 U.S.C. 78t),

(A) in subsection (d), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)''; and

(B) in subsection (f), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)'';

(7) in section 21A (15 U.S.C. 78u–1)—

(A) in subsection (a)(1), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)''; and

(B) in subsection (g), by striking ''(as defined in section 206B of the Gramm-Leach-Bliley Act)''.

SEC. 763. AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934.

(a) CLEARING FOR SECURITY-BASED SWAPS.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 3B (as added by section 717 of this Act):

''SEC. 3C. CLEARING FOR SECURITY-BASED SWAPS.

''(a) CLEARING REQUIREMENT.—

''(1) SUBMISSION.—

''(A) IN GENERAL.—Except as provided in paragraphs (9) and (10), any person who is a party to a security-based swap shall submit such security-based swap for clearing to a clearing agency registered under section 17A of this title.

''(B) OPEN ACCESS.—The rules of a registered clearing agency shall—

''(i) prescribe that all security-based swaps with the same terms and conditions are economically equivalent and may be offset with each other within the clearing agency; and

''(ii) provide for nondiscriminatory clearing of a security-based swap executed bilaterally or on or through the rules of an unaffiliated national securities exchange or swap execution facility, subject to the requirements of section 5(b).

''(2) COMMISSION APPROVAL.—

''(A) IN GENERAL.—A clearing agency shall submit to the Commission for prior approval any group, category, type, or class of security-based swaps that the clearing agency seeks to accept for clearing, which submission the Commission shall make available to the public.

''(B) DEADLINE.—The Commission shall take final action on a request submitted pursuant to subparagraph (A) not later than 90 days after submission of the request, unless the clearing agency submitting the request agrees to an extension of the time limitation established under this subparagraph.

''(C) APPROVAL.—The Commission shall approve, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, any request submitted pursuant to subparagraph (A) if the Commission finds that the request is consistent with the requirements of section 17A. The Commission shall not approve any such request if the Commission does not make such finding.

''(D) RULES.—The Commission shall adopt rules for a clearing agency's submission for approval, pursuant to this paragraph, of any group, category, type, or class of security-based swaps that the clearing agency seeks to accept for clearing.

''(3) STAY OF CLEARING REQUIREMENT.—At any time after issuance of an approval pursuant to paragraph (2):

''(A) REVIEW PROCESS.—The Commission, on application of a counterparty to a security-based swap or on its own initiative, may stay the clearing requirement of paragraph (1) until the Commission completes a review of the terms of the security-based swap, or the group, category, type, or class of security-based swaps, and the clearing arrangement.

''(B) DEADLINE.—The Commission shall complete a review undertaken pursuant to subparagraph (A) not later than 90 days after issuance of the stay, unless the clearing agency that clears the security-based swap, or the group, category, type, or class of security-based swaps, agrees to an extension of the time limitation established under this subparagraph.

''(C) DETERMINATION.—Upon completion of the review undertaken pursuant to subparagraph (A)—

''(i) the Commission may determine, unconditionally or subject to such terms and conditions as the Commission determines to be appropriate, that the security-based swap, or the group, category, type, or class of security-based swaps, must be cleared pursuant to this subsection if the Commission finds that such clearing—

''(I) is consistent with the requirements of section 17A; and

''(II) is otherwise in the public interest, for the protection of investors, and consistent with the purposes of this title;

''(ii) the Commission may determine that the clearing requirement of paragraph (1) shall not apply to the security-based swap, or the group, category, type, or class of security-based swaps; or

''(iii) if a determination is made that the clearing requirement of paragraph (1) shall no longer apply, then the Commission may still permit such security-based swap, or the group, category, type, or class of security-based swaps to be cleared.

''(D) RULES.—The Commission shall adopt rules for reviewing, pursuant to this paragraph, a clearing agency's clearing of a security-based swap, or a group, category, type, or class of security-based swaps that the Commission has accepted for clearing.

''(4) SECURITY-BASED SWAPS REQUIRED TO BE ACCEPTED FOR CLEARING.—

''(A) RULEMAKING.—The Commission shall adopt rules to further identify any group, category, type, or class of security-based swaps not submitted for approval under paragraph (2) that the Commission deems should be accepted for clearing. In adopting such rules, the Commission shall take into account the following factors:

''(i) The extent to which any of the terms of the group, category, type, or class of security-based swaps, including price, are disseminated to third parties or are referenced in other agreements, contracts, or transactions.

''(ii) The volume of transactions in the group, category, type, or class of security-based swaps.

''(iii) The extent to which the terms of the group, category, type, or class of security-based swaps are similar to the terms of other agreements, contracts, or transactions that are cleared.

''(iv) Whether any differences in the terms of the group, category, type, or class of security-based swaps, compared to other agreements, contracts, or transactions that are cleared, are of economic significance.

''(v) Whether a clearing agency is prepared to clear the group, category, type, or class of security-based swaps and such clearing agency has in place effective risk management systems.

''(vi) Any other factor the Commission determines to be appropriate.

''(B) OTHER DESIGNATIONS.—At any time after the adoption of the rules required under subparagraph (A), the Commission may separately designate a particular security-based swap or class of security-based swaps as subject to the clearing requirement of paragraph (1), taking into account the factors established in clauses (i) through (vi) of subparagraph (A) and the rules adopted in such subparagraph.

''(C) IN GENERAL.—In accordance with subparagraph (A), the Commission shall, consistent with the public interest, adopt rules under the expedited process described in subparagraph (D) to establish criteria for determining that a swap, or any group, category, type, or class of swap is required to be cleared.

''(D) EXPEDITED RULEMAKING AUTHORITY.—

''(i) PROCEDURE.—The promulgation of regulations under subparagraph (A) may be made without regard to—

''(I) the notice and comment provisions of section 553 of title 5, United States Code; and

''(II) chapter 35 of title 44, United States Code (commonly known as the 'Paperwork Reduction Act').

''(ii) AGENCY RULEMAKING.—In carrying out subparagraph (A), the Commission shall use the authority provided under section 808 of title 5, United States Code.

''(5) PREVENTION OF EVASION.—

''(A) IN GENERAL.—The Commission shall have authority to prescribe rules under this section, or issue interpretations of such rules, as necessary to prevent evasions of this section.

''(B) DUTY OF COMMISSION TO INVESTIGATE AND TAKE CERTAIN ACTIONS.—To the extent the Commission finds that a particular security-based swap or any group, category, type, or class of security-based swaps that would otherwise be subject to mandatory clearing but no clearing agency has listed the security-based swap or the group, category, type, or class of security-based swaps for clearing, the Commission shall—

''(i) investigate the relevant facts and circumstances;

''(ii) within 30 days issue a public report containing the results of the investigation; and

''(iii) take such actions as the Commission determines to be necessary and in the public interest, which may include requiring the retaining of adequate margin or capital by parties to the security-based swap or the group, category, type, or class of security-based swaps.

''(C) EFFECT ON AUTHORITY.—Nothing in this paragraph—

''(i) authorize the Commission to require a clearing agency to list for clearing a security-based swap or any group, category, type, or class of security-based swaps if the clearing of the security-based swap or the group, category, type, or class of security-based swaps would adversely affect the business operations of the clearing agency, threaten the financial integrity of the clearing agency, or pose a systemic risk to the clearing agency; and

''(ii) affect the authority of the Commission to enforce the open access provisions of paragraph (1) with respect to a security-based swap or the group, category, type, or class of security-based swaps that is listed for clearing by a clearing agency.

''(6) REQUIRED REPORTING.—

''(A) BOTH COUNTERPARTIES.—Both counterparties to a security-based swap that is not cleared by any clearing agency shall report such a security-based swap either to a registered security-based swap repository described in section 13(n) or, if there is no repository that would accept the security-based swap, to the Commission pursuant to section 13A.

''(B) TIMING.—Counterparties to a security-based swap shall submit the reports required under subparagraph (A) not later than such time period as the Commission may by rule or regulation prescribe.

''(7) TRANSITION RULES.—

''(A) REPORTING TRANSITION RULES.—Rules adopted by the Commission under this section shall provide for the reporting of data, as follows:

''(i) Security-based swaps entered into before the date of the enactment of this section shall be reported to a registered security-based swap repository or the Commission not later than 180 days after the effective date of this section.

''(ii) Security-based swaps entered into on or after such date of enactment shall be reported to a registered security-based swap repository or the Commission not later than the later of—

''(I) 90 days after such effective date; or

''(II) such other time after entering into the security-based swap as the Commission may prescribe by rule or regulation.

''(B) CLEARING TRANSITION RULES.—

''(i) Security-based swaps entered into before the date of the enactment of this section are exempt from the clearing requirements of this subsection if reported pursuant to subparagraph (A)(i).

''(ii) Security-based swaps entered into before application of the clearing requirement pursuant to this section are exempt from the clearing requirements of this section if reported pursuant to subparagraph (A)(ii).

''(8) TRADE EXECUTION.—

''(A) IN GENERAL.—With respect to transactions involving security-based swaps subject to the clearing requirement of paragraph (1), counterparties shall—

''(i) execute the transaction on an exchange; or

''(ii) execute the transaction on a swap execution facility registered under section 3D or a swap execution facility that is exempt from registration under section 3D(e).

''(B) EXCEPTION.—The requirements of clauses (i) and (ii) of subparagraph (A) shall not apply—

''(i) if no national securities exchange or security-based swap execution facility makes the security-based swap available to trade; or

''(ii) to swap transactions where a commercial end user opts to use the clearing exemption under paragraph (10).

''(9) REQUIRED EXEMPTION.—Subject to paragraph (4), the Commission shall exempt a security-based swap from the requirements of paragraphs (1) and (8) and any rules issued under this subsection, if no clearing agency registered under this Act will accept the security-based swap from clearing.

''(10) END USER CLEARING EXEMPTION.—

''(A) DEFINITION OF COMMERCIAL END USER.—

''(i) IN GENERAL.—In this paragraph, the term 'commercial end user' means any person other than a financial entity described in clause (ii) who, as its primary business activity, owns, uses, produces, processes, manufactures, distributes, merchandises, or markets services or commodities (which shall include coal, natural gas, electricity, ethanol, crude oil, distillates, and other hydrocarbons) either individually or in a fiduciary capacity.

''(ii) FINANCIAL ENTITY.—The term 'financial entity' means—

''(I) a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant;

''(II) a person predominantly engaged in activities that are in the business of banking or financial in nature, as defined in Section 4(k) of the Bank Holding Company Act of 1956;

''(III) a person predominantly engaged in activities that are financial in nature;

''(IV) a private fund as defined in section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)) or a commodity pool as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a); or

''(V) a person that is registered or required to be registered with the Commission, but does not include a public company which registers its securities with the Commission.

''(B) END USER CLEARING EXEMPTION.—

''(i) IN GENERAL.—Subject to clause (ii), in the event that a security-based swap is subject to the mandatory clearing requirement under paragraph (1), and 1 of the counterparties to the security-based swap is a commercial end user that counterparty—

''(I)(aa) may elect not to clear the security-based swap, as required under paragraph (1); or

''(bb) may elect to require clearing of the security-based swap; and

''(II) if the end user makes an election under subclause (I)(bb), shall have the sole right to select the clearing agency at which the security-based swap will be cleared.

''(ii) LIMITATION.—A commercial end user may only make an election under clause (i) if the end user is using the security-based swap to hedge its own commercial risk.

''(C) TREATMENT OF AFFILIATES.—

''(i) IN GENERAL.—An affiliate of a commercial end user (including affiliate entities predominantly engaged in providing financing for the purchase of the merchandise or manufactured goods of the commercial end user) may make an election under subparagraph (B)(i) only if the affiliate, acting on behalf of the commercial end user and as an agent, uses the security-based swap to hedge or mitigate the commercial risk of the commercial end user parent or other affiliates of the commercial end user that is not a financial entity..

''(ii) PROHIBITION RELATING TO CERTAIN AFFILIATES.—An affiliate of a commercial end user shall not use the exemption under subparagraph (B) if the affiliate is—

''(I) a security-based swap dealer;

''(II) a security-based security-based swap dealer;

''(III) a major security-based swap participant;

''(IV) a major security-based security-based swap participant;

''(V) an issuer that would be an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3), but for paragraph (1) or (7) of subsection (c) of that section 3 (15 U.S.C. 80a–3(c));

''(VI) a commodity pool;

''(VII) a bank holding company with over $50,000,000,000 in consolidated assets; or

''(VIII) an affiliate of any entity described in subclauses (I) through (VII).

''(iii) ABUSE OF EXEMPTION.—The Commission may prescribe such rules, or issue interpretations of the rules, as the Commission determines to be necessary to prevent abuse of the exemption described in subparagraph (B).

''(D) OPTION TO CLEAR.—

''(i) SECURITY-BASED SWAPS REQUIRED TO BE CLEARED ENTERED INTO WITH A FINANCIAL ENTITY.—With respect to any securities-based swap that is required to be cleared by a clearing agency and entered into by a securities-based swap dealer or a major securities-based swap participant with a financial entity, the financial entity shall have the sole right to select the clearing agency at which the securities-based swap will be cleared.

''(ii) SECURITY-BASED SWAPS NOT REQUIRED TO BE CLEARED ENTERED INTO WITH A FINANCIAL ENTITY OR COMMERCIAL END USER.—With respect to any securities-based swap that is not required to be cleared by a clearing agency and entered into by a securities-based swap dealer or a major securities-based swap participant with a financial entity or commercial end user, the financial entity or commercial end user—

''(I) may elect to require clearing of the securities-based swap; and

''(II) shall have the sole right to select the clearing agency at which the securities-based swap will be cleared.

''(b) AUDIT COMMITTEE APPROVAL.—Exemptions from the requirements of this section to clear or trade a security-based swap through a national securities exchange or security-based swap execution facility shall be available to a counterparty that is an issuer of securities that are registered under section 12 or that is required to file reports pursuant to section 15(d), only if the issuer's audit committee has reviewed and approved the issuer's decision to enter into security-based swaps that are subject to such exemptions.

''(c) PUBLIC AVAILABILITY OF SECURITY-BASED SWAP TRANSACTION DATA.—

''(1) IN GENERAL.—

''(A) DEFINITION OF REAL-TIME PUBLIC REPORTING.—In this paragraph, the term 'real-time public reporting' means to report data relating to a security-based swap transaction as soon as technologically practicable after the time at which the security-based swap transaction has been executed.

''(B) PURPOSE.—The purpose of this section is to authorize the Commission to make security-based swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery.

''(C) GENERAL RULE.—The Commission is authorized to provide by rule for the public availability of security-based swap transaction and pricing data as follows:

''(i) With respect to those security-based swaps that are subject to the mandatory clearing requirement described in subsection (a)(1) (including those security-based swaps that are exempted from those requirements), the Commission shall require real-time public reporting for such transactions.

''(ii) With respect to those security-based swaps that are not subject to the mandatory clearing requirement described in subsection (a)(1), but are cleared at a registered clearing agency, the Commission shall require real-time public reporting for such transactions.

''(iii) With respect to security-based swaps that are not cleared at a registered clearing agency and which are reported to a security-based swap data repository or the Commission under subsection (a), the Commission shall make available to the public, in a manner that does not disclose the business transactions and market positions of any person, aggregate data on such security-based swap trading volumes and positions.

''(iv) With respect to security-based swaps that are exempt from the requirements of subsection (a)(1), but are subject to the requirements of subsection (a)(8), the Commission shall require real-time public reporting for such transactions.

''(D) REGISTERED ENTITIES AND PUBLIC REPORTING.—The Commission may require registered entities to publicly disseminate the security-based swap transaction and pricing data required to be reported under this paragraph.

''(E) RULEMAKING REQUIRED.—With respect to the rule providing for the public availability of transaction and pricing data for security-based swaps described in clauses (i) and (ii) of subparagraph (C), the rule promulgated by the Commission shall contain provisions—

''(i) to ensure such information does not identify the participants;

''(ii) to specify the criteria for determining what constitutes a large notional security-based swap transaction (block trade) for particular markets and contracts;

''(iii) to specify the appropriate time delay for reporting large notional security-based swap transactions (block trades) to the public; and

''(iv) that take into account whether the public disclosure will materially reduce market liquidity.

''(F) TIMELINESS OF REPORTING.—Parties to a security-based swap (including agents of the parties to a security-based swap) shall be responsible for reporting security-based swap transaction information to the appropriate registered entity in a timely manner as may be prescribed by the Commission.

''(2) SEMIANNUAL AND ANNUAL PUBLIC REPORTING OF AGGREGATE SECURITY-BASED SWAP DATA.—

''(A) IN GENERAL.—In accordance with subparagraph (B), the Commission shall issue a written report on a semiannual and annual basis to make available to the public information relating to—

''(i) the trading and clearing in the major security-based swap categories; and

''(ii) the market participants and developments in new products.

''(B) USE; CONSULTATION.—In preparing a report under subparagraph (A), the Commission shall—

''(i) use information from security-based swap data repositories and clearing agencies; and

''(ii) consult with the Office of the Comptroller of the Currency, the Bank for International Settlements, and such other regulatory bodies as may be necessary.

''(C) TRANSITION RULE FOR PREENACTMENT SECURITY-BASED SWAPS.—

''(i) SECURITY-BASED SWAPS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE WALL STREET TRANSPARENCY AND ACCOUNTABILITY ACT OF 2010.—Each security-based swap entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the terms of which have not expired as of the date of enactment of that Act, shall be reported to a registered security-based swap data repository or the Commission by a date that is not later than—

''(I) 30 days after the date of issuance of the interim final rule; or

''(II) such other period as the Commission determines to be appropriate.

''(ii) COMMISSION RULEMAKING.—The Commission shall promulgate an interim final rule within 90 days of the date of enactment of this section providing for the reporting of each security-based swap entered into before the date of enactment as referenced in clause (i).

''(D) EFFECTIVE DATE.—The reporting provisions described in this paragraph shall be effective upon the date of enactment of this section.

''(d) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each registered clearing agency shall designate an individual to serve as a chief compliance officer.

''(2) DUTIES.—The chief compliance officer shall—

''(A) report directly to the board or to the senior officer of the clearing agency;

''(B) in consultation with its board, a body performing a function similar thereto, or the senior officer of the registered clearing agency, resolve any conflicts of interest that may arise;

''(C) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(D) ensure compliance with this title (including regulations issued under this title) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;

''(E) establish procedures for the remediation of noncompliance issues identified by the compliance officer through any—

''(i) compliance office review;

''(ii) look-back;

''(iii) internal or external audit finding;

''(iv) self-reported error; or

''(v) validated complaint; and

''(F) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(3) ANNUAL REPORTS.—

''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(i) the compliance of the registered clearing agency or security-based swap execution facility of the compliance officer with respect to this title (including regulations under this title); and

''(ii) each policy and procedure of the registered clearing agency of the compliance officer (including the code of ethics and conflict of interest policies of the registered clearing agency).

''(B) REQUIREMENTS.—A compliance report under subparagraph (A) shall—

''(i) accompany each appropriate financial report of the registered clearing agency that is required to be furnished to the Commission pursuant to this section; and

''(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.''.

(b) CLEARING AGENCY REQUIREMENTS.—Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1) is amended by adding at the end the following:

''(g) REGISTRATION REQUIREMENT.—It shall be unlawful for a clearing agency, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a clearing agency with respect to a security-based swap.

''(h) VOLUNTARY REGISTRATION.—A person that clears agreements, contracts, or transactions that are not required to be cleared under this title may register with the Commission as a clearing agency.

''(i) STANDARDS FOR CLEARING AGENCIES CLEARING SECURITY-BASED SWAP TRANSACTIONS.—To be registered and to maintain registration as a clearing agency that clears security-based swap transactions, a clearing agency shall comply with such standards as the Commission may establish by rule. In establishing any such standards, and in the exercise of its oversight of such a clearing agency pursuant to this title, the Commission may conform such standards or oversight to reflect evolving United States and international standards. Except where the Commission determines otherwise by rule or regulation, a clearing agency shall have reasonable discretion in establishing the manner in which it complies with any such standards.

''(j) RULES.—The Commission shall adopt rules governing persons that are registered as clearing agencies for security-based swaps under this title.

''(k) EXEMPTIONS.—

''(1) IN GENERAL.—The Commission may exempt, conditionally or unconditionally, a clearing agency from registration under this section for the clearing of security-based swaps if the Commission determines that the clearing agency is subject to comparable, comprehensive supervision and regulation by the Commodity Futures Trading Commission or the appropriate government authorities in the home country of the agency. Such conditions may include, but are not limited to, requiring that the clearing agency be available for inspection by the Commission and make available all information requested by the Commission.

''(2) DERIVATIVES CLEARING ORGANIZATIONS.—A person that is required to be registered as a derivatives clearing organization under the Commodity Exchange Act, whose principal business is clearing commodity futures and options on commodity futures transactions and swaps and which is a derivatives clearing organization registered with the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.), shall be unconditionally exempt from registration under this section solely for the purpose of clearing security-based swaps, unless the Commission finds that such derivatives clearing organization is not subject to comparable, comprehensive supervision and regulation by the Commodity Futures Trading Commission.

''(l) MODIFICATION OF CORE PRINCIPLES.—The Commission may conform the core principles established in this section to reflect evolving United States and international standards.''.

(c) SECURITY-BASED SWAP EXECUTION FACILITIES.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 3C (as added by subsection (a) of this section) the following:

''SEC. 3D. SECURITY-BASED SWAP EXECUTION FACILITIES.

''(a) REGISTRATION.—

''(1) IN GENERAL.—No person may operate a facility for the trading or processing of security-based swaps, unless the facility is registered as a security-based swap execution facility or as a national securities exchange under this section.

''(2) DUAL REGISTRATION.—Any person that is registered as a security-based swap execution facility under this section shall register with the Commission regardless of whether the person also is registered with the Commodity Futures Trading Commission as a swap execution facility.

''(b) TRADING AND TRADE PROCESSING.—A security-based swap execution facility that is registered under subsection (a) may—

''(1) make available for trading any security-based swap; and

''(2) facilitate trade processing of any security-based swap.

''(c) IDENTIFICATION OF FACILITY USED TO TRADE SECURITY-BASED SWAPS BY NATIONAL SECURITIES EXCHANGES.—A national securities exchange shall, to the extent that the exchange also operates a security-based swap execution facility and uses the same electronic trade execution system for listing and executing trades of security-based swaps on or through the exchange and the facility, identify whether electronic trading of such security-based swaps is taking place on or through the national securities exchange or the security-based swap execution facility.

''(d) CORE PRINCIPLES FOR SECURITY-BASED SWAP EXECUTION FACILITIES.—

''(1) COMPLIANCE WITH CORE PRINCIPLES.—

''(A) IN GENERAL.—To be registered, and maintain registration, as a security-based swap execution facility, the security-based swap execution facility shall comply with—

''(i) the core principles described in this subsection; and

''(ii) any requirement that the Commission may impose by rule or regulation.

''(B) REASONABLE DISCRETION OF SECURITY-BASED SWAP EXECUTION FACILITY.—Unless otherwise determined by the Commission, by rule or regulation, a security-based swap execution facility described in subparagraph (A) shall have reasonable discretion in establishing the manner in which it complies with the core principles described in this subsection.

''(2) COMPLIANCE WITH RULES.—A security-based swap execution facility shall—

''(A) monitor and enforce compliance with any rule established by such security-based swap execution facility, including—

''(i) the terms and conditions of the security-based swaps traded or processed on or through the facility; and

''(ii) any limitation on access to the facility;

''(B) establish and enforce trading, trade processing, and participation rules that will deter abuses and have the capacity to detect, investigate, and enforce those rules, including means—

''(i) to provide market participants with impartial access to the market; and

''(ii) to capture information that may be used in establishing whether rule violations have occurred; and

''(C) establish rules governing the operation of the facility, including rules specifying trading procedures to be used in entering and executing orders traded or posted on the facility, including block trades.

''(3) SECURITY-BASED SWAPS NOT READILY SUSCEPTIBLE TO MANIPULATION.—The security-based swap execution facility shall permit trading only in security-based swaps that are not readily susceptible to manipulation.

''(4) MONITORING OF TRADING AND TRADE PROCESSING.—The security-based swap execution facility shall—

''(A) establish and enforce rules or terms and conditions defining, or specifications detailing—

''(i) trading procedures to be used in entering and executing orders traded on or through the facilities of the security-based swap execution facility; and

''(ii) procedures for trade processing of security-based swaps on or through the facilities of the security-based swap execution facility; and

''(B) monitor trading in security-based swaps to prevent manipulation, price distortion, and disruptions of the delivery or cash settlement process through surveillance, compliance, and disciplinary practices and procedures, including methods for conducting real-time monitoring of trading and comprehensive and accurate trade reconstructions.

''(5) ABILITY TO OBTAIN INFORMATION.—The security-based swap execution facility shall—

''(A) establish and enforce rules that will allow the facility to obtain any necessary information to perform any of the functions described in this subsection;

''(B) provide the information to the Commission on request; and

''(C) have the capacity to carry out such international information-sharing agreements as the Commission may require.

''(6) POSITION LIMITS OR ACCOUNTABILITY.—

''(A) IN GENERAL.—To reduce the potential threat of market manipulation or congestion, especially during trading in the delivery month, a security-based swap execution facility that is a trading facility shall adopt for each of the contracts of the facility, as is necessary and appropriate, position limitations or position accountability for speculators.

''(B) POSITION LIMITS.—For any contract or agreement that is subject to a position limitation established by the Commission pursuant to section 10B, the security-based swap execution facility shall set its position limitation at a level no higher than the limitation established by the Commission.

''(C) POSITION ENFORCEMENT.—For any contract or agreement that is subject to a position limitation established by the Commission pursuant to section 10B, a security-based swap execution facility shall reject any proposed security-based swap transaction if, based on information readily available to a security-based swap execution facility, any proposed security-based swap transaction would cause a security-based swap execution facility customer that would be a party to such swap transaction to exceed such position limitation.

''(7) FINANCIAL INTEGRITY OF TRANSACTIONS.—The security-based swap execution facility shall establish and enforce rules and procedures for ensuring the financial integrity of security-based swaps entered on or through the facilities of the security-based swap execution facility, including the clearance and settlement of security-based swaps pursuant to section 3C(a)(1).

''(8) EMERGENCY AUTHORITY.—The security-based swap execution facility shall adopt rules to provide for the exercise of emergency authority, in consultation or cooperation with the Commission, as is necessary and appropriate, including the authority to liquidate or transfer open positions in any security-based swap or to suspend or curtail trading in a security-based swap.

''(9) TIMELY PUBLICATION OF TRADING INFORMATION.—

''(A) IN GENERAL.—The security-based swap execution facility shall make public timely information on price, trading volume, and other trading data on security-based swaps to the extent prescribed by the Commission.

''(B) CAPACITY OF SECURITY-BASED SWAP EXECUTION FACILITY.—The security-based swap execution facility shall be required to have the capacity to electronically capture trade information with respect to transactions executed on the facility.

''(10) RECORDKEEPING AND REPORTING.—

''(A) IN GENERAL.—A security-based swap execution facility shall—

''(i) maintain records of all activities relating to the business of the facility, including a complete audit trail, in a form and manner acceptable to the Commission for a period of 5 years; and

''(ii) report to the Commission, in a form and manner acceptable to the Commission, such information as the Commission determines to be necessary or appropriate for the Commission to perform the duties of the Commission under this title.

''(B) REQUIREMENTS.—The Commission shall adopt data collection and reporting requirements for security-based swap execution facilities that are comparable to corresponding requirements for clearing agencies and security-based swap data repositories.

''(11) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this title, the security-based swap execution facility shall not—

''(A) adopt any rules or taking any actions that result in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on trading or clearing.

''(12) CONFLICTS OF INTEREST.—The security-based swap execution facility shall—

''(A) establish and enforce rules to minimize conflicts of interest in its decision-making process; and

''(B) establish a process for resolving the conflicts of interest.

''(13) FINANCIAL RESOURCES.—

''(A) IN GENERAL.—The security-based swap execution facility shall have adequate financial, operational, and managerial resources to discharge each responsibility of the security-based swap execution facility, as determined by the Commission.

''(B) DETERMINATION OF RESOURCE ADEQUACY.—The financial resources of a security-based swap execution facility shall be considered to be adequate if the value of the financial resources—

''(i) enables the organization to meet its financial obligations to its members and participants notwithstanding a default by the member or participant creating the largest financial exposure for that organization in extreme but plausible market conditions; and

''(ii) exceeds the total amount that would enable the security-based swap execution facility to cover the operating costs of the security-based swap execution facility for a 1-year period, as calculated on a rolling basis.

''(14) SYSTEM SAFEGUARDS.—The security-based swap execution facility shall—

''(A) establish and maintain a program of risk analysis and oversight to identify and minimize sources of operational risk, through the development of appropriate controls and procedures, and automated systems, that—

''(i) are reliable and secure; and

''(ii) have adequate scalable capacity;

''(B) establish and maintain emergency procedures, backup facilities, and a plan for disaster recovery that are designed to allow for—

''(i) the timely recovery and resumption of operations; and

''(ii) the fulfillment of the responsibilities and obligation of the security-based swap execution facility; and

''(C) periodically conduct tests to verify that the backup resources of the security-based swap execution facility are sufficient to ensure continued—

''(i) order processing and trade matching;

''(ii) price reporting;

''(iii) market surveillance; and

''(iv) maintenance of a comprehensive and accurate audit trail.

''(15) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(A) IN GENERAL.—Each security-based swap execution facility shall designate an individual to serve as a chief compliance officer.

''(B) DUTIES.—The chief compliance officer shall—

''(i) report directly to the board or to the senior officer of the facility;

''(ii) review compliance with the core principles in this subsection;

''(iii) in consultation with the board of the facility, a body performing a function similar to that of a board, or the senior officer of the facility, resolve any conflicts of interest that may arise;

''(iv) be responsible for establishing and administering the policies and procedures required to be established pursuant to this section;

''(v) ensure compliance with this title and the rules and regulations issued under this title, including rules prescribed by the Commission pursuant to this section;

''(vi) establish procedures for the remediation of noncompliance issues found during—

''(I) compliance office reviews;

''(II) look backs;

''(III) internal or external audit findings;

''(IV) self-reported errors; or

''(V) through validated complaints; and

''(vii) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(C) ANNUAL REPORTS.—

''(i) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(I) the compliance of the security-based swap execution facility with this title; and

''(II) the policies and procedures, including the code of ethics and conflict of interest policies, of the security-based security-based swap execution facility.

''(ii) REQUIREMENTS.—The chief compliance officer shall—

''(I) submit each report described in clause (i) with the appropriate financial report of the security-based swap execution facility that is required to be submitted to the Commission pursuant to this section; and

''(II) include in the report a certification that, under penalty of law, the report is accurate and complete.

''(e) EXEMPTIONS.—The Commission may exempt, conditionally or unconditionally, a security-based swap execution facility from registration under this section if the Commission finds that the facility is subject to comparable, comprehensive supervision and regulation on a consolidated basis by the Commodity Futures Trading Commission.

''(f) RULES.—The Commission shall prescribe rules governing the regulation of security-based swap execution facilities under this section.''.

(d) SEGREGATION OF ASSETS HELD AS COLLATERAL IN SECURITY-BASED SWAP TRANSACTIONS.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 3D (as added by subsection (b)) the following:

''SEC. 3E. SEGREGATION OF ASSETS HELD AS COLLATERAL IN SECURITY-BASED SWAP TRANSACTIONS.

''(a) REGISTRATION REQUIREMENT.—It shall be unlawful for any person to accept any money, securities, or property (or to extend any credit in lieu of money, securities, or property) from, for, or on behalf of a security-based swaps customer or to margin, guarantee, or secure a security-based swap cleared by or through a clearing agency (including money, securities, or property accruing to the customer as the result of such a security-based swap), unless the person shall have registered under this title with the Commission as a broker, dealer, or security-based swap dealer, and the registration shall not have expired nor been suspended nor revoked.

''(b) CLEARED SECURITY-BASED SWAPS.—

''(1) SEGREGATION REQUIRED.—A broker, dealer, or security-based swap dealer shall treat and deal with all money, securities, and property of any security-based swaps customer received to margin, guarantee, or secure a security-based swap cleared by or though a clearing agency (including money, securities, or property accruing to the security-based swaps customer as the result of such a security-based swap) as belonging to the security-based swaps customer.

''(2) COMMINGLING PROHIBITED.—Money, securities, and property of a security-based swaps customer described in paragraph (1) shall be separately accounted for and shall not be commingled with the funds of the broker, dealer, or security-based swap dealer or be used to margin, secure, or guarantee any trades or contracts of any security-based swaps customer or person other than the person for whom the same are held.

''(c) EXCEPTIONS.—

''(1) USE OF FUNDS.—

''(A) IN GENERAL.—Notwithstanding subsection (b), money, securities, and property of a security-based swaps customer of a broker, dealer, or security-based swap dealer described in subsection (b) may, for convenience, be commingled and deposited in the same 1 or more accounts with any bank or trust company or with a clearing agency.

''(B) WITHDRAWAL.—Notwithstanding subsection (b), such share of the money, securities, and property described in subparagraph (A) as in the normal course of business shall be necessary to margin, guarantee, secure, transfer, adjust, or settle a cleared security-based swap with a clearing agency, or with any member of the clearing agency, may be withdrawn and applied to such purposes, including the payment of commissions, brokerage, interest, taxes, storage, and other charges, lawfully accruing in connection with the cleared security-based swap.

''(2) COMMISSION ACTION.—Notwithstanding subsection (b), in accordance with such terms and conditions as the Commission may prescribe by rule, regulation, or order, any money, securities, or property of the security-based swaps customer of a broker, dealer, or security-based swap dealer described in subsection (b) may be commingled and deposited as provided in this section with any other money, securities, or property received by the broker, dealer, or security-based swap dealer and required by the Commission to be separately accounted for and treated and dealt with as belonging to the security-based swaps customer of the broker, dealer, or security-based swap dealer.

''(d) PERMITTED INVESTMENTS.—Money described in subsection (b) may be invested in obligations of the United States, in general obligations of any State or of any political subdivision of a State, and in obligations fully guaranteed as to principal and interest by the United States, or in any other investment that the Commission may by rule or regulation prescribe, and such investments shall be made in accordance with such rules and regulations and subject to such conditions as the Commission may prescribe.

''(e) PROHIBITION.—It shall be unlawful for any person, including any clearing agency and any depository institution, that has received any money, securities, or property for deposit in a separate account or accounts as provided in subsection (b) to hold, dispose of, or use any such money, securities, or property as belonging to the depositing broker, dealer, or security-based swap dealer or any person other than the swaps customer of the broker, dealer, or security-based swap dealer.''.

(e) TRADING IN SECURITY-BASED SWAPS.—Section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding at the end the following:

''(l) SECURITY-BASED SWAPS.—It shall be unlawful for any person to effect a transaction in a security-based swap with or for a person that is not an eligible contract participant, unless such transaction is effected on a national securities exchange registered pursuant to subsection (b).''.

(f) ADDITIONS OF SECURITY-BASED SWAPS TO CERTAIN ENFORCEMENT PROVISIONS.—Section 9(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78i(b)) is amended by striking paragraphs (1) through (3) and inserting the following:

''(1) any transaction in connection with any security whereby any party to such transaction acquires—

''(A) any put, call, straddle, or other option or privilege of buying the security from or selling the security to another without being bound to do so;

''(B) any security futures product on the security; or

''(C) any security-based swap involving the security or the issuer of the security;

''(2) any transaction in connection with any security with relation to which such person has, directly or indirectly, any interest in any—

''(A) such put, call, straddle, option, or privilege;

''(B) such security futures product; or

''(C) such security-based swap; or

''(3) any transaction in any security for the account of any person who such person has reason to believe has, and who actually has, directly or indirectly, any interest in any—

''(A) such put, call, straddle, option, or privilege;

''(B) such security futures product with relation to such security; or

''(C) any security-based swap involving such security or the issuer of such security.''.

(g) RULEMAKING AUTHORITY TO PREVENT FRAUD, MANIPULATION AND DECEPTIVE CONDUCT IN SECURITY-BASED SWAPS.—Section 9 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) is amended by adding at the end the following:

''(j) It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security-based swap, in connection with which such person engages in any fraudulent, deceptive, or manipulative act or practice, makes any fictitious quotation, or engages in any transaction, practice, or course of business which operates as a fraud or deceit upon any person. The Commission shall, for the purposes of this subsection, by rules and regulations define, and prescribe means reasonably designed to prevent, such transactions, acts, practices, and courses of business as are fraudulent, deceptive, or manipulative, and such quotations as are fictitious.''.

(h) POSITION LIMITS AND POSITION ACCOUNTABILITY FOR SECURITY-BASED SWAPS.—The Securities Exchange Act of 1934 is amended by inserting after section 10A (15 U.S.C. 78j–1) the following:

''SEC. 10B. POSITION LIMITS AND POSITION ACCOUNTABILITY FOR SECURITY-BASED SWAPS AND LARGE TRADER REPORTING.

''(a) POSITION LIMITS.—As a means reasonably designed to prevent fraud and manipulation, the Commission shall, by rule or regulation, as necessary or appropriate in the public interest or for the protection of investors, establish limits (including related hedge exemption provisions) on the size of positions in any security-based swap that may be held by any person. In establishing such limits, the Commission may require any person to aggregate positions in—

''(1) any security-based swap and any security or loan or group of securities or loans on which such security-based swap is based, which such security-based swap references, or to which such security-based swap is related as described in paragraph (68) of section 3(a), and any other instrument relating to such security or loan or group or index of securities or loans; or

''(2) any security-based swap and—

''(A) any security or group or index of securities, the price, yield, value, or volatility of which, or of which any interest therein, is the basis for a material term of such security-based swap as described in paragraph (68) of section 3(a); and

''(B) any other instrument relating to the same security or group or index of securities described under subparagraph (A).

''(b) EXEMPTIONS.—The Commission, by rule, regulation, or order, may conditionally or unconditionally exempt any person or class of persons, any security-based swap or class of security-based swaps, or any transaction or class of transactions from any requirement the Commission may establish under this section with respect to position limits.

''(c) SRO RULES.—

''(1) IN GENERAL.—As a means reasonably designed to prevent fraud or manipulation, the Commission, by rule, regulation, or order, as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, may direct a self-regulatory organization—

''(A) to adopt rules regarding the size of positions in any security-based swap that may be held by—

''(i) any member of such self-regulatory organization; or

''(ii) any person for whom a member of such self-regulatory organization effects transactions in such security-based swap; and

''(B) to adopt rules reasonably designed to ensure compliance with requirements prescribed by the Commission under this subsection.

''(2) REQUIREMENT TO AGGREGATE POSITIONS.—In establishing the limits under paragraph (1), the self-regulatory organization may require such member or person to aggregate positions in—

''(A) any security-based swap and any security or loan or group or narrow-based security narrow-based security index of securities or loans on which such security-based swap is based, which such security-based swap references, or to which such security-based swap is related as described in section 3(a)(68), and any other instrument relating to such security or loan or group or narrow-based security index of securities or loans; or

''(B)(i) any security-based swap; and

''(ii) any security-based swap and any other instrument relating to the same security or group or narrow-based security index of securities.

''(d) LARGE TRADER REPORTING.—The Commission, by rule or regulation, may require any person that effects transactions for such person's own account or the account of others in any securities-based swap or uncleared security-based swap and any security or loan or group or narrow-based security index of securities or loans as set forth in paragraphs (1) and (2) of subsection (a) under this section to report such information as the Commission may prescribe regarding any position or positions in any security-based swap or uncleared security-based swap and any security or loan or group or narrow-based security index of securities or loans and any other instrument relating to such security or loan or group or narrow-based security index of securities or loans as set forth in paragraphs (1) and (2) of subsection (a) under this section.''.

(i) PUBLIC REPORTING AND REPOSITORIES FOR SECURITY-BASED SWAPS.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

''(m) PUBLIC AVAILABILITY OF SECURITY-BASED SWAP TRANSACTION DATA.—

''(1) IN GENERAL.—

''(A) DEFINITION OF REAL-TIME PUBLIC REPORTING.—In this paragraph, the term 'real-time public reporting' means to report data relating to a security-based swap transaction as soon as technologically practicable after the time at which the security-based swap transaction has been executed.

''(B) PURPOSE.—The purpose of this section is to authorize the Commission to make security-based swap transaction and pricing data available to the public in such form and at such times as the Commission determines appropriate to enhance price discovery.

''(C) GENERAL RULE.—The Commission is authorized to provide by rule for the public availability of security-based swap transaction and pricing data as follows:

''(i) With respect to those security-based swaps that are subject to the mandatory clearing requirement described in section 3C(a)(1) (including those security-based swaps that are exempted from the requirement pursuant to section 3C(a)(10)), the Commission shall require real-time public reporting for such transactions.

''(ii) With respect to those security-based swaps that are not subject to the mandatory clearing requirement described in subsection section 3C(a)(1), but are cleared at a registered clearing agency, the Commission shall require real-time public reporting for such transactions.

''(iii) With respect to security-based swaps that are not cleared at a registered clearing agency and which are reported to a security-based swap data repository or the Commission under section 3C(a), the Commission shall make available to the public, in a manner that does not disclose the business transactions and market positions of any person, aggregate data on such security-based swap trading volumes and positions.

''(iv) With respect to security-based swaps that are exempt from the requirements of section 3C(a)(1), but are subject to the requirements of section 3C(a)(8), the Commission shall require real-time public reporting for such transactions.

''(D) REGISTERED ENTITIES AND PUBLIC REPORTING.—The Commission may require registered entities to publicly disseminate the security-based swap transaction and pricing data required to be reported under this paragraph.

''(E) RULEMAKING REQUIRED.—With respect to the rule providing for the public availability of transaction and pricing data for security-based swaps described in clauses (i) and (ii) of subparagraph (C), the rule promulgated by the Commission shall contain provisions—

''(i) to ensure such information does not identify the participants;

''(ii) to specify the criteria for determining what constitutes a large notional security-based swap transaction (block trade) for particular markets and contracts;

''(iii) to specify the appropriate time delay for reporting large notional security-based swap transactions (block trades) to the public; and

''(iv) that take into account whether the public disclosure will materially reduce market liquidity.

''(F) TIMELINESS OF REPORTING.—Parties to a security-based swap (including agents of the parties to a security-based swap) shall be responsible for reporting security-based swap transaction information to the appropriate registered entity in a timely manner as may be prescribed by the Commission.

''(2) SEMIANNUAL AND ANNUAL PUBLIC REPORTING OF AGGREGATE SECURITY-BASED SWAP DATA.—

''(A) IN GENERAL.—In accordance with subparagraph (B), the Commission shall issue a written report on a semiannual and annual basis to make available to the public information relating to—

''(i) the trading and clearing in the major security-based swap categories; and

''(ii) the market participants and developments in new products.

''(B) USE; CONSULTATION.—In preparing a report under subparagraph (A), the Commission shall—

''(i) use information from security-based swap data repositories and derivatives clearing organizations; and

''(ii) consult with the Office of the Comptroller of the Currency, the Bank for International Settlements, and such other regulatory bodies as may be necessary.

''(n) SECURITY-BASED SWAP DATA REPOSITORIES.—

''(1) REGISTRATION REQUIREMENT.—It shall be unlawful for any person, unless registered with the Commission, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a security-based swap data repository.

''(2) INSPECTION AND EXAMINATION.—Each registered security-based swap data repository shall be subject to inspection and examination by any representative of the Commission.

''(3) COMPLIANCE WITH CORE PRINCIPLES.—

''(A) IN GENERAL.—To be registered, and maintain registration, as a security-based swap data repository, the security-based swap data repository shall comply with—

''(i) the core principles described in this subsection; and

''(ii) any requirement that the Commission may impose by rule or regulation.

''(B) REASONABLE DISCRETION OF SECURITY-BASED SWAP DATA REPOSITORY.—Unless otherwise determined by the Commission, by rule or regulation, a security-based swap data repository described in subparagraph (A) shall have reasonable discretion in establishing the manner in which the security-based swap data repository complies with the core principles described in this subsection.

''(4) STANDARD SETTING.—

''(A) DATA IDENTIFICATION.—The Commission shall prescribe standards that specify the data elements for each security-based swap that shall be collected and maintained by each registered security-based swap data repository.

''(B) DATA COLLECTION AND MAINTENANCE.—The Commission shall prescribe data collection and data maintenance standards for security-based swap data repositories.

''(C) COMPARABILITY.—The standards prescribed by the Commission under this subsection shall be comparable to the data standards imposed by the Commission on clearing agencies in connection with their clearing of security-based swaps.

''(5) DUTIES.—A security-based swap data repository shall—

''(A) accept data prescribed by the Commission for each security-based swap under subsection (b);

''(B) confirm with both counterparties to the security-based swap the accuracy of the data that was submitted;

''(C) maintain the data described in subparagraph (A) in such form, in such manner, and for such period as may be required by the Commission;

''(D)(i) provide direct electronic access to the Commission (or any designee of the Commission, including another registered entity); and

''(ii) provide the information described in subparagraph (A) in such form and at such frequency as the Commission may require to comply with the public reporting requirements set forth in subsection (m);

''(E) at the direction of the Commission, establish automated systems for monitoring, screening, and analyzing security-based swap data;

''(F) maintain the privacy of any and all security-based swap transaction information that the security-based swap data repository receives from a security-based swap dealer, counterparty, or any other registered entity; and

''(G) on a confidential basis pursuant to section 24, upon request, and after notifying the Commission of the request, make available all data obtained by the security-based swap data repository, including individual counterparty trade and position data, to—

''(i) each appropriate prudential regulator;

''(ii) the Financial Stability Oversight Council;

''(iii) the Commodity Futures Trading Commission;

''(iv) the Department of Justice; and

''(v) any other person that the Commission determines to be appropriate, including—

''(I) foreign financial supervisors (including foreign futures authorities);

''(II) foreign central banks; and

''(III) foreign ministries.

''(H) CONFIDENTIALITY AND INDEMNIFICATION AGREEMENT.—Before the security-based swap data repository may share information with any entity described in subparagraph (G)—

''(i) the security-based swap data repository shall receive a written agreement from each entity stating that the entity shall abide by the confidentiality requirements described in section 24 relating to the information on security-based swap transactions that is provided; and

''(ii) each entity shall agree to indemnify the security-based swap data repository and the Commission for any expenses arising from litigation relating to the information provided under section 24.

''(6) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(A) IN GENERAL.—Each security-based swap data repository shall designate an individual to serve as a chief compliance officer.

''(B) DUTIES.—The chief compliance officer shall—

''(i) report directly to the board or to the senior officer of the security-based swap data repository;

''(ii) review the compliance of the security-based swap data repository with respect to the core principles described in paragraph (7);

''(iii) in consultation with the board of the security-based swap data repository, a body performing a function similar to the board of the security-based swap data repository, or the senior officer of the security-based swap data repository, resolve any conflicts of interest that may arise;

''(iv) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(v) ensure compliance with this title (including regulations) relating to agreements, contracts, or transactions, including each rule prescribed by the Commission under this section;

''(vi) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any—

''(I) compliance office review;

''(II) look-back;

''(III) internal or external audit finding;

''(IV) self-reported error; or

''(V) validated complaint; and

''(vii) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(C) ANNUAL REPORTS.—

''(i) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(I) the compliance of the security-based swap data repository of the chief compliance officer with respect to this title (including regulations); and

''(II) each policy and procedure of the security-based swap data repository of the chief compliance officer (including the code of ethics and conflict of interest policies of the security-based swap data repository).

''(ii) REQUIREMENTS.—A compliance report under clause (i) shall—

''(I) accompany each appropriate financial report of the security-based swap data repository that is required to be furnished to the Commission pursuant to this section; and

''(II) include a certification that, under penalty of law, the compliance report is accurate and complete.

''(7) CORE PRINCIPLES APPLICABLE TO SECURITY-BASED SWAP DATA REPOSITORIES.—

''(A) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this title, the swap data repository shall not—

''(i) adopt any rule or take any action that results in any unreasonable restraint of trade; or

''(ii) impose any material anticompetitive burden on the trading, clearing, or reporting of transactions.

''(B) GOVERNANCE ARRANGEMENTS.—Each security-based swap data repository shall establish governance arrangements that are transparent—

''(i) to fulfill public interest requirements; and

''(ii) to support the objectives of the Federal Government, owners, and participants.

''(C) CONFLICTS OF INTEREST.—Each security-based swap data repository shall—

''(i) establish and enforce rules to minimize conflicts of interest in the decision-making process of the security-based swap data repository; and

''(ii) establish a process for resolving any conflicts of interest described in clause (i).

''(8) REQUIRED REGISTRATION FOR SECURITY-BASED SWAP DATA REPOSITORIES.—Any person that is required to be registered as a security-based swap data repository under this subsection shall register with the Commission, regardless of whether that person is also licensed under the Commodity Exchange Act as a swap data repository.

''(9) RULES.—The Commission shall adopt rules governing persons that are registered under this subsection.''.

SEC. 764. REGISTRATION AND REGULATION OF SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15E (15 U.S.C. 78o–7) the following:

''SEC. 15F. REGISTRATION AND REGULATION OF SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS.

''(a) REGISTRATION.—

''(1) SECURITY-BASED SWAP DEALERS.—It shall be unlawful for any person to act as a security-based swap dealer unless the person is registered as a security-based swap dealer with the Commission.

''(2) MAJOR SECURITY-BASED SWAP PARTICIPANTS.—It shall be unlawful for any person to act as a major security-based swap participant unless the person is registered as a major security-based swap participant with the Commission.

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—A person shall register as a security-based swap dealer or major security-based swap participant by filing a registration application with the Commission.

''(2) CONTENTS.—

''(A) IN GENERAL.—The application shall be made in such form and manner as prescribed by the Commission, and shall contain such information, as the Commission considers necessary concerning the business in which the applicant is or will be engaged.

''(B) CONTINUAL REPORTING.—A person that is registered as a security-based swap dealer or major security-based swap participant shall continue to submit to the Commission reports that contain such information pertaining to the business of the person as the Commission may require.

''(3) EXPIRATION.—Each registration under this section shall expire at such time as the Commission may prescribe by rule or regulation.

''(4) RULES.—Except as provided in subsections (c), (e), and (f), the Commission may prescribe rules applicable to security-based swap dealers and major security-based swap participants, including rules that limit the activities of non-bank security-based swap dealers and non-bank major security-based swap participants.

''(5) TRANSITION.—Not later than 1 year after the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the Commission shall issue rules under this section to provide for the registration of security-based swap dealers and major security-based swap participants.

''(6) STATUTORY DISQUALIFICATION.—Except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, it shall be unlawful for a security-based swap dealer or a major security-based swap participant to permit any person associated with a security-based swap dealer or a major security-based swap participant who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on behalf of the security-based swap dealer or major security-based swap participant, if the security-based swap dealer or major security-based swap participant knew, or in the exercise of reasonable care should have known, of the statutory disqualification.

''(c) DUAL REGISTRATION.—

''(1) SECURITY-BASED SWAP DEALER.—Any person that is required to be registered as a security-based swap dealer under this section shall register with the Commission, regardless of whether the person also is registered with the Commodity Futures Trading Commission as a swap dealer.

''(2) MAJOR SECURITY-BASED SWAP PARTICIPANT.—Any person that is required to be registered as a major security-based swap participant under this section shall register with the Commission, regardless of whether the person also is registered with the Commodity Futures Trading Commission as a major swap participant.

''(d) RULEMAKING.—

''(1) IN GENERAL.—The Commission shall adopt rules for persons that are registered as security-based swap dealers or major security-based swap participants under this section.

''(2) EXCEPTION FOR PRUDENTIAL REQUIREMENTS.—

''(A) IN GENERAL.—The Commission may not prescribe rules imposing prudential requirements on security-based swap dealers or major security-based swap participants that are depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(B) APPLICABILITY.—Subparagraph (A) does not limit the authority of the Commission to prescribe appropriate business conduct, reporting, and recordkeeping requirements on security-based swap dealers or major security-based swap participants that are depository institutions to protect investors.

''(e) CAPITAL AND MARGIN REQUIREMENTS.—

''(1) IN GENERAL.—

''(A) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—Each registered security-based swap dealer and major security-based swap participant that is a depository institution, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall meet such minimum capital requirements and minimum initial and variation margin requirements as the appropriate Federal banking agency shall by rule or regulation prescribe under paragraph (2)(A) to help ensure the safety and soundness of the security-

based swap dealer or major security-based swap participant.

''(B) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—Each registered security-based swap dealer and major security-based swap participant that is not a depository institution, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall meet such minimum capital requirements and minimum initial and variation margin requirements as the Commission shall by rule or regulation prescribe under paragraph (2)(B) to help ensure the safety and soundness of the security-based swap dealer or major security-based swap participant.

''(2) RULES.—

''(A) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—The appropriate Federal banking agencies, in consultation with the Commission and the Commodity Futures Trading Commission, shall adopt rules imposing capital and margin requirements under this subsection for security-based swap dealers and major security-based swap participants that are depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(B) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—The Commission shall adopt rules imposing capital and margin requirements under this subsection for security-based swap dealers and major security-based swap participants that are not depository institutions, as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

''(3) CAPITAL.—

''(A) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—The capital requirements prescribed under paragraph (2)(A) for security-based swap dealers and major security-based swap participants that are depository institutions shall contain—

''(i) a capital requirement that is greater than zero for security-based swaps that are cleared by a clearing agency; and

''(ii) to offset the greater risk to the security-based swap dealer or major security-based swap participant and to the financial system arising from the use of security-based swaps that are not cleared, substantially higher capital requirements for security-based swaps that are not cleared by a clearing agency than for security-based swaps that are cleared.

''(B) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—The capital requirements prescribed under paragraph (2)(B) for security-based swap dealers and major security-based swap participants that are not depository institutions shall be as strict as or stricter than the capital requirements prescribed for security-based swap dealers and major security-based swap participants that are depository institutions under paragraph (2)(A).

''(C) RULE OF CONSTRUCTION.—

''(i) IN GENERAL.—Nothing in this section shall limit, or be construed to limit, the authority—

''(I) of the Commission to set financial responsibility rules for a broker or dealer registered pursuant to section 15(b) (except for section 15(b)(11) thereof) in accordance with section 15(c)(3); or

''(II) of the Commodity Futures Trading Commission to set financial responsibility rules for a futures commission merchant or introducing broker registered pursuant to section 4f(a) of the Commodity Exchange Act (except for section 4f(a)(3) thereof) in accordance with section 4f(b) of the Commodity Exchange Act.

''(ii) FUTURES COMMISSION MERCHANTS AND OTHER DEALERS.—A futures commission merchant, introducing broker, broker, or dealer shall maintain sufficient capital to comply with the stricter of any applicable capital requirements to which such futures commission merchant, introducing broker, broker, or dealer is subject to under this title or the Commodity Exchange Act.

''(4) MARGIN.—

''(A) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE DEPOSITORY INSTITUTIONS.—The appropriate Federal banking agency for security-based swap dealers and major security-based swap participants that are depository institutions shall impose both initial and variation margin requirements in accordance with paragraph (2)(A) on all security-based swaps that are not cleared by a clearing agency.

''(B) SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS THAT ARE NOT DEPOSITORY INSTITUTIONS.—The Commission shall impose both initial and variation margin requirements in accordance with paragraph (2)(B) for security-based swap dealers and major security-based swap participants that are not depository institutions on all security-based swaps that are not cleared by a clearing agency. Any such initial and variation margin requirements shall be as strict as or stricter than the margin requirements prescribed under paragraph (4)(A).

''(5) MARGIN REQUIREMENTS.—In prescribing margin requirements under this subsection, the appropriate Federal banking agency with respect to security-based swap dealers and major security-based swap participants that are depository institutions, and the Commission with respect to security-based swap dealers and major security-based swap participants that are not depository institutions may permit the use of noncash collateral, as the agency or the Commission determines to be consistent with—

''(A) preserving the financial integrity of markets trading security-based swaps; and

''(B) preserving the stability of the United States financial system.

''(6) COMPARABILITY OF CAPITAL AND MARGIN REQUIREMENTS.—

''(A) IN GENERAL.—The appropriate Federal banking agencies, the Commission, and the Securities and Exchange Commission shall periodically (but not less frequently than annually) consult on minimum capital requirements and minimum initial and variation margin requirements.

''(B) COMPARABILITY.—The entities described in subparagraph (A) shall, to the maximum extent practicable, establish and maintain comparable minimum capital requirements and minimum initial and variation margin requirements, including the use of noncash collateral, for—

''(i) security-based swap dealers; and

''(ii) major security-based swap participants.

''(7) REQUESTED MARGIN.—If any party to a security-based swap that is exempt from the margin requirements of paragraph (4)(A) or paragraph (4)(B) requests that such security-based swap be margined, then—

''(A) the exemption shall not apply; and

''(B) the counterparty to such security-based swap shall provide the requested margin.

''(8) APPLICABILITY WITH RESPECT TO COUNTERPARTIES.—Paragraphs (4) and (5) shall not apply to initial and variation margin for security-based swaps in which 1 of the counterparties is not—

''(A) a security-based swap dealer;

''(B) a major security-based swap participant; or

''(C) a financial entity as described in section 3C(a)(10)(A)(ii), and such counterparty is eligible for and utilizing the commercial end user clearing exemption under section 3C(a)(10).

''(f) REPORTING AND RECORDKEEPING.—

''(1) IN GENERAL.—Each registered security-based swap dealer and major security-based swap participant—

''(A) shall make such reports as are required by the Commission, by rule or regulation, regarding the transactions and positions and financial condition of the registered security-based swap dealer or major security-based swap participant;

''(B)(i) for which there is a prudential regulator, shall keep books and records of all activities related to the business as a security-based swap dealer or major security-based swap participant in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and

''(ii) for which there is no prudential regulator, shall keep books and records in such form and manner and for such period as may be prescribed by the Commission by rule or regulation; and

''(C) shall keep books and records described in subparagraph (B) open to inspection and examination by any representative of the Commission.

''(2) RULES.—The Commission shall adopt rules governing reporting and recordkeeping for security-based swap dealers and major security-based swap participants.

''(g) DAILY TRADING RECORDS.—

''(1) IN GENERAL.—Each registered security-based swap dealer and major security-based swap participant shall maintain daily trading records of the security-based swaps of the registered security-based swap dealer and major security-based swap participant and all related records (including related cash or forward transactions) and recorded communications, including electronic mail, instant messages, and recordings of telephone calls, for such period as may be required by the Commission by rule or regulation.

''(2) INFORMATION REQUIREMENTS.—The daily trading records shall include such information as the Commission shall require by rule or regulation.

''(3) CUSTOMER RECORDS.—Each registered security-based swap dealer and major security-based swap participant shall maintain daily trading records for each customer or counterparty in a manner and form that is identifiable with each security-based swap transaction.

''(4) AUDIT TRAIL.—Each registered security-based swap dealer and major security-based swap participant shall maintain a complete audit trail for conducting comprehensive and accurate trade reconstructions.

''(5) RULES.—The Commission shall adopt rules governing daily trading records for security-based swap dealers and major security-based swap participants.

''(h) BUSINESS CONDUCT STANDARDS.—

''(1) IN GENERAL.—Each registered security-based swap dealer and major security-based swap participant shall conform with such business conduct standards as may be prescribed by the Commission, by rule or regulation, that relate to—

''(A) fraud, manipulation, and other abusive practices involving security-based swaps (including security-based swaps that are offered but not entered into);

''(B) diligent supervision of the business of the registered security-based swap dealer and major security-based swap participant;

''(C) adherence to all applicable position limits; and

''(D) such other matters as the Commission determines to be appropriate.

''(2) SPECIAL RULE; FIDUCIARY DUTIES TO CERTAIN ENTITIES.—

''(A) GOVERNMENTAL ENTITIES.—A security-based swap dealer that provides advice regarding, or offers to enter into, or enters into a security-based swap with a State, State agency, city, county, municipality, or other political subdivision of a State, or a Federal agency shall have a fiduciary duty to the State, State agency, city, county, municipality, or other political subdivision of the State, or the Federal agency, as appropriate.

''(B) PENSION PLANS; ENDOWMENTS; RETIREMENT PLANS.—A security-based swap dealer that provides advice regarding, or offers to enter into, or enters into a security-based swap with a pension plan, endowment, or retirement plan shall have a fiduciary duty to the pension plan, endowment, or retirement plan, as appropriate.

''(3) BUSINESS CONDUCT REQUIREMENTS.—Business conduct requirements adopted by the Commission under this subsection shall—

''(A) establish the standard of care for a security-based swap dealer or major security-based swap participant to verify that any counterparty meets the eligibility standards for an eligible contract participant;

''(B) require disclosure by the security-based swap dealer or major security-based swap participant to any counterparty to the transaction (other than a security-based swap dealer or a major security-based swap participant) of—

''(i) information about the material risks and characteristics of the security-based swap;

''(ii) the source and amount of any fees or other material remuneration that the security-based swap dealer or major security-based swap participant would directly or indirectly expect to receive in connection with the security-based swap;

''(iii) any other material incentives or conflicts of interest that the security-based swap dealer or major security-based swap participant may have in connection with the security-based swap; and

''(iv)(I) for cleared security-based swaps, upon the request of the counterparty, the daily mark from the appropriate clearing agency; and

''(II) for uncleared security-based swaps, the daily mark of the security-based swap dealer or the major security-based swap participant;

''(C) establish a standard of conduct for a security-based swap dealer or major security-based swap participant to communicate in a fair and balanced manner based on principles of fair dealing and good faith;

''(D) establish a standard of conduct for a security-based swap dealer or major security-based swap participant, with respect to a counterparty that is an eligible contract participant within the meaning of subclause (I) or (II) of clause (vii) of section 1a(18) of the Commodity Exchange Act, to have a reasonable basis to believe that the counterparty has an independent representative that—

''(i) has sufficient knowledge to evaluate the transaction and risks;

''(ii) is not subject to a statutory disqualification;

''(iii) is independent of the security-based swap dealer or major security-based swap participant;

''(iv) undertakes a duty to act in the best interests of the counterparty it represents;

''(v) makes appropriate disclosures; and

''(vi) will provide written representations to the eligible contract participant regarding fair pricing and the appropriateness of the transaction; and

''(E) establish such other standards and requirements as the Commission may determine are appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

''(4) RULES.—The Commission shall prescribe rules under this subsection governing business conduct standards for security-based swap dealers and major security-based swap participants.

''(i) DOCUMENTATION AND BACK OFFICE STANDARDS.—

''(1) IN GENERAL.—Each registered security-based swap dealer and major security-based swap participant shall conform with such standards as may be prescribed by the Commission, by rule or regulation, that relate to timely and accurate confirmation, processing, netting, documentation, and valuation of all security-based swaps.

''(2) RULES.—The Commission shall adopt rules governing documentation and back office standards for security-based swap dealers and major security-based swap participants.

''(j) DUTIES.—Each registered security-based swap dealer and major security-based swap participant shall, at all times, comply with the following requirements:

''(1) MONITORING OF TRADING.—The security-based swap dealer or major security-based swap participant shall monitor its trading in security-based swaps to prevent violations of applicable position limits.

''(2) RISK MANAGEMENT PROCEDURES.—The security-based swap dealer or major security-based swap participant shall establish robust and professional risk management systems adequate for managing the day-to-day business of the security-based swap dealer or major security-based swap participant.

''(3) DISCLOSURE OF GENERAL INFORMATION.—The security-based swap dealer or major security-based swap participant shall disclose to the Commission and to the prudential regulator for the security-based swap dealer or major security-based swap participant, as applicable, information concerning—

''(A) terms and conditions of its security-based swaps;

''(B) security-based swap trading operations, mechanisms, and practices;

''(C) financial integrity protections relating to security-based swaps; and

''(D) other information relevant to its trading in security-based swaps.

''(4) ABILITY TO OBTAIN INFORMATION.—The security-based swap dealer or major security-based swap participant shall—

''(A) establish and enforce internal systems and procedures to obtain any necessary information to perform any of the functions described in this section; and

''(B) provide the information to the Commission and to the prudential regulator for the security-based swap dealer or major security-based swap participant, as applicable, on request.

''(5) CONFLICTS OF INTEREST.—The security-based swap dealer and major security-based swap participant shall implement conflict-of-interest systems and procedures that—

''(A) establish structural and institutional safeguards to ensure that the activities of any person within the firm relating to research or analysis of the price or market for any security-based swap or acting in a role of providing clearing activities or making determinations as to accepting clearing customers are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of persons whose involvement in pricing, trading, or clearing activities might potentially bias their judgment or supervision and contravene the core principles of open access and the business conduct standards described in this title; and

''(B) address such other issues as the Commission determines to be appropriate.

''(6) ANTITRUST CONSIDERATIONS.—Unless necessary or appropriate to achieve the purposes of this title, the security-based swap dealer or major security-based swap participant shall not—

''(A) adopt any process or take any action that results in any unreasonable restraint of trade; or

''(B) impose any material anticompetitive burden on trading or clearing.

''(k) DESIGNATION OF CHIEF COMPLIANCE OFFICER.—

''(1) IN GENERAL.—Each security-based swap dealer and major security-based swap participant shall designate an individual to serve as a chief compliance officer.

''(2) DUTIES.—The chief compliance officer shall—

''(A) report directly to the board or to the senior officer of the security-based swap dealer or major security-based swap participant;

''(B) review the compliance of the security-based swap dealer or major security-based swap participant with respect to the security-based swap dealer and major security-based swap participant requirements described in this section;

''(C) in consultation with the board of directors, a body performing a function similar to the board, or the senior officer of the organization, resolve any conflicts of interest that may arise;

''(D) be responsible for administering each policy and procedure that is required to be established pursuant to this section;

''(E) ensure compliance with this title (including regulations) relating to security-based swaps, including each rule prescribed by the Commission under this section;

''(F) establish procedures for the remediation of noncompliance issues identified by the chief compliance officer through any—

''(i) compliance office review;

''(ii) look-back;

''(iii) internal or external audit finding;

''(iv) self-reported error; or

''(v) validated complaint; and

''(G) establish and follow appropriate procedures for the handling, management response, remediation, retesting, and closing of noncompliance issues.

''(3) ANNUAL REPORTS.—

''(A) IN GENERAL.—In accordance with rules prescribed by the Commission, the chief compliance officer shall annually prepare and sign a report that contains a description of—

''(i) the compliance of the security-based swap dealer or major swap participant with respect to this title (including regulations); and

''(ii) each policy and procedure of the security-based swap dealer or major security-based swap participant of the chief compliance officer (including the code of ethics and conflict of interest policies).

''(B) REQUIREMENTS.—A compliance report under subparagraph (A) shall—

''(i) accompany each appropriate financial report of the security-based swap dealer or major security-based swap participant that is required to be furnished to the Commission pursuant to this section; and

''(ii) include a certification that, under penalty of law, the compliance report is accurate and complete.

''(l) ENFORCEMENT AND ADMINISTRATIVE PROCEEDING AUTHORITY.—

''(1) PRIMARY ENFORCEMENT AUTHORITY.—

''(A) SECURITIES AND EXCHANGE COMMISSION.—Except as provided in subparagraph

(B), the Commission shall have primary authority to enforce subtitle B, and the amendments made by subtitle B of the Wall Street Transparency and Accountability Act of 2010, with respect to any person.

''(B) APPROPRIATE FEDERAL BANKING AGENCIES.—The appropriate Federal banking agency for security-based swap dealers or major security-based swap participants that are depository institutions, as that term is defined under section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), shall have exclusive authority to enforce the provisions of subsection (e) and other prudential requirements of this title, with respect to depository institutions that are security-based swap dealers or major security-based swap participants.

''(C) REFERRAL.—

''(i) VIOLATIONS OF NONPRUDENTIAL REQUIREMENTS.—If the appropriate Federal banking agency for security-based swap dealers or major security-based swap participants that are depository institutions has cause to believe that such security-based swap dealer or major security-based swap participant may have engaged in conduct that constitutes a violation of the nonprudential requirements of this section or rules adopted by the Commission thereunder, the agency may recommend in writing to the Commission that the Commission initiate an enforcement proceeding as authorized under this title. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

''(ii) VIOLATIONS OF PRUDENTIAL REQUIREMENTS.—If the Commission has cause to believe that a securities-based swap dealer or major securities-based swap participant that has a prudential regulator may have engaged in conduct that constitute a violation of the prudential requirements of subsection (e) or rules adopted thereunder, the Commission may recommend in writing to the prudential regulator that the prudential regulator initiate an enforcement proceeding as authorized under this title. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

''(2) CENSURE, DENIAL, SUSPENSION; NOTICE AND HEARING.—The Commission, by order, shall censure, place limitations on the activities, functions, or operations of, or revoke the registration of any security-based swap dealer or major security-based swap participant that has registered with the Commission pursuant to subsection (b) if the Commission finds, on the record after notice and opportunity for hearing, that such censure, placing of limitations, or revocation is in the public interest and that such security-based swap dealer or major security-based swap participant, or any person associated with such security-based swap dealer or major security-based swap participant effecting or involved in effecting transactions in security-based swaps on behalf of such security-based swap dealer or major security-based swap participant, whether prior or subsequent to becoming so associated—

''(A) has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b);

''(B) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this subsection;

''(C) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4);

''(D) is subject to an order or a final order specified in subparagraph (F) or (H), respectively, of such paragraph (4); or

''(E) has been found by a foreign financial regulatory authority to have committed or omitted any act, or violated any foreign statute or regulation, enumerated in subparagraph (G) of such paragraph (4).

''(3) ASSOCIATED PERSONS.—With respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a security-based swap dealer or major security-based swap participant for the purpose of effecting or being involved in effecting security-based swaps on behalf of such security-based swap dealer or major security-based swap participant, the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar such person from being associated with a security-based swap dealer or major security-based swap participant, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person—

''(A) has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (A), (D), or (E) of paragraph (4) of section 15(b);

''(B) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this subsection;

''(C) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4);

''(D) is subject to an order or a final order specified in subparagraph (F) or (H), respectively, of such paragraph (4); or

''(E) has been found by a foreign financial regulatory authority to have committed or omitted any act, or violated any foreign statute or regulation, enumerated in subparagraph (G) of such paragraph (4).

''(4) UNLAWFUL CONDUCT.—It shall be unlawful—

''(A) for any person as to whom an order under paragraph (3) is in effect, without the consent of the Commission, willfully to become, or to be, associated with a security-based swap dealer or major security-based swap participant in contravention of such order; or

''(B) for any security-based swap dealer or major security-based swap participant to permit such a person, without the consent of the Commission, to become or remain a person associated with the security-based swap dealer or major security-based swap participant in contravention of such order, if such security-based swap dealer or major security-based swap participant knew, or in the exercise of reasonable care should have known, of such order.''.

SEC. 765. RULEMAKING ON CONFLICT OF INTEREST.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the Securities and Exchange Commission shall determine whether to adopt rules to establish limits on the control of any clearing agency that clears security-based swaps, or on the control of any security-based swap execution facility or national securities exchange that posts or makes available for trading security-based swaps, by a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)) with total consolidated assets of $50,000,000,000 or more, a nonbank financial company (as defined in section 102) supervised by the Board of Governors of the Federal Reserve System, affiliate of such a bank holding company or nonbank financial company, a security-based swap dealer, major security-based swap participant, or person associated with a security-based swap dealer or major security-based swap participant.

(b) PURPOSES.—The Commission shall adopt rules if the Commission determines, after the review described in subsection (a), that such rules are necessary or appropriate to improve the governance of, or to mitigate systemic risk, promote competition, or mitigate conflicts of interest in connection with a security-based swap dealer or major security-based swap participant's conduct of business with, a clearing agency, national securities exchange, or security-based swap execution facility that clears, posts, or makes available for trading security-based swaps and in which such security-based swap dealer or major security-based swap participant has a material debt or equity investment.

SEC. 766. REPORTING AND RECORDKEEPING.

(a) IN GENERAL.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 13 the following:

"SEC. 13A. REPORTING AND RECORDKEEPING FOR CERTAIN SECURITY-BASED SWAPS.

''(a) REQUIRED REPORTING OF SECURITY-BASED SWAPS NOT ACCEPTED BY ANY CLEARING AGENCY OR DERIVATIVES CLEARING ORGANIZATION.—

''(1) IN GENERAL.—Each security-based swap that is not accepted for clearing by any clearing agency or derivatives clearing organization shall be reported to—

''(A) a security-based swap data repository described in section 10B(n); or

''(B) in the case in which there is no security-based swap data repository that would accept the security-based swap, to the Commission pursuant to this section within such time period as the Commission may by rule or regulation prescribe.

''(2) TRANSITION RULE FOR PREENACTMENT SECURITY-BASED SWAPS.—

''(A) SECURITY-BASED SWAPS ENTERED INTO BEFORE THE DATE OF ENACTMENT OF THE WALL STREET TRANSPARENCY AND ACCOUNTABILITY ACT OF 2010.—Each security-based swap entered into before the date of enactment of the Wall Street Transparency and Accountability Act of 2010, the terms of which have not expired as of the date of enactment of that Act, shall be reported to a registered security-based swap data repository or the Commission by a date that is not later than—

''(i) 30 days after issuance of the interim final rule; or

''(ii) such other period as the Commission determines to be appropriate.

''(B) COMMISSION RULEMAKING.—The Commission shall promulgate an interim final rule within 90 days of the date of enactment of this section providing for the reporting of each security-based swap entered into before the date of enactment as referenced in subparagraph (A).

''(C) EFFECTIVE DATE.—The reporting provisions described in this section shall be effective upon the date of the enactment of this section.

''(3) REPORTING OBLIGATIONS.—

''(A) SECURITY-BASED SWAPS IN WHICH ONLY 1 COUNTERPARTY IS A SECURITY-BASED SWAP DEALER OR MAJOR SECURITY-BASED SWAP PARTICIPANT.—With respect to a security-based swap in which only 1 counterparty is a security-based swap dealer or major security-based swap participant, the security-based swap dealer or major security-based swap participant shall report the security-based swap as required under paragraphs (1) and (2).

''(B) SECURITY-BASED SWAPS IN WHICH 1 COUNTERPARTY IS A SECURITY-BASED SWAP

DEALER AND THE OTHER A MAJOR SECURITY-BASED SWAP PARTICIPANT.—With respect to a security-based swap in which 1 counterparty is a security-based swap dealer and the other a major security-based swap participant, the security-based swap dealer shall report the security-based swap as required under paragraphs (1) and (2).

''(C) OTHER SECURITY-BASED SWAPS.—With respect to any other security-based swap not described in subparagraph (A) or (B), the counterparties to the security-based swap shall select a counterparty to report the security-based swap as required under paragraphs (1) and (2).

''(b) DUTIES OF CERTAIN INDIVIDUALS.—Any individual or entity that enters into a security-based swap shall meet each requirement described in subsection (c) if the individual or entity did not—

''(1) clear the security-based swap in accordance with section 3C(a)(1); or

''(2) have the data regarding the security-based swap accepted by a security-based swap data repository in accordance with rules (including timeframes) adopted by the Commission under this title.

''(c) REQUIREMENTS.—An individual or entity described in subsection (b) shall—

''(1) upon written request from the Commission, provide reports regarding the security-based swaps held by the individual or entity to the Commission in such form and in such manner as the Commission may request; and

''(2) maintain books and records pertaining to the security-based swaps held by the individual or entity in such form, in such manner, and for such period as the Commission may require, which shall be open to inspection by—

''(A) any representative of the Commission;

''(B) an appropriate prudential regulator;

''(C) the Commodity Futures Trading Commission;

''(D) the Financial Stability Oversight Council; and

''(E) the Department of Justice.

''(d) IDENTICAL DATA.—In prescribing rules under this section, the Commission shall require individuals and entities described in subsection (b) to submit to the Commission a report that contains data that is not less comprehensive than the data required to be collected by security-based swap data repositories under this title.''.

(b) BENEFICIAL OWNERSHIP REPORTING.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended—

(1) in subsection (d)(1), by inserting ''or otherwise becomes or is deemed to become a beneficial owner of any of the foregoing upon the purchase or sale of a security-based swap that the Commission may define by rule, and'' after ''Alaska Native Claims Settlement Act,''; and

(2) in subsection (g)(1), by inserting ''or otherwise becomes or is deemed to become a beneficial owner of any security of a class described in subsection (d)(1) upon the purchase or sale of a security-based swap that the Commission may define by rule'' after ''subsection (d)(1) of this section''.

(c) REPORTS BY INSTITUTIONAL INVESTMENT MANAGERS.—Section 13(f)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(f)(1)) is amended by inserting ''or otherwise becomes or is deemed to become a beneficial owner of any security of a class described in subsection (d)(1) upon the purchase or sale of a security-based swap that the Commission may define by rule,'' after ''subsection (d)(1) of this section''.

(d) ADMINISTRATIVE PROCEEDING AUTHORITY.—Section 15(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(4)) is amended—

(1) in subparagraph (C), by inserting ''security-based swap dealer, major security-based swap participant,'' after ''government securities dealer,''; and

(2) in subparagraph (F), by striking ''broker or dealer'' and inserting ''broker, dealer, security-based swap dealer, or a major security-based swap participant''.

(e) SECURITY-BASED SWAP BENEFICIAL OWNERSHIP.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

''(o) BENEFICIAL OWNERSHIP.—For purposes of this section and section 16, a person shall be deemed to acquire beneficial ownership of an equity security based on the purchase or sale of a security-based swap, only to the extent that the Commission, by rule, determines after consultation with the prudential regulators and the Secretary of the Treasury, that the purchase or sale of the security-based swap, or class of security-based swap, provides incidents of ownership comparable to direct ownership of the equity security, and that it is necessary to achieve the purposes of this section that the purchase or sale of the security-based swaps, or class of security-based swap, be deemed the acquisition of beneficial ownership of the equity security.''.

SEC. 767. STATE GAMING AND BUCKET SHOP LAWS.

Section 28(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78bb(a)) is amended to read as follows:

''(a) LIMITATION ON JUDGMENTS.—

''(1) IN GENERAL.—No person permitted to maintain a suit for damages under the provisions of this title shall recover, through satisfaction of judgment in 1 or more actions, a total amount in excess of the actual damages to that person on account of the act complained of. Except as otherwise specifically provided in this title, nothing in this title shall affect the jurisdiction of the securities commission (or any agency or officer performing like functions) of any State over any security or any person insofar as it does not conflict with the provisions of this title or the rules and regulations under this title.

''(2) RULE OF CONSTRUCTION.—Except as provided in subsection (f), the rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity.

''(3) STATE BUCKET SHOP LAWS.—No State law which prohibits or regulates the making or promoting of wagering or gaming contracts, or the operation of 'bucket shops' or other similar or related activities, shall invalidate—

''(A) any put, call, straddle, option, privilege, or other security subject to this title (except any security that has a pari-mutuel payout or otherwise is determined by the Commission, acting by rule, regulation, or order, to be appropriately subject to such laws), or apply to any activity which is incidental or related to the offer, purchase, sale, exercise, settlement, or closeout of any such security;

''(B) any security-based swap between eligible contract participants; or

''(C) any security-based swap effected on a national securities exchange registered pursuant to section 6(b).

''(4) OTHER STATE PROVISIONS.—No provision of State law regarding the offer, sale, or distribution of securities shall apply to any transaction in a security-based swap or a security futures product, except that this paragraph may not be construed as limiting any State antifraud law of general applicability. A security-based swap may not be regulated as an insurance contract under any provision of State law.''.

SEC. 768. AMENDMENTS TO THE SECURITIES ACT OF 1933; TREATMENT OF SECURITY-BASED SWAPS.

(a) DEFINITIONS.—Section 2(a) of the Securities Act of 1933 (15 U.S.C. 77b(a)) is amended—

(1) in paragraph (1), by inserting ''security-based swap,'' after ''security future,'';

(2) in paragraph (3), by adding at the end the following: ''Any offer or sale of a security-based swap by or on behalf of the issuer of the securities upon which such security-based swap is based or is referenced, an affiliate of the issuer, or an underwriter, shall constitute a contract for sale of, sale of, offer for sale, or offer to sell such securities.''; and

(3) by adding at the end the following:

''(17) The terms 'swap' and 'security-based swap' have the same meanings as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).

''(18) The terms 'purchase' or 'sale' of a security-based swap shall be deemed to mean the execution, termination (prior to its scheduled maturity date), assignment, exchange, or similar transfer or conveyance of, or extinguishing of rights or obligations under, a security-based swap, as the context may require.''.

(b) REGISTRATION OF SECURITY-BASED SWAPS.—Section 5 of the Securities Act of 1933 (15 U.S.C. 77e) is amended by adding at the end the following:

''(d) Notwithstanding the provisions of section 3 or 4, unless a registration statement meeting the requirements of section 10(a) is in effect as to a security-based swap, it shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell, offer to buy or purchase or sell a security-based swap to any person who is not an eligible contract participant as defined in section 1a(18) of the Commodity Exchange Act (7 U.S.C. 1a(18)).''.

SEC. 769. DEFINITIONS UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–2) is amended by adding at the end the following:

''(54) The terms 'commodity pool', 'commodity pool operator', 'commodity trading advisor', 'major swap participant', 'swap', 'swap dealer', and 'swap execution facility' have the same meanings as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).''.

SEC. 770. DEFINITIONS UNDER THE INVESTMENT ADVISORS ACT OF 1940.

Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2) is amended by adding at the end the following:

''(29) The terms 'commodity pool', 'commodity pool operator', 'commodity trading advisor', 'major swap participant', 'swap', 'swap dealer', and 'swap execution facility' have the same meanings as in section 1a of the Commodity Exchange Act (7 U.S.C. 1a).''.

SEC. 771. OTHER AUTHORITY.

Unless otherwise provided by its terms, this subtitle does not divest any appropriate Federal banking agency, the Securities and Exchange Commission, the Commodity Futures Trading Commission, or any other Federal or State agency, of any authority derived from any other provision of applicable law.

SEC. 772. JURISDICTION.

(a) IN GENERAL.—Section 36 of the Securities Exchange Act of 1934 (15 U.S.C. 78mm) is amended by adding at the end the following:

''(c) DERIVATIVES.—The Commission shall not grant exemptions from the security-based swap provisions of the Wall Street Transparency and Accountability Act of 2010 or the amendments made by that Act, except

as expressly authorized under the provisions of that Act.''.

(b) RULE OF CONSTRUCTION.—Section 30 of the Securities Exchange Act of 1934 (15 U.S.C. 78dd) is amended by adding at the end the following:

''(c) RULE OF CONSTRUCTION.—No provision of this title that was added by the Wall Street Transparency and Accountability Act of 2010, or any rule or regulation thereunder, shall apply to any person insofar as such person transacts a business in security-based swaps without the jurisdiction of the United States, unless such person transacts such business in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate to prevent the evasion of any provision of this title that was added by the Wall Street Transparency and Accountability Act of 2010. This subsection shall not be construed to limit the jurisdiction of the Commission under any provision of this title, as in effect prior to the date of enactment of the Wall Street Transparency and Accountability Act of 2010.''.

SEC. 773. EFFECTIVE DATE.

Unless otherwise specifically provided in this subtitle, this subtitle, the provisions of this subtitle, and the amendments made by this subtitle shall become effective 180 days after the date of enactment of this Act.

TITLE VIII—PAYMENT, CLEARING, AND SETTLEMENT SUPERVISION

SEC. 801. SHORT TITLE.

This title may be cited as the ''Payment, Clearing, and Settlement Supervision Act of 2010''.

SEC. 802. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The proper functioning of the financial markets is dependent upon safe and efficient arrangements for the clearing and settlement of payment, securities, and other financial transactions.

(2) Financial market utilities that conduct or support multilateral payment, clearing, or settlement activities may reduce risks for their participants and the broader financial system, but such utilities may also concentrate and create new risks and thus must be well designed and operated in a safe and sound manner.

(3) Payment, clearing, and settlement activities conducted by financial institutions also present important risks to the participating financial institutions and to the financial system.

(4) Enhancements to the regulation and supervision of systemically important financial market utilities and the conduct of systemically important payment, clearing, and settlement activities by financial institutions are necessary—

(A) to provide consistency;

(B) to promote robust risk management and safety and soundness;

(C) to reduce systemic risks; and

(D) to support the stability of the broader financial system.

(b) PURPOSE.—The purpose of this title is to mitigate systemic risk in the financial system and promote financial stability by—

(1) authorizing the Board of Governors to prescribe uniform standards for the—

(A) management of risks by systemically important financial market utilities; and

(B) conduct of systemically important payment, clearing, and settlement activities by financial institutions;

(2) providing the Board of Governors an enhanced role in the supervision of risk management standards for systemically important financial market utilities;

(3) strengthening the liquidity of systemically important financial market utilities; and

(4) providing the Board of Governors an enhanced role in the supervision of risk management standards for systemically important payment, clearing, and settlement activities by financial institutions.

SEC. 803. DEFINITIONS.

In this title, the following definitions shall apply:

(1) APPROPRIATE FINANCIAL REGULATOR.—The term ''appropriate financial regulator'' means—

(A) the primary financial regulatory agency, as defined in section 2 of this Act;

(B) the National Credit Union Administration, with respect to any insured credit union under the Federal Credit Union Act (12 U.S.C. 1751 et seq.); and

(C) the Board of Governors, with respect to organizations operating under section 25A of the Federal Reserve Act (12 U.S.C. 611), and any other financial institution engaged in a designated activity.

(2) DESIGNATED ACTIVITY.—The term ''designated activity'' means a payment, clearing, or settlement activity that the Council has designated as systemically important under section 804.

(3) DESIGNATED FINANCIAL MARKET UTILITY.—The term ''designated financial market utility'' means a financial market utility that the Council has designated as systemically important under section 804.

(4) FINANCIAL INSTITUTION.—The term ''financial institution'' means—

(A) a depository institution, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(B) a branch or agency of a foreign bank, as defined in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101);

(C) an organization operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601–604a and 611 through 631);

(D) a credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);

(E) a broker or dealer, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(F) an investment company, as defined in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3);

(G) an insurance company, as defined in section 2 of the Investment Company Act of 1940 (15 U.S.C. 80a–2);

(H) an investment adviser, as defined in section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2);

(I) a futures commission merchant, commodity trading advisor, or commodity pool operator, as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a); and

(J) any company engaged in activities that are financial in nature or incidental to a financial activity, as described in section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(k)).

(5) FINANCIAL MARKET UTILITY.—The term ''financial market utility'' means any person that manages or operates a multilateral system for the purpose of transferring, clearing, or settling payments, securities, or other financial transactions among financial institutions or between financial institutions and the person.

(6) PAYMENT, CLEARING, OR SETTLEMENT ACTIVITY.—

(A) IN GENERAL.—The term ''payment, clearing, or settlement activity'' means an activity carried out by 1 or more financial institutions to facilitate the completion of financial transactions.

(B) FINANCIAL TRANSACTION.—For the purposes of subparagraph (A), the term ''financial transaction'' includes—

(i) funds transfers;

(ii) securities contracts;

(iii) contracts of sale of a commodity for future delivery;

(iv) forward contracts;

(v) repurchase agreements;

(vi) swaps;

(vii) security-based swaps;

(viii) swap agreements;

(ix) security-based swap agreements;

(x) foreign exchange contracts;

(xi) financial derivatives contracts; and

(xii) any similar transaction that the Council determines to be a financial transaction for purposes of this title.

(C) INCLUDED ACTIVITIES.—When conducted with respect to a financial transaction, payment, clearing, and settlement activities may include—

(i) the calculation and communication of unsettled financial transactions between counterparties;

(ii) the netting of transactions;

(iii) provision and maintenance of trade, contract, or instrument information;

(iv) the management of risks and activities associated with continuing financial transactions;

(v) transmittal and storage of payment instructions;

(vi) the movement of funds;

(vii) the final settlement of financial transactions; and

(viii) other similar functions that the Council may determine.

(7) SUPERVISORY AGENCY.—

(A) IN GENERAL.—The term ''Supervisory Agency'' means the Federal agency that has primary jurisdiction over a designated financial market utility under Federal banking, securities, or commodity futures laws, as follows:

(i) The Securities and Exchange Commission, with respect to a designated financial market utility that is a clearing agency registered with the Securities and Exchange Commission.

(ii) The Commodity Futures Trading Commission, with respect to a designated financial market utility that is a derivatives clearing organization registered with the Commodity Futures Trading Commission.

(iii) The appropriate Federal banking agency, with respect to a designated financial market utility that is an institution described in section 3(q) of the Federal Deposit Insurance Act.

(iv) The Board of Governors, with respect to a designated financial market utility that is otherwise not subject to the jurisdiction of any agency listed in clauses (i), (ii), and (iii).

(B) MULTIPLE AGENCY JURISDICTION.—If a designated financial market utility is subject to the jurisdictional supervision of more than 1 agency listed in subparagraph (A), then such agencies should agree on 1 agency to act as the Supervisory Agency, and if such agencies cannot agree on which agency has primary jurisdiction, the Council shall decide which agency is the Supervisory Agency for purposes of this title.

(8) SYSTEMICALLY IMPORTANT AND SYSTEMIC IMPORTANCE.—The terms ''systemically important'' and ''systemic importance'' mean a situation where the failure of or a disruption to the functioning of a financial market utility or the conduct of a payment, clearing, or settlement activity could create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the financial system.

SEC. 804. DESIGNATION OF SYSTEMIC IMPORTANCE.

(a) DESIGNATION.—

(1) FINANCIAL STABILITY OVERSIGHT COUNCIL.—The Council, on a nondelegable basis and by a vote of not fewer than ⅔ of members then serving, including an affirmative vote by the Chairperson of the Council, shall

designate those financial market utilities or payment, clearing, or settlement activities that the Council determines are, or are likely to become, systemically important.

(2) CONSIDERATIONS.—In determining whether a financial market utility or payment, clearing, or settlement activity is, or is likely to become, systemically important, the Council shall take into consideration the following:

(A) The aggregate monetary value of transactions processed by the financial market utility or carried out through the payment, clearing, or settlement activity.

(B) The aggregate exposure of the financial market utility or a financial institution engaged in payment, clearing, or settlement activities to its counterparties.

(C) The relationship, interdependencies, or other interactions of the financial market utility or payment, clearing, or settlement activity with other financial market utilities or payment, clearing, or settlement activities.

(D) The effect that the failure of or a disruption to the financial market utility or payment, clearing, or settlement activity would have on critical markets, financial institutions, or the broader financial system.

(E) Any other factors that the Council deems appropriate.

(b) RESCISSION OF DESIGNATION.—

(1) IN GENERAL.—The Council, on a nondelegable basis and by a vote of not fewer than ⅔ of members then serving, including an affirmative vote by the Chairperson of the Council, shall rescind a designation of systemic importance for a designated financial market utility or designated activity if the Council determines that the utility or activity no longer meets the standards for systemic importance.

(2) EFFECT OF RESCISSION.—Upon rescission, the financial market utility or financial institutions conducting the activity will no longer be subject to the provisions of this title or any rules or orders prescribed by the Council under this title.

(c) CONSULTATION AND NOTICE AND OPPORTUNITY FOR HEARING.—

(1) CONSULTATION.—Before making any determination under subsection (a) or (b), the Council shall consult with the relevant Supervisory Agency and the Board of Governors.

(2) ADVANCE NOTICE AND OPPORTUNITY FOR HEARING.—

(A) IN GENERAL.—Before making any determination under subsection (a) or (b), the Council shall provide the financial market utility or, in the case of a payment, clearing, or settlement activity, financial institutions with advance notice of the proposed determination of the Council.

(B) NOTICE IN FEDERAL REGISTER.—The Council shall provide such advance notice to financial institutions by publishing a notice in the Federal Register.

(C) REQUESTS FOR HEARING.—Within 30 days from the date of any notice of the proposed determination of the Council, the financial market utility or, in the case of a payment, clearing, or settlement activity, a financial institution engaged in the designated activity may request, in writing, an opportunity for a written or oral hearing before the Council to demonstrate that the proposed designation or rescission of designation is not supported by substantial evidence.

(D) WRITTEN SUBMISSIONS.—Upon receipt of a timely request, the Council shall fix a time, not more than 30 days after receipt of the request, unless extended at the request of the financial market utility or financial institution, and place at which the financial market utility or financial institution may appear, personally or through counsel, to submit written materials, or, at the sole discretion of the Council, oral testimony or oral argument.

(3) EMERGENCY EXCEPTION.—

(A) WAIVER OR MODIFICATION BY VOTE OF THE COUNCIL.—The Council may waive or modify the requirements of paragraph (2) if the Council determines, by an affirmative vote of not less than ⅔ of all members then serving, including an affirmative vote by the Chairperson of the Council, that the waiver or modification is necessary to prevent or mitigate an immediate threat to the financial system posed by the financial market utility or the payment, clearing, or settlement activity.

(B) NOTICE OF WAIVER OR MODIFICATION.—The Council shall provide notice of the waiver or modification to the financial market utility concerned or, in the case of a payment, clearing, or settlement activity, to financial institutions, as soon as practicable, which shall be no later than 24 hours after the waiver or modification in the case of a financial market utility and 3 business days in the case of financial institutions. The Council shall provide the notice to financial institutions by posting a notice on the website of the Council and by publishing a notice in the Federal Register.

(d) NOTIFICATION OF FINAL DETERMINATION.—

(1) AFTER HEARING.—Within 60 days of any hearing under subsection (c)(3), the Council shall notify the financial market utility or financial institutions of the final determination of the Council in writing, which shall include findings of fact upon which the determination of the Council is based.

(2) WHEN NO HEARING REQUESTED.—If the Council does not receive a timely request for a hearing under subsection (c)(3), the Council shall notify the financial market utility or financial institutions of the final determination of the Council in writing not later than 30 days after the expiration of the date by which a financial market utility or a financial institution could have requested a hearing. All notices to financial institutions under this subsection shall be published in the Federal Register.

(e) EXTENSION OF TIME PERIODS.—The Council may extend the time periods established in subsections (c) and (d) as the Council determines to be necessary or appropriate.

SEC. 805. STANDARDS FOR SYSTEMICALLY IMPORTANT FINANCIAL MARKET UTILITIES AND PAYMENT, CLEARING, OR SETTLEMENT ACTIVITIES.

(a) AUTHORITY TO PRESCRIBE STANDARDS.—The Board, by rule or order, and in consultation with the Council and the Supervisory Agencies, shall prescribe risk management standards, taking into consideration relevant international standards and existing prudential requirements, governing—

(1) the operations related to the payment, clearing, and settlement activities of designated financial market utilities; and

(2) the conduct of designated activities by financial institutions.

(b) OBJECTIVES AND PRINCIPLES.—The objectives and principles for the risk management standards prescribed under subsection (a) shall be to—

(1) promote robust risk management;

(2) promote safety and soundness;

(3) reduce systemic risks; and

(4) support the stability of the broader financial system.

(c) SCOPE.—The standards prescribed under subsection (a) may address areas such as—

(1) risk management policies and procedures;

(2) margin and collateral requirements;

(3) participant or counterparty default policies and procedures;

(4) the ability to complete timely clearing and settlement of financial transactions;

(5) capital and financial resource requirements for designated financial market utilities; and

(6) other areas that the Board determines are necessary to achieve the objectives and principles in subsection (b).

(d) THRESHOLD LEVEL.—The standards prescribed under subsection (a) governing the conduct of designated activities by financial institutions shall, where appropriate, establish a threshold as to the level or significance of engagement in the activity at which a financial institution will become subject to the standards with respect to that activity.

(e) COMPLIANCE REQUIRED.—Designated financial market utilities and financial institutions subject to the standards prescribed by the Board of Governors for a designated activity shall conduct their operations in compliance with the applicable risk management standards prescribed by the Board of Governors.

SEC. 806. OPERATIONS OF DESIGNATED FINANCIAL MARKET UTILITIES.

(a) FEDERAL RESERVE ACCOUNT AND SERVICES.—The Board of Governors may authorize a Federal Reserve Bank to establish and maintain an account for a designated financial market utility and provide services to the designated financial market utility that the Federal Reserve Bank is authorized under the Federal Reserve Act to provide to a depository institution, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors.

(b) ADVANCES.—The Board of Governors may authorize a Federal Reserve Bank to provide to a designated financial market utility the same discount and borrowing privileges as the Federal Reserve Bank may provide to a depository institution under the Federal Reserve Act, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors.

(c) EARNINGS ON FEDERAL RESERVE BALANCES.—A Federal Reserve Bank may pay earnings on balances maintained by or on behalf of a designated financial market utility in the same manner and to the same extent as the Federal Reserve Bank may pay earnings to a depository institution under the Federal Reserve Act, subject to any applicable rules, orders, standards, or guidelines prescribed by the Board of Governors.

(d) RESERVE REQUIREMENTS.—The Board of Governors may exempt a designated financial market utility from, or modify any, reserve requirements under section 19 of the Federal Reserve Act (12 U.S.C. 461) applicable to a designated financial market utility.

(e) CHANGES TO RULES, PROCEDURES, OR OPERATIONS.—

(1) ADVANCE NOTICE.—

(A) ADVANCE NOTICE OF PROPOSED CHANGES REQUIRED.—A designated financial market utility shall provide notice 60 days in advance advance notice to its Supervisory Agency and the Board of Governors of any proposed change to its rules, procedures, or operations that could, as defined in rules of the Board of Governors, materially affect, the nature or level of risks presented by the designated financial market utility.

(B) TERMS AND STANDARDS PRESCRIBED BY THE BOARD OF GOVERNORS.—The Board of Governors shall prescribe regulations that define and describe the standards for determining when notice is required to be provided under subparagraph (A).

(C) CONTENTS OF NOTICE.—The notice of a proposed change shall describe—

(i) the nature of the change and expected effects on risks to the designated financial market utility, its participants, or the market; and

(ii) how the designated financial market utility plans to manage any identified risks.

(D) ADDITIONAL INFORMATION.—The Supervisory Agency or the Board of Governors

may require a designated financial market utility to provide any information necessary to assess the effect the proposed change would have on the nature or level of risks associated with the designated financial market utility's payment, clearing, or settlement activities and the sufficiency of any proposed risk management techniques.

(E) NOTICE OF OBJECTION.—The Supervisory Agency or the Board of Governors shall notify the designated financial market utility of any objection regarding the proposed change within 60 days from the later of—

(i) the date that the notice of the proposed change is received; or

(ii) the date any further information requested for consideration of the notice is received.

(F) CHANGE NOT ALLOWED IF OBJECTION.—A designated financial market utility shall not implement a change to which the Board of Governors or the Supervisory Agency has an objection.

(G) CHANGE ALLOWED IF NO OBJECTION WITHIN 60 DAYS.—A designated financial market utility may implement a change if it has not received an objection to the proposed change within 60 days of the later of—

(i) the date that the Supervisory Agency or the Board of Governors receives the notice of proposed change; or

(ii) the date the Supervisory Agency or the Board of Governors receives any further information it requests for consideration of the notice.

(H) REVIEW EXTENSION FOR NOVEL OR COMPLEX ISSUES.—The Supervisory Agency or the Board of Governors may, during the 60-day review period, extend the review period for an additional 60 days for proposed changes that raise novel or complex issues, subject to the Supervisory Agency or the Board of Governors providing the designated financial market utility with prompt written notice of the extension. Any extension under this subparagraph will extend the time periods under subparagraphs (D) and (F).

(I) CHANGE ALLOWED EARLIER IF NOTIFIED OF NO OBJECTION.—A designated financial market utility may implement a change in less than 60 days from the date of receipt of the notice of proposed change by the Supervisory Agency or the Board of Governors, or the date the Supervisory Agency or the Board of Governors receives any further information it requested, if the Supervisory Agency or the Board of Governors notifies the designated financial market utility in writing that it does not object to the proposed change and authorizes the designated financial market utility to implement the change on an earlier date, subject to any conditions imposed by the Supervisory Agency or the Board of Governors.

(2) EMERGENCY CHANGES.—

(A) IN GENERAL.—A designated financial market utility may implement a change that would otherwise require advance notice under this subsection if it determines that—

(i) an emergency exists; and

(ii) immediate implementation of the change is necessary for the designated financial market utility to continue to provide its services in a safe and sound manner.

(B) NOTICE REQUIRED WITHIN 24 HOURS.—The designated financial market utility shall provide notice of any such emergency change to its Supervisory Agency and the Board of Governors, as soon as practicable, which shall be no later than 24 hours after implementation of the change.

(C) CONTENTS OF EMERGENCY NOTICE.—In addition to the information required for changes requiring advance notice, the notice of an emergency change shall describe—

(i) the nature of the emergency; and

(ii) the reason the change was necessary for the designated financial market utility to continue to provide its services in a safe and sound manner.

(D) MODIFICATION OR RESCISSION OF CHANGE MAY BE REQUIRED.—The Supervisory Agency or the Board of Governors may require modification or rescission of the change if it finds that the change is not consistent with the purposes of this Act or any rules, orders, or standards prescribed by the Board of Governors hereunder.

(3) COPYING THE BOARD OF GOVERNORS.—The Supervisory Agency shall provide the Board of Governors concurrently with a complete copy of any notice, request, or other information it issues, submits, or receives under this subsection.

(4) CONSULTATION WITH BOARD OF GOVERNORS.—Before taking any action on, or completing its review of, a change proposed by a designated financial market utility, the Supervisory Agency shall consult with the Board of Governors.

SEC. 807. EXAMINATION OF AND ENFORCEMENT ACTIONS AGAINST DESIGNATED FINANCIAL MARKET UTILITIES.

(a) EXAMINATION.—Notwithstanding any other provision of law and subject to subsection (d), the Supervisory Agency shall conduct examinations of a designated financial market utility at least once annually in order to determine the following:

(1) The nature of the operations of, and the risks borne by, the designated financial market utility.

(2) The financial and operational risks presented by the designated financial market utility to financial institutions, critical markets, or the broader financial system.

(3) The resources and capabilities of the designated financial market utility to monitor and control such risks.

(4) The safety and soundness of the designated financial market utility.

(5) The designated financial market utility's compliance with—

(A) this title; and

(B) the rules and orders prescribed by the Board of Governors under this title.

(b) SERVICE PROVIDERS.—Whenever a service integral to the operation of a designated financial market utility is performed for the designated financial market utility by another entity, whether an affiliate or non-affiliate and whether on or off the premises of the designated financial market utility, the Supervisory Agency may examine whether the provision of that service is in compliance with applicable law, rules, orders, and standards to the same extent as if the designated financial market utility were performing the service on its own premises.

(c) ENFORCEMENT.—For purposes of enforcing the provisions of this section, a designated financial market utility shall be subject to, and the appropriate Supervisory Agency shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the designated financial market utility was an insured depository institution and the Supervisory Agency was the appropriate Federal banking agency for such insured depository institution.

(d) BOARD OF GOVERNORS INVOLVEMENT IN EXAMINATIONS.—

(1) BOARD OF GOVERNORS CONSULTATION ON EXAMINATION PLANNING.—The Supervisory Agency shall consult with the Board of Governors regarding the scope and methodology of any examination conducted under subsections (a) and (b).

(2) BOARD OF GOVERNORS PARTICIPATION IN EXAMINATION.—The Board of Governors may, in its discretion, participate in any examination led by a Supervisory Agency and conducted under subsections (a) and (b).

(e) BOARD OF GOVERNORS ENFORCEMENT RECOMMENDATIONS.—

(1) RECOMMENDATION.—The Board of Governors may at any time recommend to the Supervisory Agency that such agency take enforcement action against a designated financial market utility. Any such recommendation for enforcement action shall provide a detailed analysis supporting the recommendation of the Board of Governors.

(2) CONSIDERATION.—The Supervisory Agency shall consider the recommendation of the Board of Governors and submit a response to the Board of Governors within 60 days.

(3) MEDIATION.—If the Supervisory Agency rejects, in whole or in part, the recommendation of the Board of Governors, the Board of Governors may dispute the matter by referring the recommendation to the Council, which shall attempt to resolve the dispute.

(4) ENFORCEMENT ACTION.—If the Council is unable to resolve the dispute under paragraph (3) within 30 days from the date of referral, the Board of Governors may, upon a vote of its members—

(A) exercise the enforcement authority referenced in subsection (c) as if it were the Supervisory Agency; and

(B) take enforcement action against the designated financial market utility.

(f) EMERGENCY ENFORCEMENT ACTIONS BY THE BOARD OF GOVERNORS.—

(1) IMMINENT RISK OF SUBSTANTIAL HARM.—The Board of Governors may, after consulting with the Council and the Supervisory Agency, take enforcement action against a designated financial market utility if the Board of Governors has reasonable cause to believe that—

(A) either—

(i) an action engaged in, or contemplated by, a designated financial market utility (including any change proposed by the designated financial market utility to its rules, procedures, or operations that would otherwise be subject to section 806(e)) poses an imminent risk of substantial harm to financial institutions, critical markets, or the broader financial system; or

(ii) the condition of a designated financial market utility poses an imminent risk of substantial harm to financial institutions, critical markets, or the broader financial system; and

(B) the imminent risk of substantial harm precludes the Board of Governors' use of the procedures in subsection (e).

(2) ENFORCEMENT AUTHORITY.—For purposes of taking enforcement action under paragraph (1), a designated financial market utility shall be subject to, and the Board of Governors shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the designated financial market utility was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.

(3) PROMPT NOTICE TO SUPERVISORY AGENCY OF ENFORCEMENT ACTION.—Within 24 hours of taking an enforcement action under this subsection, the Board of Governors shall provide written notice to the designated financial market utility's Supervisory Agency containing a detailed analysis of the action of the Board of Governors, with supporting documentation included.

SEC. 808. EXAMINATION OF AND ENFORCEMENT ACTIONS AGAINST FINANCIAL INSTITUTIONS SUBJECT TO STANDARDS FOR DESIGNATED ACTIVITIES.

(a) EXAMINATION.—The appropriate financial regulator is authorized to examine a financial institution subject to the standards prescribed by the Board of Governors for a designated activity in order to determine the following:

(1) The nature and scope of the designated activities engaged in by the financial institution.

(2) The financial and operational risks the designated activities engaged in by the financial institution may pose to the safety and soundness of the financial institution.

(3) The financial and operational risks the designated activities engaged in by the financial institution may pose to other financial institutions, critical markets, or the broader financial system.

(4) The resources available to and the capabilities of the financial institution to monitor and control the risks described in paragraphs (2) and (3).

(5) The financial institution's compliance with this title and the rules and orders prescribed by the Board of Governors under this title.

(b) ENFORCEMENT.—For purposes of enforcing the provisions of this section, and the rules and orders prescribed by the Board of Governors under this section, a financial institution subject to the standards prescribed by the Board of Governors for a designated activity shall be subject to, and the appropriate financial regulator shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the financial institution was an insured depository institution and the appropriate financial regulator was the appropriate Federal banking agency for such insured depository institution.

(c) TECHNICAL ASSISTANCE.—The Board of Governors shall consult with and provide such technical assistance as may be required by the appropriate financial regulators to ensure that the rules and orders prescribed by the Board of Governors under this title are interpreted and applied in as consistent and uniform a manner as practicable.

(d) DELEGATION.—

(1) EXAMINATION.—

(A) REQUEST TO BOARD OF GOVERNORS.—The appropriate financial regulator may request the Board of Governors to conduct or participate in an examination of a financial institution subject to the standards prescribed by the Board of Governors for a designated activity in order to assess the compliance of such financial institution with—

(i) this title; or

(ii) the rules or orders prescribed by the Board of Governors under this title.

(B) EXAMINATION BY BOARD OF GOVERNORS.—Upon receipt of an appropriate written request, the Board of Governors will conduct the examination under such terms and conditions to which the Board of Governors and the appropriate financial regulator mutually agree.

(2) ENFORCEMENT.—

(A) REQUEST TO BOARD OF GOVERNORS.—The appropriate financial regulator may request the Board of Governors to enforce this title or the rules or orders prescribed by the Board of Governors under this title against a financial institution that is subject to the standards prescribed by the Board of Governors for a designated activity.

(B) ENFORCEMENT BY BOARD OF GOVERNORS.—Upon receipt of an appropriate written request, the Board of Governors shall determine whether an enforcement action is warranted, and, if so, it shall enforce compliance with this title or the rules or orders prescribed by the Board of Governors under this title and, if so, the financial institution shall be subject to, and the Board of Governors shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the financial institution was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.

(e) BACK-UP AUTHORITY OF THE BOARD OF GOVERNORS.—

(1) EXAMINATION AND ENFORCEMENT.—Notwithstanding any other provision of law, the Board of Governors may—

(A) conduct an examination of the type described in subsection (a) of any financial institution that is subject to the standards prescribed by the Board of Governors for a designated activity; and

(B) enforce the provisions of this title or any rules or orders prescribed by the Board of Governors under this title against any financial institution that is subject to the standards prescribed by the Board of Governors for a designated activity.

(2) LIMITATIONS.—

(A) EXAMINATION.—The Board of Governors may exercise the authority described in paragraph (1)(A) only if the Board of Governors has—

(i) reasonable cause to believe that a financial institution is not in compliance with this title or the rules or orders prescribed by the Board of Governors under this title with respect to a designated activity;

(ii) notified, in writing, the appropriate financial regulator and the Council of its belief under clause (i) with supporting documentation included;

(iii) requested the appropriate financial regulator to conduct a prompt examination of the financial institution; and

(iv) either—

(I) not been afforded a reasonable opportunity to participate in an examination of the financial institution by the appropriate financial regulator within 30 days after the date of the Board's notification under clause (ii); or

(II) reasonable cause to believe that the financial institution's noncompliance with this title or the rules or orders prescribed by the Board of Governors under this title poses a substantial risk to other financial institutions, critical markets, or the broader financial system, subject to the Board of Governors affording the appropriate financial regulator a reasonable opportunity to participate in the examination.

(B) ENFORCEMENT.—The Board of Governors may exercise the authority described in paragraph (1)(B) only if the Board of Governors has—

(i) reasonable cause to believe that a financial institution is not in compliance with this title or the rules or orders prescribed by the Board of Governors under this title with respect to a designated activity;

(ii) notified, in writing, the appropriate financial regulator and the Council of its belief under clause (i) with supporting documentation included and with a recommendation that the appropriate financial regulator take 1 or more specific enforcement actions against the financial institution; and

(iii) either—

(I) not been notified, in writing, by the appropriate financial regulator of the commencement of an enforcement action recommended by the Board of Governors against the financial institution within 60 days from the date of the notification under clause (ii); or

(II) reasonable cause to believe that the financial institution's noncompliance with this title or the rules or orders prescribed by the Board of Governors under this title poses a substantial risk to other financial institutions, critical markets, or the broader financial system, subject to the Board of Governors notifying the appropriate financial regulator of the Board's enforcement action.

(3) ENFORCEMENT PROVISIONS.—For purposes of taking enforcement action under paragraph (1), the financial institution shall be subject to, and the Board of Governors shall have authority under the provisions of subsections (b) through (n) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) in the same manner and to the same extent as if the financial institution was an insured depository institution and the Board of Governors was the appropriate Federal banking agency for such insured depository institution.

SEC. 809. REQUESTS FOR INFORMATION, REPORTS, OR RECORDS.

(a) INFORMATION TO ASSESS SYSTEMIC IMPORTANCE.—

(1) FINANCIAL MARKET UTILITIES.—The Council is authorized to require any financial market utility to submit such information as the Council may require for the sole purpose of assessing whether that financial market utility is systemically important, but only if the Council has reasonable cause to believe that the financial market utility meets the standards for systemic importance set forth in section 804.

(2) FINANCIAL INSTITUTIONS ENGAGED IN PAYMENT, CLEARING, OR SETTLEMENT ACTIVITIES.—The Council is authorized to require any financial institution to submit such information as the Council may require for the sole purpose of assessing whether any payment, clearing, or settlement activity engaged in or supported by a financial institution is systemically important, but only if the Council has reasonable cause to believe that the activity meets the standards for systemic importance set forth in section 804.

(b) REPORTING AFTER DESIGNATION.—

(1) DESIGNATED FINANCIAL MARKET UTILITIES.—The Board of Governors and the Council may require a designated financial market utility to submit reports or data to the Board of Governors and the Council in such frequency and form as deemed necessary by the Board of Governors and the Council in order to assess the safety and soundness of the utility and the systemic risk that the utility's operations pose to the financial system.

(2) FINANCIAL INSTITUTIONS SUBJECT TO STANDARDS FOR DESIGNATED ACTIVITIES.—The Board of Governors and the Council may require 1 or more financial institutions subject to the standards prescribed by the Board of Governors for a designated activity to submit, in such frequency and form as deemed necessary by the Board of Governors and the Council, reports and data to the Board of Governors and the Council solely with respect to the conduct of the designated activity and solely to assess whether—

(A) the rules, orders, or standards prescribed by the Board of Governors with respect to the designated activity appropriately address the risks to the financial system presented by such activity; and

(B) the financial institutions are in compliance with this title and the rules and orders prescribed by the Board of Governors under this title with respect to the designated activity.

(c) COORDINATION WITH APPROPRIATE FEDERAL SUPERVISORY AGENCY.—

(1) ADVANCE COORDINATION.—Before directly requesting any material information from, or imposing reporting or recordkeeping requirements on, any financial market utility or any financial institution engaged in a payment, clearing, or settlement activity, the Board of Governors and the Council shall coordinate with the Supervisory Agency for a financial market utility or the appropriate financial regulator for a financial institution to determine if the information is available from or may be obtained by the agency in the form, format, or

detail required by the Board of Governors and the Council.

(2) SUPERVISORY REPORTS.—Notwithstanding any other provision of law, the Supervisory Agency, the appropriate financial regulator, and the Board of Governors are authorized to disclose to each other and the Council copies of its examination reports or similar reports regarding any financial market utility or any financial institution engaged in payment, clearing, or settlement activities.

(d) TIMING OF RESPONSE FROM APPROPRIATE FEDERAL SUPERVISORY AGENCY.—If the information, report, records, or data requested by the Board of Governors or the Council under subsection (c)(1) are not provided in full by the Supervisory Agency or the appropriate financial regulator in less than 15 days after the date on which the material is requested, the Board of Governors or the Council may request the information or impose recordkeeping or reporting requirements directly on such persons as provided in subsections (a) and (b) with notice to the agency.

(e) SHARING OF INFORMATION.—

(1) MATERIAL CONCERNS.—Notwithstanding any other provision of law, the Board of Governors, the Council, the appropriate financial regulator, and any Supervisory Agency are authorized to—

(A) promptly notify each other of material concerns about a designated financial market utility or any financial institution engaged in designated activities; and

(B) share appropriate reports, information, or data relating to such concerns.

(2) OTHER INFORMATION.—Notwithstanding any other provision of law, the Board of Governors, the Council, the appropriate financial regulator, or any Supervisory Agency may, under such terms and conditions as it deems appropriate, provide confidential supervisory information and other information obtained under this title to other persons it deems appropriate, including the Secretary, State financial institution supervisory agencies, foreign financial supervisors, foreign central banks, and foreign finance ministries, subject to reasonable assurances of confidentiality.

(f) PRIVILEGE MAINTAINED.—The Board of Governors, the Council, the appropriate financial regulator, and any Supervisory Agency providing reports or data under this section shall not be deemed to have waived any privilege applicable to those reports or data, or any portion thereof, by providing the reports or data to the other party or by permitting the reports or data, or any copies thereof, to be used by the other party.

(g) DISCLOSURE EXEMPTION.—Information obtained by the Board of Governors or the Council under this section and any materials prepared by the Board of Governors or the Council regarding its assessment of the systemic importance of financial market utilities or any payment, clearing, or settlement activities engaged in by financial institutions, and in connection with its supervision of designated financial market utilities and designated activities, shall be confidential supervisory information exempt from disclosure under section 552 of title 5, United States Code. For purposes of such section 552, this subsection shall be considered a statute described in subsection (b)(3) of such section 552.

SEC. 810. RULEMAKING.

The Board of Governors and the Council are authorized to prescribe such rules and issue such orders as may be necessary to administer and carry out the authorities and duties granted to the Board of Governors or the Council, respectively, and prevent evasions thereof.

SEC. 811. OTHER AUTHORITY.

Unless otherwise provided by its terms, this title does not divest any appropriate financial regulator, any Supervisory Agency, or any other Federal or State agency, of any authority derived from any other applicable law, except that any standards prescribed by the Board of Governors under section 805 shall supersede any less stringent requirements established under other authority to the extent of any conflict.

SEC. 812. EFFECTIVE DATE.

This title is effective as of the date of enactment of this Act.

TITLE IX—INVESTOR PROTECTIONS AND IMPROVEMENTS TO THE REGULATION OF SECURITIES

Subtitle A—Increasing Investor Protection

SEC. 911. INVESTOR ADVISORY COMMITTEE ESTABLISHED.

Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following:

"SEC. 39. INVESTOR ADVISORY COMMITTEE.

''(a) ESTABLISHMENT AND PURPOSE.—

''(1) ESTABLISHMENT.—There is established within the Commission the Investor Advisory Committee (referred to in this section as the 'Committee').

''(2) PURPOSE.—The Committee shall—

''(A) advise and consult with the Commission on—

''(i) regulatory priorities of the Commission;

''(ii) issues relating to the regulation of securities products, trading strategies, and fee structures, and the effectiveness of disclosure;

''(iii) initiatives to protect investor interest; and

''(iv) initiatives to promote investor confidence and the integrity of the securities marketplace; and

''(B) submit to the Commission such findings and recommendations as the Committee determines are appropriate, including recommendations for proposed legislative changes.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The members of the Committee shall be—

''(A) the Investor Advocate;

''(B) a representative of State securities commissions;

''(C) a representative of the interests of senior citizens; and

''(D) not fewer than 10, and not more than 20, members appointed by the Commission, from among individuals who—

''(i) represent the interests of individual equity and debt investors, including investors in mutual funds;

''(ii) represent the interests of institutional investors, including the interests of pension funds and registered investment companies;

''(iii) are knowledgeable about investment issues and decisions; and

''(iv) have reputations of integrity.

''(2) TERM.—Each member of the Committee appointed under paragraph (1)(B) shall serve for a term of 4 years.

''(3) MEMBERS NOT COMMISSION EMPLOYEES.—Members appointed under paragraph (1)(B) shall not be deemed to be employees or agents of the Commission solely because of membership on the Committee.

''(c) CHAIRMAN; VICE CHAIRMAN; SECRETARY; ASSISTANT SECRETARY.—

''(1) IN GENERAL.—The members of the Committee shall elect, from among the members of the Committee—

''(A) a chairman, who may not be employed by an issuer;

''(B) a vice chairman, who may not be employed by an issuer;

''(C) a secretary; and

''(D) an assistant secretary.

''(2) TERM.—Each member elected under paragraph (1) shall serve for a term of 3 years in the capacity for which the member was elected under paragraph (1).

''(d) MEETINGS.—

''(1) FREQUENCY OF MEETINGS.—The Committee shall meet—

''(A) not less frequently than twice annually, at the call of the chairman of the Committee; and

''(B) from time to time, at the call of the Commission.

''(2) NOTICE.—The chairman of the Committee shall give the members of the Committee written notice of each meeting, not later than 2 weeks before the date of the meeting.

''(e) COMPENSATION AND TRAVEL EXPENSES.—Each member of the Committee who is not a full-time employee of the United States shall—

''(1) be compensated at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day during which the member is engaged in the actual performance of the duties of the Committee; and

''(2) while away from the home or regular place of business of the member in the performance of services for the Committee, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

''(f) STAFF.—The Commission shall make available to the Committee such staff as the chairman of the Committee determines are necessary to carry out this section.

''(g) REVIEW BY COMMISSION.—The Commission shall—

''(1) review the findings and recommendations of the Committee; and

''(2) each time the Committee submits a finding or recommendation to the Commission, issue a public statement—

''(A) assessing the finding or recommendation of the Committee; and

''(B) disclosing the action, if any, the Commission intends to take with respect to the finding or recommendation.

''(h) COMMITTEE FINDINGS.—Nothing in this section shall require the Commission to agree to or act upon any finding or recommendation of the Committee.

''(i) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee and its activities.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission such sums as are necessary to carry out this section.''.

SEC. 912. CLARIFICATION OF AUTHORITY OF THE COMMISSION TO ENGAGE IN INVESTOR TESTING.

Section 19 of the Securities Act of 1933 (15 U.S.C. 77s) is amended by adding at the end the following:

''(e) EVALUATION OF RULES OR PROGRAMS.—For the purpose of evaluating any rule or program of the Commission issued or carried out under any provision of the securities laws, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), and the purposes of considering, proposing, adopting, or engaging in any such rule or program or developing new rules or programs, the Commission may—

''(1) gather information from and communicate with investors or other members of the public;

''(2) engage in such temporary investor testing programs as the Commission determines are in the public interest or would protect investors; and

''(3) consult with academics and consultants, as necessary to carry out this subsection.

''(f) RULE OF CONSTRUCTION.—For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), any action taken under subsection (e) shall not be construed to be a collection of information.''.

SEC. 913. STUDY AND RULEMAKING REGARDING OBLIGATIONS OF BROKERS, DEALERS, AND INVESTMENT ADVISERS.

(a) DEFINITIONS.—In this section—

(1) the term ''FINRA'' means the Financial Industry Regulatory Authority; and

(2) the term ''retail customer'' means an individual customer of a broker, dealer, investment adviser, person associated with a broker or dealer, or a person associated with an investment adviser.

(b) IN GENERAL.—The Commission shall conduct a study to evaluate—

(1) the effectiveness of existing legal or regulatory standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice and recommendations about securities to retail customers imposed by the Commission and FINRA, and other Federal and State legal or regulatory standards; and

(2) whether there are legal or regulatory gaps or overlap in legal or regulatory standards in the protection of retail customers relating to the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice about securities to retail customers that should be addressed by rule or statute.

(c) CONSIDERATIONS.—In conducting the study required under subsection (b), the Commission shall consider—

(1) the regulatory, examination, and enforcement resources devoted to, and activities of, the Commission and FINRA to enforce the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers when providing personalized investment advice and recommendations about securities to retail customers, including—

(A) the frequency of examinations of brokers, dealers, and investment advisers; and

(B) the length of time of the examinations;

(2) the substantive differences, compared and contrasted in detail, in the regulation of brokers, dealers, and investment advisers, when providing personalized investment advice and recommendations about securities to retail customers, including the differences in the amount of resources devoted to the regulation and examination of brokers, dealers, and investment advisers, by the Commission and FINRA;

(3) the specific instances in which—

(A) the regulation and oversight of investment advisers provide greater protection to retail customers than the regulation and oversight of brokers and dealers; and

(B) the regulation and oversight of brokers and dealers provide greater protection to retail customers than the regulation and oversight of investment advisers;

(4) the existing legal or regulatory standards of State securities regulators and other regulators intended to protect retail customers;

(5) the potential impact on retail customers, including the potential impact on access of retail customers to the range of products and services offered by brokers and dealers, of imposing upon brokers, dealers, and persons associated with brokers or dealers—

(A) the standard of care applied under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) for providing personalized investment advice about securities to retail customers of investment advisers; and

(B) other requirements of the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.);

(6) the potential impact of—

(A) imposing on investment advisers the standard of care applied by the Commission and FINRA under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) for providing recommendations about securities to retail customers of brokers and dealers and other Commission and FINRA requirements applicable to brokers and dealers; and

(B) authorizing the Commission to designate 1 or more self-regulatory organizations to augment the efforts of the Commission to oversee investment advisers;

(7) the potential impact of eliminating the broker and dealer exclusion from the definition of ''investment adviser'' under section 202(a)(11)(C) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)(C)), in terms of—

(A) the potential benefits or harm to retail customers that could result from such a change, including any potential impact on access to personalized investment advice and recommendations about securities to retail customers or the availability of such advice and recommendations;

(B) the number of additional entities and individuals that would be required to register under, or become subject to, the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.), and the additional requirements to which brokers, dealers, and persons associated with brokers and dealers would become subject, including—

(i) any potential additional associated person licensing, registration, and examination requirements; and

(ii) the additional costs, if any, to the additional entities and individuals; and

(C) the impact on Commission resources to—

(i) conduct examinations of registered investment advisers and the representatives of registered investment advisers, including the impact on the examination cycle; and

(ii) enforce the standard of care and other applicable requirements imposed under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.);

(8) the ability of investors to understand the differences in terms of regulatory oversight and examinations between brokers, dealers, and investment advisers;

(9) the varying level of services provided by brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers to retail customers and the varying scope and terms of retail customer relationships of brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers with such retail customers;

(10) any potential benefits or harm to retail customers that could result from any potential changes in the regulatory requirements or legal standards affecting brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers relating to their obligations to retail customers, including any potential impact on—

(A) protection from fraud;

(B) access to personalized investment advice, and recommendations about securities to retail customers; or

(C) the availability of such advice and recommendations;

(11) the additional costs and expenses to retail customers and to brokers, dealers, and investment advisers resulting from potential changes in the regulatory requirements or legal standards affecting brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers relating to their obligations to retail customers; and

(12) any other consideration that the Commission deems necessary and appropriate to effectively execute the study required under subsection (b).

(d) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the study required under subsection (b) to—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Financial Services of the House of Representatives.

(2) CONTENT REQUIREMENTS.—The report required under paragraph (1) shall describe the findings, conclusions, and recommendations of the Commission from the study required under subsection (b), including—

(A) a description of the considerations, analysis, and public and industry input that the Commission considered, as required under subsection (e), to make such findings, conclusions, and policy recommendations; and

(B) an analysis of—

(i) whether any identified legal or regulatory gaps or overlap in legal or regulatory standards in the protection of retail customers relating to the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice about securities to retail customers can be addressed by rule; and

(ii) whether, and the extent to which, the Commission would require additional statutory authority to address such gaps or overlap.

(e) PUBLIC COMMENT.—The Commission shall seek and consider public input, comments, and data in order to prepare the report required under subsection (d).

(f) RULEMAKING.—

(1) IN GENERAL.—If the study required under subsection (b) identifies any gaps or overlap in the legal or regulatory standards in the protection of retail customers relating to the standards of care for brokers, dealers, investment advisers, persons associated with brokers or dealers, and persons associated with investment advisers for providing personalized investment advice about securities to such retail customers, the Commission, not later than 2 years after the date of enactment of this Act, shall—

(A) commence a rulemaking, as necessary or appropriate in the public interest and for the protection of retail customers, to address such regulatory gaps and overlap that can be addressed by rule, using its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) and the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.); and

(B) consider and take into account the findings, conclusions, and recommendations of the study required under this section.

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the rulemaking authority of the Commission under any other provision of Federal law.

SEC. 914. OFFICE OF THE INVESTOR ADVOCATE.

Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end the following:

''(g) OFFICE OF THE INVESTOR ADVOCATE.—

''(1) OFFICE ESTABLISHED.—There is established within the Commission the Office of the Investor Advocate (in this subsection referred to as the 'Office').

''(2) INVESTOR ADVOCATE.—

''(A) IN GENERAL.—The head of the Office shall be the Investor Advocate, who shall—

''(i) report directly to the Chairman; and

''(ii) be appointed by the Chairman, in consultation with the Commission, from among individuals having experience in advocating for the interests of investors in securities and investor protection issues, from the perspective of investors.

''(B) COMPENSATION.—The annual rate of pay for the Investor Advocate shall be equal to the highest rate of annual pay for a Senior Executive Service position within the Commission.

''(C) LIMITATION ON SERVICE.—An individual who serves as the Investor Advocate may not be employed by the Commission—

''(i) during the 2-year period ending on the date of appointment as Investor Advocate; or

''(ii) during the 5-year period beginning on the date on which the person ceases to serve as the Investor Advocate.

''(3) STAFF OF OFFICE.—The Investor Advocate may retain or employ independent counsel, research staff, and service staff, as the Investor Advocate deems necessary to carry out the functions, powers, and duties of the Office.

''(4) FUNCTIONS OF THE INVESTOR ADVOCATE.—The Investor Advocate shall—

''(A) assist retail investors in resolving significant problems such investors may have with the Commission or with self-regulatory organizations;

''(B) identify areas in which investors would benefit from changes in the regulations of the Commission or the rules of self-regulatory organizations;

''(C) identify problems that investors have with financial service providers and investment products;

''(D) analyze the potential impact on investors of—

''(i) proposed regulations of the Commission; and

''(ii) proposed rules of self-regulatory organizations registered under this title; and

''(E) to the extent practicable, propose to the Commission changes in the regulations or orders of the Commission and to Congress any legislative, administrative, or personnel changes that may be appropriate to mitigate problems identified under this paragraph and to promote the interests of investors.

''(5) ACCESS TO DOCUMENTS.—The Commission shall ensure that the Investor Advocate has full access to the documents of the Commission and any self-regulatory organization, as necessary to carry out the functions of the Office.

''(6) ANNUAL REPORTS.—

''(A) REPORT ON OBJECTIVES.—

''(i) IN GENERAL.—Not later than June 30 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the objectives of the Investor Advocate for the following fiscal year.

''(ii) CONTENTS.—Each report required under clause (i) shall contain full and substantive analysis and explanation.

''(B) REPORT ON ACTIVITIES.—

''(i) IN GENERAL.—Not later than December 31 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the activities of the Investor Advocate during the immediately preceding fiscal year.

''(ii) CONTENTS.—Each report required under clause (i) shall include—

''(I) appropriate statistical information and full and substantive analysis;

''(II) information on steps that the Investor Advocate has taken during the reporting period to improve investor services and the responsiveness of the Commission and self-regulatory organizations to investor concerns;

''(III) a summary of the most serious problems encountered by investors during the reporting period;

''(IV) an inventory of the items described in subclauses (III) that includes—

''(aa) identification of any action taken by the Commission or the self-regulatory organization and the result of such action;

''(bb) the length of time that each item has remained on such inventory; and

''(cc) for items on which no action has been taken, the reasons for inaction, and an identification of any official who is responsible for such action;

''(V) recommendations for such administrative and legislative actions as may be appropriate to resolve problems encountered by investors; and

''(VI) any other information, as determined appropriate by the Investor Advocate.

''(iii) INDEPENDENCE.—Each report required under this paragraph shall be provided directly to the Committees listed in clause (i) without any prior review or comment from the Commission, any commissioner, any other officer or employee of the Commission, or the Office of Management and Budget.

''(iv) CONFIDENTIALITY.—No report required under clause (i) may contain confidential information.

''(7) REGULATIONS.—The Commission shall, by regulation, establish procedures requiring a formal response to all recommendations submitted to the Commission by the Investor Advocate, not later than 3 months after the date of such submission.''.

SEC. 915. STREAMLINING OF FILING PROCEDURES FOR SELF-REGULATORY ORGANIZATIONS.

(a) FILING PROCEDURES.—Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by striking paragraph (2) (including the undesignated matter immediately following subparagraph (B)) and inserting the following:

''(2) APPROVAL PROCESS.—

''(A) APPROVAL PROCESS ESTABLISHED.—

''(i) IN GENERAL.—Except as provided in clause (ii), not later than 45 days after the date of publication of a proposed rule change under paragraph (1), the Commission shall—

''(I) by order, approve the proposed rule change; or

''(II) institute proceedings under subparagraph (B) to determine whether the proposed rule change should be disapproved.

''(ii) EXTENSION OF TIME PERIOD.—The Commission may extend the period established under clause (i) by not more than an additional 45 days, if—

''(I) the Commission determines that a longer period is appropriate and publishes the reasons for such determination; or

''(II) the self-regulatory organization that filed the proposed rule change consents to the longer period.

''(B) PROCEEDINGS.—

''(i) NOTICE AND HEARING.—If the Commission does not approve a proposed rule change under subparagraph (A), the Commission shall provide to the self-regulatory organization that filed the proposed rule change—

''(I) notice of the grounds for disapproval under consideration; and

''(II) opportunity for hearing, to be concluded not later than 180 days after the date of publication of notice of the filing of the proposed rule change.

''(ii) ORDER OF APPROVAL OR DISAPPROVAL.—

''(I) IN GENERAL.—Except as provided in subclause (II), not later than 180 days after the date of publication under paragraph (1), the Commission shall issue an order approving or disapproving the proposed rule change.

''(II) EXTENSION OF TIME PERIOD.—The Commission may extend the period for issuance under clause (I) by not more than 60 days, if—

''(aa) the Commission determines that a longer period is appropriate and publishes the reasons for such determination; or

''(bb) the self-regulatory organization that filed the proposed rule change consents to the longer period.

''(C) STANDARDS FOR APPROVAL AND DISAPPROVAL.—

''(i) APPROVAL.—The Commission shall approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of this title and the rules and regulations issued under this title that are applicable to such organization.

''(ii) DISAPPROVAL.—The Commission shall disapprove a proposed rule change of a self-regulatory organization if it does not make a finding described in clause (i).

''(iii) TIME FOR APPROVAL.—The Commission may not approve a proposed rule change earlier than 30 days after the date of publication under paragraph (1), unless the Commission finds good cause for so doing and publishes the reason for the finding.

''(D) RESULT OF FAILURE TO INSTITUTE OR CONCLUDE PROCEEDINGS.—A proposed rule change shall be deemed to have been approved by the Commission, if—

''(i) the Commission does not approve the proposed rule change or begin proceedings under subparagraph (B) within the period described in subparagraph (A); or

''(ii) the Commission does not issue an order approving or disapproving the proposed rule change under subparagraph (B) within the period described in subparagraph (B)(ii).

''(E) PUBLICATION DATE BASED ON FEDERAL REGISTER PUBLISHING.—For purposes of this paragraph, if, after filing a proposed rule change with the Commission pursuant to paragraph (1), a self-regulatory organization publishes a notice of the filing of such proposed rule change, together with the substantive terms of such proposed rule change, on a publicly accessible website, the Commission shall thereafter send the notice to the Federal Register for publication thereof under paragraph (1) within 15 days of the date on which such website publication is made. If the Commission fails to send the notice for publication thereof within such 15 day period, then the date of publication shall be deemed to be the date on which such website publication was made.''.

(b) CLARIFICATION OF FILING DATE.—

(1) RULE OF CONSTRUCTION.—Section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) is amended by adding at the end the following:

''(10) RULE OF CONSTRUCTION RELATING TO FILING DATE OF PROPOSED RULE CHANGES.—

''(A) IN GENERAL.—For purposes of this subsection, the date of filing of a proposed rule change shall be deemed to be the date on which the Commission receives the proposed rule change.

''(B) EXCEPTION.—A proposed rule change has not been received by the Commission for purposes of subparagraph (A) if, not later than 7 days after the date of receipt by the Commission, the Commission notifies the self-regulatory organization that such proposed rule change does not comply with the rules of the Commission relating to the required form of a proposed rule change.''.

(2) PUBLICATION.—Section 19(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(1)) is amended by striking ''upon'' and inserting ''as soon as practicable after the date of''.

(c) EFFECTIVE DATE OF PROPOSED RULES.—Section 19(b)(3) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking ''may take effect'' and inserting ''shall take effect''; and

(B) by inserting ''on any person, whether or not the person is a member of the self-regulatory organization'' after ''charge imposed by the self-regulatory organization''; and

(2) in subparagraph (C)—

(A) by amending the second sentence to read as follows: ''At any time within the 60-day period beginning on the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1), the Commission summarily may temporarily suspend the change in the rules of the self-regulatory organization made thereby, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.'';

(B) by inserting after the second sentence the following: ''If the Commission takes such action, the Commission shall institute proceedings under paragraph (2)(B) to determine whether the proposed rule should be approved or disapproved.''; and

(C) in the third sentence, by striking ''the preceding sentence'' and inserting ''this subparagraph''.

(d) CONFORMING CHANGE.—Section 19(b)(4)(D) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(4)(D)) is amended to read as follows:

''(D)(i) The Commission shall order the temporary suspension of any change in the rules of a clearing agency made by a proposed rule change that has taken effect under paragraph (3), if the appropriate regulatory agency for the clearing agency notifies the Commission not later than 30 days after the date on which the proposed rule change was filed of—

''(I) the determination by the appropriate regulatory agency that the rules of such clearing agency, as so changed, may be inconsistent with the safeguarding of securities or funds in the custody or control of such clearing agency or for which it is responsible; and

''(II) the reasons for the determination described in subclause (I).

''(ii) If the Commission takes action under clause (i), the Commission shall institute proceedings under paragraph (2)(B) to determine if the proposed rule change should be approved or disapproved.''.

SEC. 916. STUDY REGARDING FINANCIAL LITERACY AMONG INVESTORS.

(a) IN GENERAL.—The Commission shall conduct a study to identify—

(1) the existing level of financial literacy among retail investors, including subgroups of investors identified by the Commission;

(2) methods to improve the timing, content, and format of disclosures to investors with respect to financial intermediaries, investment products, and investment services;

(3) the most useful and understandable relevant information that retail investors need to make informed financial decisions before engaging a financial intermediary or purchasing an investment product or service that is typically sold to retail investors, including shares of open-end companies, as that term is defined in section 5 of the Investment Company Act of 1940 (15 U.S.C. 80a–5) that are registered under section 8 of that Act;

(4) methods to increase the transparency of expenses and conflicts of interests in transactions involving investment services and products, including shares of open-end companies described in paragraph (3);

(5) the most effective existing private and public efforts to educate investors; and

(6) in consultation with the Financial Literacy and Education Commission, a strategy (including, to the extent practicable, measurable goals and objectives) to increase the financial literacy of investors in order to bring about a positive change in investor behavior.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Commission shall submit a report on the study required under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 917. STUDY REGARDING MUTUAL FUND ADVERTISING.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on mutual fund advertising to identify—

(1) existing and proposed regulatory requirements for open-end investment company advertisements;

(2) current marketing practices for the sale of open-end investment company shares, including the use of past performance data, funds that have merged, and incubator funds;

(3) the impact of such advertising on consumers; and

(4) recommendations to improve investor protections in mutual fund advertising and additional information necessary to ensure that investors can make informed financial decisions when purchasing shares.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report on the results of the study conducted under subsection (a) to—

(1) the Committee on Banking, Housing, and Urban Affairs of the United States Senate; and

(2) the Committee on Financial Services of the House of Representatives.

SEC. 918. CLARIFICATION OF COMMISSION AUTHORITY TO REQUIRE INVESTOR DISCLOSURES BEFORE PURCHASE OF INVESTMENT PRODUCTS AND SERVICES.

Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end the following:

''(k) DISCLOSURES TO RETAIL INVESTORS.—

''(1) IN GENERAL.—Notwithstanding any other provision of the securities laws, the Commission may issue rules designating documents or information that shall be provided by a broker or dealer to a retail investor before the purchase of an investment product or service by the retail investor.

''(2) CONSIDERATIONS.—In developing any rules under paragraph (1), the Commission shall consider whether the rules will promote investor protection, efficiency, competition, and capital formation.

''(3) FORM AND CONTENTS OF DOCUMENTS AND INFORMATION.—Any documents or information designated under a rule promulgated under paragraph (1) shall—

''(A) be in a summary format; and

''(B) contain clear and concise information about—

''(i) investment objectives, strategies, costs, and risks; and

''(ii) any compensation or other financial incentive received by a broker, dealer, or other intermediary in connection with the purchase of retail investment products.''.

SEC. 919. STUDY ON CONFLICTS OF INTEREST.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study—

(1) to identify and examine potential conflicts of interest that exist between the staffs of the investment banking and equity and fixed income securities analyst functions within the same firm; and

(2) to make recommendations to Congress designed to protect investors in light of such conflicts.

(b) CONSIDERATIONS.—In conducting the study under subsection (a), the Comptroller General shall—

(1) consider—

(A) the potential for investor harm resulting from conflicts, including consideration of the forms of misconduct engaged in by the several securities firms and individuals that entered into the Global Analyst Research Settlements in 2003 (also known as the ''Global Settlement'');

(B) the nature and benefits of the undertakings to which those firms agreed in enforcement proceedings, including firewalls between research and investment banking, separate reporting lines, dedicated legal and compliance staffs, allocation of budget, physical separation, compensation, employee performance evaluations, coverage decisions, limitations on soliciting investment banking business, disclosures, transparency, and other measures;

(C) whether any such undertakings should be codified and applied permanently to securities firms, or whether the Commission should adopt rules applying any such undertakings to securities firms; and

(D) whether to recommend regulatory or legislative measures designed to mitigate possible adverse consequences to investors arising from the conflicts of interest or to enhance investor protection or confidence in the integrity of the securities markets; and

(2) consult with State attorneys general, State securities officials, the Commission, the Financial Industry Regulatory Authority (''FINRA''), NYSE Regulation, investor advocates, brokers, dealers, retail investors, institutional investors, and academics.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 18 months after the date of enactment of this Act.

SEC. 919A. STUDY ON IMPROVED INVESTOR ACCESS TO INFORMATION ON INVESTMENT ADVISERS AND BROKER-DEALERS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Commission shall complete a study, including recommendations, of ways to improve the access of investors to registration information (including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information) about registered and previously registered investment advisers, associated persons of investment advisers, brokers and dealers and their associated persons on the existing Central Registration Depository and Investment Adviser Registration Depository systems, as well as identify additional information that should be made publicly available.

(2) CONTENTS.—The study required by subsection (a) shall include an analysis of the advantages and disadvantages of further centralizing access to the information contained in the 2 systems, including—

(A) identification of those data pertinent to investors; and

(B) the identification of the method and format for displaying and publishing such data to enhance accessibility by and utility to investors.

(b) IMPLEMENTATION.—Not later than 18 months after the date of completion of the study required by subsection (a), the Commission shall implement any recommendations of the study.

SEC. 919B. STUDY ON FINANCIAL PLANNERS AND THE USE OF FINANCIAL DESIGNATIONS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to evaluate—

(1) the effectiveness of State and Federal regulations to protect consumers from individuals who hold themselves out as financial planners through the use of misleading designations;

(2) current State and Federal oversight structure and regulations for financial planners; and

(3) legal or regulatory gaps in the regulation of financial planners and other individuals who provide or offer to provide financial planning services to consumers.

(b) CONSIDERATIONS.—In conducting the study required under subsection (a), the Comptroller General shall consider—

(1) the role of financial planners in providing advice regarding the management of financial resources, including investment planning, income tax planning, education planning, retirement planning, estate planning, and risk management;

(2) whether current regulations at the State and Federal level provide adequate ethical and professional standards for financial planners;

(3) the use of the title ''financial planner'' and misleading designations in connection with sale of financial products, including insurance and securities;

(4) the possible risk posed to consumers by individuals who hold themselves out as financial planners through the use of misleading designations, including ''financial advisor'' and ''financial consultant'';

(5) the ability of consumers to understand licensing requirements and standards of care that apply to individuals who provide financial advice;

(6) the possible benefits to consumers of regulation and professional oversight of financial planners; and

(7) any other consideration that the Comptroller General deems necessary or appropriate to effectively execute the study required under subsection (a).

(c) RECOMMENDATIONS.—In providing recommendations for the appropriate regulation of financial planners and other individuals who provide or offer to provide financial planning services, in order to protect consumers of financial planning services, the Comptroller General shall consider—

(1) the appropriate structure for regulation of financial planners and individuals providing financial planning services; and

(2) the appropriate scope of the regulations needed to protect consumers, including but not limited to the need to establish competency standards, practice standards, ethical guidelines, disciplinary authority, and transparency to consumers.

(d) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report on the study required under subsection (a) to—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(B) the Special Committee on Aging of the Senate; and

(C) the Committee on Financial Services of the House of Representatives.

(2) CONTENT REQUIREMENTS.—The report required under paragraph (1) shall describe the findings and determinations made by the Comptroller General in carrying out the study required under subsection (a), including a description of the considerations, analysis, and government, public, industry, nonprofit and consumer input that the Comptroller General considered to make such findings, conclusions, and legislative, regulatory, or other recommendations.

Subtitle B—Increasing Regulatory Enforcement and Remedies

SEC. 921. AUTHORITY TO ISSUE RULES RELATED TO MANDATORY PREDISPUTE ARBITRATION.

(a) AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o), as amended by section 918, is amended by adding at the end the following:

''(l) AUTHORITY TO RESTRICT MANDATORY PREDISPUTE ARBITRATION.—The Commission may conduct a rulemaking to reaffirm or prohibit, or impose or not impose conditions or limitations on the use of, agreements that require customers or clients of any broker, dealer, or municipal securities dealer to arbitrate any dispute between them and such broker, dealer, or municipal securities dealer that arises under the securities laws or the rules of a self-regulatory organization, if the Commission finds that such reaffirmation, prohibition, imposition of conditions or limitations, or other action is in the public interest and for the protection of investors.''.

(b) AMENDMENT TO INVESTMENT ADVISERS ACT OF 1940.—Section 205 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–5) is amended by adding at the end the following:

''(f) AUTHORITY TO ISSUE RULES RELATED TO MANDATORY PREDISPUTE ARBITRATION.—The Commission may conduct rulemaking to reaffirm or prohibit, or impose or not impose conditions or limitations on the use of, agreements that require customers or clients of any investment adviser to arbitrate any dispute between them and such investment adviser that arises under the securities laws, as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c), or the rules of a self-regulatory organization, if the Commission finds that such reaffirmation, prohibition, imposition of conditions or limitations, or other action is in the public interest and for the protection of investors.''.

SEC. 922. WHISTLEBLOWER PROTECTION.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 21E the following:

''SEC. 21F. SECURITIES WHISTLEBLOWER INCENTIVES AND PROTECTION.

''(a) DEFINITIONS.—In this section the following definitions shall apply:

''(1) COVERED JUDICIAL OR ADMINISTRATIVE ACTION.—The term 'covered judicial or administrative action' means any judicial or administrative action brought by the Commission under the securities laws that results in monetary sanctions exceeding $1,000,000.

''(2) FUND.—The term 'Fund' means the Securities and Exchange Commission Investor Protection Fund.

''(3) ORIGINAL INFORMATION.—The term 'original information' means information that—

''(A) is derived from the independent knowledge or analysis of a whistleblower;

''(B) is not known to the Commission from any other source, unless the whistleblower is the original source of the information; and

''(C) is not exclusively derived from an allegation made in a judicial or administrative hearing, in a governmental report, hearing, audit, or investigation, or from the news media, unless the whistleblower is a source of the information.

''(4) MONETARY SANCTIONS.—The term 'monetary sanctions', when used with respect to any judicial or administrative action, means—

''(A) any monies, including penalties, disgorgement, and interest, ordered to be paid; and

''(B) any monies deposited into a disgorgement fund or other fund pursuant to section 308(b) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(b)), as a result of such action or any settlement of such action.

''(5) RELATED ACTION.—The term 'related action', when used with respect to any judicial or administrative action brought by the Commission under the securities laws, means any judicial or administrative action brought by an entity described in subclauses (I) through (IV) of subsection (h)(2)(D)(i) that is based upon the original information provided by a whistleblower pursuant to subsection (a) that led to the successful enforcement of the Commission action.

''(6) WHISTLEBLOWER.—The term 'whistleblower' means any individual, or 2 or more individuals acting jointly, who provides information relating to a violation of the securities laws to the Commission, in a manner established, by rule or regulation, by the Commission.

''(b) AWARDS.—

''(1) IN GENERAL.—In any covered judicial or administrative action, or related action, the Commission, under regulations prescribed by the Commission and subject to subsection (c), shall pay an award or awards to 1 or more whistleblowers who voluntarily provided original information to the Commission that led to the successful enforcement of the covered judicial or administrative action, or related action, in an aggregate amount equal to—

''(A) not less than 10 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions; and

''(B) not more than 30 percent, in total, of what has been collected of the monetary sanctions imposed in the action or related actions.

''(2) PAYMENT OF AWARDS.—Any amount paid under paragraph (1) shall be paid from the Fund.

''(c) DETERMINATION OF AMOUNT OF AWARD; DENIAL OF AWARD.—

''(1) DETERMINATION OF AMOUNT OF AWARD.—

''(A) DISCRETION.—The determination of the amount of an award made under subsection (b) shall be in the discretion of the Commission.

''(B) CRITERIA.—In determining the amount of an award made under subsection (b), the Commission shall take into account—

''(i) the significance of the information provided by the whistleblower to the success of the covered judicial or administrative action;

''(ii) the degree of assistance provided by the whistleblower and any legal representative of the whistleblower in a covered judicial or administrative action;

''(iii) the programmatic interest of the Commission in deterring violations of the securities laws by making awards to whistleblowers who provide information that lead to the successful enforcement of such laws; and

''(iv) such additional relevant factors as the Commission may establish by rule or regulation.

''(2) DENIAL OF AWARD.—No award under subsection (b) shall be made—

''(A) to any whistleblower who is, or was at the time the whistleblower acquired the original information submitted to the Commission, a member, officer, or employee of—

''(i) an appropriate regulatory agency;

''(ii) the Department of Justice;

''(iii) a self-regulatory organization;

''(iv) the Public Company Accounting Oversight Board; or

''(v) a law enforcement organization;

''(B) to any whistleblower who is convicted of a criminal violation related to the judicial or administrative action for which the whistleblower otherwise could receive an award under this section;

''(C) to any whistleblower who gains the information through the performance of an audit of financial statements required under the securities laws and for whom such submission would be contrary to the requirements of section 101A of the Securities Exchange Act of 1934 (15 U.S.C. 78j–1); or

''(D) to any whistleblower who fails to submit information to the Commission in such form as the Commission may, by rule, require.

''(d) REPRESENTATION.—

''(1) PERMITTED REPRESENTATION.—Any whistleblower who makes a claim for an award under subsection (b) may be represented by counsel.

''(2) REQUIRED REPRESENTATION.—

''(A) IN GENERAL.—Any whistleblower who anonymously makes a claim for an award under subsection (b) shall be represented by counsel if the whistleblower anonymously submits the information upon which the claim is based.

''(B) DISCLOSURE OF IDENTITY.—Prior to the payment of an award, a whistleblower shall disclose the identity of the whistleblower and provide such other information as the Commission may require, directly or through counsel for the whistleblower.

''(e) NO CONTRACT NECESSARY.—No contract with the Commission is necessary for any whistleblower to receive an award under subsection (b), unless otherwise required by the Commission by rule or regulation.

''(f) APPEALS.—Any determination made under this section, including whether, to whom, or in what amount to make awards, shall be in the discretion of the Commission. Any such determination may be appealed to the appropriate court of appeals of the United States not more than 30 days after the determination is issued by the Commission. The court shall review the determination made by the Commission in accordance with section 706 of title 5, United States Code.

''(g) INVESTOR PROTECTION FUND.—

''(1) FUND ESTABLISHED.—There is established in the Treasury of the United States a fund to be known as the 'Securities and Exchange Commission Investor Protection Fund'.

''(2) USE OF FUND.—The Fund shall be available to the Commission, without further appropriation or fiscal year limitation, for—

''(A) paying awards to whistleblowers as provided in subsection (b); and

''(B) funding the activities of the Inspector General of the Commission under section 4(i).

''(3) DEPOSITS AND CREDITS.—There shall be deposited into or credited to the Fund an amount equal to—

''(A) the amount awarded under subsection (b) from any monetary sanction collected by the Commission in any judicial or administrative action brought by the Commission that is based on information provided by a whistleblower under the securities laws, unless, the balance of the Fund at the time the monetary sanction is collected exceeds $200,000,000;

''(B) any monetary sanction added to a disgorgement fund or other fund pursuant to section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246) that is not distributed to the victims for whom the disgorgement fund was established, unless the balance of the disgorgement fund at the time the determination is made not to distribute the monetary sanction to such victims exceeds $100,000,000; and

''(C) all income from investments made under paragraph (4).

''(4) INVESTMENTS.—

''(A) AMOUNTS IN FUND MAY BE INVESTED.—The Commission may request the Secretary of the Treasury to invest the portion of the Fund that is not, in the discretion of the Commission, required to meet the current needs of the Fund.

''(B) ELIGIBLE INVESTMENTS.—Investments shall be made by the Secretary of the Treasury in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Fund as determined by the Commission on the record.

''(C) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to the Fund.

''(5) REPORTS TO CONGRESS.—Not later than October 30 of each fiscal year beginning after the date of enactment of this subsection, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives a report on—

''(A) the whistleblower award program, established under this section, including—

''(i) a description of the number of awards granted; and

''(ii) the types of cases in which awards were granted during the preceding fiscal year;

''(B) the balance of the Fund at the beginning of the preceding fiscal year;

''(C) the amounts deposited into or credited to the Fund during the preceding fiscal year;

''(D) the amount of earnings on investments made under paragraph (4) during the preceding fiscal year;

''(E) the amount paid from the Fund during the preceding fiscal year to whistleblowers pursuant to subsection (b);

''(F) the balance of the Fund at the end of the preceding fiscal year; and

''(G) a complete set of audited financial statements, including—

''(i) a balance sheet;

''(ii) income statement; and

''(iii) cash flow analysis.

''(h) PROTECTION OF WHISTLEBLOWERS.—

''(1) PROHIBITION AGAINST RETALIATION.—

''(A) IN GENERAL.—No employer may discharge, demote, suspend, threaten, harass, directly or indirectly, or in any other manner discriminate against, a whistleblower in the terms and conditions of employment because of any lawful act done by the whistleblower—

''(i) in providing information to the Commission in accordance with subsection (a); or

''(ii) in assisting in any investigation or judicial or administrative action of the Commission based upon or related to such information.

''(B) ENFORCEMENT.—

''(i) CAUSE OF ACTION.—An individual who alleges discharge or other discrimination in violation of subparagraph (A) may bring an action under this subsection in the appropriate district court of the United States for the relief provided in subparagraph (C).

''(ii) SUBPOENAS.—A subpoena requiring the attendance of a witness at a trial or hearing conducted under this section may be served at any place in the United States.

''(iii) STATUTE OF LIMITATIONS.—

''(I) IN GENERAL.—An action under this subsection may not be brought—

''(aa) more than 6 years after the date on which the violation of subparagraph (A) occurred; or

''(bb) more than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the employee alleging a violation of subparagraph (A).

''(II) REQUIRED ACTION WITHIN 10 YEARS.—Notwithstanding subclause (I), an action under this subsection may not in any circumstance be brought more than 10 years after the date on which the violation occurs.

''(C) RELIEF.—Relief for an individual prevailing in an action brought under subparagraph (B) shall include—

''(i) reinstatement with the same seniority status that the individual would have had, but for the discrimination;

''(ii) 2 times the amount of back pay otherwise owed to the individual, with interest; and

''(iii) compensation for litigation costs, expert witness fees, and reasonable attorneys' fees.

''(2) CONFIDENTIALITY.—

''(A) IN GENERAL.—Unless and until required to be disclosed to a defendant or respondent in connection with a proceeding instituted by the Commission or any entity described in subparagraph (D), all information provided to the Commission by a whistleblower—

''(i) in any proceeding in any Federal or State court or administrative agency—

''(I) shall be confidential and privileged as an evidentiary matter; and

''(II) shall not be subject to civil discovery or other legal process; and

''(ii) shall not be subject to disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act) or under any proceeding under that section.

''(B) EXEMPTED STATUTE.—For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.

''(C) RULE OF CONSTRUCTION.—Nothing in this section is intended to limit, or shall be construed to limit, the ability of the Attorney General to present such evidence to a grand jury or to share such evidence with potential witnesses or defendants in the course of an ongoing criminal investigation.

''(D) AVAILABILITY TO GOVERNMENT AGENCIES.—

''(i) IN GENERAL.—Without the loss of its status as confidential and privileged in the hands of the Commission, all information referred to in subparagraph (A) may, in the discretion of the Commission, when determined by the Commission to be necessary to accomplish the purposes of this Act and to protect investors, be made available to—

''(I) the Attorney General of the United States;

''(II) an appropriate regulatory authority;

''(III) a self-regulatory organization;

''(IV) a State attorney general in connection with any criminal investigation;

''(V) any appropriate State regulatory authority;

''(VI) the Public Company Accounting Oversight Board;

''(VII) a foreign securities authority; and

''(VIII) a foreign law enforcement authority.

''(ii) CONFIDENTIALITY.—

''(I) IN GENERAL.—Each of the entities described in subclauses (I) through (VI) of clause (i) shall maintain such information as confidential and privileged, in accordance with the requirements established under subparagraph (A).

''(II) FOREIGN AUTHORITIES.—Each of the entities described in subclauses (VII) and (VIII) of clause (i) shall maintain such information in accordance with such assurances of confidentiality as the Commission determines appropriate.

''(3) RIGHTS RETAINED.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any whistleblower under any Federal or State law, or under any collective bargaining agreement.

''(i) PROVISION OF FALSE INFORMATION.—A whistleblower shall not be entitled to an award under this section if the whistleblower—

''(1) knowingly and willfully makes any false, fictitious, or fraudulent statement or representation; or

''(2) uses any false writing or document knowing the writing or document contains any false, fictitious, or fraudulent statement or entry.

''(j) RULEMAKING AUTHORITY.—The Commission shall have the authority to issue such rules and regulations as may be necessary or appropriate to implement the provisions of this section consistent with the purposes of this section.''.

SEC. 923. CONFORMING AMENDMENTS FOR WHISTLEBLOWER PROTECTION.

(a) IN GENERAL.—

(1) SECURITIES ACT OF 1933.—Section 20(d)(3)(A) of the Securities Act of 1933 (15 U.S.C. 77t(d)(3)(A)) is amended by inserting ''and section 21F of the Securities Exchange Act of 1934'' after ''the Sarbanes-Oxley Act of 2002''.

(2) INVESTMENT COMPANY ACT OF 1940.—Section 42(e)(3)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–41(e)(3)(A)) is amended by inserting ''and section 21F of the Securities Exchange Act of 1934'' after ''the Sarbanes-Oxley Act of 2002''.

(3) INVESTMENT ADVISERS ACT OF 1940.—Section 209(e)(3)(A) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–9(e)(3)(A)) is amended by inserting ''and section 21F of the Securities Exchange Act of 1934'' after ''the Sarbanes-Oxley Act of 2002''.

(b) SECURITIES EXCHANGE ACT.—

(1) SECTION 21.—Section 21(d)(3)(C)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(C)(i)) is amended by inserting ''and section 21F of this title'' after ''the Sarbanes-Oxley Act of 2002''.

(2) SECTION 21A.—Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1) is amended—

(A) in subsection (d)(1) by—

(i) striking ''(subject to subsection (e))''; and

(ii) inserting ''and section 21F of this title'' after ''the Sarbanes-Oxley Act of 2002'';

(B) by striking subsection (e); and

(C) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 924. IMPLEMENTATION AND TRANSITION PROVISIONS FOR WHISTLEBLOWER PROTECTION.

(a) IMPLEMENTING RULES.—The Commission shall issue final regulations implementing the provisions of section 21F of the Securities Exchange Act of 1934, as added by this subtitle, not later than 270 days after the date of enactment of this Act.

(b) ORIGINAL INFORMATION.—Information provided to the Commission by a whistleblower in accordance with the regulations referenced in subsection (a) shall not lose the status of original information (as defined in section 21F(i)(1) of the Securities Exchange Act of 1934, as added by this subtitle) solely because the whistleblower provided the information prior to the effective date of the regulations, provided that the information is—

(1) provided by the whistleblower after the date of enactment of this subtitle, or monetary sanctions are collected after the date of enactment of this subtitle; or

(2) related to a violation for which an award under section 21F of the Securities Exchange Act of 1934, as added by this subtitle, could have been paid at the time the information was provided by the whistleblower.

(c) AWARDS.—A whistleblower may receive an award pursuant to section 21F of the Securities Exchange Act of 1934, as added by this subtitle, regardless of whether any violation of a provision of the securities laws, or a rule or regulation thereunder, underlying the judicial or administrative action upon which the award is based, occurred prior to the date of enactment of this subtitle.

SEC. 925. COLLATERAL BARS.

(a) SECURITIES EXCHANGE ACT OF 1934.—

(1) SECTION 15.—Section 15(b)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)(A)) is amended by striking ''12 months, or bar such person from being associated with a broker or dealer,'' and inserting ''12 months, or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization,''.

(2) SECTION 15B.—Section 15B(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(c)(4)) is amended by striking ''twelve months or bar any such person from being associated with a municipal securities dealer,'' and inserting ''12 months or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization,''.

(3) SECTION 17A.—Section 17A(c)(4)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(c)(4)(C)) is amended by striking ''twelve months or bar any such person from being associated with the transfer agent,'' and inserting ''12 months or bar any such person from being associated with any transfer agent, broker, dealer, investment adviser, municipal securities dealer, municipal advisor, or nationally recognized statistical rating organization,''.

(b) INVESTMENT ADVISERS ACT OF 1940.—Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(f)) is amended by striking ''twelve months or bar any such person from being associated with an investment adviser,'' and inserting ''12 months or bar any such person from being associated with an investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization,''.

SEC. 926. AUTHORITY OF STATE REGULATORS OVER REGULATION D OFFERINGS.

Section 18(b)(4) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)) is amended—

(1) by striking ''A security'' and inserting ''(A) IN GENERAL—A security'';

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and adjusting the margins accordingly; and

(3) by striking clause (iv), as so redesignated, and inserting the following:

''(iv) Commission rules or regulations issued under section 4(2), except that the Commission may designate, by rule, a class of securities that it deems not to be covered securities because the offering of such securities is not of sufficient size or scope.

''(v) Not later than 360 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall conduct a rulemaking to determine whether to designate a class of securities because the offering of such securities is not of sufficient size or scope.

''(B) DESIGNATION OF NON-COVERED SECURITIES.—In making a designation under subparagraph (A)(iv), the Commission shall consider—

''(i) the size of the offering;

''(ii) the number of States in which the security is being offered; and

''(iii) the nature of the persons to whom the security is being offered.

''(C) REVIEW OF FILINGS.—

''(i) IN GENERAL.—The Commission shall review any filings made relating to any security issued under Commission rules or regulations under section 4(2), other than one designated as a non-covered security under subparagraph (A)(iv), not later than 120 days of the filing with the Commission.

''(ii) FAILURE TO REVIEW WITHIN 120 DAYS.—If the Commission fails to review a filing required under clause (i), the security shall no longer be a covered security, except that—

''(I) the failure of the Commission to review a filing shall not result in the loss of status as a covered security if the Commission, not later than 120 days of the filing with the Commission, has determined that there has been a good faith and reasonable attempt by the issuer to comply with all applicable terms, conditions, and requirements of the filing; and

''(II) upon review of the filing, if the Commission, not later than 120 days of the filing with the Commission, determines that any failure to comply with the applicable filing terms, conditions, and requirements is insignificant to the offering as a whole.

''(D) EFFECT ON STATE FILING REQUIREMENTS.—

''(i) IN GENERAL.—Nothing in subparagraph (A)(iv), (B), or (C) shall be construed to prohibit a State from imposing notice filing requirements that are substantially similar to filing requirements required by rule or regulation under section 4(4) that were in effect on September 1, 1996.

''(ii) NOTIFICATION.—Not later than 180 days after the date of enactment of the Restoring American Financial Stability Act of 2010, the Commission shall implement procedures, after consultation with the States, to promptly notify States upon completion of review of securities offerings described in subparagraph (A)(iv) by the Commission.

''(E) OFFERINGS AFFECTED.—The requirements of this section shall apply to offerings filed on or after the date of enactment of the Restoring Financial Stability Act of 2010.''.

SEC. 927. EQUAL TREATMENT OF SELF-REGULATORY ORGANIZATION RULES.

Section 29(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78cc(a)) is amended by striking ''an exchange required thereby'' and inserting ''a self-regulatory organization,''.

SEC. 928. CLARIFICATION THAT SECTION 205 OF THE INVESTMENT ADVISERS ACT OF 1940 DOES NOT APPLY TO STATE-REGISTERED ADVISERS.

Section 205(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–5(a)) is amended, in the matter preceding paragraph (1)—

(1) by striking '', unless exempt from registration pursuant to section 203(b),'' and inserting ''registered or required to be registered with the Commission'';

(2) by striking ''make use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to''; and

(3) by striking ''to'' after ''in any way''.

SEC. 929. UNLAWFUL MARGIN LENDING.

Section 7(c)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78g(c)(1)(A)) is amended by striking ''; and'' and inserting ''; or''.

SEC. 929A. PROTECTION FOR EMPLOYEES OF SUBSIDIARIES AND AFFILIATES OF PUBLICLY TRADED COMPANIES.

Section 1514A of title 18, United States Code, is amended by inserting ''including any subsidiary or affiliate whose financial information is included in the consolidated financial statements of such company'' after ''the Securities Exchange Act of 1934 (15 U.S.C. 78o(d))''.

SEC. 929B. FAIR FUND AMENDMENTS.

Section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(a)) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) CIVIL PENALTIES TO BE USED FOR THE RELIEF OF VICTIMS.—If, in any judicial or administrative action brought by the Commission under the securities laws, the Commission obtains a civil penalty against any person for a violation of such laws, or such person agrees, in settlement of any such action, to such civil penalty, the amount of such civil penalty shall, on the motion or at the direction of the Commission, be added to and become part of a disgorgement fund or other fund established for the benefit of the victims of such violation.'';

(2) in subsection (b)—

(A) by striking ''for a disgorgement fund described in subsection (a)'' and inserting ''for a disgorgement fund or other fund described in subsection (a)''; and

(B) by striking ''in the disgorgement fund'' and inserting ''in such fund''; and

(3) by striking subsection (e).

SEC. 929C. INCREASING THE BORROWING LIMIT ON TREASURY LOANS.

Section 4(h) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78ddd(h)) is amended in the first sentence, by striking ''$1,000,000,000'' and inserting ''$2,500,000,000''.

Subtitle C—Improvements to the Regulation of Credit Rating Agencies

SEC. 931. FINDINGS.

Congress finds the following:

(1) Because of the systemic importance of credit ratings and the reliance placed on credit ratings by individual and institutional investors and financial regulators, the activities and performances of credit rating agencies, including nationally recognized statistical rating organizations, are matters of national public interest, as credit rating agencies are central to capital formation, investor confidence, and the efficient performance of the United States economy.

(2) Credit rating agencies, including nationally recognized statistical rating organizations, play a critical ''gatekeeper'' role in the debt market that is functionally similar to that of securities analysts, who evaluate the quality of securities in the equity market, and auditors, who review the financial statements of firms. Such role justifies a similar level of public oversight and accountability.

(3) Because credit rating agencies perform evaluative and analytical services on behalf of clients, much as other financial ''gatekeepers'' do, the activities of credit rating agencies are fundamentally commercial in character and should be subject to the same standards of liability and oversight as apply to auditors, securities analysts, and investment bankers.

(4) In certain activities, particularly in advising arrangers of structured financial products on potential ratings of such products, credit rating agencies face conflicts of interest that need to be carefully monitored and that therefore should be addressed explicitly in legislation in order to give clearer authority to the Securities and Exchange Commission.

(5) In the recent financial crisis, the ratings on structured financial products have proven to be inaccurate. This inaccuracy contributed significantly to the mismanagement of risks by financial institutions and investors, which in turn adversely impacted the health of the economy in the United States and around the world. Such inaccuracy necessitates increased accountability on the part of credit rating agencies.

SEC. 932. ENHANCED REGULATION, ACCOUNTABILITY, AND TRANSPARENCY OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7) is amended—

(1) in subsection (c)—

(A) in paragraph (2)—

(i) in the second sentence, by inserting ''any other provision of this section, or'' after ''Notwithstanding''; and

(ii) by inserting after the period at the end the following: ''Nothing in this paragraph may be construed to afford a defense against any action or proceeding brought by the Commission to enforce the antifraud provisions of the securities laws.''; and

(B) by adding at the end the following:

''(3) INTERNAL CONTROLS OVER PROCESSES FOR DETERMINING CREDIT RATINGS.—

''(A) IN GENERAL.—Each nationally recognized statistical rating organization shall establish, maintain, enforce, and document an effective internal control structure governing the implementation of and adherence to policies, procedures, and methodologies for determining credit ratings, taking into consideration such factors as the Commission may prescribe, by rule.

''(B) ATTESTATION REQUIREMENT.—The Commission shall prescribe rules requiring each nationally recognized statistical rating organization to submit to the Commission an annual internal controls report, which shall contain—

''(i) a description of the responsibility of the management of the nationally recognized statistical rating organization in establishing and maintaining an effective internal control structure under subparagraph (A);

''(ii) an assessment of the effectiveness of the internal control structure of the nationally recognized statistical rating organization; and

''(iii) the attestation of the chief executive officer, or equivalent individual, of the nationally recognized statistical rating organization.'';

(2) in subsection (d)—

(A) in the subsection heading, by inserting ''FINE,'' after ''CENSURE,'';

(B) by inserting ''fine,'' after ''censure,'' each place that term appears;

(C) in paragraph (2), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and adjusting the clause margins accordingly;

(D) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and adjusting the subparagraph margins accordingly;

(E) in the matter preceding subparagraph (A), as so redesignated, by striking ''The Commission'' and inserting the following:

''(1) IN GENERAL.—The Commission'';

(F) in subparagraph (D), as so redesignated, by striking ''or'' at the end;

(G) in subparagraph (E), as so redesignated, by striking the period at the end and inserting a semicolon; and

(H) by adding at the end the following:

''(F) has failed reasonably to supervise, with a view to preventing a violation of the securities laws, an individual who commits such a violation, if the individual is subject to the supervision of that person.

''(2) SUSPENSION OR REVOCATION FOR PARTICULAR CLASS OF SECURITIES.—

''(A) IN GENERAL.—The Commission may temporarily suspend or permanently revoke the registration of a nationally recognized statistical rating organization with respect to a particular class or subclass of securities, if the Commission finds, on the record after notice and opportunity for hearing, that the nationally recognized statistical rating organization does not have adequate financial and managerial resources to consistently produce credit ratings with integrity.

''(B) CONSIDERATIONS.—In making any determination under subparagraph (A), the Commission shall consider—

''(i) whether the nationally recognized statistical rating organization has failed over a sustained period of time, as determined by the Commission, to produce ratings that are accurate for that class or subclass of securities; and

''(ii) such other factors as the Commission may determine.'';

(3) in subsection (h), by adding at the end the following:

''(3) SEPARATION OF RATINGS FROM SALES AND MARKETING.—

''(A) RULES REQUIRED.—The Commission shall issue rules to prevent the sales and marketing considerations of a nationally recognized statistical rating organization from influencing the production of ratings by the nationally recognized statistical rating organization.

''(B) CONTENTS OF RULES.—The rules issued under subparagraph (A) shall provide for—

''(i) exceptions for small nationally recognized statistical rating organizations with respect to which the Commission determines that the separation of the production of ratings and sales and marketing activities is not appropriate; and

''(ii) suspension or revocation of the registration of a nationally recognized statistical rating organization, if the Commission finds, on the record, after notice and opportunity for a hearing, that—

''(I) the nationally recognized statistical rating organization has committed a violation of a rule issued under this subsection; and

''(II) the violation of a rule issued under this subsection affected a rating.'';

(4) in subsection (j)—

(A) by striking ''Each'' and inserting the following:

''(1) IN GENERAL.—Each''; and

(B) by adding at the end the following:

''(2) LIMITATIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an individual designated under paragraph (1) may not, while serving in the designated capacity—

''(i) perform credit ratings;

''(ii) participate in the development of ratings methodologies or models;

''(iii) perform marketing or sales functions; or

''(iv) participate in establishing compensation levels, other than for employees working for that individual.

''(B) EXCEPTION.—The Commission may exempt a small nationally recognized statistical rating organization from the limitations under this paragraph, if the Commission finds that compliance with such limitations would impose an unreasonable burden on the nationally recognized statistical rating organization.

''(3) OTHER DUTIES.—Each individual designated under paragraph (1) shall establish procedures for the receipt, retention, and treatment of—

''(A) complaints regarding credit ratings, models, methodologies, and compliance with the securities laws and the policies and procedures developed under this section; and

''(B) confidential, anonymous complaints by employees or users of credit ratings.

''(4) ANNUAL REPORTS REQUIRED.—

''(A) ANNUAL REPORTS REQUIRED.—Each individual designated under paragraph (1) shall submit to the nationally recognized statistical rating organization an annual report on the compliance of the nationally recognized statistical rating organization with the securities laws and the policies and procedures of the nationally recognized statistical rating organization that includes—

''(i) a description of any material changes to the code of ethics and conflict of interest policies of the nationally recognized statistical rating organization; and

''(ii) a certification that the report is accurate and complete.

''(B) SUBMISSION OF REPORTS TO THE COMMISSION.—Each nationally recognized statistical rating organization shall file the reports required under subparagraph (A) together with the financial report that is required to be submitted to the Commission under this section.''; and

(5) by striking subsection (p) and inserting the following:

''(p) REGULATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.—

''(1) ESTABLISHMENT OF OFFICE OF CREDIT RATINGS.—

''(A) OFFICE ESTABLISHED.—The Commission shall establish within the Commission an Office of Credit Ratings (referred to in this subsection as the 'Office') to administer the rules of the Commission—

''(i) with respect to the practices of nationally recognized statistical rating organizations in determining ratings, for the protection of users of credit ratings and in the public interest;

''(ii) to promote accuracy in credit ratings issued by nationally recognized statistical rating organizations; and

''(iii) to ensure that such ratings are not unduly influenced by conflicts of interest.

''(B) DIRECTOR OF THE OFFICE.—The head of the Office shall be the Director, who shall report to the Chairman.

''(2) STAFFING.—The Office established under this subsection shall be staffed sufficiently to carry out fully the requirements of this section. The staff shall include persons with knowledge of and expertise in corporate, municipal, and structured debt finance.

''(3) COMMISSION EXAMINATIONS.—

''(A) ANNUAL EXAMINATIONS REQUIRED.—The Office shall conduct an examination of each nationally recognized statistical rating organization at least annually.

''(B) CONDUCT OF EXAMINATIONS.—Each examination under subparagraph (A) shall include a review of—

''(i) whether the nationally recognized statistical rating organization conducts business in accordance with the policies, procedures, and rating methodologies of the nationally recognized statistical rating organization;

''(ii) the management of conflicts of interest by the nationally recognized statistical rating organization;

''(iii) implementation of ethics policies by the nationally recognized statistical rating organization;

''(iv) the internal supervisory controls of the nationally recognized statistical rating organization;

''(v) the governance of the nationally recognized statistical rating organization;

''(vi) the activities of the individual designated by the nationally recognized statistical rating organization under subsection (j)(1);

''(vii) the processing of complaints by the nationally recognized statistical rating organization; and

''(viii) the policies of the nationally recognized statistical rating organization governing the post-employment activities of former staff of the nationally recognized statistical rating organization.

''(C) INSPECTION REPORTS.—The Commission shall make available to the public, in an easily understandable format, an annual report summarizing—

''(i) the essential findings of all examinations conducted under subparagraph (A), as deemed appropriate by the Commission;

''(ii) the responses by the nationally recognized statistical rating organizations to any material regulatory deficiencies identified by the Commission under clause (i); and

''(iii) whether the nationally recognized statistical rating organizations have appropriately addressed the recommendations of the Commission contained in previous reports under this subparagraph.

''(4) RULEMAKING AUTHORITY.—The Commission shall—

''(A) establish, by rule, fines, and other penalties applicable to any nationally recognized statistical rating organization that violates the requirements of this subsection and the rules thereunder; and

''(B) issue such rules as may be necessary to carry out this subsection.

''(q) TRANSPARENCY OF RATINGS PERFORMANCE.—

''(1) RULEMAKING REQUIRED.—The Commission shall, by rule, require that each nationally recognized statistical rating organization publicly disclose information on the initial credit ratings determined by the nationally recognized statistical rating organization for each type of obligor, security, and money market instrument, and any subsequent changes to such credit ratings, for the purpose of allowing users of credit ratings to evaluate the accuracy of ratings and compare the performance of ratings by different nationally recognized statistical rating organizations.

''(2) CONTENT.—The rules of the Commission under this subsection shall require, at a minimum, disclosures that—

''(A) are comparable among nationally recognized statistical rating organizations, to allow users of credit ratings to compare the performance of credit ratings across nationally recognized statistical rating organizations;

''(B) are clear and informative for investors who use or might use credit ratings;

''(C) include performance information over a range of years and for a variety of types of credit ratings, including for credit ratings withdrawn by the nationally recognized statistical rating organization;

''(D) are published and made freely available by the nationally recognized statistical rating organization, on an easily accessible portion of its website, and in writing, when requested; and

''(E) are appropriate to the business model of a nationally recognized statistical rating organization.

''(r) CREDIT RATINGS METHODOLOGIES.—The Commission shall prescribe rules, for the protection of investors and in the public interest, with respect to the procedures and methodologies, including qualitative and quantitative data and models, used by nationally recognized statistical rating organizations that require each nationally recognized statistical rating organization—

''(1) to ensure that credit ratings are determined using procedures and methodologies, including qualitative and quantitative data and models, that are—

''(A) approved by the board of the nationally recognized statistical rating organization, a body performing a function similar to that of a board, or the senior credit officer of the nationally recognized statistical rating organization; and

''(B) in accordance with the policies and procedures of the nationally recognized statistical rating organization for the development and modification of credit rating procedures and methodologies;

''(2) to ensure that when material changes to credit rating procedures and methodologies (including changes to qualitative and quantitative data and models) are made, that—

''(A) the changes are applied consistently to all credit ratings to which the changed procedures and methodologies apply;

''(B) to the extent that changes are made to credit rating surveillance procedures and methodologies, the changes are applied to then-current credit ratings by the nationally recognized statistical rating organization within a reasonable time period determined by the Commission, by rule; and

''(C) the nationally recognized statistical rating organization publicly discloses the reason for the change; and

''(3) to notify users of credit ratings—

''(A) of the version of a procedure or methodology, including the qualitative methodology or quantitative inputs, used with respect to a particular credit rating;

''(B) when a material change is made to a procedure or methodology, including to a qualitative model or quantitative inputs;

''(C) when a significant error is identified in a procedure or methodology, including a qualitative or quantitative model, that may result in credit rating actions; and

''(D) of the likelihood of a material change described in subparagraph (B) resulting in a change in current credit ratings.

''(s) TRANSPARENCY OF CREDIT RATING METHODOLOGIES AND INFORMATION REVIEWED.—

''(1) FORM FOR DISCLOSURES.—The Commission shall require, by rule, each nationally recognized statistical rating organization to prescribe a form to accompany the publication of each credit rating that discloses—

''(A) information relating to—

''(i) the assumptions underlying the credit rating procedures and methodologies;

''(ii) the data that was relied on to determine the credit rating; and

''(iii) if applicable, how the nationally recognized statistical rating organization used servicer or remittance reports, and with what frequency, to conduct surveillance of the credit rating; and

''(B) information that can be used by investors and other users of credit ratings to better understand credit ratings in each class of credit rating issued by the nationally recognized statistical rating organization.

''(2) FORMAT.—The form developed under paragraph (1) shall—

''(A) be easy to use and helpful for users of credit ratings to understand the information contained in the report;

''(B) require the nationally recognized statistical rating organization to provide the content described in paragraph (3)(B) in a manner that is directly comparable across types of securities; and

''(C) be made readily available to users of credit ratings, in electronic or paper form, as the Commission may, by rule, determine.

''(3) CONTENT OF FORM.—

''(A) QUALITATIVE CONTENT.—Each nationally recognized statistical rating organization shall disclose on the form developed under paragraph (1)—

''(i) the credit ratings produced by the nationally recognized statistical rating organization;

''(ii) the main assumptions and principles used in constructing procedures and methodologies, including qualitative methodologies and quantitative inputs and assumptions about the correlation of defaults across obligors used in rating structured products;

''(iii) the potential limitations of the credit ratings, and the types of risks excluded from the credit ratings that the nationally recognized statistical rating organization does not comment on, including liquidity, market, and other risks;

''(iv) information on the uncertainty of the credit rating, including—

''(I) information on the reliability, accuracy, and quality of the data relied on in determining the credit rating; and

''(II) a statement relating to the extent to which data essential to the determination of the credit rating were reliable or limited, including—

''(aa) any limits on the scope of historical data; and

''(bb) any limits in accessibility to certain documents or other types of information that would have better informed the credit rating;

''(v) whether and to what extent third party due diligence services have been used by the nationally recognized statistical rating organization, a description of the information that such third party reviewed in conducting due diligence services, and a description of the findings or conclusions of such third party;

''(vi) a description of the data about any obligor, issuer, security, or money market instrument that were relied upon for the purpose of determining the credit rating;

''(vii) a statement containing an overall assessment of the quality of information available and considered in producing a rating for an obligor, security, or money market instrument, in relation to the quality of information available to the nationally recognized statistical rating organization in rating similar issuances;

''(viii) information relating to conflicts of interest of the nationally recognized statistical rating organization; and

''(ix) such additional information as the Commission may require.

''(B) QUANTITATIVE CONTENT.—Each nationally recognized statistical rating organization shall disclose on the form developed under this subsection—

''(i) an explanation or measure of the potential volatility of the credit rating, including—

''(I) any factors that might lead to a change in the credit ratings; and

''(II) the magnitude of the change that a user can expect under different market conditions;

''(ii) information on the content of the rating, including—

''(I) the historical performance of the rating; and

''(II) the expected probability of default and the expected loss in the event of default;

''(iii) information on the sensitivity of the rating to assumptions made by the nationally recognized statistical rating organization; and

''(iv) such additional information as may be required by the Commission.

''(4) DUE DILIGENCE SERVICES FOR ASSET-BACKED SECURITIES.—

''(A) FINDINGS.—The issuer or underwriter of any asset-backed security shall make publicly available the findings and conclusions of any third-party due diligence report obtained by the issuer or underwriter.

''(B) CERTIFICATION REQUIRED.—In any case in which third-party due diligence services are employed by a nationally recognized statistical rating organization, an issuer, or an underwriter, the person providing the due diligence services shall provide to any nationally recognized statistical rating organization that produces a rating to which such services relate, written certification, as provided in subparagraph (C).

''(C) FORMAT AND CONTENT.—The Commission shall establish the appropriate format and content for the written certifications required under subparagraph (B), to ensure that providers of due diligence services have conducted a thorough review of data, documentation, and other relevant information necessary for a nationally recognized statistical rating organization to provide an accurate rating.

''(D) DISCLOSURE OF CERTIFICATION.—The Commission shall adopt rules requiring a nationally recognized statistical rating organization, at the time at which the nationally recognized statistical rating organization produces a rating, to disclose the certification described in subparagraph (B) to the public in a manner that allows the public to determine the adequacy and level of due diligence services provided by a third party.

''(t) CORPORATE GOVERNANCE, ORGANIZATION, AND MANAGEMENT OF CONFLICTS OF INTEREST.—

''(1) BOARD OF DIRECTORS.—Each nationally recognized statistical rating organization shall have a board of directors.

''(2) INDEPENDENT DIRECTORS.—

''(A) IN GENERAL.—At least ½ of the board of directors, but not fewer than 2 of the members thereof, shall be independent of the nationally recognized statistical rating agency. A portion of the independent directors shall include users of ratings from a nationally recognized statistical rating organization.

''(B) INDEPENDENCE DETERMINATION.—In order to be considered independent for purposes of this subsection, a member of the board of directors of a nationally recognized statistical rating organization—

''(i) may not, other than in his or her capacity as a member of the board of directors or any committee thereof—

''(I) accept any consulting, advisory, or other compensatory fee from the nationally recognized statistical rating organization; or

''(II) be a person associated with the nationally recognized statistical rating organization or with any affiliated company thereof; and

''(ii) shall be disqualified from any deliberation involving a specific rating in which the independent board member has a financial interest in the outcome of the rating.

''(C) COMPENSATION AND TERM.—The compensation of the independent members of the board of directors of a nationally recognized statistical rating organization shall not be linked to the business performance of the nationally recognized statistical rating organization, and shall be arranged so as to ensure the independence of their judgment. The term of office of the independent directors shall be for a pre-agreed fixed period, not to exceed 5 years, and shall not be renewable.

''(3) DUTIES OF BOARD OF DIRECTORS.—In addition to the overall responsibilities of the board of directors, the board shall oversee—

''(A) the establishment, maintenance, and enforcement of policies and procedures for determining credit ratings;

''(B) the establishment, maintenance, and enforcement of policies and procedures to address, manage, and disclose any conflicts of interest;

''(C) the effectiveness of the internal control system with respect to policies and procedures for determining credit ratings; and

''(D) the compensation and promotion policies and practices of the nationally recognized statistical rating organization.

''(4) TREATMENT OF NRSRO SUBSIDIARIES.—If a nationally recognized statistical rating organization is a subsidiary of a parent entity, the board of the directors of the parent entity may satisfy the requirements of this subsection by assigning to a committee of such board of directors the duties under paragraph (3), if—

''(A) at least ½ of the members of the committee (including the chairperson of the committee) are independent, as defined in this section; and

''(B) at least 1 member of the committee is a user of ratings from a nationally recognized statistical rating organization.

''(5) EXCEPTION AUTHORITY.—If the Commission finds that compliance with the provisions of this subsection present an unreasonable burden on a small nationally recognized statistical rating organization, the Commission may permit the nationally recognized statistical rating organization to delegate such responsibilities to a committee that includes at least one individual who is a user of ratings of a nationally recognized statistical rating organization.''.

SEC. 933. STATE OF MIND IN PRIVATE ACTIONS.

(a) ACCOUNTABILITY.—Section 15E(m) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7(m)) is amended to read as follows:

''(m) ACCOUNTABILITY.—

''(1) IN GENERAL.—The enforcement and penalty provisions of this title shall apply to statements made by a credit rating agency in the same manner and to the same extent as such provisions apply to statements made by a registered public accounting firm or a securities analyst under the securities laws, and such statements shall not be deemed forward-looking statements for the purposes of section 21E.

''(2) RULEMAKING.—The Commission shall issue such rules as may be necessary to carry out this subsection.''.

(b) STATE OF MIND.—Section 21D(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–4(b)(2)) is amended—

(1) by striking ''In any'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), in any''; and

(2) by adding at the end the following:

''(B) EXCEPTION.—In the case of an action for money damages brought against a credit rating agency or a controlling person under this title, it shall be sufficient, for purposes of pleading any required state of mind in relation to such action, that the complaint state with particularity facts giving rise to a strong inference that the credit rating agency knowingly or recklessly failed—

''(i) to conduct a reasonable investigation of the rated security with respect to the factual elements relied upon by its own methodology for evaluating credit risk; or

''(ii) to obtain reasonable verification of such factual elements (which verification may be based on a sampling technique that does not amount to an audit) from other sources that the credit rating agency considered to be competent and that were independent of the issuer and underwriter.''.

SEC. 934. REFERRING TIPS TO LAW ENFORCEMENT OR REGULATORY AUTHORITIES.

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7), as amended by this subtitle, is amended by adding at the end the following:

''(u) DUTY TO REPORT TIPS ALLEGING MATERIAL VIOLATIONS OF LAW.—

''(1) DUTY TO REPORT.—Each nationally recognized statistical rating organization shall refer to the appropriate law enforcement or regulatory authorities any information that the nationally recognized statistical rating organization receives from a third party and finds credible that alleges that an issuer of securities rated by the nationally recognized statistical rating organization has committed or is committing a material violation of law that has not been adjudicated by a Federal or State court.

''(2) RULE OF CONSTRUCTION.—Nothing in paragraph (1) may be construed to require a nationally recognized statistical rating organization to verify the accuracy of the information described in paragraph (1).''.

SEC. 935. CONSIDERATION OF INFORMATION FROM SOURCES OTHER THAN THE ISSUER IN RATING DECISIONS.

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7), as amended by this subtitle, is amended by adding at the end the following:

''(v) INFORMATION FROM SOURCES OTHER THAN THE ISSUER.—In producing a credit rating, a nationally recognized statistical rating organization shall consider information about an issuer that the nationally recognized statistical rating organization has, or

receives from a source other than the issuer, that the nationally recognized statistical rating organization finds credible and potentially significant to a rating decision.''.

SEC. 936. QUALIFICATION STANDARDS FOR CREDIT RATING ANALYSTS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue rules that are reasonably designed to ensure that any person employed by a nationally recognized statistical rating organization to perform credit ratings—

(1) meets standards of training, experience, and competence necessary to produce accurate ratings for the categories of issuers whose securities the person rates; and

(2) is tested for knowledge of the credit rating process.

SEC. 937. TIMING OF REGULATIONS.

Unless otherwise specifically provided in this subtitle, the Commission shall issue final regulations, as required by this subtitle and the amendments made by this subtitle, not later than 1 year after the date of enactment of this Act.

SEC. 938. UNIVERSAL RATINGS SYMBOLS.

(a) RULEMAKING.—The Commission shall require, by rule, each nationally recognized statistical rating organization to establish, maintain, and enforce written policies and procedures that—

(1) assess the probability that an issuer of a security or money market instrument will default, fail to make timely payments, or otherwise not make payments to investors in accordance with the terms of the security or money market instrument;

(2) clearly define and disclose the meaning of any symbol used by the nationally recognized statistical rating organization to denote a credit rating; and

(3) apply any symbol described in paragraph (2) in a manner that is consistent for all types of securities and money market instruments for which the symbol is used.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall prohibit a nationally recognized statistical rating organization from using distinct sets of symbols to denote credit ratings for different types of securities or money market instruments.

SEC. 939. GOVERNMENT ACCOUNTABILITY OFFICE STUDY AND FEDERAL AGENCY REVIEW OF REQUIRED USES OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION RATINGS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the scope of provisions of Federal and State laws and regulations with respect to the regulation of securities markets, banking, insurance, and other areas that require the use of ratings issued by nationally recognized statistical rating organizations (in this section referred to as the ''ratings requirements'').

(b) SUBJECTS FOR EVALUATION; PROCESS OF EVALUATION.—

(1) SUBJECTS FOR EVALUATION.—In conducting the study under subsection (a), the Comptroller General of the United States shall evaluate—

(A) the necessity for and purpose of ratings requirements;

(B) which ratings requirements, if any, could be removed with minimal disruption to the financial markets;

(C) the potential impact on the financial markets and on investors if the ratings requirements identified under subparagraph (B) were rescinded; and

(D) whether the financial markets and investors would benefit from the rescission of such ratings requirements.

(2) PROCESS OF EVALUATION.—In conducting the study under subsection (a), the Comptroller General of the United States shall research and take into consideration the views of—

(A) the Federal financial regulatory agencies;

(B) hedge funds;

(C) banks;

(D) brokerage firms;

(E) mutual funds;

(F) pension funds; and

(G) all other interested parties.

(c) REPORT AND RECOMMENDATIONS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the results of the study conducted under subsection (a), including recommendations, if any, on—

(1) which ratings requirements, if any, could be removed with minimal disruption to the markets; and

(2) whether the financial markets and investors would benefit from the rescission of the ratings requirements identified under paragraph (1).

(d) FEDERAL AGENCY REVIEW OF RATINGS REQUIREMENTS.—

(1) REVIEW.—Each covered Federal agency shall review—

(A) any regulation of the covered Federal agency that requires the use of an assessment of the credit worthiness of a security or money market instrument;

(B) any other reference to credit ratings or requirement relating to credit ratings in a regulation of the covered Federal agency; and

(C) alternative standards of creditworthiness that are based on market-generated indicators, including yield spreads, bond prices, and credit default swap spreads.

(2) MODIFICATIONS REQUIRED.—Except as provided in paragraph (3), each covered Federal agency shall modify any regulation identified under paragraph (1)—

(A) to remove any reference to credit ratings or a credit ratings requirement in the regulation; and

(B) to amend the regulation to require the use of a standard of credit worthiness that—

(i) is not related to credit ratings; and

(ii) the covered Federal agency determines appropriate.

(3) EXCEPTION.—A covered Federal agency may elect not to amend a regulation identified under paragraph (1), if the covered Federal agency determines that—

(A) there is no reasonable alternative standard of credit worthiness that could replace a credit rating for purposes of the regulation; and

(B) an amendment to the regulation would be inconsistent with the purposes of the statute that authorized the regulation and not in the public interest.

(4) REPORT.—Not later than 1 year after the date on which the Comptroller General submits the report required under subsection (c), each covered Federal agency shall submit to Congress a report that contains—

(A) a description of any amendment under paragraph (2); and

(B) an explanation of any determination under paragraph (3).

(5) DEFINITION.—In this subsection, the term ''covered Federal agency'' means—

(A) the Commission;

(B) the Corporation;

(C) the Office of the Comptroller of the Currency;

(D) the Board of Governors;

(E) the National Credit Union Administration; and

(F) the Federal Housing Finance Agency.

SEC. 939A. SECURITIES AND EXCHANGE COMMISSION STUDY ON STRENGTHENING CREDIT RATING AGENCY INDEPENDENCE.

(a) STUDY.—The Commission shall conduct a study of—

(1) the independence of nationally recognized statistical rating organizations; and

(2) how the independence of nationally recognized statistical rating organizations affects the ratings issued by the nationally recognized statistical rating organizations.

(b) SUBJECTS FOR EVALUATION.—In conducting the study under subsection (a), the Commission shall evaluate—

(1) the management of conflicts of interest raised by a nationally recognized statistical rating organization providing other services, including risk management advisory services, ancillary assistance, or consulting services;

(2) the potential impact of rules prohibiting a nationally recognized statistical rating organization that provides a rating to an issuer from providing other services to the issuer; and

(3) any other issue relating to nationally recognized statistical rating organizations, as the Chairman of the Commission determines is appropriate.

(c) REPORT.—Not later than 3 years after the date of enactment of this Act, the Chairman of the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the results of the study conducted under subsection (a), including recommendations, if any, for improving the integrity of ratings issued by nationally recognized statistical rating organizations.

SEC. 939B. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON ALTERNATIVE BUSINESS MODELS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on alternative means for compensating nationally recognized statistical rating organizations in order to create incentives for nationally recognized statistical rating organizations to provide more accurate credit ratings, including any statutory changes that would be required to facilitate the use of an alternative means of compensation.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the results of the study conducted under subsection (a), including recommendations, if any, for providing incentives to credit rating agencies to improve the credit rating process.

SEC. 939C. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON THE CREATION OF AN INDEPENDENT PROFESSIONAL ANALYST ORGANIZATION.

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the feasibility and merits of creating an independent professional organization for rating analysts employed by nationally recognized statistical rating organizations that would be responsible for—

(1) establishing independent standards for governing the profession of rating analysts;

(2) establishing a code of ethical conduct; and

(3) overseeing the profession of rating analysts.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the results of the study conducted under subsection (a).

Subtitle D—Improvements to the Asset-Backed Securitization Process

SEC. 941. REGULATION OF CREDIT RISK RETENTION.

(a) DEFINITION OF ASSET-BACKED SECURITY.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following:

''(77) ASSET-BACKED SECURITY.—The term 'asset-backed security'—

''(A) means a fixed-income or other security collateralized by any type of self-liquidating financial asset (including a loan, a lease, a mortgage, or a secured or unsecured receivable) that allows the holder of the security to receive payments that depend primarily on cash flow from the asset, including—

''(i) a collateralized mortgage obligation;

''(ii) a collateralized debt obligation;

''(iii) a collateralized bond obligation;

''(iv) a collateralized debt obligation of asset-backed securities;

''(v) a collateralized debt obligation of collateralized debt obligations; and

''(vi) a security that the Commission, by rule, determines to be an asset-backed security for purposes of this section; and

''(B) does not include a security issued by a finance subsidiary held by the parent company or a company controlled by the parent company, if none of the securities issued by the finance subsidiary are held by an entity that is not controlled by the parent company.''.

(b) CREDIT RISK RETENTION.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15F, as added by this Act, the following:

''SEC. 15G. CREDIT RISK RETENTION.

''(a) DEFINITIONS.—In this section—

''(1) the term 'Federal banking agencies' means the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation;

''(2) the term 'insured depository institution' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

''(3) the term 'securitizer' means—

''(A) an issuer of an asset-backed security; or

''(B) a person who organizes and initiates an asset-backed securities transaction by selling or transferring assets, either directly or indirectly, including through an affiliate, to the issuer; and

''(4) the term 'originator' means a person who—

''(A) through the extension of credit or otherwise, creates a financial asset that collateralizes an asset-backed security; and

''(B) sells an asset to a securitizer.

''(b) IN GENERAL.—Not later than 270 days after the date of enactment of this section, the Federal banking agencies and the Commission shall jointly prescribe regulations to require any securitizer to retain an economic interest in a portion of the credit risk for any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party.

''(c) STANDARDS FOR REGULATIONS.—

''(1) STANDARDS.—The regulations prescribed under subsection (b) shall—

''(A) prohibit a securitizer from directly or indirectly hedging or otherwise transferring the credit risk that the securitizer is required to retain with respect to an asset;

''(B) require a securitizer to retain—

''(i) not less than 5 percent of the credit risk for any asset that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer; or

''(ii) less than 5 percent of the credit risk for an asset that is transferred, sold, or conveyed through the issuance of an asset-backed security by the securitizer, if the originator of the asset meets the underwriting standards prescribed under paragraph (2)(B);

''(C) specify—

''(i) the permissible forms of risk retention for purposes of this section; and

''(ii) the minimum duration of the risk retention required under this section;

''(D) apply, regardless of whether the securitizer is an insured depository institution; and

''(E) provide for—

''(i) a total or partial exemption of any securitization, as may be appropriate in the public interest and for the protection of investors; and

''(ii) the allocation of risk retention obligations between a securitizer and an originator in the case of a securitizer that purchases assets from an originator, as the Federal banking agencies and the Commission jointly determine appropriate.

''(2) ASSET CLASSES.—

''(A) ASSET CLASSES.—The regulations prescribed under subsection (b) shall establish asset classes with separate rules for securitizers of different classes of assets, including residential mortgages, commercial mortgages, commercial loans, auto loans, and any other class of assets that the Federal banking agencies and the Commission deem appropriate.

''(B) CONTENTS.—For each asset class established under subparagraph (A), the regulations prescribed under subsection (b) shall establish underwriting standards that specify the terms, conditions, and characteristics of a loan within the asset class that indicate a reduced credit risk with respect to the loan.

''(d) ORIGINATORS.—In determining how to allocate risk retention obligations between a securitizer and an originator under subsection (c)(1)(E)(ii), the Federal banking agencies and the Commission shall—

''(1) reduce the percentage of risk retention obligations required of the securitizer by the percentage of risk retention obligations required of the originator; and

''(2) consider—

''(A) whether the assets sold to the securitizer have terms, conditions, and characteristics that reflect reduced credit risk;

''(B) whether the form or volume of transactions in securitization markets creates incentives for imprudent origination of the type of loan or asset to be sold to the securitizer; and

''(C) the potential impact of the risk retention obligations on the access of consumers and businesses to credit on reasonable terms, which may not include the transfer of credit risk to a third party.

''(e) EXEMPTIONS, EXCEPTIONS, AND ADJUSTMENTS.—

''(1) IN GENERAL.—The Federal banking agencies and the Commission may jointly adopt or issue exemptions, exceptions, or adjustments to the rules issued under this section, including exemptions, exceptions, or adjustments for classes of institutions or assets relating to the risk retention requirement and the prohibition on hedging under subsection (c)(1).

''(2) APPLICABLE STANDARDS.—Any exemption, exception, or adjustment adopted or issued by the Federal banking agencies and the Commission under this paragraph shall—

''(A) help ensure high quality underwriting standards for the securitizers and originators of assets that are securitized or available for securitization; and

''(B) encourage appropriate risk management practices by the securitizers and originators of assets, improve the access of consumers and businesses to credit on reasonable terms, or otherwise be in the public interest and for the protection of investors.

''(3) FARM CREDIT SYSTEM INSTITUTIONS.—A Farm Credit System institution, including the Federal Agricultural Mortgage Corporation, that is chartered and subject to the provisions of the Farm Credit Act of 1971, as amended (12 U.S.C. 2001 et seq.), shall be exempt from the risk retention provisions of this subsection.

''(f) ENFORCEMENT.—The regulations issued under this section shall be enforced by—

''(1) the appropriate Federal banking agency, with respect to any securitizer that is an insured depository institution; and

''(2) the Commission, with respect to any securitizer that is not an insured depository institution.

''(g) AUTHORITY OF COMMISSION.—The authority of the Commission under this section shall be in addition to the authority of the Commission to otherwise enforce the securities laws.

''(h) EFFECTIVE DATE OF REGULATIONS.—The regulations issued under this section shall become effective—

''(1) with respect to securitizers and originators of asset-backed securities backed by residential mortgages, 1 year after the date on which final rules under this section are published in the Federal Register; and

''(2) with respect to securitizers and originators of all other classes of asset-backed securities, 2 years after the date on which final rules under this section are published in the Federal Register.''.

SEC. 942. DISCLOSURES AND REPORTING FOR ASSET-BACKED SECURITIES.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)) is amended—

(1) by striking ''(d) Each'' and inserting the following:

''(d) SUPPLEMENTARY AND PERIODIC INFORMATION.—

''(1) IN GENERAL.—Each'';

(2) in the third sentence, by inserting after ''securities of each class'' the following: '', other than any class of asset-backed securities,''; and

(3) by adding at the end the following:

''(2) ASSET-BACKED SECURITIES.—

''(A) SUSPENSION OF DUTY TO FILE.—The Commission may, by rule or regulation, provide for the suspension or termination of the duty to file under this subsection for any class of asset-backed security, on such terms and conditions and for such period or periods as the Commission deems necessary or appropriate in the public interest or for the protection of investors.

''(B) CLASSIFICATION OF ISSUERS.—The Commission may, for purposes of this subsection, classify issuers and prescribe requirements appropriate for each class of issuers of asset-backed securities.''.

(b) SECURITIES ACT OF 1933.—Section 7 of the Securities Act of 1933 (15 U.S.C. 77g) is amended by adding at the end the following:

''(c) DISCLOSURE REQUIREMENTS.—

''(1) IN GENERAL.—The Commission shall adopt regulations under this subsection requiring each issuer of an asset-backed security to disclose, for each tranche or class of security, information regarding the assets backing that security.

''(2) CONTENT OF REGULATIONS.—In adopting regulations under this subsection, the Commission shall—

''(A) set standards for the format of the data provided by issuers of an asset-backed security, which shall, to the extent feasible, facilitate comparison of such data across securities in similar types of asset classes; and

''(B) require issuers of asset-backed securities, at a minimum, to disclose asset-level or loan-level data necessary for investors to independently perform due diligence, including—

''(i) data having unique identifiers relating to loan brokers or originators;

''(ii) the nature and extent of the compensation of the broker or originator of the assets backing the security; and

''(iii) the amount of risk retention by the originator and the securitizer of such assets.''.

SEC. 943. REPRESENTATIONS AND WARRANTIES IN ASSET-BACKED OFFERINGS.

Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall prescribe regulations on the use of representations and warranties in the market for asset-backed securities (as that term is defined in section 3(a)(77) of the Securities Exchange Act of 1934, as added by this subtitle) that—

(1) require each national recognized statistical rating organization to include in any report accompanying a credit rating a description of—

(A) the representations, warranties, and enforcement mechanisms available to investors; and

(B) how they differ from the representations, warranties, and enforcement mechanisms in issuances of similar securities; and

(2) require any securitizer (as that term is defined in section 15G(a) of the Securities Exchange Act of 1934, as added by this subtitle) to disclose fulfilled and unfulfilled repurchase requests across all trusts aggregated by the securitizer, so that investors may identify asset originators with clear underwriting deficiencies.

SEC. 944. EXEMPTED TRANSACTIONS UNDER THE SECURITIES ACT OF 1933.

(a) EXEMPTION ELIMINATED.—Section 4 of the Securities Act of 1933 (15 U.S.C. 77d) is amended—

(1) by striking paragraph (5); and

(2) by striking ''(6) transactions'' and inserting the following:

''(5) transactions''.

(b) CONFORMING AMENDMENT.—Section 3(a)(4)(B)(vii)(I) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)(B)(vii)(I)) is amended by striking ''4(6)'' and inserting ''4(5)''.

SEC. 945. DUE DILIGENCE ANALYSIS AND DISCLOSURE IN ASSET-BACKED SECURITIES ISSUES.

Section 7 of the Securities Act of 1933 (15 U.S.C. 77g), as amended by this subtitle, is amended by adding at the end the following:

''(d) REGISTRATION STATEMENT FOR ASSET-BACKED SECURITIES.—Not later than 180 days after the date of enactment of this subsection, the Commission shall issue rules relating to the registration statement required to be filed by any issuer of an asset-backed security (as that term is defined in section 3(a)(77) of the Securities Exchange Act of 1934) that require any issuer of an asset-backed security—

''(1) to perform a due diligence analysis of the assets underlying the asset-backed security; and

''(2) to disclose the nature of the analysis under paragraph (1).''.

Subtitle E—Accountability and Executive Compensation

SEC. 951. SHAREHOLDER VOTE ON EXECUTIVE COMPENSATION DISCLOSURES.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 14 (15 U.S.C. 78n) the following:

''SEC. 14A. ANNUAL SHAREHOLDER APPROVAL OF EXECUTIVE COMPENSATION.

''(a) SEPARATE RESOLUTION REQUIRED.—Any proxy or consent or authorization for an annual or other meeting of the shareholders occurring after the end of the 6-month period beginning on the date of enactment of this section, for which the proxy solicitation rules of the Commission require compensation disclosure, shall include a separate resolution subject to shareholder vote to approve the compensation of executives, as disclosed pursuant to section 229.402 of title 17, Code of Federal Regulations, or any successor thereto.

''(b) RULE OF CONSTRUCTION.—The shareholder vote referred to in subsection (a) shall not be binding on the issuer or the board of directors of an issuer, and may not be construed—

''(1) as overruling a decision by such issuer or board of directors;

''(2) to create or imply any change to the fiduciary duties of such issuer or board of directors;

''(3) to create or imply any additional fiduciary duties for such issuer or board of directors; or

''(4) to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation.''.

SEC. 952. COMPENSATION COMMITTEE INDEPENDENCE.

The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended by inserting after section 10B, as added by section 753, the following:

''SEC. 10C. COMPENSATION COMMITTEES.

''(a) INDEPENDENCE OF COMPENSATION COMMITTEES.—

''(1) LISTING STANDARDS.—The Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that does not comply with the requirements of this subsection.

''(2) INDEPENDENCE OF COMPENSATION COMMITTEES.—The rules of the Commission under paragraph (1) shall require that each member of the compensation committee of the board of directors of an issuer be—

''(A) a member of the board of directors of the issuer; and

''(B) independent.

''(3) INDEPENDENCE.—The rules of the Commission under paragraph (1) shall require that, in determining the definition of the term 'independence' for purposes of paragraph (2), the national securities exchanges and the national securities associations shall consider relevant factors, including—

''(A) the source of compensation of a member of the board of directors of an issuer, including any consulting, advisory, or other compensatory fee paid by the issuer to such member of the board of directors; and

''(B) whether a member of the board of directors of an issuer is affiliated with the issuer, a subsidiary of the issuer, or an affiliate of a subsidiary of the issuer.

''(4) EXEMPTION AUTHORITY.—The rules of the Commission under paragraph (1) shall permit a national securities exchange or a national securities association to exempt a particular relationship from the requirements of paragraph (2), with respect to the members of a compensation committee, as the national securities exchange or national securities association determines is appropriate, taking into consideration the size of an issuer and any other relevant factors.

''(b) INDEPENDENCE OF COMPENSATION CONSULTANTS AND OTHER COMPENSATION COMMITTEE ADVISERS.—

''(1) IN GENERAL.—The compensation committee of an issuer may only select a compensation consultant, legal counsel, or other adviser to the compensation committee after taking into consideration the factors identified by the Commission under paragraph (2).

''(2) RULES.—The Commission shall identify factors that affect the independence of a compensation consultant, legal counsel, or other adviser to a compensation committee of an issuer, including—

''(A) the provision of other services to the issuer by the person that employs the compensation consultant, legal counsel, or other adviser;

''(B) the amount of fees received from the issuer by the person that employs the compensation consultant, legal counsel, or other adviser, as a percentage of the total revenue of the person that employs the compensation consultant, legal counsel, or other adviser;

''(C) the policies and procedures of the person that employs the compensation consultant, legal counsel, or other adviser that are designed to prevent conflicts of interest;

''(D) any business or personal relationship of the compensation consultant, legal counsel, or other adviser with a member of the compensation committee; and

''(E) any stock of the issuer owned by the compensation consultant, legal counsel, or other adviser.

''(c) COMPENSATION COMMITTEE AUTHORITY RELATING TO COMPENSATION CONSULTANTS.—

''(1) AUTHORITY TO RETAIN COMPENSATION CONSULTANT.—

''(A) IN GENERAL.—The compensation committee of an issuer, in its capacity as a committee of the board of directors, may, in its sole discretion, retain or obtain the advice of a compensation consultant.

''(B) DIRECT RESPONSIBILITY OF COMPENSATION COMMITTEE.—The compensation committee of an issuer shall be directly responsible for the appointment, compensation, and oversight of the work of a compensation consultant.

''(C) RULE OF CONSTRUCTION.—This paragraph may not be construed—

''(i) to require the compensation committee to implement or act consistently with the advice or recommendations of the compensation consultant; or

''(ii) to affect the ability or obligation of a compensation committee to exercise its own judgment in fulfillment of the duties of the compensation committee.

''(2) DISCLOSURE.—In any proxy or consent solicitation material for an annual meeting of the shareholders (or a special meeting in lieu of the annual meeting) occurring on or after the date that is 1 year after the date of enactment of this section, each issuer shall disclose in the proxy or consent material, in accordance with regulations of the Commission, whether—

''(A) the compensation committee of the issuer retained or obtained the advice of a compensation consultant; and

''(B) the work of the compensation consultant has raised any conflict of interest and, if so, the nature of the conflict and how the conflict is being addressed.

''(d) AUTHORITY TO ENGAGE INDEPENDENT LEGAL COUNSEL AND OTHER ADVISERS.—

''(1) IN GENERAL.—The compensation committee of an issuer, in its capacity as a committee of the board of directors, may, in its sole discretion, retain and obtain the advice of independent legal counsel and other advisers.

''(2) DIRECT RESPONSIBILITY OF COMPENSATION COMMITTEE.—The compensation committee of an issuer shall be directly responsible for the appointment, compensation, and oversight of the work of independent legal counsel and other advisers.

''(3) RULE OF CONSTRUCTION.—This subsection may not be construed—

''(A) to require a compensation committee to implement or act consistently with the advice or recommendations of independent legal counsel or other advisers under this subsection; or

''(B) to affect the ability or obligation of a compensation committee to exercise its own judgment in fulfillment of the duties of the compensation committee.

''(e) COMPENSATION OF COMPENSATION CONSULTANTS, INDEPENDENT LEGAL COUNSEL, AND OTHER ADVISERS.—Each issuer shall provide for appropriate funding, as determined by the compensation committee in its capacity as a committee of the board of directors, for payment of reasonable compensation—

''(1) to a compensation consultant; and

''(2) to independent legal counsel or any other adviser to the compensation committee.

''(f) COMMISSION RULES.—

''(1) IN GENERAL.—Not later than 360 days after the date of enactment of this section, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of this section.

''(2) OPPORTUNITY TO CURE DEFECTS.—The rules of the Commission under paragraph (1) shall provide for appropriate procedures for an issuer to have a reasonable opportunity to cure any defects that would be the basis for the prohibition under paragraph (1), before the imposition of such prohibition.

''(3) EXEMPTION AUTHORITY.—

''(A) IN GENERAL.—The rules of the Commission under paragraph (1) shall permit a national securities exchange or a national securities association to exempt a category of issuers from the requirements under this section, as the national securities exchange or the national securities association determines is appropriate.

''(B) CONSIDERATIONS.—In determining appropriate exemptions under subparagraph (A), the national securities exchange or the national securities association shall take into account the potential impact of the requirements of this section on smaller reporting issuers.''.

SEC. 953. EXECUTIVE COMPENSATION DISCLOSURES.

(a) DISCLOSURE OF PAY VERSUS PERFORMANCE.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n), as amended by this title, is amended by adding at the end the following:

''(i) DISCLOSURE OF PAY VERSUS PERFORMANCE.—The Commission shall, by rule, require each issuer to disclose in any proxy or consent solicitation material for an annual meeting of the shareholders of the issuer a clear description of any compensation required to be disclosed by the issuer under section 229.402 of title 17, Code of Federal Regulations (or any successor thereto), including information that shows the relationship between executive compensation actually paid and the financial performance of the issuer, taking into account any change in the value of the shares of stock and dividends of the issuer and any distributions. The disclosure under this subsection may include a graphic representation of the information required to be disclosed.''.

(b) ADDITIONAL DISCLOSURE REQUIREMENTS.—

(1) IN GENERAL.—The Commission shall amend section 229.402 of title 17, Code of Federal Regulations, to require each issuer to disclose in any filing of the issuer described in section 229.10(a) of title 17, Code of Federal Regulations (or any successor thereto)—

(A) the median of the annual total compensation of all employees of the issuer, except the chief executive officer (or any equivalent position) of the issuer;

(B) the annual total compensation of the chief executive officer (or any equivalent position) of the issuer; and

(C) the ratio of the amount described in subparagraph (A) to the amount described in subparagraph (B).

(2) TOTAL COMPENSATION.—For purposes of this subsection, the total compensation of an employee of an issuer shall be determined in accordance with section 229.402(c)(2)(x) of title 17, Code of Federal Regulations, as in effect on the day before the date of enactment of this Act.

SEC. 954. RECOVERY OF ERRONEOUSLY AWARDED COMPENSATION.

The Securities Exchange Act of 1934 is amended by inserting after section 10C, as added by section 952, the following:

''SEC. 10D. RECOVERY OF ERRONEOUSLY AWARDED COMPENSATION POLICY.

''(a) LISTING STANDARDS.—The Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that does not comply with the requirements of this section.

''(b) RECOVERY OF FUNDS.—The rules of the Commission under subsection (a) shall require each issuer to develop and implement a policy providing—

''(1) for disclosure of the policy of the issuer on incentive-based compensation that is based on financial information required to be reported under the securities laws; and

''(2) that, in the event that the issuer is required to prepare an accounting restatement due to the material noncompliance of the issuer with any financial reporting requirement under the securities laws, the issuer will recover from any current or former executive officer of the issuer who received incentive-based compensation (including stock options awarded as compensation) during the 3-year period preceding the date on which the issuer is required to prepare an accounting restatement, based on the erroneous data, in excess of what would have been paid to the executive officer under the accounting restatement.''.

SEC. 955. DISCLOSURE REGARDING EMPLOYEE AND DIRECTOR HEDGING.

Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n), as amended by this title, is amended by adding at the end the following:

''(j) DISCLOSURE OF HEDGING BY EMPLOYEES AND DIRECTORS.—The Commission shall, by rule, require each issuer to disclose in any proxy or consent solicitation material for an annual meeting of the shareholders of the issuer whether any employee or member of the board of directors of the issuer, or any designee of such employee or member, is permitted to purchase financial instruments (including prepaid variable forward contracts, equity swaps, collars, and exchange funds) that are designed to hedge or offset any decrease in the market value of equity securities—

''(1) granted to the employee or member of the board of directors by the issuer as part of the compensation of the employee or member of the board of directors; or

''(2) held, directly or indirectly, by the employee or member of the board of directors.''.

SEC. 956. EXCESSIVE COMPENSATION BY HOLDING COMPANIES OF DEPOSITORY INSTITUTIONS.

Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following:

''(i) EXCESSIVE COMPENSATION.—

''(1) IN GENERAL.—Not later than 180 days after the transfer date established under section 311 of the Restoring American Financial Stability Act of 2010, the Board of Governors, in consultation with the Comptroller of the Currency and the Federal Deposit Insurance Corporation, shall, by rule, establish standards prohibiting as an unsafe and unsound practice any compensation plan of a bank holding company that—

''(A) provides an executive officer, employee, director, or principal shareholder of the bank holding company with excessive compensation, fees, or benefits; or

''(B) could lead to material financial loss to the bank holding company.

''(2) CONSIDERATIONS.—In establishing the standards under paragraph (1), the Board of Governors shall take into consideration the compensation standards described in section 39(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831p–1(c)) and the views and recommendations of the Comptroller of the Currency and the Federal Deposit Insurance Corporation.''.

SEC. 957. VOTING BY BROKERS.

Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended—

(1) in paragraph (9)—

(A) in subparagraph (A), by redesignating clauses (i) through (v) as subclauses (I) through (V), respectively, and adjusting the margins accordingly;

(B) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and adjusting the margins accordingly;

(C) by inserting ''(A)'' after ''(9)''; and

(D) in the matter immediately following clause (iv), as so redesignated, by striking ''As used'' and inserting the following:

''(B) As used''.

(2) by adding at the end the following:

''(10)(A) The rules of the exchange prohibit any member that is not the beneficial owner of a security registered under section 12 from granting a proxy to vote the security in connection with a shareholder vote described in subparagraph (B), unless the beneficial owner of the security has instructed the member to vote the proxy in accordance with the voting instructions of the beneficial owner.

''(B) A shareholder vote described in this subparagraph is a shareholder vote with respect to the election of a member of the board of directors of an issuer, executive compensation, or any other significant matter, as determined by the Commission, by rule.

''(C) Nothing in this paragraph shall be construed to prohibit a national securities exchange from prohibiting a member that is not the beneficial owner of a security registered under section 12 from granting a proxy to vote the security in connection with a shareholder vote not described in subparagraph (A).''.

Subtitle F—Improvements to the Management of the Securities and Exchange Commission

SEC. 961. REPORT AND CERTIFICATION OF INTERNAL SUPERVISORY CONTROLS.

(a) ANNUAL REPORTS AND CERTIFICATION.—Not later than 90 days after the end of each fiscal year, the Commission shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the conduct by the Commission of examinations of registered entities, enforcement investigations, and review of corporate financial securities filings.

(b) CONTENTS OF REPORTS.—Each report under subsection (a) shall contain—

(1) an assessment, as of the end of the most recent fiscal year, of the effectiveness of—

(A) the internal supervisory controls of the Commission; and

(B) the procedures of the Commission applicable to the staff of the Commission who perform examinations of registered entities, enforcement investigations, and reviews of corporate financial securities filings;

(2) a certification that the Commission has adequate internal supervisory controls to carry out the duties of the Commission described in paragraph (1)(B); and

(3) a summary by the Comptroller General of the United States of the review carried out under subsection (d).

(c) CERTIFICATION.—

(1) SIGNATURE.—The certification under subsection (b)(2) shall be signed by the Director of the Division of Enforcement, the Director of the Division of Corporation Finance, and the Director of the Office of Compliance Inspections and Examinations (or the head of any successor division or office).

(2) CONTENT OF CERTIFICATION.—Each individual described in paragraph (1) shall certify that the individual—

(A) is directly responsible for establishing and maintaining the internal supervisory controls of the Division or Office of which the individual is the head;

(B) is knowledgeable about the internal supervisory controls of the Division or Office of which the individual is the head;

(C) has evaluated the effectiveness of the internal supervisory controls during the 90-day period ending on the final day of the fiscal year to which the report relates; and

(D) has disclosed to the Commission any significant deficiencies in the design or operation of internal supervisory controls that could adversely affect the ability of the Division or Office to consistently conduct inspections, or investigations, or reviews of filings with professional competence and integrity.

(d) REVIEW BY THE COMPTROLLER GENERAL.—Not later than the date on which the first report is submitted under subsection (a), the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives an initial report that contains a review of the adequacy and effectiveness of the internal supervisory control structure and procedures described in subsection (b)(1).

SEC. 962. TRIENNIAL REPORT ON PERSONNEL MANAGEMENT.

(a) TRIENNIAL REPORT REQUIRED.—Once every 3 years, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the quality of personnel management by the Commission.

(b) CONTENTS OF REPORT.—Each report under subsection (a) shall include—

(1) an evaluation of—

(A) the effectiveness of supervisors in using the skills, talents, and motivation of the employees of the Commission to achieve the goals of the Commission;

(B) the criteria for promoting employees of the Commission to supervisory positions;

(C) the fairness of the application of the promotion criteria to the decisions of the Commission;

(D) the competence of the professional staff of the Commission;

(E) the efficiency of communication between the units of the Commission regarding the work of the Commission (including communication between divisions and between subunits of a division) and the efforts by the Commission to promote such communication;

(F) the turnover within subunits of the Commission, including the identification of supervisors whose subordinates have an unusually high rate of turnover;

(G) whether there are excessive numbers of low-level, mid-level, or senior-level managers;

(H) any initiatives of the Commission that increase the competence of the staff of the Commission;

(I) the actions taken by the Commission regarding employees of the Commission who have failed to perform their duties; and

(J) such other factors relating to the management of the Commission as the Comptroller General determines are appropriate;

(2) an evaluation of any improvements made with respect to the areas described in paragraph (1) since the date of submission of the previous report; and

(3) recommendations for how the Commission can use the human resources of the Commission more effectively and efficiently to carry out the mission of the Commission.

(c) CONSULTATION.—In preparing the report under subsection (a), the Comptroller General shall consult with current employees of the Commission, retired employees and other former employees of the Commission, the Inspector General of the Commission, persons that have business before the Commission, any union representing the employees of the Commission, private management consultants, academics, and any other source that the Comptroller General deems appropriate.

(d) REPORT BY COMMISSION.—Not later than 90 days after the date on which the Comptroller General submits each report under subsection (a), the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report describing the actions taken by the Commission in response to the recommendations contained in the report under subsection (a).

(e) REIMBURSEMENTS FOR COST OF REPORTS.—

(1) REIMBURSEMENTS REQUIRED.—The Commission shall reimburse the Government Accountability Office for the full cost of making the reports under this section, as billed therefor by the Comptroller General.

(2) CREDITING AND USE OF REIMBURSEMENTS.—Such reimbursements shall—

(A) be credited to the appropriation account ''Salaries and Expenses, Government Accountability Office'' current when the payment is received; and

(B) remain available until expended.

SEC. 963. ANNUAL FINANCIAL CONTROLS AUDIT.

(a) REPORTS OF COMMISSION.—

(1) ANNUAL REPORTS REQUIRED.—Not later than 6 months after the end of each fiscal year, the Commission shall publish and submit to Congress a report that—

(A) describes the responsibility of the management of the Commission for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

(B) contains an assessment of the effectiveness of the internal control structure and procedures for financial reporting of the Commission during that fiscal year.

(2) ATTESTATION.—The reports required under paragraph (1) shall be attested to by the Chairman and chief financial officer of the Commission.

(b) REPORT BY COMPTROLLER GENERAL.—

(1) REPORT REQUIRED.—Not later than 6 months after the end of the first fiscal year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress that assesses—

(A) the effectiveness of the internal control structure and procedures of the Commission for financial reporting; and

(B) the assessment of the Commission under subsection (a)(1)(B).

(2) ATTESTATION.—The Comptroller General shall attest to, and report on, the assessment made by the Commission under subsection (a).

(c) REIMBURSEMENTS FOR COST OF REPORTS.—

(1) REIMBURSEMENTS REQUIRED.—The Commission shall reimburse the Government Accountability Office for the full cost of making the reports under subsection (b), as billed therefor by the Comptroller General.

(2) CREDITING AND USE OF REIMBURSEMENTS.—Such reimbursements shall—

(A) be credited to the appropriation account ''Salaries and Expenses, Government Accountability Office'' current when the payment is received; and

(B) remain available until expended.

SEC. 964. REPORT ON OVERSIGHT OF NATIONAL SECURITIES ASSOCIATIONS.

(a) REPORT REQUIRED.—Not later than 2 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report that includes an evaluation of the oversight by the Commission of national securities associations registered under section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) with respect to—

(1) the governance of such national securities associations, including the identification and management of conflicts of interest by such national securities associations, together with an analysis of the impact of any conflicts of interest on the regulatory enforcement or rulemaking by such national securities associations;

(2) the examinations carried out by the national securities associations, including the expertise of the examiners;

(3) the executive compensation practices of such national securities associations;

(4) the arbitration services provided by the national securities associations;

(5) the review performed by national securities associations of advertising by the members of the national securities associations;

(6) the cooperation with and assistance to State securities administrators by the national securities associations to promote investor protection;

(7) how the funding of national securities associations is used to support the mission of the national securities associations, including—

(A) the methods of funding;

(B) the sufficiency of funds;

(C) how funds are invested by the national securities association pending use; and

(D) the impact of the methods, sufficiency, and investment of funds on regulatory enforcement by the national securities associations;

(8) the policies regarding the employment of former employees of national securities associations by regulated entities;

(9) the ongoing effectiveness of the rules of the national securities associations in achieving the goals of the rules;

(10) the transparency of governance and activities of the national securities associations; and

(11) any other issue that has an impact, as determined by the Comptroller General, on the effectiveness of such national securities associations in performing their mission and in dealing fairly with investors and members;

(b) REIMBURSEMENTS FOR COST OF REPORTS.—

(1) REIMBURSEMENTS REQUIRED.—The Commission shall reimburse the Government Accountability Office for the full cost of making the reports under subsection (a), as billed therefor by the Comptroller General.

(2) CREDITING AND USE OF REIMBURSEMENTS.—Such reimbursements shall—

(A) be credited to the appropriation account ''Salaries and Expenses, Government Accountability Office'' current when the payment is received; and

(B) remain available until expended.

SEC. 965. COMPLIANCE EXAMINERS.

Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end the following:

''(h) EXAMINERS.—

''(1) DIVISION OF TRADING AND MARKETS.—The Division of Trading and Markets of the Commission, or any successor organizational unit, shall have a staff of examiners who shall—

''(A) perform compliance inspections and examinations of entities under the jurisdiction of that Division; and

''(B) report to the Director of that Division.

''(2) DIVISION OF INVESTMENT MANAGEMENT.—The Division of Investment Management of the Commission, or any successor organizational unit, shall have a staff of examiners who shall—

''(A) perform compliance inspections and examinations of entities under the jurisdiction of that Division; and

''(B) report to the Director of that Division.''.

SEC. 966. SUGGESTION PROGRAM FOR EMPLOYEES OF THE COMMISSION.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 4C (15 U.S.C. 78d–3) the following:

''SEC. 4D. ADDITIONAL DUTIES OF INSPECTOR GENERAL.

''(a) SUGGESTION SUBMISSIONS BY COMMISSION EMPLOYEES.—

''(1) HOTLINE ESTABLISHED.—The Inspector General of the Commission shall establish and maintain a telephone hotline or other electronic means for the receipt of—

''(A) suggestions by employees of the Commission for improvements in the work efficiency, effectiveness, and productivity, and the use of the resources, of the Commission; and

''(B) allegations by employees of the Commission of waste, abuse, misconduct, or mismanagement within the Commission.

''(2) CONFIDENTIALITY.—The Inspector General shall maintain as confidential—

''(A) the identity of any individual who provides information by the means established under paragraph (1), unless the individual requests otherwise, in writing; and

''(B) at the request of any such individual, any specific information provided by the individual.

''(b) CONSIDERATION OF REPORTS.—The Inspector General shall consider any suggestions or allegations received by the means established under subsection (a)(1), and shall recommend appropriate action in relation to such suggestions or allegations.

''(c) RECOGNITION.—The Inspector General may recognize any employee who makes a suggestion under subsection (a)(1) (or by other means) that would or does—

''(1) increase the work efficiency, effectiveness, or productivity of the Commission; or

''(2) reduce waste, abuse, misconduct, or mismanagement within the Commission.

''(d) REPORT.—The Inspector General of the Commission shall submit to Congress an annual report containing a description of—

''(1) the nature, number, and potential benefits of any suggestions received under subsection (a);

''(2) the nature, number, and seriousness of any allegations received under subsection (a);

''(3) any recommendations made or actions taken by the Inspector General in response to substantiated allegations received under subsection (a); and

''(4) any action the Commission has taken in response to suggestions or allegations received under subsection (a).

''(e) FUNDING.—The activities of the Inspector General under this subsection shall be funded by the Securities and Exchange Commission Investor Protection Fund established under section 21F.''.

Subtitle G—Strengthening Corporate Governance

SEC. 971. ELECTION OF DIRECTORS BY MAJORITY VOTE IN UNCONTESTED ELECTIONS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 14A, as added by this title, the following:

''SEC. 14B. CORPORATE GOVERNANCE.

''(a) CORPORATE GOVERNANCE STANDARDS.—

''(1) LISTING STANDARDS.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with any of the requirements of this subsection.

''(B) OPPORTUNITY TO COMPLY AND CURE.—The rules established under this paragraph shall allow an issuer to have an opportunity to come into compliance with the requirements of this subsection, and to cure any defect that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

''(C) AUTHORITY TO EXEMPT.—The Commission may, by rule or order, exempt an issuer from any or all of the requirements of this subsection and the rules issued under this subsection, based on the size of the issuer, the market capitalization of the issuer, the number of shareholders of record of the issuer, or any other criteria, as the Commission deems necessary and appropriate in the public interest or for the protection of investors.

''(2) COMMISSION RULES ON ELECTIONS.—In an election for membership on the board of directors of an issuer—

''(A) that is uncontested, each director who receives a majority of the votes cast shall be deemed to be elected;

''(B) that is contested, if the number of nominees exceeds the number of directors to be elected, each director shall be elected by the vote of a plurality of the shares represented at a meeting and entitled to vote; and

''(C) if a director of an issuer receives less than a majority of the votes cast in an uncontested election—

''(i) the director shall tender the resignation of the director to the board of directors; and

''(ii) the board of directors—

''(I) shall—

''(aa) accept the resignation of the director;

''(bb) determine a date on which the resignation will take effect, within a reasonable period of time, as established by the Commission; and

''(cc) make the date under item (bb) public within a reasonable period of time, as established by the Commission; or

''(II) shall, upon a unanimous vote of the board, decline to accept the resignation and, not later than 30 days after the date of the vote (or within such shorter period as the Commission may establish), make public, together with a discussion of the analysis used in reaching the conclusion, the specific reasons that—

''(aa) the board chose not to accept the resignation; and

''(bb) the decision was in the best interests of the issuer and the shareholders of the issuer.''.

SEC. 972. PROXY ACCESS.

(a) PROXY ACCESS.—Section 14(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(a)) is amended—

(1) by inserting ''(1)'' after ''(a)''; and

(2) by adding at the end the following:

''(2) The rules and regulations prescribed by the Commission under paragraph (1) may include—

''(A) a requirement that a solicitation of proxy, consent, or authorization by (or on behalf of) an issuer include a nominee submitted by a shareholder to serve on the board of directors of the issuer; and

''(B) a requirement that an issuer follow a certain procedure in relation to a solicitation described in subparagraph (A).''.

(b) REGULATIONS.—The Commission may issue rules permitting the use by shareholders of proxy solicitation materials supplied by an issuer of securities for the purpose of nominating individuals to membership on the board of directors of the issuer, under such terms and conditions as the Commission determines are in the interests of shareholders and for the protection of investors.

SEC. 973. DISCLOSURES REGARDING CHAIRMAN AND CEO STRUCTURES.

Section 14B of the Securities Exchange Act of 1934, as added by section 971, is amended by adding at the end the following:

''(b) DISCLOSURES REGARDING CHAIRMAN AND CEO STRUCTURES.—Not later than 180 days after the date of enactment of this subsection, the Commission shall issue rules that require an issuer to disclose in the annual proxy sent to investors the reasons why the issuer has chosen—

''(1) the same person to serve as chairman of the board of directors and chief executive officer (or in equivalent positions); or

''(2) different individuals to serve as chairman of the board of directors and chief executive officer (or in equivalent positions of the issuer).''.

Subtitle H—Municipal Securities

SEC. 975. REGULATION OF MUNICIPAL SECURITIES AND CHANGES TO THE BOARD OF THE MSRB.

(a) REGISTRATION OF MUNICIPAL SECURITIES DEALERS AND MUNICIPAL ADVISORS.—Section 15B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(a)) is amended—

(1) in paragraph (1)—

(A) by inserting ''(A)'' after ''(1)''; and

(B) by adding at the end the following:

''(B) It shall be unlawful for a municipal advisor to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person, unless the municipal advisor is registered in accordance with this subsection.'';

(2) in paragraph (2), by inserting ''or municipal advisor'' after ''municipal securities dealer'' each place that term appears;

(3) in paragraph (3), by inserting ''or municipal advisor'' after ''municipal securities dealer'' each place that term appears;

(4) in paragraph (4), by striking ''dealer, or municipal securities dealer or class of brokers, dealers, or municipal securities dealers'' and inserting ''dealer, municipal securities dealer, or municipal advisor, or class of brokers, dealers, municipal securities dealers, or municipal advisors''; and

(5) by adding at the end the following:

''(5) No municipal advisor shall make use of the mails or any means or instrumentality of interstate commerce to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person, in connection with which such municipal advisor engages in any fraudulent, deceptive, or manipulative act or practice.''.

(b) MUNICIPAL SECURITIES RULEMAKING BOARD.—Section 15B(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(b)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking ''Not later than'' and all that follows through ''appointed by the Commission'' and inserting ''The Municipal Securities Rulemaking Board shall be composed of 15 members, or such other number of members as specified by rules of the Board pursuant to paragraph (2)(B),'';

(B) by striking the second sentence and inserting the following: ''The members of the Board shall serve as members for a term of 3 years or for such other terms as specified by rules of the Board pursuant to paragraph (2)(B), and shall consist of (A) 8 individuals who are not associated with any broker, dealer, municipal securities dealer, or municipal advisor (other than by reason of being under common control with, or indirectly controlling, any broker or dealer which is not a municipal securities broker or municipal securities dealer), at least 1 of whom shall be representative of institutional or retail investors in municipal securities, at least 1 of whom shall be representative of municipal entities, and at least 1 of whom shall be a member of the public with knowledge of or experience in the municipal industry (which members are hereinafter referred to as 'public representatives'); and (B) 7 individuals who are associated with a broker, dealer, municipal securities dealer, or municipal advisor, including at least 1 individual who is associated with and representative of brokers, dealers, or municipal securities dealers that are not banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as 'broker-dealer representatives'), at least 1 individual who is associated with and representative of municipal securities dealers which are banks or subsidiaries or departments or divisions of banks (which members are hereinafter referred to as 'bank representatives'), and at least 1 individual who is associated with a municipal advisor (which member is hereinafter referred to as the 'advisor representative').''; and

(C) in the third sentence, by striking ''initial'';

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting before the period at the end of the first sentence the following: ''and advice provided to or on behalf of municipal entities or obligated persons by brokers, dealers, municipal securities dealers, and municipal advisors with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, and solicitations of municipal entities or obligated persons undertaken by brokers, dealers, municipal securities dealers, and municipal advisors''; and

(ii) by striking the second sentence;

(B) in subparagraph (A)—

(i) in the matter preceding clause (i)—

(I) by inserting '', and no broker, dealer, municipal securities dealer, or municipal advisor shall provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities'' after ''sale of, any municipal security''; and

(II) by inserting ''and municipal entities or obligated persons'' after ''protection of investors'';

(ii) in clause (i), by striking ''municipal securities brokers and municipal securities dealers'' each place that term appears and inserting ''municipal securities brokers, municipal securities dealers, and municipal advisors'';

(iii) in clause (ii), by adding ''and'' at the end;

(iv) in clause (iii), by striking ''; and'' and inserting a period; and

(v) by striking clause (iv);

(C) in subparagraph (B), by striking ''nominations and elections'' and all that follows through ''specify'' and inserting ''nominations and elections of public representatives, broker-dealer representatives, bank representatives, and advisor representatives. Such rules shall provide that the membership of the Board shall at all times be as evenly divided in number as possible between entities or individuals who are subject to regulation by the Board and entities or individuals not subject to regulation by the Board, provided, however, that a majority of the members of the Board shall at all times be public representatives. Such rules shall also specify'';

(D) in subparagraph (C)—

(i) by inserting ''and municipal financial products'' after ''municipal securities'' the first two times that term appears;

(ii) by inserting '', municipal entities, obligated persons,'' before ''and the public interest'';

(iii) by striking ''between'' and inserting ''among'';

(iv) by striking ''issuers, municipal securities brokers, or municipal securities dealers, to fix'' and inserting ''municipal entities, obligated persons, municipal securities brokers, municipal securities dealers, or municipal advisors, to fix''; and

(v) by striking ''brokers or municipal securities dealers, to regulate'' and inserting ''brokers, municipal securities dealers, or municipal advisors, to regulate'';

(E) in subparagraph (D)—

(i) by inserting ''and advice concerning municipal financial products'' after ''transactions in municipal securities'';

(ii) by striking ''That no'' and inserting ''that no'';

(iii) by inserting ''municipal advisor,'' before ''or person associated''; and

(iv) by striking ''a municipal securities broker or municipal securities dealer may be compelled'' and inserting ''a municipal securities broker, municipal securities dealer, or municipal advisor may be compelled'';

(F) in subparagraph (E)—

(i) by striking ''municipal securities brokers and municipal securities dealers'' and inserting ''municipal securities brokers, municipal securities dealers, and municipal advisors''; and

(ii) by striking ''municipal securities broker or municipal securities dealer'' and inserting ''municipal securities broker, municipal securities dealer, or municipal advisor'';

(G) in subparagraph (G), by striking ''municipal securities brokers and municipal securities dealers'' and inserting ''municipal securities brokers, municipal securities dealers, and municipal advisors'';

(H) in subparagraph (J)—

(i) by striking ''municipal securities broker and each municipal securities dealer'' and inserting ''municipal securities broker, municipal securities dealer, and municipal advisor''; and

(ii) by striking the period at the end of the second sentence and inserting '', which may include charges for failure to submit to the Board required information or documents to any information system operated by the Board in a full, accurate, or timely manner, or any other failure to comply with the rules of the Board.'';

(I) in subparagraph (K)—

(i) by inserting ''broker, dealer, or'' before ''municipal securities dealer'' each place that term appears; and

(ii) by striking ''municipal securities investment portfolio'' and inserting ''related account of a broker, dealer, or municipal securities dealer''; and

(J) by adding at the end the following:

''(L) provide continuing education requirements for municipal advisors.

''(M) provide professional standards.

''(N) not impose a regulatory burden on small municipal advisors that is not necessary or appropriate in the public interest and for the protection of investors, municipal entities, and obligated persons.'';

(3) by redesignating paragraph (3) as paragraph (7); and

(4) by inserting after paragraph (2) the following:

''(3) The Board, in conjunction with or on behalf of any Federal financial regulator or self-regulatory organization, may—

''(A) establish information systems; and

''(B) assess such reasonable fees and charges for the submission of information to, or the receipt of information from, such systems from any persons which systems may be developed for the purposes of serving as a repository of information from municipal market participants or otherwise in furtherance of the purposes of the Board, a Federal financial regulator, or a self-regulatory organization.

''(4) The Board shall provide guidance and assistance in the enforcement of, and examination for, compliance with the rules of the Board to the Commission, a registered securities association under section 15A, or any other appropriate regulatory agency, as applicable.''.

(c) DISCIPLINE OF DEALERS AND MUNICIPAL ADVISORS AND OTHER MATTERS.—Section 15B(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(c)) is amended—

(1) in paragraph (1), by inserting '', and no broker, dealer, municipal securities dealer, or municipal advisor shall make use of the mails or any means or instrumentality of interstate commerce to provide advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, or to undertake a solicitation of a municipal entity or obligated person,'' after ''any municipal security'';

(2) in paragraph (2), by inserting ''or municipal advisor'' after ''municipal securities dealer'' each place that term appears;

(3) in paragraph (3)—

(A) by inserting ''or municipal entities or obligated person'' after ''protection of investors'' each place that term appears; and

(B) by inserting ''or municipal advisor'' after ''municipal securities dealer'' each place that term appears;

(4) in paragraph (4), by inserting ''or municipal advisor'' after ''municipal securities dealer or obligated person'' each place that term appears;

(5) in paragraph (6)(B), by inserting ''or municipal entities'' after ''protection of investors'';

(6) in paragraph (7)—

(A) in subparagraph (A)—

(i) in clause (i), by striking ''; and'' and inserting a semicolon;

(ii) in clause (ii), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(iii) the Commission, or its designee, in the case of municipal advisors.''.

(B) in subparagraph (B), by inserting ''or municipal entities or obligated person'' after ''protection of investors''; and

(7) by adding at the end the following:

''(9)(A) Fines collected by the Commission for violations of the rules of the Board shall be equally divided between the Commission and the Board.

''(B) Fines collected by a registered securities association under section 15A(7) with respect to violations of the rules of the Board shall be accounted for by such registered securities association separately from other fines collected under section 15A(7) and shall be allocated between such registered securities association and the Board at the direction of the Commission.''.

(d) ISSUANCE OF MUNICIPAL SECURITIES.—Section 15B(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(d)) is amended—

(1) by striking ''through a municipal securities broker or municipal securities dealer or otherwise'' and inserting ''through a municipal securities broker, municipal securities dealer, municipal advisor, or otherwise''; and

(2) by inserting ''or municipal advisors'' before ''to furnish''.

(e) DEFINITIONS.—Section 15B of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4) is amended by adding at the end the following:

''(e) DEFINITIONS.—For purposes of this section—

''(1) the term 'Board' means the Municipal Securities Rulemaking Board established under subsection (b)(1);

''(2) the term 'guaranteed investment contract' includes any investment that has specified withdrawal or reinvestment provisions and a specifically negotiated or bid interest rate, and also includes any agreement to supply investments on 2 or more future dates, such as a forward supply contract;

''(3) the term 'investment strategies' includes plans or programs for the investment of the proceeds of municipal securities that are not municipal derivatives, guaranteed investment contracts, and the recommendation of and brokerage of municipal escrow investments;

''(4) the term 'municipal advisor'—

''(A) means a person (who is not a municipal entity or an employee of a municipal entity) that—

''(i) provides advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, and other similar matters concerning such financial products or issues;

''(ii) participates in the issuance of municipal securities; or

''(iii) undertakes a solicitation of a municipal entity;

''(B) includes financial advisors, guaranteed investment contract brokers, third-party marketers, placement agents, solicitors, finders, and swap advisors, if such persons are described in any of clauses (i) through (iii) of subparagraph (A); and

''(C) does not include a broker, dealer, or municipal securities dealer serving as an underwriter (as defined in section 2(a)(11) of the Securities Act of 1933) (15 U.S.C. 77b(a)(11)), any investment adviser registered under the Investment Advisers Act of 1940, or persons associated with such investment advisers who are providing investment advice, attorneys offering legal advice or providing services that are of a traditional legal nature, or engineers providing engineering advice;

''(5) the term 'municipal derivative' means any financial instrument or contract designed to hedge a risk (including interest rate swaps, basis swaps, credit default swaps, caps, floors, and collars);

''(6) the term 'municipal financial product' means municipal derivatives, guaranteed investment contracts, and investment strategies;

''(7) the term 'rules of the Board' means the rules proposed and adopted by the Board under subsection (b)(2);

''(8) the term 'person associated with a municipal advisor' or 'associated person of an advisor' means—

''(A) any partner, officer, director, or branch manager of such municipal advisor (or any person occupying a similar status or performing similar functions);

''(B) any other employee of such municipal advisor who is engaged in the management, direction, supervision, or performance of any activities relating to the provision of advice to or on behalf of a municipal entity or obligated person with respect to municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities; and

''(C) any person directly or indirectly controlling, controlled by, or under common control with such municipal advisor;

''(9) the term 'municipal entity' means any State, political subdivision of a State, or municipal corporate instrumentality of a State, including—

''(A) any agency, authority, or instrumentality of the State, political subdivision, or municipal corporate instrumentality;

''(B) any plan, program, or pool of assets sponsored or established by the State, political subdivision, or municipal corporate instrumentality or any agency, authority, or instrumentality thereof; and

''(C) any other issuer of municipal securities;

''(10) the term 'solicitation of a municipal entity or obligated person' means a direct or indirect communication with a municipal entity or obligated person made by a person, for direct or indirect compensation, on behalf of a broker, dealer, municipal securities dealer, municipal advisor, or investment adviser (as defined in section 202 of the Investment Advisers Act of 1940) that does not control, is not controlled by, or is not under common control with the person undertaking such solicitation for the purpose of obtaining or retaining an engagement by a municipal entity or obligated person of a broker, dealer, municipal securities dealer, or municipal advisor for or in connection with municipal financial products, the issuance of municipal securities, or participation in the issuance of municipal securities, or of an investment adviser to provide investment advisory services to or on behalf of a municipal entity; and

''(11) the term 'obligated person' means any person, including an issuer of municipal securities, who is either generally or through an enterprise, fund, or account of such person, committed by contract or other arrangement to support the payment of all or part of the obligations on the municipal securities to be sold in an offering of municipal securities.''.

(f) REGISTERED SECURITIES ASSOCIATION.—Section 15A(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(b)) is amended by adding at the end the following:

''(15) The rules of the association provide that the association shall—

''(A) request guidance from the Municipal Securities Rulemaking Board in interpretation of the rules of the Municipal Securities Rulemaking Board; and

''(B) provide information to the Municipal Securities Rulemaking Board about the enforcement actions and examinations of the association under section 15B(b)(2)(E), so that the Municipal Securities Rulemaking Board may—

''(i) assist in such enforcement actions and examinations; and

''(ii) evaluate the ongoing effectiveness of the rules of the Board.''.

(g) REGISTRATION AND REGULATION OF BROKERS AND DEALERS.—Section 15 of the Securities Exchange Act of 1934 is amended—

(1) in subsection (b)(4), by inserting ''municipal advisor,'' after ''municipal securities dealer'' each place that term appears; and

(2) in subsection (c), by inserting ''broker, dealer, or'' before ''municipal securities dealer'' each place that term appears.

(h) ACCOUNTS AND RECORDS, REPORTS, EXAMINATIONS OF EXCHANGES, MEMBERS, AND OTHERS.—Section 17(a)(1) of the Securities Exchange Act of 1934 is amended by inserting ''municipal advisor,'' after ''municipal securities dealer''.

(i) SAVINGS CLAUSE.—Notwithstanding any provision of the Over-the-Counter Derivatives Markets Act of 2010, or any amendment made pursuant to such Act, the provisions of this section, and the amendments made pursuant to this section, shall apply to any municipal derivative.

(j) EFFECTIVE DATE.—This section, and the amendments made by this section, shall take effect on October 1, 2010.

SEC. 976. GOVERNMENT ACCOUNTABILITY OFFICE STUDY OF INCREASED DISCLOSURE TO INVESTORS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study and review of the disclosure required to be made by issuers of municipal securities.

(b) SUBJECTS FOR EVALUATION.—In conducting the study under subsection (a), the Comptroller General of the United States shall—

(1) broadly describe—

(A) the size of the municipal securities markets and the issuers and investors; and

(B) the disclosures provided by issuers to investors;

(2) compare the amount, frequency, and quality of disclosures that issuers of municipal securities are required by law to provide for the benefit of municipal securities holders, including the amount of and frequency of disclosures actually provided by issuers of municipal securities, with the amount of and frequency of disclosures that issuers of corporate securities provide for the benefit of corporate securities holders, taking into account the differences between issuers of municipal securities and issuers of corporate securities;

(3) evaluate the costs and benefits to various types of issuers of municipal securities of requiring issuers of municipal bonds to provide additional financial disclosures for the benefit of investors;

(4) evaluate the potential benefit to investors from additional financial disclosures by issuers of municipal bonds; and

(5) make recommendations relating to disclosure requirements for municipal issuers, including the advisability of the repeal or retention of section 15B(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(d)) (commonly known as the ''Tower Amendment'').

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress on the results of the study conducted under subsection (a), including recommendations for how to improve disclosure by issuers of municipal securities.

SEC. 977. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON THE MUNICIPAL SECURITIES MARKETS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the municipal securities markets.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall

submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, with copies to the Special Committee on Aging of the Senate and the Commission, on the results of the study conducted under subsection (a), including—

(1) an analysis of the mechanisms for trading, quality of trade executions, market transparency, trade reporting, price discovery, settlement clearing, and credit enhancements;

(2) the needs of the markets and investors and the impact of recent innovations;

(3) recommendations for how to improve the transparency, efficiency, fairness, and liquidity of trading in the municipal securities markets, including with reference to items listed in paragraph (1); and

(4) potential uses of derivatives in the municipal securities markets.

(c) RESPONSES.—Not later than 180 days after receipt of the report required under subsection (b), the Commission shall submit a response to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, with a copy to the Special Committee on Aging of the Senate, stating the actions the Commission has taken in response to the recommendations contained in such report.

SEC. 978. STUDY OF FUNDING FOR GOVERNMENT ACCOUNTING STANDARDS BOARD.

(a) STUDY.—The Commission shall conduct a study that evaluates—

(1) the role and importance of the Government Accounting Standards Board in the municipal securities markets;

(2) the manner in which the Government Accounting Standards Board is funded, and how such manner of funding affects the financial information available to securities investors;

(3) the advisability of changes to the manner in which the Government Accounting Standards Board is funded; and

(4) whether legislative changes to the manner in which the Government Accounting Standards Board is funded are necessary for the benefit of investors and in the public interest.

(b) CONSULTATION.—In conducting the study required under subsection (a), the Commission shall consult with State and local government financial officers.

(c) REPORT.—Not later than 270 days after the date of enactment of this Act, the Commission shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the study required under subsection (a).

SEC. 979. COMMISSION OFFICE OF MUNICIPAL SECURITIES.

(a) IN GENERAL.—There shall be in the Commission an Office of Municipal Securities, which shall—

(1) administer the rules of the Commission with respect to the practices of municipal securities brokers and dealers, municipal securities advisors, municipal securities investors, and municipal securities issuers; and

(2) coordinate with the Municipal Securities Rulemaking Board for rulemaking and enforcement actions as required by law.

(b) DIRECTOR OF THE OFFICE.—The head of the Office of Municipal Securities shall be the Director, who shall report to the Chairman.

(c) STAFFING.—

(1) IN GENERAL.—The Office of Municipal Securities shall be staffed sufficiently to carry out the requirements of this section.

(2) REQUIREMENT.—The staff of the Office of Municipal Securities shall include individuals with knowledge of and expertise in municipal finance.

Subtitle I—Public Company Accounting Oversight Board, Portfolio Margining, and Other Matters

SEC. 981. AUTHORITY TO SHARE CERTAIN INFORMATION WITH FOREIGN AUTHORITIES.

(a) DEFINITION.—Section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)) is amended by adding at the end the following:

''(17) FOREIGN AUDITOR OVERSIGHT AUTHORITY.—The term 'foreign auditor oversight authority' means any governmental body or other entity empowered by a foreign government to conduct inspections of public accounting firms or otherwise to administer or enforce laws related to the regulation of public accounting firms.''.

(b) AVAILABILITY TO SHARE INFORMATION.—Section 105(b)(5) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)) is amended by adding at the end the following:

''(C) AVAILABILITY TO FOREIGN OVERSIGHT AUTHORITIES.—Without the loss of its status as confidential and privileged in the hands of the Board, all information referred to in subparagraph (A) that relates to a public accounting firm that a foreign government has empowered a foreign auditor oversight authority to inspect or otherwise enforce laws with respect to, may, at the discretion of the Board, be made available to the foreign auditor oversight authority, if—

''(i) the Board finds that it is necessary to accomplish the purposes of this Act or to protect investors;

''(ii) the foreign auditor oversight authority provides—

''(I) such assurances of confidentiality as the Board may request;

''(II) a description of the applicable information systems and controls of the foreign auditor oversight authority; and

''(III) a description of the laws and regulations of the foreign government of the foreign auditor oversight authority that are relevant to information access; and

''(iii) the Board determines that it is appropriate to share such information.''.

(c) CONFORMING AMENDMENT.—Section 105(b)(5)(A) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)(A)) is amended by striking ''subparagraph (B)'' and inserting ''subparagraphs (B) and (C)''.

SEC. 982. OVERSIGHT OF BROKERS AND DEALERS.

(a) DEFINITIONS.—

(1) DEFINITIONS AMENDED.—Title I of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et seq.) is amended by adding at the end the following new section:

''SEC. 110. DEFINITIONS.

''For the purposes of this title, the following definitions shall apply:

''(1) AUDIT.—The term 'audit' means an examination of the financial statements, reports, documents, procedures, controls, or notices of any issuer, broker, or dealer by an independent public accounting firm in accordance with the rules of the Board or the Commission, for the purpose of expressing an opinion on the financial statements or providing an audit report.

''(2) AUDIT REPORT.—The term 'audit report' means a document, report, notice, or other record—

''(A) prepared following an audit performed for purposes of compliance by an issuer, broker, or dealer with the requirements of the securities laws; and

''(B) in which a public accounting firm either—

''(i) sets forth the opinion of that firm regarding a financial statement, report, notice, or other document, procedures, or controls; or

''(ii) asserts that no such opinion can be expressed.

''(3) BROKER.—The term 'broker' means a broker (as such term is defined in section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4))) that is required to file a balance sheet, income statement, or other financial statement under section 17(e)(1)(A) of such Act (15 U.S.C. 78q(e)(1)(A)), where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.

''(4) DEALER.—The term 'dealer' means a dealer (as such term is defined in section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5))) that is required to file a balance sheet, income statement, or other financial statement under section 17(e)(1)(A) of such Act (15 U.S.C. 78q(e)(1)(A)), where such balance sheet, income statement, or financial statement is required to be certified by a registered public accounting firm.

''(5) PROFESSIONAL STANDARDS.—The term 'professional standards' means—

''(A) accounting principles that are—

''(i) established by the standard setting body described in section 19(b) of the Securities Act of 1933, as amended by this Act, or prescribed by the Commission under section 19(a) of that Act (15 U.S.C. 17a(s)) or section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(m)); and

''(ii) relevant to audit reports for particular issuers, brokers, or dealers, or dealt with in the quality control system of a particular registered public accounting firm; and

''(B) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards (including rules implementing title II) that the Board or the Commission determines—

''(i) relate to the preparation or issuance of audit reports for issuers, brokers, or dealers; and

''(ii) are established or adopted by the Board under section 103(a), or are promulgated as rules of the Commission.

''(6) SELF-REGULATORY ORGANIZATION.—The term 'self-regulatory organization' has the same meaning as in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).''.

(2) CONFORMING AMENDMENT.—Section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)) is amended in the matter preceding paragraph (1), by striking ''In this'' and inserting ''Except as otherwise specifically provided in this Act, in this''.

(b) ESTABLISHMENT AND ADMINISTRATION OF THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD.—Section 101 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7211) is amended—

(1) by striking ''issuers'' each place that term appears and inserting ''issuers, brokers, and dealers''; and

(2) in subsection (a)—

(A) by striking ''public companies'' and inserting ''companies''; and

(B) by striking ''for companies the securities of which are sold to, and held by and for, public investors''.

(c) REGISTRATION WITH THE BOARD.—Section 102 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7212) is amended—

(1) in subsection (a)—

(A) by striking ''Beginning 180'' and all that follows through ''101(d), it'' and inserting ''It''; and

(B) by striking ''issuer'' and inserting ''issuer, broker, or dealer'';

(2) in subsection (b)—

(A) in paragraph (2)(A), by striking ''issuers'' and inserting ''issuers, brokers, and dealers''; and

(B) by striking ''issuer'' each place that term appears and inserting ''issuer, broker, or dealer''.

(d) AUDITING AND INDEPENDENCE.—Section 103(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7213(a)) is amended—

(1) in paragraph (1), by striking ''and such ethics standards'' and inserting ''such ethics standards, and such independence standards'';

(2) in paragraph (2)(A)(iii), by striking ''describe in each audit report'' and inserting ''in each audit report for an issuer, describe''; and

(3) in paragraph (2)(B)(i), by striking ''issuers'' and inserting ''issuers, brokers, and dealers''.

(e) INSPECTIONS OF REGISTERED PUBLIC ACCOUNTING FIRMS.—Section 104 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7214) is amended—

(1) in subsection (a), by striking ''issuers'' and inserting ''issuers, brokers, and dealers''; and

(2) in subsection (b)(1)—

(A) by striking ''audit reports for'' each place that term appears and inserting ''audit reports on annual financial statements for'';

(B) in subparagraph (A), by striking ''and'' at the end;

(C) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(C) with respect to each registered public accounting firm that regularly provides audit reports and that is not described in subparagraph (A) or (B), on a basis determined by the Board, by rule, that is consistent with the public interest and protection of investors.''.

(f) INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS.—Section 105(c)(7)(B) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(c)(7)(B)) is amended—

(1) in the subparagraph heading, by inserting '', BROKER, OR DEALER'' after ''ISSUER'';

(2) by striking ''any issuer'' each place that term appears and inserting ''any issuer, broker, or dealer''; and

(3) by striking ''an issuer under this subsection'' and inserting ''a registered public accounting firm under this subsection''.

(g) FOREIGN PUBLIC ACCOUNTING FIRMS.—Section 106(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7216(a)) is amended—

(1) in paragraph (1), by striking ''issuer'' and inserting ''issuer, broker, or dealer''; and

(2) in paragraph (2), by striking ''issuers'' and inserting ''issuers, brokers, or dealers''.

(h) FUNDING.—Section 109 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7219) is amended—

(1) in subsection (c)(2), by striking ''subsection (i)'' and inserting ''subsection (j)'';

(2) in subsection (d)—

(A) in paragraph (2), by striking ''allowing for differentiation among classes of issuers, as appropriate'' and inserting ''and among brokers and dealers, in accordance with subsection (h), and allowing for differentiation among classes of issuers, brokers and dealers, as appropriate''; and

(B) by adding at the end the following:

''(3) BROKERS AND DEALERS.—The Board shall begin the allocation, assessment, and collection of fees under paragraph (2) with respect to brokers and dealers with the payment of support fees to fund the first full fiscal year beginning after the effective date of this paragraph.'';

(3) by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively; and

(4) by inserting after subsection (g) the following:

''(h) ALLOCATION OF ACCOUNTING SUPPORT FEES AMONG BROKERS AND DEALERS.—

''(1) OBLIGATION TO PAY.—Each broker or dealer shall pay to the Board the annual accounting support fee allocated to such broker or dealer under this section.

''(2) ALLOCATION.—Any amount due from a broker or dealer (or from a particular class of brokers and dealers) under this section shall be allocated among brokers and dealers and payable by the broker or dealer (or the brokers and dealers in the particular class, as applicable).

''(3) PROPORTIONALITY.—The amount due from a broker or dealer shall be in proportion to the net capital of the broker or dealer, compared to the total net capital of all brokers and dealers, in accordance with rules issued by the Board.''.

(i) REFERRAL OF INVESTIGATIONS TO A SELF-REGULATORY ORGANIZATION.—Section 105(b)(4)(B) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(4)(B)) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(2) by inserting after clause (i) the following:

''(ii) to a self-regulatory organization, in the case of an investigation that concerns an audit report for a broker or dealer that is under the jurisdiction of such self-regulatory organization;''.

(j) USE OF DOCUMENTS RELATED TO AN INSPECTION OR INVESTIGATION.—Section 105(b)(5)(B)(ii) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(b)(5)(B)(ii)) is amended—

(1) in subclause (III), by striking ''and'' at the end;

(2) in subclause (IV), by striking the comma and inserting ''; and''; and

(3) by inserting after subclause (IV) the following:

''(V) a self-regulatory organization, with respect to an audit report for a broker or dealer that is under the jurisdiction of such self-regulatory organization,''.

(k) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

SEC. 983. PORTFOLIO MARGINING.

(a) ADVANCES.—Section 9(a)(1) of the Securities Investor Protection Act of 1970 (15 U.S.C. 78fff–3(a)(1)) is amended by inserting ''or options on commodity futures contracts'' after ''claim for securities''.

(b) DEFINITIONS.—Section 16 of the Securities Investor Protection Act of 1970 (15 U.S.C. 78*lll*) is amended—

(1) by striking paragraph (2) and inserting the following:

''(2) CUSTOMER.—

''(A) IN GENERAL.—The term 'customer' of a debtor means any person (including any person with whom the debtor deals as principal or agent) who has a claim on account of securities received, acquired, or held by the debtor in the ordinary course of its business as a broker or dealer from or for the securities accounts of such person for safekeeping, with a view to sale, to cover consummated sales, pursuant to purchases, as collateral, security, or for purposes of effecting transfer.

''(B) INCLUDED PERSONS.—The term 'customer' includes—

''(i) any person who has deposited cash with the debtor for the purpose of purchasing securities;

''(ii) any person who has a claim against the debtor for cash, securities, futures contracts, or options on futures contracts received, acquired, or held in a portfolio margining account carried as a securities account pursuant to a portfolio margining program approved by the Commission; and

''(iii) any person who has a claim against the debtor arising out of sales or conversions of such securities.

''(C) EXCLUDED PERSONS.—The term 'customer' does not include any person, to the extent that—

''(i) the claim of such person arises out of transactions with a foreign subsidiary of a member of SIPC; or

''(ii) such person has a claim for cash or securities which by contract, agreement, or understanding, or by operation of law, is part of the capital of the debtor, or is subordinated to the claims of any or all creditors of the debtor, notwithstanding that some ground exists for declaring such contract, agreement, or understanding void or voidable in a suit between the claimant and the debtor.'';

(2) in paragraph (4)—

(A) in subparagraph (C), by striking ''and'' at the end;

(B) by redesignating subparagraph (D) as subparagraph (E); and

(C) by inserting after subparagraph (C) the following:

''(D) in the case of a portfolio margining account of a customer that is carried as a securities account pursuant to a portfolio margining program approved by the Commission, a futures contract or an option on a futures contract received, acquired, or held by or for the account of a debtor from or for such portfolio margining account, and the proceeds thereof; and'';

(3) in paragraph (9), in the matter following subparagraph (L), by inserting after ''Such term'' the following: ''includes revenues earned by a broker or dealer in connection with a transaction in the portfolio margining account of a customer carried as securities accounts pursuant to a portfolio margining program approved by the Commission. Such term''; and

(4) in paragraph (11)—

(A) in subparagraph (A)—

(i) by striking ''filing date, all'' and all that follows through the end of the subparagraph and inserting the following: ''filing date—

''(i) all securities positions of such customer (other than customer name securities reclaimed by such customer); and

''(ii) all positions in futures contracts and options on futures contracts held in a portfolio margining account carried as a securities account pursuant to a portfolio margining program approved by the Commission, including all property collateralizing such positions, to the extent that such property is not otherwise included herein; minus''; and

(B) in the matter following subparagraph (C), by striking ''In determining'' and inserting the following: ''A claim for a commodity futures contract received, acquired, or held in a portfolio margining account pursuant to a portfolio margining program approved by the Commission or a claim for a security futures contract, shall be deemed to be a claim with respect to such contract as of the filing date, and such claim shall be treated as a claim for cash. In determining''.

SEC. 984. LOAN OR BORROWING OF SECURITIES.

(a) RULEMAKING AUTHORITY.—Section 10 of the Securities Exchange Act of 1934 (15 U.S.C. 78j) is amended by adding at the end the following:

''(c)(1) To effect, accept, or facilitate a transaction involving the loan or borrowing of securities in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

''(2) Nothing in paragraph (1) may be construed to limit the authority of the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), the National Credit Union Administration, or any other Federal department or agency having a responsibility under Federal law to prescribe rules or regulations restricting transactions involving the loan or borrowing of securities in

order to protect the safety and soundness of a financial institution or to protect the financial system from systemic risk.''.

(b) RULEMAKING REQUIRED.—Not later than 2 years after the date of enactment of this Act, the Commission shall promulgate rules that are designed to increase the transparency of information available to brokers, dealers, and investors, with respect to the loan or borrowing of securities.

SEC. 985. TECHNICAL CORRECTIONS TO FEDERAL SECURITIES LAWS.

(a) SECURITIES ACT OF 1933.—The Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended—

(1) in section 3(a)(4) (15 U.S.C. 77c(a)(4)), by striking ''individual;'' and inserting ''individual,'';

(2) in section 18 (15 U.S.C. 77r)—

(A) in subsection (b)(1)(C), by striking ''is a security'' and inserting ''a security''; and

(B) in subsection (c)(2)(B)(i), by striking ''State, or'' and inserting ''State or'';

(3) in section 19(d)(6)(A) (15 U.S.C. 77s(d)(6)(A)), by striking ''in paragraph (1) of (3)'' and inserting ''in paragraph (1) or (3)''; and

(4) in section 27A(c)(1)(B)(ii) (15 U.S.C. 77z–2(c)(1)(B)(ii)), by striking ''business entity;'' and inserting ''business entity,''.

(b) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in section 2 (15 U.S.C. 78b), by striking ''affected'' and inserting ''effected'';

(2) in section 3 (15 U.S.C. 78c)—

(A) in subsection (a)(55)(A), by striking ''section 3(a)(12) of the Securities Exchange Act of 1934'' and inserting ''section 3(a)(12) of this title''; and

(B) in subsection (g), by striking ''company, account person, or entity'' and inserting ''company, account, person, or entity'';

(3) in section 10A(i)(1)(B) (15 U.S.C. 78j–1(i)(1)(B))—

(A) in the subparagraph heading, by striking ''MINIMUS'' and inserting ''MINIMIS''; and

(B) in clause (i), by striking ''nonaudit'' and inserting ''non-audit'';

(4) in section 13(b)(1) (15 U.S.C. 78m(b)(1)), by striking ''earning statement'' and inserting ''earnings statement'';

(5) in section 15 (15 U.S.C. 78o)—

(A) in subsection (b)(1)—

(i) in subparagraph (B), by striking ''The order granting'' and all that follows through ''from such membership.''; and

(ii) in the undesignated matter immediately following subparagraph (B), by inserting after the first sentence the following: ''The order granting registration shall not be effective until such broker or dealer has become a member of a registered securities association, or until such broker or dealer has become a member of a national securities exchange, if such broker or dealer effects transactions solely on that exchange, unless the Commission has exempted such broker or dealer, by rule or order, from such membership.'';

(6) in section 15C(a)(2) (15 U.S.C. 78o–5(a)(2))—

(A) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and adjusting the subparagraph margins accordingly;

(B) in subparagraph (B), as so redesignated, by striking ''The order granting'' and all that follows through ''from such membership.''; and

(C) in the matter following subparagraph (B), as so redesignated, by inserting after the first sentence the following: ''The order granting registration shall not be effective until such government securities broker or government securities dealer has become a member of a national securities exchange registered under section 6 of this title, or a securities association registered under section 15A of this title, unless the Commission has exempted such government securities broker or government securities dealer, by rule or order, from such membership.'';

(7) in section 17(b)(1)(B) (15 U.S.C. 78q(b)(1)(B)), by striking ''15A(k) gives'' and inserting ''15A(k), give''; and

(8) in section 21C(c)(2) (15 U.S.C. 78u–3(c)(2)), by striking ''paragraph (1) subsection'' and inserting ''Paragraph (1)''.

(c) TRUST INDENTURE ACT OF 1939.—The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended—

(1) in section 304(b) (15 U.S.C. 77ddd(b)), by striking ''section 2 of such Act'' and inserting ''section 2(a) of such Act''; and

(2) in section 317(a)(1) (15 U.S.C. 77qqq(a)(1)), by striking '', in the'' and inserting ''in the''.

(d) INVESTMENT COMPANY ACT OF 1940.—The Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) is amended—

(1) in section 2(a)(19) (15 U.S.C. 80a–2(a)(19)), in the matter following subparagraph (B)(vii)—

(A) by striking ''clause (vi)'' each place that term appears and inserting ''clause (vii)''; and

(B) in each of subparagraphs (A)(vi) and (B)(vi), by adding ''and'' at the end of subclause (III);

(2) in section 9(b)(4)(B) (15 U.S.C. 80a–9(b)(4)(B)), by adding ''or'' after the semicolon at the end;

(3) in section 12(d)(1)(J) (15 U.S.C. 80a–12(d)(1)(J)), by striking ''any provision of this subsection'' and inserting ''any provision of this paragraph'';

(4) in section 17(f) (15 U.S.C. 80a–17(f))—

(A) in paragraph (4), by striking ''No such member'' and inserting ''No member of a national securities exchange''; and

(B) in paragraph (6), by striking ''company may serve'' and inserting ''company, may serve''; and

(5) in section 61(a)(3)(B)(iii) (15 U.S.C. 80a–60(a)(3)(B)(iii))—

(A) by striking ''paragraph (1) of section 205'' and inserting ''section 205(a)(1)''; and

(B) by striking ''clause (A) or (B) of that section'' and inserting ''paragraph (1) or (2) of section 205(b)''.

(e) INVESTMENT ADVISERS ACT OF 1940.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended—

(1) in section 203 (15 U.S.C. 80b–3)—

(A) in subsection (c)(1)(A), by striking ''principal business office and'' and inserting ''principal office, principal place of business, and''; and

(B) in subsection (k)(4)(B), in the matter following clause (ii), by striking ''principal place of business'' and inserting ''principal office or place of business'';

(2) in section 206(3) (15 U.S.C. 80b–6(3)), by adding ''or'' after the semicolon at the end;

(3) in section 213(a) (15 U.S.C. 80b–13(a)), by striking ''principal place of business'' and inserting ''principal office or place of business''; and

(4) in section 222 (15 U.S.C. 80b–18a), by striking ''principal place of business'' each place that term appears and inserting ''principal office and place of business''.

SEC. 986. CONFORMING AMENDMENTS RELATING TO REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.

(a) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) is amended—

(1) in section 3(a)(47) (15 U.S.C. 78c(a)(47)), by striking ''the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.),'';

(2) in section 12(k) (15 U.S.C. 78l(k)), by amending paragraph (7) to read as follows:

''(7) DEFINITION.—For purposes of this subsection, the term 'emergency' means—

''(A) a major market disturbance characterized by or constituting—

''(i) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets; or

''(ii) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of transactions in securities, or a substantial threat thereof; or

''(B) a major disturbance that substantially disrupts, or threatens to substantially disrupt—

''(i) the functioning of securities markets, investment companies, or any other significant portion or segment of the securities markets; or

''(ii) the transmission or processing of securities transactions.''; and

(3) in section 21(h)(2) (15 U.S.C. 78u(h)(2)), by striking ''section 18(c) of the Public Utility Holding Company Act of 1935,''.

(b) TRUST INDENTURE ACT OF 1939.—The Trust Indenture Act of 1939 (15 U.S.C. 77aaa et seq.) is amended—

(1) in section 303 (15 U.S.C. 77ccc), by striking paragraph (17) and inserting the following:

''(17) The terms 'Securities Act of 1933' and 'Securities Exchange Act of 1934' shall be deemed to refer, respectively, to such Acts, as amended, whether amended prior to or after the enactment of this title.'';

(2) in section 308 (15 U.S.C. 77hhh), by striking ''Securities Act of 1933, the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935'' each place that term appears and inserting ''Securities Act of 1933 or the Securities Exchange Act of 1934'';

(3) in section 310 (15 U.S.C. 77jjj), by striking subsection (c);

(4) in section 311 (15 U.S.C. 77kkk), by striking subsection (c);

(5) in section 323(b) (15 U.S.C. 77www(b)), by striking ''Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935'' and inserting ''Securities Act of 1933 or the Securities Exchange Act of 1934''; and

(6) in section 326 (15 U.S.C. 77zzz), by striking ''Securities Act of 1933, or the Securities Exchange Act of 1934, or the Public Utility Holding Company Act of 1935,'' and inserting ''Securities Act of 1933 or the Securities Exchange Act of 1934''.

(c) INVESTMENT COMPANY ACT OF 1940.—The Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.) is amended—

(1) in section 2(a)(44) (15 U.S.C. 80a–2(a)(44)), by striking '''Public Utility Holding Company Act of 1935','';

(2) in section 3(c) (15 U.S.C. 80a–3(c)), by striking paragraph (8) and inserting the following:

''(8) [Repealed]'';

(3) in section 38(b) (15 U.S.C. 80a–37(b)), by striking ''the Public Utility Holding Company Act of 1935,''; and

(4) in section 50 (15 U.S.C. 80a–49), by striking ''the Public Utility Holding Company Act of 1935,''.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 202(a)(21) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(21)) is amended by striking '''Public Utility Holding Company Act of 1935',''.

SEC. 987. AMENDMENT TO DEFINITION OF MATERIAL LOSS AND NONMATERIAL LOSSES TO THE DEPOSIT INSURANCE FUND FOR PURPOSES OF INSPECTOR GENERAL REVIEWS.

(a) IN GENERAL.—Section 38(k) of the Federal Deposit Insurance Act (U.S.C. 1831o(k)) is amended—

(1) in paragraph (2), by striking subparagraph (B) and inserting the following:

''(B) MATERIAL LOSS DEFINED.—The term 'material loss' means any estimated loss in excess of—

''(i) $100,000,000, if the loss occurs during the period beginning on September 30, 2009, and ending on December 31, 2010;

''(ii) $75,000,000, if the loss occurs during the period beginning on January 1, 2011, and ending on December 31, 2011; and

''(iii) $50,000,000, if the loss occurs on or after January 1, 2012.'';

(2) in paragraph (4)(A) by striking ''the report'' and inserting ''any report on losses required under this subsection,'';

(3) by striking paragraph (6);

(4) by redesignating paragraph (5) as paragraph (6); and

(5) by inserting after paragraph (4) the following:

''(5) LOSSES THAT ARE NOT MATERIAL.—

''(A) SEMIANNUAL REPORT.—For the 6-month period ending on March 31, 2010, and each 6-month period thereafter, the Inspector General of each Federal banking agency shall—

''(i) identify losses that the Inspector General estimates have been incurred by the Deposit Insurance Fund during that 6-month period, with respect to the insured depository institutions supervised by the Federal banking agency;

''(ii) for each loss incurred by the Deposit Insurance Fund that is not a material loss, determine—

''(I) the grounds identified by the Federal banking agency or State bank supervisor for appointing the Corporation as receiver under section 11(c)(5); and

''(II) whether any unusual circumstances exist that might warrant an in-depth review of the loss; and

''(iii) prepare and submit a written report to the appropriate Federal banking agency and to Congress on the results of any determination by the Inspector General, including—

''(I) an identification of any loss that warrants an in-depth review, together with the reasons why such review is warranted, or, if the Inspector General determines that no review is warranted, an explanation of such determination; and

''(II) for each loss identified under subclause (I) that warrants an in-depth review, the date by which such review, and a report on such review prepared in a manner consistent with reports under paragraph (1)(A), will be completed and submitted to the Federal banking agency and Congress.

''(B) DEADLINE FOR SEMIANNUAL REPORT.—The Inspector General of each Federal banking agency shall—

''(i) submit each report required under paragraph (A) expeditiously, and not later than 90 days after the end of the 6-month period covered by the report; and

''(ii) provide a copy of the report required under paragraph (A) to any Member of Congress, upon request.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The heading for subsection (k) of section 38 of the Federal Deposit Insurance Act (U.S.C. 1831o(k)) is amended to read as follows:

''(k) REVIEWS REQUIRED WHEN DEPOSIT INSURANCE FUND INCURS LOSSES.—''.

SEC. 988. AMENDMENT TO DEFINITION OF MATERIAL LOSS AND NONMATERIAL LOSSES TO THE NATIONAL CREDIT UNION SHARE INSURANCE FUND FOR PURPOSES OF INSPECTOR GENERAL REVIEWS.

(a) IN GENERAL.—Section 216(j) of the Federal Credit Union Act (12 U.S.C. 1790d(j)) is amended to read as follows:

''(j) REVIEWS REQUIRED WHEN SHARE INSURANCE FUND EXPERIENCES LOSSES.—

''(1) IN GENERAL.—If the Fund incurs a material loss with respect to an insured credit union, the Inspector General of the Board shall—

''(A) submit to the Board a written report reviewing the supervision of the credit union by the Administration (including the implementation of this section by the Administration), which shall include—

''(i) a description of the reasons why the problems of the credit union resulted in a material loss to the Fund; and

''(ii) recommendations for preventing any such loss in the future; and

''(B) submit a copy of the report under subparagraph (A) to—

''(i) the Comptroller General of the United States;

''(ii) the Corporation;

''(iii) in the case of a report relating to a State credit union, the appropriate State supervisor; and

''(iv) to any Member of Congress, upon request.

''(2) MATERIAL LOSS DEFINED.—For purposes of determining whether the Fund has incurred a material loss with respect to an insured credit union, a loss is material if it exceeds the sum of—

''(A) $25,000,000; and

''(B) an amount equal to 10 percent of the total assets of the credit union on the date on which the Board initiated assistance under section 208 or was appointed liquidating agent.

''(3) PUBLIC DISCLOSURE REQUIRED.—

''(A) IN GENERAL.—The Board shall disclose a report under this subsection, upon request under section 552 of title 5, United States Code, without excising—

''(i) any portion under section 552(b)(5) of title 5, United States Code; or

''(ii) any information about the insured credit union (other than trade secrets) under section 552(b)(8) of title 5, United States Code.

''(B) RULE OF CONSTRUCTION.—Subparagraph (A) may not be construed as requiring the agency to disclose the name of any customer of the insured credit union (other than an institution-affiliated party), or information from which the identity of such customer could reasonably be ascertained.

''(4) LOSSES THAT ARE NOT MATERIAL.—

''(A) SEMIANNUAL REPORT.—For the 6-month period ending on March 31, 2010, and each 6-month period thereafter, the Inspector General of the Board shall—

''(i) identify any losses that the Inspector General estimates were incurred by the Fund during such 6-month period, with respect to insured credit unions;

''(ii) for each loss to the Fund that is not a material loss, determine—

''(I) the grounds identified by the Board or the State official having jurisdiction over a State credit union for appointing the Board as the liquidating agent for any Federal or State credit union; and

''(II) whether any unusual circumstances exist that might warrant an in-depth review of the loss; and

''(iii) prepare and submit a written report to the Board and to Congress on the results of the determinations of the Inspector General that includes—

''(I) an identification of any loss that warrants an in-depth review, and the reasons such review is warranted, or if the Inspector General determines that no review is warranted, an explanation of such determination; and

''(II) for each loss identified in subclause (I) that warrants an in-depth review, the date by which such review, and a report on the review prepared in a manner consistent with reports under paragraph (1)(A), will be completed.

''(B) DEADLINE FOR SEMIANNUAL REPORT.—The Inspector General of the Board shall—

''(i) submit each report required under subparagraph (A) expeditiously, and not later than 90 days after the end of the 6-month period covered by the report; and

''(ii) provide a copy of the report required under subparagraph (A) to any Member of Congress, upon request.

''(5) GAO REVIEW.—The Comptroller General of the United States shall, under such conditions as the Comptroller General determines to be appropriate—

''(A) review each report made under paragraph (1), including the extent to which the Inspector General of the Board complied with the requirements under section 8L of the Inspector General Act of 1978 (5 U.S.C. App.) with respect to each such report; and

''(B) recommend improvements to the supervision of insured credit unions (including improvements relating to the implementation of this section).''.

SEC. 989. GOVERNMENT ACCOUNTABILITY OFFICE STUDY ON PROPRIETARY TRADING.

(a) DEFINITIONS.—In this section—

(1) the term ''covered entity'' means—

(A) an insured depository institution, an affiliate of an insured depository institution, a bank holding company, a financial holding company, or a subsidiary of a bank holding company or a financial holding company, as those terms are defined in the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.); and

(B) any other entity, as the Comptroller General of the United States may determine; and

(2) the term ''proprietary trading'' means the act of a covered entity investing as a principal in securities, commodities, derivatives, hedge funds, private equity firms, or such other financial products or entities as the Comptroller General may determine.

(b) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding the risks and conflicts associated with proprietary trading by and within covered entities, including an evaluation of—

(A) whether proprietary trading presents a material systemic risk to the stability of the United States financial system, and if so, the costs and benefits of options for mitigating such systemic risk;

(B) whether proprietary trading presents material risks to the safety and soundness of the covered entities that engage in such activities, and if so, the costs and benefits of options for mitigating such risks;

(C) whether proprietary trading presents material conflicts of interest between covered entities that engage in proprietary trading and the clients of the institutions who use the firm to execute trades or who rely on the firm to manage assets, and if so, the costs and benefits of options for mitigating such conflicts of interest;

(D) whether adequate disclosure regarding the risks and conflicts of proprietary trading is provided to the depositors, trading and asset management clients, and investors of covered entities that engage in proprietary trading, and if not, the costs and benefits of options for the improvement of such disclosure; and

(E) whether the banking, securities, and commodities regulators of institutions that engage in proprietary trading have in place adequate systems and controls to monitor and contain any risks and conflicts of interest related to proprietary trading, and if not, the costs and benefits of options for the improvement of such systems and controls.

(2) CONSIDERATIONS.—In carrying out the study required under paragraph (1), the Comptroller General shall consider—

(A) current practice relating to proprietary trading;

(B) the advisability of a complete ban on proprietary trading;

(C) limitations on the scope of activities that covered entities may engage in with respect to proprietary trading;

(D) the advisability of additional capital requirements for covered entities that engage in proprietary trading;

(E) enhanced restrictions on transactions between affiliates related to proprietary trading;

(F) enhanced accounting disclosures relating to proprietary trading;

(G) enhanced public disclosure relating to proprietary trading; and

(H) any other options the Comptroller General deems appropriate.

(c) REPORT TO CONGRESS.—Not later than 15 months after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study conducted under subsection (b).

(d) ACCESS BY COMPTROLLER GENERAL.—For purposes of conducting the study required under subsection (b), the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things, or property belonging to or in use by a covered entity that engages in proprietary trading, and to the officers, directors, employees, independent public accountants, financial advisors, staff, and agents and representatives of a covered entity (as related to the activities of the agent or representative on behalf of the covered entity), at such reasonable times as the Comptroller General may request. The Comptroller General may make and retain copies of books, records, accounts, and other records, as the Comptroller General deems appropriate.

(e) CONFIDENTIALITY OF REPORTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Comptroller General may not disclose information regarding—

(A) any proprietary trading activity of a covered entity, unless such information is disclosed at a level of generality that does not reveal the investment or trading position or strategy of the covered entity for any specific security, commodity, derivative, or other investment or financial product; or

(B) any individual interviewed by the Comptroller General for purposes of the study under subsection (b), unless such information is disclosed at a level of generality that does not reveal—

(i) the name of or identifying details relating to such individual; or

(ii) in the case of an individual who is an employee of a third party that provides professional services to a covered entity believed to be engaged in proprietary trading, the name of or any identifying details relating to such third party.

(2) EXCEPTIONS.—The Comptroller General may disclose the information described in paragraph (1)—

(A) to a department, agency, or official of the Federal Government, for official use, upon request;

(B) to a committee of Congress, upon request; and

(C) to a court, upon an order of such court.

SEC. 989A. SENIOR INVESTOR PROTECTIONS.

(a) DEFINITIONS.—As used in this section—

(1) the term ''eligible entity'' means—

(A) a securities commission (or any agency or office performing like functions) of a State that the Office determines has adopted rules on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto);

(B) the insurance commission (or any agency or office performing like functions) of any State that the Office determines has—

(i) adopted rules on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and

(ii) adopted rules with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto); or

(C) a consumer protection agency of any State, if—

(i) the securities commission (or any agency or office performing like functions) of the State is eligible under subparagraph (A); or

(ii) the insurance commission (or any agency or office performing like functions) of the State is eligible under subparagraph (B);

(2) the term ''financial product'' means a security, an insurance product (including an insurance product that pays a return, whether fixed or variable), a bank product, and a loan product;

(3) the term ''misleading designation''—

(A) means a certification, professional designation, or other purported credential that indicates or implies that a salesperson or adviser has special certification or training in advising or servicing seniors; and

(B) does not include a certification, professional designation, license, or other credential that—

(i) was issued by or obtained from an academic institution having regional accreditation;

(ii) meets the standards for certifications, licenses, and professional designations outlined by the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities, adopted by the National Association of Insurance Commissioners (or any successor thereto); or

(iii) was issued by or obtained from a State;

(4) the term ''misleading or fraudulent marketing'' means the use of a misleading designation by a person that sells to or advises a senior in connection with the sale of a financial product;

(5) the term ''NASAA'' means the North American Securities Administrators Association;

(6) the term ''Office'' means the Office of Financial Literacy of the Bureau; and

(7) the term ''senior'' means any individual who has attained the age of 62 years or older.

(b) GRANTS TO STATES FOR ENHANCED PROTECTION OF SENIORS FROM BEING MISLED BY FALSE DESIGNATIONS.—The Office shall establish a program under which the Office may make grants to States or eligible entities—

(1) to hire staff to identify, investigate, and prosecute (through civil, administrative, or criminal enforcement actions) cases involving misleading or fraudulent marketing;

(2) to fund technology, equipment, and training for regulators, prosecutors, and law enforcement officers, in order to identify salespersons and advisers who target seniors through the use of misleading designations;

(3) to fund technology, equipment, and training for prosecutors to increase the successful prosecution of salespersons and advisers who target seniors with the use of misleading designations;

(4) to provide educational materials and training to regulators on the appropriateness of the use of designations by salespersons and advisers in connection with the sale and marketing of financial products;

(5) to provide educational materials and training to seniors to increase awareness and understanding of misleading or fraudulent marketing;

(6) to develop comprehensive plans to combat misleading or fraudulent marketing of financial products to seniors; and

(7) to enhance provisions of State law to provide protection for seniors against misleading or fraudulent marketing.

(c) APPLICATIONS.—A State or eligible entity desiring a grant under this section shall submit an application to the Office, in such form and in such a manner as the Office may determine, that includes—

(1) a proposal for activities to protect seniors from misleading or fraudulent marketing that are proposed to be funded using a grant under this section, including—

(A) an identification of the scope of the problem of misleading or fraudulent marketing in the State;

(B) a description of how the proposed activities would—

(i) protect seniors from misleading or fraudulent marketing in the sale of financial products, including by proactively identifying victims of misleading and fraudulent marketing who are seniors;

(ii) assist in the investigation and prosecution of those using misleading or fraudulent marketing; and

(iii) discourage and reduce cases of misleading or fraudulent marketing; and

(C) a description of how the proposed activities would be coordinated with other State efforts; and

(2) any other information, as the Office determines is appropriate.

(d) PERFORMANCE OBJECTIVES AND REPORTING REQUIREMENTS.—The Office may establish such performance objectives and reporting requirements for States and eligible entities receiving a grant under this section as the Office determines are necessary to carry out and assess the effectiveness of the program under this section.

(e) MAXIMUM AMOUNT.—The amount of a grant under this section may not exceed—

(1) $500,000 for each of 3 consecutive fiscal years, if the recipient is a State, or an eligible entity of a State, that has adopted rules—

(A) on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto);

(B) on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and

(C) with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto); and

(2) $100,000 for each of 3 consecutive fiscal years, if the recipient is a State, or an eligible entity of a State, that has adopted—

(A) rules on the appropriate use of designations in the offer or sale of securities or investment advice that meet or exceed the minimum requirements of the NASAA Model

Rule on the Use of Senior-Specific Certifications and Professional Designations (or any successor thereto); or

(B) rules—

(i) on the appropriate use of designations in the sale of insurance products that, to the extent practicable, conform to the minimum requirements of the National Association of Insurance Commissioners Model Regulation on the Use of Senior-Specific Certifications and Professional Designations in the Sale of Life Insurance and Annuities (or any successor thereto); and

(ii) with respect to fiduciary or suitability requirements in the sale of annuities that meet or exceed the minimum requirements established by the Suitability in Annuity Transactions Model Regulation of the National Association of Insurance Commissioners (or any successor thereto).

(f) SUBGRANTS.—A State or eligible entity that receives a grant under this section may make a subgrant, as the State or eligible entity determines is necessary to carry out the activities funded using a grant under this section.

(g) REAPPLICATION.—A State or eligible entity that receives a grant under this section may reapply for a grant under this section, notwithstanding the limitations on grant amounts under subsection (e).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $8,000,000 for each of fiscal years 2011 through 2015.

SEC. 989B. CHANGES IN APPOINTMENT OF CERTAIN INSPECTORS GENERAL.

(a) ELEVATION OF CERTAIN INSPECTORS GENERAL TO APPOINTMENT PURSUANT TO SECTION 3 OF THE INSPECTOR GENERAL ACT OF 1978.—

(1) INCLUSION IN CERTAIN DEFINITIONS.—Section 12 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) in paragraph (1), by striking ''or the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code;'' and inserting ''the Federal Cochairpersons of the Commissions established under section 15301 of title 40, United States Code; the Chairman of the Board of Governors of the Federal Reserve System; the Chairman of the Commodity Futures Trading Commission; the Chairman of the National Credit Union Administration; the Chairman of the Board of Directors of the Pension Benefit Guaranty Corporation; the Chairman of the Securities and Exchange Commission; or the Director of the Bureau of Consumer Financial Protection;''; and

(B) in paragraph (2), by striking ''or the Commissions established under section 15301 of title 40, United States Code,'' and inserting ''the Commissions established under section 15301 of title 40, United States Code, the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the National Credit Union Administration, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, or the Director of the Bureau of Consumer Financial Protection,''.

(2) EXCLUSION FROM DEFINITION OF DESIGNATED FEDERAL ENTITY.—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) by striking ''the Board of Governors of the Federal Reserve System,'';

(B) by striking ''the Commodity Futures Trading Commission,'';

(C) by striking ''the National Credit Union Administration,''; and

(D) by striking ''the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission,''.

(b) CONTINUATION OF PROVISIONS RELATING TO PERSONNEL.—

(1) IN GENERAL.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8L the following:

''SEC. 8M. SPECIAL PROVISIONS CONCERNING CERTAIN ESTABLISHMENTS.

''(a) DEFINITION.—For purposes of this section, the term 'covered establishment' means the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, the National Credit Union Administration, the Pension Benefit Guaranty Corporation, and the Securities and Exchange Commission.

''(b) PROVISIONS RELATING TO ALL COVERED ESTABLISHMENTS.—

''(1) PROVISIONS RELATING TO INSPECTORS GENERAL.—In the case of the Inspector General of a covered establishment, subsections (b) and (c) of section 4 of the Inspector General Reform Act of 2008 (Public Law 110–409; 122 Stat. 4304) shall apply in the same manner as if such covered establishment were a designated Federal entity under section 8G of this Act. An Inspector General who is subject to the preceding sentence shall not be subject to section 3(e) of this Act.

''(2) PROVISIONS RELATING TO OTHER PERSONNEL.—Notwithstanding paragraphs (7) and (8) of section 6(a), the Inspector General of a covered establishment may select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General of the covered establishment and to obtain the temporary or intermittent services of experts or consultants or an organization of experts or consultants, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the covered establishment.

''(c) PROVISION RELATING TO THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—The provisions of subsection (a) of section 8D (other than the provisions of subparagraphs (A), (B), (C), and (E) of paragraph (1) of such subsection (a)) shall apply to the Inspector General of the Board of Governors of the Federal Reserve System and the Chairman of the Board of Governors of the Federal Reserve System in the same manner as such provisions apply to the Inspector General of the Department of the Treasury and the Secretary of the Treasury, respectively.''.

(2) CONFORMING AMENDMENT.—Paragraph (3) of section 8G(g) of the Inspector General Act of 1978 (5 U.S.C. App.) is repealed.

(c) CORRECTIVE RESPONSES BY HEADS OF CERTAIN ESTABLISHMENTS TO DEFICIENCIES IDENTIFIED BY INSPECTORS GENERAL.—The Chairman of the Board of Governors, the Chairman of the Commodity Futures Trading Commission, the Chairman of the National Credit Union Administration, the Chairman of the Board of Directors of the Pension Benefit Guaranty Corporation, and the Chairman of the Commission shall each—

(1) take action to address deficiencies identified by a report or investigation of the Inspector General of the establishment concerned; or

(2) certify to the Senate and the House of Representatives that no action is necessary or appropriate in connection with a deficiency described in paragraph (1).

(d) EFFECTIVE DATE; TRANSITION RULE.—

(1) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 30 days after the date of enactment of this Act.

(2) TRANSITION RULE.—An individual serving as Inspector General of the Board of Governors, the Commodity Futures Trading Commission, the National Credit Union Administration, the Pension Benefit Guaranty Corporation, or the Commission on the effective date of this section pursuant to an appointment made under section 8G of the Inspector General Act of 1978 (5 U.S.C. App.)—

(A) may continue so serving until the President makes an appointment under section 3(a) of such Act with respect to the Board of Governors, the Commodity Futures Trading Commission, the National Credit Union Administration, the Pension Benefit Guaranty Corporation, or the Commission, as the case may be, consistent with the amendments made by subsection (a); and

(B) shall, while serving under subparagraph (A)—

(i) remain subject to the provisions of section 8G of such Act that applied with respect to the Inspector General of the Board of Governors, the Commodity Futures Trading Commission, the National Credit Union Administration, the Pension Benefit Guaranty Corporation, or the Commission, as the case may be, on the day before the effective date of this section; and

(ii) suffer no reduction in pay.

Subtitle J—Self-funding of the Securities and Exchange Commission

SEC. 991. SECURITIES AND EXCHANGE COMMISSION SELF-FUNDING.

(a) SELF-FUNDING AUTHORITY.—Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended—

(1) in subsection (c), in the second sentence, by striking ''credited to the appropriated funds of the Commission'' and inserting ''deposited in the account described in subsection (i)(4)'';

(2) in subsection (f), in the second sentence, by striking ''considered a reimbursement to the appropriated funds of the Commission'' and inserting ''deposited in the account described in subsection (i)(4)''; and

(3) by adding at the end the following:

''(i) FUNDING OF THE COMMISSION.—

''(1) BUDGET.—For each fiscal year, the Chairman of the Commission shall prepare and submit to Congress a budget to Congress. Such budget shall be submitted at the same time the President submits a budget of the United States to Congress for such fiscal year. The budget submitted by the Chairman of the Commission pursuant to this paragraph shall not be considered a request for appropriations.

''(2) TREASURY PAYMENT.—

''(A) On the first day of each fiscal year, the Treasury shall pay into the account described in paragraph (4) an amount equal to the budget submitted by the Chairman of the Commission pursuant to paragraph (1) for such fiscal year.

''(B) At or prior to the end of each fiscal year, the Commission shall pay to the Treasury from fees and assessments deposited in the account described in paragraph (4) an amount equal to the amount paid by the Treasury pursuant to subparagraph (A) for such fiscal year, unless there are not sufficient fees and assessments deposited in such account at or prior to the end of the fiscal year to make such payment, in which case the Commission shall make such payment in a subsequent fiscal year.

''(3) OBLIGATIONS AND EXPENSES.—

''(A) IN GENERAL.—The Commission shall determine and prescribe the manner in which—

''(i) the obligations of the Commission shall be incurred; and

''(ii) the disbursements and expenses of the Commission allowed and paid.

''(B) INSUFFICIENT FUNDS.—If, in the course of any fiscal year, the Chairman of the Commission determines that, due to unforeseen circumstances, the obligations of the Commission will exceed those provided for in the budget submitted under paragraph (1), the

Chairman of the Commission may notify Congress of the amount and expected uses of the additional obligations.

''(C) AUTHORITY TO INCUR EXCESS OBLIGATIONS.—The Commission may incur obligations in excess of the budget submitted under paragraph (1) from amounts available in the account described in paragraph (4).

''(D) RULE OF CONSTRUCTION.—Any notification to Congress under this paragraph shall not be considered a request for appropriations.

''(4) ACCOUNT.—

''(A) ESTABLISHMENT.—Fees and assessments collected under this title, section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)), and section 24(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–24(f)) and payments made by the Treasury pursuant to paragraph (2)(A) for any fiscal year shall be deposited into an account established at any regular Government depositary or any State or national bank.

''(B) RULE OF CONSTRUCTION.—Any amounts deposited into the account established under subparagraph (A) shall not be construed to be Government funds or appropriated monies.

''(C) NO APPORTIONMENT.—Any amounts deposited into the account established under subparagraph (A) shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.

''(5) USE OF ACCOUNT FUNDS.—

''(A) PERMISSIBLE USES.—Amounts available in the account described in paragraph (4) may be withdrawn by the Commission and used for the purposes described in paragraphs (2) and (3).

''(B) IMPERMISSIBLE USE.—Except as provided in paragraph (6), no amounts available in the account described in paragraph (4) shall be deposited and credited as general revenue of the Treasury.

''(6) EXCESS FUNDS.—If, at the end of any fiscal year and after all payments have been made to the Treasury pursuant to paragraph (2)(B) for such fiscal year and all prior fiscal years, the balance of the account described in paragraph (4) exceeds 25 percent of the budget of the Commission for the following fiscal year, the amount by which the balance exceeds 25 percent of such budget shall be credited as general revenue of the Treasury.''.

(b) CONFORMING AMENDMENTS TO TRANSACTION FEE PROVISIONS.—Section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) is amended—

(1) by amending subsection (a) to read as follows:

''(a) RECOVERY OF COSTS AND EXPENSES.—

''(1) IN GENERAL.—The Commission shall, in accordance with this section, collect transaction fees and assessments that are designed—

''(A) to recover the reasonable costs and expenses of the Commission, as set forth in the annual budget of the Commission; and

''(B) to provide funds necessary to maintain a reserve.

''(2) OVERPAYMENTS.—The authority to collect transaction fees and assessments in accordance with this section shall include the authority to offset from such collection any overpayment of transaction fees or assessments, regardless of the fiscal year in which such overpayment is made.'';

(2) in subsection (e)(2), by striking ''September 30'' and inserting ''September 25'';

(3) in subsection (g), by striking ''April 30'' and inserting ''August 31'';

(4) by amending subsection (i) to read as follows:

''(i) FEE COLLECTIONS.—Fees and assessments collected pursuant to this section shall be deposited and credited in accordance with section 4(g) of this title.'';

(5) by amending subsection (j) to read as follows:

''(j) ADJUSTMENTS TO TRANSACTION FEE RATES.—

''(1) ANNUAL ADJUSTMENT.—For each fiscal year, the Commission shall by order adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the baseline estimate of the aggregate dollar amount of sales for such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including assessments collected under subsection (d)) that are equal to the budget of the Commission for such fiscal year, plus amounts necessary to maintain a reserve.

''(2) MID-YEAR ADJUSTMENT.—For each fiscal year, the Commission shall determine, by March 1 of such fiscal year, whether, based on the actual aggregate dollar volume of sales during the first 4 months of such fiscal year, the baseline estimate of the aggregate dollar volume of sales used under paragraph (1) for such fiscal year is reasonably likely to be 10 percent (or more) greater or less than the actual aggregate dollar volume of sales for such fiscal year. If the Commission so determines, the Commission shall by order, not later than March 1, adjust each of the rates applicable under subsections (b) and (c) for such fiscal year to a uniform adjusted rate that, when applied to the revised estimate of the aggregate dollar amount of sales for the remainder of such fiscal year, is reasonably likely to produce aggregate fee collections under this section (including fees estimated to be collected under subsections (b) and (c) during such fiscal year prior to the effective date of the new uniform adjusted rate and assessments collected under subsection (d)) that are equal to the budget of the Commission for such fiscal year, plus amounts necessary to maintain a reserve. In making such revised estimate, the Commission shall, after consultation with the Congressional Budget Office and the Office of Management and Budget, use the same methodology required by paragraph (4).

''(3) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5 United States Code. An adjusted rate prescribed under paragraph (1) or (2) and published under subsection (g) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (1) shall take effect on the first day of the fiscal year to which such rate applies. An adjusted rate prescribed under paragraph (2) shall take effect on April 1 of the fiscal year to which such rate applies.

''(4) BASELINE ESTIMATE OF THE AGGREGATE DOLLAR AMOUNT OF SALES.—For purposes of this subsection, the baseline estimate of the aggregate dollar amount of sales for any fiscal year is the baseline estimate of the aggregate dollar amount of sales of securities (other than bonds, debentures, other evidences of indebtedness, security futures products, and options on securities indexes excluding a narrow-based security index) to be transacted on each national securities exchange and by or through any member of each national securities association (otherwise than on a national securities exchange) during such fiscal year as determined by the Commission, after consultation with the Congressional Budget Office and the Office of Management and Budget, using the methodology required for making projections pursuant to section 907 of title 2.''; and

(6) by striking subsections (k) and (l).

(c) CONFORMING AMENDMENTS TO REGISTRATION FEE PROVISIONS.—

(1) SECTION 6(B) OF THE SECURITIES ACT OF 1933.—Section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) is amended—

(A) by striking ''offsetting'' each place that term appears and inserting ''fee'';

(B) in paragraph (3), in the paragraph heading, by striking ''OFFSETTING'' and inserting ''FEE'';

(C) in paragraph (11)(A), in the subparagraph heading, by striking ''OFFSETTING'' and inserting ''FEE'';

(D) by striking paragraphs (1), (3), (4), (6), (8), and (9);

(E) by redesignating paragraph (2) as paragraph (1);

(F) in paragraph (1), as so redesignated, by striking ''(5) or (6)'' and inserting ''(3)'';

(G) by inserting after paragraph (1), as so redesignated, the following:

''(2) FEE COLLECTIONS.—Fees collected pursuant to this subsection shall be deposited and credited in accordance with section 4(i) of the Securities Exchange Act of 1934.'';

(H) by redesignating paragraph (5) as paragraph (3);

(I) in paragraph (3), as redesignated—

(i) by striking ''of the fiscal years 2003 through 2011'' and inserting ''fiscal year''; and

(ii) by striking ''paragraph (2)'' and inserting ''paragraph (1)'';

(J) by redesignating paragraph (7) as paragraph (4);

(K) by inserting after paragraph (4), as so redesignated, the following:

''(5) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code. An adjusted rate prescribed under paragraph (3) and published under paragraph (6) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (3) shall take effect on the first day of the fiscal year to which such rate applies.'';

(L) by redesignating paragraphs (10) and (11), as paragraphs (6) and (7);

(M) in paragraph (6), as redesignated, by striking ''April 30'' and inserting ''August 31''; and

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

(i) by striking ''of the fiscal years 2002 through 2011'' and inserting ''fiscal year''; and

(ii) by inserting at the end of the table in subparagraph (A) the following:

2012 and each succeeding fiscal year	**An amount that is equal to the target fee collection amount for the prior fiscal year adjusted by the rate of inflation.**

(2) SECTION 13(E) OF THE SECURITIES EXCHANGE ACT OF 1934.—Section 13(e) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(e)) is amended—

(A) by striking ''offsetting'' each place that term appears and inserting ''fee'';

(B) in paragraph (3) by striking ''paragraphs (5) and (6)'' and inserting ''paragraph (5)'';

(C) by amending paragraph (4) to read as follows:

''(4) FEE COLLECTIONS.—Fees collected pursuant to this subsection shall be deposited and credited in accordance with section 4(g) of this title.'';

(D) in paragraph (5), by striking ''of the fiscal years 2003 through 2011'' and inserting ''fiscal year'';

(E) by striking paragraphs (6), (7), and (8);

(F) by redesignating paragraph (7) as paragraph (6);

(G) by inserting after paragraph (6), as so redesignated, the following:

''(7) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5. An adjusted rate prescribed under paragraph (5) and published under paragraph (8) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (5) shall take effect on the first day of the fiscal year to which such rate applies.'';

(H) by striking paragraph (9);

(I) by redesignating paragraph (10) as paragraph (8); and

(J) in paragraph (8), as so redesignated, by striking ''6(b)(10)'' and inserting ''6(b)(6)''.

(3) SECTION 14 OF THE SECURITIES EXCHANGE ACT OF 1934.—Section 14(g) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(g)) is amended—

(A) by striking the word ''offsetting'' each time that it appears and inserting in its place the word ''fee'';

(B) in paragraph (1)(A), by striking ''paragraphs (5) and (6)'' each time it appears and inserting ''paragraph (5)'';

(C) in paragraph (3), by striking ''paragraphs (5) and (6)'' and inserting ''paragraph (5)'';

(D) by amending paragraph (4) to read as follows:

''(4) FEE COLLECTIONS.—Fees collected pursuant to this subsection shall be deposited and credited in accordance with section 4(g) of this title.'';

(E) in paragraph (5), by striking ''of the fiscal years 2003 through 2011'' and inserting ''fiscal year'';

(F) by striking paragraphs (6), (8), and (9);

(G) by redesignating paragraph (7) as paragraph (6);

(H) by inserting after paragraph (6), as so redesignated, the following:

''(7) REVIEW AND EFFECTIVE DATE.—In exercising its authority under this subsection, the Commission shall not be required to comply with the provisions of section 553 of title 5. An adjusted rate prescribed under paragraph (5) and published under paragraph (8) shall not be subject to judicial review. An adjusted rate prescribed under paragraph (5) shall take effect on the first day of the fiscal year to which such rate applies.'';

(I) by redesignating paragraphs (10) and (11) as paragraphs (8) and (9), respectively; and

(J) in paragraph (9), as so redesignated, by striking ''6(b)(10)'' and inserting ''6(b)(7)''.

(d) REPEAL OF AUTHORIZATION OF APPROPRIATIONS.—Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is repealed.

(e) EFFECTIVE DATE AND TRANSITION PROVISIONS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall be effective on the first day of the fiscal year following the fiscal year in which this Act is enacted.

(2) TRANSITION PERIOD.—For the fiscal year following the fiscal year in which this Act is enacted, the budget of the Commission shall be deemed to be the budget submitted by the Chairman of the Commission to the President for such fiscal year in accordance with the provisions of section 1108 of title 31, United States Code.

(3) OTHER PROVISIONS.—The amendments made by this section to subsections (g) and (j)(1) of section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) shall be effective on the date of enactment of this Act, and shall require the Commission to make and publish an annual adjustment to the fee rates applicable under subsections (b) and (c) of section 31 of the Securities Exchange Act of 1934 (15 U.S.C. 78ee) for the fiscal year following the fiscal year in which this Act is enacted. The adjusted rate described in the preceding sentence shall supersede any previously published adjusted rate applicable under subsections (b) and (c) of section 31 of the Securities Exchange Act of 1934 for the fiscal year following the fiscal year in which this Act is enacted and shall take effect on the first day of the fiscal year following the fiscal year in which this Act is enacted, except that, if this Act is enacted on or after August 31 and on or prior to September 30, the adjusted rate described in the first sentence shall be published not later than 15 days after the date of enactment of this Act and take effect 30 days thereafter, and the Commission shall continue to collect fees under subsections (b) and (c) of section 31 of the Securities Exchange Act of 1934 at the rate in effect during the preceding fiscal year until the adjusted rate is effective.

TITLE X—BUREAU OF CONSUMER FINANCIAL PROTECTION

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Consumer Financial Protection Act of 2010''.

SEC. 1002. DEFINITIONS.

Except as otherwise provided in this title, for purposes of this title, the following definitions shall apply:

(1) AFFILIATE.—The term ''affiliate'' means any person that controls, is controlled by, or is under common control with another person.

(2) BUREAU.—The term ''Bureau'' means the Bureau of Consumer Financial Protection.

(3) BUSINESS OF INSURANCE.—The term ''business of insurance'' means the writing of insurance or the reinsuring of risks by an insurer, including all acts necessary to such writing or reinsuring and the activities relating to the writing of insurance or the reinsuring of risks conducted by persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.

(4) CONSUMER.—The term ''consumer'' means an individual or an agent, trustee, or representative acting on behalf of an individual.

(5) CONSUMER FINANCIAL PRODUCT OR SERVICE.—The term ''consumer financial product or service'' means any financial product or service that is described in one or more categories under—

(A) paragraph (13) and is offered or provided for use by consumers primarily for personal, family, or household purposes; or

(B) clause (i), (iii), (ix), or (x) of paragraph (13)(A), and is delivered, offered, or provided in connection with a consumer financial product or service referred to in subparagraph (A).

(6) COVERED PERSON.—The term ''covered person'' means—

(A) any person that engages in offering or providing a consumer financial product or service; and

(B) any affiliate of a person described in subparagraph (A) if such affiliate acts as a service provider to such person.

(7) CREDIT.—The term ''credit'' means the right granted by a person to a consumer to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment for such purchase.

(8) DEPOSIT-TAKING ACTIVITY.—The term ''deposit-taking activity'' means—

(A) the acceptance of deposits, maintenance of deposit accounts, or the provision of services related to the acceptance of deposits or the maintenance of deposit accounts;

(B) the acceptance of funds, the provision of other services related to the acceptance of funds, or the maintenance of member share accounts by a credit union; or

(C) the receipt of funds or the equivalent thereof, as the Bureau may determine by rule or order, received or held by a covered person (or an agent for a covered person) for the purpose of facilitating a payment or transferring funds or value of funds between a consumer and a third party.

(9) DESIGNATED TRANSFER DATE.—The term ''designated transfer date'' means the date established under section 1062.

(10) DIRECTOR.—The term ''Director'' means the Director of the Bureau.

(11) ENUMERATED CONSUMER LAWS.—The term ''enumerated consumer laws'' means—

(A) the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801 et seq.);

(B) the Consumer Leasing Act of 1976 (15 U.S.C. 1667 et seq.);

(C) the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.);

(D) the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.);

(E) the Fair Credit Billing Act (15 U.S.C. 1666 et seq.);

(F) the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), except with respect to sections 615(e) and 628 of that Act (15 U.S.C. 1681m(e), 1681w);

(G) the Home Owners Protection Act of 1998 (12 U.S.C. 4901 et seq.);

(H) the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.);

(I) subsections (c) through (f) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t(c)–(f));

(J) sections 502 through 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802–6809);

(K) the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.);

(L) the Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1601 note);

(M) the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.);

(N) the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.);

(O) the Truth in Lending Act (15 U.S.C. 1601 et seq.); and

(P) the Truth in Savings Act (12 U.S.C. 4301 et seq.).

(12) FEDERAL CONSUMER FINANCIAL LAW.—The term ''Federal consumer financial law'' means the provisions of this title, the enumerated consumer laws, the laws for which authorities are transferred under subtitles F and H, and any rule or order prescribed by the Bureau under this title, an enumerated consumer law, or pursuant to the authorities transferred under subtitles F and H.

(13) FINANCIAL PRODUCT OR SERVICE.—The term ''financial product or service''—

(A) means—

(i) extending credit and servicing loans, including acquiring, purchasing, selling, brokering, or other extensions of credit (other than solely extending commercial credit to a person who originates consumer credit transactions);

(ii) extending or brokering leases of personal or real property that are the functional equivalent of purchase finance arrangements, if—

(I) the lease is on a non-operating basis;

(II) the initial term of the lease is at least 90 days; and

(III) in the case of a lease involving real property, at the inception of the initial lease, the transaction is intended to result in ownership of the leased property to be transferred to the lessee, subject to standards prescribed by the Bureau;

(iii) providing real estate settlement services or performing appraisals of real estate or personal property;

(iv) engaging in deposit-taking activities, transmitting or exchanging funds, or otherwise acting as a custodian of funds or any financial instrument for use by or on behalf of a consumer;

(v) selling, providing, or issuing stored value or payment instruments, except that, in the case of a sale of, or transaction to reload, stored value, only if the seller exercises substantial control over the terms or conditions of the stored value provided to the consumer where, for purposes of this clause—

(I) a seller shall not be found to exercise substantial control over the terms or conditions of the stored value if the seller is not a party to the contract with the consumer for the stored value product, and another person is principally responsible for establishing the terms or conditions of the stored value; and

(II) advertising the nonfinancial goods or services of the seller on the stored value card or device is not in itself an exercise of substantial control over the terms or conditions;

(vi) providing check cashing, check collection, or check guaranty services;

(vii) providing payments or other financial data processing products or services to a consumer by any technological means, including processing or storing financial or banking data for any payment instrument, or through any payments systems or network used for processing payments data, including payments made through an online banking system or mobile telecommunications network, except that a person shall not be deemed to be a covered person with respect to financial data processing solely because the person—

(I) unknowingly or incidentally processes, stores, or transmits over the Internet, telephone line, mobile network, or any other mode of transmission, as part of a stream of other types of data, financial data in a manner that such data is undifferentiated from other types of data of the same form that the person processes, stores, or transmits;

(II) is a merchant, retailer, or seller of any nonfinancial good or service who engages in financial data processing by transmitting or storing payments data about a consumer exclusively for purpose of initiating payments instructions by the consumer to pay such person for the purchase of, or to complete a commercial transaction for, such nonfinancial good or service sold directly by such person to the consumer; or

(III) provides access to a host server to a person for purposes of enabling that person to establish and maintain a website;

(viii) providing financial advisory services to consumers on individual financial matters or relating to proprietary financial products or services (other than by publishing any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation, including publishing market data, news, or data analytics or investment information or recommendations that are not tailored to the individual needs of a particular consumer), including—

(I) providing credit counseling to any consumer; and

(II) providing services to assist a consumer with debt management or debt settlement, modifying the terms of any extension of credit, or avoiding foreclosure;

(ix) collecting, analyzing, maintaining, or providing consumer report information or other account information, including information relating to the credit history of consumers, used or expected to be used in connection with any decision regarding the offering or provision of a consumer financial product or service, except to the extent that—

(I) a person—

(aa) collects, analyzes, or maintains information that relates solely to the transactions between a consumer and such person; or

(bb) provides the information described in item (aa) to an affiliate of such person; and

(II) the information described in subclause (I)(aa) is not used by such person or affiliate in connection with any decision regarding the offering or provision of a consumer financial product or service to the consumer, other than credit described in section 1027(a)(2)(A);

(x) collecting debt related to any consumer financial product or service; and

(xi) such other financial product or service as may be defined by the Bureau, by regulation, for purposes of this title, if the Bureau finds that such financial product or service is—

(I) entered into or conducted as a subterfuge or with a purpose to evade any Federal consumer financial law; or

(II) permissible for a bank or for a financial holding company to offer or to provide under any provision of a Federal law or regulation applicable to a bank or a financial holding company, and has, or likely will have, a material impact on consumers; and

(B) does not include the business of insurance.

(14) FOREIGN EXCHANGE.—The term ''foreign exchange'' means the exchange, for compensation, of currency of the United States or of a foreign government for currency of another government.

(15) INSURED CREDIT UNION.—The term ''insured credit union'' has the same meaning as in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(16) PAYMENT INSTRUMENT.—The term ''payment instrument'' means a check, draft, warrant, money order, traveler's check, electronic instrument, or other instrument, payment of funds, or monetary value (other than currency).

(17) PERSON.—The term ''person'' means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

(18) PERSON REGULATED BY THE COMMODITY FUTURES TRADING COMMISSION.—The term ''person regulated by the Commodity Futures Trading Commission'' means any person that is registered, or required by statute or regulation to be registered, with the Commodity Futures Trading Commission, but only to the extent that the activities of such person are subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act.

(19) PERSON REGULATED BY THE COMMISSION.—The term ''person regulated by the Commission'' means a person who is—

(A) a broker or dealer that is required to be registered under the Securities Exchange Act of 1934;

(B) an investment adviser that is registered under the Investment Advisers Act of 1940;

(C) an investment company that is required to be registered under the Investment Company Act of 1940, and any company that has elected to be regulated as a business development company under that Act;

(D) a national securities exchange that is required to be registered under the Securities Exchange Act of 1934;

(E) a transfer agent that is required to be registered under the Securities Exchange Act of 1934;

(F) a clearing corporation that is required to be registered under the Securities Exchange Act of 1934;

(G) any self-regulatory organization that is required to be registered with the Commission;

(H) any nationally recognized statistical rating organization that is required to be registered with the Commission;

(I) any securities information processor that is required to be registered with the Commission;

(J) any municipal securities dealer that is required to be registered with the Commission;

(K) any other person that is required to be registered with the Commission under the Securities Exchange Act of 1934; and

(L) any employee, agent, or contractor acting on behalf of, registered with, or providing services to, any person described in any of subparagraphs (A) through (K), but only to the extent that any person described in any of subparagraphs (A) through (K), or the employee, agent, or contractor of such person, acts in a regulated capacity.

(20) PERSON REGULATED BY A STATE INSURANCE REGULATOR.—The term ''person regulated by a State insurance regulator'' means any person that is engaged in the business of insurance and subject to regulation by any State insurance regulator, but only to the extent that such person acts in such capacity.

(21) PERSON THAT PERFORMS INCOME TAX PREPARATION ACTIVITIES FOR CONSUMERS.—The term ''person that performs income tax preparation activities for consumers'' means—

(A) any tax return preparer (as defined in section 7701(a)(36) of the Internal Revenue Code of 1986), regardless of whether compensated, but only to the extent that the person acts in such capacity;

(B) any person regulated by the Secretary under section 330 of title 31, United States Code, but only to the extent that the person acts in such capacity; and

(C) any authorized IRS e-file Providers (as defined for purposes of section 7216 of the Internal Revenue Code of 1986), but only to the extent that the person acts in such capacity.

(22) PRUDENTIAL REGULATOR.—The term ''prudential regulator'' means—

(A) in the case of an insured depository institution, the appropriate Federal banking agency, as that term is defined in section 3 of the Federal Deposit Insurance Act; and

(B) in the case of an insured credit union, the National Credit Union Administration.

(23) RELATED PERSON.—The term ''related person''—

(A) shall apply only with respect to a covered person that is not a bank holding company (as that term is defined in section 2 of the Bank Holding Company Act of 1956), credit union, or depository institution;

(B) shall be deemed to mean a covered person for all purposes of any provision of Federal consumer financial law; and

(C) means—

(i) any director, officer, or employee charged with managerial responsibility for, or controlling shareholder of, or agent for, such covered person;

(ii) any shareholder, consultant, joint venture partner, or other person, as determined

by the Bureau (by rule or on a case-by-case basis) who materially participates in the conduct of the affairs of such covered person; and

(iii) any independent contractor (including any attorney, appraiser, or accountant) who knowingly or recklessly participates in any—

(I) violation of any provision of law or regulation; or

(II) breach of a fiduciary duty.

(24) SERVICE PROVIDER.—

(A) IN GENERAL.—The term ''service provider'' means any person that provides a material service to a covered person in connection with the offering or provision by such covered person of a consumer financial product or service, including a person that—

(i) participates in designing, operating, or maintaining the consumer financial product or service; or

(ii) processes transactions relating to the consumer financial product or service (other than unknowingly or incidentally transmitting or processing financial data in a manner that such data is undifferentiated from other types of data of the same form as the person transmits or processes).

(B) EXCEPTIONS.—The term ''service provider'' does not include a person solely by virtue of such person offering or providing to a covered person—

(i) a support service of a type provided to businesses generally or a similar ministerial service; or

(ii) time or space for an advertisement for a consumer financial product or service through print, newspaper, or electronic media.

(C) RULE OF CONSTRUCTION.—A person that is a service provider shall be deemed to be a covered person to the extent that such person engages in the offering or provision of its own consumer financial product or service.

(25) STATE.—The term ''State'' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands or any federally recognized Indian tribe, as defined by the Secretary of the Interior under section 104(a) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1(a)).

(26) STORED VALUE.—The term ''stored value'' means funds or monetary value represented in any electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferred electronically, and includes a prepaid debit card or product, or any other similar product, regardless of whether the amount of the funds or monetary value may be increased or reloaded.

(27) TRANSMITTING OR EXCHANGING FUNDS.—The term ''transmitting or exchanging funds'' means receiving currency, monetary value, or payment instruments from a consumer for the purpose of exchanging or transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or through other businesses that facilitate third-party transfers within the United States or to or from the United States.

Subtitle A—Bureau of Consumer Financial Protection

SEC. 1011. ESTABLISHMENT OF THE BUREAU.

(a) BUREAU ESTABLISHED.—There is established in the Federal Reserve System the Bureau of Consumer Financial Protection, which shall regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws.

(b) DIRECTOR AND DEPUTY DIRECTOR.—

(1) IN GENERAL.—There is established the position of the Director, who shall serve as the head of the Bureau.

(2) APPOINTMENT.—Subject to paragraph (3), the Director shall be appointed by the President, by and with the advice and consent of the Senate.

(3) QUALIFICATION.—The President shall nominate the Director from among individuals who are citizens of the United States.

(4) COMPENSATION.—The Director shall be compensated at the rate prescribed for level II of the Executive Schedule under section 5313 of title 5, United States Code.

(5) DEPUTY DIRECTOR.—There is established the position of Deputy Director, who shall—

(A) be appointed by the Director; and

(B) serve as acting Director in the absence or unavailability of the Director.

(c) TERM.—

(1) IN GENERAL.—The Director shall serve for a term of 5 years.

(2) EXPIRATION OF TERM.—An individual may serve as Director after the expiration of the term for which appointed, until a successor has been appointed and qualified.

(3) REMOVAL FOR CAUSE.—The President may remove the Director for inefficiency, neglect of duty, or malfeasance in office.

(d) SERVICE RESTRICTION.—No Director or Deputy Director may hold any office, position, or employment in any Federal reserve bank, Federal home loan bank, covered person, or service provider during the period of service of such person as Director or Deputy Director.

(e) OFFICES.—The principal office of the Bureau shall be in the District of Columbia. The Director may establish regional offices of the Bureau, including in cities in which the Federal reserve banks, or branches of such banks, are located, in order to carry out the responsibilities assigned to the Bureau under the Federal consumer financial laws.

SEC. 1012. EXECUTIVE AND ADMINISTRATIVE POWERS.

(a) POWERS OF THE BUREAU.—The Bureau is authorized to establish the general policies of the Bureau with respect to all executive and administrative functions, including—

(1) the establishment of rules for conducting the general business of the Bureau, in a manner not inconsistent with this title;

(2) to bind the Bureau and enter into contracts;

(3) directing the establishment and maintenance of divisions or other offices within the Bureau, in order to carry out the responsibilities under the Federal consumer financial laws, and to satisfy the requirements of other applicable law;

(4) to coordinate and oversee the operation of all administrative, enforcement, and research activities of the Bureau;

(5) to adopt and use a seal;

(6) to determine the character of and the necessity for the obligations and expenditures of the Bureau;

(7) the appointment and supervision of personnel employed by the Bureau;

(8) the distribution of business among personnel appointed and supervised by the Director and among administrative units of the Bureau;

(9) the use and expenditure of funds;

(10) implementing the Federal consumer financial laws through rules, orders, guidance, interpretations, statements of policy, examinations, and enforcement actions; and

(11) performing such other functions as may be authorized or required by law.

(b) DELEGATION OF AUTHORITY.—The Director of the Bureau may delegate to any duly authorized employee, representative, or agent any power vested in the Bureau by law.

(c) AUTONOMY OF THE BUREAU.—

(1) COORDINATION WITH THE BOARD OF GOVERNORS.—Notwithstanding section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) and any other provision of law applicable to the supervision or examination of persons with respect to Federal consumer financial laws, the Board of Governors may delegate to the Bureau the authorities to examine persons subject to the jurisdiction of the Board of Governors for compliance with the Federal consumer financial laws.

(2) AUTONOMY.—Notwithstanding the authorities granted to the Board of Governors under the Federal Reserve Act, the Board of Governors may not—

(A) intervene in any matter or proceeding before the Director, including examinations or enforcement actions, unless otherwise specifically provided by law;

(B) appoint, direct, or remove any officer or employee of the Bureau; or

(C) merge or consolidate the Bureau, or any of the functions or responsibilities of the Bureau, with any division or office of the Board of Governors or the Federal reserve banks.

(3) RULES AND ORDERS.—No rule or order of the Bureau shall be subject to approval or review by the Board of Governors. The Board of Governors may not delay or prevent the issuance of any rule or order of the Bureau.

(4) RECOMMENDATIONS AND TESTIMONY.—No officer or agency of the United States shall have any authority to require the Director or any other officer of the Bureau to submit legislative recommendations, or testimony or comments on legislation, to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress, if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the Director or such officer, and do not necessarily reflect the views of the Board of Governors or the President.

SEC. 1013. ADMINISTRATION.

(a) PERSONNEL.—

(1) APPOINTMENT.—

(A) IN GENERAL.—The Director may fix the number of, and appoint and direct, all employees of the Bureau.

(B) EMPLOYEES OF THE BUREAU.—The Director is authorized to employ attorneys, compliance examiners, compliance supervision analysts, economists, statisticians, and other employees as may be deemed necessary to conduct the business of the Bureau. Notwithstanding any other provision of law, all such employees shall be appointed and compensated on terms and conditions that are consistent with the terms and conditions set forth in section 11(l) of the Federal Reserve Act (12 U.S.C. 248(l)).

(2) COMPENSATION.—The Director shall at all times provide compensation and benefits to each class of employees that, at a minimum, are equivalent to the compensation and benefits then being provided by the Board of Governors for the corresponding class of employees.

(b) SPECIFIC FUNCTIONAL UNITS.—

(1) RESEARCH.—The Director shall establish a unit whose functions shall include researching, analyzing, and reporting on—

(A) developments in markets for consumer financial products or services, including market areas of alternative consumer financial products or services with high growth rates and areas of risk to consumers;

(B) access to fair and affordable credit for traditionally underserved communities;

(C) consumer awareness, understanding, and use of disclosures and communications regarding consumer financial products or services;

(D) consumer awareness and understanding of costs, risks, and benefits of consumer financial products or services; and

(E) consumer behavior with respect to consumer financial products or services.

(2) COMMUNITY AFFAIRS.—The Director shall establish a unit whose functions shall include providing information, guidance, and technical assistance regarding the offering and provision of consumer financial products or services to traditionally underserved consumers and communities.

(3) COLLECTING AND TRACKING COMPLAINTS.—

(A) IN GENERAL.—The Director shall establish a unit whose functions shall include establishing a single, toll-free telephone number, a website, and a database to facilitate the centralized collection of, monitoring of, and response to consumer complaints regarding consumer financial products or services. The Director shall coordinate with other Federal agencies to route complaints to other Federal regulators, where appropriate.

(B) ROUTING CALLS TO STATES.—To the extent practicable, State agencies may receive appropriate complaints from the systems established under subparagraph (A), if—

(i) the State agency system has the functional capacity to receive calls or electronic reports routed by the Bureau systems; and

(ii) the State agency has satisfied any conditions of participation in the system that the Bureau may establish, including treatment of personally identifiable information and sharing of information on complaint resolution or related compliance procedures and resources.

(C) REPORTS TO THE CONGRESS.—The Director shall present an annual report to Congress not later than March 31 of each year on the complaints received by the Bureau in the prior year regarding consumer financial products and services. Such report shall include information and analysis about complaint numbers, complaint types, and, where applicable, information about resolution of complaints.

(D) DATA SHARING REQUIRED.—To facilitate preparation of the reports required under subparagraph (C), supervision and enforcement activities, and monitoring of the market for consumer financial products and services, the Bureau shall share consumer complaint information with prudential regulators, other Federal agencies, and State agencies, consistent with Federal law applicable to personally identifiable information. The prudential regulators and other Federal agencies shall share data relating to consumer complaints regarding consumer financial products and services with the Bureau, consistent with Federal law applicable to personally identifiable information.

(c) OFFICE OF FAIR LENDING AND EQUAL OPPORTUNITY.—

(1) ESTABLISHMENT.—The Director shall establish within the Bureau the Office of Fair Lending and Equal Opportunity.

(2) FUNCTIONS.—The Office of Fair Lending and Equal Opportunity shall have such powers and duties as the Director may delegate to the Office, including—

(A) providing oversight and enforcement of Federal laws intended to ensure the fair, equitable, and nondiscriminatory access to credit for both individuals and communities that are enforced by the Bureau, including the Equal Credit Opportunity Act and the Home Mortgage Disclosure Act;

(B) coordinating fair lending and fair housing efforts of the Bureau with other Federal agencies and State regulators, as appropriate, to promote consistent, efficient, and effective enforcement of Federal fair lending laws;

(C) working with private industry, fair lending, civil rights, consumer and community advocates on the promotion of fair lending compliance and education; and

(D) providing annual reports to Congress on the efforts of the Bureau to fulfill its fair lending mandate.

(3) ADMINISTRATION OF OFFICE.—There is established the position of Assistant Director of the Bureau for Fair Lending and Equal Opportunity, who—

(A) shall be appointed by the Director; and

(B) shall carry out such duties as the Director may delegate to such Assistant Director.

(d) OFFICE OF FINANCIAL LITERACY.—

(1) ESTABLISHMENT.—The Director shall establish an Office of Financial Literacy, which shall be responsible for developing and implementing initiatives intended to educate and empower consumers to make better informed financial decisions.

(2) OTHER DUTIES.—The Office of Financial Literacy shall develop and implement a strategy to improve the financial literacy of consumers that includes measurable goals and objectives, in consultation with the Financial Literacy and Education Commission, consistent with the National Strategy for Financial Education, through activities including providing opportunities for consumers to access—

(A) financial counseling;

(B) information to assist with the evaluation of credit products and the understanding of credit histories and scores;

(C) savings, borrowing, and other services found at mainstream financial institutions;

(D) activities intended to—

(i) prepare the consumer for educational expenses and the submission of financial aid applications, and other major purchases;

(ii) reduce debt; and

(iii) improve the financial situation of the consumer;

(E) assistance in developing long-term savings strategies; and

(F) wealth building and financial services during the preparation process to claim earned income tax credits and Federal benefits.

(3) COORDINATION.—The Office of Financial Literacy shall coordinate with other units within the Bureau in carrying out its functions, including—

(A) working with the Community Affairs Office to implement the strategy to improve financial literacy of consumers; and

(B) working with the research unit established by the Director to conduct research related to consumer financial education and counseling.

(4) REPORT.—Not later than 24 months after the designated transfer date, and annually thereafter, the Director shall submit a report on its financial literacy activities and strategy to improve financial literacy of consumers to—

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Financial Services of the House of Representatives.

(5) MEMBERSHIP IN FINANCIAL LITERACY AND EDUCATION COMMISSION.—Section 513(c)(1) of the Financial Literacy and Education Improvement Act (20 U.S.C. 9702(c)(1)) is amended—

(A) in subparagraph (B), by striking ''and'' at the end;

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

(C) by inserting after subparagraph (B) the following new subparagraph:

''(C) the Director of the Bureau of Consumer Financial Protection; and''.

(6) CONFORMING AMENDMENT.—Section 513(d) of the Financial Literacy and Education Improvement Act (20 U.S.C. 9702(d)) is amended by adding at the end the following: ''The Director of the Bureau of Consumer Financial Protection shall serve as the Vice Chairman.''.

SEC. 1014. CONSUMER ADVISORY BOARD.

(a) ESTABLISHMENT REQUIRED.—The Director shall establish a Consumer Advisory Board to advise and consult with the Bureau in the exercise of its functions under the Federal consumer financial laws, and to provide information on emerging practices in the consumer financial products or services industry, including regional trends, concerns, and other relevant information.

(b) MEMBERSHIP.—In appointing the members of the Consumer Advisory Board, the Director shall seek to assemble experts in consumer protection, financial services, community development, fair lending, and consumer financial products or services and seek representation of the interests of covered persons and consumers, without regard to party affiliation. Not fewer than 6 members shall be appointed upon the recommendation of the regional Federal Reserve Bank Presidents, on a rotating basis.

(c) MEETINGS.—The Consumer Advisory Board shall meet from time to time at the call of the Director, but, at a minimum, shall meet at least twice in each year.

(d) COMPENSATION AND TRAVEL EXPENSES.—Members of the Consumer Advisory Board who are not full-time employees of the United States shall—

(1) be entitled to receive compensation at a rate fixed by the Director while attending meetings of the Consumer Advisory Board, including travel time; and

(2) be allowed travel expenses, including transportation and subsistence, while away from their homes or regular places of business.

SEC. 1015. COORDINATION.

The Bureau shall coordinate with the Commission, the Commodity Futures Trading Commission, and other Federal agencies and State regulators, as appropriate, to promote consistent regulatory treatment of consumer financial and investment products and services.

SEC. 1016. APPEARANCES BEFORE AND REPORTS TO CONGRESS.

(a) APPEARANCES BEFORE CONGRESS.—The Director of the Bureau shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives at semi-annual hearings regarding the reports required under subsection (b).

(b) REPORTS REQUIRED.—The Bureau shall, concurrent with each semi-annual hearing referred to in subsection (a), prepare and submit to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, a report, beginning with the session following the designated transfer date.

(c) CONTENTS.—The reports required by subsection (b) shall include—

(1) a discussion of the significant problems faced by consumers in shopping for or obtaining consumer financial products or services;

(2) a justification of the budget request of the previous year;

(3) a list of the significant rules and orders adopted by the Bureau, as well as other significant initiatives conducted by the Bureau, during the preceding year and the plan of the Bureau for rules, orders, or other initiatives to be undertaken during the upcoming period;

(4) an analysis of complaints about consumer financial products or services that the Bureau has received and collected in its central database on complaints during the preceding year;

(5) a list, with a brief statement of the issues, of the public supervisory and enforcement actions to which the Bureau was a party during the preceding year;

(6) the actions taken regarding rules, orders, and supervisory actions with respect to covered persons which are not credit unions or depository institutions;

(7) an assessment of significant actions by State attorneys general or State regulators relating to Federal consumer financial law; and

(8) an analysis of the efforts of the Bureau to fulfill the fair lending mission of the Bureau.

SEC. 1017. FUNDING; PENALTIES AND FINES.

(a) TRANSFER OF FUNDS FROM BOARD OF GOVERNORS.—

(1) IN GENERAL.—Each year (or quarter of such year), beginning on the designated transfer date, and each quarter thereafter, the Board of Governors shall transfer to the Bureau from the combined earnings of the Federal Reserve System, the amount determined by the Director to be reasonably necessary to carry out the authorities of the Bureau under Federal consumer financial law, taking into account such other sums made available to the Bureau from the preceding year (or quarter of such year).

(2) FUNDING CAP.—

(A) IN GENERAL.—Notwithstanding paragraph (1), and in accordance with this paragraph, the amount that shall be transferred to the Bureau in each fiscal year shall not exceed a fixed percentage of the total operating expenses of the Federal Reserve System, as reported in the Annual Report, 2009, of the Board of Governors, equal to—

(i) 10 percent of such expenses in fiscal year 2011;

(ii) 11 percent of such expenses in fiscal year 2012; and

(iii) 12 percent of such expenses in fiscal year 2013, and in each year thereafter.

(B) AMOUNT ADJUSTED FOR INFLATION.—The dollar amount referred to in subparagraph (A)(iii) shall be adjusted annually, using the percent by which the average urban consumer price index for the quarter preceding the date of the payment differs from the average of that index for the same quarter in the prior year.

(3) TRANSITION PERIOD.—Beginning on the date of enactment of this Act and until the designated transfer date, the Board of Governors shall transfer to the Bureau the amount estimated by the Secretary needed to carry out the authorities granted to the Bureau under Federal consumer financial law, from the date of enactment of this Act until the designated transfer date.

(4) BUDGET AND FINANCIAL MANAGEMENT.—

(A) FINANCIAL OPERATING PLANS AND FORECASTS.—The Director shall provide to the Director of the Office of Management and Budget copies of the financial operating plans and forecasts of the Director, as prepared by the Director in the ordinary course of the operations of the Bureau, and copies of the quarterly reports of the financial condition and results of operations of the Bureau, as prepared by the Director in the ordinary course of the operations of the Bureau.

(B) FINANCIAL STATEMENTS.—The Bureau shall prepare annually a statement of—

(i) assets and liabilities and surplus or deficit;

(ii) income and expenses; and

(iii) sources and application of funds.

(C) FINANCIAL MANAGEMENT SYSTEMS.—The Bureau shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements and applicable Federal accounting standards.

(D) ASSERTION OF INTERNAL CONTROLS.—The Director shall provide to the Comptroller General of the United States an assertion as to the effectiveness of the internal controls that apply to financial reporting by the Bureau, using the standards established in section 3512(c) of title 31, United States Code.

(E) RULE OF CONSTRUCTION.—This subsection may not be construed as implying any obligation on the part of the Director to consult with or obtain the consent or approval of the Director of the Office of Management and Budget with respect to any report, plan, forecast, or other information referred to in subparagraph (A) or any jurisdiction or oversight over the affairs or operations of the Bureau.

(5) AUDIT OF THE BUREAU.—

(A) IN GENERAL.—The Comptroller General shall annually audit the financial transactions of the Bureau in accordance with the United States generally accepted government auditing standards, as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Bureau are normally kept. The representatives of the Government Accountability Office shall have access to the personnel and to all books, accounts, documents, papers, records (including electronic records), reports, files, and all other papers, automated data, things, or property belonging to or under the control of or used or employed by the Bureau pertaining to its financial transactions and necessary to facilitate the audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, documents, records, reports, files, papers, and property of the Bureau shall remain in possession and custody of the Bureau. The Comptroller General may obtain and duplicate any such books, accounts, documents, records, working papers, automated data and files, or other information relevant to such audit without cost to the Comptroller General, and the right of access of the Comptroller General to such information shall be enforceable pursuant to section 716(c) of title 31, United States Code.

(B) REPORT.—The Comptroller General shall submit to the Congress a report of each annual audit conducted under this subsection. The report to the Congress shall set forth the scope of the audit and shall include the statement of assets and liabilities and surplus or deficit, the statement of income and expenses, the statement of sources and application of funds, and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Bureau, together with such recommendations with respect thereto as the Comptroller General may deem advisable. A copy of each report shall be furnished to the President and to the Bureau at the time submitted to the Congress.

(C) ASSISTANCE AND COSTS.—For the purpose of conducting an audit under this subsection, the Comptroller General may, in the discretion of the Comptroller General, employ by contract, without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), professional services of firms and organizations of certified public accountants for temporary periods or for special purposes. Upon the request of the Comptroller General, the Director of the Bureau shall transfer to the Government Accountability Office from funds available, the amount requested by the Comptroller General to cover the full costs of any audit and report conducted by the Comptroller General. The Comptroller General shall credit funds transferred to the account established for salaries and expenses of the Government Accountability Office, and such amount shall be available upon receipt and without fiscal year limitation to cover the full costs of the audit and report.

(b) CONSUMER FINANCIAL PROTECTION FUND.—

(1) SEPARATE FUND IN FEDERAL RESERVE BOARD ESTABLISHED.—There is established in the Federal Reserve Board a separate fund, to be known as the ''Consumer Financial Protection Fund'' (referred to in this section as the ''Bureau Fund'').

(2) FUND RECEIPTS.—All amounts transferred to the Bureau under subsection (a) shall be deposited into the Bureau Fund.

(3) INVESTMENT AUTHORITY.—

(A) AMOUNTS IN BUREAU FUND MAY BE INVESTED.—The Bureau may request the Board of Governors to invest the portion of the Bureau Fund that is not, in the judgment of the Bureau, required to meet the current needs of the Bureau.

(B) ELIGIBLE INVESTMENTS.—Investments authorized by this paragraph shall be made by the Board of Governors in obligations of the United States or obligations that are guaranteed as to principal and interest by the United States, with maturities suitable to the needs of the Bureau Fund, as determined by the Bureau.

(C) INTEREST AND PROCEEDS CREDITED.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Bureau Fund shall be credited to the Bureau Fund.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Funds obtained by, transferred to, or credited to the Bureau Fund shall be immediately available to the Bureau and under the control of the Director, and shall remain available until expended, to pay the expenses of the Bureau in carrying out its duties and responsibilities. The compensation of the Director and other employees of the Bureau and all other expenses thereof may be paid from, obtained by, transferred to, or credited to the Bureau Fund under this section.

(2) FUNDS THAT ARE NOT GOVERNMENT FUNDS.—Funds obtained by or transferred to the Bureau Fund shall not be construed to be Government funds or appropriated monies.

(3) AMOUNTS NOT SUBJECT TO APPORTIONMENT.—Notwithstanding any other provision of law, amounts in the Bureau Fund and in the Civil Penalty Fund established under subsection (d) shall not be subject to apportionment for purposes of chapter 15 of title 31, United States Code, or under any other authority.

(d) PENALTIES AND FINES.—

(1) ESTABLISHMENT OF VICTIMS RELIEF FUND.—There is established in the Federal Reserve Board a fund to be known as the ''Consumer Financial Protection Civil Penalty Fund'' (referred to in this subsection as the ''Civil Penalty Fund''). If the Bureau obtains a civil penalty against any person in any judicial or administrative action under Federal consumer financial laws, the Bureau shall deposit into the Civil Penalty Fund, the amount of the penalty collected.

(2) PAYMENT TO VICTIMS.—Amounts in the Civil Penalty Fund shall be available to the Bureau, without fiscal year limitation, for payments to the victims of activities for which civil penalties have been imposed under the Federal consumer financial laws. To the extent such victims cannot be located or such payments are otherwise not practicable, the Bureau may use such funds for the purpose of consumer education and financial literacy programs.

SEC. 1018. EFFECTIVE DATE.

This subtitle shall become effective on the date of enactment of this Act.

Subtitle B—General Powers of the Bureau

SEC. 1021. PURPOSE, OBJECTIVES, AND FUNCTIONS.

(a) PURPOSE.—The Bureau shall seek to implement and, where applicable, enforce Federal consumer financial law consistently for the purpose of ensuring that markets for consumer financial products and services are fair, transparent, and competitive.

(b) OBJECTIVES.—The Bureau is authorized to exercise its authorities under Federal consumer financial law for the purposes of ensuring that, with respect to consumer financial products and services—

(1) consumers are provided with timely and understandable information to make responsible decisions about financial transactions;

(2) consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;

(3) outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens;

(4) Federal consumer financial law is enforced consistently, without regard to the status of a person as a depository institution, in order to promote fair competition; and

(5) markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

(c) FUNCTIONS.—The primary functions of the Bureau are—

(1) conducting financial education programs;

(2) collecting, investigating, and responding to consumer complaints;

(3) collecting, researching, monitoring, and publishing information relevant to the functioning of markets for consumer financial products and services to identify risks to consumers and the proper functioning of such markets;

(4) subject to sections 1024 through 1026, supervising covered persons for compliance with Federal consumer financial law, and taking appropriate enforcement action to address violations of Federal consumer financial law;

(5) issuing rules, orders, and guidance implementing Federal consumer financial law; and

(6) performing such support activities as may be necessary or useful to facilitate the other functions of the Bureau.

SEC. 1022. RULEMAKING AUTHORITY.

(a) IN GENERAL.—The Bureau is authorized to exercise its authorities under Federal consumer financial law to administer, enforce, and otherwise implement the provisions of Federal consumer financial law.

(b) RULEMAKING, ORDERS, AND GUIDANCE.—

(1) GENERAL AUTHORITY.—The Director may prescribe rules and issue orders and guidance, as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the Federal consumer financial laws, and to prevent evasions thereof.

(2) STANDARDS FOR RULEMAKING.—In prescribing a rule under the Federal consumer financial laws—

(A) the Bureau shall consider the potential benefits and costs to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services resulting from such rule;

(B) the Bureau shall consult with the appropriate prudential regulators or other Federal agencies prior to proposing a rule and during the comment process regarding consistency with prudential, market, or systemic objectives administered by such agencies; and

(C) if, during the consultation process described in subparagraph (B), a prudential regulator provides the Bureau with a written objection to the proposed rule of the Bureau or a portion thereof, the Bureau shall include in the adopting release a description of the objection and the basis for the Bureau decision, if any, regarding such objection, except that nothing in this clause shall be construed as altering or limiting the procedures under section 1023 that may apply to any rule prescribed by the Bureau.

(3) EXEMPTIONS.—

(A) IN GENERAL.—The Bureau, by rule, may conditionally or unconditionally exempt any class of covered persons, service providers, or consumer financial products or services, from any provision of this title, or from any rule issued under this title, as the Bureau determines necessary or appropriate to carry out the purposes and objectives of this title, taking into consideration the factors in subparagraph (B).

(B) FACTORS.—In issuing an exemption, as permitted under subparagraph (A), the Bureau shall, as appropriate, take into consideration—

(i) the total assets of the class of covered persons;

(ii) the volume of transactions involving consumer financial products or services in which the class of covered persons engages; and

(iii) existing provisions of law which are applicable to the consumer financial product or service and the extent to which such provisions provide consumers with adequate protections.

(4) EXCLUSIVE RULEMAKING AUTHORITY.—Notwithstanding any other provisions of Federal law, to the extent that a provision of Federal consumer financial law authorizes the Bureau and another Federal agency to issue regulations under that provision of law for purposes of assuring compliance with Federal consumer financial law and any regulations thereunder, the Bureau shall have the exclusive authority to prescribe rules subject to those provisions of law.

(c) MONITORING.—

(1) IN GENERAL.—In order to support its rulemaking and other functions, the Bureau shall monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services.

(2) CONSIDERATIONS.—In allocating its resources to perform the monitoring required by this section, the Bureau may consider, among other factors—

(A) likely risks and costs to consumers associated with buying or using a type of consumer financial product or service;

(B) understanding by consumers of the risks of a type of consumer financial product or service;

(C) the legal protections applicable to the offering or provision of a consumer financial product or service, including the extent to which the law is likely to adequately protect consumers;

(D) rates of growth in the offering or provision of a consumer financial product or service;

(E) the extent, if any, to which the risks of a consumer financial product or service may disproportionately affect traditionally underserved consumers; or

(F) the types, number, and other pertinent characteristics of covered persons that offer or provide the consumer financial product or service.

(3) REPORTS.—The Bureau shall publish not fewer than 1 report of significant findings of its monitoring required by this subsection in each calendar year, beginning with the first calendar year that begins at least 1 year after the designated transfer date.

(4) COLLECTION OF INFORMATION.—In conducting research on the offering and provision of consumer financial products or services, the Bureau shall have the authority to gather information from time to time regarding the organization, business conduct, markets, and activities of persons operating in consumer financial services markets. In order to gather such information, the Bureau may—

(A) gather and compile information from examination reports concerning covered persons or service providers, assessment of consumer complaints, surveys, and interviews of covered persons and consumers, and review of available databases;

(B) require persons to file with the Bureau, under oath or otherwise, in such form and within such reasonable period of time as the Bureau may prescribe, by rule or order, annual or special reports, or answers in writing to specific questions, furnishing such information as the Bureau may require; and

(C) make public such information obtained by the Bureau under this section, as is in the public interest in reports or otherwise in the manner best suited for public information and use.

(5) CONFIDENTIALITY RULES.—The Bureau shall prescribe rules regarding the confidential treatment of information obtained from persons in connection with the exercise of its authorities under Federal consumer financial law.

(A) ACCESS BY THE BUREAU TO REPORTS OF OTHER REGULATORS.—

(i) EXAMINATION AND FINANCIAL CONDITION REPORTS.—Upon providing reasonable assurances of confidentiality, the Bureau shall have access to any report of examination or financial condition made by a prudential regulator or other Federal agency having jurisdiction over a covered person or service provider, and to all revisions made to any such report.

(ii) PROVISION OF OTHER REPORTS TO THE BUREAU.—In addition to the reports described in clause (i), a prudential regulator or other Federal agency having jurisdiction over a covered person or service provider may, in its discretion, furnish to the Bureau any other report or other confidential supervisory information concerning any insured depository institution, credit union, or other entity examined by such agency under authority of any provision of Federal law.

(B) ACCESS BY OTHER REGULATORS TO REPORTS OF THE BUREAU.—

(i) EXAMINATION REPORTS.—Upon providing reasonable assurances of confidentiality, a prudential regulator, a State regulator, or any other Federal agency having jurisdiction over a covered person or service provider shall have access to any report of examination made by the Bureau with respect to such person, and to all revisions made to any such report.

(ii) PROVISION OF OTHER REPORTS TO OTHER REGULATORS.—In addition to the reports described in clause (i), the Bureau may, in its discretion, furnish to a prudential regulator or other agency having jurisdiction over a covered person or service provider any other report or other confidential supervisory information concerning such person examined by the Bureau under the authority of any other provision of Federal law.

(6) PRIVACY CONSIDERATIONS.—In collecting information from any person, publicly releasing information held by the Bureau, or requiring covered persons to publicly report information, the Bureau shall take steps to ensure that proprietary, personal, or confidential consumer information that is protected from public disclosure under section 552(b) or 552a of title 5, United States Code, or any other provision of law, is not made public under this title.

(d) ASSESSMENT OF SIGNIFICANT RULES.—

(1) IN GENERAL.—The Bureau shall conduct an assessment of each significant rule or order adopted by the Bureau under Federal consumer financial law. The assessment shall address, among other relevant factors, the effectiveness of the rule or order in meeting the purposes and objectives of this title and the specific goals stated by the Bureau. The assessment shall reflect available evidence and any data that the Bureau reasonably may collect.

(2) REPORTS.—The Bureau shall publish a report of its assessment under this subsection not later than 5 years after the effective date of the subject rule or order.

(3) PUBLIC COMMENT REQUIRED.—Before publishing a report of its assessment, the Bureau shall invite public comment on recommendations for modifying, expanding, or eliminating the newly adopted significant rule or order.

(e) INFORMATION GATHERING.—In conducting any monitoring or assessment required by this section, the Bureau may gather information through a variety of methods, including by conducting surveys or interviews of consumers.

SEC. 1023. REVIEW OF BUREAU REGULATIONS.

(a) REVIEW OF BUREAU REGULATIONS.—On the petition of a member agency of the Council, the Council may set aside a final regulation prescribed by the Bureau, or any provision thereof, if the Council decides, in accordance with subsection (c), that the regulation or provision would put the safety and soundness of the United States banking system or the stability of the financial system of the United States at risk.

(b) PETITION.—

(1) PROCEDURE.—An agency represented by a member of the Council may petition the Council, in writing, and in accordance with rules prescribed pursuant to subsection (f), to stay the effectiveness of, or set aside, a regulation if the member agency filing the petition—

(A) has in good faith attempted to work with the Bureau to resolve concerns regarding the effect of the rule on the safety and soundness of the United States banking system or the stability of the financial system of the United States; and

(B) files the petition with the Council not later than 10 days after the date on which the regulation has be

(C) en published in the Federal Register.

(2) PUBLICATION.—Any petition filed with the Council under this section shall be published in the Federal Register and transmitted contemporaneously with filing to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(c) STAYS AND SET ASIDES.—

(1) STAY.—

(A) IN GENERAL.—Upon the request of any member agency, the Chairperson of the Council may stay the effectiveness of a regulation for the purpose of allowing appropriate consideration of the petition by the Council.

(B) EXPIRATION.—A stay issued under this paragraph shall expire on the earlier of—

(i) 90 days after the date of filing of the petition under subsection (b); or

(ii) the date on which the Council makes a decision under paragraph (3).

(2) NO ADVERSE INFERENCE.—After the expiration of any stay imposed under this section, no inference shall be drawn regarding the validity or enforceability of a regulation which was the subject of the petition.

(3) VOTE.—

(A) IN GENERAL.—The decision to issue a stay of, or set aside, any regulation under this section shall be made only with the affirmative vote in accordance with subparagraph (B) of ⅔ of the members of the Council then serving.

(B) AUTHORIZATION TO VOTE.—A member of the Council may vote to stay the effectiveness of, or set aside, a final regulation prescribed by the Bureau only if the agency or department represented by that member has—

(i) considered any relevant information provided by the agency submitting the petition and by the Bureau; and

(ii) made an official determination, at a public meeting where applicable, that the regulation which is the subject of the petition would put the safety and soundness of the United States banking system or the stability of the financial system of the United States at risk.

(4) DECISIONS TO SET ASIDE.—

(A) EFFECT OF DECISION.—A decision by the Council to set aside a regulation prescribed by the Bureau, or provision thereof, shall render such regulation, or provision thereof, unenforceable.

(B) TIMELY ACTION REQUIRED.—The Council may not issue a decision to set aside a regulation, or provision thereof, which is the subject of a petition under this section after the expiration of the later of—

(i) 45 days following the date of filing of the petition, unless a stay is issued under paragraph (1); or

(ii) the expiration of a stay issued by the Council under this section.

(C) SEPARATE AUTHORITY.—The issuance of a stay under this section does not affect the authority of the Council to set aside a regulation.

(5) DISMISSAL DUE TO INACTION.—A petition under this section shall be deemed dismissed if the Council has not issued a decision to set aside a regulation, or provision thereof, within the period for timely action under paragraph (4)(B).

(6) PUBLICATION OF DECISION.—Any decision under this subsection to issue a stay of, or set aside, a regulation or provision thereof shall be published by the Council in the Federal Register as soon as practicable after the decision is made, with an explanation of the reasons for the decision.

(7) RULEMAKING PROCEDURES INAPPLICABLE.—The notice and comment procedures under section 553 of title 5, United States Code, shall not apply to any decision under this section of the Council to issue a stay of, or set aside, a regulation.

(8) JUDICIAL REVIEW OF DECISIONS BY THE COUNCIL.—A decision by the Council to set aside a regulation prescribed by the Bureau, or provision thereof, shall be subject to review under chapter 7 of title 5, United States Code.

(d) APPLICATION OF OTHER LAW.—Nothing in this section shall be construed as altering, limiting, or restricting the application of any other provision of law, except as otherwise specifically provided in this section, including chapter 5 and chapter 7 of title 5, United States Code, to a regulation which is the subject of a petition filed under this section.

(e) SAVINGS CLAUSE.—Nothing in this section shall be construed as limiting or restricting the Bureau from engaging in a rulemaking in accordance with applicable law.

(f) IMPLEMENTING RULES.—The Council shall prescribe procedural rules to implement this section.

SEC. 1024. SUPERVISION OF NONDEPOSITORY COVERED PERSONS.

(a) SCOPE OF COVERAGE.—

(1) APPLICABILITY.—Notwithstanding any other provision of this title, and except as provided in paragraph (3), this section shall apply to any covered person who—

(A) offers or provides origination, brokerage, or servicing of loans secured by real estate for use by consumers primarily for personal, family, or household purposes, or loan modification or foreclosure relief services in connection with such loans; or

(B) is a larger participant of a market for other consumer financial products or services, as defined by rule in accordance with paragraph (2).

(2) RULEMAKING TO DEFINE COVERED PERSONS SUBJECT TO THIS SECTION.—The Bureau shall consult with the Federal Trade Commission prior to issuing a rule to define covered persons subject to this section, in accordance with paragraph (1)(B). The Bureau shall issue its initial rule within 1 year of the designated transfer date.

(3) RULES OF CONSTRUCTION.—

(A) CERTAIN PERSONS EXCLUDED.—This section shall not apply to persons described in section 1025(a) or 1026(a).

(B) ACTIVITY LEVELS.—For purposes of computing activity levels under paragraph (1) or rules issued thereunder, activities of affiliated companies (other than insured depository institutions or insured credit unions) shall be aggregated.

(b) SUPERVISION.—

(1) IN GENERAL.—The Bureau shall require reports and conduct examinations on a periodic basis of persons described in subsection (a) for purposes of—

(A) assessing compliance with the requirements of Federal consumer financial law;

(B) obtaining information about the activities and compliance systems or procedures of such person; and

(C) detecting and assessing risks to consumers and to markets for consumer financial products and services.

(2) RISK-BASED SUPERVISION PROGRAM.—The Bureau shall exercise its authority under paragraph (1) in a manner designed to ensure that such exercise, with respect to persons described in subsection (a), is based on the assessment by the Bureau of the risks posed to consumers in the relevant product markets and geographic markets, and taking into consideration, as applicable—

(A) the asset size of the covered person;

(B) the volume of transactions involving consumer financial products or services in which the covered person engages;

(C) the risks to consumers created by the provision of such consumer financial products or services;

(D) the extent to which such institutions are subject to oversight by State authorities for consumer protection; and

(E) any other factors that the Bureau determines to be relevant to a class of covered persons.

(3) COORDINATION.—To minimize regulatory burden, the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators and the State bank regulatory authorities, including establishing their respective schedules for examining persons described in subsection (a) and requirements regarding reports to be submitted by such persons.

(4) USE OF EXISTING REPORTS.—The Bureau shall, to the fullest extent possible, use—

(A) reports pertaining to persons described in subsection (a) that have been provided or required to have been provided to a Federal or State agency; and

(B) information that has been reported publicly.

(5) PRESERVATION OF AUTHORITY.—Nothing in this title may be construed as limiting the authority of the Director to require reports from persons described in subsection (a), as permitted under paragraph (1), regarding information owned or under the control of

such person, regardless of whether such information is maintained, stored, or processed by another person.

(6) REPORTS OF TAX LAW NONCOMPLIANCE.—The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(7) REGISTRATION, RECORDKEEPING, AND OTHER REQUIREMENTS FOR CERTAIN PERSONS.—

(A) IN GENERAL.—The Bureau shall prescribe rules to facilitate supervision of persons described in subsection (a) and assessment and detection of risks to consumers.

(B) REGISTRATION.—

(i) IN GENERAL.—The Bureau shall prescribe rules regarding registration requirements for persons described in subsection (a).

(ii) EXCEPTION FOR RELATED PERSONS.—The Bureau may not impose requirements under this section regarding the registration of a related person.

(iii) REGISTRATION INFORMATION.—Subject to rules prescribed by the Bureau, the Bureau shall publicly disclose the registration information about persons described in subsection (a) to facilitate the ability of consumers to identify persons described in subsection (a) registered with the Bureau.

(C) RECORDKEEPING.—The Bureau may require a person described in subsection (a), to generate, provide, or retain records for the purposes of facilitating supervision of such persons and assessing and detecting risks to consumers.

(D) REQUIREMENTS CONCERNING OBLIGATIONS.—The Bureau may prescribe rules regarding a person described in subsection (a), to ensure that such persons are legitimate entities and are able to perform their obligations to consumers. Such requirements may include background checks for principals, officers, directors, or key personnel and bonding or other appropriate financial requirements.

(E) CONSULTATION WITH STATE AGENCIES.—In developing and implementing requirements under this paragraph, the Bureau shall consult with State agencies regarding requirements or systems (including coordinated or combined systems for registration), where appropriate.

(c) EXCLUSIVE ENFORCEMENT AUTHORITY.—

(1) THE BUREAU TO HAVE EXCLUSIVE ENFORCEMENT AUTHORITY.—To the extent that Federal law authorizes the Bureau and another Federal agency to enforce Federal consumer financial law, the Bureau shall have exclusive authority to enforce that Federal consumer financial law with respect to any person described in subsection (a)(1)(B).

(2) REFERRAL.—Any Federal agency authorized to enforce a Federal consumer financial law described in paragraph (1) may recommend in writing to the Bureau that the Bureau initiate an enforcement proceeding, as the Bureau is authorized by that Federal law or by this title.

(3) COORDINATION WITH THE FEDERAL TRADE COMMISSION.—

(A) IN GENERAL.—The Bureau and the Federal Trade Commission shall coordinate enforcement actions for violations of Federal law regarding the offering or provision of consumer financial products or services by any covered person that is described in subsection (a)(1)(A), or service providers thereto. In carrying out this subparagraph, the agencies shall negotiate an agreement to establish procedures for such coordination, including procedures for notice to the other agency, where feasible, prior to initiating a civil action to enforce a Federal law regarding the offering or provision of consumer financial products or services.

(B) CIVIL ACTIONS.—Whenever a civil action has been filed by, or on behalf of, the Bureau or the Federal Trade Commission for any violation of any provision of Federal law described in subparagraph (A), or any regulation prescribed under such provision of law—

(i) the other agency may not, during the pendency of that action, institute a civil action under such provision of law against any defendant named in the complaint in such pending action for any violation alleged in the complaint; and

(ii) the Bureau or the Federal Trade Commission may intervene as a party in any such action brought by the other agency, and, upon intervening—

(I) be heard on all matters arising in such enforcement action; and

(II) file petitions for appeal in such actions.

(C) AGREEMENT TERMS.—The terms of any agreement negotiated under subparagraph (A) may modify or supersede the provisions of subparagraph (B).

(D) DEADLINE.—The agencies shall reach the agreement required under subparagraph (A) not later than 6 months after the designated transfer date.

(d) EXCLUSIVE RULEMAKING AND EXAMINATION AUTHORITY.—Notwithstanding any other provision of Federal law, to the extent that Federal law authorizes the Bureau and another Federal agency to issue regulations or guidance, conduct examinations, or require reports from a person described in subsection (a) under such law for purposes of assuring compliance with Federal consumer financial law and any regulations thereunder, the Bureau shall have the exclusive authority to prescribe rules, issue guidance, conduct examinations, require reports, or issue exemptions with regard to a person described in subsection (a), subject to those provisions of law.

(e) SERVICE PROVIDERS.—A service provider to a person described in subsection (a) shall be subject to the authority of the Bureau under this section, to the same extent as if such service provider were engaged in a service relationship with a bank, and the Bureau were an appropriate Federal banking agency under section 7(c) of the Bank Service Company Act (12 U.S.C. 1867(c)). In conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator, as applicable.

(f) PRESERVATION OF FARM CREDIT ADMINISTRATION AUTHORITY.—No provision of this title may be construed as modifying, limiting, or otherwise affecting the authority of the Farm Credit Administration.

SEC. 1025. SUPERVISION OF VERY LARGE BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.

(a) SCOPE OF COVERAGE.—

(1) APPLICABILITY.—This section shall apply to any covered person that is—

(A) an insured depository institution with total assets of more than $10,000,000,000 and any affiliate thereof; or

(B) an insured credit union with total assets of more than $10,000,000,000 and any affiliate thereof.

(2) RULE OF CONSTRUCTION.—For purposes of determining total assets under this section and section 1026, the Bureau shall rely on the same regulations and interim methodologies specified in section 312(e).

(b) SUPERVISION.—

(1) IN GENERAL.—The Bureau shall require reports and conduct examinations on a periodic basis of persons described in subsection (a) for purposes of—

(A) assessing compliance with the requirements of Federal consumer financial laws;

(B) obtaining information about the activities and compliance systems or procedures of such persons; and

(C) detecting and assessing risks to consumers and to markets for consumer financial products and services.

(2) COORDINATION.—To minimize regulatory burden, the Bureau shall coordinate its supervisory activities with the supervisory activities conducted by prudential regulators and the State bank regulatory authorities, including establishing their respective schedules for examining such persons described in subsection (a) and requirements regarding reports to be submitted by such persons.

(3) USE OF EXISTING REPORTS.—The Bureau shall, to the fullest extent possible, use—

(A) reports pertaining to a person described in subsection (a) that have been provided or required to have been provided to a Federal or State agency; and

(B) information that has been reported publicly.

(4) PRESERVATION OF AUTHORITY.—Nothing in this title may be construed as limiting the authority of the Director to require reports from a person described in subsection (a), as permitted under paragraph (1), regarding information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

(5) REPORTS OF TAX LAW NONCOMPLIANCE.—The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(c) PRIMARY ENFORCEMENT AUTHORITY.—

(1) THE BUREAU TO HAVE PRIMARY ENFORCEMENT AUTHORITY.—To the extent that the Bureau and another Federal agency are authorized to enforce a Federal consumer financial law, the Bureau shall have primary authority to enforce that Federal consumer financial law with respect to any person described in subsection (a).

(2) REFERRAL.—Any Federal agency, other than the Federal Trade Commission, that is authorized to enforce a Federal consumer financial law may recommend, in writing, to the Bureau that the Bureau initiate an enforcement proceeding with respect to a person described in subsection (a), as the Bureau is authorized to do by that Federal consumer financial law.

(3) BACKUP ENFORCEMENT AUTHORITY OF OTHER FEDERAL AGENCY.—If the Bureau does not, before the end of the 120-day period beginning on the date on which the Bureau receives a recommendation under paragraph (2), initiate an enforcement proceeding, the other agency referred to in paragraph (2) may initiate an enforcement proceeding, as permitted by the subject provision of Federal law.

(d) SERVICE PROVIDERS.—A service provider to a person described in subsection (a) shall be subject to the authority of the Bureau under this section, to the same extent as if the Bureau were an appropriate Federal banking agency under section 7(c) of the Bank Service Company Act 12 U.S.C. 1867(c). In conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator.

(e) SIMULTANEOUS AND COORDINATED SUPERVISORY ACTION.—

(1) EXAMINATIONS.—A prudential regulator and the Bureau shall, with respect to each insured depository institution, insured credit union, or other covered person described in subsection (a) that is supervised by the prudential regulator and the Bureau, respectively—

(A) coordinate the scheduling of examinations of the insured depository institution, insured credit union, or other covered person described in subsection (a);

(B) conduct simultaneous examinations of each insured depository institution, insured credit union, or other covered person described in subsection (a), unless such institution requests examinations to be conducted separately;

(C) share each draft report of examination with the other agency and permit the receiving agency a reasonable opportunity (which shall not be less than a period of 30 days after the date of receipt) to comment on the draft report before such report is made final; and

(D) prior to issuing a final report of examination or taking supervisory action, take into consideration concerns, if any, raised in the comments made by the other agency.

(2) COORDINATION WITH STATE BANK SUPERVISORS.—The Bureau shall pursue arrangements and agreements with State bank supervisors to coordinate examinations, consistent with paragraph (1).

(3) AVOIDANCE OF CONFLICT IN SUPERVISION.—

(A) REQUEST.—If the proposed supervisory determinations of the Bureau and a prudential regulator (in this section referred to collectively as the ''agencies'') are conflicting, an insured depository institution, insured credit union, or other covered person described in subsection (a) may request the agencies to coordinate and present a joint statement of coordinated supervisory action.

(B) JOINT STATEMENT.—The agencies shall provide a joint statement under subparagraph (A), not later than 30 days after the date of receipt of the request of the insured depository institution, credit union, or covered person described in subsection (a).

(4) APPEALS TO GOVERNING PANEL.—

(A) IN GENERAL.—If the agencies do not resolve the conflict or issue a joint statement required by subparagraph (B), or if either of the agencies takes or attempts to take any supervisory action relating to the request for the joint statement without the consent of the other agency, an insured depository institution, insured credit union, or other covered person described in subsection (a) may institute an appeal to a governing panel, as provided in this subsection, not later than 30 days after the expiration of the period during which a joint statement is required to be filed under paragraph (3)(B).

(B) COMPOSITION OF GOVERNING PANEL.—The governing panel for an appeal under this paragraph shall be composed of—

(i) a representative from the Bureau and a representative of the prudential regulator, both of whom—

(I) have not participated in the material supervisory determinations under appeal; and

(II) do not directly or indirectly report to the person who participated materially in the supervisory determinations under appeal; and

(ii) one individual representative, to be determined on a rotating basis, from among the Board of Governors, the Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency, other than any agency involved in the subject dispute.

(C) CONDUCT OF APPEAL.—In an appeal under this paragraph—

(i) the insured depository institution, insured credit union, or other covered person described in subsection (a)—

(I) shall include in its appeal all the facts and legal arguments pertaining to the matter; and

(II) may, through counsel, employees, or representatives, appear before the governing panel in person or by telephone; and

(ii) the governing panel—

(I) may request the insured depository institution, insured credit union, or other covered person described in subsection (a), the Bureau, or the prudential regulator to produce additional information relevant to the appeal; and

(II) by a majority vote of its members, shall provide a final determination, in writing, not later than 30 days after the date of filing of an informationally complete appeal, or such longer period as the panel and the insured depository institution, insured credit union, or other covered person described in subsection (a) may jointly agree.

(D) PUBLIC AVAILABILITY OF DETERMINATIONS.—A governing panel shall publish all information contained in a determination by the governing panel, with appropriate redactions of information that would be subject to an exemption from disclosure under section 552 of title 5, United States Code.

(E) PROHIBITION AGAINST RETALIATION.—The Bureau and the prudential regulators shall prescribe rules to provide safeguards from retaliation against the insured depository institution, insured credit union, or other covered person described in subsection (a) instituting an appeal under this paragraph, as well as their officers and employees.

(F) LIMITATION.—The process provided in this paragraph shall not apply to a determination by a prudential regulator to appoint a conservator or receiver for an insured depository institution or a liquidating agent for an insured credit union, as the case may be, or a decision to take action pursuant to section 38 of the Federal Deposit Insurance Act (12 U.S.C. 1831o) or section 212 of the Federal Credit Union Act (112 U.S.C. 1790a), as applicable.

(G) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall modify or limit the authority of the Bureau to interpret, or take enforcement action under, any Federal consumer financial law.

SEC. 1026. OTHER BANKS, SAVINGS ASSOCIATIONS, AND CREDIT UNIONS.

(a) SCOPE OF COVERAGE.—This section shall apply to any covered person that is—

(1) an insured depository institution with total assets of $10,000,000,000 or less; or

(2) an insured credit union with total assets of $10,000,000,000 or less.

(b) REPORTS.—The Director may require reports from a person described in subsection (a), as necessary to support the role of the Bureau in implementing Federal consumer financial law, to support its examination activities under subsection (c), and to assess and detect risks to consumers and consumer financial markets.

(1) USE OF EXISTING REPORTS.—The Bureau shall, to the fullest extent possible, use—

(A) reports pertaining to a person described in subsection (a) that have been provided or required to have been provided to a Federal or State agency; and

(B) information that has been reported publicly.

(2) PRESERVATION OF AUTHORITY.—Nothing in this subsection may be construed as limiting the authority of the Director from requiring from a person described in subsection (a), as permitted under paragraph (1), information owned or under the control of such person, regardless of whether such information is maintained, stored, or processed by another person.

(3) REPORTS OF TAX LAW NONCOMPLIANCE.—The Bureau shall provide the Commissioner of Internal Revenue with any report of examination or related information identifying possible tax law noncompliance.

(c) EXAMINATIONS.—

(1) IN GENERAL.—The Bureau may, at its discretion, include examiners on a sampling basis of the examinations performed by the prudential regulator of persons described in subsection (a).

(2) AGENCY COORDINATION.—The prudential regulator shall—

(A) provide all reports, records, and documentation related to the examination process for any institution included in the sample referred to in paragraph (1) to the Bureau on a timely and continual basis;

(B) involve such Bureau examiner in the entire examination process for such person; and

(C) consider input of the Bureau concerning the scope of an examination, conduct of the examination, the contents of the examination report, the designation of matters requiring attention, and examination ratings.

(d) ENFORCEMENT.—

(1) IN GENERAL.—Except for requiring reports under subsection (b), the prudential regulator shall have exclusive authority to enforce compliance with respect to a person described in subsection (a).

(2) COORDINATION WITH PRUDENTIAL REGULATOR.—

(A) REFERRAL.—When the Bureau has reason to believe that a person described in subsection (a) has engaged in a material violation of a Federal consumer financial law, the Bureau shall notify the prudential regulator in writing and recommend appropriate action to respond.

(B) RESPONSE.—Upon receiving a recommendation under subparagraph (A), the prudential regulator shall provide a written response to the Bureau not later than 60 days thereafter.

(e) SERVICE PROVIDERS.—A service provider to a substantial number of persons described in subsection (a) shall be subject to the authority of the Bureau under section 1025 to the same extent as if the Bureau were an appropriate Federal bank agency under section 7(c) of the Bank Service Company Act (12 U.S.C. 1867(c)). When conducting any examination or requiring any report from a service provider subject to this subsection, the Bureau shall coordinate with the appropriate prudential regulator.

SEC. 1027. LIMITATIONS ON AUTHORITIES OF THE BUREAU; PRESERVATION OF AUTHORITIES.

(a) EXCLUSION FOR MERCHANTS, RETAILERS, AND OTHER SELLERS OF NONFINANCIAL GOODS OR SERVICES.—

(1) SALE OR BROKERAGE OF NONFINANCIAL GOOD OR SERVICE.—The Bureau may not exercise any rulemaking, supervisory, enforcement or other authority under this title with respect to a person who is a merchant, retailer, or seller of any nonfinancial good or service and is engaged in the sale or brokerage of such nonfinancial good or service, except to the extent that such person is engaged in offering or providing any consumer financial product or service, or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(2) OFFERING OR PROVISION OF CERTAIN CONSUMER FINANCIAL PRODUCTS OR SERVICES IN CONNECTION WITH THE SALE OR BROKERAGE OF NONFINANCIAL GOOD OR SERVICE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), and subject to subparagraph (C), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority under this title with respect to a merchant, retailer, or seller of nonfinancial goods or services who—

(i) extends credit directly to a consumer, in a case in which the good or service being provided is not itself a consumer financial product or service (other than credit described in this subparagraph), exclusively for the purpose of enabling that consumer to purchase such nonfinancial good or service directly from the merchant, retailer, or seller;

(ii) directly, or through an agreement with another person, collects debt arising from credit extended as described in clause (i); or

(iii) sells or conveys debt described in clause (i) that is delinquent or otherwise in default.

(B) APPLICABILITY.—Subparagraph (A) does not apply to any credit transaction or collection of debt, other than as described in subparagraph (C), arising from a transaction described in subparagraph (A)—

(i) in which the merchant, retailer, or seller of nonfinancial goods or services assigns, sells or otherwise conveys to another person such debt owed by the consumer (except for a sale of debt that is delinquent or otherwise in default, as described in subparagraph (A)(iii));

(ii) in which the credit extended exceeds the market value of the nonfinancial good or service provided, or the Bureau otherwise finds that the sale of the nonfinancial good or service is done as a subterfuge, so as to evade or circumvent the provisions of this title; or

(iii) in which the merchant, retailer, or seller of nonfinancial goods or services regularly extends credit and the credit is—

(I) subject to a finance charge; or

(II) payable by written agreement in more than 4 installments.

(C) LIMITATION.—Notwithstanding subparagraph (B), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority under this title with respect to a merchant, retailer, or seller of nonfinancial goods or services that is not engaged significantly in offering or providing consumer financial products or services.

(D) RULE OF CONSTRUCTION.—No provision of this title may be construed as modifying, limiting, or superseding the supervisory or enforcement authority of the Federal Trade Commission or any other agency (other than the Bureau) with respect to credit extended, or the collection of debt arising from such extension, directly by a merchant or retailer to a consumer exclusively for the purpose of enabling that consumer to purchase nonfinancial goods or services directly from the merchant or retailer.

(b) EXCLUSION FOR REAL ESTATE BROKERAGE ACTIVITIES.—

(1) REAL ESTATE BROKERAGE ACTIVITIES EXCLUDED.—Without limiting subsection (a), and except as permitted in paragraph (2), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority under this title with respect to a person that is licensed or registered as a real estate broker or real estate agent, in accordance with State law, to the extent that such person—

(A) acts as a real estate agent or broker for a buyer, seller, lessor, or lessee of real property;

(B) brings together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(C) negotiates, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with the provision of financing with respect to any such transaction); or

(D) offers to engage in any activity, or act in any capacity, described in subparagraph (A), (B), or (C).

(2) DESCRIPTION OF ACTIVITIES.—Paragraph (1) shall not apply to any person to the extent that such person is engaged in the offering or provision of any consumer financial product or service or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(c) EXCLUSION FOR MANUFACTURED HOME RETAILERS AND MODULAR HOME RETAILERS.—

(1) IN GENERAL.—The Director may not exercise any rulemaking, supervisory, enforcement, or other authority over a person to the extent that—

(A) such person is not described in paragraph (2); and

(B) such person—

(i) acts as an agent or broker for a buyer or seller of a manufactured home or a modular home;

(ii) facilitates the purchase by a consumer of a manufactured home or modular home, by negotiating the purchase price or terms of the sales contract (other than providing financing with respect to such transaction); or

(iii) offers to engage in any activity described in clause (i) or (ii).

(2) DESCRIPTION OF ACTIVITIES.—A person is described in this paragraph to the extent that such person is engaged in the offering or provision of any consumer financial product or service or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

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

(A) MANUFACTURED HOME.—The term ''manufactured home'' has the same meaning as in section 603 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402).

(B) MODULAR HOME.—The term ''modular home'' means a house built in a factory in 2 or more modules that meet the State or local building codes where the house will be located, and where such modules are transported to the building site, installed on foundations, and completed.

(d) EXCLUSION FOR ACCOUNTANTS AND TAX PREPARERS.—

(1) IN GENERAL.—Except as permitted in paragraph (2), the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority over—

(A) any person that is a certified public accountant, permitted to practice as a certified public accounting firm, or certified or licensed for such purpose by a State, or any individual who is employed by or holds an ownership interest with respect to a person described in this subparagraph, when such person is performing or offering to perform—

(i) customary and usual accounting activities, including the provision of accounting, tax, advisory, or other services that are subject to the regulatory authority of a State board of accountancy or a Federal authority; or

(ii) other services that are incidental to such customary and usual accounting activities, to the extent that such incidental services are not offered or provided—

(I) by the person separate and apart from such customary and usual accounting activities; or

(II) to consumers who are not receiving such customary and usual accounting activities; or

(B) any person, other than a person described in subparagraph (A) that performs income tax preparation activities for consumers.

(2) DESCRIPTION OF ACTIVITIES.—

(A) IN GENERAL.—Paragraph (1) shall not apply to any person described in paragraph (1)(A) or (1)(B) to the extent that such person is engaged in any activity which is not a customary and usual accounting activity described in paragraph (1)(A) or incidental thereto but which is the offering or provision of any consumer financial product or service, except to the extent that a person described in paragraph (1)(A) is engaged in an activity which is a customary and usual accounting activity described in paragraph (1)(A), or incidental thereto.

(B) NOT A CUSTOMARY AND USUAL ACCOUNTING ACTIVITY.—For purposes of this subsection, extending or brokering credit is not a customary and usual accounting activity, or incidental thereto.

(C) RULE OF CONSTRUCTION.—For purposes of subparagraphs (A) and (B), a person described in paragraph (1)(A) shall not be deemed to be extending credit, if such person is only extending credit directly to a consumer, exclusively for the purpose of enabling such consumer to purchase services described in clause (i) or (ii) of paragraph (1)(A) directly from such person, and such credit is—

(i) not subject to a finance charge; and

(ii) not payable by written agreement in more than 4 installments.

(D) OTHER LIMITATIONS.—Paragraph (1) does not apply to any person described in paragraph (1)(A) or (1)(B) that is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(e) EXCLUSION FOR ATTORNEYS.—

(1) IN GENERAL.—The Bureau may not exercise any authority to conduct examinations of an attorney licensed by a State, to the extent that the attorney is engaged in the practice of law under the laws of such State.

(2) EXCEPTION FOR ENUMERATED CONSUMER LAWS AND TRANSFERRED AUTHORITIES.—Paragraph (1) shall not apply to an attorney who is engaged in the offering or provision of any consumer financial product or service, or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(f) EXCLUSION FOR PERSONS REGULATED BY A STATE INSURANCE REGULATOR.—

(1) IN GENERAL.—No provision of this title shall be construed as altering, amending, or affecting the authority of any State insurance regulator to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by a State insurance regulator. Except as provided in paragraph (2), the Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by a State insurance regulator.

(2) DESCRIPTION OF ACTIVITIES.—Paragraph (1) does not apply to any person described in such paragraph to the extent that such person is engaged in the offering or provision of any consumer financial product or service or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(g) EXCLUSION FOR EMPLOYEE BENEFIT AND COMPENSATION PLANS AND CERTAIN OTHER ARRANGEMENTS UNDER THE INTERNAL REVENUE CODE OF 1986.—

(1) PRESERVATION OF AUTHORITY OF OTHER AGENCIES.—No provision of this title shall be construed as altering, amending, or affecting the authority of the Secretary of the Treasury, the Secretary of Labor, or the Commissioner of Internal Revenue to adopt regulations, initiate enforcement proceedings, or take any actions with respect to any specified plan or arrangement.

(2) ACTIVITIES NOT CONSTITUTING THE OFFERING OR PROVISION OF ANY CONSUMER FINANCIAL PRODUCT OR SERVICE.—For purposes of this title, a person shall not be treated as having engaged in the offering or provision of any consumer financial product or service solely because such person is a specified plan or arrangement, or is engaged in the activity of establishing or maintaining, for the benefit of employees of such person (or for members of an employee organization), any specified plan or arrangement.

(3) LIMITATION ON BUREAU AUTHORITY.—

(A) IN GENERAL.—Except as provided under subparagraphs (B) and (C), the Bureau may not exercise any rulemaking or enforcement

authority with respect to products or services that relate to any specified plan or arrangement.

(B) BUREAU ACTION ONLY PURSUANT TO AGENCY REQUEST.—The Secretary and the Secretary of Labor may jointly issue a written request to the Bureau regarding implementation of appropriate consumer protection standards under this title with respect to the provision of services relating to any specified plan or arrangement. Subject to a request made under this subparagraph, the Bureau may exercise rulemaking authority, and may act to enforce a rule prescribed pursuant to such request, in accordance with the provisions of this title. A request made by the Secretary and the Secretary of Labor under this subparagraph shall describe the basis for, and scope of, appropriate consumer protection standards to be implemented under this title with respect to the provision of services relating to any specified plan or arrangement.

(C) DESCRIPTION OF PRODUCTS OR SERVICES.—To the extent that a person engaged in providing products or services relating to any specified plan or arrangement is subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H, subparagraph (A) shall not apply with respect to that law.

(4) SPECIFIED PLAN OR ARRANGEMENT.—For purposes of this subsection, the term ''specified plan or arrangement'' means any plan, account, or arrangement described in section 220, 223, 401(a), 403(a), 403(b), 408, 408A, 529, or 530 of the Internal Revenue Code of 1986, or any employee benefit or compensation plan or arrangement, including a plan that is subject to title I of the Employee Retirement Income Security Act of 1974.

(h) PERSONS REGULATED BY A STATE SECURITIES COMMISSION.—

(1) IN GENERAL.—No provision of this title shall be construed as altering, amending, or affecting the authority of any securities commission (or any agency or office performing like functions) of any State to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by any securities commission (or any agency or office performing like functions) of any State. Except as permitted in paragraph (2) and subsection (f), the Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by any securities commission (or any agency or office performing like functions) of any State, but only to the extent that the person acts in such regulated capacity.

(2) DESCRIPTION OF ACTIVITIES.—Paragraph (1) shall not apply to any person to the extent such person is engaged in the offering or provision of any consumer financial product or service, or is otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(i) EXCLUSION FOR PERSONS REGULATED BY THE COMMISSION.—

(1) IN GENERAL.—No provision of this title may be construed as altering, amending, or affecting the authority of the Commission to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Commission. The Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Commission.

(2) CONSULTATION AND COORDINATION.—Notwithstanding paragraph (1), the Commission shall consult and coordinate, where feasible, with the Bureau with respect to any rule (including any advance notice of proposed rulemaking) regarding an investment product or service that is the same type of product as, or that competes directly with, a consumer financial product or service that is subject to the jurisdiction of the Bureau under this title or under any other law. In carrying out this paragraph, the agencies shall negotiate an agreement to establish procedures for such coordination, including procedures for providing advance notice to the Bureau when the Commission is initiating a rulemaking.

(j) EXCLUSION FOR PERSONS REGULATED BY THE COMMODITY FUTURES TRADING COMMISSION.—

(1) IN GENERAL.—No provision of this title shall be construed as altering, amending, or affecting the authority of the Commodity Futures Trading Commission to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Commodity Futures Trading Commission. The Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Commodity Futures Trading Commission.

(2) CONSULTATION AND COORDINATION.—Notwithstanding paragraph (1), the Commodity Futures Trading Commission shall consult and coordinate with the Bureau with respect to any rule (including any advance notice of proposed rulemaking) regarding a product or service that is the same type of product as, or that competes directly with, a consumer financial product or service that is subject to the jurisdiction of the Bureau under this title or under any other law.

(k) EXCLUSION FOR PERSONS REGULATED BY THE FARM CREDIT ADMINISTRATION.—

(1) IN GENERAL.—No provision of this title shall be construed as altering, amending, or affecting the authority of the Farm Credit Administration to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by the Farm Credit Administration. The Bureau shall have no authority to exercise any power to enforce this title with respect to a person regulated by the Farm Credit Administration.

(2) DEFINITION.—For purposes of this subsection, the term ''person regulated by the Farm Credit Administration'' means any Farm Credit System institution that is chartered and subject to the provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

(l) EXCLUSION FOR ACTIVITIES RELATING TO CHARITABLE CONTRIBUTIONS.—

(1) IN GENERAL.—The Director and the Bureau may not exercise any rulemaking, supervisory, enforcement, or other authority, including authority to order penalties, over any activities related to the solicitation or making of voluntary contributions to a tax-exempt organization as recognized by the Internal Revenue Service, by any agent, volunteer, or representative of such organizations to the extent the organization, agent, volunteer, or representative thereof is soliciting or providing advice, information, education, or instruction to any donor or potential donor relating to a contribution to the organization.

(2) LIMITATION.—The exclusion in paragraph (1) does not apply to other activities not described in paragraph (1) that are the offering or provision of any consumer financial product or service, or are otherwise subject to any enumerated consumer law or any law for which authorities are transferred under subtitle F or H.

(m) INSURANCE.—The Bureau may not define as a financial product or service, by regulation or otherwise, engaging in the business of insurance.

(n) LIMITED AUTHORITY OF THE BUREAU.—Notwithstanding subsections (a) through (h) and (l), a person subject to or described in one or more of such subsections—

(1) may be a service provider; and

(2) may be subject to requests from, or requirements imposed by, the Bureau regarding information in order to carry out the responsibilities and functions of the Bureau and in accordance with section 1022, 1052, or 1053.

(o) NO AUTHORITY TO IMPOSE USURY LIMIT.—No provision of this title shall be construed as conferring authority on the Bureau to establish a usury limit applicable to an extension of credit offered or made by a covered person to a consumer, unless explicitly authorized by law.

(p) ATTORNEY GENERAL.—No provision of this title, including section 1024(c)(1), shall affect the authorities of the Attorney General under otherwise applicable provisions of law.

(q) SECRETARY OF THE TREASURY.—No provision of this title shall affect the authorities of the Secretary, including with respect to prescribing rules, initiating enforcement proceedings, or taking other actions with respect to a person that performs income tax preparation activities for consumers.

(r) DEPOSIT INSURANCE AND SHARE INSURANCE.—Nothing in this title shall affect the authority of the Corporation under the Federal Deposit Insurance Act or the National Credit Union Administration Board under the Federal Credit Union Act as to matters related to deposit insurance and share insurance, respectively.

SEC. 1028. AUTHORITY TO RESTRICT MANDATORY PRE-DISPUTE ARBITRATION.

(a) STUDY AND REPORT.—The Bureau shall conduct a study of, and shall provide a report to Congress concerning, the use of agreements providing for arbitration of any future dispute between covered persons and consumers in connection with the offering or providing of consumer financial products or services.

(b) FURTHER AUTHORITY.—The Bureau, by regulation, may prohibit or impose conditions or limitations on the use of an agreement between a covered person and a consumer for a consumer financial product or service providing for arbitration of any future dispute between the parties, if the Bureau finds that such a prohibition or imposition of conditions or limitations is in the public interest and for the protection of consumers. The findings in such rule shall be consistent with the study conducted under subsection (a).

(c) LIMITATION.—The authority described in subsection (b) may not be construed to prohibit or restrict a consumer from entering into a voluntary arbitration agreement with a covered person after a dispute has arisen.

(d) EFFECTIVE DATE.—Notwithstanding any other provision of law, any regulation prescribed by the Bureau under subsection (a) shall apply, consistent with the terms of the regulation, to any agreement between a consumer and a covered person entered into after the end of the 180-day period beginning on the effective date of the regulation, as established by the Bureau.

SEC. 1029. EFFECTIVE DATE.

This subtitle shall become effective on the designated transfer date.

Subtitle C—Specific Bureau Authorities

SEC. 1031. PROHIBITING UNFAIR, DECEPTIVE, OR ABUSIVE ACTS OR PRACTICES.

(a) IN GENERAL.—The Bureau may take any action authorized under subtitle E to prevent a covered person or service provider from committing or engaging in an unfair, deceptive, or abusive act or practice under Federal law in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service.

(b) RULEMAKING.—The Bureau may prescribe rules applicable to a covered person or

service provider identifying as unlawful unfair, deceptive, or abusive acts or practices in connection with any transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service. Rules under this section may include requirements for the purpose of preventing such acts or practices.

(c) UNFAIRNESS.—

(1) IN GENERAL.—The Bureau shall have no authority under this section to declare an act or practice in connection with a transaction with a consumer for a consumer financial product or service, or the offering of a consumer financial product or service, to be unlawful on the grounds that such act or practice is unfair, unless the Bureau has a reasonable basis to conclude that—

(A) the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers; and

(B) such substantial injury is not outweighed by countervailing benefits to consumers or to competition.

(2) CONSIDERATION OF PUBLIC POLICIES.—In determining whether an act or practice is unfair, the Bureau may consider established public policies as evidence to be considered with all other evidence. Such public policy considerations may not serve as a primary basis for such determination.

(d) ABUSIVE.—The Bureau shall have no authority under this section to declare an act or practice abusive in connection with the provision of a consumer financial product or service, unless the act or practice—

(1) materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service; or

(2) takes unreasonable advantage of—

(A) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;

(B) the inability of the consumer to protect the interests of the consumer in selecting or using a consumer financial product or service; or

(C) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.

(e) CONSULTATION.—In prescribing rules under this section, the Bureau shall consult with the Federal banking agencies, or other Federal agencies, as appropriate, concerning the consistency of the proposed rule with prudential, market, or systemic objectives administered by such agencies.

SEC. 1032. DISCLOSURES.

(a) IN GENERAL.—The Bureau may prescribe rules to ensure that the features of any consumer financial product or service, both initially and over the term of the product or service, are fully, accurately, and effectively disclosed to consumers in a manner that permits consumers to understand the costs, benefits, and risks associated with the product or service, in light of the facts and circumstances.

(b) MODEL DISCLOSURES.—

(1) IN GENERAL.—Any final rule prescribed by the Bureau under this section requiring disclosures may include a model form that may be used at the option of the covered person for provision of the required disclosures.

(2) FORMAT.—A model form issued pursuant to paragraph (1) shall contain a clear and conspicuous disclosure that, at a minimum—

(A) uses plain language comprehensible to consumers;

(B) contains a clear format and design, such as an easily readable type font; and

(C) succinctly explains the information that must be communicated to the consumer.

(3) CONSUMER TESTING.—Any model form issued pursuant to this subsection shall be validated through consumer testing.

(c) BASIS FOR RULEMAKING.—In prescribing rules under this section, the Bureau shall consider available evidence about consumer awareness, understanding of, and responses to disclosures or communications about the risks, costs, and benefits of consumer financial products or services.

(d) SAFE HARBOR.—Any covered person that uses a model form included with a rule issued under this section shall be deemed to be in compliance with the disclosure requirements of this section with respect to such model form.

(e) TRIAL DISCLOSURE PROGRAMS.—

(1) IN GENERAL.—The Bureau may permit a covered person to conduct a trial program that is limited in time and scope, subject to specified standards and procedures, for the purpose of providing trial disclosures to consumers that are designed to improve upon any model form issued pursuant to subsection (b)(1), or any other model form issued to implement an enumerated statute, as applicable.

(2) SAFE HARBOR.—The standards and procedures issued by the Bureau shall be designed to encourage covered persons to conduct trial disclosure programs. For the purposes of administering this subsection, the Bureau may establish a limited period during which a covered person conducting a trial disclosure program shall be deemed to be in compliance with, or may be exempted from, a requirement of a rule or an enumerated consumer law.

(3) PUBLIC DISCLOSURE.—The rules of the Bureau shall provide for public disclosure of trial disclosure programs, which public disclosure may be limited, to the extent necessary to encourage covered persons to conduct effective trials.

(f) COMBINED MORTGAGE LOAN DISCLOSURE.—Not later than 1 year after the designated transfer date, the Bureau shall propose for public comment rules and model disclosures that combine the disclosures required under the Truth in Lending Act and the Real Estate Settlement Procedures Act of 1974, into a single, integrated disclosure for mortgage loan transactions covered by those laws, unless the Bureau determines that any proposal issued by the Board of Governors and the Secretary of Housing and Urban Development carries out the same purpose.

SEC. 1033. CONSUMER RIGHTS TO ACCESS INFORMATION.

(a) IN GENERAL.—Subject to rules prescribed by the Bureau, a covered person shall make available to a consumer, upon request, information in the control or possession of the covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including information relating to any transaction, series of transactions, or to the account including costs, charges and usage data. The information shall be made available in an electronic form usable by consumers.

(b) EXCEPTIONS.—A covered person may not be required by this section to make available to the consumer—

(1) any confidential commercial information, including an algorithm used to derive credit scores or other risk scores or predictors;

(2) any information collected by the covered person for the purpose of preventing fraud or money laundering, or detecting, or making any report regarding other unlawful or potentially unlawful conduct;

(3) any information required to be kept confidential by any other provision of law; or

(4) any information that the covered person cannot retrieve in the ordinary course of its business with respect to that information.

(c) NO DUTY TO MAINTAIN RECORDS.—Nothing in this section shall be construed to impose any duty on a covered person to maintain or keep any information about a consumer.

(d) STANDARDIZED FORMATS FOR DATA.—The Bureau, by rule, shall prescribe standards applicable to covered persons to promote the development and use of standardized formats for information, including through the use of machine readable files, to be made available to consumers under this section.

(e) CONSULTATION.—The Bureau shall, when prescribing any rule under this section, consult with the Federal banking agencies and the Federal Trade Commission to ensure that the rules—

(1) impose substantively similar requirements on covered persons;

(2) take into account conditions under which covered persons do business both in the United States and in other countries; and

(3) do not require or promote the use of any particular technology in order to develop systems for compliance.

SEC. 1034. RESPONSE TO CONSUMER COMPLAINTS AND INQUIRIES.

(a) TIMELY REGULATOR RESPONSE TO CONSUMERS.—The Bureau shall establish, in consultation with the appropriate Federal regulatory agencies, reasonable procedures to provide a timely response to consumers, in writing where appropriate, to complaints against, or inquiries concerning, a covered person, including—

(1) all steps that have been taken by the regulator in response to the complaint or inquiry of the consumer;

(2) any responses received by the regulator from the covered person; and

(3) any follow-up actions or planned follow-up actions by the regulator in response to the complaint or inquiry of the consumer.

(b) TIMELY RESPONSE TO REGULATOR BY COVERED PERSON.—A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025 shall provide a timely response, in writing where appropriate, to the Bureau, the prudential regulators, and any other agency having jurisdiction over such covered person concerning a consumer complaint or inquiry, including—

(1) steps that have been taken by the covered person to respond to the complaint or inquiry of the consumer;

(2) responses received by the covered person from the consumer; and

(3) follow-up actions or planned follow-up actions by the covered person to respond to the complaint or inquiry of the consumer.

(c) PROVISION OF INFORMATION TO CONSUMERS.—

(1) IN GENERAL.—A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025 shall, in a timely manner, comply with a consumer request for information in the control or possession of such covered person concerning the consumer financial product or service that the consumer obtained from such covered person, including supporting written documentation, concerning the account of the consumer.

(2) EXCEPTIONS.—A covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025, a prudential regulator, and any other agency having jurisdiction over a covered person subject to supervision and primary enforcement by the Bureau pursuant to section 1025 may not be required by this section to make available to the consumer—

(A) any confidential commercial information, including an algorithm used to derive

credit scores or other risk scores or predictors;

(B) any information collected by the covered person for the purpose of preventing fraud or money laundering, or detecting or making any report regarding other unlawful or potentially unlawful conduct;

(C) any information required to be kept confidential by any other provision of law; or

(D) any nonpublic or confidential information, including confidential supervisory information.

(d) AGREEMENTS WITH OTHER AGENCIES.—The Bureau shall enter into a memorandum of understanding with any affected Federal regulatory agency to establish procedures by which any covered person, and the prudential regulators, and any other agency having jurisdiction over a covered person, including the Secretary of the Department of Housing and Urban Development and the Secretary of Education, shall comply with this section.

SEC. 1035. PRIVATE EDUCATION LOAN OMBUDSMAN.

(a) ESTABLISHMENT.—The Secretary, in consultation with the Director, shall designate a Private Education Loan Ombudsman (in this section referred to as the ''Ombudsman'') within the Bureau, to provide timely assistance to borrowers of private education loans.

(b) PUBLIC INFORMATION.—The Secretary and the Director shall disseminate information about the availability and functions of the Ombudsman to borrowers and potential borrowers, as well as institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education student loan programs.

(c) FUNCTIONS OF OMBUDSMAN.—The Ombudsman designated under this subsection shall—

(1) in accordance with regulations of the Director, receive, review, and attempt to resolve informally complaints from borrowers of loans described in subsection (a), including, as appropriate, attempts to resolve such complaints in collaboration with the Department of Education and with institutions of higher education, lenders, guaranty agencies, loan servicers, and other participants in private education loan programs;

(2) not later than 90 days after the designated transfer date, establish a memorandum of understanding with the student loan ombudsman established under section 141(f) of the Higher Education Act of 1965 (20 U.S.C. 1018(f)), to ensure coordination in providing assistance to and serving borrowers seeking to resolve complaints related to their private education or Federal student loans;

(3) compile and analyze data on borrower complaints regarding private education loans; and

(4) make appropriate recommendations to the Director, the Secretary, the Secretary of Education, the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives.

(d) ANNUAL REPORTS.—

(1) IN GENERAL.—The Ombudsman shall prepare an annual report that describes the activities, and evaluates the effectiveness of the Ombudsman during the preceding year.

(2) SUBMISSION.—The report required by paragraph (1) shall be submitted on the same date annually to the Secretary, the Secretary of Education, the Committee on Banking, Housing, and Urban Affairs and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Financial Services and the Committee on Education and Labor of the House of Representatives.

(e) DEFINITIONS.—For purposes of this section, the terms ''private education loan'' and ''institution of higher education'' have the same meanings as in section 140 of the Truth in Lending Act (15 U.S.C. 1650).

SEC. 1036. PROHIBITED ACTS.

It shall be unlawful for any person—

(1) to—

(A) advertise, market, offer, or sell a consumer financial product or service not in conformity with this title or applicable rules or orders issued by the Bureau;

(B) enforce, or attempt to enforce, any agreement with a consumer (including any term or change in terms in respect of such agreement), or impose, or attempt to impose, any fee or charge on a consumer in connection with a consumer financial product or service that is not in conformity with this title or applicable rules or orders issued by the Bureau; or

(C) engage in any unfair, deceptive, or abusive act or practice,

except that no person shall be held to have violated this paragraph solely by virtue of providing or selling time or space to a person placing an advertisement;

(2) to fail or refuse, as required by Federal consumer financial law, or any rule or order issued by the Bureau thereunder—

(A) to permit access to or copying of records;

(B) to establish or maintain records; or

(C) to make reports or provide information to the Bureau; or

(3) knowingly or recklessly to provide substantial assistance to another person in violation of the provisions of section 1031, or any rule or order issued thereunder, and notwithstanding any provision of this title, the provider of such substantial assistance shall be deemed to be in violation of that section to the same extent as the person to whom such assistance is provided.

SEC. 1037. EFFECTIVE DATE.

This subtitle shall take effect on the designated transfer date.

Subtitle D—Preservation of State Law

SEC. 1041. RELATION TO STATE LAW.

(a) IN GENERAL.—

(1) RULE OF CONSTRUCTION.—This title, other than sections 1044 through 1048, may not be construed as annulling, altering, or affecting, or exempting any person subject to the provisions of this title from complying with, the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that any such provision of law is inconsistent with the provisions of this title, and then only to the extent of the inconsistency.

(2) GREATER PROTECTION UNDER STATE LAW.—For purposes of this subsection, a statute, regulation, order, or interpretation in effect in any State is not inconsistent with the provisions of this title if the protection that such statute, regulation, order, or interpretation affords to consumers is greater than the protection provided under this title. A determination regarding whether a statute, regulation, order, or interpretation in effect in any State is inconsistent with the provisions of this title may be made by the Bureau on its own motion or in response to a nonfrivolous petition initiated by any interested person.

(b) RELATION TO OTHER PROVISIONS OF ENUMERATED CONSUMER LAWS THAT RELATE TO STATE LAW.—No provision of this title, except as provided in section 1083, shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the application of a law in effect in any State with respect to such Federal law.

(c) ADDITIONAL CONSUMER PROTECTION REGULATIONS IN RESPONSE TO STATE ACTION.—

(1) NOTICE OF PROPOSED RULE REQUIRED.—The Bureau shall issue a notice of proposed rulemaking whenever a majority of the States has enacted a resolution in support of the establishment or modification of a consumer protection regulation by the Bureau.

(2) BUREAU CONSIDERATIONS REQUIRED FOR ISSUANCE OF FINAL REGULATION.—Before prescribing a final regulation based upon a notice issued pursuant to paragraph (1), the Bureau shall take into account whether—

(A) the proposed regulation would afford greater protection to consumers than any existing regulation;

(B) the intended benefits of the proposed regulation for consumers would outweigh any increased costs or inconveniences for consumers, and would not discriminate unfairly against any category or class of consumers; and

(C) a Federal banking agency has advised that the proposed regulation is likely to present an unacceptable safety and soundness risk to insured depository institutions.

(3) EXPLANATION OF CONSIDERATIONS.—The Bureau—

(A) shall include a discussion of the considerations required in paragraph (2) in the Federal Register notice of a final regulation prescribed pursuant to this subsection; and

(B) whenever the Bureau determines not to prescribe a final regulation, shall publish an explanation of such determination in the Federal Register, and provide a copy of such explanation to each State that enacted a resolution in support of the proposed regulation, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(4) RESERVATION OF AUTHORITY.—No provision of this subsection shall be construed as limiting or restricting the authority of the Bureau to enhance consumer protection standards established pursuant to this title in response to its own motion or in response to a request by any other interested person.

(5) RULE OF CONSTRUCTION.—No provision of this subsection shall be construed as exempting the Bureau from complying with subchapter II of chapter 5 of title 5, United States Code.

(6) DEFINITION.—For purposes of this subsection, the term ''consumer protection regulation'' means a regulation that the Bureau is authorized to prescribe under the Federal consumer financial laws.

SEC. 1042. PRESERVATION OF ENFORCEMENT POWERS OF STATES.

(a) IN GENERAL.—

(1) ACTION BY STATE.—The attorney general (or the equivalent thereof) of any State may bring a civil action in the name of such State, as parens patriae on behalf of natural persons residing in such State, in any district court of the United States in that State or in State court having jurisdiction over the defendant, to enforce provisions of this title or regulations issued thereunder and to secure remedies under provisions of this title or remedies otherwise provided under other law. A State regulator may bring a civil action or other appropriate proceeding to enforce the provisions of this title or regulations issued thereunder with respect to any entity that is State-chartered, incorporated, licensed, or otherwise authorized to do business under State law, and to secure remedies under provisions of this title or remedies otherwise provided under other provisions of law with respect to a State-chartered entity.

(2) RULE OF CONSTRUCTION.—No provision of this title shall be construed as modifying, limiting, or superseding the operation of any provision of an enumerated consumer law that relates to the authority of a State attorney general or State regulator to enforce such Federal law.

(b) CONSULTATION REQUIRED.—

(1) NOTICE.—

(A) IN GENERAL.—Before initiating any action in a court or other administrative or regulatory proceeding against any covered person to enforce any provision of this title, including any regulation prescribed by the Director under this title, a State attorney general or State regulator shall timely provide a copy of the complete complaint to be filed and written notice describing such action or proceeding to the Bureau and the prudential regulator, if any, or the designee thereof.

(B) EMERGENCY ACTION.—If prior notice is not practicable, the State attorney general or State regulator shall provide a copy of the complete complaint and the notice to the Bureau and the prudential regulator, if any, immediately upon instituting the action or proceeding.

(C) CONTENTS OF NOTICE.—The notification required under this paragraph shall, at a minimum, describe—

(i) the identity of the parties;

(ii) the alleged facts underlying the proceeding; and

(iii) whether there may be a need to coordinate the prosecution of the proceeding so as not to interfere with any action, including any rulemaking, undertaken by the Director, a prudential regulator, or another Federal agency.

(2) BUREAU RESPONSE.—In any action described in paragraph (1), the Bureau may—

(A) intervene in the action as a party;

(B) upon intervening—

(i) remove the action to the appropriate United States district court, if the action was not originally brought there; and

(ii) be heard on all matters arising in the action; and

(C) appeal any order or judgment, to the same extent as any other party in the proceeding may.

(c) REGULATIONS.—The Director shall prescribe regulations to implement the requirements of this section and, from time to time, provide guidance in order to further coordinate actions with the State attorneys general and other regulators.

(d) PRESERVATION OF STATE AUTHORITY.—

(1) STATE CLAIMS.—No provision of this section shall be construed as altering, limiting, or affecting the authority of a State attorney general or any other regulatory or enforcement agency or authority to bring an action or other regulatory proceeding arising solely under the law in effect in that State.

(2) STATE SECURITIES REGULATORS.—No provision of this title shall be construed as altering, limiting, or affecting the authority of a State securities commission (or any agency or office performing like functions) under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or authority.

(3) STATE INSURANCE REGULATORS.—No provision of this title shall be construed as altering, limiting, or affecting the authority of a State insurance commission or State insurance regulator under State law to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by such commission or regulator.

SEC. 1043. PRESERVATION OF EXISTING CONTRACTS.

This title, and regulations, orders, guidance, and interpretations prescribed, issued, or established by the Bureau, shall not be construed to alter or affect the applicability of any regulation, order, guidance, or interpretation prescribed, issued, and established by the Comptroller of the Currency or the Director of the Office of Thrift Supervision regarding the applicability of State law under Federal banking law to any contract entered into on or before the date of the enactment of this title, by national banks, Federal savings associations, or subsidiaries thereof that are regulated and supervised by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, respectively.

SEC. 1044. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.

(a) IN GENERAL.—Chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after section 5136B the following new section:

"SEC. 5136C. STATE LAW PREEMPTION STANDARDS FOR NATIONAL BANKS AND SUBSIDIARIES CLARIFIED.

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

''(1) NATIONAL BANK.—The term 'national bank' includes—

''(A) any bank organized under the laws of the United States; and

''(B) any Federal branch established in accordance with the International Banking Act of 1978.

''(2) STATE CONSUMER FINANCIAL LAWS.—The term 'State consumer financial law' means a State law that does not directly or indirectly discriminate against national banks and that directly and specifically regulates the manner, content, or terms and conditions of any financial transaction (as may be authorized for national banks to engage in), or any account related thereto, with respect to a consumer.

''(3) OTHER DEFINITIONS.—The terms 'affiliate', 'subsidiary', 'includes', and 'including' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

''(b) PREEMPTION STANDARD.—

''(1) IN GENERAL.—State consumer financial laws are preempted, only if—

''(A) application of a State consumer financial law would have a discriminatory effect on national banks, in comparison with the effect of the law on a bank chartered by that State;

''(B) the preemption of the State consumer financial law is in accordance with the legal standard of the decision of the Supreme Court of the United States in Barnett Bank of Marion County, N.A. v. Nelson, Florida Insurance Commissioner, et al, 517 U.S. 25 (1996), and a preemption determination under this subparagraph may be made by a court or by regulation or order of the Comptroller of the Currency, in accordance with applicable law, on a case-by-case basis, and any such determination by a court shall comply with the standards set forth in subsection (d), with the court making the finding under subsection (d), de novo; or

''(C) the State consumer financial law is preempted by a provision of Federal law other than this title.

''(2) SAVINGS CLAUSE.—This title does not preempt, annul, or affect the applicability of any State law to any subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank).

''(3) CASE-BY-CASE BASIS.—

''(A) DEFINITION.—As used in this section the term 'case-by-case basis' refers to a determination pursuant to this section made by the Comptroller concerning the impact of a particular State consumer financial law on any national bank that is subject to that law, or the law of any other State with substantively equivalent terms.

''(B) CONSULTATION.—When making a determination on a case-by-case basis that a State consumer financial law of another State has substantively equivalent terms as one that the Comptroller is preempting, the Comptroller shall first consult with the Bureau of Consumer Financial Protection and shall take the views of the Bureau into account when making the determination.

''(4) RULE OF CONSTRUCTION.—This title does not occupy the field in any area of State law.

''(5) STANDARDS OF REVIEW.—

''(A) PREEMPTION.—A court reviewing any determinations made by the Comptroller regarding preemption of a State law by this title shall assess the validity of such determinations, depending upon the thoroughness evident in the consideration of the agency, the validity of the reasoning of the agency, the consistency with other valid determinations made by the agency, and other factors which the court finds persuasive and relevant to its decision.

''(B) SAVINGS CLAUSE.—Except as provided in subparagraph (A), nothing in this section shall affect the deference that a court may afford to the Comptroller in making determinations regarding the meaning or interpretation of title LXII of the Revised Statutes of the United States or other Federal laws.

''(6) COMPTROLLER DETERMINATION NOT DELEGABLE.—Any regulation, order, or determination made by the Comptroller of the Currency under paragraph (1)(B) shall be made by the Comptroller, and shall not be delegable to another officer or employee of the Comptroller of the Currency.

''(c) SUBSTANTIAL EVIDENCE.—No regulation or order of the Comptroller of the Currency prescribed under subsection (b)(1)(B), shall be interpreted or applied so as to invalidate, or otherwise declare inapplicable to a national bank, the provision of the State consumer financial law, unless substantial evidence, made on the record of the proceeding, supports the specific finding regarding the preemption of such provision in accordance with the legal standard of the decision of the Supreme Court of the United States in Barnett Bank of Marion County, N.A. v. Nelson, Florida Insurance Commissioner, et al., 517 U.S. 25 (1996).

''(d) OTHER FEDERAL LAWS.—Notwithstanding any other provision of law, the Comptroller of the Currency may not prescribe a regulation or order pursuant to subsection (b)(1)(B) until the Comptroller of the Currency, after consultation with the Director of the Bureau of Consumer Financial Protection, makes a finding, in writing, that a Federal law provides a substantive standard, applicable to a national bank, which regulates the particular conduct, activity, or authority that is subject to such provision of the State consumer financial law.

''(e) PERIODIC REVIEW OF PREEMPTION DETERMINATIONS.—

''(1) IN GENERAL.—The Comptroller of the Currency shall periodically conduct a review, through notice and public comment, of each determination that a provision of Federal law preempts a State consumer financial law. The agency shall conduct such review within the 5-year period after prescribing or otherwise issuing such determination, and at least once during each 5-year period thereafter. After conducting the review of, and inspecting the comments made on, the determination, the agency shall publish a notice in the Federal Register announcing the decision to continue or rescind the determination or a proposal to amend the determination. Any such notice of a proposal to amend a determination and the subsequent resolution of such proposal shall comply with the procedures set forth in subsections (a) and (b) of section 5244 of the Revised Statutes of the United States (12 U.S.C. 43 (a), (b)).

''(2) REPORTS TO CONGRESS.—At the time of issuing a review conducted under paragraph (1), the Comptroller of the Currency shall

submit a report regarding such review to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report submitted to the respective committees shall address whether the agency intends to continue, rescind, or propose to amend any determination that a provision of Federal law preempts a State consumer financial law, and the reasons therefor.

''(f) APPLICATION OF STATE CONSUMER FINANCIAL LAW TO SUBSIDIARIES AND AFFILIATES.—Notwithstanding any provision of this title, a State consumer financial law shall apply to a subsidiary or affiliate of a national bank (other than a subsidiary or affiliate that is chartered as a national bank) to the same extent that the State consumer financial law applies to any person, corporation, or other entity subject to such State law.

''(g) PRESERVATION OF POWERS RELATED TO CHARGING INTEREST.—No provision of this title shall be construed as altering or otherwise affecting the authority conferred by section 5197 of the Revised Statutes of the United States (12 U.S.C. 85) for the charging of interest by a national bank at the rate allowed by the laws of the State, territory, or district where the bank is located, including with respect to the meaning of 'interest' under such provision.

''(h) TRANSPARENCY OF OCC PREEMPTION DETERMINATIONS.—The Comptroller of the Currency shall publish and update no less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:

''Sec. 5136C. State law preemption standards for national banks and subsidiaries clarified.''.

SEC. 1045. CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES.

Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

''(i) CLARIFICATION OF LAW APPLICABLE TO NONDEPOSITORY INSTITUTION SUBSIDIARIES AND AFFILIATES OF NATIONAL BANKS.—

''(1) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution', 'subsidiary', and 'affiliate' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

''(2) RULE OF CONSTRUCTION.—No provision of this title shall be construed as preempting, annulling, or affecting the applicability of State law to any subsidiary, affiliate, or agent of a national bank (other than a subsidiary, affiliate, or agent that is chartered as a national bank).''.

SEC. 1046. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS AND SUBSIDIARIES CLARIFIED.

(a) IN GENERAL.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by inserting after section 5 the following new section:

''SEC. 6. STATE LAW PREEMPTION STANDARDS FOR FEDERAL SAVINGS ASSOCIATIONS CLARIFIED.

''(a) IN GENERAL.—Any determination by a court or by the Director or any successor officer or agency regarding the relation of State law to a provision of this Act or any regulation or order prescribed under this Act shall be made in accordance with the laws and legal standards applicable to national banks regarding the preemption of State law.

''(b) PRINCIPLES OF CONFLICT PREEMPTION APPLICABLE.—Notwithstanding the authorities granted under sections 4 and 5, this Act does not occupy the field in any area of State law.''.

(b) CLERICAL AMENDMENT.—The table of sections for the Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended by striking the item relating to section 6 and inserting the following new item:

''Sec. 6.. State law preemption standards for Federal savings associations and subsidiaries clarified.''.

SEC. 1047. VISITORIAL STANDARDS FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.

(a) NATIONAL BANKS.—Section 5136C of the Revised Statutes of the United States (as added by this subtitle) is amended by adding at the end the following:

''(j) VISITORIAL POWERS.—

''(1) IN GENERAL.—No provision of this title which relates to visitorial powers to which any national bank is subject shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring any action in any court of appropriate jurisdiction, as authorized under section 5240(a)—

''(A) to enforce any applicable provision of Federal or State law, as authorized by such law; or

''(B) on behalf of residents of such State, to enforce any applicable provision of any Federal or nonpreempted State law against a national bank, as authorized by such law, or to seek relief for such residents from any violation of any such law by any national bank.

''(2) PRIOR CONSULTATION WITH OCC REQUIRED.—The attorney general (or other chief law enforcement officer) of any State shall consult with the Comptroller of the Currency before acting under paragraph (1).

''(k) ENFORCEMENT ACTIONS.—The ability of the Comptroller of the Currency to bring an enforcement action under this title or section 5 of the Federal Trade Commission Act does not preclude any private party from enforcing rights granted under Federal or State law in the courts.''.

(b) SAVINGS ASSOCIATIONS.—Section 6 of the Home Owners' Loan Act (as added by this title) is amended by adding at the end the following:

''(c) VISITORIAL POWERS.—

''(1) IN GENERAL.—No provision of this Act shall be construed as limiting or restricting the authority of any attorney general (or other chief law enforcement officer) of any State to bring any action in any court of appropriate jurisdiction—

''(A) to enforce any applicable provision of Federal or State law, as authorized by such law; or

''(B) on behalf of residents of such State, to enforce any applicable provision of any Federal or nonpreempted State law against a Federal savings association, as authorized by such law, or to seek relief for such residents from any violation of any such law by any Federal savings association.

''(2) PRIOR CONSULTATION WITH OCC REQUIRED.—The attorney general (or other chief law enforcement officer) of any State shall consult with the Comptroller of the Currency before acting under paragraph (1).

''(d) ENFORCEMENT ACTIONS.—The ability of the Comptroller of the Currency to bring an enforcement action under this Act or section 5 of the Federal Trade Commission Act does not preclude any private party from enforcing rights granted under Federal or State law in the courts.''.

SEC. 1048. EFFECTIVE DATE.

This subtitle shall become effective on the designated transfer date.

Subtitle E—Enforcement Powers

SEC. 1051. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) BUREAU INVESTIGATION.—The term ''Bureau investigation'' means any inquiry conducted by a Bureau investigator for the purpose of ascertaining whether any person is or has been engaged in any conduct that is a violation, as defined in this section.

(2) BUREAU INVESTIGATOR.—The term ''Bureau investigator'' means any attorney or investigator employed by the Bureau who is charged with the duty of enforcing or carrying into effect any Federal consumer financial law.

(3) CIVIL INVESTIGATIVE DEMAND AND DEMAND.—The terms ''civil investigative demand'' and ''demand'' mean any demand issued by the Bureau.

(4) CUSTODIAN.—The term ''custodian'' means the custodian or any deputy custodian designated by the Bureau.

(5) DOCUMENTARY MATERIAL.—The term ''documentary material'' includes the original or any copy of any book, document, record, report, memorandum, paper, communication, tabulation, chart, logs, electronic files, or other data or data compilations stored in any medium.

(6) VIOLATION.—The term ''violation'' means any act or omission that, if proved, would constitute a violation of any provision of Federal consumer financial law.

SEC. 1052. INVESTIGATIONS AND ADMINISTRATIVE DISCOVERY.

(a) JOINT INVESTIGATIONS.—

(1) IN GENERAL.—The Bureau or, where appropriate, a Bureau investigator, may engage in joint investigations and requests for information, as authorized under this title.

(2) FAIR LENDING.—The authority under paragraph (1) includes matters relating to fair lending, and where appropriate, joint investigations with, and requests for information from, the Secretary of Housing and Urban Development, the Attorney General of the United States, or both.

(b) SUBPOENAS.—

(1) IN GENERAL.—The Bureau or a Bureau investigator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, documents, or other material in connection with hearings under this title.

(2) FAILURE TO OBEY.—In the case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Bureau or a Bureau investigator and after notice to such person, may issue an order requiring such person to appear and give testimony or to appear and produce documents or other material.

(3) CONTEMPT.—Any failure to obey an order of the court under this subsection may be punished by the court as a contempt thereof.

(c) DEMANDS.—

(1) IN GENERAL.—Whenever the Bureau has reason to believe that any person may be in possession, custody, or control of any documentary material or tangible things, or may have any information, relevant to a violation, the Bureau may, before the institution of any proceedings under the Federal consumer financial law, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to—

(A) produce such documentary material for inspection and copying or reproduction in

the form or medium requested by the Bureau;

(B) submit such tangible things;

(C) file written reports or answers to questions;

(D) give oral testimony concerning documentary material, tangible things, or other information; or

(E) furnish any combination of such material, answers, or testimony.

(2) REQUIREMENTS.—Each civil investigative demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation.

(3) PRODUCTION OF DOCUMENTS.—Each civil investigative demand for the production of documentary material shall—

(A) describe each class of documentary material to be produced under the demand with such definiteness and certainty as to permit such material to be fairly identified;

(B) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(C) identify the custodian to whom such material shall be made available.

(4) PRODUCTION OF THINGS.—Each civil investigative demand for the submission of tangible things shall—

(A) describe each class of tangible things to be submitted under the demand with such definiteness and certainty as to permit such things to be fairly identified;

(B) prescribe a return date or dates which will provide a reasonable period of time within which the things so demanded may be assembled and submitted; and

(C) identify the custodian to whom such things shall be submitted.

(5) DEMAND FOR WRITTEN REPORTS OR ANSWERS.—Each civil investigative demand for written reports or answers to questions shall—

(A) propound with definiteness and certainty the reports to be produced or the questions to be answered;

(B) prescribe a date or dates at which time written reports or answers to questions shall be submitted; and

(C) identify the custodian to whom such reports or answers shall be submitted.

(6) ORAL TESTIMONY.—Each civil investigative demand for the giving of oral testimony shall—

(A) prescribe a date, time, and place at which oral testimony shall be commenced; and

(B) identify a Bureau investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted.

(7) SERVICE.—Any civil investigative demand and any enforcement petition filed under this section may be served—

(A) by any Bureau investigator at any place within the territorial jurisdiction of any court of the United States; and

(B) upon any person who is not found within the territorial jurisdiction of any court of the United States—

(i) in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign nation; and

(ii) to the extent that the courts of the United States have authority to assert jurisdiction over such person, consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such district court would have if such person were personally within the jurisdiction of such district court.

(8) METHOD OF SERVICE.—Service of any civil investigative demand or any enforcement petition filed under this section may be made upon a person, including any legal entity, by—

(A) delivering a duly executed copy of such demand or petition to the individual or to any partner, executive officer, managing agent, or general agent of such person, or to any agent of such person authorized by appointment or by law to receive service of process on behalf of such person;

(B) delivering a duly executed copy of such demand or petition to the principal office or place of business of the person to be served; or

(C) depositing a duly executed copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at the principal office or place of business of such person.

(9) PROOF OF SERVICE.—

(A) IN GENERAL.—A verified return by the individual serving any civil investigative demand or any enforcement petition filed under this section setting forth the manner of such service shall be proof of such service.

(B) RETURN RECEIPTS.—In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand or enforcement petition.

(10) PRODUCTION OF DOCUMENTARY MATERIAL.—The production of documentary material in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

(11) SUBMISSION OF TANGIBLE THINGS.—The submission of tangible things in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the tangible things required by the demand and in the possession, custody, or control of the person to whom the demand is directed have been submitted to the custodian.

(12) SEPARATE ANSWERS.—Each reporting requirement or question in a civil investigative demand shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person responsible for answering each reporting requirement or question, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.

(13) TESTIMONY.—

(A) IN GENERAL.—

(i) OATH OR AFFIRMATION.—Any Bureau investigator before whom oral testimony is to be taken shall put the witness under oath or affirmation, and shall personally, or by any individual acting under the direction of and in the presence of the Bureau investigator, record the testimony of the witness.

(ii) TRANSCRIPTION.—The testimony shall be taken stenographically and transcribed.

(iii) TRANSMISSION TO CUSTODIAN.—After the testimony is fully transcribed, the Bureau investigator before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.

(B) PARTIES PRESENT.—Any Bureau investigator before whom oral testimony is to be taken shall exclude from the place where the testimony is to be taken all other persons, except the person giving the testimony, the attorney of that person, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

(C) LOCATION.—The oral testimony of any person taken pursuant to a civil investigative demand shall be taken in the judicial district of the United States in which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the Bureau investigator before whom the oral testimony of such person is to be taken and such person.

(D) ATTORNEY REPRESENTATION.—

(i) IN GENERAL.—Any person compelled to appear under a civil investigative demand for oral testimony pursuant to this section may be accompanied, represented, and advised by an attorney.

(ii) AUTHORITY.—The attorney may advise a person described in clause (i), in confidence, either upon the request of such person or upon the initiative of the attorney, with respect to any question asked of such person.

(iii) OBJECTIONS.—A person described in clause (i), or the attorney for that person, may object on the record to any question, in whole or in part, and such person shall briefly state for the record the reason for the objection. An objection may properly be made, received, and entered upon the record when it is claimed that such person is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination, but such person shall not otherwise object to or refuse to answer any question, and such person or attorney shall not otherwise interrupt the oral examination.

(iv) REFUSAL TO ANSWER.—If a person described in clause (i) refuses to answer any question—

(I) the Bureau may petition the district court of the United States pursuant to this section for an order compelling such person to answer such question; and

(II) on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of section 6004 of title 18, United States Code.

(E) TRANSCRIPTS.—For purposes of this subsection—

(i) after the testimony of any witness is fully transcribed, the Bureau investigator shall afford the witness (who may be accompanied by an attorney) a reasonable opportunity to examine the transcript;

(ii) the transcript shall be read to or by the witness, unless such examination and reading are waived by the witness;

(iii) any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the Bureau investigator, with a statement of the reasons given by the witness for making such changes;

(iv) the transcript shall be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign; and

(v) if the transcript is not signed by the witness during the 30-day period following the date on which the witness is first afforded a reasonable opportunity to examine the transcript, the Bureau investigator shall sign the transcript and state on the record the fact of the waiver, illness, absence of the

witness, or the refusal to sign, together with any reasons given for the failure to sign.

(F) CERTIFICATION BY INVESTIGATOR.—The Bureau investigator shall certify on the transcript that the witness was duly sworn by him or her and that the transcript is a true record of the testimony given by the witness, and the Bureau investigator shall promptly deliver the transcript or send it by registered or certified mail to the custodian.

(G) COPY OF TRANSCRIPT.—The Bureau investigator shall furnish a copy of the transcript (upon payment of reasonable charges for the transcript) to the witness only, except that the Bureau may for good cause limit such witness to inspection of the official transcript of his testimony.

(H) WITNESS FEES.—Any witness appearing for the taking of oral testimony pursuant to a civil investigative demand shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.

(d) CONFIDENTIAL TREATMENT OF DEMAND MATERIAL.—

(1) IN GENERAL.—Documentary materials and tangible things received as a result of a civil investigative demand shall be subject to requirements and procedures regarding confidentiality, in accordance with rules established by the Bureau.

(2) DISCLOSURE TO CONGRESS.—No rule established by the Bureau regarding the confidentiality of materials submitted to, or otherwise obtained by, the Bureau shall be intended to prevent disclosure to either House of Congress or to an appropriate committee of the Congress, except that the Bureau is permitted to adopt rules allowing prior notice to any party that owns or otherwise provided the material to the Bureau and had designated such material as confidential.

(e) PETITION FOR ENFORCEMENT.—

(1) IN GENERAL.—Whenever any person fails to comply with any civil investigative demand duly served upon him under this section, or whenever satisfactory copying or reproduction of material requested pursuant to the demand cannot be accomplished and such person refuses to surrender such material, the Bureau, through such officers or attorneys as it may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person, a petition for an order of such court for the enforcement of this section.

(2) SERVICE OF PROCESS.—All process of any court to which application may be made as provided in this subsection may be served in any judicial district.

(f) PETITION FOR ORDER MODIFYING OR SETTING ASIDE DEMAND.—

(1) IN GENERAL.—Not later than 20 days after the service of any civil investigative demand upon any person under subsection (b), or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding 20 days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any Bureau investigator named in the demand, such person may file with the Bureau a petition for an order by the Bureau modifying or setting aside the demand.

(2) COMPLIANCE DURING PENDENCY.—The time permitted for compliance with the demand in whole or in part, as determined proper and ordered by the Bureau, shall not run during the pendency of a petition under paragraph (1) at the Bureau, except that such person shall comply with any portions of the demand not sought to be modified or set aside.

(3) SPECIFIC GROUNDS.—A petition under paragraph (1) shall specify each ground upon which the petitioner relies in seeking relief, and may be based upon any failure of the demand to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of such person.

(g) CUSTODIAL CONTROL.—At any time during which any custodian is in custody or control of any documentary material, tangible things, reports, answers to questions, or transcripts of oral testimony given by any person in compliance with any civil investigative demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court requiring the performance by such custodian of any duty imposed upon him by this section or rule promulgated by the Bureau.

(h) JURISDICTION OF COURT.—

(1) IN GENERAL.—Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry out the provisions of this section.

(2) APPEAL.—Any final order entered as described in paragraph (1) shall be subject to appeal pursuant to section 1291 of title 28, United States Code.

SEC. 1053. HEARINGS AND ADJUDICATION PROCEEDINGS.

(a) IN GENERAL.—The Bureau is authorized to conduct hearings and adjudication proceedings with respect to any person in the manner prescribed by chapter 5 of title 5, United States Code in order to ensure or enforce compliance with—

(1) the provisions of this title, including any rules prescribed by the Bureau under this title; and

(2) any other Federal law that the Bureau is authorized to enforce, including an enumerated consumer law, and any regulations or order prescribed thereunder, unless such Federal law specifically limits the Bureau from conducting a hearing or adjudication proceeding and only to the extent of such limitation.

(b) SPECIAL RULES FOR CEASE-AND-DESIST PROCEEDINGS.—

(1) ORDERS AUTHORIZED.—

(A) IN GENERAL.—If, in the opinion of the Bureau, any covered person or service provider is engaging or has engaged in an activity that violates a law, rule, or any condition imposed in writing on the person by the Bureau, the Bureau may, subject to sections 1024, 1025, and 1026, issue and serve upon the covered person or service provider a notice of charges in respect thereof.

(B) CONTENT OF NOTICE.—The notice under subparagraph (A) shall contain a statement of the facts constituting the alleged violation or violations, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the covered person or service provider, such hearing to be held not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Bureau, at the request of any party so served.

(C) CONSENT.—Unless the party or parties served under subparagraph (B) appear at the hearing personally or by a duly authorized representative, such person shall be deemed to have consented to the issuance of the cease-and-desist order.

(D) PROCEDURE.—In the event of consent under subparagraph (C), or if, upon the record, made at any such hearing, the Bureau finds that any violation specified in the notice of charges has been established, the Bureau may issue and serve upon the covered person or service provider an order to cease and desist from the violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the covered person or service provider to cease and desist from the subject activity, and to take affirmative action to correct the conditions resulting from any such violation.

(2) EFFECTIVENESS OF ORDER.—A cease-and-desist order shall become effective at the expiration of 30 days after the date of service of an order under paragraph (1) upon the covered person or service provider concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as the order is stayed, modified, terminated, or set aside by action of the Bureau or a reviewing court.

(3) DECISION AND APPEAL.—Any hearing provided for in this subsection shall be held in the Federal judicial district or in the territory in which the residence or principal office or place of business of the person is located unless the person consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. After such hearing, and within 90 days after the Bureau has notified the parties that the case has been submitted to the Bureau for final decision, the Bureau shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection. Unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (4), and thereafter until the record in the proceeding has been filed as provided in paragraph (4), the Bureau may at any time, upon such notice and in such manner as the Bureau shall determine proper, modify, terminate, or set aside any such order. Upon filing of the record as provided, the Bureau may modify, terminate, or set aside any such order with permission of the court.

(4) APPEAL TO COURT OF APPEALS.—Any party to any proceeding under this subsection may obtain a review of any order served pursuant to this subsection (other than an order issued with the consent of the person concerned) by the filing in the court of appeals of the United States for the circuit in which the principal office of the covered person is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Bureau be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Bureau, and thereupon the Bureau shall file in the court the record in the proceeding, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of paragraph (3) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Bureau. Review of such proceedings shall be had as provided in chapter 7 of title 5 of the United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court of the United States, upon certiorari, as provided in section 1254 of title 28 of the United States Code.

(5) NO STAY.—The commencement of proceedings for judicial review under paragraph

(4) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Bureau.

(c) SPECIAL RULES FOR TEMPORARY CEASE-AND-DESIST PROCEEDINGS.—

(1) IN GENERAL.—Whenever the Bureau determines that the violation specified in the notice of charges served upon a person, including a service provider, pursuant to subsection (b), or the continuation thereof, is likely to cause the person to be insolvent or otherwise prejudice the interests of consumers before the completion of the proceedings conducted pursuant to subsection (b), the Bureau may issue a temporary order requiring the person to cease and desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency or other condition pending completion of such proceedings. Such order may include any requirement authorized under this subtitle. Such order shall become effective upon service upon the person and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2), shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Bureau shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the person, until the effective date of such order.

(2) APPEAL.—Not later than 10 days after the covered person or service provider concerned has been served with a temporary cease-and-desist order, the person may apply to the United States district court for the judicial district in which the residence or principal office or place of business of the person is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the person under subsection (b), and such court shall have jurisdiction to issue such injunction.

(3) INCOMPLETE OR INACCURATE RECORDS.—

(A) TEMPORARY ORDER.—If a notice of charges served under subsection (b) specifies, on the basis of particular facts and circumstances, that the books and records of a covered person or service provider are so incomplete or inaccurate that the Bureau is unable to determine the financial condition of that person or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that person, the Bureau may issue a temporary order requiring—

(i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(ii) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under subsection (b)(1).

(B) EFFECTIVE PERIOD.—Any temporary order issued under subparagraph (A)—

(i) shall become effective upon service; and

(ii) unless set aside, limited, or suspended by a court in proceedings under paragraph (2), shall remain in effect and enforceable until the earlier of—

(I) the completion of the proceeding initiated under subsection (b) in connection with the notice of charges; or

(II) the date the Bureau determines, by examination or otherwise, that the books and records of the covered person or service provider are accurate and reflect the financial condition thereof.

(d) SPECIAL RULES FOR ENFORCEMENT OF ORDERS.—

(1) IN GENERAL.—The Bureau may in its discretion apply to the United States district court within the jurisdiction of which the principal office or place of business of the person is located, for the enforcement of any effective and outstanding notice or order issued under this section, and such court shall have jurisdiction and power to order and require compliance herewith.

(2) EXCEPTION.—Except as otherwise provided in this subsection, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order or to review, modify, suspend, terminate, or set aside any such notice or order.

(e) RULES.—The Bureau shall prescribe rules establishing such procedures as may be necessary to carry out this section.

SEC. 1054. LITIGATION AUTHORITY.

(a) IN GENERAL.—If any person violates a Federal consumer financial law, the Bureau may, subject to sections 1024, 1025, and 1026, commence a civil action against such person to impose a civil penalty or to seek all appropriate legal and equitable relief including a permanent or temporary injunction as permitted by law.

(b) REPRESENTATION.—The Bureau may act in its own name and through its own attorneys in enforcing any provision of this title, rules thereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Bureau is a party.

(c) COMPROMISE OF ACTIONS.—The Bureau may compromise or settle any action if such compromise is approved by the court.

(d) NOTICE TO THE ATTORNEY GENERAL.—When commencing a civil action under Federal consumer financial law, or any rule thereunder, the Bureau shall notify the Attorney General and, with respect to a civil action against an insured depository institution or insured credit union, the appropriate prudential regulator.

(e) APPEARANCE BEFORE THE SUPREME COURT.—The Bureau may represent itself in its own name before the Supreme Court of the United States, provided that the Bureau makes a written request to the Attorney General within the 10-day period which begins on the date of entry of the judgment which would permit any party to file a petition for writ of certiorari, and the Attorney General concurs with such request or fails to take action within 60 days of the request of the Bureau.

(f) FORUM.—Any civil action brought under this title may be brought in a United States district court or in any court of competent jurisdiction of a state in a district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to enjoin such person and to require compliance with any Federal consumer financial law.

(g) TIME FOR BRINGING ACTION.—

(1) IN GENERAL.—Except as otherwise permitted by law or equity, no action may be brought under this title more than 3 years after the date of discovery of the violation to which an action relates.

(2) LIMITATIONS UNDER OTHER FEDERAL LAWS.—

(A) IN GENERAL.—For purposes of this subsection, an action arising under this title does not include claims arising solely under enumerated consumer laws.

(B) BUREAU AUTHORITY.—In any action arising solely under an enumerated consumer law, the Bureau may commence, defend, or intervene in the action in accordance with the requirements of that provision of law, as applicable.

(C) TRANSFERRED AUTHORITY.—In any action arising solely under laws for which authorities were transferred under subtitles F and H, the Bureau may commence, defend, or intervene in the action in accordance with the requirements of that provision of law, as applicable.

SEC. 1055. RELIEF AVAILABLE.

(a) ADMINISTRATIVE PROCEEDINGS OR COURT ACTIONS.—

(1) JURISDICTION.—The court (or the Bureau, as the case may be) in an action or adjudication proceeding brought under Federal consumer financial law, shall have jurisdiction to grant any appropriate legal or equitable relief with respect to a violation of Federal consumer financial law, including a violation of a rule or order prescribed under a Federal consumer financial law.

(2) RELIEF.—Relief under this section may include, without limitation—

(A) rescission or reformation of contracts;

(B) refund of moneys or return of real property;

(C) restitution;

(D) disgorgement or compensation for unjust enrichment;

(E) payment of damages or other monetary relief;

(F) public notification regarding the violation, including the costs of notification;

(G) limits on the activities or functions of the person; and

(H) civil money penalties, as set forth more fully in subsection (c).

(3) NO EXEMPLARY OR PUNITIVE DAMAGES.—Nothing in this subsection shall be construed as authorizing the imposition of exemplary or punitive damages.

(b) RECOVERY OF COSTS.—In any action brought by the Bureau, a State attorney general, or any State regulator to enforce any Federal consumer financial law, the Bureau, the State attorney general, or the State regulator may recover its costs in connection with prosecuting such action if the Bureau, the State attorney general, or the State regulator is the prevailing party in the action.

(c) CIVIL MONEY PENALTY IN COURT AND ADMINISTRATIVE ACTIONS.—

(1) IN GENERAL.—Any person that violates, through any act or omission, any provision of Federal consumer financial law shall forfeit and pay a civil penalty pursuant to this subsection.

(2) PENALTY AMOUNTS.—

(A) FIRST TIER.—For any violation of a law, rule, or final order or condition imposed in writing by the Bureau, a civil penalty may not exceed $5,000 for each day during which such violation or failure to pay continues.

(B) SECOND TIER.—Notwithstanding paragraph (A), for any person that recklessly engages in a violation of a Federal consumer financial law, a civil penalty may not exceed $25,000 for each day during which such violation continues.

(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), for any person that knowingly violates a Federal consumer financial law, a civil penalty may not exceed $1,000,000 for each day during which such violation continues.

(3) MITIGATING FACTORS.—In determining the amount of any penalty assessed under paragraph (2), the Bureau or the court shall take into account the appropriateness of the penalty with respect to—

(A) the size of financial resources and good faith of the person charged;

(B) the gravity of the violation or failure to pay;

(C) the severity of the risks to or losses of the consumer, which may take into account the number of products or services sold or provided;

(D) the history of previous violations; and

(E) such other matters as justice may require.

(4) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Bureau may compromise, modify, or remit any penalty which may be assessed or had already been assessed under paragraph (2). The amount of such penalty, when finally determined, shall be exclusive of any sums owed by the person to the United States in connection with the costs of the proceeding, and may be deducted from any sums owing by the United States to the person charged.

(5) NOTICE AND HEARING.—No civil penalty may be assessed under this subsection with respect to a violation of any Federal consumer financial law, unless—

(A) the Bureau gives notice and an opportunity for a hearing to the person accused of the violation; or

(B) the appropriate court has ordered such assessment and entered judgment in favor of the Bureau.

SEC. 1056. REFERRALS FOR CRIMINAL PROCEEDINGS.

If the Bureau obtains evidence that any person, domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law, the Bureau shall have the power to transmit such evidence to the Attorney General of the United States, who may institute criminal proceedings under appropriate law. Nothing in this section affects any other authority of the Bureau to disclose information.

SEC. 1057. EMPLOYEE PROTECTION.

(a) IN GENERAL.—No covered person or service provider shall terminate or in any other way discriminate against, or cause to be terminated or discriminated against, any covered employee or any authorized representative of covered employees by reason of the fact that such employee or representative, whether at the initiative of the employee or in the ordinary course of the duties of the employee (or any person acting pursuant to a request of the employee), has—

(1) provided, caused to be provided, or is about to provide or cause to be provided, information to the employer, the Bureau, or any other State, local, or Federal, government authority or law enforcement agency relating to any violation of, or any act or omission that the employee reasonably believes to be a violation of, any provision of this title or any other provision of law that is subject to the jurisdiction of the Bureau, or any rule, order, standard, or prohibition prescribed by the Bureau;

(2) testified or will testify in any proceeding resulting from the administration or enforcement of any provision of this title or any other provision of law that is subject to the jurisdiction of the Bureau, or any rule, order, standard, or prohibition prescribed by the Bureau;

(3) filed, instituted, or caused to be filed or instituted any proceeding under any Federal consumer financial law; or

(4) objected to, or refused to participate in, any activity, policy, practice, or assigned task that the employee (or other such person) reasonably believed to be in violation of any law, rule, order, standard, or prohibition, subject to the jurisdiction of, or enforceable by, the Bureau.

(b) DEFINITION OF COVERED EMPLOYEE.—For the purposes of this section, the term ''covered employee'' means any individual performing tasks related to the offering or provision of a consumer financial product or service.

(c) PROCEDURES AND TIMETABLES.—

(1) COMPLAINT.—

(A) IN GENERAL.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such alleged violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination and identifying the person responsible for such act.

(B) ACTIONS OF SECRETARY OF LABOR.—Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint who is alleged to have committed the violation, of —

(i) the filing of the complaint;

(ii) the allegations contained in the complaint;

(iii) the substance of evidence supporting the complaint; and

(iv) opportunities that will be afforded to such person under paragraph (2).

(2) INVESTIGATION BY SECRETARY OF LABOR.—

(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1), and after affording the complainant and the person named in the complaint who is alleged to have committed the violation that is the basis for the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary of Labor to present statements from witnesses, the Secretary of Labor shall—

(i) initiate an investigation and determine whether there is reasonable cause to believe that the complaint has merit; and

(ii) notify the complainant and the person alleged to have committed the violation of subsection (a), in writing, of such determination.

(B) NOTICE OF RELIEF AVAILABLE.—If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall, together with the notice under subparagraph (A)(ii), issue a preliminary order providing the relief prescribed by paragraph (4)(B).

(C) REQUEST FOR HEARING.—Not later than 30 days after the date of receipt of notification of a determination of the Secretary of Labor under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Any such hearing shall be conducted expeditiously, and if a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

(3) GROUNDS FOR DETERMINATION OF COMPLAINTS.—

(A) IN GENERAL.—The Secretary of Labor shall dismiss a complaint filed under this subsection, and shall not conduct an investigation otherwise required under paragraph (2), unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(B) REBUTTAL EVIDENCE.—Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required under subparagraph (A), no investigation otherwise required under paragraph (2) shall be conducted, if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(C) EVIDENTIARY STANDARDS.—The Secretary of Labor may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint. Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

(4) ISSUANCE OF FINAL ORDERS; REVIEW PROCEDURES.—

(A) TIMING.—Not later than 120 days after the date of conclusion of any hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) PENALTIES.—

(i) ORDER OF SECRETARY OF LABOR.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation—

(I) to take affirmative action to abate the violation;

(II) to reinstate the complainant to his or her former position, together with compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

(III) to provide compensatory damages to the complainant.

(ii) PENALTY.—If an order is issued under clause (i), the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued, a sum equal to the aggregate amount of all costs and expenses (including attorney fees and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(C) PENALTY FOR FRIVOLOUS CLAIMS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney fee, not exceeding $1,000, to be paid by the complainant.

(D) DE NOVO REVIEW.—

(i) FAILURE OF THE SECRETARY TO ACT.—If the Secretary of Labor has not issued a final order within 210 days after the date of filing of a complaint under this subsection, or within 90 days after the date of receipt of a written determination, the complainant may bring an action at law or equity for de novo review in the appropriate district court of the United States having jurisdiction, which shall have jurisdiction over such an action without regard to the amount in controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

(ii) PROCEDURES.—A proceeding under clause (i) shall be governed by the same legal burdens of proof specified in paragraph (3). The court shall have jurisdiction to grant all relief necessary to make the employee whole, including injunctive relief and compensatory damages, including—

(I) reinstatement with the same seniority status that the employee would have had, but for the discharge or discrimination;

(II) the amount of back pay, with interest; and

(III) compensation for any special damages sustained as a result of the discharge or discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(E) OTHER APPEALS.—Unless the complainant brings an action under subparagraph (D), any person adversely affected or aggrieved by a final order issued under subparagraph (A) may file a petition for review of the order in the United States Court of Appeals for the circuit in which the violation with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation, not later than 60 days after the date of the issuance of the final order of the Secretary of Labor under subparagraph (A). Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order. An order of the Secretary of Labor with respect to which review could have been obtained under this subparagraph shall not be subject to judicial review in any criminal or other civil proceeding.

(5) FAILURE TO COMPLY WITH ORDER.—

(A) ACTIONS BY THE SECRETARY.—If any person has failed to comply with a final order issued under paragraph (4), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to have occurred, or in the United States district court for the District of Columbia, to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief including injunctive relief and compensatory damages.

(B) CIVIL ACTIONS TO COMPEL COMPLIANCE.—A person on whose behalf an order was issued under paragraph (4) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

(C) AWARD OF COSTS AUTHORIZED.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(D) MANDAMUS PROCEEDINGS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

(d) UNENFORCEABILITY OF CERTAIN AGREEMENTS.—

(1) NO WAIVER OF RIGHTS AND REMEDIES.—Except as provided under paragraph (3), and notwithstanding any other provision of law, the rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment, including by any predispute arbitration agreement.

(2) NO PREDISPUTE ARBITRATION AGREEMENTS.—Except as provided under paragraph (3), and notwithstanding any other provision of law, no predispute arbitration agreement shall be valid or enforceable to the extent that it requires arbitration of a dispute arising under this section.

(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), an arbitration provision in a collective bargaining agreement shall be enforceable as to disputes arising under subsection (a)(4), unless the Bureau determines, by rule, that such provision is inconsistent with the purposes of this title.

SEC. 1058. EFFECTIVE DATE.

This subtitle shall become effective on the designated transfer date.

Subtitle F—Transfer of Functions and Personnel; Transitional Provisions

SEC. 1061. TRANSFER OF CONSUMER FINANCIAL PROTECTION FUNCTIONS.

(a) DEFINED TERMS.—For purposes of this subtitle—

(1) the term ''consumer financial protection functions'' means research, rulemaking, issuance of orders or guidance, supervision, examination, and enforcement activities, powers, and duties relating to the offering or provision of consumer financial products or services; and

(2) the terms ''transferor agency'' and ''transferor agencies'' mean, respectively—

(A) the Board of Governors (and any Federal reserve bank, as the context requires), the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Department of Housing and Urban Development, and the heads of those agencies; and

(B) the agencies listed in subparagraph (A), collectively.

(b) IN GENERAL.—Except as provided in subsection (c), consumer financial protection functions are transferred as follows:

(1) BOARD OF GOVERNORS.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the Board of Governors are transferred to the Bureau.

(B) BOARD OF GOVERNORS AUTHORITY.—The Bureau shall have all powers and duties that were vested in the Board of Governors, relating to consumer financial protection functions, on the day before the designated transfer date.

(2) COMPTROLLER OF THE CURRENCY.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the Comptroller of the Currency are transferred to the Bureau.

(B) COMPTROLLER AUTHORITY.—The Bureau shall have all powers and duties that were vested in the Comptroller of the Currency, relating to consumer financial protection functions, on the day before the designated transfer date.

(3) DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the Director of the Office of Thrift Supervision are transferred to the Bureau.

(B) DIRECTOR AUTHORITY.—The Bureau shall have all powers and duties that were vested in the Director of the Office of Thrift Supervision, relating to consumer financial protection functions, on the day before the designated transfer date.

(4) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the Federal Deposit Insurance Corporation are transferred to the Bureau.

(B) CORPORATION AUTHORITY.—The Bureau shall have all powers and duties that were vested in the Federal Deposit Insurance Corporation, relating to consumer financial protection functions, on the day before the designated transfer date.

(5) FEDERAL TRADE COMMISSION.—

(A) TRANSFER OF FUNCTIONS.—Except as provided in subparagraph (C), all consumer financial protection functions of the Federal Trade Commission are transferred to the Bureau.

(B) COMMISSION AUTHORITY.—Except as provided in subparagraph (C), the Bureau shall have all powers and duties that were vested in the Federal Trade Commission relating to consumer financial protection functions on the day before the designated transfer date.

(C) CONTINUATION OF CERTAIN COMMISSION AUTHORITIES.—Notwithstanding subparagraphs (A) and (B), the Federal Trade Commission shall continue to have authority to enforce, and issue rules with respect to—

(i) the Credit Repair Organizations Act (15 U.S.C. 1679 et seq.);

(ii) section 5 of the Federal Trade Commission Act (15 U.S.C. 45); and

(iii) the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6101 et seq.).

(6) NATIONAL CREDIT UNION ADMINISTRATION.—

(A) TRANSFER OF FUNCTIONS.—All consumer financial protection functions of the National Credit Union Administration are transferred to the Bureau.

(B) NATIONAL CREDIT UNION ADMINISTRATION AUTHORITY.—The Bureau shall have all powers and duties that were vested in the National Credit Union Administration, relating to consumer financial protection functions, on the day before the designated transfer date.

(7) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(A) TRANSFER OF FUNCTIONS.—All consumer protection functions of the Secretary of the Department of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5102 et seq.) are transferred to the Bureau.

(B) AUTHORITY OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—The Bureau shall have all powers and duties that were vested in the Secretary of the Department of Housing and Urban Development relating to the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.), and the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.), on the day before the designated transfer date.

(c) TRANSFERS OF FUNCTIONS SUBJECT TO EXAMINATION AND ENFORCEMENT AUTHORITY REMAINING WITH TRANSFEROR AGENCIES.—The transfers of functions in subsection (b) do not affect the authority of the agencies identified in subsection (b) from conducting examinations or initiating and maintaining enforcement proceedings, including performing appropriate supervisory and support functions relating thereto, in accordance with sections 1024, 1025, and 1026.

(d) EFFECTIVE DATE.—Subsections (b) and (c) shall become effective on the designated transfer date.

SEC. 1062. DESIGNATED TRANSFER DATE.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall—

(1) in consultation with the Chairman of the Board of Governors, the Chairperson of the Corporation, the Chairman of the Federal Trade Commission, the Chairman of the National Credit Union Administration Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Secretary of the Department of Housing and Urban Development, and the Director of the Office of Management and Budget, designate a single calendar date for the transfer of functions to the Bureau under section 1061; and

(2) publish notice of that designated date in the Federal Register.

(b) CHANGING DESIGNATION.—The Secretary—

(1) may, in consultation with the Chairman of the Board of Governors, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Federal Trade Commission, the Chairman of the National Credit Union Administration Board, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Secretary of the Department of Housing and

Urban Development, and the Director of the Office of Management and Budget, change the date designated under subsection (a); and

(2) shall publish notice of any changed designated date in the Federal Register.

(c) PERMISSIBLE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), any date designated under this section shall be not earlier than 180 days, nor later than 18 months, after the date of enactment of this Act.

(2) EXTENSION OF TIME.—The Secretary may designate a date that is later than 18 months after the date of enactment of this Act if the Secretary transmits to appropriate committees of Congress—

(A) a written determination that orderly implementation of this title is not feasible before the date that is 18 months after the date of enactment of this Act;

(B) an explanation of why an extension is necessary for the orderly implementation of this title; and

(C) a description of the steps that will be taken to effect an orderly and timely implementation of this title within the extended time period.

(3) EXTENSION LIMITED.—In no case may any date designated under this section be later than 24 months after the date of enactment of this Act.

SEC. 1063. SAVINGS PROVISIONS.

(a) BOARD OF GOVERNORS.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(b)(1) does not affect the validity of any right, duty, or obligation of the United States, the Board of Governors (or any Federal reserve bank), or any other person that—

(A) arises under any provision of law relating to any consumer financial protection function of the Board of Governors transferred to the Bureau by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—No provision of this Act shall abate any proceeding commenced by or against the Board of Governors (or any Federal reserve bank) before the designated transfer date with respect to any consumer financial protection function of the Board of Governors (or any Federal reserve bank) transferred to the Bureau by this title, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Board of Governors (or Federal reserve bank) as a party to any such proceeding as of the designated transfer date.

(b) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(b)(4) does not affect the validity of any right, duty, or obligation of the United States, the Federal Deposit Insurance Corporation, the Board of Directors of that Corporation, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the Federal Deposit Insurance Corporation transferred to the Bureau by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—No provision of this Act shall abate any proceeding commenced by or against the Federal Deposit Insurance Corporation (or the Board of Directors of that Corporation) before the designated transfer date with respect to any consumer financial protection function of the Federal Deposit Insurance Corporation transferred to the Bureau by this title, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Federal Deposit Insurance Corporation (or Board of Directors) as a party to any such proceeding as of the designated transfer date.

(c) FEDERAL TRADE COMMISSION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(b)(5) does not affect the validity of any right, duty, or obligation of the United States, the Federal Trade Commission, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the Federal Trade Commission transferred to the Bureau by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—No provision of this Act shall abate any proceeding commenced by or against the Federal Trade Commission before the designated transfer date with respect to any consumer financial protection function of the Federal Trade Commission transferred to the Bureau by this title, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Federal Trade Commission as a party to any such proceeding as of the designated transfer date.

(d) NATIONAL CREDIT UNION ADMINISTRATION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(b)(6) does not affect the validity of any right, duty, or obligation of the United States, the National Credit Union Administration, the National Credit Union Administration Board, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the National Credit Union Administration transferred to the Bureau by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—No provision of this Act shall abate any proceeding commenced by or against the National Credit Union Administration (or the National Credit Union Administration Board) before the designated transfer date with respect to any consumer financial protection function of the National Credit Union Administration transferred to the Bureau by this title, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the National Credit Union Administration (or National Credit Union Administration Board) as a party to any such proceeding as of the designated transfer date.

(e) OFFICE OF THE COMPTROLLER OF THE CURRENCY.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(b)(2) does not affect the validity of any right, duty, or obligation of the United States, the Comptroller of the Currency, the Office of the Comptroller of the Currency, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the Comptroller of the Currency transferred to the Bureau by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—No provision of this Act shall abate any proceeding commenced by or against the Comptroller of the Currency (or the Office of the Comptroller of the Currency) with respect to any consumer financial protection function of the Comptroller of the Currency transferred to the Bureau by this title before the designated transfer date, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Comptroller of the Currency (or the Office of the Comptroller of the Currency) as a party to any such proceeding as of the designated transfer date.

(f) OFFICE OF THRIFT SUPERVISION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(b)(3) does not affect the validity of any right, duty, or obligation of the United States, the Director of the Office of Thrift Supervision, the Office of Thrift Supervision, or any other person, that—

(A) arises under any provision of law relating to any consumer financial protection function of the Director of the Office of Thrift Supervision transferred to the Bureau by this title; and

(B) that existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—No provision of this Act shall abate any proceeding commenced by or against the Director of the Office of Thrift Supervision (or the Office of Thrift Supervision) with respect to any consumer financial protection function of the Director of the Office of Thrift Supervision transferred to the Bureau by this title before the designated transfer date, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Director (or the Office of Thrift Supervision) as a party to any such proceeding as of the designated transfer date.

(g) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Section 1061(b)(7) shall not affect the validity of any right, duty, or obligation of the United States, the Secretary of the Department of Housing and Urban Development (or the Department of Housing and Urban Development), or any other person, that—

(A) arises under any provision of law relating to any function of the Secretary of the Department of Housing and Urban Development with respect to the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) or the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5102 et seq.) transferred to the Bureau by this title; and

(B) existed on the day before the designated transfer date.

(2) CONTINUATION OF SUITS.—This title shall not abate any proceeding commenced by or against the Secretary of the Department of Housing and Urban Development (or the Department of Housing and Urban Development) with respect to any consumer financial protection function of the Secretary of the Department of Housing and Urban Development transferred to the Bureau by this title before the designated transfer date, except that the Bureau, subject to sections 1024, 1025, and 1026, shall be substituted for the Secretary of the Department of Housing and Urban Development (or the Department of Housing and Urban Development) as a party to any such proceeding as of the designated transfer date.

(h) CONTINUATION OF EXISTING ORDERS, RULES, DETERMINATIONS, AGREEMENTS, AND RESOLUTIONS.—All orders, resolutions, determinations, agreements, and rules that have been issued, made, prescribed, or allowed to become effective by any transferor agency or by a court of competent jurisdiction, in the performance of consumer financial protection functions that are transferred by this title and that are in effect on the day before the designated transfer date, shall continue in effect according to the terms of those orders, resolutions, determinations, agreements, and rules, and shall not be enforceable by or against the Bureau.

(i) IDENTIFICATION OF RULES CONTINUED.—Not later than the designated transfer date, the Bureau—

(1) shall, after consultation with the head of each transferor agency, identify the rules continued under subsection (h) that will be enforced by the Bureau; and

(2) shall publish a list of such rules in the Federal Register.

(j) STATUS OF RULES PROPOSED OR NOT YET EFFECTIVE.—

(1) PROPOSED RULES.—Any proposed rule of a transferor agency which that agency, in performing consumer financial protection functions transferred by this title, has proposed before the designated transfer date, but has not been published as a final rule before that date, shall be deemed to be a proposed rule of the Bureau.

(2) RULES NOT YET EFFECTIVE.—Any interim or final rule of a transferor agency which that agency, in performing consumer financial protection functions transferred by this title, has published before the designated transfer date, but which has not become effective before that date, shall become effective as a rule of the Bureau according to its terms.

SEC. 1064. TRANSFER OF CERTAIN PERSONNEL.

(a) IN GENERAL.—

(1) CERTAIN FEDERAL RESERVE SYSTEM EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Bureau and the Board of Governors shall—

(i) jointly determine the number of employees of the Board of Governors necessary to perform or support the consumer financial protection functions of the Board of Governors that are transferred to the Bureau by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Board of Governors for transfer to the Bureau, in a manner that the Bureau and the Board of Governors, in their sole discretion, determine equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Board of Governors identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.

(C) FEDERAL RESERVE BANK EMPLOYEES.—Employees of any Federal reserve bank who, on the day before the designated transfer date, are performing consumer financial protection functions on behalf of the Board of Governors shall be treated as employees of the Board of Governors for purposes of subparagraphs (A) and (B).

(2) CERTAIN FDIC EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Bureau and the Board of Directors of the Federal Deposit Insurance Corporation shall—

(i) jointly determine the number of employees of that Corporation necessary to perform or support the consumer financial protection functions of the Corporation that are transferred to the Bureau by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Corporation for transfer to the Bureau, in a manner that the Bureau and the Board of Directors of the Corporation, in their sole discretion, determine equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Corporation identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.

(3) CERTAIN NCUA EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Bureau and the National Credit Union Administration Board shall—

(i) jointly determine the number of employees of the National Credit Union Administration necessary to perform or support the consumer financial protection functions of the National Credit Union Administration that are transferred to the Bureau by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the National Credit Union Administration for transfer to the Bureau, in a manner that the Bureau and the National Credit Union Administration Board, in their sole discretion, determine equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the National Credit Union Administration identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.

(4) CERTAIN OFFICE OF THE COMPTROLLER OF THE CURRENCY EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Bureau and the Comptroller of the Currency shall—

(i) jointly determine the number of employees of the Office of the Comptroller of the Currency necessary to perform or support the consumer financial protection functions of the Office of the Comptroller of the Currency that are transferred to the Bureau by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Office of the Comptroller of the Currency for transfer to the Bureau, in a manner that the Bureau and the Office of the Comptroller of the Currency, in their sole discretion, determine equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Office of the Comptroller of the Currency identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.

(5) CERTAIN OFFICE OF THRIFT SUPERVISION EMPLOYEES TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Bureau and the Director of the Office of Thrift Supervision shall—

(i) jointly determine the number of employees of the Office of Thrift Supervision necessary to perform or support the consumer financial protection functions of the Office of Thrift Supervision that are transferred to the Bureau by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Office of Thrift Supervision for transfer to the Bureau, in a manner that the Bureau and the Office of Thrift Supervision, in their sole discretion, determine equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Office of Thrift Supervision identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.

(6) CERTAIN EMPLOYEES OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TRANSFERRED.—

(A) IDENTIFYING EMPLOYEES FOR TRANSFER.—The Bureau and the Secretary of the Department of Housing and Urban Development shall—

(i) jointly determine the number of employees of the Department of Housing and Urban Development necessary to perform or support the consumer protection functions of the Department that are transferred to the Bureau by this title; and

(ii) consistent with the number determined under clause (i), jointly identify employees of the Department of Housing and Urban Development for transfer to the Bureau in a manner that the Bureau and the Secretary of the Department of Housing and Urban Development, in their sole discretion, deem equitable.

(B) IDENTIFIED EMPLOYEES TRANSFERRED.—All employees of the Department of Housing and Urban Development identified under subparagraph (A)(ii) shall be transferred to the Bureau for employment.

(7) APPOINTMENT AUTHORITY FOR EXCEPTED SERVICE AND SENIOR EXECUTIVE SERVICE TRANSFERRED.—

(A) IN GENERAL.—In the case of an employee occupying a position in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to subparagraph (B).

(B) DECLINING TRANSFERS ALLOWED.—An agency or entity may decline to make a transfer of authority under subparagraph (A) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character, and non-career positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

(b) TIMING OF TRANSFERS AND POSITION ASSIGNMENTS.—Each employee to be transferred under this section shall—

(1) be transferred not later than 90 days after the designated transfer date; and

(2) receive notice of a position assignment not later than 120 days after the effective date of his or her transfer.

(c) TRANSFER OF FUNCTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the transfer of employees shall be deemed a transfer of functions for the purpose of section 3503 of title 5, United States Code.

(2) PRIORITY OF THIS TITLE.—If any provisions of this title conflict with any protection provided to transferred employees under section 3503 of title 5, United States Code, the provisions of this title shall control.

(d) EQUAL STATUS AND TENURE POSITIONS.—

(1) EMPLOYEES TRANSFERRED FROM FDIC, FTC, HUD, NCUA, OCC, AND OTS.—Each employee transferred from the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the Department of Housing and Urban Development shall be placed in a position at the Bureau with the same status and tenure as that employee held on the day before the designated transfer date.

(2) EMPLOYEES TRANSFERRED FROM THE FEDERAL RESERVE SYSTEM.—

(A) COMPARABILITY.—Each employee transferred from the Board of Governors or from a Federal reserve bank shall be placed in a position with the same status and tenure as that of an employee transferring to the Bureau from the Office of the Comptroller of the Currency who perform similar functions and have similar periods of service.

(B) SERVICE PERIODS CREDITED.—For purposes of this paragraph, periods of service with the Board of Governors or a Federal reserve bank shall be credited as periods of service with a Federal agency.

(e) ADDITIONAL CERTIFICATION REQUIREMENTS LIMITED.—Examiners transferred to the Bureau are not subject to any additional certification requirements before being placed in a comparable examiner position at the Bureau examining the same types of institutions as they examined before they were transferred.

(f) PERSONNEL ACTIONS LIMITED.—

(1) 2-YEAR PROTECTION.—Except as provided in paragraph (2), each transferred employee holding a permanent position on the day before the designated transfer date may not, during the 2-year period beginning on the designated transfer date, be involuntarily separated, or involuntarily reassigned outside his or her locality pay area, as defined by the Office of Personnel Management.

(2) EXCEPTIONS.—Paragraph (1) does not limit the right of the Bureau—

(A) to separate an employee for cause or for unacceptable performance;

(B) to terminate an appointment to a position excepted from the competitive service

because of its confidential policy-making, policy-determining, or policy-advocating character; or

(C) to reassign a supervisory employee outside his or her locality pay area, as defined by the Office of Personnel Management, when the Bureau determines that the reassignment is necessary for the efficient operation of the Bureau.

(g) PAY.—

(1) 2-YEAR PROTECTION.—Except as provided in paragraph (2), each transferred employee shall, during the 2-year period beginning on the designated transfer date, receive pay at a rate equal to not less than the basic rate of pay (including any geographic differential) that the employee received during the pay period immediately preceding the date of transfer.

(2) EXCEPTIONS.—Paragraph (1) does not limit the right of the Bureau to reduce the rate of basic pay of a transferred employee—

(A) for cause;

(B) for unacceptable performance; or

(C) with the consent of the employee.

(3) PROTECTION ONLY WHILE EMPLOYED.—Paragraph (1) applies to a transferred employee only while that employee remains employed by the Bureau.

(4) PAY INCREASES PERMITTED.—Paragraph (1) does not limit the authority of the Bureau to increase the pay of a transferred employee.

(h) REORGANIZATION.—

(1) BETWEEN 1ST AND 3RD YEAR.—

(A) IN GENERAL.—If the Bureau determines, during the 2-year period beginning 1 year after the designated transfer date, that a reorganization of the staff of the Bureau is required—

(i) that reorganization shall be deemed a ''major reorganization'' for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code;

(ii) before the reorganization occurs, all employees in the same locality pay area as defined by the Office of Personnel Management shall be placed in a uniform position classification system; and

(iii) any resulting reduction in force shall be governed by the provisions of chapter 35 of title 5, United States Code, except that the Bureau shall—

(I) establish competitive areas (as that term is defined in regulations issued by the Office of Personnel Management) to include at a minimum all employees in the same locality pay area as defined by the Office of Personnel Management;

(II) establish competitive levels (as that term is defined in regulations issued by the Office of Personnel Management) without regard to whether the particular employees have been appointed to positions in the competitive service or the excepted service; and

(III) afford employees appointed to positions in the excepted service (other than to a position excepted from the competitive service because of its confidential policy-making, policy-determining, or policy-advocating character) the same assignment rights to positions within the Bureau as employees appointed to positions in the competitive service.

(B) SERVICE CREDIT FOR REDUCTIONS IN FORCE.—For purposes of this paragraph, periods of service with a Federal home loan bank, a joint office of the Federal home loan banks, the Board of Governors, a Federal reserve bank, the Federal Deposit Insurance Corporation, or the National Credit Union Administration shall be credited as periods of service with a Federal agency.

(2) AFTER 3RD YEAR.—

(A) IN GENERAL.—If the Bureau determines, at any time after the 3-year period beginning on the designated transfer date, that a reorganization of the staff of the Bureau is required, any resulting reduction in force shall be governed by the provisions of chapter 35 of title 5, United States Code, except that the Bureau shall establish competitive levels (as that term is defined in regulations issued by the Office of Personnel Management) without regard to types of appointment held by particular employees transferred under this section.

(B) SERVICE CREDIT FOR REDUCTIONS IN FORCE.—For purposes of this paragraph, periods of service with a Federal home loan bank, a joint office of the Federal home loan banks, the Board of Governors, a Federal reserve bank, the Federal Deposit Insurance Corporation, or the National Credit Union Administration shall be credited as periods of service with a Federal agency.

(i) BENEFITS.—

(1) RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES.—

(A) IN GENERAL.—

(i) CONTINUATION OF EXISTING RETIREMENT PLAN.—Except as provided in subparagraph (B), each transferred employee shall remain enrolled in his or her existing retirement plan, through any period of continuous employment with the Bureau.

(ii) EMPLOYER CONTRIBUTION.—The Bureau shall pay any employer contributions to the existing retirement plan of each transferred employee, as required under that plan.

(B) OPTION FOR EMPLOYEES TRANSFERRED FROM FEDERAL RESERVE SYSTEM TO BE SUBJECT TO FEDERAL EMPLOYEE RETIREMENT PROGRAM.—

(i) ELECTION.—Any transferred employee who was enrolled in a Federal Reserve System retirement plan on the day before his or her transfer to the Bureau may, during the 1-year period beginning 6 months after the designated transfer date, elect to be subject to the Federal employee retirement program.

(ii) EFFECTIVE DATE OF COVERAGE.—For any employee making an election under clause (i), coverage by the Federal employee retirement program shall begin 1 year after the designated transfer date.

(C) BUREAU PARTICIPATION IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN.—

(i) SEPARATE ACCOUNT IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN ESTABLISHED.—Notwithstanding any other provision of law, and subject to the terms and conditions of this section, a separate account in the Federal Reserve System retirement plan shall be established for Bureau employees who do not make the election under subparagraph (B).

(ii) FUNDS ATTRIBUTABLE TO TRANSFERRED EMPLOYEES REMAINING IN FEDERAL RESERVE SYSTEM RETIREMENT PLAN TRANSFERRED.—The proportionate share of funds in the Federal Reserve System retirement plan, including the proportionate share of any funding surplus in that plan, attributable to a transferred employee who does not make the election under subparagraph (B), shall be transferred to the account established under clause (i).

(iii) EMPLOYER CONTRIBUTIONS DEPOSITED.—The Bureau shall deposit into the account established under clause (i) the employer contributions that the Bureau makes on behalf of employees who do not make the election under subparagraph (B).

(iv) ACCOUNT ADMINISTRATION.—The Bureau shall administer the account established under clause (i) as a participating employer in the Federal Reserve System retirement plan.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) the term ''existing retirement plan'' means, with respect to any employee transferred under this section, the particular retirement plan (including the Financial Institutions Retirement Fund) and any associated thrift savings plan of the agency or Federal reserve bank from which the employee was transferred, in which the employee was enrolled on the day before the designated transfer date; and

(ii) the term ''Federal employee retirement program'' means the retirement program for Federal employees established by chapter 84 of title 5, United States Code.

(2) BENEFITS OTHER THAN RETIREMENT BENEFITS FOR TRANSFERRED EMPLOYEES.—

(A) DURING 1ST YEAR.—

(i) EXISTING PLANS CONTINUE.—Each transferred employee may, for 1 year after the designated transfer date, retain membership in any other employee benefit program of the agency or bank from which the employee transferred, including a dental, vision, long term care, or life insurance program, to which the employee belonged on the day before the designated transfer date.

(ii) EMPLOYER CONTRIBUTION.—The Bureau shall reimburse the agency or bank from which an employee was transferred for any cost incurred by that agency or bank in continuing to extend coverage in the benefit program to the employee, as required under that program or negotiated agreements.

(B) DENTAL, VISION, OR LIFE INSURANCE AFTER 1ST YEAR.—If, after the 1-year period beginning on the designated transfer date, the Bureau decides not to continue participation in any dental, vision, or life insurance program of an agency or bank from which an employee transferred, a transferred employee who is a member of such a program may, before the decision of the Bureau takes effect, elect to enroll, without regard to any regularly scheduled open season, in—

(i) the enhanced dental benefits established by chapter 89A of title 5, United States Code;

(ii) the enhanced vision benefits established by chapter 89B of title 5, United States Code; or

(iii) the Federal Employees Group Life Insurance Program established by chapter 87 of title 5, United States Code, without regard to any requirement of insurability.

(C) LONG TERM CARE INSURANCE AFTER 1ST YEAR.—If, after the 1-year period beginning on the designated transfer date, the Bureau decides not to continue participation in any long term care insurance program of an agency or bank from which an employee transferred, a transferred employee who is a member of such a program may, before the decision of the Bureau takes effect, elect to apply for coverage under the Federal Long Term Care Insurance Program established by chapter 90 of title 5, United States Code, under the underwriting requirements applicable to a new active workforce member (as defined in part 875, title 5, Code of Federal Regulations).

(D) EMPLOYEE CONTRIBUTION.—An individual enrolled in the Federal Employees Health Benefits program shall pay any employee contribution required by the plan.

(E) ADDITIONAL FUNDING.—The Bureau shall transfer to the Federal Employees Health Benefits Fund established under section 8909 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Bureau and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this paragraph.

(F) CREDIT FOR TIME ENROLLED IN OTHER PLANS.—For employees transferred under this title, enrollment in a health benefits plan administered by a transferor agency or a Federal reserve bank, as the case may be, immediately before enrollment in a health benefits plan under chapter 89 of title 5, United States Code, shall be considered as enrollment in a health benefits plan under

that chapter for purposes of section 8905(b)(1)(A) of title 5, United States Code.

(G) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS.—

(i) IN GENERAL.—An annuitant (as defined in section 8901(3) of title 5, United States Code) who is enrolled in a life insurance plan administered by a transferor agency on the day before the designated transfer date shall be eligible for coverage by a life insurance plan under sections 8706(b), 8714a, 8714b, and 8714c of title 5, United States Code, or in a life insurance plan established by the Bureau, without regard to any regularly scheduled open season and requirement of insurability.

(ii) EMPLOYEE CONTRIBUTION.—An individual enrolled in a life insurance plan under this subparagraph shall pay any employee contribution required by the plan.

(iii) ADDITIONAL FUNDING.—The Bureau shall transfer to the Employees' Life Insurance Fund established under section 8714 of title 5, United States Code, an amount determined by the Director of the Office of Personnel Management, after consultation with the Bureau and the Office of Management and Budget, to be necessary to reimburse the Fund for the cost to the Fund of providing benefits under this subparagraph not otherwise paid for by the employee under clause (ii).

(iv) CREDIT FOR TIME ENROLLED IN OTHER PLANS.—For employees transferred under this title, enrollment in a life insurance plan administered by a transferor agency immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for purposes of section 8706(b)(1)(A) of title 5, United States Code.

(3) OPM RULES.—The Office of Personnel Management shall issue such rules as are necessary to carry out this subsection.

(j) IMPLEMENTATION OF UNIFORM PAY AND CLASSIFICATION SYSTEM.—Not later than 2 years after the designated transfer date, the Bureau shall implement a uniform pay and classification system for all employees transferred under this title.

(k) EQUITABLE TREATMENT.—In administering the provisions of this section, the Bureau—

(1) shall take no action that would unfairly disadvantage transferred employees relative to each other based on their prior employment by the Board of Governors, the Federal Deposit Insurance Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, a Federal reserve bank, a Federal home loan bank, or a joint office of the Federal home loan banks; and

(2) may take such action as is appropriate in individual cases so that employees transferred under this section receive equitable treatment, with respect to the status, tenure, pay, benefits (other than benefits under programs administered by the Office of Personnel Management), and accrued leave or vacation time of those employees, for prior periods of service with any Federal agency, including the Board of Governors, the Corporation, the Federal Trade Commission, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, a Federal reserve bank, a Federal home loan bank, or a joint office of the Federal home loan banks.

(l) IMPLEMENTATION.—In implementing the provisions of this section, the Bureau shall coordinate with the Office of Personnel Management and other entities having expertise in matters related to employment to ensure a fair and orderly transition for affected employees.

SEC. 1065. INCIDENTAL TRANSFERS.

(a) INCIDENTAL TRANSFERS AUTHORIZED.—The Director of the Office of Management and Budget, in consultation with the Secretary, shall make such additional incidental transfers and dispositions of assets and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this title, as the Director may determine necessary to accomplish the purposes of this title.

(b) SUNSET.—The authority provided in this section shall terminate 5 years after the date of enactment of this Act.

SEC. 1066. INTERIM AUTHORITY OF THE SECRETARY.

(a) IN GENERAL.—The Secretary is authorized to perform the functions of the Bureau under this subtitle until the Director of the Bureau is confirmed by the Senate in accordance with section 1011.

(b) INTERIM ADMINISTRATIVE SERVICES BY THE DEPARTMENT OF THE TREASURY.—The Department of the Treasury may provide administrative services necessary to support the Bureau before the designated transfer date.

SEC. 1067. TRANSITION OVERSIGHT.

(a) PURPOSE.—The purpose of this section is to ensure that the Bureau—

(1) has an orderly and organized startup;

(2) attracts and retains a qualified workforce; and

(3) establishes comprehensive employee training and benefits programs.

(b) REPORTING REQUIREMENT.—

(1) IN GENERAL.—The Bureau shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives that includes the plans described in paragraph (2).

(2) PLANS.—The plans described in this paragraph are as follows:

(A) TRAINING AND WORKFORCE DEVELOPMENT PLAN.—The Bureau shall submit a training and workforce development plan that includes, to the extent practicable—

(i) identification of skill and technical expertise needs and actions taken to meet those requirements;

(ii) steps taken to foster innovation and creativity;

(iii) leadership development and succession planning; and

(iv) effective use of technology by employees.

(B) WORKPLACE FLEXIBILITIES PLAN.—The Bureau shall submit a workforce flexibility plan that includes, to the extent practicable—

(i) telework;

(ii) flexible work schedules;

(iii) phased retirement;

(iv) reemployed annuitants;

(v) part-time work;

(vi) job sharing;

(vii) parental leave benefits and childcare assistance;

(viii) domestic partner benefits;

(ix) other workplace flexibilities; or

(x) any combination of the items described in clauses (i) through (ix).

(C) RECRUITMENT AND RETENTION PLAN.—The Bureau shall submit a recruitment and retention plan that includes, to the extent practicable, provisions relating to—

(i) the steps necessary to target highly qualified applicant pools with diverse backgrounds;

(ii) streamlined employment application processes;

(iii) the provision of timely notification of the status of employment applications to applicants; and

(iv) the collection of information to measure indicators of hiring effectiveness.

(c) EXPIRATION.—The reporting requirement under subsection (b) shall terminate 5 years after the date of enactment of this Act.

(d) RULE OF CONSTRUCTION.—Nothing in this section may be construed to affect—

(1) a collective bargaining agreement, as that term is defined in section 7103(a)(8) of title 5, United States Code, that is in effect on the date of enactment of this Act; or

(2) the rights of employees under chapter 71 of title 5, United States Code.

Subtitle G—Regulatory Improvements

SEC. 1071. COLLECTION OF DEPOSIT ACCOUNT DATA.

(a) PURPOSE.—The purpose of this section is to promote awareness and understanding of the access of individuals and communities to financial services, and to identify business and community development needs and opportunities.

(b) IN GENERAL.—

(1) RECORDS REQUIRED.—For each branch, automated teller machine at which deposits are accepted, and other deposit taking service facility with respect to any financial institution, the financial institution shall maintain a record of the number and dollar amounts of the deposit accounts of customers.

(2) GEO-CODED ADDRESSES OF DEPOSITORS.—Customer addresses shall be geo-coded for the collection of data regarding the census tracts of the residences or business locations of customers.

(3) IDENTIFICATION OF DEPOSITOR TYPE.—In maintaining records on any deposit account under this section, the financial institution shall record whether the deposit account is for a residential or commercial customer.

(4) PUBLIC AVAILABILITY.—

(A) IN GENERAL.—Each financial institution shall make publicly available on an annual basis, from information collected under this section—

(i) the address and census tract of each branch, automated teller machine at which deposits are accepted, and other deposit taking service facility with respect to the financial institution;

(ii) the type of deposit account, including whether the account was a checking or savings account; and

(iii) data on the number and dollar amount of the accounts, presented by census tract location of the residential and commercial customer.

(B) PROTECTION OF IDENTITY.—In making data publicly available, any personally identifiable data element shall be removed so as to protect the identities of the commercial and residential customers.

(c) AVAILABILITY OF INFORMATION.—

(1) SUBMISSION TO AGENCIES.—The data required to be compiled and maintained under this section by any financial institution shall be submitted annually to the Bureau, or to a Federal banking agency, in accordance with rules prescribed by the Bureau.

(2) AVAILABILITY OF INFORMATION.—Information compiled and maintained under this section shall be retained for not less than 3 years after the date of preparation and shall be made available to the public, upon request, in the form required under rules prescribed by the Bureau.

(d) BUREAU USE.—The Bureau—

(1) shall use the data on branches and deposit accounts acquired under this section as part of the examination of a covered person as part of an examination under this title;

(2) shall assess the distribution of residential and commercial accounts at such financial institution across income and minority level of census tracts; and

(3) may use the data for any other purpose as permitted by law.

(e) RULES AND GUIDANCE.—The Bureau shall prescribe such rules and issue guidance as may be necessary to carry out, enforce, and compile data pursuant to this section. The Bureau shall prescribe rules regarding the provision of data compiled under this section to the Federal banking agencies to carry out the purposes of this section, and shall issue guidance to financial institutions regarding measures to facilitate compliance with this section and the requirements of rules prescribed thereunder.

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

(1) DEPOSIT ACCOUNT.—The term ''deposit account'' includes any checking account, savings account, credit union share account, and other types of accounts, as defined by the Bureau.

(2) FINANCIAL INSTITUTION.—The term ''financial institution''—

(A) has the meaning given to the term ''insured depository institution'' in section 3(c)(2) of the Federal Deposit Insurance Act; and

(B) includes any credit union.

(g) EFFECTIVE DATE.—This section shall become effective on the designated transfer date.

SEC. 1072. SMALL BUSINESS DATA COLLECTION.

(a) IN GENERAL.—The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended by inserting after section 704A the following:

''SEC. 740B. SMALL BUSINESS LOAN DATA COLLECTION.

''(a) PURPOSE.—The purpose of this section is to facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned and minority-owned small businesses.

''(b) INFORMATION GATHERING.—Subject to the requirements of this section, in the case of any application to a financial institution for credit for a small business, the financial institution shall—

''(1) inquire whether the small business is a women- or minority-owned small business, without regard to whether such application is received in person, by mail, by telephone, by electronic mail or other form of electronic transmission, or by any other means, and whether or not such application is in response to a solicitation by the financial institution; and

''(2) maintain a record of the responses to such inquiry, separate from the application and accompanying information.

''(c) RIGHT TO REFUSE.—Any applicant for credit may refuse to provide any information requested pursuant to subsection (b) in connection with any application for credit.

''(d) NO ACCESS BY UNDERWRITERS.—

''(1) LIMITATION.—Where feasible, no loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit shall have access to any information provided by the applicant pursuant to a request under subsection (b) in connection with such application.

''(2) LIMITED ACCESS.—If a financial institution determines that a loan underwriter or other officer or employee of a financial institution, or any affiliate of a financial institution, involved in making any determination concerning an application for credit should have access to any information provided by the applicant pursuant to a request under subsection (b), the financial institution shall provide notice to the applicant of the access of the underwriter to such information, along with notice that the financial institution may not discriminate on the basis of such information.

''(e) FORM AND MANNER OF INFORMATION.—

''(1) IN GENERAL.—Each financial institution shall compile and maintain, in accordance with regulations of the Bureau, a record of the information provided by any loan applicant pursuant to a request under subsection (b).

''(2) ITEMIZATION.—Information compiled and maintained under paragraph (1) shall be itemized in order to clearly and conspicuously disclose—

''(A) the number of the application and the date on which the application was received;

''(B) the type and purpose of the loan or other credit being applied for;

''(C) the amount of the credit or credit limit applied for, and the amount of the credit transaction or the credit limit approved for such applicant;

''(D) the type of action taken with respect to such application, and the date of such action;

''(E) the census tract in which is located the principal place of business of the small business loan applicant;

''(F) the gross annual revenue of the business in the last fiscal year of the small business loan applicant preceding the date of the application;

''(G) the race and ethnicity of the principal owners of the business; and

''(H) any additional data that the Bureau determines would aid in fulfilling the purposes of this section.

''(3) NO PERSONALLY IDENTIFIABLE INFORMATION.—In compiling and maintaining any record of information under this section, a financial institution may not include in such record the name, specific address (other than the census tract required under paragraph (1)(E)), telephone number, electronic mail address, or any other personally identifiable information concerning any individual who is, or is connected with, the small business loan applicant.

''(4) DISCRETION TO DELETE OR MODIFY PUBLICLY AVAILABLE DATA.—The Bureau may, at its discretion, delete or modify data collected under this section which is or will be available to the public, if the Bureau determines that the deletion or modification of the data would advance a compelling privacy interest.

''(f) AVAILABILITY OF INFORMATION.—

''(1) SUBMISSION TO BUREAU.—The data required to be compiled and maintained under this section by any financial institution shall be submitted annually to the Bureau.

''(2) AVAILABILITY OF INFORMATION.—Information compiled and maintained under this section shall be—

''(A) retained for not less than 3 years after the date of preparation;

''(B) made available to any member of the public, upon request, in the form required under regulations prescribed by the Bureau;

''(C) annually made available to the public generally by the Bureau, in such form and in such manner as is determined appropriate by the Bureau.

''(3) COMPILATION OF AGGREGATE DATA.—The Bureau may, at its discretion—

''(A) compile and aggregate data collected under this section for its own use; and

''(B) make public such compilations of aggregate data.

''(g) BUREAU ACTION.—

''(1) IN GENERAL.—The Bureau shall prescribe such rules and issue such guidance as may be necessary to carry out, enforce, and compile data pursuant to this section.

''(2) EXCEPTIONS.—The Bureau, by rule or order, may adopt exceptions to any requirement of this section and may, conditionally or unconditionally, exempt any financial institution or class of financial institutions from the requirements of this section, as the Bureau deems necessary or appropriate to carry out the purposes of this section.

''(3) GUIDANCE.—The Bureau shall issue guidance designed to facilitate compliance with the requirements of this section, including assisting financial institutions in working with applicants to determine whether the applicants are women- or minority-owned for purposes of this section.

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

''(1) FINANCIAL INSTITUTION.—The term 'financial institution' means any partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity that engages in any financial activity.

''(2) MINORITY.—The term 'minority' has the same meaning as in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

''(3) MINORITY-OWNED SMALL BUSINESS.—The term 'minority-owned small business' means a small business—

''(A) more than 50 percent of the ownership or control of which is held by 1 or more minority individuals; and

''(B) more than 50 percent of the net profit or loss of which accrues to 1 or more minority individuals.

''(4) SMALL BUSINESS LOAN.—The term 'small business loan' shall be defined by the Bureau, which may take into account—

''(A) the gross revenues of the borrower;

''(B) the total number of employees of the borrower;

''(C) the industry in which the borrower has its primary operations; and

''(D) the size of the loan.

''(5) WOMEN-OWNED SMALL BUSINESS.—The term 'women-owned small business' means a business—

''(A) more than 50 percent of the ownership or control of which is held by 1 or more women; and

''(B) more than 50 percent of the net profit or loss of which accrues to 1 or more women.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 701(b) of the Equal Credit Opportunity Act (15 U.S.C. 1691(b)) is amended—

(1) in paragraph (3), by striking ''or'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (4), the following:

''(5) to make an inquiry under section 704B, in accordance with the requirements of that section.''.

(c) CLERICAL AMENDMENT.—The table of sections for title VII of the Consumer Credit Protection Act is amended by inserting after the item relating to section 704A the following new item:

''704B. Small business loan data collection.''.

(d) EFFECTIVE DATE.—This section shall become effective on the designated transfer date.

SEC. 1073. GAO STUDY ON THE EFFECTIVENESS AND IMPACT OF VARIOUS APPRAISAL METHODS.

(a) IN GENERAL.—The Government Accountability Office shall conduct a study on the effectiveness and impact of various appraisal methods, including the cost approach, the comparative sales approach, the income approach, and others that may be available.

(b) STUDY.—Not later than—

(1) 1 year after the date of enactment of this Act, the Government Accountability Office shall submit a study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives;

(2) 90 days after the date of enactment of this Act, the Government Accountability Office shall provide a report on the status of the study and any preliminary findings to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(c) CONTENT OF STUDY.—The study required by this section shall include an examination of—

(1) the prevalence, alone or in combination, of these approaches in purchase-money and refinance mortgage transactions;

(2) the accuracy of the various approaches in assessing the property as collateral;

(3) whether and how the approaches contributed to price speculation in the previous cycle;

(4) the costs to consumers of these approaches;

(5) the disclosure of fees to consumers in the appraisal process;

(6) to what extent such approaches may be influenced by a conflict of interest between the mortgage lender and the appraiser and the mechanism by which the lender selects and compensates the appraiser; and

(7) the suitability of appraisal approaches in rural versus urban areas.

SEC. 1074. PROHIBITION ON CERTAIN PREPAYMENT PENALTIES.

(a) IN GENERAL.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 129A (15 U.S.C. 1639a) the following new section:

"SEC. 129B. PROHIBITION ON CERTAIN PREPAYMENT PENALTIES.

''(a) PROHIBITED ON CERTAIN LOANS.—A residential mortgage loan that is not a qualified mortgage may not contain terms under which a consumer is required to pay a prepayment penalty for paying all or part of the principal after the loan is consummated.

''(b) PHASED-OUT PENALTIES ON QUALIFIED MORTGAGES.—

''(1) IN GENERAL.—A qualified mortgage may not contain terms under which a consumer is required to pay a prepayment penalty for paying all or part of the principal after the loan is consummated in excess of—

''(A) during the 1-year period beginning on the date on which the loan is consummated, an amount equal to 3 percent of the outstanding balance on the loan;

''(B) during the 1-year period beginning immediately after the end of the period described in subparagraph (A), an amount equal to 2 percent of the outstanding balance on the loan; and

''(C) during the 1-year period beginning immediately after the end of the 1-year period described in subparagraph (B), an amount equal to 1 percent of the outstanding balance on the loan.

''(2) PROHIBITION.—After the end of the 3-year period beginning on the date on which the loan is consummated, no prepayment penalty may be imposed on a qualified mortgage.

''(c) OPTION FOR NO PREPAYMENT PENALTY REQUIRED.—A creditor may not offer a consumer a residential mortgage loan product that has a prepayment penalty for paying all or part of the principal after the loan is consummated as a term of the loan, without offering to the consumer a residential mortgage loan product that does not have a prepayment penalty as a term of the loan.

''(d) PROHIBITIONS ON EVASIONS, STRUCTURING OF TRANSACTIONS, AND RECIPROCAL ARRANGEMENTS.—A creditor may not take any action in connection with a residential mortgage loan—

''(1) to structure a loan transaction as an open end consumer credit plan or another form of loan for the purpose and with the intent of evading the provisions of this section; or

''(2) to divide any loan transaction into separate parts for the purpose and with the intent of evading provisions of this section.

''(e) PUBLICATION OF AVERAGE PRIME OFFER RATE AND APR THRESHOLDS.—The Board—

''(1) shall publish, and update at least weekly, average prime offer rates;

''(2) may publish multiple rates based on varying types of mortgage transactions; and

''(3) shall adjust the thresholds of 1.50 percentage points in subsection (g)(3)(A)(v)(I), 2.50 percentage points in subsection (g)(3)(A)(v)(II), and 3.50 percentage points in subsection (g)(3)(A)(v)(III), as necessary to reflect significant changes in market conditions and to effectuate the purposes of this section.

''(f) REGULATIONS.—

''(1) IN GENERAL.—The Bureau shall prescribe regulations to carry out this section.

''(2) REVISION OF SAFE HARBOR CRITERIA.—The Bureau may prescribe regulations that revise, add to, or subtract from the criteria that define a qualified mortgage, upon a finding that such regulations are necessary or appropriate—

''(A) to ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of this section;

''(B) to effectuate the purposes of this section;

''(C) to prevent circumvention or evasion thereof; or

''(D) to facilitate compliance with this section.

''(3) INTERAGENCY HARMONIZATION.—

''(A) DETERMINATION OF QUALIFYING MORTGAGE TREATMENT.—The agencies and officials described in subparagraph (B) shall, in consultation with the Bureau, prescribe rules defining the types of loans they insure, guarantee, or administer, as the case may be, that are qualified mortgages for purposes of this section, upon a finding that such rules are consistent with the purposes of this section or are appropriate to prevent circumvention or evasion thereof or to facilitate compliance with this section.

''(B) AGENCIES AND OFFICIALS.—The agencies and officials described in this subparagraph are—

''(i) the Secretary of the Department of Housing and Urban Development, with regard to mortgages insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.);

''(ii) the Secretary of Veterans Affairs, with regard to a loan made or guaranteed by the Secretary of Veterans Affairs;

''(iii) the Secretary of Agriculture, with regard to loans guaranteed by the Secretary of Agriculture pursuant to section 502 of the Housing Act of 1949 (42 U.S.C. 1472(h));

''(iv) the Federal Housing Finance Agency, with regard to loans meeting the conforming loan standards of the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and

''(v) the Rural Housing Service, with regard to loans insured by the Rural Housing Service.

''(4) IMPLEMENTATION.—Regulations required or authorized to be prescribed under this subsection—

''(A) shall be prescribed in final form before the end of the 12-month period beginning on the date of enactment of this section; and

''(B) shall take effect not later than 18 months after the date of enactment of this section.

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

''(1) AVERAGE PRIME OFFER RATE.—The term 'average prime offer rate' means an annual percentage rate that is derived from average interest rates, points, and other loan pricing terms currently offered to consumers by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics.

''(2) PREPAYMENT PENALTY.—The term 'prepayment penalty' means any penalty for paying all or part of the principal on an extension of credit before the date on which the principal is due, including a computation of a refund of unearned interest by a method that is less favorable to the consumer than the actuarial method, as defined in section 933(d) of the Housing and Community Development Act of 1992 (15 U.S.C. 1615(d)).

''(3) QUALIFIED MORTGAGE.—The term 'qualified mortgage' means—

''(A) any residential mortgage loan—

''(i) that does not have an adjustable rate;

''(ii) that does not allow a consumer to defer repayment of principal or interest, or is not otherwise deemed a 'non-traditional mortgage' under guidance, advisories, or regulations prescribed by the Bureau;

''(iii) that does not provide for a repayment schedule that results in negative amortization at any time;

''(iv) for which the terms are fully amortizing and which does not result in a balloon payment, where a 'balloon payment' is a scheduled payment that is more than twice as large as the average of earlier scheduled payments;

''(v) which has an annual percentage rate that does not exceed the average prime offer rate for a comparable transaction, as of the date on which the interest rate is set—

''(I) by 1.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that is equal to or less than the amount of the maximum limitation on the original principal obligation of a mortgage in effect for a residence of the applicable size, as of the date on which such interest rate is set, pursuant to the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2));

''(II) by 2.5 or more percentage points, in the case of a first lien residential mortgage loan having an original principal obligation amount that is more than the amount of the maximum limitation on the original principal obligation of a mortgage in effect for a residence of the applicable size, as of the date on which such interest rate is set, pursuant to the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)); or

''(III) by 3.5 or more percentage points, in the case of a subordinate lien residential mortgage loan;

''(vi) for which the income and financial resources relied upon to qualify the obligors on the loan are verified and documented;

''(vii) for which the underwriting process is based on a payment schedule that fully amortizes the loan over the loan term and takes into account all applicable taxes, insurance, and assessments;

''(viii) that does not cause the total monthly debts of the consumer, including amounts under the loan, to exceed a percentage established by regulation of the monthly gross income of the consumer, or such other maximum percentage of such income, as may be prescribed by regulation under subsection (g), which rules shall take into consideration the income of the consumer available to pay regular expenses after payment of all installment and revolving debt;

''(ix) for which the total points and fees payable in connection with the loan do not exceed 2 percent of the total loan amount, where the term 'points and fees' means points and fees as defined by Section

103(aa)(4) of the Truth in Lending Act (15 U.S.C. 1602(aa)(4)); and

''(x) for which the term of the loan does not exceed 30 years, except as such term may be extended under subsection (g); and

''(B) any reverse mortgage that is insured by the Federal Housing Administration or complies with the condition established in subparagraph (A)(v).

''(4) RESIDENTIAL MORTGAGE LOAN.—The term 'residential mortgage loan' means any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a consumer credit transaction under an open end credit plan or an extension of credit relating to a plan described in section 101(53D) of title 11, United States Code.''.

(b) CONFORMING AMENDMENTS.—Section 129(c) of the Truth in Lending Act (15 U.S.C. 1639(c)) is amended—

(1) by striking paragraph (2);

(2) by striking ''(1) IN GENERAL.—''; and

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

SEC. 1075. ASSISTANCE FOR ECONOMICALLY VULNERABLE INDIVIDUALS AND FAMILIES.

(a) HERA AMENDMENTS.—Section 1132 of the Housing and Economic Recovery Act of 2008 (12 U.S.C. 1701x note) is amended—

(1) in subsection (a), by inserting in each of paragraphs (1), (2), (3), and (4) ''or economically vulnerable individuals and families'' after ''homebuyers'' each place that term appears;

(2) in subsection (b)(1), by inserting ''or economically vulnerable individuals and families'' after ''homebuyers'';

(3) in subsection (c)(1)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(C) a nonprofit corporation that—

''(i) is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986; and

''(ii) specializes or has expertise in working with economically vulnerable individuals and families, but whose primary purpose is not provision of credit counseling services.''; and

(4) in subsection (d)(1), by striking ''not more than 5''.

(b) APPLICABILITY.—Amendments made by subsection (a) shall not apply to programs authorized by section 1132 of the Housing and Economic Recovery Act of 2008 (12 U.S.C. 1701x note) that are funded with appropriations prior to fiscal year 2011.

SEC. 1076. REMITTANCE TRANSFERS.

(a) TREATMENT OF REMITTANCE TRANSFERS.—The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) in section 902(b) (15 U.S.C. 1693(b)), by inserting ''and remittance'' after ''electronic fund'';

(2) by redesignating sections 919, 920, 921, and 922 as sections 920, 921, 922, and 923, respectively; and

(3) by inserting after section 918 the following:

''SEC. 919. REMITTANCE TRANSFERS.

''(a) DISCLOSURES REQUIRED FOR REMITTANCE TRANSFERS.—

''(1) IN GENERAL.—Each remittance transfer provider shall make disclosures as required under this section and in accordance with rules prescribed by the Board.

''(2) STOREFRONT DISCLOSURES.—

''(A) IN GENERAL.—At every physical storefront location owned or controlled by a remittance transfer provider (with respect to remittance transfer activities), the remittance transfer provider shall prominently post, and update daily, a notice describing a model transfer for the amounts of $100 and $200 (in United States dollars) showing the amount of currency that will be received by the designated recipient, using the values of the currency into which the funds will be exchanged for the 3 currencies to which that particular storefront sends the greatest number of remittance transfer payments, measured irrespective of the value of such payments. The values shall include all fees charged by the remittance transfer provider, taken out of the $100 and $200 amounts.

''(B) ELECTRONIC DISCLOSURE.—Subject to the rules prescribed by the Board, a remittance transfer provider shall prominently post, and update daily, a notice describing a model transfer, as described in subparagraph (A), on the Internet site owned or controlled by the remittance transfer provider which senders use to electronically conduct remittance transfer transactions.

''(3) SPECIFIC DISCLOSURES.—In addition to any other disclosures applicable under this title, and subject to paragraph (4), a remittance transfer provider shall provide, in writing and in a form that the sender may keep, to each sender requesting a remittance transfer, as applicable to the transaction—

''(A) at the time at which the sender requests a remittance transfer to be initiated, and prior to the sender making any payment in connection with the remittance transfer, a disclosure describing the amount of currency that will be sent to the designated recipient, using the values of the currency into which the funds will be exchanged; and

''(B) at the time at which the sender makes payment in connection with the remittance transfer—

''(i) a receipt showing—

''(I) the information described in subparagraph (A);

''(II) the promised date of delivery to the designated recipient; and

''(III) the name and either the telephone number or the address of the designated recipient; and

''(ii) a statement containing—

''(I) information about the rights of the sender under this section regarding the resolution of errors; and

''(II) appropriate contact information for—

''(aa) the remittance transfer provider; and

''(bb) each State or Federal agency supervising the remittance transfer provider, including its State licensing authority or Federal regulator, as applicable.

''(4) REQUIREMENTS RELATING TO DISCLOSURES.—With respect to each disclosure required to be provided under paragraph (3), and subject to paragraph (5), a remittance transfer provider shall—

''(A) provide an initial notice and receipt, as required by subparagraphs (A) and (B) of paragraph (3), and an error resolution statement, as required by subsection (c), that clearly and conspicuously describe the information required to be disclosed therein; and

''(B) with respect to any transaction that a sender conducts electronically, comply with the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.).

''(5) EXEMPTION AUTHORITY.—The Board may, by rule, permit a remittance transfer provider to satisfy the requirements of—

''(A) paragraph (3)(A) orally, if the transaction is conducted entirely by telephone;

''(B) paragraph (3)(B), by mailing the documents required under such subparagraph to the sender, not later than 1 business day after the date on which the transaction is conducted, if the transaction is conducted entirely by telephone;

''(C) subparagraphs (A) and (B) of paragraph (3) together in one written disclosure, but only to the extent that the information provided in accordance with paragraph (3)(A) is accurate at the time at which payment is made in connection with the subject remittance transfer;

''(D) paragraph (3)(A), if a sender initiates a transaction to one of those countries displayed, in the exact amount of the transfers displayed pursuant to paragraph (2), if the Board finds it to be appropriate; and

''(E) paragraph (3)(A), without compliance with section 101(c) of the Electronic Signatures in Global Commerce Act, if a sender initiates the transaction electronically and the information is displayed electronically in a manner that the sender can keep.

''(b) FOREIGN LANGUAGE DISCLOSURES.—

''(1) IN GENERAL.—The disclosures required under this section shall be made in English and in each of the same foreign languages principally used by the remittance transfer provider, or any of its agents, to advertise, solicit, or market, either orally or in writing, at that office.

''(2) ACCOUNTS.—In the case of a sender who holds a demand deposit, savings deposit, or other asset account with the remittance transfer provider (other than an occasional or incidental credit balance under an open end credit plan, as defined in section 103(i) of the Truth in Lending Act), the disclosures required under this section shall be made in the language or languages principally used by the remittance transfer provider to communicate to the sender with respect to the account.

''(c) REMITTANCE TRANSFER ERRORS.—

''(1) ERROR RESOLUTION.—

''(A) IN GENERAL.—If a remittance transfer provider receives oral or written notice from the sender within 180 days of the promised date of delivery that an error occurred with respect to a remittance transfer, including the amount of currency designated in subsection (a)(3)(A) that was to be sent to the designated recipient of the remittance transfer, using the values of the currency into which the funds should have been exchanged, but was not made available to the designated recipient in the foreign country, the remittance transfer provider shall resolve the error pursuant to this subsection and investigate the reason for the error.

''(B) REMEDIES.—Not later than 90 days after the date of receipt of a notice from the sender pursuant to subparagraph (A), the remittance transfer provider shall, as applicable to the error and as designated by the sender—

''(i) refund to the sender the total amount of funds tendered by the sender in connection with the remittance transfer which was not properly transmitted;

''(ii) make available to the designated recipient, without additional cost to the designated recipient or to the sender, the amount appropriate to resolve the error;

''(iii) provide such other remedy, as determined appropriate by rule of the Board for the protection of senders; or

''(iv) provide written notice to the sender that there was no error with an explanation responding to the specific complaint of the sender.

''(2) RULES.—The Board shall establish, by rule issued not later than 1 calendar year after the date of enactment of the Restoring American Financial Stability Act of 2010, clear and appropriate standards for remittance transfer providers with respect to error resolution relating to remittance transfers, to protect senders from such errors. Standards prescribed under this paragraph shall include appropriate standards regarding record keeping, as required, including documentation—

''(A) of the complaint of the sender;

''(B) that the sender provides the remittance transfer provider with respect to the alleged error; and

''(C) of the findings of the remittance transfer provider regarding the investigation of the alleged error that the sender brought to their attention.

''(d) APPLICABILITY OF THIS TITLE.—

''(1) IN GENERAL.—A remittance transfer that is not an electronic fund transfer, as defined in section 903, shall not be subject to any of the provisions of sections 905 through 913. A remittance transfer that is an electronic fund transfer, as defined in section 903, shall be subject to all provisions of this title, except for section 908, that are otherwise applicable to electronic fund transfers under this title.

''(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed—

''(A) to affect the application to any transaction, to any remittance provider, or to any other person of any of the provisions of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), or chapter 2 of title I of Public Law 91–508 (12 U.S.C. 1951–1959), or any regulations promulgated thereunder; or

''(B) to cause any fund transfer that would not otherwise be treated as such under paragraph (1) to be treated as an electronic fund transfer, or as otherwise subject to this title, for the purposes of any of the provisions referred to in subparagraph (A) or any regulations promulgated thereunder.

''(e) ACTS OF AGENTS.—A remittance transfer provider shall be liable for any violation of this section by any agent, authorized delegate, or person affiliated with such provider, when such agent, authorized delegate, or affiliate acts for that remittance transfer provider.

''(f) DEFINITIONS.—As used in this section—

''(1) the term 'designated recipient' means any person located in a foreign country and identified by the sender as the authorized recipient of a remittance transfer to be made by a remittance transfer provider, except that a designated recipient shall not be deemed to be a consumer for purposes of this Act;

''(2) the term 'remittance transfer' means the electronic (as defined in section 106(2) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7006(2))) transfer of funds requested by a sender located in any State to a designated recipient that is initiated by a remittance transfer provider, whether or not the sender holds an account with the remittance transfer provider or whether or not the remittance transfer is also an electronic fund transfer, as defined in section 903;

''(3) the term 'remittance transfer provider' means any person or financial institution that provides remittance transfers for a consumer in the normal course of its business, whether or not the consumer holds an account with such person or financial institution; and

''(4) the term 'sender' means a consumer who requests a remittance provider to send a remittance transfer for the consumer to a designated recipient.''.

(b) AUTOMATED CLEARINGHOUSE SYSTEM.—

(1) EXPANSION OF SYSTEM.—The Board of Governors shall work with the Federal reserve banks to expand the use of the automated clearinghouse system for remittance transfers to foreign countries, with a focus on countries that receive significant remittance transfers from the United States, based on—

(A) the number, volume, and size of such transfers;

(B) the significance of the volume of such transfers relative to the external financial flows of the receiving country, including—

(i) the total amount transferred; and

(ii) the total volume of payments made by United States Government agencies to beneficiaries and retirees living abroad;

(C) the feasibility of such an expansion; and

(D) the ability of the Federal Reserve System to establish payment gateways in different geographic regions and currency zones to receive remittance transfers and route them through the payments systems in the destination countries.

(2) REPORT TO CONGRESS.—Not later than one calendar year after the date of enactment of this Act, and on April 30 biennially thereafter during the 10-year period beginning on that date of enactment, the Board of Governors shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the status of the automated clearinghouse system and its progress in complying with the requirements of this subsection. The report shall include an analysis of adoption rates of International ACH Transactions rules and formats, the efficacy of increasing adoption rates, and potential recommendations to increase adoption.

(c) EXPANSION OF FINANCIAL INSTITUTION PROVISION OF REMITTANCE TRANSFERS.—

(1) PROVISION OF GUIDELINES TO INSTITUTIONS.—Each of the Federal banking agencies and the National Credit Union Administration shall provide guidelines to financial institutions under the jurisdiction of the agency regarding the offering of low-cost remittance transfers and no-cost or low-cost basic consumer accounts, as well as agency services to remittance transfer providers.

(2) ASSISTANCE TO FINANCIAL LITERACY COMMISSION.—As part of its duties as members of the Financial Literacy and Education Commission, the Bureau, the Federal banking agencies, and the National Credit Union Administration shall assist the Financial Literacy and Education Commission in executing the Strategy for Assuring Financial Empowerment (or the ''SAFE Strategy''), as it relates to remittances.

(d) FEDERAL CREDIT UNION ACT CONFORMING AMENDMENT.—Paragraph (12) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended to read as follows:

''(12) in accordance with regulations prescribed by the Board—

''(A) to sell, to persons in the field of membership, negotiable checks (including travelers checks), money orders, and other similar money transfer instruments (including international and domestic electronic fund transfers);

''(B) to provide remittance transfers, as defined in section 919 of the Electronic Fund Transfer Act, to persons in the field of membership; and

''(C) to cash checks and money orders for persons in the field of membership for a fee;''.

Subtitle H—Conforming Amendments

SEC. 1081. AMENDMENTS TO THE INSPECTOR GENERAL ACT.

Effective on the date of enactment of this Act, the Inspector General Act of 1978 (5 U.S.C. App. 3) is amended—

(1) in section 8G(a)(2), by inserting ''and the Bureau of Consumer Financial Protection'' after ''Board of Governors of the Federal Reserve System'';

(2) in section 8G(c), by adding at the end the following: ''For purposes of implementing this section, the Chairman of the Board of Governors of the Federal Reserve System shall appoint the Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection. The Inspector General of the Board of Governors of the Federal Reserve System and the Bureau of Consumer Financial Protection shall have all of the authorities and responsibilities provided by this Act with respect to the Bureau of Consumer Financial Protection, as if the Bureau were part of the Board of Governors of the Federal Reserve System.''; and

(3) in section 8G(g)(3), by inserting ''and the Bureau of Consumer Financial Protection'' after ''Board of Governors of the Federal Reserve System'' the first place that term appears.

SEC. 1082. AMENDMENTS TO THE PRIVACY ACT OF 1974.

Effective on the date of enactment of this Act, section 552a of title 5, United States Code, is amended by adding at the end the following:

''(w) APPLICABILITY TO BUREAU OF CONSUMER FINANCIAL PROTECTION.—Except as provided in the Consumer Financial Protection Act of 2010, this section shall apply with respect to the Bureau of Consumer Financial Protection.''.

SEC. 1083. AMENDMENTS TO THE ALTERNATIVE MORTGAGE TRANSACTION PARITY ACT OF 1982.

(a) IN GENERAL.—The Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801 et seq.) is amended—

(1) in section 803 (12 U.S.C. 3802(1)), by striking ''1974'' and all that follows through ''described and defined'' and inserting the following: ''1974), in which the interest rate or finance charge may be adjusted or renegotiated, described and defined''; and

(2) in section 804 (12 U.S.C. 3803)—

(A) in subsection (a)—

(i) in each of paragraphs (1), (2), and (3), by inserting after ''transactions made'' each place that term appears ''on or before the designated transfer date, as determined under section 1062 of the Consumer Financial Protection Act of 2010,'';

(ii) in paragraph (2), by striking ''and'' at the end;

(iii) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following new paragraph:

''(4) with respect to transactions made after the designated transfer date, only in accordance with regulations governing alternative mortgage transactions, as issued by the Bureau of Consumer Financial Protection for federally chartered housing creditors, in accordance with the rulemaking authority granted to the Bureau of Consumer Financial Protection with regard to federally chartered housing creditors under provisions of law other than this section.'';

(B) by striking subsection (c) and inserting the following:

''(c) PREEMPTION OF STATE LAW.—An alternative mortgage transaction may be made by a housing creditor in accordance with this section, notwithstanding any State constitution, law, or regulation that prohibits an alternative mortgage transaction. For purposes of this subsection, a State constitution, law, or regulation that prohibits an alternative mortgage transaction does not include any State constitution, law, or regulation that regulates mortgage transactions generally, including any restriction on prepayment penalties or late charges.''; and

(C) by adding at the end the following:

''(d) BUREAU ACTIONS.—The Bureau of Consumer Financial Protection shall—

''(1) review the regulations identified by the Comptroller of the Currency and the National Credit Union Administration, (as those rules exist on the designated transfer date), as applicable under paragraphs (1) through (3) of subsection (a);

''(2) determine whether such regulations are fair and not deceptive and otherwise meet the objectives of the Consumer Financial Protection Act of 2010; and

''(3) promulgate regulations under subsection (a)(4) after the designated transfer date.

''(e) DESIGNATED TRANSFER DATE.—As used in this section, the term 'designated transfer date' means the date determined under section 1062 of the Consumer Financial Protection Act of 2010.''.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on the designated transfer date.

(c) RULE OF CONSTRUCTION.—The amendments made by subsection (a) shall not affect any transaction covered by the Alternative Mortgage Transaction Parity Act of 1982 (12 U.S.C. 3801 et seq.) and entered into on or before the designated transfer date.

SEC. 1084. AMENDMENTS TO THE ELECTRONIC FUND TRANSFER ACT.

The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) by striking ''Board'' each place that term appears and inserting ''Bureau'', except in section 918 (as so designated by the Credit Card Act of 2009) (15 U.S.C. 1693o);

(2) in section 903 (15 U.S.C. 1693a), by striking paragraph (3) and inserting the following:

''(3) the term 'Bureau' means the Bureau of Consumer Financial Protection;'';

(3) in section 916(d) (as so designated by section 401 of the Credit CARD Act of 2009) (15 U.S.C. 1693m)—

(A) by striking ''FEDERAL RESERVE SYSTEM'' and inserting ''BUREAU OF CONSUMER FINANCIAL PROTECTION''; and

(B) by striking ''Federal Reserve System'' and inserting ''Bureau of Consumer Financial Protection''; and

(4) in section 918 (as so designated by the Credit CARD Act of 2009) (15 U.S.C. 1693o)—

(A) in subsection (a)—

(i) by striking ''Compliance'' and inserting ''Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance''; and

(ii) by striking paragraph (2) and inserting the following:

''(2) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;''; and

(B) by striking subsection (c) and inserting the following:

''(c) OVERALL ENFORCEMENT AUTHORITY OF THE FEDERAL TRADE COMMISSION.—Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), and subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person subject to the jurisdiction of the Federal Trade Commission with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.''.

SEC. 1085. AMENDMENTS TO THE EQUAL CREDIT OPPORTUNITY ACT.

The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.) is amended—

(1) by striking ''Board'' each place that term appears and inserting ''Bureau'';

(2) in section 702 (15 U.S.C. 1691a), by striking subsection (c) and inserting the following:

''(c) The term 'Bureau' means the Bureau of Consumer Financial Protection.'';

(3) in section 703 (15 U.S.C. 1691b)—

(A) by striking the section heading and inserting the following:

''SEC. 703. PROMULGATION OF REGULATIONS BY THE BUREAU.'';

(B) by striking ''(a) REGULATIONS.—'';

(C) by striking subsection (b);

(D) by redesignating paragraphs (1) through (5) as subsections (a) through (e), respectively; and

(E) in subsection (c), as so redesignated, by striking ''paragraph (2)'' and inserting ''subsection (b)'';

(4) in section 704 (15 U.S.C. 1691c)—

(A) in subsection (a)—

(i) by striking ''Compliance'' and inserting ''Except as otherwise provided by subtitle B of the Consumer Protection Financial Protection Act of 2010''; and

(ii) by striking paragraph (2) and inserting the following:

''(2) Subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau.'';

(B) by striking subsection (c) and inserting the following:

''(c) OVERALL ENFORCEMENT AUTHORITY OF FEDERAL TRADE COMMISSION.—Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), and subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), a violation of any requirement imposed under this subchapter shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act, including the power to enforce any rule prescribed by the Bureau under this title in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.''; and

(C) in subsection (d), by striking ''Board'' and inserting ''Bureau''; and

(5) in section 706(e) (15 U.S.C. 1691e(e))—

(A) in the subsection heading—

(i) by striking ''BOARD'' each place that term appears and inserting ''BUREAU''; and

(ii) by striking ''FEDERAL RESERVE SYSTEM'' and inserting ''BUREAU OF CONSUMER FINANCIAL PROTECTION''; and

(B) by striking ''Federal Reserve System'' and inserting ''Bureau of Consumer Financial Protection''.

SEC. 1086. AMENDMENTS TO THE EXPEDITED FUNDS AVAILABILITY ACT.

(a) AMENDMENT TO SECTION 603.—Section 603(d)(1) of the Expedited Funds Availability Act (12 U.S.C. 4002) is amended by inserting after ''Board'' the following '', jointly with the Director of the Bureau of Consumer Financial Protection,''.

(b) AMENDMENTS TO SECTION 604.—Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) by inserting after ''Board'' each place that term appears, other than in subsection (f), the following: '', jointly with the Director of the Bureau of Consumer Financial Protection,''; and

(2) in subsection (f), by striking ''Board.'' each place that term appears and inserting the following: ''Board, jointly with the Director of the Bureau of Consumer Financial Protection.''.

(c) AMENDMENTS TO SECTION 605.—Section 605 of the Expedited Funds Availability Act (12 U.S.C. 4004) is amended—

(1) by inserting after ''Board'' each place that term appears, other than in the heading for section 605(f)(1), the following: '', jointly with the Director of the Bureau of Consumer Financial Protection,''; and

(2) in subsection (f)(1), in the paragraph heading, by inserting ''AND BUREAU'' after ''BOARD''.

(d) AMENDMENTS TO SECTION 609.—Section 609 of the Expedited Funds Availability Act (12 U.S.C. 4008) is amended:

(1) in subsection (a), by inserting after ''Board'' the following '', jointly with the Director of the Bureau of Consumer Financial Protection,''; and

(2) by striking subsection (e) and inserting the following:

''(e) CONSULTATIONS.—In prescribing regulations under subsections (a) and (b), the Board and the Director of the Bureau of Consumer Financial Protection, in the case of subsection (a), and the Board, in the case of subsection (b), shall consult with the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the National Credit Union Administration Board.''.

(e) EXPEDITED FUNDS AVAILABILITY IMPROVEMENTS.—Section 603 of the Expedited Funds Availability Act (12 U.S.C. 4002) is amended—

(1) in subsection (a)(2)(D), by striking ''$100'' and inserting ''$200''; and

(2) in subsection (b)(3)(C), in the subparagraph heading, by striking ''$100'' and inserting ''$200''; and

(3) in subsection (c)(1)(B)(iii), in the clause heading, by striking ''$100'' and inserting ''$200''.

(f) REGULAR ADJUSTMENTS FOR INFLATION.—Section 607 of the Expedited Funds Availability Act (12 U.S.C. 4006) is amended by adding at the end the following:

''(f) ADJUSTMENTS TO DOLLAR AMOUNTS FOR INFLATION.—The dollar amounts under this title shall be adjusted every 5 years after December 31, 2011, by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as published by the Bureau of Labor Statistics, rounded to the nearest multiple of $25.''.

SEC. 1087. AMENDMENTS TO THE FAIR CREDIT BILLING ACT.

The Fair Credit Billing Act (15 U.S.C. 1666–1666j) is amended by striking ''Board'' each place that term appears and inserting ''Bureau''.

SEC. 1088. AMENDMENTS TO THE FAIR CREDIT REPORTING ACT AND THE FAIR AND ACCURATE CREDIT TRANSACTIONS ACT.

(a) FAIR CREDIT REPORTING ACT.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

(1) in section 603 (15 U.S.C. 1681a)—

(A) by redesignating subsections (w) and (x) as subsections (x) and (y), respectively; and

(B) by inserting after subsection (v) the following:

''(w) The term 'Bureau' means the Bureau of Consumer Financial Protection.''; and

(2) except as otherwise specifically provided in this subsection—

(A) by striking ''Federal Trade Commission'' each place that term appears and inserting ''Bureau'';

(B) by striking ''FTC'' each place that term appears and inserting ''Bureau'';

(C) by striking ''the Commission'' each place that term appears and inserting ''the Bureau''; and

(D) by striking ''The Federal banking agencies, the National Credit Union Administration, and the Commission shall jointly'' each place that term appears and inserting ''The Bureau shall'';

(3) in section 603(k)(2) (15 U.S.C. 1681a(k)(2)), by striking ''Board of Governors of the Federal Reserve System'' and inserting ''Bureau'';

(4) in section 604(g) (15 U.S.C. 1681b(g))—

(A) in paragraph (3), by striking subparagraph (C) and inserting the following:

''(C) as otherwise determined to be necessary and appropriate, by regulation or order, by the Bureau (consistent with the enforcement authorities prescribed under section 621(b)), or the applicable State insurance authority (with respect to any person engaged in providing insurance or annuities).'';

(B) by striking paragraph (5) and inserting the following:

''(5) REGULATIONS AND EFFECTIVE DATE FOR PARAGRAPH (2).—

''(A) REGULATIONS REQUIRED.—The Bureau may, after notice and opportunity for comment, prescribe regulations that permit transactions under paragraph (2) that are determined to be necessary and appropriate to protect legitimate operational, transactional, risk, consumer, and other needs (and which shall include permitting actions necessary for administrative verification purposes), consistent with the intent of paragraph (2) to restrict the use of medical information for inappropriate purposes.''; and

(C) by striking paragraph (6);

(5) in section 611(e)(2) (15 U.S.C. 1681i(e)), by striking paragraph (2) and inserting the following:

''(2) EXCLUSION.—Complaints received or obtained by the Bureau pursuant to its investigative authority under the Consumer Financial Protection Act of 2010 shall not be subject to paragraph (1).'';

(6) in section 615(h)(6) (15 U.S.C. 1681m(h)(6)), by striking subparagraph (A) and inserting the following:

''(A) RULES REQUIRED.—The Bureau shall prescribe rules to carry out this subsection.'';

(7) in section 621 (15 U.S.C. 1681s)—

(A) by striking subsection (a) and inserting the following:

''(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—

''(1) IN GENERAL.—Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements imposed under this title shall be enforced under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Federal Trade Commission, with respect to consumer reporting agencies and all other persons subject thereto, except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (b). For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed under this title shall constitute an unfair or deceptive act or practice in commerce, in violation of section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)), and shall be subject to enforcement by the Federal Trade Commission under section 5(b) of that Act with respect to any consumer reporting agency or person that is subject to enforcement by the Federal Trade Commission pursuant to this subsection, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act. The Federal Trade Commission shall have such procedural, investigative, and enforcement powers (except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010), including the power to issue procedural rules in enforcing compliance with the requirements imposed under this title and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this title. Any person violating any of the provisions of this title shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act as though the applicable terms and provisions of such Act are part of this title.

''(2) PENALTIES.—

''(A) KNOWING VIOLATIONS.—Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, in the event of a knowing violation, which constitutes a pattern or practice of violations of this title, the Federal Trade Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person that violates this title. In such action, such person shall be liable for a civil penalty of not more than $2,500 per violation.

''(B) DETERMINING PENALTY AMOUNT.—In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of such prior conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

''(C) LIMITATION.—Notwithstanding paragraph (2), a court may not impose any civil penalty on a person for a violation of section 623(a)(1), unless the person has been enjoined from committing the violation, or ordered not to commit the violation, in an action or proceeding brought by or on behalf of the Federal Trade Commission, and has violated the injunction or order, and the court may not impose any civil penalty for any violation occurring before the date of the violation of the injunction or order.'';

(8) by striking subsection (b) and inserting the following:

''(b) ENFORCEMENT BY OTHER AGENCIES.—

''(1) IN GENERAL.—Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements imposed under this title with respect to consumer reporting agencies, persons who use consumer reports from such agencies, persons who furnish information to such agencies, and users of information that are subject to section 615(d) shall be enforced under—

''(A) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

''(i) any national bank, and any Federal branch or Federal agency of a foreign bank, by the Office of the Comptroller of the Currency;

''(ii) any member bank of the Federal Reserve System (other than a national bank), a branch or agency of a foreign bank (other than a Federal branch, Federal agency, or insured State branch of a foreign bank), a commercial lending company owned or controlled by a foreign bank, and any organization operating under section 25 or 25A of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

''(iii) any bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) and any insured State branch of a foreign bank, by the Board of Directors of the Federal Deposit Insurance Corporation;

''(B) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;

''(C) the Federal Credit Union Act (12 U.S.C. 1751 et seq.), by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

''(D) subtitle IV of title 49, United States Code, by the Secretary of Transportation, with respect to all carriers subject to the jurisdiction of the Surface Transportation Board;

''(E) the Federal Aviation Act of 1958 (49 U.S.C. App. 1301 et seq.), by the Secretary of Transportation, with respect to any air carrier or foreign air carrier subject to that Act;

''(F) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et seq.) (except as provided in section 406 of that Act), by the Secretary of Agriculture, with respect to any activities subject to that Act;

''(G) the Commodity Exchange Act, with respect to a person subject to the jurisdiction of the Commodity Futures Trading Commission; and

''(H) the Federal securities laws, and any other laws that are subject to the jurisdiction of the Securities and Exchange Commission, with respect to a person that is subject to the jurisdiction of the Securities and Exchange Commission.

''(2) INCORPORATED DEFINITIONS.—The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) have the same meanings as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).'';

(9) by striking subsection (e) and inserting the following:

''(e) REGULATORY AUTHORITY.—The Bureau shall prescribe such regulations as are necessary to carry out the purposes of this Act. The regulations prescribed by the Bureau under this subsection shall apply to any person that is subject to this Act, notwithstanding the enforcement authorities granted to other agencies under this section.'';

and

(10) in section 623 (15 U.S.C. 1681s–2)—

(A) in subsection (a)(7), by striking subparagraph (D) and inserting the following:

''(D) MODEL DISCLOSURE.—

''(i) DUTY OF BUREAU.—The Bureau shall prescribe a brief model disclosure that a financial institution may use to comply with subparagraph (A), which shall not exceed 30 words.

''(ii) USE OF MODEL NOT REQUIRED.—No provision of this paragraph may be construed to require a financial institution to use any such model form prescribed by the Bureau.

''(iii) COMPLIANCE USING MODEL.—A financial institution shall be deemed to be in compliance with subparagraph (A) if the financial institution uses any model form prescribed by the Bureau under this subparagraph, or the financial institution uses any such model form and rearranges its format.'';

and

(B) by striking subsection (e) and inserting the following:

''(e) ACCURACY GUIDELINES AND REGULATIONS REQUIRED.—

''(1) GUIDELINES.—The Bureau shall, with respect to persons or entities that are subject to the enforcement authority of the Bureau under section 621—

''(A) establish and maintain guidelines for use by each person that furnishes information to a consumer reporting agency regarding the accuracy and integrity of the information relating to consumers that such entities furnish to consumer reporting agencies, and update such guidelines as often as necessary; and

''(B) prescribe regulations requiring each person that furnishes information to a consumer reporting agency to establish reasonable policies and procedures for implementing the guidelines established pursuant to subparagraph (A).

''(2) CRITERIA.—In developing the guidelines required by paragraph (1)(A), the Bureau shall—

''(A) identify patterns, practices, and specific forms of activity that can compromise the accuracy and integrity of information furnished to consumer reporting agencies;

''(B) review the methods (including technological means) used to furnish information relating to consumers to consumer reporting agencies;

''(C) determine whether persons that furnish information to consumer reporting agencies maintain and enforce policies to ensure the accuracy and integrity of information furnished to consumer reporting agencies; and

''(D) examine the policies and processes that persons that furnish information to consumer reporting agencies employ to conduct reinvestigations and correct inaccurate information relating to consumers that has been furnished to consumer reporting agencies.''.

(b) FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003.—Section 214(b)(1) of the Fair and Accurate Credit Transactions Act of 2003 (15 U.S.C. 1681s–3 note) is amended by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—Regulations to carry out section 624 of the Fair Credit Reporting Act (15 U.S.C. 1681s–3), shall be prescribed, as described in paragraph (2), by—

''(A) the Commodity Futures Trading Commission, with respect to entities subject to its enforcement authorities;

''(B) the Securities and Exchange Commission, with respect to entities subject to its enforcement authorities; and

''(C) the Bureau, with respect to other entities subject to this Act.''.

SEC. 1089. AMENDMENTS TO THE FAIR DEBT COLLECTION PRACTICES ACT.

The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended—

(1) by striking ''Commission'' each place that term appears and inserting ''Bureau'';

(2) in section 803 (15 U.S.C. 1692a)—

(A) by striking paragraph (1) and inserting the following:

''(1) The term 'Bureau' means the Bureau of Consumer Financial Protection.'';

(3) in section 814 (15 U.S.C. 16921)—

(A) by striking subsection (a) and inserting the following:

''(a) FEDERAL TRADE COMMISSION.—Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance with this title shall be enforced by the Federal Trade Commission, except to the extent that enforcement of the requirements imposed under this title is specifically committed to another Government agency under subsection (b). For purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), a violation of this title shall be deemed an unfair or deceptive act or practice in violation of that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act, including the power to enforce the provisions of this title, in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.''; and

(B) in subsection (b)—

(i) by striking ''Compliance'' and inserting ''Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance''; and

(ii) by striking paragraph (2) and inserting the following:

''(2) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;''; and

(4) in subsection (d), by striking ''Neither the Commission'' and all that follows through the end of the subsection and inserting the following: ''The Bureau may prescribe rules with respect to the collection of debts by debt collectors, as defined in this Act.''.

SEC. 1090. AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 8(t) (12 U.S.C. 1818(t)), by adding at the end the following:

''(6) REFERRAL TO BUREAU OF CONSUMER FINANCIAL PROTECTION.—Subject to subtitle B of the Consumer Financial Protection Act of 2010, each appropriate Federal banking agency shall make a referral to the Bureau of Consumer Financial Protection when the Federal banking agency has a reasonable belief that a violation of an enumerated consumer law, as defined in the Consumer Financial Protection Act of 2010, has been committed by any insured depository institution or institution-affiliated party within the jurisdiction of that appropriate Federal banking agency.''; and

(2) in section 43 (12 U.S.C. 1831t)—

(A) in subsection (c), by striking ''Federal Trade Commission'' and inserting ''Bureau'';

(B) in subsection (d), by striking ''Federal Trade Commission'' and inserting ''Bureau'';

(C) in subsection (e)—

(i) in paragraph (2), by striking ''Federal Trade Commission'' and inserting ''Bureau''; and

(ii) by adding at the end the following new paragraph:

''(5) BUREAU.—The term 'Bureau' means the Bureau of Consumer Financial Protection.''; and

(D) in subsection (f)—

(i) by striking paragraph (1) and inserting the following:

''(1) LIMITED ENFORCEMENT AUTHORITY.—Compliance with the requirements of subsections (b), (c), and (e), and any regulation prescribed or order issued under such subsection, shall be enforced under the Consumer Financial Protection Act of 2010, by the Bureau, subject to subtitle B of the Consumer Financial Protection Act of 2010, and under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) by the Federal Trade Commission.''; and

(ii) in paragraph (2), by striking subparagraph (C) and inserting the following:

''(C) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Bureau or Federal Trade Commission has instituted an enforcement action for a violation of this section, no appropriate State supervisory agency may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Bureau or Federal Trade Commission for any violation of this section that is alleged in that complaint.''.

SEC. 1091. AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT.

Title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 et seq.) is amended—

(1) in section 504(a)(1) (15 U.S.C. 6804(a)(1))—

(A) by striking ''The Federal banking agencies, the National Credit Union Administration, the Secretary of the Treasury,'' and inserting ''The Bureau of Consumer Financial Protection and''; and

(B) by striking '', and the Federal Trade Commission'';

(2) in section 505(a) (15 U.S.C. 6805(a))—

(A) by striking ''This subtitle'' and all that follows through ''as follows:'' and inserting ''Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, this subtitle and the regulations prescribed thereunder shall be enforced by the Bureau of Consumer Financial Protection, the Federal functional regulators, the State insurance authorities, and the Federal Trade Commission with respect to financial institutions and other persons subject to their jurisdiction under applicable law, as follows:'';

(B) in paragraph (1)—

(i) in subparagraph (B), by inserting ''and'' after the semicolon;

(ii) in subparagraph (C), by striking ''; and'' and inserting a period; and

(iii) by striking subparagraph (D); and

(C) by adding at the end the following:

''(8) Under the Consumer Financial Protection Act of 2010, by the Bureau of Consumer Financial Protection, in the case of any financial institution and other covered person or service provider that is subject to the jurisdiction of the Bureau under that Act, but not with respect to the standards under section 501.''; and

(3) in section 505(b)(1) (15 U.S.C. 6805(b)(1)), by inserting '', other than the Bureau of Consumer Financial Protection,'' after ''subsection (a)''.

SEC. 1092. AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT.

The Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2801 et seq.) is amended—

(1) except as otherwise specifically provided in this section, by striking ''Board'' each place that term appears and inserting ''Bureau'';

(2) in section 303 (12 U.S.C. 2802)—

(A) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and

(B) by inserting before paragraph (2) the following:

''(1) the term 'Bureau' means the Bureau of Consumer Financial Protection;'';

(3) in section 304 (12 U.S.C. 2803)—

(A) in subsection (b)—

(i) in paragraph (4), by inserting ''age,'' before ''and gender'';

(ii) in paragraph (3), by striking ''and'' at the end;

(iii) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(iv) by adding at the end the following:

''(5) the number and dollar amount of mortgage loans grouped according to measurements of—

''(A) the total points and fees payable at origination in connection with the mortgage as determined by the Bureau, taking into account 15 U.S.C. 1602(aa)(4);

''(B) the difference between the annual percentage rate associated with the loan and a benchmark rate or rates for all loans;

''(C) the term in months of any prepayment penalty or other fee or charge payable on repayment of some portion of principal or the entire principal in advance of scheduled payments; and

''(D) such other information as the Bureau may require; and

''(6) the number and dollar amount of mortgage loans and completed applications grouped according to measurements of—

''(A) the value of the real property pledged or proposed to be pledged as collateral;

''(B) the actual or proposed term in months of any introductory period after which the rate of interest may change;

''(C) the presence of contractual terms or proposed contractual terms that would allow the mortgagor or applicant to make payments other than fully amortizing payments during any portion of the loan term;

''(D) the actual or proposed term in months of the mortgage loan;

''(E) the channel through which application was made, including retail, broker, and other relevant categories;

''(F) as the Bureau may determine to be appropriate, a unique identifier that identifies the loan originator as set forth in section 1503 of the S.A.F.E. Mortgage Licensing Act of 2008;

''(G) as the Bureau may determine to be appropriate, a universal loan identifier;

''(H) as the Bureau may determine to be appropriate, the parcel number that corresponds to the real property pledged or proposed to be pledged as collateral;

''(I) the credit score of mortgage applicants and mortgagors, in such form as the Bureau may prescribe, except that the Bureau shall modify or require modification of credit score data that is or will be available to the public to protect the compelling privacy interest of the mortgage applicant or mortgagors; and

''(J) such other information as the Bureau may require.'';

(B) in subsection (i), by striking ''subsection (b)(4)'' and inserting ''subsections (b)(4), (b)(5), and (b)(6)'';

(C) in subsection (j)—

(i) in paragraph (1), by striking ''(as'' and inserting ''(containing loan-level and application-level information relating to disclosures required under subsections (a) and (b) and as otherwise'';

(ii) by striking paragraph (3) and inserting the following:

''(3) CHANGE OF FORM NOT REQUIRED.—A depository institution meets the disclosure requirement of paragraph (1) if the institution provides the information required under such paragraph in such formats as the Bureau may require''; and

(iii) in paragraph (2)(A), by striking ''in the format in which such information is maintained by the institution'' and inserting ''in such formats as the Bureau may require'';

(D) in subsection (m), by striking paragraph (2) and inserting the following:

''(2) FORM OF INFORMATION.—In complying with paragraph (1), a depository institution shall provide the person requesting the information with a copy of the information requested in such formats as the Bureau may require'';

(E) by striking subsection (h) and inserting the following:

''(h) SUBMISSION TO AGENCIES.—

''(1) IN GENERAL.—The data required to be disclosed under subsection (b) shall be submitted to the Bureau or to the appropriate agency for the institution reporting under this title, in accordance with rules prescribed by the Bureau. Notwithstanding the requirement of subsection (a)(2)(A) for disclosure by census tract, the Bureau, in cooperation with other appropriate regulators described in paragraph (2), shall develop regulations that—

''(A) prescribe the format for such disclosures, the method for submission of the data to the appropriate regulatory agency, and the procedures for disclosing the information to the public;

''(B) require the collection of data required to be disclosed under subsection (b) with respect to loans sold by each institution reporting under this title;

''(C) require disclosure of the class of the purchaser of such loans; and

''(D) permit any reporting institution to submit in writing to the Bureau or to the appropriate agency such additional data or explanations as it deems relevant to the decision to originate or purchase mortgage loans.

''(2) OTHER APPROPRIATE AGENCIES.—The appropriate regulators described in this paragraph are—

''(A) the Office of the Comptroller of the Currency (hereafter referred to in this Act as 'Comptroller') for national banks and Federal branches, Federal agencies of foreign banks, and savings associations;

''(B) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, insured State branches of foreign banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;

''(C) the National Credit Union Administration Board for credit unions; and

''(D) the Secretary of Housing and Urban Development for other lending institutions not regulated by the agencies referred to in subparagraphs (A) through (C).''; and

(F) by adding at the end the following:

''(n) TIMING OF CERTAIN DISCLOSURES.—The data required to be disclosed under subsection (b) shall be submitted to the Bureau or to the appropriate agency for any institution reporting under this title, in accordance with regulations prescribed by the Bureau. Institutions shall not be required to report new data under paragraph (5) or (6) of subsection (b) before the first January 1 that occurs after the end of the 9-month period beginning on the date on which regulations are issued by the Bureau in final form with respect to such disclosures.'';

(4) in section 305 (12 U.S.C. 2804)—

(A) by striking subsection (b) and inserting the following:

''(b) POWERS OF CERTAIN OTHER AGENCIES.—

''(1) IN GENERAL.—Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements of this title shall be enforced—

''(A) under section 8 of the Federal Deposit Insurance Act, in the case of—

''(i) any national bank, and any Federal branch or Federal agency of a foreign bank, by the Office of the Comptroller of the Currency;

''(ii) any member bank of the Federal Reserve System (other than a national bank), branch or agency of a foreign bank (other than a Federal branch, Federal agency, and insured State branch of a foreign bank), commercial lending company owned or controlled by a foreign bank, and any organization operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

''(iii) any bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), any mutual savings bank as, defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), any insured State branch of a foreign bank, and any other depository institution not referred to in this paragraph or subparagraph (B) or (C), by the Federal Deposit Insurance Corporation;

''(B) under subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;

''(C) under the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any insured credit union; and

''(D) with respect to other lending institutions, by the Secretary of Housing and Urban Development.

''(2) INCORPORATED DEFINITIONS.—The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the same meanings as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).''; and

(B) by adding at the end the following:

''(d) OVERALL ENFORCEMENT AUTHORITY OF THE BUREAU OF CONSUMER FINANCIAL PROTECTION.—Subject to subtitle B of the Consumer Financial Protection Act of 2010, enforcement of the requirements imposed under this title is committed to each of the agencies under subsection (b). The Bureau may exercise its authorities under the Consumer Financial Protection Act of 2010 to exercise principal authority to examine and enforce compliance by any person with the requirements of this title.'';

(5) in section 306 (12 U.S.C. 2805(b)), by striking subsection (b) and inserting the following:

''(b) EXEMPTION AUTHORITY.—The Bureau may, by regulation, exempt from the requirements of this title any State-chartered depository institution within any State or subdivision thereof, if the agency determines that, under the law of such State or subdivision, that institution is subject to requirements that are substantially similar to those imposed under this title, and that such law contains adequate provisions for enforcement. Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced by the Office of the Comptroller of the Currency under section 8 of the Federal Deposit Insurance Act, in the case of national banks and savings associations, the deposits of which are insured by the Federal Deposit Insurance Corporation.''; and

(6) by striking section 307 (12 U.S.C. 2806) and inserting the following:

''SEC. 307. COMPLIANCE IMPROVEMENT METHODS.

''(a) IN GENERAL.—

''(1) CONSULTATION REQUIRED.—The Director of the Bureau of Consumer Financial Protection, with the assistance of the Secretary, the Director of the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other persons as the Bureau deems appropriate, shall develop or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this title.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, such sums as may be necessary to carry out this subsection.

''(3) CONTRACTING AUTHORITY.—The Director of the Bureau of Consumer Financial Protection is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

''(b) RECOMMENDATIONS TO CONGRESS.—The Director of the Bureau of Consumer Financial Protection shall recommend to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, such additional legislation as the Director of the Bureau of Consumer Financial Protection deems appropriate to carry out the purpose of this title.''.

SEC. 1093. AMENDMENTS TO THE HOMEOWNERS PROTECTION ACT OF 1998.

Section 10 of the Homeowners Protection Act of 1998 (12 U.S.C. 4909) is amended—

(1) in subsection (a)—

(A) by striking ''Compliance'' and inserting ''Except as otherwise provided by subtitle B of the Consumer Financial Protection Act of 2010, compliance'';

(B) in paragraph (2), by striking ''and'' at the end;

(C) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(4) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau of Consumer Financial Protection.''; and

(2) in subsection (b)(2), by inserting before the period at the end the following: '', subject to subtitle B of the Consumer Financial Protection Act of 2010''.

SEC. 1094. AMENDMENTS TO THE HOME OWNERSHIP AND EQUITY PROTECTION ACT OF 1994.

The Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1601 note) is amended—

(1) in section 158(a), by striking ''Consumer Advisory Council of the Board'' and inserting ''Advisory Board to the Bureau''; and

(2) by striking ''Board'' each place that term appears and inserting ''Bureau''.

SEC. 1095. AMENDMENTS TO THE OMNIBUS APPROPRIATIONS ACT, 2009.

Section 626 of the Omnibus Appropriations Act, 2009 (15 U.S.C. 1638 note) is amended—

(1) by striking subsection (a) and inserting the following:

''(a)(1) The Bureau of Consumer Financial Protection shall have authority to prescribe rules with respect to mortgage loans in accordance with section 553 of title 5, United States Code. Such rulemaking shall relate to unfair or deceptive acts or practices regarding mortgage loans, which may include unfair or deceptive acts or practices involving loan modification and foreclosure rescue services. Any violation of a rule prescribed under this paragraph shall be treated as a violation of a rule prohibiting unfair, deceptive, or abusive acts or practices under the Consumer Financial Protection Act of 2010 and a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.

''(2) The Bureau of Consumer Financial Protection shall enforce the rules issued under paragraph (1) in the same manner, by the same means, and with the same jurisdiction, powers, and duties, as though all applicable terms and provisions of the Consumer Financial Protection Act of 2010 were incorporated into and made part of this subsection.''; and

(2) in subsection (b)—

(A) by striking paragraph (1) and inserting the following:

''(1) Except as provided in paragraph (6), in any case in which the attorney general of a State has reason to believe that an interest of the residents of the State has been or is threatened or adversely affected by the engagement of any person subject to a rule prescribed under subsection (a) in practices that violate such rule, the State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States or other court of competent jurisdiction—

''(A) to enjoin that practice;

''(B) to enforce compliance with the rule;

''(C) to obtain damages, restitution, or other compensation on behalf of the residents of the State; or

''(D) to obtain penalties and relief provided under the Consumer Financial Protection Act of 2010, the Federal Trade Commission Act, and such other relief as the court deems appropriate.'';

(B) in paragraphs (2) and (3), by striking ''the primary Federal regulator'' each time the term appears and inserting ''the Bureau of Consumer Financial Protection or the Commission, as appropriate'';

(C) in paragraph (3), by inserting ''and subject to subtitle B of the Consumer Financial Protection Act of 2010,'' after ''paragraph (2),''; and

(D) in paragraph (6), by striking ''the primary Federal regulator'' each place that term appears and inserting ''the Bureau of Consumer Financial Protection or the Commission''.

SEC. 1096. AMENDMENTS TO THE REAL ESTATE SETTLEMENT PROCEDURES ACT.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended—

(1) in section 3 (12 U.S.C. 2602)—

(A) in paragraph (7), by striking ''and'' at the end;

(B) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(9) the term 'Bureau' means the Bureau of Consumer Financial Protection.'';

(2) in section 4 (12 U.S.C. 2603)—

(A) in subsection (a), by striking the first sentence and inserting the following: ''The Bureau shall publish a single, integrated disclosure for mortgage loan transactions (including real estate settlement cost statements) which includes the disclosure requirements of this title, in conjunction with the disclosure requirements of the Truth in Lending Act that, taken together, may apply to a transaction that is subject to both or either provisions of law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of this title and the Truth in Lending Act, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures.'';

(B) by striking ''Secretary'' each place that term appears and inserting ''Bureau''; and

(C) by striking ''form'' each place that term appears and inserting ''forms'';

(3) in section 5 (12 U.S.C. 2604)—

(A) by striking ''Secretary'' each place that term appears and inserting ''Bureau''; and

(B) in subsection (a), by striking the first sentence and inserting the following: ''The Bureau shall prepare and distribute booklets jointly addressing compliance with the requirements of the Truth in Lending Act and the provisions of this title, in order to help persons borrowing money to finance the purchase of residential real estate better to understand the nature and costs of real estate settlement services.'';

(4) in section 6(j)(3) (12 U.S.C. 2605(j)(3))—

(A) by striking ''Secretary'' and inserting ''Bureau''; and

(B) by striking '', by regulations that shall take effect not later than April 20, 1991,'';

(5) in section 7(b) (12 U.S.C. 2606(b)) by striking ''Secretary'' and inserting ''Bureau'';

(6) in section 8(d) (12 U.S.C. 2607(d))—

(A) in the subsection heading, by inserting ''BUREAU AND'' before ''SECRETARY''; and

(B) by striking paragraph (4), and inserting the following:

''(4) The Bureau, the Secretary, or the attorney general or the insurance commissioner of any State may bring an action to enjoin violations of this section. Except, to the extent that a person is subject to the jurisdiction of the Bureau, the Secretary, or the attorney general or the insurance commissioner of any State, the Bureau shall have primary authority to enforce or administer this section, subject to subtitle B of the Consumer Financial Protection Act of 2010.''.

(7) in section 10(c) (12 U.S.C. 2609(c) and (d)), by striking ''Secretary'' and inserting ''Bureau'';

(8) in section 16 (12 U.S.C. 2614), by inserting ''the Bureau,'' before ''the Secretary'';

(9) in section 18 (12 U.S.C. 2616), by striking ''Secretary'' each place that term appears and inserting ''Bureau''; and

(10) in section 19 (12 U.S.C. 2617)—

(A) in the section heading by striking ''**SECRETARY**'' and inserting ''**BUREAU**'';

(B) by striking ''Secretary'' each place that term appears and inserting ''Bureau'';

(C) in subsection (b), by inserting ''the Bureau'' before ''the Secretary''; and

(D) in subsection (c), by inserting ''or the Bureau'' after ''the Secretary'' each time that term appears.

SEC. 1097. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) is amended—

(1) in section 1101—

(A) in paragraph (6)—

(i) in subparagraph (A), by inserting ''and'' after the semicolon;

(ii) in subparagraph (B), by striking ''and'' at the end; and

(iii) by striking subparagraph (C); and

(B) in paragraph (7), by striking subparagraph (E), and inserting the following:

''(E) the Bureau of Consumer Financial Protection;'';

(2) in section 1112(e) (12 U.S.C. 3412(e)), by striking ''and the Commodity Futures Trading Commission is permitted'' and inserting ''the Commodity Futures Trading Commission, and the Bureau of Consumer Financial Protection is permitted''; and

(3) in section 1113 (12 U.S.C. 3413), by adding at the end the following new subsection:

''(r) DISCLOSURE TO THE BUREAU OF CONSUMER FINANCIAL PROTECTION.—Nothing in this title shall apply to the examination by or disclosure to the Bureau of Consumer Financial Protection of financial records or information in the exercise of its authority with respect to a financial institution.''.

SEC. 1098. AMENDMENTS TO THE SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2008.

The S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) is amended—

(1) by striking ''a Federal banking agency'' each place that term appears, other than in paragraphs (7) and (11) of section 1503 and section 1507(a)(1), and inserting ''the Bureau'';

(2) by striking ''Federal banking agencies'' each place that term appears and inserting ''Bureau''; and

(3) by striking ''Secretary'' each place that term appears and inserting ''Director'';

(4) in section 1503 (12 U.S.C. 5102)—

(A) by redesignating paragraphs (2) through (12) as (3) through (13), respectively;

(B) by striking paragraph (1) and inserting the following:

''(1) BUREAU.—The term 'Bureau' means the Bureau of Consumer Financial Protection.

''(2) FEDERAL BANKING AGENCY.—The term 'Federal banking agency' means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.''; and

(C) by striking paragraph (10), as so designated by this section, and inserting the following:

''(10) DIRECTOR.—The term 'Director' means the Director of the Bureau of Consumer Financial Protection.''; and

(5) in section 1507 (12 U.S.C. 5106)—

(A) in subsection (a)—

(i) by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—The Bureau shall develop and maintain a system for registering employees of a depository institution, employees of a subsidiary that is owned and controlled by a depository institution and regulated by a Federal banking agency, or employees of an institution regulated by the Farm Credit Administration, as registered

loan originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before the end of the 1-year period beginning on the date of enactment of the Consumer Financial Protection Act of 2010.''; and

(ii) in paragraph (2)—

(I) by striking ''appropriate Federal banking agency and the Farm Credit Administration'' and inserting ''Bureau''; and

(II) by striking ''employees's identity'' and inserting ''identity of the employee''; and

(B) in subsection (b), by striking ''through the Financial Institutions Examination Council, and the Farm Credit Administration'', and inserting ''and the Bureau of Consumer Financial Protection'';

(6) in section 1508 (12 U.S.C. 5107)—

(A) by striking the section heading and inserting the following: ''**SEC. 1508. BUREAU OF CONSUMER FINANCIAL PROTECTION BACKUP AUTHORITY TO ESTABLISH LOAN ORIGINATOR LICENSING SYSTEM.**''; and

(B) by adding at the end the following:

''(f) REGULATION AUTHORITY.—

''(1) IN GENERAL.—The Bureau is authorized to promulgate regulations setting minimum net worth or surety bond requirements for residential mortgage loan originators and minimum requirements for recovery funds paid into by loan originators.

''(2) CONSIDERATIONS.—In issuing regulations under paragraph (1), the Bureau shall take into account the need to provide originators adequate incentives to originate affordable and sustainable mortgage loans, as well as the need to ensure a competitive origination market that maximizes consumer access to affordable and sustainable mortgage loans.'';

(7) by striking section 1510 (12 U.S.C. 5109) and inserting the following:

''SEC. 1510. FEES.

''The Bureau, the Farm Credit Administration, and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry, to the extent that such fees are not charged to consumers for access to such system and registry.'';

(8) by striking section 1513 (12 U.S.C. 5112) and inserting the following:

''SEC. 1513. LIABILITY PROVISIONS.

''The Bureau, any State official or agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the Director under section 1509, or any officer or employee of any such entity, shall not be subject to any civil action or proceeding for monetary damages by reason of the good faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing, or dissemination of information concerning persons who are loan originators or are applying for licensing or registration as loan originators.''; and

(9) in section 1514 (12 U.S.C. 5113) in the section heading, by striking ''**UNDER HUD BACKUP LICENSING SYSTEM**'' and inserting ''**BY THE BUREAU**''.

SEC. 1099. AMENDMENTS TO THE TRUTH IN LENDING ACT.

The Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 103 (5 U.S.C. 1602)—

(A) by redesignating subsections (b) through (bb) as subsections (c) through (cc), respectively; and

(B) by inserting after subsection (a) the following:

''(b) BUREAU.—The term 'Bureau' means the Bureau of Consumer Financial Protection.'';

(2) by striking ''Board'' each place that term appears, other than in section 140(d) and section 108(a), as amended by this section, and inserting ''Bureau'';

(3) by striking ''Federal Trade Commission'' each place that term appears, other than in section 108(c) and section 129(m), as amended by this Act, and other than in the context of a reference to the Federal Trade Commission Act, and inserting ''Bureau'';

(4) in section 105(a) (15 U.S.C. 1604(a)), in the second sentence—

(A) by striking ''Except in the case of a mortgage referred to in section 103(aa), these regulations may contain such'' and inserting ''Except with respect to the provisions of section 129 that apply to a mortgage referred to in section 103(aa), such regulations may contain such additional requirements,''; and

(B) by inserting ''all or'' after ''exceptions for'';

(5) in section 105(b) (15 U.S.C. 1604(b)), by striking the first sentence and inserting the following: ''The Bureau shall publish a single, integrated disclosure for mortgage loan transactions (including real estate settlement cost statements) which includes the disclosure requirements of this title in conjunction with the disclosure requirements of the Real Estate Settlement Procedures Act of 1974 that, taken together, may apply to a transaction that is subject to both or either provisions of law. The purpose of such model disclosure shall be to facilitate compliance with the disclosure requirements of this title and the Real Estate Settlement Procedures Act of 1974, and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures.'';

(6) in section 105(f)(1) (15 U.S.C. 1604(f)(1)), by inserting ''all or'' after ''from all or part of this title'';

(7) in section 108 (15 U.S.C. 1607)—

(A) by striking subsection (a) and inserting the following:

''(a) ENFORCING AGENCIES.—Except as otherwise provided in subtitle B of the Consumer Financial Protection Act of 2010, compliance with the requirements imposed under this title shall be enforced under—

''(1) section 8 of the Federal Deposit Insurance Act, in the case of—

''(A) any national bank, and Federal branch or Federal agency of a foreign bank, by the Office of the Comptroller of the Currency;

''(B) any member bank of the Federal Reserve System (other than a national bank), any branch or agency of a foreign bank (other than a Federal branch, Federal agency, or insured State branch of a foreign bank), any commercial lending company owned or controlled by a foreign bank, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

''(C) any bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System) and an insured State branch of a foreign bank, by the Board of Directors of the Federal Deposit Insurance Corporation;

''(2) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau;

''(3) the Federal Credit Union Act, by the Director of the National Credit Union Administration, with respect to any Federal credit union;

''(4) the Federal Aviation Act of 1958, by the Secretary of Transportation, with respect to any air carrier or foreign air carrier subject to that Act;

''(5) the Packers and Stockyards Act, 1921 (except as provided in section 406 of that Act), by the Secretary of Agriculture, with respect to any activities subject to that Act; and

''(6) the Farm Credit Act of 1971, by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.''; and

(B) by striking subsection (c) and inserting the following:

''(c) OVERALL ENFORCEMENT AUTHORITY OF THE FEDERAL TRADE COMMISSION.—Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), and subject to subtitle B of the Consumer Financial Protection Act of 2010, the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance by any person with the requirements under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.'';

(8) in section 129 (15 U.S.C. 1639), by striking subsection (m) and inserting the following:

''(m) CIVIL PENALTIES IN FEDERAL TRADE COMMISSION ENFORCEMENT ACTIONS.—For purposes of enforcement by the Federal Trade Commission, any violation of a regulation issued by the Bureau pursuant to subsection (l)(2) shall be treated as a violation of a rule promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) regarding unfair or deceptive acts or practices.''; and

(9) in chapter 5 (15 U.S.C. 1667 et seq.)—

(A) by striking ''the Board'' each place that term appears and inserting ''the Bureau''; and

(B) by striking ''The Board'' each place that term appears and inserting ''The Bureau''.

SEC. 1100. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.

The Truth in Savings Act (12 U.S.C. 4301 et seq.) is amended—

(1) by striking ''Board'' each place that term appears and inserting ''Bureau'';

(2) in section 270(a) (12 U.S.C. 4309)—

(A) by striking ''Compliance'' and inserting ''Except as otherwise provided in subtitle B of the Consumer Financial Protection Act of 2010, compliance'';

(B) in paragraph (1)—

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

(ii) by striking subparagraph (C);

(C) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(3) subtitle E of the Consumer Financial Protection Act of 2010, by the Bureau.'';

(3) in section 272(b) (12 U.S.C. 4311(b)), by striking ''regulation prescribed by the Board'' each place that term appears and inserting ''regulation prescribed by the Bureau''; and

(4) in section 274 (12 U.S.C. 4313), by striking paragraph (4) and inserting the following:

''(4) BUREAU.—The term 'Bureau' means the Bureau of Consumer Financial Protection.''.

SEC. 1101. AMENDMENTS TO THE TELEMARKETING AND CONSUMER FRAUD AND ABUSE PREVENTION ACT.

(a) AMENDMENTS TO SECTION 3.—Section 3 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6102) is amended by striking subsections (b) and (c) and inserting the following:

''(b) RULEMAKING AUTHORITY.—The Commission shall have authority to prescribe rules under subsection (a), in accordance with section 553 of title 5, United States Code. In prescribing a rule under this section that relates to the provision of a consumer financial product or service that is subject to the Consumer Financial Protection Act of 2010, including any enumerated consumer law thereunder, the Commission shall consult with the Bureau of Consumer Financial Protection regarding the consistency of a proposed rule with standards, purposes, or objectives administered by the Bureau of Consumer Financial Protection.

''(c) VIOLATIONS.—Any violation of any rule prescribed under subsection (a)—

''(1) shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act regarding unfair or deceptive acts or practices; and

''(2) that is committed by a person subject to the Consumer Financial Protection Act of 2010 shall be treated as a violation of a rule under section 1031 of that Act regarding unfair, deceptive, or abusive acts or practices.''.

(b) AMENDMENTS TO SECTION 4.—Section 4(d) of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6103(d)) is amended by inserting after ''Commission'' each place that term appears the following: ''or the Bureau of Consumer Financial Protection''.

(c) AMENDMENTS TO SECTION 5.—Section 5(c) of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6104(c)) is amended by inserting after ''Commission'' each place that term appears the following: ''or the Bureau of Consumer Financial Protection''.

(d) AMENDMENT TO SECTION 6.—Section 6 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6105) is amended by adding at the end the following:

''(d) ENFORCEMENT BY BUREAU OF CONSUMER FINANCIAL PROTECTION.—Except as otherwise provided in sections 3(d), 3(e), 4, and 5, and subject to subtitle B of the Consumer Financial Protection Act of 2010, this Act shall be enforced by the Bureau of Consumer Financial Protection under subtitle E of the Consumer Financial Protection Act of 2010.''.

SEC. 1102. AMENDMENTS TO THE PAPERWORK REDUCTION ACT.

(a) DESIGNATION AS AN INDEPENDENT AGENCY.—Section 2(5) of the Paperwork Reduction Act (44 U.S.C. 3502(5)) is amended by inserting ''the Bureau of Consumer Financial Protection, the Office of Financial Research,'' after ''the Securities and Exchange Commission,''.

(b) COMPARABLE TREATMENT.—Section 3513 of title 44, United States Code, is amended by adding at the end the following:

''(c) COMPARABLE TREATMENT.—Notwithstanding any other provision of law, the Director shall treat or review a rule or order prescribed or proposed by the Director of the Bureau of Consumer Financial Protection on the same terms and conditions as apply to any rule or order prescribed or proposed by the Board of Governors of the Federal Reserve System.''.

SEC. 1103. ADJUSTMENTS FOR INFLATION IN THE TRUTH IN LENDING ACT.

(a) CAPS.—

(1) CREDIT TRANSACTIONS.—Section 104(3) of the Truth in Lending Act (15 U.S.C. 1603(3)) is amended by striking ''$25,000'' and inserting ''$50,000''.

(2) CONSUMER LEASES.—Section 181(1) of the Truth in Lending Act (15 U.S.C. 1667(1)) is amended by striking ''$25,000'' and inserting ''$50,000''.

(b) ADJUSTMENTS FOR INFLATION.—On and after December 31, 2011, the Bureau may adjust annually the dollar amounts described in sections 104(3) and 181(1) of the Truth in Lending Act (as amended by this section), by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as published by the Bureau of Labor Statistics, rounded to the nearest multiple of $100, or $1,000, as applicable.

SEC. 1104. EFFECTIVE DATE.

Except as otherwise provided in this subtitle and the amendments made by this subtitle, this subtitle and the amendments made by this subtitle, other than sections 1081 and 1082, shall become effective on the designated transfer date.

TITLE XI—FEDERAL RESERVE SYSTEM PROVISIONS

SEC. 1151. FEDERAL RESERVE ACT AMENDMENTS ON EMERGENCY LENDING AUTHORITY.

The third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343) (relating to emergency lending authority) is amended—

(1) by inserting ''(3)(A)'' before ''In unusual'';

(2) by striking ''individual, partnership, or corporation'' the first place that term appears and inserting the following: ''participant in any program or facility with broad-based eligibility'';

(3) by striking ''exchange for an individual or a partnership or corporation'' and inserting ''exchange,'';

(4) by striking ''such individual, partnership, or corporation'' and inserting the following: ''such participant in any program or facility with broad-based eligibility'';

(5) by striking ''for individuals, partnerships, corporations'' and inserting ''for any participant in any program or facility with broad-based eligibility'';

(6) by striking ''may prescribe.'' and inserting the following: ''may prescribe.

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

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

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

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

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

''(II) the identity of the recipients of such assistance, subject to subparagraph (D);

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

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

''(aa) duration;

''(bb) collateral pledged and the value thereof;

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

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

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

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

''(I) the value of collateral;

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

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

''(D)(i) The Board shall disclose, not later than 1 year after the date on which assistance was first received under the program or facility, unless the Board determines that such disclosure likely would reduce the effectiveness of the program or facility in addressing or mitigating the financial market disruptions, financial market conditions, or other unusual and exigent circumstances sought to be addressed or mitigated by the program or facility, or would otherwise have a significant effect on economic or financial market conditions—

''(I) the identity of the participants in an emergency lending program or facility commenced under this paragraph;

''(II) the amounts borrowed by each participant in any such program or facility; and

''(III) identifying details concerning the assets or collateral held by, under, or in connection with such a program or facility within 1 year of the date on which assistance was first received under the program or facility.

''(ii) If the Board determines not to make the disclosures required by clause (i) within 1 year of the date on which a participant first received assistance under a program or facility, the Board shall—

''(I) provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a written report explaining the reasons for delaying the disclosures about such program or facility not later than 30 days after making such determination; and

''(II) provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives each year thereafter a written report explaining the reasons for continuing to delay disclosure, until the disclosures are complete.

''(iii) The disclosures required by clause (i) shall be made not later than 12 months after the effective date of the termination of the facility by the Board.

''(iv) If the Board determines not to make the disclosures required by clause (i), the Comptroller General of the United States shall issue a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives evaluating whether that determination is reasonable.''.

SEC. 1152. REVIEWS OF SPECIAL FEDERAL RESERVE CREDIT FACILITIES.

(a) REVIEWS.—Section 714 of title 31, United States Code, is amended by adding at the end the following:

''(f) REVIEWS OF CREDIT FACILITIES OF THE FEDERAL RESERVE SYSTEM.—

''(1) DEFINITION.—In this subsection, the term 'credit facility' means a program or facility, including any special purpose vehicle or other entity established by or on behalf of the Board of Governors of the Federal Reserve System or a Federal reserve bank, authorized by the Board of Governors under the third undesignated paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 343), that

is not subject to audit under subsection (e), including—

''(A) the Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility;

''(B) the Term Asset-Backed Securities Loan Facility;

''(C) the Primary Dealer Credit Facility;

''(D) the Commercial Paper Funding Facility; and

''(E) the Term Securities Lending Facility.

''(2) AUTHORITY FOR REVIEWS AND EXAMINATIONS.—Subject to paragraph (3), and notwithstanding any limitation in subsection (b) on the auditing and oversight of certain functions of the Board of Governors of the Federal Reserve System or any Federal reserve bank, the Comptroller General of the United States may conduct reviews, including onsite examinations, of the Board of Governors, a Federal reserve bank, or a credit facility, if the Comptroller General determines that such reviews are appropriate, solely for the purposes of assessing, with respect to a credit facility—

''(A) the operational integrity, accounting, financial reporting, and internal controls of the credit facility;

''(B) the effectiveness of the collateral policies established for the facility in mitigating risk to the relevant Federal reserve bank and taxpayers;

''(C) whether the credit facility inappropriately favors one or more specific participants over other institutions eligible to utilize the facility; and

''(D) the policies governing the use, selection, or payment of third-party contractors by or for any credit facility.

''(3) REPORTS AND DELAYED DISCLOSURE.—

''(A) REPORTS REQUIRED.—A report on each review conducted under paragraph (2) shall be submitted by the Comptroller General to the Congress before the end of the 90-day period beginning on the date on which such review is completed.

''(B) CONTENTS.—The report under subparagraph (A) shall include a detailed description of the findings and conclusions of the Comptroller General with respect to the matters described in paragraph (2) that were reviewed and are the subject of the report, together with such recommendations for legislative or administrative action relating to such matters as the Comptroller General may determine to be appropriate.

''(C) DELAYED RELEASE OF CERTAIN INFORMATION.—

''(i) IN GENERAL.—The Comptroller General shall not disclose to any person or entity, including to Congress, the names or identifying details of specific participants in any credit facility, the amounts borrowed by specific participants in any credit facility, or identifying details regarding assets or collateral held by, under, or in connection with any credit facility, and any report provided under subparagraph (A) shall be redacted to ensure that such names and details are not disclosed.

''(ii) DELAYED RELEASE.—The nondisclosure obligation under clause (i) shall expire with respect to any participant on the date on which the Board of Governors, directly or through a Federal reserve bank, publicly discloses the identity of the subject participant or the identifying details of the subject assets or collateral.

''(iii) GENERAL RELEASE.—The Comptroller General shall release a nonredacted version of any report on a credit facility 1 year after the effective date of the termination by the Board of Governors of the authorization for the credit facility. For purposes of this clause, a credit facility shall be deemed to have terminated 24 months after the date on which the credit facility ceases to make extensions of credit and loans, unless the credit facility is otherwise terminated by the Board of Governors.

''(iv) EXCEPTIONS.—The nondisclosure obligation under clause (i) shall not apply to the credit facilities Maiden Lane, Maiden Lane II, and Maiden Lane III.''.

(b) ACCESS TO RECORDS.—Section 714(d) of title 31, United States Code, is amended—

(1) in paragraph (2), by inserting ''or any person or entity described in paragraph (3)(A)'' after ''used by an agency'';

(2) in paragraph (3), by inserting ''or (f)'' after ''subsection (e)'' each place that term appears; and

(3) in paragraph (3)(B), by adding at the end the following: ''The Comptroller General may make and retain copies of books, accounts, and other records provided under subparagraph (A) as the Comptroller General deems appropriate. The Comptroller General shall provide to any person or entity described in subparagraph (A) a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out a review or examination under this subsection.''.

SEC. 1153. PUBLIC ACCESS TO INFORMATION.

Section 2B of the Federal Reserve Act (12 U.S.C. 225b) is amended by adding at the end the following:

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

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

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

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

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

SEC. 1154. LIQUIDITY EVENT DETERMINATION.

(a) DETERMINATION AND WRITTEN RECOMMENDATION.—

(1) DETERMINATION REQUEST.—The Secretary may request the Corporation and the Board of Governors to determine whether a liquidity event exists that warrants use of the guarantee program authorized under section 1155.

(2) REQUIREMENTS OF DETERMINATION.—Any determination pursuant to paragraph (1) shall—

(A) be written; and

(B) contain an evaluation of the evidence that—

(i) a liquidity event exists;

(ii) failure to take action would have serious adverse effects on financial stability or economic conditions in the United States; and

(iii) actions authorized under section 1155 are needed to avoid or mitigate potential adverse effects on the United States financial system or economic conditions.

(b) PROCEDURES.—Notwithstanding any other provision of Federal or State law, upon the determination of both the Corporation (upon a vote of not fewer than ⅔ of the members of the Corporation then serving) and the Board of Governors (upon a vote of not fewer than ⅔ of the members of the Board of Governors then serving) under subsection (a) that a liquidity event exists that warrants use of the guarantee program authorized under section 1155, and with the written consent of the Secretary—

(1) the Corporation shall take action in accordance with section 1155(a); and

(2) the Secretary (in consultation with the President) shall take action in accordance with section 1155(c).

(c) DOCUMENTATION AND REVIEW.—

(1) DOCUMENTATION.—The Secretary shall—

(A) maintain the written documentation of each determination of the Corporation and the Board of Governors under this section; and

(B) provide the documentation for review under paragraph (2).

(2) GAO REVIEW.—The Comptroller General of the United States shall review and report to Congress on any determination of the Corporation and the Board of Governors under subsection (a), including—

(A) the basis for the determination; and

(B) the likely effect of the actions taken.

(d) REPORT TO CONGRESS.—On the earlier of the date of a submission made to Congress under section 1155(c), or within 30 days of the date of a determination under subsection (a), the Secretary shall provide written notice of the determination of the Corporation and the Board of Governors to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, including a description of the basis for the determination.

SEC. 1155. EMERGENCY FINANCIAL STABILIZATION.

(a) IN GENERAL.—Upon the written determination of the Corporation and the Board of Governors under section 1154, the Corporation shall create a widely available program to guarantee obligations of solvent insured depository institutions or solvent depository institution holding companies (including any affiliates thereof) during times of severe economic distress, except that a guarantee of obligations under this section may not include the provision of equity in any form.

(b) RULEMAKING AND TERMS AND CONDITIONS.—

(1) POLICIES AND PROCEDURES.—As soon as is practicable after the date of enactment of this Act, the Corporation shall establish, by regulation, and in consultation with the Secretary, policies and procedures governing the issuance of guarantees authorized by this section. Such policies and procedures may include a requirement of collateral as a condition of any such guarantee.

(2) TERMS AND CONDITIONS.—The terms and conditions of any guarantee program shall be established by the Corporation, with the concurrence of the Secretary.

(c) DETERMINATION OF GUARANTEED AMOUNT.—

(1) IN GENERAL.—In connection with any program established pursuant to subsection (a) and subject to paragraph (2) of this subsection, the Secretary (in consultation with the President) shall determine the maximum amount of debt outstanding that the Corporation may guarantee under this section, and the President may transmit to Congress a written report on the plan of the Corporation to exercise the authority under this section to issue guarantees up to that maximum amount. Upon the expiration of the 5-calendar-day period beginning on the date on which Congress receives the report on the plan of the Corporation, the Corporation may exercise the authority under this section to issue guarantees up to that specified maximum amount, unless there is enacted, within that 5-calendar-day period, a joint resolution disapproving such report, as provided in subsection (d).

(2) ADDITIONAL DEBT GUARANTEE AUTHORITY.—If the Secretary (in consultation with the President) determines, after a submission to Congress under paragraph (1), that the maximum guarantee amount should be raised, and the Council concurs with that determination, the President may transmit to Congress a written report on the plan of the Corporation to exercise the authority under this section to issue guarantees up to the increased maximum debt guarantee amount. Upon the expiration of the 5-calendar-day period beginning on the date on which Congress receives the report on the plan of the Corporation, the Corporation may exercise the authority under this section to issue guarantees up to that specified maximum amount, unless there is enacted, within that 5-calendar-day period, a joint resolution disapproving such report, as provided in subsection (d).

(d) JOINT RESOLUTION.—

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

(A) CONTENTS OF JOINT RESOLUTION.—For purposes of this section, the term ''joint resolution'' means only a joint resolution—

(i) that is introduced not later than 3 calendar days after the date on which the report of the Secretary referred to in section 1154(d) is received by Congress;

(ii) that does not have a preamble;

(iii) the title of which is as follows: ''Joint resolution relating to the disapproval of a plan to guarantee obligations under section 1155 of the Restoring American Financial Stability Act of 2010''; and

(iv) the matter after the resolving clause of which is as follows: ''That Congress disapproves the obligation of any amount described in section 1155(c) of the Restoring American Financial Stability Act of 2010.''.

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

(C) REPORTING AND DISCHARGE.—Any committee of the House of Representatives to which a joint resolution is referred shall report it to the House of Representatives not later than 4 calendar days after the date of receipt of the report under subsection (c). If a committee fails to report the joint resolution within that period, the committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be referred to the appropriate calendar.

(D) PROCEEDING TO CONSIDERATION.—After each committee authorized to consider a joint resolution reports it to the House of Representatives or has been discharged from its consideration, it shall be in order, not later than the 5th day after Congress receives the report under subsection (c), to move to proceed to consider the joint resolution in the House of Representatives. All points of order against the motion are waived. Such a motion shall not be in order after the House of Representatives has disposed of a motion to proceed on the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

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

(2) FAST TRACK CONSIDERATION IN SENATE.—

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

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

(C) FLOOR CONSIDERATION.—

(i) IN GENERAL.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the 4th day after the date on which Congress receives a report under subsection (c), and ending on the 5th day after the date on which Congress receives a report under subsection (c) (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of.

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

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

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

(3) RULES RELATING TO SENATE AND HOUSE OF REPRESENTATIVES.—

(A) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

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

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

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

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

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

(C) TREATMENT OF COMPANION MEASURES.—If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

(D) CONSIDERATION AFTER PASSAGE.—

(i) IN GENERAL.—If Congress passes a joint resolution, the period beginning on the date the President is presented with the joint resolution and ending on the date the President takes action with respect to the joint resolution shall be disregarded in computing the 5-day period described in subsection (c).

(ii) VETOES.—If the President vetoes the joint resolution—

(I) the period beginning on the date the President vetoes the joint resolution and ending on the date the Congress receives the veto message with respect to the joint resolution shall be disregarded in computing the 5-day period described in subsection (c); and

(II) debate on a veto message in the Senate under this section shall be 1 hour equally divided between the majority and minority leaders or their designees.

(E) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by Congress—

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

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

(e) FUNDING.—

(1) FEES AND OTHER CHARGES.—The Corporation shall charge fees and other assessments to all participants in the program established pursuant to this section, in such amounts as are necessary to offset projected losses and administrative expenses, including amounts borrowed pursuant to paragraph (3), and such amounts shall be available to the Corporation.

(2) EXCESS FUNDS.—If, at the conclusion of the program established under this section, there are any excess funds collected from the fees associated with such program, the funds shall be deposited in the General Fund of the Treasury.

(3) AUTHORITY OF CORPORATION.—The Corporation—

(A) may borrow funds from the Secretary of the Treasury and issue obligations of the Corporation to the Secretary for amounts borrowed, and the amounts borrowed shall be available to the Corporation for purposes of carrying out a program established pursuant to this section, including the payment of reasonable costs of administering the program, and the obligations issued shall be repaid in full with interest through fees and charges paid by participants in accordance with paragraphs (1) and (4), as applicable; and

(B) may not borrow funds from the Deposit Insurance Fund established pursuant to section 11(a)(4) of the Federal Deposit Insurance Act.

(4) BACKUP SPECIAL ASSESSMENTS.—To the extent that the funds collected pursuant to paragraph (1) are insufficient to cover any losses or expenses, including amounts borrowed pursuant to paragraph (3), arising from a program established pursuant to this section, the Corporation shall impose a special assessment solely on participants in the program, in amounts necessary to address

such insufficiency, and which shall be available to the Corporation to cover such losses or expenses.

(5) AUTHORITY OF THE SECRETARY.—The Secretary may purchase any obligations issued under paragraph (3)(A). For such purpose, the Secretary may use the proceeds of the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under that chapter 31 are extended to include such purchases, and the amount of any securities issued under that chapter 31 for such purpose shall be treated in the same manner as securities issued under section 208(n)(3)(B).

(f) RULE OF CONSTRUCTION.—For purposes of this section, a guarantee of deposits held by insured depository institutions shall not be treated as a debt guarantee program.

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

(1) COMPANY.—The term ''company'' means any entity other than a natural person that is incorporated or organized under Federal law or the laws of any State.

(2) DEPOSITORY INSTITUTION HOLDING COMPANY.—The term ''depository institution holding company'' has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(3) LIQUIDITY EVENT.—The term ''liquidity event'' means—

(A) a reduction in the usual ability of financial market participants—

(i) to sell a type of financial asset, without a significant reduction in price; or

(ii) to borrow using that type of asset as collateral without a significant increase in margin; or

(B) a significant reduction in the usual ability of financial and nonfinancial market participants to obtain unsecured credit.

(4) SOLVENT.—The term ''solvent'' means that the value of the assets of an entity exceed its obligations to creditors.

SEC. 1156. ADDITIONAL RELATED AMENDMENTS.

(a) SUSPENSION OF PARALLEL FEDERAL DEPOSIT INSURANCE ACT AUTHORITY.—Effective upon the date of enactment of this section, the Corporation may not exercise its authority under section 13(c)(4)(G)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(i)) to establish any widely available debt guarantee program for which section 1155 would provide authority.

(b) MITIGATION.—Section 13(c)(4)(G)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(i)) is amended by striking ''such effects.'' and inserting ''such effects, provided the insured depository institution has been placed in receivership.''.

(c) EFFECT OF DEFAULT ON AN FDIC GUARANTEE.—If an insured depository institution or depository institution holding company (as those terms are defined in section 3 of the Federal Deposit Insurance Act) participating in a program under section 1155, or any participant in a debt guarantee program established pursuant to section 13(c)(4)(G)(i) of the Federal Deposit Insurance Act defaults on any obligation guaranteed by the Corporation after the date of enactment of this Act, the Corporation shall—

(1) appoint itself as receiver for the insured depository institution that defaults; and

(2) with respect to any other participating company that is not an insured depository institution that defaults—

(A) require—

(i) consideration of whether a determination shall be made, as provided in section 202 to resolve the company under section 203; and

(ii) the company to file a petition for bankruptcy under section 301 of title 11, United States Code, if the Corporation is not appointed receiver pursuant to section 203 within 30 days of the date of default; or

(B) file a petition for involuntary bankruptcy on behalf of the company under section 303 of title 11, United States Code.

SEC. 1157. FEDERAL RESERVE ACT AMENDMENTS ON FEDERAL RESERVE BANK GOVERNANCE.

The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended in section 4 by adding at the end the following:

''(25) SELECTION OF THE PRESIDENT OF THE FEDERAL RESERVE BANK OF NEW YORK.—Notwithstanding any other provision of this section, after the date of enactment of the Restoring American Financial Stability Act of 2010, the president of the Federal Reserve Bank of New York shall be appointed by the President, by and with the advice and consent of the Senate, for terms of 5 years.

''(26) LIMITATION ON ELIGIBILITY TO VOTE FOR OR SERVE AS A FEDERAL RESERVE BANK DIRECTOR.—Notwithstanding any other provision of this section, after the date of enactment of the Restoring American Financial Stability Act of 2010, no company, or subsidiary or affiliate of a company that is supervised by the Board, may vote for members of the board of directors of a Federal reserve bank, and no past or current officer, director, or employee of such company, or subsidiary or affiliate of such company, may serve as a member of the board of directors of a Federal reserve bank.''.

SEC. 1158. AMENDMENTS TO THE FEDERAL RESERVE ACT RELATING TO SUPERVISION AND REGULATION POLICY.

(a) ESTABLISHMENT OF THE POSITION OF VICE CHAIRMAN FOR SUPERVISION.—

(1) POSITION ESTABLISHED.—The second undesignated paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 242) (relating to the Chairman and Vice Chairman of the Board) is amended by striking the third sentence and inserting the following: ''Of the persons thus appointed, 1 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of 4 years, and 2 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairmen of the Board, each for a term of 4 years, 1 of whom shall serve in the absence of the Chairman, as provided in the fourth undesignated paragraph of this section, and 1 of whom shall be designated Vice Chairman for Supervision. The Vice Chairman for Supervision shall develop policy recommendations for the Board regarding supervision and regulation of depository institution holding companies and other financial firms supervised by the Board, and shall oversee the supervision and regulation of such firms.''.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date of enactment of this title and applies to individuals who are designated by the President on or after that date to serve as Vice Chairman of Supervision.

(b) FINANCIAL STABILITY AS BOARD FUNCTION.—Section 10 of the Federal Reserve Act (12 U.S.C. 241) is amended by adding at the end the following:

''(11) FINANCIAL STABILITY FUNCTION.—The Board of Governors shall identify, measure, monitor, and mitigate risks to the financial stability of the United States.''.

(c) APPEARANCES BEFORE CONGRESS.—Section 10 of the Federal Reserve Act (12 U.S.C. 241) is amended by adding at the end the following:

''(12) APPEARANCES BEFORE CONGRESS.—The Vice Chairman for Supervision shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives and at semi-annual hearings regarding the efforts, activities, objectives, and plans of the Board with respect to the conduct of supervision and regulation of depository institution holding companies and other financial firms supervised by the Board.''.

(d) BOARD RESPONSIBILITY TO SET SUPERVISION AND REGULATORY POLICY.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) (relating to enumerated powers of the Board) is amended by adding at the end of subsection (k) (relating to delegation) the following: ''The Board of Governors may not delegate to a Federal reserve bank its functions for the establishment of policies for the supervision and regulation of depository institution holding companies and other financial firms supervised by the Board of Governors.''.

TITLE XII—IMPROVING ACCESS TO MAINSTREAM FINANCIAL INSTITUTIONS

SECTION 1201. SHORT TITLE.

This title may be cited as the ''Improving Access to Mainstream Financial Institutions Act of 2010''.

SEC. 1202. PURPOSE.

The purpose of this title is to encourage initiatives for financial products and services that are appropriate and accessible for millions of Americans who are not fully incorporated into the financial mainstream.

SEC. 1203. DEFINITIONS.

In this title, the following definitions shall apply:

(1) ACCOUNT.—The term ''account'' means an agreement between an individual and an eligible entity under which the individual obtains from or through the entity 1 or more banking products and services, and includes a deposit account, a savings account (including a money market savings account), an account for a closed-end loan, and other products or services, as the Secretary deems appropriate.

(2) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term ''community development financial institution'' has the same meaning as in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)).

(3) ELIGIBLE ENTITY.—The term ''eligible entity'' means—

(A) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from tax under section 501(a) of such Code;

(B) a federally insured depository institution;

(C) a community development financial institution;

(D) a State, local, or tribal government entity; or

(E) a partnership or other joint venture comprised of 1 or more of the entities described in subparagraphs (A) through (D), in accordance with regulations prescribed by the Secretary under this title.

(4) FEDERALLY INSURED DEPOSITORY INSTITUTION.—The term ''federally insured depository institution'' means any insured depository institution (as that term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) and any insured credit union (as that term is defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(5) PAYDAY LOAN.—The term ''payday loan'' means any transaction in which a small cash advance is made to a consumer in exchange for—

(A) the personal check or share draft of the consumer, in the amount of the advance plus a fee, where presentment or negotiation of such check or share draft is deferred by agreement of the parties until a designated future date; or

(B) the authorization of the consumer to debit the transaction account or share draft

account of the consumer, in the amount of the advance plus a fee, where such account will be debited on or after a designated future date.

SEC. 1204. EXPANDED ACCESS TO MAINSTREAM FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—The Secretary is authorized to establish a multiyear program of grants, cooperative agreements, financial agency agreements, and similar contracts or undertakings to promote initiatives designed—

(1) to enable low- and moderate-income individuals to establish one or more accounts in a federally insured depository institution that are appropriate to meet the financial needs of such individuals; and

(2) to improve access to the provision of accounts, on reasonable terms, for low- and moderate-income individuals.

(b) PROGRAM ELIGIBILITY AND ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall restrict participation in any program established under subsection (a) to an eligible entity. Subject to regulations prescribed by the Secretary under this title, 1 or more eligible entities may participate in 1 or several programs established under subsection (a).

(2) ACCOUNT ACTIVITIES.—Subject to regulations prescribed by the Secretary, an eligible entity may, in participating in a program established under subsection (a), offer or provide to low- and moderate-income individuals products and services relating to accounts, including—

(A) small-dollar value loans; and

(B) financial education and counseling relating to conducting transactions in and managing accounts.

SEC. 1205. LOW-COST ALTERNATIVES TO PAYDAY LOANS.

(a) GRANTS AUTHORIZED.—The Secretary is authorized to establish multiyear demonstration programs by means of grants, cooperative agreements, financial agency agreements, and similar contracts or undertakings, with eligible entities to provide low-cost, small loans to consumers that will provide alternatives to more costly payday loans.

(b) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Loans under this section shall be made on terms and conditions, and pursuant to lending practices, that are reasonable for consumers.

(2) FINANCIAL LITERACY AND EDUCATION OPPORTUNITIES.—

(A) IN GENERAL.—Each eligible entity awarded a grant under this section shall promote and take appropriate steps to ensure the provision of financial literacy and education opportunities, such as relevant counseling services, educational courses, or wealth building programs, to each consumer provided with a loan pursuant to this section.

(B) AUTHORITY TO EXPAND ACCESS.—As part of the grants, agreements, and undertakings established under this section, the Secretary may implement reasonable measures or programs designed to expand access to financial literacy and education opportunities, including relevant counseling services, educational courses, or wealth building programs to be provided to individuals who obtain loans from eligible entities under this section.

SEC. 1206. GRANTS TO ESTABLISH LOAN-LOSS RESERVE FUNDS.

The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 et seq.) is amended by adding at the end the following:

"SEC. 122. GRANTS TO ESTABLISH LOAN-LOSS RESERVE FUNDS.

''(a) PURPOSES.—The purposes of this section are—

''(1) to make financial assistance available from the Fund in order to help community development financial institutions defray the costs of operating small dollar loan programs, by providing the amounts necessary for such institutions to establish their own loan loss reserve funds to mitigate some of the losses on such small dollar loan programs; and

''(2) to encourage community development financial institutions to establish and maintain small dollar loan programs that would help give consumers access to mainstream financial institutions and combat payday lending.

''(b) GRANTS.—

''(1) LOAN-LOSS RESERVE FUND GRANTS.—The Fund shall make grants to community development financial institutions or to any partnership between such community development financial institutions and any other federally insured depository institution with a primary mission to serve targeted investment areas, as such areas are defined under section 103(16), to enable such institutions or any partnership of such institutions to establish a loan-loss reserve fund in order to defray the costs of a small dollar loan program established or maintained by such institution.

''(2) MATCHING REQUIREMENT.—A community development financial institution or any partnership of institutions established pursuant to paragraph (1) shall provide non-Federal matching funds in an amount equal to 50 percent of the amount of any grant received under this section.

''(3) USE OF FUNDS.—Any grant amounts received by a community development financial institution or any partnership between or among such institutions under paragraph (1)—

''(A) may not be used by such institution to provide direct loans to consumers;

''(B) may be used by such institution to help recapture a portion or all of a defaulted loan made under the small dollar loan program of such institution; and

''(C) may be used to designate and utilize a fiscal agent for services normally provided by such an agent.

''(4) TECHNICAL ASSISTANCE GRANTS.—The Fund shall make technical assistance grants to community development financial institutions or any partnership between or among such institutions to support and maintain a small dollar loan program. Any grant amounts received under this paragraph may be used for technology, staff support, and other costs associated with establishing a small dollar loan program.

''(c) DEFINITIONS.—For purposes of this section—

''(1) the term 'consumer reporting agency that compiles and maintains files on consumers on a nationwide basis' has the same meaning given such term in section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)); and

''(2) the term 'small dollar loan program' means a loan program wherein a community development financial institution or any partnership between or among such institutions offers loans to consumers that—

''(A) are made in amounts not exceeding $2,500;

''(B) must be repaid in installments;

''(C) have no pre-payment penalty;

''(D) the institution has to report payments regarding the loan to at least 1 of the consumer reporting agencies that compiles and maintains files on consumers on a nationwide basis; and

''(E) meet any other affordability requirements as may be established by the Administrator.''.

SEC. 1207. PROCEDURAL PROVISIONS.

An eligible entity desiring to participate in a program or obtain a grant under this title shall submit an application to the Secretary, in such form and containing such information as the Secretary may require.

SEC. 1208. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION TO THE SECRETARY.—There are authorized to be appropriated to the Secretary, such sums as are necessary to both administer and fund the programs and projects authorized by this title, to remain available until expended.

(b) AUTHORIZATION TO THE FUND.—There is authorized to be appropriated to the Fund for each fiscal year beginning in fiscal year 2010, an amount equal to the amount of the administrative costs of the Fund for the operation of the grant program established under this title.

SEC. 1209. REGULATIONS.

(a) IN GENERAL.—The Secretary is authorized to promulgate regulations to implement and administer the grant programs and undertakings authorized by this title.

(b) REGULATORY AUTHORITY.—Regulations prescribed under this section may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of grant programs, undertakings, or eligible entities, as, in the judgment of the Secretary, are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion of this title, or to facilitate compliance with this title.

SEC. 1210. EVALUATION AND REPORTS TO CONGRESS.

For each fiscal year in which a program or project is carried out under this Title, the Secretary shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives containing a description of the activities funded, amounts distributed, and measurable results, as appropriate and available.

SA 3740. Mr. SANDERS (for himself, Mr. LEAHY, Mr. HARKIN, Mr. WHITEHOUSE, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1077. NATIONAL CONSUMER CREDIT USURY RATE.

(a) IN GENERAL.—Section 107 of the Truth in Lending Act (15 U.S.C. 1606) is amended by adding at the end the following new subsection:

''(f) NATIONAL CONSUMER CREDIT USURY RATE.—

''(1) LIMITATION ESTABLISHED.—Except as provided in paragraph (2), and notwithstanding subsection (a) or any other provision of law, the annual percentage rate applicable to an extension of credit obtained by use of a credit card may not exceed 15 percent on unpaid balances, inclusive of all finance charges. Any fees that are not considered finance charges under section 106(a) may not be used to evade the limitations of this paragraph, and the total sum of such fees may not exceed the total amount of finance charges assessed.

''(2) EXCEPTIONS.—

''(A) BUREAU AUTHORITY.—The Bureau may establish, after consultation with the appropriate committees of Congress, the Secretary of the Treasury, and any other interested Federal financial institution regulatory agency, an annual percentage rate of interest ceiling exceeding the 15 percent annual rate under paragraph (1) for periods not to exceed 18 months, upon a determination that—

''(i) money market interest rates have risen over the preceding 6-month period; or

''(ii) prevailing interest rate levels threaten the safety and soundness of individual lenders, as evidenced by adverse trends in liquidity, capital, earnings, and growth.

''(B) TREATMENT OF CREDIT UNIONS.—The limitation in paragraph (1) does not apply with respect to any extension of credit by an insured credit union, as that term is defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).''.

SA 3741. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 206, strike line 12 and all that follows through page 208, line 21.

On page 208, line 22, strike ''(D)'' and insert ''(A)''.

On page 226, strike lines 3 through 19.

On page 227, line 8, strike ''(E)'' and insert ''(B)''.

On page 227, line 17, strike ''(F)'' and insert ''(C)''.

On page 227, beginning on line 20, strike ''the provisions of subparagraph (A) of this paragraph and''.

On page 230, lines 4, 8, and 9, strike ''(F)'' each place that term appears and insert ''(C)''.

On page 231, line 3, strike ''(G)'' and insert ''(D)''.

On page 236, beginning on line 21, strike ''appointment of the Corporation as receiver'' and insert ''transfer''

On page 237, line 1, strike ''(i) RECEIVERSHIP.—''.

On page 237, line 6, strike ''under paragraph (8)(A)''.

On page 237, line 12, strike ''receiver)'' and all that follows through page 238, line 3 and insert ''receiver).''.

On page 237, strike line 18 and all that follows through page 238, line 8.

On page 239, line 9, strike ''(12)'' and insert ''(11)''.

On page 239, line 21, strike ''(13)'' and insert ''(12)''.

On page 241, beginning on line 17, strike ''to the rights'' and all that follows through ''seq.),'' on line 24.

On page 242, line 12, strike ''(14)'' and insert ''(13)''.

On page 242, line 22, strike ''(15)'' and insert ''(14)''.

On page 243, line 8, strike ''(16)'' and insert ''(15)''.

On page 296, between lines 15 and 16, insert the following:

(d) REPEAL OF SAFE HARBOR TREATMENT IN THE BANKRUPTCY CODE.—Title 11, United States Code, is amended—

(1) in section 103(a), by striking ''chapter'' and all that follows through ''apply'' and inserting ''chapter, sections 307, 362(n), 557, and 562 apply'';

(2) in section 362—

(A) in subsection (b)—

(i) by striking paragraphs (6), (7), (17), and (27);

(ii) by redesignating paragraphs (8) through (16) as paragraphs (5) through (13), respectively;

(iii) by redesignating paragraphs (18) through (26) as paragraphs (14) through (22), respectively;

(iv) by redesignating paragraph (28) as paragraph (23); and

(v) in the undesignated matter at the end, by striking ''(12) and (13)'' and inserting ''(9) and (10)''; and

(B) by striking subsection (o);

(3) in section 546—

(A) in subsection (e)—

(i) by striking ''101 or'';

(ii) by striking ''101, 741,'' and inserting ''741''; and

(iii) by inserting ''and except in a case under chapter 11 or 15,'' before ''the trustee'';

(B) in subsection (f), by inserting ''and except in a case under chapter 11 or chapter 15,'' before ''the trustee'';

(C) by striking subsections (g) and (j); and

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

(4) in section 548(d)(2)—

(A) by striking subparagraphs (C) through (E);

(B) in subparagraph (A), by adding ''and'' at the end; and

(C) in subparagraph (B), by striking the semicolon at the end and inserting a period;

(5) in section 553—

(A) in subsection (a), by striking ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561)'' each place that term appears; and

(B) in subsection (b), by striking ''Except with respect to a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 362(b)(27), 555, 556, 559, 560, or 561, if a'' and inserting ''If a'';

(6) by striking sections 555, 556, 559, 560, and 561 and inserting ''[Repealed].'';

(7) in the table of sections for subchapter III of chapter 5, by striking the items relating to sections 555, 556, 559, 560, and 561;

(8) in section 901—

(A) by striking ''555, 556,''; and

(B) by striking ''559, 560, 561,'';

(9) in section 1519, by striking subsection (f); and

(10) in section 1521, by striking subsection (f).

SA 3742. Mr. MCCAIN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title X, add the following:

Subtitle I—GSE Bailout Elimination and Taxpayer Protection

SECTION 1111. SHORT TITLE.

This subtitle may be cited as the ''GSE Bailout Elimination and Taxpayer Protection Act''.

SEC. 1112. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) CHARTER.—The term ''charter'' means—

(A) with respect to the Federal National Mortgage Association, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); and

(B) with respect to the Federal Home Loan Mortgage Corporation, the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.).

(2) DIRECTOR.—The term ''Director'' means the Director of the Federal Housing Finance Agency.

(3) ENTERPRISE.—The term ''enterprise'' means—

(A) the Federal National Mortgage Association; and

(B) the Federal Home Loan Mortgage Corporation.

(4) GUARANTEE.—The term ''guarantee'' means, with respect to an enterprise, the credit support of the enterprise that is provided by the Federal Government through its charter as a government-sponsored enterprise.

SEC. 1113. TERMINATION OF CURRENT CONSERVATORSHIP.

(a) IN GENERAL.—Upon the expiration of the period referred to in subsection (b), the Director of the Federal Housing Finance Agency shall determine, with respect to each enterprise, if the enterprise is financially viable at that time and—

(1) if the Director determines that the enterprise is financially viable, immediately take all actions necessary to terminate the conservatorship for the enterprise that is in effect pursuant to section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617); or

(2) if the Director determines that the enterprise is not financially viable, immediately appoint the Federal Housing Finance Agency as receiver under section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 and carry out such receivership under the authority of such section.

(b) TIMING.—The period referred to in this subsection is, with respect to an enterprise—

(1) except as provided in paragraph (2), the 24-month beginning upon the date of the enactment of this Act; or

(2) if the Director determines before the expiration of the period referred to in paragraph (1) that the financial markets would be adversely affected without the extension of such period under this paragraph with respect to that enterprise, and upon making such determination notifies the Congress in writing of such determination, the 30-month period beginning upon the date of the enactment of this Act.

(c) FINANCIAL VIABILITY.—The Director may not determine that an enterprise is financially viable for purposes of subsection (a) if the Director determines that any of the conditions for receivership set forth in paragraph (3) or (4) of section 1367(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617(a)) exists at the time with respect to the enterprise.

SEC. 1114. LIMITATION OF ENTERPRISE AUTHORITY UPON EMERGENCE FROM CONSERVATORSHIP.

(a) REVISED AUTHORITY.—Upon the expiration of the period referred to in section 1113(b), if the Director makes the determination under section 1113(a)(1), the following provisions shall take effect:

(1) REPEAL OF HOUSING GOALS.—

(A) REPEAL.—The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by striking sections 1331 through 1336 (12 U.S.C. 4561–6).

(B) CONFORMING AMENDMENTS.—Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended—

(i) in section 1303(28) (12 U.S.C. 4502(28)), by striking ''and, for the purposes'' and all that follows through ''designated disaster areas'';

(ii) in section 1324(b)(1)(A) (12 U.S.C. 4544(b)(1)(A))—

(I) by striking clauses (i), (ii), and (iv);

(II) in clause (iii), by inserting ''and'' after the semicolon at the end; and

(III) by redesignating clauses (iii) and (v) as clauses (i) and (ii), respectively;

(iii) in section 1338(c)(10) (12 U.S.C. 4568(c)(10)), by striking subparagraph (E);

(iv) in section 1339(h) (12 U.S.C. 4569), by striking paragraph (7);

(v) in section 1341 (12 U.S.C. 4581)—

(I) in subsection (a)—

(aa) in paragraph (1), by inserting ''or'' after the semicolon at the end;

(bb) in paragraph (2), by striking the semicolon at the end and inserting a period; and

(cc) by striking paragraphs (3) and (4); and

(II) in subsection (b)(2)—

(aa) in subparagraph (A), by inserting ''or'' after the semicolon at the end;

(bb) by striking subparagraphs (B) and (C); and

(cc) by redesignating subparagraph (D) as subparagraph (B);

(vi) in section 1345(a) (12 U.S.C. 4585(a))—

(I) in paragraph (1), by inserting ''or'' after the semicolon at the end;

(II) in paragraph (2), by striking the semicolon at the end and inserting a period; and

(III) by striking paragraphs (3) and (4); and

(vii) in section 1371(a)(2) (12 U.S.C. 4631(a)(2))—

(I) by striking ''with any housing goal established under subpart B of part 2 of subtitle A of this title,''; and

(II) by striking ''section 1336 or''.

(2) PORTFOLIO LIMITATIONS.—Subtitle B of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4611 et seq.) is amended by adding at the end the following new section:

''SEC. 1369E. RESTRICTION ON MORTGAGE ASSETS OF ENTERPRISES.

''(a) RESTRICTION.—No enterprise shall own, as of any applicable date in this subsection or thereafter, mortgage assets in excess of—

''(1) upon the expiration of the period referred to in section 1113(b) of the GSE Bailout Elimination and Taxpayer Protection Act or thereafter, $850,000,000,000;

''(2) upon the expiration of the 1-year period that begins on the date described in paragraph (1) or thereafter, $700,000,000,000;

''(3) upon the expiration of the 2-year period that begins on the date described in paragraph (1) or thereafter, $500,000,000,000; and

''(4) upon the expiration of the 3-year period that begins on the date described in paragraph (1), $250,000,000,000.

''(b) DEFINITION OF MORTGAGE ASSETS.—For purposes of this section, the term 'mortgage assets' means, with respect to an enterprise, assets of such enterprise consisting of mortgages, mortgage loans, mortgage-related securities, participation certificates, mortgage-backed commercial paper, obligations of real estate mortgage investment conduits and similar assets, in each case to the extent such assets would appear on the balance sheet of such enterprise in accordance with generally accepted accounting principles in effect in the United States as of September 7, 2008 (as set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board from time to time; and without giving any effect to any change that may be made after September 7, 2008, in respect of Statement of Financial Accounting Standards No. 140 or any similar accounting standard).''.

(3) INCREASE IN MINIMUM CAPITAL REQUIREMENT.—Section 1362 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4612), as amended by section 1111 of the Housing and Economic Recovery Act of 2008 (Public Law 110–289), is amended—

(A) in subsection (a), by striking ''For purposes of this subtitle, the minimum capital level for each enterprise shall be'' and inserting ''The minimum capital level established under subsection (g) for each enterprise may not be lower than'';

(B) in subsection (c)—

(i) by striking ''subsections (a) and'' and inserting ''subsection'';

(ii) by striking ''regulated entities'' the first place such term appears and inserting ''Federal Home Loan Banks'';

(iii) by striking ''for the enterprises,'';

(iv) by striking '', or for both the enterprises and the banks,'';

(v) by striking ''the level specified in subsection (a) for the enterprises or''; and

(vi) by striking ''the regulated entities operate'' and inserting ''such banks operate'';

(C) in subsection (d)(1)—

(i) by striking ''subsections (a) and'' and inserting ''subsection''; and

(ii) by striking ''regulated entity'' each place such term appears and inserting ''Federal home loan bank'';

(D) in subsection (e), by striking ''regulated entity'' each place such term appears and inserting ''Federal home loan bank'';

(E) in subsection (f)—

(i) by striking ''the amount of core capital maintained by the enterprises,''; and

(ii) by striking ''regulated entities'' and inserting ''banks''; and

(F) by adding at the end the following new subsection:

''(g) ESTABLISHMENT OF REVISED MINIMUM CAPITAL LEVELS.—

''(1) IN GENERAL.—The Director shall cause the enterprises to achieve and maintain adequate capital by establishing minimum levels of capital for such the enterprises and by using such other methods as the Director deems appropriate.

''(2) AUTHORITY.—The Director shall have the authority to establish such minimum level of capital for an enterprise in excess of the level specified under subsection (a) as the Director, in the Director's discretion, deems to be necessary or appropriate in light of the particular circumstances of the enterprise.

''(h) FAILURE TO MAINTAIN REVISED MINIMUM CAPITAL LEVELS.—

''(1) UNSAFE AND UNSOUND PRACTICE OR CONDITION.—Failure of a enterprise to maintain capital at or above its minimum level as established pursuant to subsection (g) of this section may be deemed by the Director, in his discretion, to constitute an unsafe and unsound practice or condition within the meaning of this title.

''(2) DIRECTIVE TO ACHIEVE CAPITAL LEVEL.—

''(A) AUTHORITY.—In addition to, or in lieu of, any other action authorized by law, including paragraph (1), the Director may issue a directive to an enterprise that fails to maintain capital at or above its required level as established pursuant to subsection (g) of this section.

''(B) PLAN.—Such directive may require the enterprise to submit and adhere to a plan acceptable to the Director describing the means and timing by which the enterprise shall achieve its required capital level.

''(C) ENFORCEMENT.—Any such directive issued pursuant to this paragraph, including plans submitted pursuant thereto, shall be enforceable under the provisions of subtitle C of this title to the same extent as an effective and outstanding order issued pursuant to subtitle C of this title which has become final.

''(3) ADHERENCE TO PLAN.—

''(A) CONSIDERATION.—The Director may consider such enterprise's progress in adhering to any plan required under this subsection whenever such enterprise seeks the requisite approval of the Director for any proposal which would divert earnings, diminish capital, or otherwise impede such enterprise's progress in achieving its minimum capital level.

''(B) DENIAL.—The Director may deny such approval where it determines that such proposal would adversely affect the ability of the enterprise to comply with such plan.''.

(4) REPEAL OF INCREASES TO CONFORMING LOAN LIMITS.—

(A) REPEAL OF TEMPORARY INCREASES.—

(i) CONTINUING APPROPRIATIONS RESOLUTION, 2010.—Section 167 of the Continuing Appropriations Resolution, 2010 (as added by section 104 of division B of Public Law 111–88; 123 Stat. 2973) is hereby repealed.

(ii) AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.—Section 1203 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 225) is hereby repealed.

(iii) ECONOMIC STIMULUS ACT OF 2008.—Section 201 of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 619) is hereby repealed.

(B) REPEAL OF GENERAL LIMIT AND PERMANENT HIGH-COST AREA INCREASE.—Paragraph (2) of section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) and paragraph (2) of section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) are each amended to read as such sections were in effect immediately before the enactment of the Housing and Economic Recovery Act of 2008 (Public Law 110–289).

(C) REPEAL OF NEW HOUSING PRICE INDEX.—Section 1322 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as added by section 1124(d) of the Housing and Economic Recovery Act of 2008 (Public Law 110–289), is hereby repealed.

(D) REPEAL.—Section 1124 of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) is hereby repealed.

(E) ESTABLISHMENT OF CONFORMING LOAN LIMIT.—For the year in which the expiration of the period referred to in section 1113(b) occurs, the limitations governing the maximum original principal obligation of conventional mortgages that may be purchased by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, referred to in section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) and section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)), respectively, shall be considered to be—

(i) $417,000 for a mortgage secured by a single-family residence,

(ii) $533,850 for a mortgage secured by a 2-family residence,

(iii) $645,300 for a mortgage secured by a 3-family residence, and

(iv) $801,950 for a mortgage secured by a 4-family residence,

and such limits shall be adjusted effective each January 1 thereafter in accordance with such sections 302(b)(2) and 305(a)(2).

(F) PROHIBITION OF PURCHASE OF MORTGAGES EXCEEDING MEDIAN AREA HOME PRICE.—

(i) FANNIE MAE.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended

by adding at the end the following new sentence: ''Notwithstanding any other provision of this title, the corporation may not purchase any mortgage for a property having a principal obligation that exceeds the median home price, for properties of the same size, for the area in which such property subject to the mortgage is located.''.

(ii) FREDDIE MAC.—Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended by adding at the end the following new sentence: ''Notwithstanding any other provision of this title, the Corporation may not purchase any mortgage for a property having a principal obligation that exceeds the median home price, for properties of the same size, for the area in which such property subject to the mortgage is located.''.

(5) REQUIREMENT OF MINIMUM DOWN PAYMENT FOR MORTGAGES PURCHASED.—

(A) FANNIE MAE.—Subsection (b) of section 302 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)) is amended by adding at the end the following new paragraph:

''(7) Notwithstanding any other provision of this Act, the corporation may not newly purchase any mortgage unless the mortgagor has paid, in cash or its equivalent on account of the property securing repayment such mortgage, in accordance with regulations issued by the Director of the Federal Housing Finance Agency, not less than—

''(A) for any mortgage purchased during the 12-month period beginning upon the expiration of the period referred to in section 1113(b) of the GSE Bailout Elimination and Taxpayer Protection Act, 5 percent of the appraised value of the property;

''(B) for any mortgage purchased during the 12-month period beginning upon the expiration of the 12-month period referred to in subparagraph (A) of this paragraph, 7.5 percent of the appraised value of the property; and

''(C) for any mortgage purchased during the 12-month period beginning upon the expiration of the 12-month period referred to in subparagraph (B) of this paragraph, 10 percent of the appraised value of the property.''.

(B) FREDDIE MAC.—Subsection (a) of section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)) is amended by adding at the end the following new paragraph:

''(6) Notwithstanding any other provision of this Act, the Corporation may not newly purchase any mortgage unless the mortgagor has paid, in cash or its equivalent on account of the property securing repayment such mortgage, in accordance with regulations issued by the Director of the Federal Housing Finance Agency, not less than—

''(A) for any mortgage purchased during the 12-month period beginning upon the expiration of the period referred to in section 1113(b) of the GSE Bailout Elimination and Taxpayer Protection Act, 5 percent of the appraised value of the property;

''(B) for any mortgage purchased during the 12-month period beginning upon the expiration of the 12-month period referred to in subparagraph (A) of this paragraph, 7.5 percent of the appraised value of the property; and

''(C) for any mortgage purchased during the 12-month period beginning upon the expiration of the 12-month period referred to in subparagraph (B) of this paragraph, 10 percent of the appraised value of the property.''.

(6) REQUIREMENT TO PAY STATE AND LOCAL TAXES.—

(A) FANNIE MAE.—Paragraph (2) of section 309(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(c)(2)) is amended—

(i) by striking ''shall be exempt from'' and inserting ''shall be subject to''; and

(ii) by striking ''except that any'' and inserting ''and any''.

(B) FREDDIE MAC.—Section 303(e) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(e)) is amended—

(i) by striking ''shall be exempt from'' and inserting ''shall be subject to''; and

(ii) by striking ''except that any'' and inserting ''and any''.

(7) REPEALS RELATING TO REGISTRATION OF SECURITIES.—

(A) FANNIE MAE.—

(i) MORTGAGE-BACKED SECURITIES.—Section 304(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(d)) is amended by striking the fourth sentence.

(ii) SUBORDINATE OBLIGATIONS.—Section 304(e) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(e)) is amended by striking the fourth sentence.

(B) FREDDIE MAC.—Section 306 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455) is amended by striking subsection (g).

(8) RECOUPMENT OF COSTS FOR FEDERAL GUARANTEE.—

(A) ASSESSMENTS.—The Director of the Federal Housing Finance Agency shall establish and collect from each enterprise assessments in the amount determined under subparagraph (B). In determining the method and timing for making such assessments, the Director shall take into consideration the determinations and conclusions of the study under subsection (b) of this section.

(B) DETERMINATION OF COSTS OF GUARANTEE.—Assessments under subparagraph (A) with respect to an enterprise shall be in such amount as the Director determines necessary to recoup to the Federal Government the full value of the benefit the enterprise receives from the guarantee provided by the Federal Government for the obligations and financial viability of the enterprise, based upon the dollar value of such benefit in the market to such enterprise when not operating under conservatorship or receivership. To determine such amount, the Director shall establish a risk-based pricing mechanism as the Director considers appropriate, taking into consideration the determinations and conclusions of the study under subsection (b).

(C) TREATMENT OF RECOUPED AMOUNTS.—The Director shall cover into the general fund of the Treasury any amounts received from assessments made under this paragraph.

(b) GAO STUDY REGARDING RECOUPMENT OF COSTS FOR FEDERAL GOVERNMENT GUARANTEE.—The Comptroller General of the United States shall conduct a study to determine a risk-based pricing mechanism to accurately determine the value of the benefit the enterprises receive from the guarantee provided by the Federal Government for the obligations and financial viability of the enterprises. Such study shall establish a dollar value of such benefit in the market to each enterprise when not operating under conservatorship or receivership, shall analyze various methods of the Federal Government assessing a charge for such value received (including methods involving an annual fee or a fee for each mortgage purchased or securitized), and shall make a recommendation of the best such method for assessing such charge. Not later than 12 months after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report setting forth the determinations and conclusions of such study.

SEC. 1115. REQUIRED WIND DOWN OF OPERATIONS AND DISSOLUTION OF ENTERPRISE.

(a) APPLICABILITY.—This section shall apply to an enterprise upon the expiration of the 3-year period referred to in section 1113(b).

(b) REPEAL OF CHARTER.—Upon the applicability of this section to an enterprise, the charter for the enterprise is repealed and the enterprise shall have no authority to conduct new business under such charter, except that the provisions of such charter in effect immediately before such repeal shall continue to apply with respect to the rights and obligations of any holders of outstanding debt obligations and mortgage-backed securities of the enterprise.

(c) WIND DOWN.—Upon the applicability of this section to an enterprise, the Director and the Secretary of the Treasury shall jointly take such action, and may prescribe such regulations and procedures, as may be necessary to wind down the operations of an enterprise as an entity chartered by the United States Government over the duration of the 10-year period beginning upon the applicability of this section to the enterprise (pursuant to subsection (a)) in an orderly manner consistent with this subtitle and the ongoing obligations of the enterprise.

(d) DIVISION OF ASSETS AND LIABILITIES; AUTHORITY TO ESTABLISH HOLDING CORPORATION AND DISSOLUTION TRUST FUND.—The action and procedures required under subsection (c)—

(1) shall include the establishment and execution of plans to provide for an equitable division and distribution of assets and liabilities of the enterprise, including any liability of the enterprise to the United States Government or a Federal reserve bank that may continue after the end of the period described in subsection (a); and

(2) may provide for establishment of—

(A) a holding corporation organized under the laws of any State of the United States or the District of Columbia for the purposes of the reorganization and restructuring of the enterprise; and

(B) one or more trusts to which to transfer—

(i) remaining debt obligations of the enterprise, for the benefit of holders of such remaining obligations; or

(ii) remaining mortgages held for the purpose of backing mortgage-backed securities, for the benefit of holders of such remaining securities.

SA 3743. Mr. CORKER (for himself and Mr. BENNETT) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TARP RECIPIENT OWNERSHIP TRUST.

(a) AUTHORITY OF THE SECRETARY OF THE TREASURY TO DELEGATE TARP ASSET MANAGEMENT.—Section 106(b) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5216(b)) is amended by inserting before the period at the end the following: '', and the Secretary may delegate such management

authority to a private entity, as the Secretary determines appropriate, with respect to any entity assisted under this Act''.

(b) CREATION OF MANAGEMENT AUTHORITY FOR DESIGNATED TARP RECIPIENTS.—

(1) FEDERAL ASSISTANCE LIMITED.—Notwithstanding any provision of the Emergency Economic Stabilization Act of 2008, or any other provision of law, no funds may be expended under the Troubled Asset Relief Program, or any other provision of that Act, on or after the date of enactment of this Act, until the Secretary transfers all voting, nonvoting, and common equity in any designated TARP recipient to a limited liability company established by the Secretary for such purpose, to be held and managed in trust on behalf of the United States taxpayers.

(2) APPOINTMENT OF TRUSTEES.—

(A) IN GENERAL.—The President shall appoint 3 independent trustees to manage the equity held in the trust, separate and apart from the United States Government.

(B) CRITERIA.—Trustees appointed under this subsection—

(i) may not be elected or appointed Government officials;

(ii) shall serve at the pleasure of the President, and may be removed for just cause in violation of their fiduciary responsibilities only; and

(iii) shall each be paid at a rate equal to the rate payable for positions at level III of the Executive Schedule under section 5311 of title 5, United States Code.

(3) DUTIES OF TRUST.—Pursuant to protecting the interests and investment of the United States taxpayer, the trust established under this section shall, with the purpose of maximizing the profitability of the designated TARP recipient—

(A) exercise the voting rights of the shares of the taxpayer on all core governance issues;

(B) select the representation on the boards of directors of any designated TARP recipient; and

(C) have a fiduciary duty to the American taxpayer for the maximization of the return on the investment of the taxpayer made under the Emergency Economic Stabilization Act of 2008, in the same manner and to the same extent that any director of an issuer of securities has with respect to its shareholders under the securities laws and all applications of State law.

(4) LIQUIDATION.—

(A) IN GENERAL.—The trustees shall liquidate the trust established under this section, including the assets held by such trust, not later than December 24, 2011, unless—

(i) the trustees submit a report to the Congress that liquidation would not maximize the profitability of the company and the return on investment to the taxpayer; and

(ii) within 15 calendar days after the date on which the Congress receives such report, there is enacted into law a joint resolution disapproving the liquidation plan of the Secretary, as described in paragraph (2).

(B) CONTENTS OF JOINT RESOLUTION.—For purposes of this subsection, the term ''joint resolution'' means only a joint resolution—

(i) that is introduced not later than 3 calendar days after the date on which the report referred to in paragraph (1)(A) is received by the Congress;

(ii) which does not have a preamble;

(iii) the title of which is as follows: ''Joint resolution relating to the disapproval of the liquidation of the TARP management trust''; and

(iv) the matter after the resolving clause of which is as follows: ''That Congress disapproves the liquidation of the TARP management trust established under the TARP Recipient Ownership Trust Act of 2009.''.

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

(i) RECONVENING.—Upon receipt of a report under paragraph (1)(A), the Speaker, if the House would otherwise be adjourned, shall notify the Members of the House that, pursuant to this subsection, the House shall convene not later than the second calendar day after receipt of such report.

(ii) REPORTING AND DISCHARGE.—Any committee of the House of Representatives to which a joint resolution is referred shall report it to the House not later than 5 calendar days after the date of receipt of the report described in paragraph (1)(A). If a committee fails to report the joint resolution within that period, the committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be referred to the appropriate calendar.

(iii) PROCEEDING TO CONSIDERATION.—After each committee authorized to consider a joint resolution reports it to the House or has been discharged from its consideration, it shall be in order, not later than the sixth day after Congress receives the report described in paragraph (1)(A), to move to proceed to consider the joint resolution in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

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

(D) FAST TRACK CONSIDERATION IN SENATE.—

(i) RECONVENING.—Upon receipt of a report under paragraph (1)(A), if the Senate has adjourned or recessed for more than 2 days, the majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate that, pursuant to this subsection, the Senate shall convene not later than the second calendar day after receipt of such message.

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

(iii) FLOOR CONSIDERATION.—

(I) IN GENERAL.—Notwithstanding rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the 4th day after the date on which Congress receives a report of the plan of the Secretary described in paragraph (1)(A) and ending on the 6th day after the date on which Congress receives a report of the plan of the Secretary described in paragraph (1)(A) (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of.

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

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

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

(E) RULES RELATING TO SENATE AND HOUSE OF REPRESENTATIVES.—

(i) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

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

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

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

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

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

(iii) TREATMENT OF COMPANION MEASURES.—If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

(iv) CONSIDERATION AFTER PASSAGE.—

(I) IN GENERAL.—If Congress passes a joint resolution, the period beginning on the date the President is presented with the joint resolution and ending on the date the President takes action with respect to the joint resolution shall be disregarded in computing the 15-calendar day period described in paragraph (1)(A).

(II) VETOES.—If the President vetoes the joint resolution—

(aa) the period beginning on the date the President vetoes the joint resolution and ending on the date the Congress receives the veto message with respect to the joint resolution shall be disregarded in computing the 15-calendar day period described in paragraph (1)(A); and

(bb) debate on a veto message in the Senate under this subsection shall be 1 hour equally divided between the majority and minority leaders or their designees.

(v) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This paragraph, and paragraphs (2), (3), and (4) are enacted by Congress—

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

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

(c) DEFINITIONS.—As used in this section—

(1) the term ''designated TARP recipient'' means any entity that has received, or will receive, financial assistance under the Troubled Asset Relief Program or any other provision of the Emergency Economic Stabilization Act of 2008 (Public Law 110–343), such that the Federal Government holds or controls, or will hold or control at a future date, not less than a 10 percent ownership stake in the company as a result of such assistance;

(2) the term ''Secretary'' means the Secretary of the Treasury or the designee of the Secretary; and

(3) the terms ''director'', ''issuer'', ''securities'', and ''securities laws'' have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

SA 3744. Mrs. HAGAN (for herself, Mr. DURBIN, and Mr. SCHUMER) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1268. REGULATION OF COVERED LOANS.

Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended by adding at the end the following:

''(e) TERMS AND CONDITIONS FOR COVERED LOANS.—

''(1) DEFINITIONS.—As used in this subsection—

''(A) the term 'covered' loan—

''(i) means a consumer credit transaction in which the loan amount, or, in the case of a line of credit, the credit limit, is $3,000 or less that—

''(I) in the case of a closed-end credit transaction, has a term of 91 days or less and an annual percentage rate exceeding 36 percent (include all cost elements (other than the minimum deposit amount necessary to open a secured card account) associated with the extension of credit, including fees, service charges, renewal charges, credit insurance premiums, and any other charge or premium with respect to the extension of consumer credit);

''(II) in the case of an open-end credit transaction, has an amortization period of 91 days or less and the annual percentage rate exceeds 36 percent (calculated as though the transaction were a closed-end transaction pursuant to subclause (I)); or

''(III) in the case of an open-end credit transaction, the cost elements associated with the extension of credit and due in the first 91 days, including finance charges, fees, service charges, renewals, credit insurance premiums, and any other charge or premium with respect to consumer credit, exceed 25 percent of the line of credit; and

''(ii) does not include—

''(I) a credit transaction that is secured by an interest in real estate, a vehicle, or other goods both listed and valued individually over $3,000;

''(II) overdraft services that are not covered by this title; or

''(III) an extension of credit in which a consumer sells an item of goods to a pawnbroker creditor and retains the right to redeem the item for a greater sum within a specified time, provided that the consumer has no obligation to repay the credit, and the creditor takes no security other than the goods and makes no effort to collect the credit; and

''(B) the term 'extended payment plan' means an amendment to the covered loan that is signed in person or electronically by both the consumer and the creditor reflecting an agreement that the consumer pay the outstanding balance on a covered loan in not fewer than 4 equal payments, where the period between each payment may not be less than the duration of the original covered loan.

''(2) LIMITS ON BORROWER INDEBTEDNESS.—Notwithstanding any other provision of law, no covered loan may be extended to any individual, if such individual, considering all covered loans by the consumer during such time period, in the aggregate, has had—

''(A) 6 covered loans extended during the preceding 12-month period; or

''(B) covered loan obligations of 90 days or longer during the preceding 12-month period.

''(3) BOARD RULEMAKING REQUIRED.—Not later than 180 days after the date of enactment of this subsection, the Board shall issue final rules with respect to covered loans, which rules shall—

''(A) require each issuer of a covered loan—

''(i) to offer extended repayment plans, if the borrower is unable to pay under the terms of the original loan;

''(ii) to accept equal payments over a series of pay checks or pay periods of the consumer;

''(iii) to obtain a surety bond, in such amounts as the Board determines appropriate; and

''(iv) to comply with appropriate licensing requirements established by the Board;

''(B) create a mechanism for lenders to determine whether a potential borrower is eligible for a covered loan,

''(C) provide for enforcement by State attorneys general;

''(D) prohibit the purchase or sale, at the same location at which covered loans are offered, of other products or services; and

''(E) prohibit the imposition of any fee or penalty for the early repayment of the obligation, including under any extension described in subparagraph (A)(i).

''(4) NONENFORCEABILITY OF CONTRACTS.—No contract made in violation of this Act may be enforced with respect to any consumer.

''(5) OTHER FEES.—The Board may impose such fees on issuers of covered loans under this subsection as may be necessary to pay the administrative costs of the Board in carrying out and enforcing this subsection.

''(6) TREATMENT OF STATE LAW.—Nothing in this subsection may be construed as—

''(A) preempting any provision of State law, to the extent that such State law provides greater protection to consumers than is provided under this subsection;

''(B) preventing any State from enacting any provision of law that provides greater protection to consumers than is provided under this subsection;

''(C) authorizing covered loans to be made in a State where they are otherwise not permitted under State law; or

''(D) authorizing an extension of credit at an annual percentage rate that would be prohibited by applicable State law.''.

SA 3745. Mrs. HAGAN submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 372, line 2, insert before the period at the end the following: ''and may establish, acquire, and operate additional branches and agencies at any location within any State in which the savings association operated a branch immediately before the savings association became a bank, if the law of the State in which the branch is located, or is to be located, would permit establishment of the branch if the bank were a State bank chartered by such State''.

SA 3746. Mr. WHITEHOUSE (for himself, Mr. MERKLEY, Mr. DURBIN, Mr. SANDERS, Mr. LEVIN, and Mr. BURRIS) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1320, strike line 23 and all that follows through the end of the undesignated matter on page 1321 between lines 17 and 18 and insert the following:

''(g) TRANSPARENCY OF OCC PREEMPTION DETERMINATIONS.—The Comptroller of the Currency shall publish and update not less frequently than quarterly, a list of preemption determinations by the Comptroller of the Currency then in effect that identifies the activities and practices covered by each determination and the requirements and constraints determined to be preempted.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136B the following new item:

''Sec. 5136C. State law preemption standards for national banks and subsidiaries clarified.''.

(c) USURIOUS LENDERS.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end the following:

''SEC. 141. LIMITS ON ANNUAL PERCENTAGES RATES.

''Effective 12 months after the date of enactment of this section, and notwithstanding any other provision of law, the interest applicable to any consumer credit transaction (other than a transaction that is secured by real property), including any fees, points, or time-price differential associated with such a transaction, may not exceed the maximum permitted by any law of the State in which the consumer resides. Nothing in this section may be construed to preempt an otherwise applicable provision of State law governing the interest in connection with a consumer credit transaction that is secured by real property.''.

SA 3747. Mr. BENNET (for himself, Mr. ISAKSON, Ms. KLOBUCHAR, Mr. TESTER, and Mr. BEGICH) submitted an amendment intended to be proposed by him to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailout, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE XIII—PAY IT BACK ACT

SEC. 1301. SHORT TITLE.

This title may be cited as the ''Pay It Back Act''.

SEC. 1302. AMENDMENT TO REDUCE TARP AUTHORIZATION.

Section 115(a)(3) of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5225(a)(3)) is amended by striking ''outstanding at any one time'' and inserting ''minus any aggregate amounts received by the Secretary before, on, or after the date of enactment of the Pay It Back Act for repayment of the principal of financial assistance by an entity that has received financial assistance under the TARP or any program enacted by the Secretary under the authorities granted to the Secretary under this Act, in the aggregate (or such higher amount, in the aggregate, as has been or may be obligated or expended under this Act)''.

SEC. 1303. REPORT.

Section 106 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5216) is amended by inserting at the end the following:

''(f) REPORT.—The Secretary of the Treasury shall report to Congress every 6 months on amounts received and transferred to the general fund under subsection (d).''.

SEC. 1304. AMENDMENTS TO HOUSING AND ECONOMIC RECOVERY ACT OF 2008.

(a) SALE OF FANNIE MAE OBLIGATIONS AND SECURITIES BY THE TREASURY; DEFICIT REDUCTION.—Section 304(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(g)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

''(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall—

''(i) deposit in the General Fund of the Treasury any amounts received by the Secretary for the sale of any obligation or security acquired by the Secretary under this subsection; and

''(ii) ensure that such amounts so deposited—

''(I) are dedicated for the sole purpose of deficit reduction; and

''(II) are prohibited from use as an offset for other spending increases or revenue reductions.''.

(b) SALE OF FREDDIE MAC OBLIGATIONS AND SECURITIES BY THE TREASURY; DEFICIT REDUCTION.—Section 306(l)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(l)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

''(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall—

''(i) deposit in the General Fund of the Treasury any amounts received by the Secretary for the sale of any obligation or security acquired by the Secretary under this subsection; and

''(ii) ensure that such amounts so deposited—

''(I) are dedicated for the sole purpose of deficit reduction; and

''(II) are prohibited from use as an offset for other spending increases or revenue reductions.''.

(c) SALE OF FEDERAL HOME LOAN BANKS OBLIGATIONS BY THE TREASURY; DEFICIT REDUCTION.—Section 11(l)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1431(l)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

''(C) DEFICIT REDUCTION.—The Secretary of the Treasury shall—

''(i) deposit in the General Fund of the Treasury any amounts received by the Secretary for the sale of any obligation acquired by the Secretary under this subsection; and

''(ii) ensure that such amounts so deposited—

''(I) are dedicated for the sole purpose of deficit reduction; and

''(II) are prohibited from use as an offset for other spending increases or revenue reductions.''.

(d) REPAYMENT OF FEES.—Any periodic commitment fee or any other fee or assessment paid by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation to the Secretary of the Treasury as a result of any preferred stock purchase agreement, mortgage-backed security purchase program, or any other program or activity authorized or carried out pursuant to the authorities granted to the Secretary of the Treasury under section 1117 of the Housing and Economic Recovery Act of 2008 (Public Law 110–289; 122 Stat. 2683), including any fee agreed to by contract between the Secretary and the Association or Corporation, shall be deposited in the General Fund of the Treasury where such amounts shall be—

(1) dedicated for the sole purpose of deficit reduction; and

(2) prohibited from use as an offset for other spending increases or revenue reductions.

SEC. 1305. FEDERAL HOUSING FINANCE AGENCY REPORT.

The Director of the Federal Housing Finance Agency shall submit to Congress a report on the plans of the Agency to continue to support and maintain the Nation's vital housing industry, while at the same time guaranteeing that the American taxpayer will not suffer unnecessary losses.

SEC. 1306. REPAYMENT OF UNOBLIGATED ARRA FUNDS.

(a) REJECTION OF ARRA FUNDS BY STATE.—Section 1607 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 305) is amended by adding at the end the following:

''(d) STATEWIDE REJECTION OF FUNDS.—If funds provided to any State in any division of this Act are not accepted for use by the Governor of the State pursuant to subsection (a) or by the State legislature pursuant to subsection (b), then all such funds shall be—

''(1) rescinded; and

''(2) deposited in the General Fund of the Treasury where such amounts shall be—

''(A) dedicated for the sole purpose of deficit reduction; and

''(B) prohibited from use as an offset for other spending increases or revenue reductions.''.

(b) WITHDRAWAL OR RECAPTURE OF UNOBLIGATED FUNDS.—Title XVI of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 302) is amended by adding at the end the following:

''SEC. 1613. WITHDRAWAL OR RECAPTURE OF UNOBLIGATED FUNDS.

''Notwithstanding any other provision of this Act, if the head of any executive agency withdraws or recaptures for any reason funds appropriated or otherwise made available under this division, and such funds have not been obligated by a State to a local government or for a specific project, such recaptured funds shall be—

''(1) rescinded; and

''(2) deposited in the General Fund of the Treasury where such amounts shall be—

''(A) dedicated for the sole purpose of deficit reduction; and

''(B) prohibited from use as an offset for other spending increases or revenue reductions.''.

(c) RETURN OF UNOBLIGATED FUNDS BY END OF 2012.—Section 1603 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 302) is amended by—

(1) striking ''All funds'' and inserting ''(a) IN GENERAL.—All funds''; and

(2) adding at the end the following:

''(b) REPAYMENT OF UNOBLIGATED FUNDS.—Any discretionary appropriations made available in this division that have not been obligated as of December 31, 2012, are hereby rescinded, and such amounts shall be deposited in the General Fund of the Treasury where such amounts shall be—

''(1) dedicated for the sole purpose of deficit reduction; and

''(2) prohibited from use as an offset for other spending increases or revenue reductions.

''(c) PRESIDENTIAL WAIVER AUTHORITY.—

''(1) IN GENERAL.—The President may waive the requirements under subsection (b), if the President determines that it is not in the best interest of the Nation to rescind a specific unobligated amount after December 31, 2012.

''(2) REQUESTS.—The head of an executive agency may also apply to the President for a waiver from the requirements under subsection (b).''.

SEC. 1307. REDUCTION OF STATUTORY LIMIT ON THE PUBLIC DEBT.

Section 3101 of title 31, United States Code, is amended—

(1) in subsection (b), by inserting ''minus the aggregate amounts described in subsection (d)'' before '', outstanding at one time''; and

(2) by inserting at the end the following:

''(d) Amounts described in this subsection are any amounts received by the Secretary of the Treasury pursuant to—

''(1) section 106(d) of the Emergency Economic Stabilization Act of 2008 before, on, or after the date of enactment of this subsection; and

''(2) section 304(g) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(g)), section 306(l) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455(l)), section 11(l) of the Federal Home Loan Bank Act (12 U.S.C. 1431(l)), section 1607(d) of the American Recovery and Reinvestment Act of 2009, section 1613 of the American Recovery and Reinvestment Act of 2009, and sections 1304(d) and 1306(c) of the Pay It Back Act after the date of enactment of this subsection.''.

SA 3748. Mrs. FEINSTEIN (for herself, Mr. GREGG, and Ms. SNOWE) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to

fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1455, after line 25, insert the following:

SEC. 1077. TREATMENT OF SOCIAL SECURITY NUMBERS ON GOVERNMENT CHECKS IN PRISON EMPLOYMENT PROGRAMS.

(a) PROHIBITION OF USE OF SOCIAL SECURITY ACCOUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY GOVERNMENTAL AGENCIES.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended by adding at the end the following:

''(x) No Federal, State, or local agency may display the Social Security account number of any individual, or any derivative of such number, on any check issued for any payment by the Federal, State, or local agency.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to checks issued after the date that is 3 years after the date of enactment of this Act.

(b) PROHIBITION OF INMATE ACCESS TO SOCIAL SECURITY ACCOUNT NUMBERS.—

(1) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (a)) is amended by adding at the end the following:

''(xi) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the Social Security account numbers of other individuals. For purposes of this clause, the term 'prisoner' means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of a criminal offense.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act.

SA 3749. Mr. TESTER (for himself, Mr. CONRAD, Mrs. MURRAY, Mr. BURRIS, and Mrs. HUTCHISON) submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 368, strike line 3 and all that follows through page 369, line 14, and insert the following:

(b) ASSESSMENT BASE.—The Corporation shall amend the regulations issued by the Corporation under section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) to define the term ''assessment base'' with respect to an insured depository institution for purposes of that section 7(b)(2), as an amount equal to—

(1) the average consolidated total assets of the insured depository institution during the assessment period; minus

(2) the sum of—

(A) the average tangible equity of the insured depository institution during the assessment period; and

(B) in the case of an insured depository institution that is a custodial bank (as defined by the Corporation, based on factors including the percentage of total revenues generated by custodial businesses and the level of assets under custody) or a banker's bank (as that term is used in section 5136 of the Revised Statutes (12 U.S.C. 24)), an amount that the Corporation determines is necessary to establish assessments consistent with the definition under section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) for a custodial bank or a banker's bank.

SA 3750. Mr. TESTER submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 394, lines 10 and 11, strike ''any person that is authorized to write'' and insert ''any entity that writes''.

SA 3751. Mr. NELSON of Florida submitted an amendment intended to be proposed to amendment SA 3739 proposed by Mr. REID (for Mr. DODD (for himself and Mrs. LINCOLN)) to the bill S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end ''too big to fail'', to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, and for other purposes; which was ordered to lie on the table; as follows:

On page 1044, between lines 2 and 3, insert the following:

SEC. 939D. CURRENT AND RELIABLE CREDIT RATINGS.

Section 15E of the Securities Exchange Act of 1934 (15 U.S.C. 78o–7), as amended by this subtitle, is amended by adding at the end the following:

''(w) MONITORING, REVIEW, AND UPDATING OF CREDIT RATINGS.—

''(1) RULES REQUIRED.—Not later than 180 days after the date of enactment of this subsection, the Commission shall issue rules that require each nationally recognized statistical rating organization to regularly monitor, review, and update the credit ratings issued by the nationally recognized statistical rating organization, to ensure that the credit ratings remain current and reliable.

''(2) ENFORCEMENT.—The Commission shall censure, fine in accordance with section 21B, place limitations on the activities, functions, or operations of, suspend for a period not exceeding 12 months, or revoke the registration of any nationally recognized statistical rating organization that violates the rules issued under paragraph (1), if the Commission finds, on the record after notice and opportunity for hearing, that such censure, fine, placing of limitations, bar, suspension, or revocation is necessary for the protection of investors and in the public interest.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 29, 2010, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 29, 2010, at 10 a.m., to conduct a hearing entitled ''Short-Termism in Financial Markets.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate to conduct a business meeting on April 29, 2010.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet during the session of the Senate to conduct a hearing entitled ''Meeting the Needs of Special Populations'' on April 29, 2010. The hearing will commence at 10 a.m. in room 430 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on April 29, 2010, at 2:30 p.m., to hold a hearing entitled ''The Historical and Modern Context for U.S.-Russian Arms Control.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet during the session of the Senate on April 29, 2010, at 2:15 p.m. in room 628 of the Dirksen Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on April 29, 2010, at 10 a.m. in SD–226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 29, 2010, at 2:30 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER PROTECTION, PRODUCT SAFETY, AND INSURANCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Protection, Product Safety, and Insurance of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on April 29, 2010, at 10 a.m. in room 253 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE, CUSTOMS, AND GLOBAL COMPETITIVENESS

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on International Trade, Customs, and Global Competitiveness of the Committee on Finance be authorized to meet during the session of the Senate on April 29, 2010, at 1 p.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled ''Doubling U.S. Exports: Are U.S. Sea Ports Ready for the Challenge?''

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet during the session of the Senate on April 29, 2010, at 2:30 p.m. to conduct a hearing entitled ''Developing Federal Employees and Supervisors: Mentoring, Internships, and Training in the Federal Government.''

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mrs. LINCOLN. Mr. President, I ask unanimous consent that George Wilder, a detailee in my office, be granted the privilege of the floor for the remainder of the debate on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to executive session to consider en bloc the following nominations on the Executive Calendar: Nos. 820, 821, 822, and 823; that the nominations be confirmed en bloc, the motions to reconsider be considered made and laid upon the table en bloc; any statements relating to the nominations be printed in the Record; the President be immediately notified of the Senate's action; and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

David J. Hale, of Kentucky, to be United States Attorney for the Western District of Kentucky for the term of four years.

Kerry B. Harvey, of Kentucky, to be United States Attorney for the Eastern District of Kentucky for the term of four years.

Alicia Anne Garrido Limtiaco, of Guam, to be United States Attorney for the District of Guam and concurrently United States Attorney for the District of the Northern Mariana Islands for the term of four years.

Kenneth J. Gonzales, of New Mexico, to be United States Attorney for the District of New Mexico for the term of four years.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

DANIEL PEARL FREEDOM OF THE PRESS ACT OF 2009

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of H.R. 3714 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The bill clerk read as follows:

A bill (H.R. 3714) to amend the Foreign Assistance Act of 1961 to include in the Annual Country Reports on Human Rights and Practices information about freedom of the press in foreign countries, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I congratulate the Senate for enacting the Daniel Pearl Freedom of the Press Act, H.R. 3714, a bill to strengthen and protect press freedoms around the world. I am proud to cosponsor the Senate companion to this bill, S. 1739.

I congratulate and commend my good friend, Senator DODD, for his leadership on this bill and for his longstanding commitment to freedom of the press. I have worked closely with Senator DODD for many years on legislation to establish a Federal shield law for journalists, and I am pleased that the Judiciary Committee recently reported Federal shield legislation. I also commend Representative ADAM SCHIFF for championing this important legislation in the House of Representatives.

The Daniel Pearl Freedom of the Press Act will amend the Foreign Assistance Act of 1961 to require the Secretary of State to include information about freedom of the press practices in other countries in the Annual Country Reports on Human Rights Practices. The bill will also require that this report identify countries in which there are violations of freedom of the press, such as physical attacks on journalists, imprisonment, and censorship by foreign governments.

The Committee to Protect Journalists reported that more journalists have been killed around the world in 2009 than in any other year since that organization first started tracking this data in 1981. This troubling report demonstrates that the press freedoms that we often take for granted at home are in danger of being snuffed out in many other parts of the world. I believe that this bill will help to reverse this trend and to signal to the world community that the United States is committed to ensuring freedom of the press at home and abroad.

Thomas Jefferson once wrote in a letter to fellow Founding Father John Adams that ''[t]he light which has been shed on mankind by the art of printing has eminently changed the condition of the world . . . And while printing is preserved, it can no more recede than the sun return on his course.'' Although these words were written almost two centuries ago, the critical role of a free and vibrant press is no less significant today. Again, I congratulate the lead sponsors of this important legislation for their commitment to freedom of the press. I urge the President to promptly sign this important legislation into law.

Mr. WHITEHOUSE. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3714) was ordered to be read a third time, was read the third time, and passed.

AUTHORIZING USE OF THE CAPITOL GROUNDS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 264, just received from the House and now at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 264) authorizing the use of the Capitol grounds for the National Peace Officers' Memorial Service.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WHITEHOUSE. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 264) was agreed to.

RECOGNIZING AVIATION CONTRIBUTIONS IN HAITI EARTHQUAKE RELIEF

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Con. Res. 61 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 61) expressing the sense of the Congress that general aviation pilots and industry should be recognized for the contributions made in response to Haiti earthquake relief efforts.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WHITEHOUSE. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 61) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 61

Whereas, on January 12, 2010, the country of Haiti suffered a devastating earthquake;

Whereas, after the earthquake, general aviation pilots rallied to provide transportation for medical staff and relief personnel;

Whereas more than 4,500 relief flights were made by general aviators in the first 30 days after the earthquake;

Whereas business aircraft alone conducted more than 700 flights, transporting 3,500 passengers, and over 1,000,000 pounds of cargo and supplies;

Whereas relief flights were fully paid for by individual pilots and aircraft owners;

Whereas smaller general aviation aircraft were able to deliver supplies and medical personnel to areas outside Port-Au-Prince which larger aircraft could not serve; and

Whereas the selfless efforts of the general aviation community have saved countless lives and provided humanitarian assistance in a time of need: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the United States Congress—

(1) recognizes the many contributions of the general aviation pilots and industry to the Haiti earthquake relief efforts; and

(2) encourages the continued generosity of general aviation pilots and operators in the ongoing humanitarian relief efforts in Haiti.

CONGRATULATING THE NATURAL RESOURCES CONSERVATION SERVICE ON ITS 75TH ANNIVERSARY

Mr. WHITEHOUSE. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 62, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The bill clerk read as follows:

A concurrent resolution (S. Con. Res. 62) congratulating the outstanding professional public servants, both past and present, of the Natural Resources Conservation Service on the occasion of its 75th anniversary.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mrs. LINCOLN. Mr. President, today the Senate is considering a resolution recognizing the 75th Anniversary of the Natural Resources Conservation Service, known as NRCS.

Congress established the Soil Conservation Service, the predecessor to NRCS, in April of 1935. Since that time, the agency has aided landowners in implementing conservation measures to protect and enhance our Nation's natural resources. Meanwhile, American farmers and ranchers have become the most productive of any on Earth—ensuring a safe, diverse, and nutritious food supply for their fellow citizens and many of the world's citizens.

Today, NRCS administers more than 20 conservation programs that provide technical and financial assistance to landowners. These programs improve soil and water quality, increase energy efficiency, enhance agricultural practices, and retire marginal lands to create and protect wildlife habitat. NRCS has directly contributed to the protection or establishment of 160 million acres of wildlife habitat and to the preservation, restoration, or enhancement of 9 million acres of wetlands.

We have seen real progress over the past 75 years, but I would argue private lands conservation is more important in 2010 than ever before, as we confront challenges such as climate change and loss of open space, and explore opportunities for creating wealth in rural communities through renewable energy production and water quality and carbon credit trading.

Properly managed working lands generate environmental benefits we all enjoy, such as clean air, water made clean by filtering through forests and fields, high-quality soils that capture carbon and make life possible, and wildlife habitat that promotes biodiversity and offers recreational opportunities such as fishing and hunting. With 70 percent of U.S. lands in private hands, the continuation of successful farm bill conservation programs—along with other technical assistance efforts—should be of interest to all of us.

NRCS programs provide important public benefits while working with landowners on a voluntary basis. This unique approach is aided by the agency's presence in every county of every State. Agency employees in every office work toward the common goal of conserving natural resources for the benefit of the landowner and all Americans.

I urge my colleagues to support this important resolution recognizing the NRCS's 75 years of service.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements relating to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 62) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 62

Whereas the well-being of the United States is dependent on productive soils along with abundant and high-quality water and related natural resources;

Whereas the Natural Resources Conservation Service (in this resolution referred to as ''NRCS'') was established as the Soil Conservation Service in the Department of Agriculture in 1935 to assist farmers, ranchers, and other landowners in protecting soil and water resources on private lands;

Whereas Hugh Hammond Bennett, the first Chief of the Soil Conservation Service and the ''father of soil conservation'', led the creation of the modern soil conservation movement that established soil and water conservation as a national priority;

Whereas the NRCS, with the assistance of President Franklin D. Roosevelt, State governments, and local partners, developed a new mechanism of American conservation service delivery, which brings together private individuals with Federal, State, and local governments to achieve common conservation objectives;

Whereas the NRCS provides a vital public service by supplying technical expertise and financial assistance to cooperating private landowners for the conservation of soil and water resources;

Whereas the NRCS, as authorized by Congress, has developed and provided land conservation programs that have resulted in the restoration and preservation of millions of acres of wetlands, forests, and grasslands that provide innumerable benefits to the general public in the form of recreational opportunities, wildlife habitat, water quality, and reduced soil erosion;

Whereas the NRCS is the world leader in soil science and soil surveying;

Whereas the NRCS is the national leader in the inventory of natural resources on private lands, providing national leaders and the public with the status and trends related to these resources and helping forecast the availability of critical water supplies;

Whereas the NRCS has helped communities develop and implement thousands of locally led projects that continue to provide flood control, soil conservation, water supply, and recreational benefits to all Americans, while providing business and job creation opportunities as well;

Whereas, since its establishment, the NRCS has developed, tested, and demonstrated conservation practices, helped develop the science and art of conservation, and continues to strive toward innovation;

Whereas the NRCS encourages and works with landowners and land users to adopt conservation practices and technologies in a voluntary manner to address natural resource concerns;

Whereas NRCS employees serve in offices in every State and territory, while other employees assist other countries and governments;

Whereas, while some NRCS employees work directly with landowners, other employees serve in support of NRCS field operations, but all work toward a common goal of improving the condition of all natural resources found on private lands, knowing when they succeed, all Americans benefit; and

Whereas the NRCS has been ''helping people, help the land'' for 75 years: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) congratulates the outstanding conservation professionals of the Natural Resources Conservation Service on the occasion of the 75th anniversary of the Natural Resources Conservation Service;

(2) recognizes the vital role conservation plays in the well-being of the United States;

(3) expresses its continued commitment to the conservation of natural resources on private lands in both the national interest and as a national priority; and

(4) recognizes the services that the Natural Resources Conservation Service provides to the United States by helping farmers, ranchers, and other landowners to protect soil, water, and related natural resources.

PUBLIC SERVICE RECOGNITION WEEK

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Homeland Security and Governmental Affairs Committee be discharged from further consideration of S. Res. 481, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 481) expressing the sense of the Senate that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 3 through 9, 2010.

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 481) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 481

Whereas Public Service Recognition Week provides an opportunity to recognize and promote the important contributions of public servants and honor the diverse men and women who meet the needs of the Nation through work at all levels of government;

Whereas millions of individuals work in government service in every city, county, and State across America and in hundreds of cities abroad;

Whereas public service is a noble calling involving a variety of challenging and rewarding professions;

Whereas Federal, State, and local governments are responsive, innovative, and effective because of the outstanding work of public servants;

Whereas the United States of America is a great and prosperous Nation, and public service employees contribute significantly to that greatness and prosperity;

Whereas the Nation benefits daily from the knowledge and skills of these highly trained individuals;

Whereas public servants—

(1) defend our freedom and advance United States interests around the world;

(2) provide vital strategic support functions to our military and serve in the National Guard and Reserves;

(3) fight crime and fires;

(4) ensure equal access to secure, efficient, and affordable mail service;

(5) deliver Social Security and Medicare benefits;

(6) fight disease and promote better health;

(7) protect the environment and the Nation's parks;

(8) enforce laws guaranteeing equal employment opportunity and healthy working conditions;

(9) defend and secure critical infrastructure;

(10) help the Nation recover from natural disasters and terrorist attacks;

(11) teach and work in our schools and libraries;

(12) develop new technologies and explore the earth, moon, and space to help improve our understanding of how our world changes;

(13) improve and secure our transportation systems;

(14) promote economic growth; and

(15) assist our Nation's veterans;

Whereas members of the uniformed services and civilian employees at all levels of government make significant contributions to the general welfare of the United States, and are on the front lines in the fight against terrorism and in maintaining homeland security;

Whereas public servants work in a professional manner to build relationships with other countries and cultures in order to better represent America's interests and promote American ideals;

Whereas public servants alert Congress and the public to government waste, fraud, abuse, and dangers to public health;

Whereas the men and women serving in the Armed Forces of the United States, as well as those skilled trade and craft Federal employees who provide support to their efforts, are committed to doing their jobs regardless of the circumstances, and contribute greatly to the security of the Nation and the world;

Whereas public servants have bravely fought in armed conflict in defense of this Nation and its ideals and deserve the care and benefits they have earned through their honorable service;

Whereas government workers have much to offer, as demonstrated by their expertise and innovative ideas, and serve as examples by passing on institutional knowledge to train the next generation of public servants;

Whereas May 3 through 9, 2010, has been designated Public Service Recognition Week to honor America's Federal, State, and local government employees; and

Whereas Public Service Recognition Week is celebrating its 26th anniversary through job fairs, student activities, and agency exhibits: Now, therefore, be it

Resolved, That the Senate—

(1) commends public servants for their outstanding contributions to this great Nation during Public Service Recognition Week and throughout the year;

(2) salutes government employees for their unyielding dedication and spirit for public service;

(3) honors those government employees who have given their lives in service to their country;

(4) calls upon all generations to consider a career in public service; and

(5) encourages efforts to promote public service careers at all levels of government.

DIA DE LOS NIÑOS: CELEBRATING YOUNG AMERICANS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 507, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 507) designating April 30, 2010, as ''Dia de los Niños: Celebrating Young Americans.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and any statements related to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 507) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 507

Whereas many nations throughout the world, and especially within the Western hemisphere, celebrate ''el Dia de los Niños'', or ''Day of the Children'', on April 30, in recognition and celebration of the future of the nations—their children;

Whereas children represent the hopes and dreams of the people of the United States and are the center of families in the United States;

Whereas children should be nurtured and invested in to preserve and enhance economic prosperity, democracy, and the spirit of the United States;

Whereas according to the latest Census report, there are more than 47,000,000 individuals of Hispanic descent living in the United States, nearly 16,000,000 of whom are children;

Whereas Hispanics in the United States, the youngest and fastest growing ethnic community in the Nation, continue the tradition of honoring their children on el Dia de los Niños, and wish to share this custom with the rest of the Nation;

Whereas the primary teachers of family values, morality, and culture are parents and family members, and people in the United States rely on children to pass on these family values, morals, and culture to future generations;

Whereas the importance of literacy and education are most often communicated to children through family members;

Whereas families should be encouraged to engage in family and community activities that include extended and elderly family members and that encourage children to explore and develop confidence;

Whereas the designation of a day to honor the children of the United States will help affirm for the people of the United States the

significance of family, education, and community;

Whereas the designation of a day of special recognition for the children of the United States will provide an opportunity for children to reflect on their future, to articulate their aspirations, and to find comfort and security in the support of their family members and communities;

Whereas the National Latino Children's Institute, serving as a voice for children, has worked with cities throughout the Nation to declare April 30 as ''el Dia de los Niños: Celebrating Young Americans'', a day to bring together Hispanics and other communities nationwide to celebrate and uplift children; and

Whereas the children of a nation are the responsibility of all its people, and people should be encouraged to celebrate the gifts of children to society: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 30, 2010, as ''el Dia de los Niños: Celebrating Young Americans''; and

(2) calls on the people of the United States to join with all children, families, organizations, communities, churches, cities, and States across the Nation to observe the day with appropriate ceremonies, including activities that—

(A) center around children, and are free or minimal in cost so as to encourage and facilitate the participation of all our people;

(B) are positive and uplifting and that help children express their hopes and dreams;

(C) provide opportunities for children of all backgrounds to learn about one another's cultures and to share ideas;

(D) include all members of the family, especially extended and elderly family members, so as to promote greater communication among the generations within a family, enabling children to appreciate and benefit from the experiences and wisdom of their elderly family members;

(E) provide opportunities for families within a community to get acquainted; and

(F) provide children with the support they need to develop skills and confidence, and to find the inner strength and the will and fire of the human spirit to make their dreams come true.

ORDERS FOR FRIDAY, APRIL 30, 2010

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., on Friday, April 30; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of S. 3217, the Wall Street reform legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. WHITEHOUSE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand adjourned under the previous order.

There being no objection, the Senate, at 6:27 p.m., adjourned until Friday, April 30, 2010, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

FEDERAL RESERVE SYSTEM

PETER A. DIAMOND, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2000, VICE FREDERIC S. MISHKIN.

SARAH BLOOM RASKIN, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR THE UNEXPIRED TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2002, VICE DONALD L. KOHN, RESIGNED.

JANET L. YELLEN, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOURTEEN YEARS FROM FEBRUARY 1, 2010, VICE MARK W. OLSON, RESIGNED.

JANET L. YELLEN, OF CALIFORNIA, TO BE VICE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM FOR A TERM OF FOUR YEARS, VICE DONALD L. KOHN, RESIGNED.

ENVIRONMENTAL PROTECTION AGENCY

MALCOLM D. JACKSON, OF ILLINOIS, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE MOLLY A. O'NEILL, RESIGNED.

NATIONAL INDIAN GAMING COMMISSION

TRACIE STEVENS, OF WASHINGTON, TO BE CHAIRMAN OF THE NATIONAL INDIAN GAMING COMMISSION FOR THE TERM OF THREE YEARS, VICE PHILIP N. HOGEN, RESIGNED.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

To be lieutenant (junior grade)

TIMOTHY C. SINQUEFIELD

To be ensign

KELLI-ANN E. BLISS
JENNIFER S. CLARK
LESLIE Z. FLOWERS
SHANNON K. HEFFERAN
ANTHONY R. KLEMM
SARAH E. LEWIS
RICHARD J. PARK
SAM PETERSON
JOSEPH T. PHILLIPS
ANDREA L. PROIE
FELIX A. RIVERA-PEREZ
DAVID J. RODZIEWICZ
KYLE S. SALLING
DANIEL D. SMITH
LARRY V. THOMAS, JR.

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JAMES L. CASSARELLA
MARIA E. KELLY
DAVID M. LOWE
BRIAN W. ROTTY
EDWARD E. TANGUY III
STEPHEN P. TODD
RONALD A. WESTFALL

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

ANTHONY ABBOTT
WILLIAM B. BLAYLOCK II
THOMAS L. ENGLISH
JOAN A. TREADOW
JEFFREY F. WILSON

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be commander

FREDERICK HARRIS

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

PAUL N. LANGEVIN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

LLOYD P. BROWN, JR.
REBECCA E. STONE
VINCENTIUS J. VANJOOLEN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

DANNY K. BUSCH
WALTER A. COPPEANS III
BRUCE A. DICKEY
MICHAEL E. ELMSTROM
DAVID C. FADLER
MARK V. GLOVER
DARLENE K. GRASDOCK
DAVID S. HUNT
JOSEPH Y. C. KAN
JOHN J. KEEGAN
DAVID K. KOHNKE
JAMES H. LEE
JOSEPH D. MAUSER
SEAN P. OMALLEY
AMY J. POTTS
JOSEPH P. REASON, JR.
MICHAEL W. TEMME
RAJAN VAIDYANATHAN
MICHAEL ZIV

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

WILLIAM S. DILLON
BEAU V. DUARTE
JEFFREY T. ELDER
JAIME W. ENGDAHL
GEORGE F. FRANZ
BRENT K. GEORGE
MARK A. HUNT
DARRELL D. LACK
ALBERT G. MOUSSEAU, JR.
NIGEL A. NURSE
ROBERT D. PORTER
SCOTT D. PORTER
DONALD B. SIMMONS II
MICHAEL J. VANGHEEM

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

NORA A. BURGHARDT
TERRENCE E. HAMMOND
MICHAEL R. HUFF
JOHN G. KEMNA
RICK T. TAYLOR

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

BRUCE J. BLACK
SUSAN BRYERJOYNER
AMY D. BURIN
RODNEY HEARNS
ANSEL L. HILLS
JAMES H. MILLS
PATRICK R. MUELLER
DANELLE T. SADOSKI
JULIE A. SCHROEDER
VERONIQUE L. STREETER
DAVID G. WIRTH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

CHAD F. ACEY
CHRISTOPHER A. CHRISLIP
DONALD E. ELAM
THOMAS M. ERTEL
ANTHONY P. HANSEN
BRYAN S. LOPEZ
WILLIAM K. MORENO
KARLA J. NEMEC
DOUGLAS A. POWERS
JOSEPH P. PUGH
KENNETH L. WEEKS III
STEVEN G. WELDON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

JAMES S. BIGGS
JAMES L. BOCK, JR.
MICHAEL A. BROOKES
JOHN P. COLES
THOMAS R. CROWELL
SUSAN V. DENI
JOSEPH A. ELLENBECKER
VICTORIA L. GNIBUS
HOWARD D. HART
JUAN J. HOGAN
MARK A. HOOPER
JAMES A. KNORTZ
ERIC H. LAW
DAVID H. MCALLISTER
LANCE A. MONTGOMERY
DOUGLAS A. PEABODY
KENT E. RUSHING
MICHAEL W. STUDEMAN
PAUL J. TORTORA
FRANK D. WHITWORTH

HAROLD E. WILLIAMS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

RICHARD W. HAUPT
GREGORY L. HICKS
DORA U. LOCKWOOD
DAVID C. SIMS
JOSEPH A. SURETTE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

EDWARD A. BRADFIELD
CHRISTOPHER D. DRYDEN
ANDREW U. G. FATA
JACQUELINE R. FINCH
SCOTT E. ORGAN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

BRIAN D. CONNON
ASHLEY D. EVANS
ARTHUR J. REISS
ERIKA L. SAUER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

CONRADO K. ALEJO
JAMES V. DANIELS
LEONARD M. FRIDDLE
RICHARD D. JONES

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ERIC D. CHENEY
JOANNE T. CUNNINGHAM
DARRELL D. EVERHART
MARY E. LEWELLYN
THERESA A. LEWIS
JOHN D. NELL
KARAN A. SCHRIVER
PAUL G. SIMPSON
CYNTHIA M. WOMBLE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

JAMES A. AIKEN
ANTHONY L. ALLOU III
GREGORY L. ANDERSON
DOMINIC A. ANTONELLI
MICHAEL G. BADORF
JOHN S. BANIGAN
CHRISTOPHER K. BARNES
DONALD A. BASDEN
ROBERT A. BAUGHMAN
JOSEPH E. BELL
RAYMOND J. BENEDICT
BRODERICK V. BERKHOUT
WILLIE D. BILLINGSLEA
CRAIG R. BLAKELY
JAMES E. BOSWELL
DENNIS R. BOYER
FRANK M. BRADLEY
DANIEL M. BRINTZINGHOFFER
CHAD D. BROWN
WOODS R. BROWN II
DAN W. BRUNE
CHRISTOPHER W. BRUNETT
SHAN M. BYRNE
TIMOTHY P. CALLAHAM
CLINTON A. CARROLL
ROBERT J. CEPEK
THOMAS CHABY
RICHARD J. CHEESEMAN, JR.
DAVID D. CLEMENT, JR.
JOHN S. COFFEY
MATTHEW J. COLBURN
HEATHER E. COLE
WILLIAM M. COMBES
GREGORY J. COZAD
KEITH B. DAVIDS
YVETTE M. DAVIDS
GARY L. DEAL
STEVEN E. DEAL
CHRISTOPHER J. DENNIS
ANTHONY T. DESMET
LEONARD C. DOLLAGA
MICHAEL P. DONNELLY
MICHAEL P. DORAN
EUGENE J. DOYLE
STEVEN E. DRADZYNSKI
JEFFREY B. DRINKARD
DANIEL P. DUSEK
WILLIAM L. EWALD
ANDREW L. FEINBERG
KORY R. FIERSTINE
HEIDI A. FLEMING
BRIAN P. FORT
RICHARD A. FREY
GEOFFREY S. GAGE
KENDALL GENNICK
JAMES F. GIBSON, JR.
DONALD J. GLATT
CHARLES P. GOOD
DANA R. GORDON
JEFFREY C. GRAF
CORNELIUS M. GUINAN
DAVID W. HAAS
JOSEPH M. HART
BRUCE W. HAY, JR.
EDWIN M. HENDERSON
HENRY J. HENDRIX II
CHARLES J. HERBERT
CRAIG A. HOLTSLANDER
KEITH W. HOSKINS
WILLIAM J. HOUSTON
REGINALD M. HOWARD
JOHN R. HOYT
EDWARD J. IOCCO
MARK H. JACKSON
ANDREW C. JARRETT
JAMES W. JENKS
MICHAEL H. JOHANSSON
FRANK C. JONES
JAMES T. JONES
MARK A. JOYNT
EDWIN D. KAISER
ROBERT D. KATZ
STANLEY O. KEEVE, JR.
MUHAMMAD M. F. KHAN
KEITH A. KIMBERLY
BRIAN R. KIPLE
CHRISTOPHER F. KLINE
CARY J. H. KRAUSE
JAMES M. LANDAS
CHRISTOPHER J. LANDIS
MICHAEL J. LEHMAN
MICHAEL W. LEUPOLD
MICHAEL D. LEWIS
TODD A. LEWIS
WARREN N. LIPSCOMB III
KENNETH S. LONG
FREDRICK R. LUCHTMAN
JOHN D. MACTAVISH
JAMES A. MANN
JEFFREY P. MARSHALL
NATHAN H. MARTIN
MARK M. MARTY
DONALD G. MAY
STEVEN P. MCALEARNEY
MICHAEL A. MCCARTNEY
DAVID M. MCFARLAND
MICHAEL D. MCKENNA
TYLER L. MEADOR
MICHAEL D. MICHEL
CHRISTOPHER C. MISNER
THOMAS J. MONROE
SCOTT D. MORAN
SEAN T. MORIARTY
ROBERT K. MORRISON III
JOSEPH P. NAMAN
MICHAEL K. NORTIER
MARK J. OBERLEY
GREGORY J. PARKER
MICHAEL D. PATTERSON
GREGORY S. PEKARI, JR.
JOHN A. PESTOVIC, JR.
PETER C. PHILLIPS
PHILLIP W. POLIQUIN
IAN R. POLLITT
MALCOLM H. POTTS
JOHN L. RADKA
JAMES R. RAIMONDO
CHRISTOPHER P. RAMSDEN
DEAN T. RAWLS
DOUGLAS E. RECKAMP
LEONARD V. REMIAS
JAY S. RICHARDS
TIMOTHY P. RICHARDT
GREGORY R. ROMERO
JOHN A. SAGER
CHRISTOPHER M. SAINDON
BENNIE SANCHEZ
FRANK J. SCHULLER, JR.
JOE C. SHIPLEY
BRIAN K. SHIPMAN
CALVIN D. SLOCUMB
BRENT E. SMITH
WESLEY A. SMITH
PAUL S. SNODGRASS
MARK F. SPRINGER
MARC A. STERN
MARK R. STOOPS
DAVID A. STRACENER
SHELBY STRATTON
CHRISTOPHER E. SUND
BRIAN T. TEETS
TODD L. TINSLEY
CLARK O. TROYER
MARK A. TRULUCK
ROGER R. ULLMAN II
LAWRENCE S. VINCENT
JOHN F. WADE
JEFFREY A. WARD
JOHN M. WARD
HOWARD C. WARNER III
DENNIS J. WARREN
TODD M. WATKINS
ROBERT D. WEISSENFELS
MATTHEW G. WESTFALL
JEFFREY D. WESTON
CHRISTOPHER K. WHEELER
CRAIG L. WILSON
DAVID M. WRIGHT, JR.
THEODORE A. ZOBEL

CONFIRMATIONS

Executive nominations confirmed by the Senate, Thursday, April 29, 2010:

DEPARTMENT OF JUSTICE

DAVID J. HALE, OF KENTUCKY, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF KENTUCKY FOR THE TERM OF FOUR YEARS.

KERRY B. HARVEY, OF KENTUCKY, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF KENTUCKY FOR THE TERM OF FOUR YEARS.

ALICIA ANNE GARRIDO LIMTIACO, OF GUAM, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF GUAM AND CONCURRENTLY UNITED STATES ATTORNEY FOR THE DISTRICT OF THE NORTHERN MARIANA ISLANDS FOR THE TERM OF FOUR YEARS.

KENNETH J. GONZALES, OF NEW MEXICO, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF NEW MEXICO FOR THE TERM OF FOUR YEARS.

EXTENSIONS OF REMARKS

LETTERS TO PRESIDENT OBAMA ON STRENGTHENING OUR NATIONAL SECURITY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. WOLF. Madam Speaker, I want to share the following letters that I have sent to President Obama urging him to implement four bipartisan proposals to strengthen our national security. It is disappointing that the administration has not adopted these proposals that would make our country safer.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
January 12, 2010.

Hon. BARACK H. OBAMA,
President,
Washington, DC.

DEAR MR. PRESIDENT: ''National Security is too important to become a partisan issue.'' This sentence was the opening line in a January 11 USA Today op-ed jointly authored by Lee Hamilton and Thomas Kean, co-chairs of the 9/11 Commission. Last week, you, too, said, ''Now is not a time for partisanship, it's a time for citizenship—a time to come together and work together with the seriousness of purpose that our national security demands.'' I could not agree more with this sentiment.

No nation, including America, can hope to win this long battle against al Qaeda and like foes if the war effort is marked by partisanship. Sadly, not only has partisanship infused the rhetoric surrounding national security discussions, it has actually obstructed the critical role of congressional oversight. Too often in recent months partisanship has resulted in withholding of information, unanswered letters and briefings denied by this administration.

The stakes are too high and the cost of failure is too great for petty politics to rule the day. The White House has a moral obligation to actively and consistently reach out to the minority party in Congress, to be forthcoming with information and to provide access to all levels of government.

Hamilton and Kean go on to write, ''We intend to monitor the implementation of the 9/11 Commission's recommendations and report on new national security threats.'' I urge you to encourage this effort by bringing back these two co-chairs for a six-month period to conduct a formal review and 9/11 Commission follow-up. They would be charged with evaluating which of the Commission's original recommendation have been implemented and to what end, and which have failed to be implemented and at what cost.

This past weekend, The Washington Post featured an op-ed by Bruce Hoffman, respected professor of security studies at Georgetown University and a senior fellow at the U.S. Military Academy's Combating Terrorism Center. Hoffman wrote, ''(W)hile al-Qaeda is finding new ways to exploit our weaknesses, we are stuck in a pattern of belated responses, rather than anticipating its moves and developing preemptive strategies. The 'systemic failure' of intelligence analysis and airport security that Obama recently described was not just the product of a compartmentalized bureaucracy or analytical inattention, but a failure to recognize al Qaeda's new strategy. The national security architecture built in the aftermath of Sept. 11 addresses yesterday's threats—but not today's and certainly not tomorrow's. It is superb at reacting and responding, but not at outsmarting . . . a new approach to counterterrorism is essential.''

Distinct from temporarily bringing back the two 9/11 Commission co-chairs, I also urge the creation of a ''Team B.'' As you may know, historically the phrase ''Team B'' refers to a group of outside experts, commissioned by the Central Intelligence Agency in the 1970's and headed by Richard Pipes, to analyze the threats posed by the Soviet Union to the United States and counter the positions of intelligence officials within the CIA, known as ''Team A.'' In your remarks last week following the review of the attempted Christmas Day terrorist attack, you rightly referred to our enemy as ''nimble.'' Too often our response to the evolving threat posed by al Qaeda, and others sympathetic to their murderous aims, is anything but.

The Team B concept has been successful in previous administrations when fresh eyes were needed to provide the commander-in-chief with objective information to make informed policy decisions. I believe it can work now, too, and suggest that among the individuals, but not exclusively, whose expertise and forward-thinking would be well-suited to a Team B are: Bruce Hoffman; Andrew McCarthy and Patrick Fitzgerald, both of whom were involved in the prosecution of Sheik Omar Abdel Rahman in the first World Trade Center bombings; Fouad Ajami, professor at the School of Advanced International Studies (SAIS), Johns Hopkins University; Jean Bethke Elshtain, professor of social and political ethics at the University of Chicago; economist Judy Shelton, National Endowment for Democracy board member; foreign policy columnist and author Anne Applebaum; Andrew F. Krepinevich Jr., author of Seven Deadly Scenarios: A Military Futurist Explores War in the 21st Century; Elliot Cohen, professor of Strategic Studies at SAIS; Philip D. Zelikow, diplomat and author who worked as executive director of the 9/11 Commission, and Joshua Muravchik, formerly a scholar at the American Enterprise Institute and presently a Foreign Policy Institute fellow at SAIS.

The 9/11 Commission report was issued nearly six years ago. Even if every recommendation had been implemented, which it has not, our enemy has evolved since that time. Our current intelligence infrastructure is at times overwhelmed by data, information and the urgency of daily events, and as such is unable to dedicate the time and resources necessary to think outside the box and better comprehend this multidimensional threat. ''Team B'' would possess the necessary expertise but would be free from these daily pressures. The team would represent a ''new approach to counterterrorism'' which focuses not just on connecting the dots of intelligence, but which seeks to stay a step ahead in understanding how to break the radicalization and recruitment cycle that sustains our enemy, how to disrupt their network globally and how to strategically isolate them.

I also believe there is an urgent need to make the Transportation Security Agency (TSA) administrator a long-term position. Since TSA's inception following the 9/11 attacks, there have been six Transportation Security Agency administrators and acting administrators. For a position of this import to turn over with such frequency and to automatically change hands with each new administration simply does not make sense. I am introducing legislation that mirrors the language used to establish a 10-year term and Senate confirmation for FBI directors. I am hopeful that members of both parties will see the merits of this proposal and I urge your support for this change.

America is a great nation facing an enemy unlike any other we have ever known. We must steel ourselves for the struggle ahead, frankly assessing the nature and scope of the threat we face and guarding against partisanship at all costs. The people of this country deserve nothing less.

Sincerely,

FRANK R. WOLF,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
February 17, 2010.

Hon. BARACK H. OBAMA,
President,
Washington, DC.

DEAR MR. PRESIDENT: Over the last year, I have written you and members of your administration numerous letters concerning terrorism. In these letters, I have proposed a series of actions that should immediately be taken and that would make the country safer and receive strong bipartisan support. I have compiled these proposals into a single letter for your convenience and urge you to take swift action. The American people are looking for strong bipartisan leadership on matters of national security and I believe these proposals could be an important start.

I believe that these amendments would garner bipartisan support from the American people. The proposals and requests are as follows:

I. BRING BACK 9/11 CO-CHAIRS FOR A REVIEW OF PROGRESS AND UPDATE REPORT

In 1998, I authored language that created the bipartisan National Commission on Terrorism, also known as the Bremer Commission—which released its final report in 2000, tellingly featuring the World Trade Center ''Twin Towers'' on its cover. The report was ignored by administration and congressional leaders—both Republican and Democrat—until after the terrorist attacks of September 11, 2001. Again, in 2005, I authored language creating the Iraq Study Group whose report included the recommendation for the counterinsurgency troop ''surge'' in its final report. Both of these experiences have been illustrative in how an independent review of complex national security matters can help identify critical gaps and innovative ideas on policy that could strengthen our security.

I have urged the administration to bring back 9/11 Commission co-chairs Lee Hamilton and Thomas Keane for a six-month period to conduct a formal review and 9/11 Commission follow-up. They would be charged with evaluating which of the commission's original recommendations have been implemented and to what end, and

which have failed to be implemented and at what cost.

The 9/11 Commission report was issued nearly six years ago. Even if every recommendation had been implemented, which has not happened, our enemy has evolved since that time. Our current intelligence infrastructure is at times overwhelmed by data, information and the urgency of daily events, and as such is unable to dedicate the time and resources necessary to think outside the box and better comprehend this multidimensional threat.

II. CREATE A ''TEAM B'' TO BRING ''FRESH EYES'' TO U.S. COUNTERTERRORISM STRATEGY

Distinct from temporarily bringing back the two 9/11 Commission co-chairs, I also urge the creation of a ''Team B.'' The Team B concept has been successful in previous administrations when fresh eyes were needed to provide the commander-in-chief with objective information to make informed policy decisions.

''Team B'' would possess the necessary expertise but would be free from the daily pressures that federal agencies face. The team would represent a ''new approach to counterterrorism'' which focuses not just on connecting the dots of intelligence, but which seeks to stay a step ahead in understanding how to break the radicalization and recruitment cycle that sustains our enemy, how to disrupt their network globally and how to strategically isolate them.

I believe it can work now, too, and suggest that among the individuals, but not exclusively, whose expertise and forward-thinking would be well-suited to a Team B are: Bruce Hoffman, professor of security studies at Georgetown University and a senior fellow at the U.S. Military Academy's Combating Terrorism Center; Andrew McCarthy and Patrick Fitzgerald, both of whom were involved in the prosecution of Sheik Omar Abdel Rahman in the first World Trade Center bombings; Fouad Ajami, professor at the School of Advanced International Studies (SAIS), Johns Hopkins University; Jean Bethke Elshtain, professor of social and political ethics at the University of Chicago; economist Judy Shelton, National Endowment for Democracy board member; foreign policy columnist and author Anne Applebaum; Andrew F. Krepinevich Jr., author of ''Seven Deadly Scenarios: A Military Futurist Explores War in the 21st Century;'' Elliot Cohen, professor of Strategic Studies at SAIS; Philip D. Zelikow, diplomat and author who worked as executive director of the 9/11 Commission, and Joshua Muravchik, formerly a scholar at the American Enterprise Institute and presently a Foreign Policy Institute fellow at SAIS.

III. MAKE STATUTORY IMPROVEMENTS TO TSA ADMINISTRATOR POSITION

I have introduced legislation, H.R. 4459, to establish a 10-year term of office for any individual appointed to serve as the administrator of the Transportation Security Administration (TSA), akin to the appointment process for the director of the Federal Bureau of Investigation (FBI).

I believe a 10-year term for the administrator of TSA will help provide the agency with the qualified, long-term and independent leadership it needs at this time, Since its creation following 9/11, TSA has had six administrators, averaging terms of just 1.5 years. This bill further strengthens our nation's homeland by ensuring stable leadership at the Department of Homeland Security and improving the TSA administrator position to assure agency professionalism over political fidelity.

IV. TRY KHALID SHEIK MOHAMMED AND OTHER DETAINEES BEFORE MILITARY TRIBUNALS

I have introduced bipartisan legislation, H.R. 4556, with Sen. Lindsey Graham to prohibit the use of Department of Justice funds for the trial of 9/11 mastermind Khalid Sheik Mohammed and his co-conspirators in any community in the U.S. However, it would still allow for a military commission at Guantanamo Bay or on a secure military base inside the U.S. This is a reasonable approach that allows the administration to try these terrorists in an appropriate military commission.

Prior to announcing plans for a New York City trial last November, the Justice Department did not consult with any local leaders, including New York City Police Commissioner Raymond Kelly or Mayor Michael Bloomberg. If it had, there would have been a better understanding of the dangers and cost of this approach, The trial, as planned, is estimated to cost taxpayers at least $250 million per year—for a total expected cost of more than $1 billion.

V. MAKE THE HIG OPERATIONAL WITHIN 30 DAYS AND BRIEF CONGRESS ON ITS AUTHORITIES

Following the handling of the interrogation of alleged Christmas Day bomber, Umar Farouk Abdulmutallab, there has been considerable confusion among agencies as to what their role was, what their role should have been, whether the High-Value Detainee Interrogation Group (HIG) should have been involved, whether the HIG is intended to operate inside the United States, and even whether the HIG exists. There is clearly an urgent need for action and clarification to ensure that future interrogations are conducted properly and effectively.

Toward that end, I urged the administration to formalize a new interrogation plan with relevant agencies, ensure that congressional committees are fully briefed, prepare an addendum to the president's review of the Christmas Day case that deals specifically with the facts concerning Mr. Abdulmutallab's interrogation, and move expeditiously to establish the HIG staff at the National Counterterrorism Center within 30 days.

Last month, the Senate Foreign Relations Committee issued a report, ''Al Qaeda in Yemen and Somalia: A Ticking Time Bomb,'' that is particularly concerning in light of the failed attack on Christmas Day and growing al Qaeda activities in Yemen. The committee reported that, ''As many as three dozen U.S. citizens who converted to Islam while in prison have traveled to Yemen, possibly for Al Qaeda training. As many as a dozen U.S. citizens who married Muslim women and converted to Islam also have made their way to Yemen . . . Described by one American official as 'blond-haired, blue eyed-types,' these individuals fit a profile of Americans who Al Qaeda has sought to recruit over the past several years.'' Additionally, the State Department told me that approximately 50,000 American citizens are currently visiting, studying, or living in Yemen currently.

As al Qaeda has changed and adjusted its tactics, so too must the U.S. An outside review of our counterterrorism strategy, combined with an independent review by the 9/11 Commission co-chairs, will ensure that we our revisiting our assumptions, strategy, and programs to fight the al Qaeda of 2010, not the al Qaeda of 2001.

Thank you for your consideration. I believe each of these proposals would receive broad bipartisan support in Congress. I stand ready to assist you in championing these proposals in Congress.

Best wishes.

Sincerely,

FRANK R. WOLF,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
April 27, 2010.

Hon. BARACK H. OBAMA,
President,
Washington, DC.

DEAR MR. PRESIDENT: Since January, I have repeatedly urged you and senior members of your administration to implement several bipartisan efforts to strengthen our nation's security. To date, these proposals have been dismissed without explanation. It's almost as if any idea that comes from Congress is a bad idea; and if it comes from a Republican it's viewed as a really bad idea. This is unfortunate, given the gravity of our current national security challenges.

I have always sought to work in a bipartisan manner. In 1998, I authored language that created the bipartisan National Commission on Terrorism, also known as the Bremer Commission—which released its final report in 2000, tellingly featuring the World Trade Center ''Twin Towers'' on its cover. I again authored language in 2005 creating the Iraq Study Group to develop bipartisan solutions to help secure Iraq.

My previous letters urged the administration to create a ''Team B'' to bring ''fresh eyes'' to U.S. counterterrorism strategy. The team would represent a ''new approach to counterterrorism'' which focuses not just on connecting the dots of intelligence, but which seeks to stay a step ahead in understanding how to break the radicalization and recruitment cycle that sustains our enemy, how to disrupt their network globally and how to strategically isolate them.

I want to share the enclosed piece from respected Georgetown University professor Bruce Hoffman, who endorses this approach, saying, ''One important yet currently languishing congressional initiative that would help counter this strategy is Representative Frank Wolf's proposal to institutionalize a ''red team'' or ''Team B'' counterterrorist capability as an essential element of our efforts to combat terrorism and in the war against al-Qaeda.''

Can someone from your administration explain to me the continued reluctance to implement such an effort? I believe the ''Team B'' effort would receive strong bipartisan support.

I was disappointed that the administration failed to adopt the other proposals in my previous letters, including bringing back the co-chairs of the 9/11 Commission—Lee Hamilton and Thomas Kean—for a six-month period to evaluate what progress has been made since the commission released its report. I spoke with former Congressman Lee Hamilton and he agreed that this was a good idea. To date, I have seen no effort by the administration on this front.

I also urged the administration to support legislation to establish a more professional and independent administrator of the Transportation Security Administration (TSA), by setting a 10-year term, akin to the appointment process for the director of the Federal Bureau of Investigation (FBI). After two withdrawn nominations, I have seen no effort by the administration to consider this—and the position remains vacant.

Additionally, I have urged the administration to collocate the High-Value Detainee Interrogation Group (HIG) at the National Counterterrorism Center to facilitate information sharing and cooperation among intelligence agencies. Again, I have seen no effort by the administration to do so.

I urge you to move quickly to establish a ''Team B'' and appoint America's best and brightest counterterrorism strategists to serve on it. I stand ready to assist you in this important effort.

Best wishes.

Sincerely,

FRANK R. WOLF,
Member of Congress.

HONORING YOUTH ENRICHMENT SERVICES, INC. FOR THEIR EXTRAORDINARY WORK IN THE COMMUNITY

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. ISRAEL. Madam Speaker, I rise today to acknowledge a nonprofit organization that serves my district, Youth Enrichment Services, Inc.

YES has demonstrated an overwhelming amount of commitment to serving the Long Island community. My constituents rely on our nonprofits for the vital services they offer. The continuous selfless acts of those involved with YES are admirable.

I am proud to honor Youth Enrichment Services, Inc. for their extraordinary work in the community.

IMPLEMENTING MANAGEMENT FOR PERFORMANCE AND RELATED REFORMS TO OBTAIN VALUE IN EVERY ACQUISITION ACT OF 2010

SPEECH OF

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 28, 2010

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 5013) to amend title 10, United States Code, to provide for performance management of the defense acquisition system, and for other purposes:

Mr. DINGELL. Mr. Chair, I rise today in support of H.R. 5013—the IMPROVE Acquisition Act of 2010. I thank my good friends and colleagues Congressman ROB ANDREWS and Armed Services Committee Chairman, IKE SKELTON, for continuing the good work the Committee did last year to reform the defense acquisition process. Importantly, the bipartisan IMPROVE Acquisition Act will save taxpayers $27 billion each year.

H.R. 5013 will, among other things, update the system by which the Department of Defense acquires weapons systems, commercial goods, and services. Over the past 20 years, the Defense Department has shifted its primary purchases from weapons systems to services. To reign in the costs associated with this outdated system and ensure the warfighter's needs are met, the committee has written a comprehensive bill that provides for better management of the acquisition system, reform of the requirements process upon which the acquisition process depends, a more professional acquisition workforce, more effective financial management, and improvements in outreach to the industrial base so that the government is getting the best quality at the lowest price.

In particular, Title IV of the IMPROVE Act has several important provisions to Michigan's 15th District and cleaning up the abuses of government contractors. First, it develops measures to utilize more of the defense industrial base in order to reach small- and mid-size businesses. I am fully supportive of this provision. As a personal note, Mr. Chair, I hear from companies throughout Michigan's 15th Congressional District with innovative technologies and ideas, companies that have been working on cutting edge research and development in association with our Michigan Universities but which have not developed the necessary relationships with the Department to successfully sell the Department their products, services and ideas. This section will help link the Department to these smaller companies by identifying and communicating with non-traditional suppliers using tools and resources available within the federal government and in the private sector.

Second, this Title reinforces a major priority for the Obama Administration by requiring a contractor to disclose whether it has outstanding tax debt when it is bidding on a new contract. Like many Members of Congress, I have been disillusioned by the scandals and abuse perpetrated by government contractors. Not only have some of these bad actors cost American and foreign lives, but they have also been a heavy burden to taxpayers. I support measures in this Title to ensure the government is contracting with responsible, high-quality suppliers. Moreover, this section gives the government better enforcement mechanisms by providing contracting officers new statutory authority to verify with the Treasury Department that the contractors under review are being forthcoming in their applications with respect to their tax status.

Finally, Title IV creates a new, independent oversight authority over the Department's contracting system. It provides for an independent General Counsel within the Defense Contract Audit Agency to carry out reviews of contractor business systems. This provision will also help to save taxpayers money in the long run, ensure effective services are provided to the Department, and ultimately protect the warfighter and the American people.

Mr. Chair, the IMPROVE Acquisition Act contains many important provisions deserving of the House's full consideration. I am pleased to support this legislation and urge my colleagues to do the same.

RECOGNIZING MR. DAVID JAMES

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. KIRK. Madam Speaker, I rise to recognize a pioneer and American hero—Mr. David James, a constituent of mine from Winnetka. Born in the 1920s, Mr. James' family moved from St. Louis to Chicago's South Side. Soon after the start of World War II, Mr. James enlisted in the Army Air Corps in October 1942 and joined the "Tuskegee Airmen," our nation's first African-American military aircrews. He joined nearly 1,000 other airmen who broke barriers and fought for their nation. Mr. James served his country with distinction as a pilot.

After his military discharge, Mr. James graduated from law school and became the first African-American attorney to work for the American Bar Association. He moved to Winnetka in part because of Dr. Martin Luther King, Jr.'s speech at the Winnetka Village Green in 1965, and lived there for nearly 40 years.

His service, both in the military and his efforts to promote civil rights, serves as an inspiration to future generations. I am honored to represent him in the Congress and I wish him and his family all the best.

HONORING COMMUNITY DEVELOPMENT CORPORATION OF LONG ISLAND FOR THEIR EXTRAORDINARY WORK IN THE COMMUNITY

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. ISRAEL. Madam Speaker, I rise today to acknowledge a nonprofit organization that serves my district, Community Development Corporation of Long Island.

CDC has demonstrated an overwhelming amount of commitment to serving the Long Island community. My constituents rely on our nonprofits for the vital services they offer. CDC's continuous acts of selfless efforts are admirable.

I am proud to honor Community Development Corporation of Long Island for their extraordinary work in the community.

HONORING ZANE ERIC CLARK

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Zane Eric Clark, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 87, and in earning the most prestigious award of Eagle Scout.

Zane has been very active with his troop participating in many Scout activities. Over the many years Zane has been involved with Scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Zane Eric Clark for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

RECOGNIZING DR. ADRIANA SELVAGGIO

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Ms. GINNY BROWN-WAITE of Florida. Madam Speaker, I rise today to honor Adriana Selvaggio. A devoted mother and renowned physician, Dr. Selvaggio has committed the majority of her adult life to serving others.

Born to Italian immigrants, Dr. Selvaggio came from a modest upbringing. Her father was a baker and worked hard to support her and her five brothers and sisters.

After graduating from Hampton High School, at the behest of her parents, Dr. Selvaggio postponed college to help support her family. However, she never lost sight of her desire to further her education. She eventually left home to pursue her degree at Penn State University. She completed her bachelor's degree in science in just two years.

Completing her bachelor's degree in just two years was only the beginning of Dr. Selvaggio's long list of accolades and accomplishments. She applied that same work ethic and determination to her studies at Temple Medical School and Boston University Hospital. Highly regarded by her colleagues as one of the country's top doctors in the field of Nephrology, she has opened several dialysis centers in Pittsburgh, Pennsylvania. Recently, Dr. Selvaggio completed her eight-year term as the president of UPMC Shadyside's medical staff. She was the first female to serve as president in the hospital's 135-year history. Dr. Selvaggio is married to Dr. Steven Heilbrunn. They are the proud parents of two remarkable children, Max and Evi.

Dr. Adriana Selvaggio is truly a woman of great courage and perseverance. She has built a legacy that will be talked about in medical classes and passed down through generations. Her son, Max, said this of his mother's character, "To this day, my mother is more proud of the strong willed character that her adversity has built than the accolades she has earned having overcome them. The profound content of my mother's character is something that I will praise and cherish for the rest of my life."

The medical world is lucky to have her as their colleague, her children are blessed to call her Mom and I am grateful to know her as a great friend.

Madam Speaker, I ask you to join me today in honoring the character and achievements of Dr. Adriana Selvaggio.

INTRODUCTION OF THE DEFENSE STRONG ACT

HON. NIKI TSONGAS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Ms. TSONGAS. Madam Speaker, I rise today to introduce the Defense Sexual Trauma Response, Oversight and Good Governance Act (The Defense STRONG Act).

Sexual assault in the military has reached epidemic levels. While 1 in 6 women will experience sexual assault in her lifetime, the numbers are much higher in the military, where as many as 1 in 3 women leaving the services report that they were sexually assaulted. By the Pentagon's own estimate, as few as 10 percent of sexual assaults are reported. Additionally, while 40 percent of sexual assault allegations in the civilian world are prosecuted, this number is a staggeringly low 8 percent in the military.

As a strong advocate for women in the military and a strong advocate for equal opportunity in the workplace, I believe that the military should be a place where women are supported and can succeed.

We ask women who serve in the military to put their lives on the line for our country, and they shouldn't fear or experience harm from their fellow service members. A recent New York Times article chronicled the experience of a female Captain deployed in Camp Taji, Iraq.

This young Captain stated that she stopped drinking water after 7 p.m. so she would not have to go to the latrine at night alone, out of fear of attack from a fellow male soldier. "It got to the point that I felt safer outside the wire," she said, referring to operations that take soldiers off of their heavily fortified bases, "than I did taking a shower."

While the military has made strides to address this problem, victims of sexual assault in the military still report a lack of confidentiality, protection and support, and lack access to advice and counsel from a military lawyer once an incident is reported. The military has not established the proper infrastructure to deal with sexual assaults. Sexual Assault Response Coordinators and Victim Advocates in the military receive very little training and have little experience dealing with sexual assault. The DOD allows contractors to serve in these positions part-time, making them ill-equipped to deal with incidents that arise. As the 2009 Defense Task Force Report on Sexual Assault in the Military Services reported, one military victim advocate explained, "I would truly be unprepared if a sexual assault were to occur and my services were needed." . . . She said, "It is my opinion that active duty Unit Victim Advocates are not prepared to deal with sexual assaults and could potentially deter individuals from coming forward."

Women report receiving inadequate support and experiencing backlash when they tried to seek care while they were in the services. A GAO report from 2008 stated that "many individuals do not come forward in the military out of fear of punishment because they have done something (i.e., drinking) that they could also get in trouble for." The same report concluded that victims were reluctant to report attacks due to the belief that nothing would be done, they would not be believed, or that reporting an incident would negatively impact their careers.

The systems in place to prevent and respond to sexual assault lack sophistication, and the culture around sexual assault in the military needs to be fundamentally changed.

This is why I am introducing the Defense STRONG Act. My bill strengthens the legal protections for victims of sexual assault in the military:

(1) It requires that they have access to a military lawyer, and can maintain their right to confidential reporting even if they receive legal counsel;

(2) It ensures that conversations between victims and Victim Advocates are confidential and immune from discovery by military lawyers if the case goes to court.

My bill also strengthens the systems in place to prevent sexual assaults and provide support and guidance for victims that do report an incident:

(1) It standardizes the training of service members, Commanders, Victim Advocates, and Sexual Assault Response Coordinators;

(2) It requires that service members are trained around sexual assault prevention and response as they move up in the military structure; and

(3) It requires Victim Advocates and Sexual Assault Response Coordinators to be full-time positions, and prohibits DOD contractors from fulfilling roles.

Sexual assault weakens the readiness and morale of the military, and erodes trust between service members. The Defense STRONG Act strengthens the sexual assault prevention and response program in the military services, strengthening the military as a whole.

HONORING ANDREW PAUL DANIELSEN

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Andrew Paul Danielsen, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 900, and in earning the most prestigious award of Eagle Scout.

Andrew has been very active with his troop participating in many Scout activities. Over the many years Andrew has been involved with Scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Andrew Paul Danielsen for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

COMMEMORATING 40TH ANNIVERSARY OF EARTH DAY

SPEECH OF

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 2010

Ms. SCHAKOWSKY. Madam Speaker, today marks the 40th year in which the United States has set aside a day to reflect upon our responsibility to protect the environment and preserve it for future generations.

In 2007, the scientific community confirmed that the evidence of warming is "unequivocal." The consensus of this finding should not be understated. Global warming is real and human activity is the main cause.

Consider these facts: The 10 warmest years on record have all been since 1990. Worldwide, 2005 was the hottest of all. In the United States, 2008 was the warmest year ever. These rising temperatures have been accompanied by many changes. Hurricanes are more severe. Water levels are rising. Droughts are becoming longer. Mountain glaciers are receding around the world.

While these facts are daunting, the good news is that there is still time to enact policies that will curb the harmful impacts of climate change. The House of Representatives took an important step last year, when we passed legislation that will put caps on the amount of greenhouse gases we emit into the air each year. It also facilitates the research and development of renewable energy sources that will

not only reduce our dependence on foreign oil, but also create hundreds of thousands of new jobs.

On this Earth Day, I also want to reiterate my commitment to ensuring that Congress fully funds Great Lakes clean-up programs. The Great Lakes are a national treasure and having spent my entire life living in or near Chicago, I have a tremendous connection to the Great Lakes; my home in Evanston is only a few blocks from Lake Michigan.

As anyone who has spent any considerable amount of time in a Great Lake state knows, the Lakes are more than just a group of fresh water lakes—they play a significant part in shaping our way of life, our traditions, and our future. In addition to its sentimental value, the Great Lakes, including Lake Michigan, serve as an important resource, providing 20 percent of all the surface water in the world.

RECOGNIZING THE 2010 RECIPIENTS OF THE McGOWAN COURAGE AWARD

HON. JIM JORDAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. JORDAN of Ohio. Madam Speaker, I appreciate the opportunity to share positive stories about young people from my congressional district who overcome adversity. Today, I am pleased to share the stories of seven such individuals.

Nella Blackford, St. Peter's High School. Coping with many physical difficulties stemming from the effects of spina bifida and numerous surgeries, Nella is an inspiration to everyone at her school, where she participates in the volleyball and softball programs. She is undertaking an advanced placement courseload and was active in her school's spring musical.

Steven Broeske, Clear Fork High School. Steven has earned the respect of his peers and teachers for the selfless way he deals with cystic fibrosis. He prides himself on his independence and goal-oriented work ethic, carrying a demanding workload in the classroom and dedicating countless hours to his school's Future Farmers of America chapter.

Jackie Bucksbaum, Ontario High School. Jackie's positive attitude in dealing with a lymphatic disorder is a model to her fellow students, who admire her leadership skills. Although challenged recently by medical emergencies and some family-related setbacks, she maintains an aggressive academic schedule and plans to continue her studies at the University of Findlay.

Christian Lauber, Madison Comprehensive High School. Despite the physical challenges presented by cerebral palsy, which he has dealt with since birth, Christian is active in numerous sports. He also enjoys participating in his school's media and technology programs and plans to study business and computer technology in college.

Michael Lupo, Mansfield Senior High School. Michael has worked through many autism-related difficulties in recent years with the assistance of family members and his teachers. He excels as a mainstreamed student—especially in his mathematics and science classes—and routinely ranks in the top ten percent of his class.

Timothy Ritchey, Lexington High School. Tim was diagnosed with Hodgkin's Lymphoma earlier this year and has been undergoing monthly chemotherapy treatments. Although he has missed many school days as a result, he has kept up-to-date on his studies and continues to work in his school's athletic department. Tim plans to study nursing.

Travis Stone, Crestview High School. In addition to his many academic achievements, Travis has amassed 73 career wins as a four-year varsity starter on the wrestling team—all this despite a birth defect that affected the development of his arms and hands. He received the 2010 Team Attitude Award and was ranked third in his conference.

Madam Speaker, the Rotary Club of Mansfield, Ohio, will present these seven students with the McGowan Courage Award on May 11. I am proud to join the Rotary in acknowledging their significant achievements and wishing them continued success in everything they do.

INTRODUCTION OF THE STARTUP VISA ACT OF 2010

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mrs. MALONEY. Madam Speaker, today I am introducing the StartUp Visa Act of 2010, the companion bill to Senator JOHN KERRY's bipartisan legislation of the same name, which he introduced with Senator RICHARD LUGAR this past February.

What do American household names such as Google, eBay and Proctor & Gamble have in common? They are all former start-ups founded by immigrants.

In 2009, the percentage of U.S. residents creating new domestic companies fell to 8 percent from 12.4 percent in 2005. Over the same period, the percentage of residents in foreign countries creating new companies rose to 11 percent from 8.7 percent. Despite this trend, our current visa laws have made it unnecessarily difficult for immigrants to launch new companies in the United States. I am introducing the StartUp Visa Act of 2010 because the economic dynamism of foreign-born talent has always been a crucial factor in our country's growth, and we must take steps to enable it to continue. By allowing immigrant entrepreneurs greater access to American visas, we truly can drive American job creation and channel the power of innovation.

Currently, the EB–5 category visa permits foreign nationals to obtain a green card if their efforts invest at least $1 million into the U.S. economy and create at least 10 jobs. This bill creates a new EB–6 visa for immigrant entrepreneurs. After proving that he or she has secured initial investment capital (totaling at least $250,000) and if, after two years, an immigrant entrepreneur can show that he or she has generated at least five full-time jobs in the United States, attracted $1 million in additional investment capitol or achieved $1 million in revenue, then he or she would receive permanent legal resident status.

The entrepreneurial spirit is ingrained in our country's history and success. I believe that this legislation is a vital component of promoting our global competitiveness. We must ensure a strong foundation for foreign-born, highly-skilled talent to create American jobs and promote economic prosperity and this bill works toward that end.

HONORING NATHAN T. WILSON

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. GRAVES. Madam Speaker, I proudly pause to recognize Nathan T. Wilson, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 249, and in earning the most prestigious award of Eagle Scout.

Nathan has been very active with his troop participating in many Scout activities. Over the many years Nathan has been involved with Scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Madam Speaker, I proudly ask you to join me in commending Nathan T. Wilson for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

SARAH STARNES NAMED SOCIAL WORK LEADER OF THE YEAR

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. MOORE of Kansas. Madam Speaker, I am pleased to bring to the House's attention today the recent award of "Social Work Leader of the Year" by the Missouri-Kansas Chapter of the Society for Leadership in Health Care to Sarah Starnes, of the Department of Veterans Affairs.

Sarah Starnes received a M.S.W. from the University of Kansas in 1977 and went on to receive a M.P.A. in 1984 from the same institution. After working with the Missouri Division of Family Services, the University of Kansas Upward Bound Program, Project New Pride/Kansas Youth Trust Upward Bound, and Transitional Living Consortium, she has spent the last nineteen years serving the interests of our veterans at the Kansas City VA Medical Center, where she works with them on a daily basis, doing casework, group work program administration, and community organization.

Active in politics during her free time, Sarah represents the best of comprehensive social work practice. As the NASW Code of Ethics states: "Social Workers should facilitate informed participation by the public in shaping social policies and institutions. Social workers should engage in social and political action that seeks to ensure that all people have equal access to the resources, employment, services, and opportunities they require to meet their basic human needs and to develop fully. Social workers should be aware of the impact of the political arena on practice and should advocate for changes in policy and legislation to improve social conditions in order to meet basic human needs and promote social justice."

Sarah Starnes' career has exemplified these principles. I am pleased to have this opportunity to publicly recognize her award and am happy to have the opportunity to place in the RECORD her remarks upon accepting this award on March 23rd:

Good afternoon. Thank you so much for this most incredible honor of my lifetime.

This award really goes to all the people who have worked so hard to achieve this victory on the most significant piece of domestic legislation since the Medicare law was passed in 1965.

''This is why we elected Barack Obama . . . it used to be that we'd elect a president and then the lobbyists would determine what happened. This time it is going to be US who determine what happens.''

But, I must admit, I had been concerned in recent weeks that I'd be standing before you today saying, ''We gave it a good fight, and the fight goes on. . . .''

Then, remarkably, two days ago we had a historic moment in the life of our democracy, when the majority of our lawmakers determined that life is more important than profits; that health care is a right and not a privilege to be enjoyed only by the healthy and the wealthy. They did this because we helped them appreciate that this was the morally right and fiscally responsible thing to do.

I want to dedicate this award to Dean Goering, the brother of my KU undergrad roommate, Susan Goering. Dean was a social worker-to-be, who lived in Midtown Kansas City. Dean received a B.A. in Social Work from Univ. of Central Missouri in 2009, and was starting the MSW program at UMKC. Dean volunteered at the Kansas City Free Health Clinic. He hoped to work with Veterans who have PTSD. But Dean will NOT touch countless lives as a social worker, due to one of the unconscionable practices of the health insurance industry. Dean had a blood clot in his leg about 10 years ago, so, when he recently started having symptoms like shortness of breath, he reviewed his health insurance policy, and concluded that it would not cover another hospitalization for what he assumed was the same condition, and he tried to tough it out. Dean died at age 50 of a Pulmonary Embolism, on February 21, 2010. For Dean and 45,000 other Americans each year, ''health care for all Americans'' was not just a slogan. It was an unfulfilled life wish. For Dean, the health care delivery system in this country was a death sentence. Thank God, many of these health insurance abuses will end, with the Patient Protection and Affordable Care Act passed Sunday in the House of Representatives.

My journey for this health care cause has been going on for awhile, as has the journey of our entire Nation.

I was blessed to find ''my calling'' early in my life. I have worked in social services continuously and full-time since 1973. I received my MSW from the University of Kansas in 1977, and an MPA from KU in 1984.

I have been passionate about my work with the people in all the groups with which I have practiced.

Let me explain, before I go on, that I am here on my own time, representing myself, not my employer. The VA does provide The Best Care Anywhere and is an extremely effective government-run health care system, but I'm not here representing the VA, only myself, and my advocacy for health care reform was done outside my job.

Another note of explanation—my remarks will be about my work with one specific American political party, but, if you find that you can honor the Social Work Code of Ethics and your personal values via your work with another party, please, go for it!

Okay, so I have voted in every election for which I have been eligible to vote, and have written an occasional letter to an elected official or the editor.

Then, in 2007, my life took on a new and invigorating avocation.

In 2006, I'd read an autobiography written by a man whose maternal grandparents were from El Dorado, KS, and Augusta, KS, where my dad had leased a rock quarry when I was a girl. The author had been a community organizer in Chicago, and he later went to law school and then got into politics, to influence change on a broader scale. His values seemed to be totally consistent with social work values.

In February 2007, this community organizer announced that he was going to run for President of the United States.

Now, regarding Social Work values and politics, please refer back to the NASW Social Work Code of Ethics.

The code says that ''social workers should promote social justice and social change . . . and should engage in social and political action that seeks to ensure that all people have equal access to the resources, services, and opportunities they require to meet their basic human needs and to develop fully.''

Until recently, I had viewed politics as a necessarily dirty, self-serving business. But, in the last few years I've started paying closer attention to the fact that everything I try to accomplish in my work, with my family, and in my own life, is affected by the laws and ordinances made at all levels of government, and the resulting regulations and policies. I started more actively wondering how these laws could be affected, to benefit those who the Social Work Code of Ethics calls ''vulnerable.''

I gained a heightened awareness that, in our representative democracy, public policy is accomplished through the people we elect to hold public office. And I decided that it is my obligation to do what I could to elect people who will represent the interests of the powerless, and everyday people, at all levels of governance.

One person cannot do it alone. We must each duplicate ourselves. For example, perhaps I can make 50 calls in 2 or 3 hours, but, if I find 5 other callers, we can make 250 calls in the same time period. Or maybe I can register 50 voters in an afternoon or a day, but, if I can enlist 10 other volunteers to register voters, we multiply the results by 10. I can only vote once in each election, but, ideally, I can play a role in THOUSANDS of other people voting.

This monumental health care legislation was not accomplished in the last year. Americans and our leaders have been yearning and working for universal health care for over a hundred years—7 Presidents and 7 Congresses have aspired to achieve this moral imperative.

It took our faith in Barack Obama and his leadership for us to realize that it was up to US to change the way things, including the provision of health care, are done in this country. And the objective reality is that it also took a Democratic majority in the Congress to achieve these reforms.

I have learned through the process of achieving this major legislation that we cannot wait on our elected officials to determine our destinies, essentially throwing them out at the next election if we decide we don't like them, after their damage has been done.

Nothing happens unless we take individual responsibility for change. We know that we simply cannot wait for someone else to fix things.

Sometimes, when we feel the most defeated and alone, if we just keep putting one foot in front of the other, even when we are tired and discouraged and don't think we can go on, we can achieve amazing results.

If for some reason you are unable to engage in partisan political activities, there are nonpartisan organizations with which you can be involved, to accomplish similar ends . . . these organizations don't ''lobby,'' they ''advocate. . . .''

I am issuing a call to all social workers present—consider how you will make a difference—consider running for political office, or helping someone who is running or thinking about it. Hold our elected officials accountable. Let them know what you think, and encourage others to do so. Educate people about the truth regarding the needs of the American people and how those needs might be effectively addressed.

In addition to the people who have worked so passionately for HC reform, I want to thank God for my health, and for my husband, Kelvin Walls, and my son, Kel, for their work and support. Kelvin motivated his doctor friends to speak out on behalf of their patients and potential patients. Kel put up with ''all those people I don't know being in our house all the time'' for phone banks and health care reform events. They have both sacrificed a lot. During the 2008 election, they canvassed with me in five states.

I became a social worker and political activist out of my core believe that the arc of the moral universe bends in the direction of justice, hope and compassion. And that I need to help it along.

In conclusion, let me say, ''We gave it a good fight. We won! And the fight goes on.''

HONORING BERNICE BOOKER DEAN

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. KILDEE. Madam Speaker, I rise to pay tribute to the life of Bernice Booker Dean. Sadly, Mrs. Dean passed away on April 23, 2010 in my hometown of Flint, Michigan, at the age of 86. Her funeral will be held at Mt. Olive Baptist Church on May 1.

A teacher with the Flint Community Schools for 35 years, Mrs. Dean taught at several elementary schools in the Flint system and was a reading specialist with the State of Michigan Chapter III and Title I reading programs. A passionate advocate for education, reading, social justice, the advancement of women, and physical health; Mrs. Dean mentored numerous youngsters over the years and helped them pursue advanced educational goals.

During her younger days she was a member of the first integrated all female band, the International Sweethearts of Rhythm. During World War II the band was the first all female group to travel on a USO tour, made several records and appeared in movies. Mrs. Dean was also a member of Phi Delta Kappa Sorority—Gamma Delta Chapter and she volunteered in the dialysis department at Hurley Medical Center. She was a member of Mt. Olive Baptist Church for 53 years. Mrs. Dean leaves behind her son, Robert Booker, and her daughter, Patsy O'Neal, several grandchildren, and numerous friends.

Madam Speaker, I ask the House of Representatives to join me in honoring the life of Bernice Booker Dean. I pray that the children inspired by her life and example will work to carry on her legacy of enthusiasm, strength and positive action.

HONORING PVAMC DIRECTOR RICHARD CITRON

HON. JOE SESTAK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. SESTAK. Madam Speaker, I rise before you to honor Director Richard S. Citron on his retirement from the post of Director of the Philadelphia Veterans Affairs Medical Center.

Mr. Richard S. Citron was appointed Director of the Philadelphia Veterans Affairs Medical Center in August 2007. The Philadelphia VAMC is a tertiary care facility for the eastern half of VA Healthcare—VISN 4, providing care to 60,000 Veterans in America's sixth largest metropolitan area including the city of Philadelphia and surrounding six counties in Pennsylvania and New Jersey. He has led more than 2,000 dedicated staff working at the main campus in West Philadelphia and community-based outpatient clinics in Fort Dix, NJ, Gloucester County, NJ, Camden, NJ, Center City Philadelphia, and Horsham, PA (the Victor J. Saracini Community Based Outpatient Clinic). Philadelphia VAMC operates 140 inpatient beds and a 135-bed nursing home known as the Philadelphia Veterans Community Living Center.

Mr. Citron has 38 years of VA healthcare experience, beginning in 1971 at Long Beach, CA. He has since served at medical centers in Newington, Loma Linda, Richmond, Brockton/West Roxbury, and VA Central Office. Mr. Citron served as Assistant Director of the VA Medical Center (University Drive) in Pittsburgh, as Acting Director of medical centers in Murfreesboro and Cleveland, and Director of the Jesse Brown VA Medical Center in Chicago. Prior to arriving in Philadelphia, Mr. Citron was Director of the Wilmington, DE, VA Medical Center.

Mr. Citron served in the US Army from 1968 to 1971, including one year at a MASH hospital in Chu Lai, Vietnam. He holds a bachelor's degree in Economics from the College of William and Mary and a master's degree in Public Administration from the University of Southern California. He is also a Fellow in the American College of Healthcare Executives (FACHE).

Madam Speaker, I ask you to join me in honoring Director Citron for his commitment to ensuring the well-being of our nation's Veterans.

IN RECOGNITION OF THE DALY CITY YOUTH HEALTH CENTER'S 20TH ANNIVERSARY

HON. JACKIE SPEIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Ms. SPEIER. Madam Speaker, I rise to honor the 20th anniversary of the Daly City Youth Health Center, a health and youth development program linked to the Jefferson Union High School District. Since its inception this facility has served over 37,000 youth and currently provides services to more than 600 teens each month. Clearly, we are a better community because of the dedication, caring and expertise of the center's staff.

The center, a satellite office of the San Mateo Medical Center, offers primary medical care, reproductive health care, mental health counseling, sexuality education, case management of pregnant teens, vocational guidance and life skills training. This center has been highly effective in helping girls and boys from low-income backgrounds where individual needs require a multi-service response.

I would like to point out that over 5,000 teens seek medical services from the clinic during the year and that most of the care revolves around reproductive health. These services are free although staff will work with these young people in terms of helping them apply for health insurance.

The center has been hailed for its development of programs covering mental health counseling, teen pregnancy prevention, peer leadership and the always challenging transition from school to a career. We would all do well to adhere to the center's mission to increase resiliency, encourage responsibility and promote self-determination among youth and young adults.

Madam Speaker, while this body has engaged in long and spirited debate on the issue of health care, it is important that we recognize and honor a 20-year-old program that has enriched thousands of young people in my district.

A PROCLAMATION HONORING THE 60TH ANNIVERSARY OF WJER 1450 AM

HON. ZACHARY T. SPACE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. SPACE. Madam Speaker,

Whereas, WJER 1450 AM was founded and began broadcasting in 1950 and is celebrating its 60th anniversary; and

Whereas, WJER AM has served as ''the Voice of the Valley'' by connecting the citizens of Dover, New Philadelphia, and Tuscarawas County for sixty years; and

Whereas, WJER is committed to continuing their work of bringing news and entertainment to the communities of Tuscarawas County in years to come; now, therefore, be it

Resolved that along with the residents of the 18th Congressional District, I commend WJER for six decades of service to the Tuscarawas Valley through the broadcast of national and local news, sports, and entertainment.

JESUS GUEVARA

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Jesus Guevara who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Jesus Guevara is a 12th grader at Jefferson High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Jesus Guevara is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Jesus Guevara for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication and character to all his future accomplishments.

RECOGNIZING THE IMPORTANCE OF VOLUNTEERISM

SPEECH OF

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 21, 2010

Mr. CROWLEY. Madam Speaker, I rise today in favor of H. Res. 1276, commemorating the anniversary of the signing of the landmark service legislation, the Edward M. Kennedy Serve America Act.

Since its enactment 1 year ago, the Edward M. Kennedy Serve America Act has cemented the importance of volunteerism and community involvement in American society. This legislation reflects the willingness of Americans to dedicate their time and effort to help their neighborhoods through a common goal of community improvement.

The success of the Serve America Act is apparent not only in its progress so far, but in those results yet to come. The creation of 175,000 new volunteer opportunities, through existing service programs such as AmeriCorps, is increasing volunteerism in America to the highest level since 2003.

The Serve America Act has demonstrated that even in this period of economic uncertainty, investment in communities continues to reap the highest rewards. The Serve America Act has allowed Americans to play an active role in our economic recovery through their volunteerism by empowering individuals to initiate real and lasting development within their communities. And by rewarding those who volunteer their services even during their full-time education, this legislation has enabled countless diligent students to combine community activism with greater educational possibilities.

I am particularly proud that this legislation created the Musicians and Artists Corps that I championed to train and deploy skilled musicians and artists to low income communities, schools, health care and therapeutic settings, and other areas, where they promote music and arts engagement programs. As someone who knows firsthand the proven social benefits of music and creative arts programs, I believe this program will have tremendous rewards.

The Serve America Act has been a call to service to all Americans, and undoubtedly it has inspired American citizens from all walks of life to give back to their communities. The Musicians and Artists Corps allows musicians and artists who are eager to serve to contribute their special skills and diverse talents to this community of activism.

The Edward M. Kennedy Serve America Act has contributed significantly to increasing service in our country, and I am proud to commemorate its passage and support its continuing good work.

HONORING FORMER NORTH CAROLINA SENATOR JOSEPH BRYANT RAYNOR, JR.

HON. BOB ETHERIDGE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. ETHERIDGE. Madam Speaker, I rise today to honor Senator Joseph Bryant Raynor, Jr. for his continued service to his community, county and State.

Born and raised in Fayetteville, NC, Senator Raynor learned early the value of hard work. Joe, like myself, grew up working on a farm and in his father's store stocking farm supplies and groceries. While attending 71st School in Fayetteville, Joe was active in Future Farmers of America (FFA) and also worked an after school job as a baggage boy at Efird's Department Store. After graduation he pursued a career in business, eventually leading him to start Raynor Business Supply Company, which has thrived for over 60 years.

In addition to being a successful businessman, Joe Raynor served in the North Carolina General Assembly for 22 years. First in the House, and then in the Senate, Joe strongly supported the criminal justice system and advocated for law enforcement and first responders. Serving as Chairman of the Senate Committee on Law Enforcement and Crime Control, he introduced bills to benefit law enforcement, including subsidizing losses for families of police officers slain in the line of duty. He also found innovative, fiscally responsible ways to help the community, supporting halfway houses with his "nickel a bottle tax" on liquor sales, and expanding community efforts treat those suffering from alcohol addiction. After more than two decades of focusing his energies on serving police officers, the mentally ill, and the elderly, Joe Raynor retired from the General Assembly in 1992.

Throughout his life Senator Raynor has served on a number of boards, commissions and committees in North Carolina, notably his position as Cumberland County Special Deputy Sherriff and Chairman of the Cumberland County Board of Elections. He has served the people of Cumberland County, the Sheriff's Department and the first responder community for over 50 years and has made a lasting impression on his county and the face of the North Carolina criminal justice system.

Madam Speaker, I urge my colleagues to join me today in recognizing the service and achievements of a good friend and former colleague of mine, Senator Joseph Bryant Raynor, Jr. He is a hard-working man and a beacon of justice and service. Like many of my fellow North Carolinians, I am proud to call Joe Raynor my friend.

CONGRATULATING TRENT STEELE

HON. ADRIAN SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. SMITH of Nebraska. Madam Speaker, I rise today to congratulate Kearney High School's Trent Steele, who has recently been named assistant principal of the year by the Nebraska State Association of Secondary School Principals.

Trent supervises and advises the senior class, curriculum, and is in charge of teacher evaluation and supervision. In addition, he co-chairs the Kearney High School Behavior/Safety Committee, which is responsible for development and implementation of school wide behavior policy.

Prior to his service at Kearney High, Trent served as assistant principal at Beatrice Middle School, and as K–12 principal at Anselmo-Merna Public School.

With a background in education myself, I know the dedication and responsibility required by Trent and other educators. He is a credit to Kearney High and the people of Nebraska.

JESSICA BOWLER

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Jessica Bowler who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Jessica Bowler is a 7th grader at Drake Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Jessica Bowler is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Jessica Bowler for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

WORLD INTELLECTUAL PROPERTY DAY

SPEECH OF

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 27, 2010

Mr. GOODLATTE. Madam Speaker, I rise in strong support of H. Res. 1208, which expresses support for World IP Day.

April 26, 2010 was the 10th annual World IP Day. This day was designated by the member nations of the World Intellectual Property Organization in order to raise awareness of how patents, copyright, and trademarks impact daily life, to raise understanding of how protecting IP rights helps promote creativity and innovation, to celebrate the contributions of creators and innovators to societies around the world, and to encourage respect for the IP rights of others.

When the Founders of our great Nation crafted the U.S. Constitution, they saw fit to include provisions to provide for the protection of intellectual property. They believed that if authors and inventors had the exclusive ability to use and reap a return on their creations for a limited time, then those artists and inventors would have the financial incentive to create new and exciting products that would benefit society and our economy. And it worked!

Today, America is the world leader in innovation and creativity precisely because of our Founders' foresight and our Nation's exceptionally strong intellectual property laws. Furthermore, the IP industries in America are a major driving force and job-creating engine of our economy.

Recently I had the opportunity to talk with a famous American author who told a story that hammered home how much the creative ideas of one man, if properly protected by intellectual property laws, can multiply into real jobs for real people. He wrote a best-selling novel. That novel then needed to be edited, reviewed, printed, marketed and distributed. The novel then became a movie, which needed to be produced, reviewed, distributed and shown in movie theatres, then in movie rental shops all across the country. The protected idea of one man helped to create all these jobs down the line. It is stories like this that need to be told on World IP Day.

In today's digital world, the Internet's fast connections can be used to download, upload and otherwise share illegal copies of songs, movies, games, and software at unprecedented levels. As we continue our journey into the digital age, it is even more important that we continue to jealously guard creators' intellectual property rights in order to foster new content, innovative products, and American jobs.

50TH ANNIVERSARY OF SILVER DOLLAR CITY IN SOUTHERN MISSOURI

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mrs. EMERSON. Madam Speaker, I rise today to commend the 50th Anniversary of Silver Dollar City in Southern Missouri. On May 1, 1960, this attraction was established in Branson, Missouri, and a whole community has grown up around the many visitors who are drawn to Taney County every year. Not only is Silver Dollar City a mainstay of the local economy, the park is also an annual destination for families throughout the region.

Silver Dollar City owes its success and its continuation as a family business to the leadership of its co-owners and co-founders, Mr. Jack Herschend and Mr. Peter Herschend. Since the founding of their company 50 years ago, they have always stayed true to the principal values of our State and our Nation. By being diligent in their business, kind to their employees and loyal to the customers who return to them year after year in increasing numbers, Herschend Family Entertainment is a great example to aspiring entrepreneurs in every sector of our economy.

As this House of Representatives labors in the best interests of Americans like the Herschends and ideas like Silver Dollar City, we must keep in mind the policies that will enable others to achieve similar success through their good ideas and hard work. I'm honored to congratulate all of the employees and guests at Silver Dollar City, past and present, on their 50th Anniversary. Each of them is a

participant in a special enterprise with a long tradition. We have good reason to note and to celebrate all of their great efforts and achievements today.

TRUE BLUE

HON. DAVID G. REICHERT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. REICHERT. Madam Speaker, I rise today to acknowledge the men and women of law enforcement, who put their lives on the line every day for us. In this past year, seven of our heroes from the State of Washington have been lost in the line of duty. Officer Deputy Sheriff Stephen M. Gallagher Jr., Officer Timothy Q. Brenton, Officer Tina G. Griswold, Officer Ronald W. Owens II, Sgt. Mark J. Renninger, Officer Gregory J. Richards, Deputy Sheriff Walter K. Mundell Jr.

Madam Speaker, most of us get up everyday and expect to come home to our families. Unfortunately, these men and women of law enforcement do not have such blessings. I ask that this poem in honor of these splendid men and women, and their magnificent families who in quiet courage, penned by Capitol Guide Albert Caswell be placed in the RECORD. And in memory of all the fallen this year.

TRUE BLUE

True!
True Blue
All in their most Heroic Hues!
All out there, On That Thin Blue Line . . . so True . . .
All out there, on their own! All, so all alone . . . on death's edge, so very all alone!
Living and dying, with only micro seconds to react . . . to find . . . to somehow so decide!
All in that moment of truth, when who lives or dies . . . as so brilliantly in time, so lies the proof!
With, but only their most courageous of all hearts to use! As so selflessly, they so do what they must do!
Leaving home, as this might be that one last kiss. . . . All in their hearts of love, as so as this . . .
With families, who live from day to day . . . knowing that death, but before them lays!
As they pray, as she or he walks out that door!
As it may be but that one last time, together, as so for sure!
All because they so stood, so stood!
So stood for something! For something so much more . . .
For What is True . . . for What Is TRUE BLUE!
To SERVE and PROTECT, for all of us. . . . This, and nothing less!
As all of their fine lives, have ours so blessed!
Ready to die for you and me! All in their most Heroic of Hues, we see!
Is that but not what Heaven is for? One and all, The Kind of Quiet Heroes the Angels adore!
As up in Heaven, their new beat for sure! All out there, On That Thin Blue Line . . .
Could such courage, we all so find? Approaching death, as it's out there they so feel its cold dark breath!
To save precious life, all in time! Oh so very fine, are but all of these Heroes . . . who now so come to mind!
It's for them, we now so pray! As they start each new night or day . . . all out there, On That Thin Blue Line!
Families hugging and crying, still intact . . . all because heroes lay dying . . .
As this day, death came so very close!
As it's for us they all so died
As their precious gifts, their lives so mean the most!
All For What Is True!
True Blue!

JENNIFER OLMSTED

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Jennifer Olmsted who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Jennifer Olmsted is a 12th grader at Arvada High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Jennifer Olmsted is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Jennifer Olmsted for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

GLOBAL YOUTH SERVICE DAY

SPEECH OF

HON. ADRIAN SMITH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 27, 2010

Mr. SMITH of Nebraska. Mr. Speaker, earlier this week, we celebrated Global Youth Service Day—an annual campaign which celebrates the millions of young people who improve their communities each day of the year through service and self-discovery.

Established in 1988, GYSD is the largest service event in the world and is now celebrated in more than 100 countries.

As part of this effort, I have the pleasure in recognizing two young people who are making a difference in Nebraska communities.

Sydney Swanson, a senior at Alliance High School, organized the first ''Coats for Kids'' drive in Alliance. This year, she expanded it to three additional cities, collecting a total of 875 coats for children in need. Sydney also created a website with instructions for teens to start ''Coats for Kids'' drives in their own communities.

Jordyn Lechtenberg, a senior at Ainsworth High School, founded and directly recruited 20 other high school students for the Youth Community Development Force, a group interested in community and economic development. She also served as interim executive director of the North Central Development Center while the director was on maternity leave.

Young people like Sydney and Jordyn are essential assets and resources not only for their communities, but for our entire country. They have set a high benchmark, and I challenge every American to follow their example.

TRIBUTE TO WALTER J. BISHOP, GENERAL MANAGER OF THE CONTRA COSTA WATER DISTRICT IN CALIFORNIA

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. GEORGE MILLER of California. Madam Speaker, I rise today to pay tribute to Walter J. Bishop on the occasion of his retirement after 18 years as the general manager of the Contra Costa Water District in California.

Wally Bishop has served as the general manager for the Contra Costa Water District, which supplies water to 550,000 people, during some very important and critical periods. Over this time, he has been a tireless—some might even say relentless—leader for the Contra Costa Water District, making significant contributions not only at the local and regional level but to statewide and national water policy as well.

He has worked throughout his tenure to improve our region's drinking water quality, to secure a sustainable water supply, and to restore and protect the Bay-Delta ecosystem. I am pleased to be able to say that I have worked with him on many of his successes, and as some of my colleagues know, he can be a formidable adversary as well.

Although nothing comes easily in California water, Mr. Bishop has succeeded in putting Contra Costa Water District at the forefront of responsible and sustainable water management in the State. Under his direction, the Los Vaqueros Reservoir Project was the first major reservoir to be permitted and constructed in California in more than a decade, and the water district's ongoing reservoir expansion project, intake relocation, and screening efforts will not only improve Contra Costa's water supply but provide important statewide economic and environmental benefits as well.

A registered civil engineer, Wally Bishop has been honored many times by his profession and by the larger water and engineering communities. In addition to the awards presented to Contra Costa Water District under his leadership, he has personally been honored with the American Society of Civil Engineer's Award for Achievement in Environmental Engineering/Government Service and the American Public Works Association's Charles Nichols Award for Leadership and Innovative Management.

He has also served with distinction in national leadership roles, including as the chair of the Water Research Foundation and on the

board of directors of the American Water Works Association, and he has been appointed to two terms on the Environmental Protection Agency's National Drinking Water Advisory Council.

Thanks in large part to Wally Bishop's leadership, the Contra Costa Water District is today in an excellent position to face the challenges of the 21st century. This is no accident: He is one of the true innovators and strategic thinkers in California water matters, and he and his staff have worked tirelessly throughout his tenure.

I ask my colleagues to join me in congratulating Wally Bishop on his retirement, and to thank him for his many years of public service. He is leaving big shoes to fill, and I hope that in addition to spending more time with his wife Patty, he will continue to contribute his energy and his ideas to the world of California water.

JASER ALSHARHAN

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Jaser Alsharhan who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Jaser Alsharhan is a 10th grader at Standley Lake High School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Jaser Alsharhan is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Jaser Alsharhan for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication and character to all his future accomplishments.

CONGRATULATING MOST REV. JOSEPH BAMBERA UPON HIS ORDINATION AS BISHOP OF THE ROMAN CATHOLIC DIOCESE OF SCRANTON, PENNSYLVANIA

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. KANJORSKI. Madam Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Most Rev. Joseph Bambera, the newly ordained Bishop of the Roman Catholic Diocese of Scranton, Pennsylvania.

On Monday, April 26, 2010, Bishop Bambera became the 10th Bishop of the Scranton Diocese. A native son of the 11-county Catholic diocese, Bishop Bambera spent nearly 20 of his 27 years as a priest ministering in the diocese's parishes.

He brings to his new post enthusiasm, humility and a unique understanding of his Catholic flock.

"With deep humility, I offer thanks to Almighty God, through whose providence and grace I've been called to serve as the 10th Bishop of the Diocese of Scranton," Bishop Bambera stated during his installation at St. Peter's Cathedral in Scranton before a large audience of priests, bishops, Cardinal Justin Rigali, head of the Archdiocese of Philadelphia and Apostolic Nuncio Pietro Sambi, Pope Benedict XVI's top diplomatic and spiritual representative in the United States as well as hundreds of the faithful.

Bishop Bambera has received the endorsement of many of his fellow priests in the Diocese who know him as a consensus builder and a man who appreciates the power of humor. "In God's wisdom and providence, he has given you one of your own as bishop," he said referring to the fact that he is only the second bishop to be a native of the diocese. "For you, perhaps God's wisdom may be confounding," he added to laughter from his church audience.

Then, he offered, "For me, your example, your dedication to prayer and service and your support have been a great source of inspiration and great consolation."

Again, Bishop Bambera called upon his gift of humor to express his deep emotion about his family roots. He recalled that his father died in 2004 and that his mother, when told that her son had been appointed as bishop, she was not "ecstatic." He recalled that she said, "Well, you've got quite a job to do." Then, when told that the public announcement of his appointment would occur on a Tuesday at 10 a.m., she responded, "That works out just fine. I have a hair appointment at noon." Choking back tears, Bishop Bambera thanked his parents for raising him well.

"My mother and father taught us by their example powerful lessons of faith and hope, peppered with healthy doses of commonsense. As parents go, I could not ask for more," he observed.

Bishop Bambera called attention to the chalice he uses during Mass, noting that it was a gift from his Great Aunt Marie, who died in her 80s, after outliving three children. "One day my mother asked her, 'How do you remain so upbeat given all the loss you've experienced in your life?' Here's what she said, 'No one knows the tears that I shed for those I've lost. But I am convinced that there is nothing that we cannot bear in life if we have faith.'"

Bishop Bambera called upon the faithful of the diocese to work together with him to ". . . meet the challenges."

In his remarks, Cardinal Rigali, speaking about Bishop Bambera, noted that, ". . . the faithful bishop is a good shepherd who knows that despite his own human limitations and his many faults and shortcomings which he recognizes and strives with God's help to overcome, he must still challenge the flock."

Madam Speaker, please join me in congratulating Bishop Bambera on this most joyous and inspiring occasion. His faithful service to the spiritual well-being of his parishioners; the respect that he enjoys among his peers and superiors; his leadership and his unyielding devotion to God and the Catholic congregation of northeastern Pennsylvania will serve him well as he moves forward in this new and demanding position. In that regard, we all wish him well.

HONORING ELECTRICIANS MATE 1ST CLASS ROBERT LAWRENCE MUDD

HON. GEOFF DAVIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. DAVIS of Kentucky. Madam Speaker, I rise to honor the life of Electricians Mate 1st Class Robert Lawrence Mudd, a sailor from Fort Mitchell, Kentucky. Petty Officer Mudd tragically lost his life while stationed in Hawaii, assigned to submarine USS *Olympia* at Pearl Harbor.

Robert Mudd was a model citizen and patriot. Shortly after graduating from high school in 1998, he joined the U.S. Navy. Robert served at the Trident Training Facility in Kings Bay, Georgia, and aboard USS *Nebraska* before joining the crew of USS *Olympia* in May 2007.

Today, as we honor the service of this exceptional Kentuckian, my heartfelt prayers are with Robert's loving parents, Lawrence and Barbara, and the rest of his family and friends. We are all indebted to Robert for his bravery and willingness to answer the Nation's call to defend freedom.

JARED ROSAS

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Jared Rosas who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Jared Rosas is a 7th grader at Drake Middle School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Jared Rosas is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Jared Rosas for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication and character to all his future accomplishments.

RECOGNIZING NATIONAL WORK ZONE AWARENESS WEEK

HON. PHIL HARE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. HARE. Madam Speaker, I rise today to recognize the 11th annual National Work Zone Awareness Week, which brings national attention to motorists, worker safety and mobility issues in work zones. This year's Awareness Week takes place April 19–23, and is coordinated by the Federal Highway Administration, the American Association of State Highway

and Transportation Officials, and the American Traffic Safety Services Association. Although work zone fatalities have declined nationally by over 30 percent since 1996, 720 people lost their lives in 2008 alone. We can do better.

National Work Zone Awareness Week encourages drivers to pay close attention to their surroundings such as putting down their mobile phones and other devices while proceeding through work zones. With increased awareness, we can continue aiming to make our roads safer for both workers and drivers, but also work toward further decreasing the number of work zone fatalities. According to research from the Illinois Institute of Technology, highway work zone fatalities have actually increased from 2007 to 2008 for both highway workers and vehicle travelers. Its research also shows that Illinois highway worker fatalities have actually stayed consistent over the last 15 years. We need to urge the American people to continue striving to reduce this fatality rate. This is an ambitious goal, but with 7,000 work zone crashes per year in my home State, 29 leading to death, National Work Zone Awareness Week is something we should all support.

In addition, as a Member serving on both the Transportation and Infrastructure Committee and the Education and Labor Committee, I would also like to recognize my two committee chairmen, Representatives JIM OBERSTAR and GEORGE MILLER, for their constant vigilance on making workplace safety a top priority of each respective Committee. Madam Speaker, we should all be reminded that driving safely doesn't stop just because you slow down through a highway construction zone, but rather it encompasses all factors that allow motorists to pay close attention to the road while also allowing road workers to improve our infrastructure. These workers should not have to worry about whether or not they're going to make it through the day unscathed.

Again, I would like to offer my recognition for National Work Zone Awareness Week. I thank the Speaker and urge all of my colleagues to join in recognizing this important campaign.

IN RECOGNITION OF THE 20TH ANNIVERSARY OF THE VIRGINIA SCHOLARSHIP AND YOUTH DEVELOPMENT FOUNDATION

HON. ROBERT C. "BOBBY" SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. SCOTT of Virginia. Madam Speaker, I rise today to honor the 20th anniversary of the Virginia Scholarship and Youth Development Foundation.

The foundation was formed in 1990 when actors Tim and Daphne Reid formed the Tim Reid Scholarship Foundation. It has since helped many at-risk high school students in Hampton Roads, Virginia go to college.

Education has always been society's great equalizer, and a college education is necessary today to ensure that youth reach their highest potential. The Foundation's mission and motto of ''Universal Understanding Through Education'' clearly reflects this.

Financing a college education becomes more and more difficult each year. Tim and Daphne Reid have committed themselves to making this less of an obstacle for many families in Hampton Roads, Virginia. They are devoted to the belief that talented individuals should not be denied the opportunity to cultivate their minds and have the opportunity to create a better future for themselves, their families, their community and the world.

For 20 years, Tim and Daphne have worked tirelessly to raise funds for this scholarship. One of their most successful fundraisers is the annual Tim Reid Celebrity Weekend. Tim and Daphne invite many of their friends to come to Hampton Roads to participate in a weekend of events. The Celebrity Weekend attracts over 5,000 people annually. Actors, musicians, comedians, and dignitaries are invited to donate their time to participate in 3 days of activities to raise funds for the Foundation. Past celebrity guests have included Will Smith, Kyla Pratt, Kelly Williams, Lark Voorhies, Percy Daggs, Marcus Paulk, Angela Bassett, Victoria Rowell, Alfonso Ribeiro, the O'Jays, Clifton Davis, Richard Roundtree, Tia and Tamera Mowry, Tatyana Ali, Blair Underwood, and many others. Next week, the Virginia Scholarship and Youth Development Foundation will host its 20th Annual Tim Reid Celebrity Weekend in Hampton Roads, which I am sure will be another huge success.

Because of the efforts of Tim and Daphne Reid, there are currently twenty-four students attending eleven different colleges and universities with the support of the Virginia Scholarship and Youth Development Foundation. Many of these young people are the first in their families to obtain a college education.

I congratulate the Virginia Scholarship and Youth Development Foundation on twenty successful years and, I commend Tim and Daphne Reid for their tireless efforts on behalf of the Foundation and students in the Commonwealth of Virginia. Their willingness to invest in our state and our students is a model of personal and corporate responsibility that I hope many will replicate across our great nation. Under the leadership of Tim and Daphne Reid, I am sure the Foundation will have many more years of success.

JANAE TRUJILLO

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Janae Trujillo who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Janae Trujillo is an 8th grader at Drake Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Janae Trujillo is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Janae Trujillo for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

HONORING THE LIFE AND ACCOMPLISHMENTS OF SAM HOUSTON

SPEECH OF

HON. MICHAEL T. McCAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 26, 2010

Mr. McCAUL. Mr. Speaker, I come to the floor today to recognize Sam Houston's contributions to Texas and our Nation. Sam Houston was a statesman, military leader, and politician who made remarkable contributions to Texas and our Nation. His achievements include representing both Tennessee and Texas in the U.S. Congress; defeating Mexican President Santa Anna to secure Texas' long sought independence; and being named the first President of the Republic of Texas for two terms. Additionally, he was the only person in U.S. History to have been the governor of two different states, Texas and Tennessee.

The State of Texas has recognized Sam Houston's achievements with the naming of the City of Houston. His is also remembered by a memorial museum, a U.S. Army Base, a national forest, a historical park, a university and the largest free-standing statue of an American figure.

The patriotic spirit of Sam Houston is carried by every Texan, and is especially seen in his great grandson, Sam Houston the 4th. I am proud to say this gentleman is my constituent. I have seen Sam Houston 4th every year at Texas Day of Independence celebration and feel that his vote is the best endorsement I have ever had.

Please join me in acknowledging Sam Houston's accomplishments with this resolution.

BLACK APRIL COMMEMORATION

HON. LORETTA SANCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Ms. LORETTA SANCHEZ of California. Madam Speaker, I rise today to commemorate the 35th Anniversary of the Fall of Saigon. And I am here today to honor and remember our fallen soldiers, American veterans, and our South Vietnamese allies, who fought and died in the name of freedom and democracy. For the past 14 years, I have had the privilege of representing one of the largest Vietnamese communities in the United States. I have listened to their amazing stories and worked with them to advocate for freedom and human rights in Vietnam.

During my 14 years in Congress, I have seen first-hand the passion of the Vietnamese-American community and their unwavering determination not only to succeed as a Vietnamese-American but also bring freedom to the people of Vietnam. My colleagues and I honor all those who fought for democracy and freedom in Vietnam and urge the Vietnamese-American communities to continue their fight against the continued persecution and injustice in Vietnam.

TRIBUTE TO PENNSYLVANIA STATE REPRESENTATIVE KATIE TRUE

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PITTS. Madam Speaker, today I honor Pennsylvania State Representative Katie True for her long service to the people of Lancaster County and the State of Pennsylvania. After serving 8 years representing the 37th State House District and another 8 years representing the 41st State House District, Rep. True will retire after the present legislative session.

I had the distinct honor of serving four years in the Pennsylvania General Assembly with Rep. True. Throughout her career she worked across the aisle to defend life in our State. After I was elected to the House of Representatives, Rep. True took over the leadership of the Pennsylvania State House Pro-Life Caucus.

She has been a tireless advocate for children in the State of Pennsylvania. She counts her greatest accomplishment as working to improve the child welfare system so that no child slips through the cracks.

Rep. True has always made protecting women a priority during her time in public service. In between her two terms in the General Assembly, she served 2 years as the executive director of the Pennsylvania Commission for Women. During her time in the General Assembly, she made sure that Pennsylvania established tough anti-trafficking laws to protect women and children in our State. Also, she introduced legislation for a check-off box on state income tax forms for breast cancer research.

Rep. True is one of the most trusted legislators in our state and her colleagues in Harrisburg will miss her cooperative spirit. Her constituents will miss her servant's heart and care for her community.

Our State motto is "Virtue, Liberty, and Independence." Rep. True embodies virtue and has always defended our liberty and independence. The State of Pennsylvania is grateful for her honorable service and we wish her the best in her future endeavors.

JAIDY WIDDIFIELD

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Jaidy Widdifield who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Jaidy Widdifield is a 12th grader at Arvada High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Jaidy Widdifield is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Jaidy Widdifield for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

IN RECOGNITION OF O&S TRUCKING ON BEING RECOGNIZED AS 2010 INNOVATOR OF THE YEAR

HON. ROY BLUNT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. BLUNT. Madam Speaker, I rise today to pay tribute to O&S Trucking of Springfield, Missouri, on being recognized as 2010 Innovator of the Year by Commercial Carrier Journal.

In 1981, Jim O'Neal and partner Keith Stever teamed to form Ozarks Truck Brokerage with two customers and no equipment. Two years later the pioneering pair launched the company that would become O&S Trucking. Throughout the 1990s O&S Trucking grew quickly and by 2000 had executed an employee stock ownership program to completely overhaul the company as employee owned. This approach led to more ownership from drivers and workers to give O&S Trucking a steady platform for growth and success.

Nearly twenty years later, O&S Trucking provides transportation services to customers throughout the United States and Canada, offering opportunities for owner operators, drivers, small fleet owners and outside carriers. O&S Trucking continually encourages their leaders to generate innovative and engaging opportunities for their company. For example, they created an interactive Trucker's Challenge board game to help over 350 truck owners learn the responsibility and business skills to become a better owner-operator. In 2007, O&S Trucking launched the MegaTruck program to take full advantage of capacity and create an environmentally sensitive truck to haul more freight while reducing their carbon footprint.

The MegaTruck program was created to address fuel efficiency, driver availability and sustainability concerns for both refrigerated and dry van transportation. The MegaTruck is able to maximize product weight per truck without losing revenue and, in fact, the equipment operated under the MegaTruck program averages more miles per week than regular over-the-road trucks. This approach to business is the reason O&S Trucking is one of the few trucking companies to have grown since 2000 and this success should be seen as a bright vision as Missouri looks for new ways to improve our ever changing economy.

Taken together, the Trucker's Challenge and the MegaTruck Program have made O&S Trucking the first company Commercial Carrier Journal has recognized as Innovator of the Year. In addition, Jim O'Neal, President of O&S Trucking, serves as Mayor of Missouri's third largest city, Springfield, Missouri.

To Mayor and President Jim O'Neal, Chief Executive Officer David Corsaut, Chief Operating Officer Rick Johnson and the rest of the team at O&S Trucking, I offer my congratulations on being recognized as the 2010 Innovator of Year.

DESIGNATE CAUCASUS EMIRATE AS A FOREIGN TERRORIST ORGANIZATION

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. HASTINGS of Florida. Madam Speaker, I rise today to introduce a resolution urging the Secretary of State to formally designate the Caucasus Emirate as a foreign terrorist organization. The Caucasus Emirate seeks to establish a Taliban style Islamic state on the sovereign territory of the Russian Federation, Georgia, Armenia, and Azerbaijan and has declared jihad against the United States, Russia, Great Britain, and any other state fighting international terrorism. Let us stand together with Russia and take serious measures to disrupt and destroy this dangerous organization. I urge my colleagues to support this measure.

JACKIE EVANS

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Jackie Evans who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Jackie Evans is an 8th grader at Arvada Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Jackie Evans is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Jackie Evans for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

HONORING BRUCE IACOBUCCI

HON. PATRICK J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Speaker, I rise today to recognize Bruce Iacobucci, for his leadership and dedication to the Citizens of Bucks County and for his hard work for the United Way of Bucks County.

Mr. Iacobucci is the recent recipient of the Dr. Stanton Kelton Award given to those who show their dedication to the betterment of their community through their compassion and generosity.

Undaunted by the current economic uncertainties, Bruce Iacobucci has worked hard and has continued to be a major contributor to the goals of the United Way of Bucks County to the betterment of our community.

Madam Speaker, I am proud today to recognize Bruce Iacobucci for his leadership in our community and for his dedication to the citizens of the 8th District. Please join me in honoring him today.

OCCASION OF MAJOR SPEROS KOUMPARAKIS' TRANSFER FROM THE UNITED STATES MARINE CORPS LIAISON OFFICE

HON. W. TODD AKIN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. AKIN. Madam Speaker, today I recognize and pay tribute to Major Speros Koumparakis, United States Marine Corps, on the occasion of his transfer from the liaison office. I, and many other members of this Chamber, have had the pleasure of working with him over the past 3 years that he has served as part of U.S. Marine Corps Office of Legislative Affairs and as the Deputy Director of the USMC Liaison Office in the U.S. House of Representatives.

From his arrival in the October of 2006 to his departure in May 2010, Major Speros Koumparakis has represented the Marine Corps on all matters pertaining to the U.S. House of Representatives. During his time in the House Liaison Office, Major Koumparakis planned, led and executed many of the Marine Corps' most difficult and challenging legislative initiatives and distinguished himself as a leader and as a visible example of Marine Corps professionalism and values. Through his direct and skillful engagement with numerous Members of Congress and Professional Staff Members, he ensured that the Marine Corps' concepts, programs, and requirements were widely understood; resulting in the greatest possible support to the Marine Corps. His initiative, leadership, and tireless efforts as a fellow, legislative liaison officer and as the Deputy Director of the House Liaison Office have had a direct and lasting impact on improving the war fighting capabilities and the quality of life for Marines throughout the Marine Corps. Among his many achievements are:

Major Koumparakis consistently demonstrated his expertise and knowledge by providing timely and accurate information to the Members of Congress and their respective staffs. He was a vital asset for all matters relating to the Marine Corps and their relationship with the House of Representatives. Major Koumparakis' straightforward and professional work garnered the respect of Members and staffers alike. His candor and knowledge were key attributes in maintaining the Marine Corps' superb relationships with the many Members of the House of Representatives.

Throughout his tour, Major Koumparakis personally responded to hundreds of congressional inquiries, many of which gained national level attention. Through his exceptional interpersonal skills and broad knowledge in a wide range of military affairs, he assisted the Director, Marine Corps House of Representatives Liaison Office, in gaining the Members' support for issues critical to the Marine Corps. This exemplary customer service provided the Marine Corps latitude and time to reach appropriate solutions in each case. Major Koumparakis directly contributed to the Marine Corps' high degree of success in these matters that may not have been otherwise achieved.

Major Koumparakis successfully planned, coordinated, and escorted more than 50 international domestic trips for high-level Congressional and Staff Delegations.

These delegations often included senior leadership Representatives, such as the Minority Leader of the House, Chairs and Ranking Members of the House Armed Services Committee and other Committees of jurisdiction. These delegations traveled world-wide and visited heads of state, military commands, and deployed U.S. military personnel. His meticulous planning, attention to detail and anticipation of requirements allowed the Representatives and staff personnel to focus on fact-finding and learning new information to guide critical decisions made by the Members of Congress. These trips enabled our elected leaders to understand both the successes and challenges facing our Marines that could only be gleaned from first-hand observation and face-to-face interaction. These trips led to increased Congressional support for funding the needs of our deployed Marines and led to a greater appreciation and admiration for the sacrifices made by our Marines and their families. The close relationships developed on these trips paid dividends for the Marine Corps in all areas of legislative affairs.

Another example of this Marine's impact on Capitol Hill was Major Koumparakis' having led or assisted in the planning, coordination, and execution of countless events, receptions, and meetings on Capitol Hill. These events included New Member Orientation for the Freshman Congressional Class of the 110th and 111th Congresses which took place both on Capitol Hill and in Williamsburg, Virginia; Four Marine Corps Birthday Cake Cutting Ceremonies with the U.S. House of Representatives; countless House Armed Services and House Foreign Affairs Committee hearings and events, promotion ceremonies, awards ceremonies, retirement ceremonies, and guided tours of the Capitol. He also scheduled and facilitated several hundred office calls for the leadership of the Marine Corps to include the Commandant of the Marine Corps, Assistant Commandant of the Marine Corps, the Sergeant Major of the Marine Corps, and numerous other General Officers conducting business on Capitol Hill.

Utilizing his particular expertise in Communications, Major Koumparakis was instrumental in designing and implementing an engagement tracking system for use within the liaison office shared drive. His efforts digitized a complex and cumbersome system and enabled all liaisons to have easy access to shared information, allowing them to focus on their work and create unity of effort in the office.

In addition to the administrative requirements of the Marine Liaison Office, Major Koumparakis was instrumental in leading the planning and execution of the Capitol Hill Running Club for the past two years. This club met several times weekly, preparing hundreds of Capitol Hill staffers and military personnel to run the Marine Corps Marathon. Due to his hard work, the Club offered the Marine Corps an opportunity to engage with Congressional Staffers through physical training and raised the level of Marine Corps Marathon awareness on Capitol Hill.

On a personal note, Major Koumparakis served as a military fellow on my staff in 2007. Speros was a fantastic addition to our office and was an invaluable resource to me in my duties on the House Armed Services Committee. His smiling face will never be forgotten by me or my staff.

Major Koumparakis, through his dedication to professional, exemplary engagement with Congress has contributed immeasurably to the Marine Corps' solid reputation throughout Capitol Hill. The rapport he developed with Members of the House of Representatives and the Professional Staff Members have made a lasting impression with these Members and Staff and have set the tone for a lasting partnership between the Marine Corps and Congress for years to come. The time he has spent supporting Members of the House has been truly noteworthy. He has made lasting contributions to the House of Representatives.

OUR UNCONSCIONABLE NATIONAL DEBT

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. COFFMAN of Colorado. Madam Speaker, today our national debt is $12,876,734,073,745.72.

On January 6, 2009, the start of the 111th Congress, the national debt was $10,638,425,746,293.80.

This means the national debt has increased by $2,238,308,327,451.90 so far this Congress.

This debt and its interest payments we are passing to our children and all future Americans.

HANNAH LYNCH

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Hannah Lynch who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Hannah Lynch is a 7th grader at Mandalay Middle School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Hannah Lynch is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Hannah Lynch for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character to all her future accomplishments.

CONCERNS ABOUT THE PHILIPPINE AUTOMATED ELECTIONS

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. HONDA. Madam Speaker, on May 10, 2010, the Republic of the Philippines will undergo historic elections in its budding democracy. These elections mark the first fully automated national elections to determine the fates of over 85,000 candidates for some 17,000 national and local seats, including that of the President and Vice President. With such a large ballot of candidates and the challenge of polling across a nation of over 7,000 islands, the benefits of an automated system are apparent.

These automated elections, however, are not flawless. Automated voting is not guaranteed to eliminate fraud and error, but seeks to minimize them. Additional independent systems should be in place to ensure transparency and validity across the entire election process and, in particular, over the electronic voting systems themselves. Especially troubling are the reports that the new voting system has never been fully tested in the Philippines, which reinforces the need for a contingency plan in case of voting machine failures. In fact, the National Democratic Institute and other international observers have already expressed similar concerns about these upcoming automated elections.

The Philippine Commission on Elections (COMELEC) has the daunting task of administering these elections, and would do well to heed the bitter lessons that the United States learned from the controversies surrounding our electronic voting machines during recent elections. While still working to improve our election process, we also recognize the importance of mending the public confidence. Public confidence in any form of government is paramount to its success, and this is especially true for any democracy—Philippine and American. Again, I urge COMELEC to establish necessary transparency and validation mechanisms that will earn the confidence of the Filipino people to ensure that their constitutional right was fairly exercised. I look forward to these historic democratic elections and hope that they will result in a confident and peaceful transition of government.

COMMEMORATING THE LIFE OF LIEUTENANT COLONEL ROBERT H. ANDERSON

HON. BRIAN P. BILBRAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. BILBRAY. Madam Speaker, I rise today to pay tribute to a constituent of mine, Robert H. Anderson, Lt. Col., USMC (ret.) who sadly passed away in November 2009. Lt. Col. Anderson was laid to rest Friday April 2, 2010 in Arlington National Cemetery.

Lt. Col. Anderson was awarded the Distinguished Flying Cross for heroism during World War II. He became a Corsair pilot and was in nearly every major battle in the Pacific including Iwo Jima, Guadalcanal, Okinawa, Tarawa, Guam, Peleliu, Tinian and others. Between these battles, he fought kamikazes that were attacking our ships, flew reconnaissance missions, and escorted bombers, protecting them from Japanese fighter planes. During one of his escort missions he was hit with anti-aircraft fire and told to bail out. He jettisoned the canopy but at the last moment he decided that he would take his chances and try to get back to his base in Okinawa. He successfully landed on the runway at Okinawa with no canopy, no landing gear and much of his plane and controls damaged.

Throughout his life, Lt. Col. Anderson demonstrated his commitment to serving his country. After World War II, Lt. Col. Anderson served in the Marine Corps Reserve testing new jets, training pilots and keeping his skills sharp in case he was needed in combat again. He served one weekend a month and two weeks twice a year until Vietnam. He also volunteered as a recruiter for the Marine Corps Reserve and helped overhaul their public relations strategy. He volunteered for active duty during the Korean Campaign, but was not called.

Lt. Col. Anderson's service and dedication to this country warrants the highest recognition. I urge my colleagues to join me in celebrating this great American.

INTRODUCING THE COMMISSION ON IMPROVING LONG-TERM CARE AND COMMUNITY SERVICES ACT OF 2010

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. HASTINGS of Florida. Madam Speaker, I rise to introduce the Commission on Improving Long-term Care and Community Services Act of 2010.

Long-term care is a broad range of health and social services that is used by people who cannot care for themselves independently because they live with a physical, cognitive, or mental disability. Well over 9.4 million adults receive long-term care in the United States and this number is expected to rise. Longer life spans among the chronically ill and disabled, and higher incidences of acquired disabilities from unmanaged conditions such as HIV/AIDS, diabetes, obesity and heart disease project an increase in our reliance on long-term care. States with significant elder populations like Florida know the importance of ensuring that our health care system is well equipped to provide adequate long-term care services.

Last year, I introduced H. Res. 271, a resolution that expressed the need for a national strategy on long-term care, and the necessity of including long-term care in comprehensive health care reform. Many agreed that addressing the state of long-term care and community services is critically important to improving our health care system. However, concerns about the potentially high cost of implementing corrective measures stymied efforts to aggressively tackle the problem in the health reform bill.

The inclusion of long-term care insurance in the health reform bill is helpful, but it cannot serve as a substitution for comprehensively addressing long-term care and community services issues. Too many patients and families are enduring the physical, emotional and financial consequences of accessing long-term care in a system that is in dire need of improvement. The lack of streamlined standards and dominant payment methods for long-term care have left the system handicapped: depriving countless people of much needed services and placing a tremendous financial and emotional burden on families and caregivers. And yet, there has never been a national plan for long-term care, and nearly 20 years have passed since Congress comprehensively reviewed long-term care policy.

The Commission on Improving Long-Term Care and Community Services Act of 2010 is a cost-effective way to ensure that we comprehensively address long-term care and community services policy in the U.S. and U.S. territories. My bill directs the Secretary of Health and Human Services to establish a National Commission on Improving Long-Term Care and Services. The Commission will be composed of a variety of Federal and national stakeholders that will construct a comprehensive strategy on how to increase the affordability, accessibility and effectiveness of long-term care and community services in the U.S. and U.S. territories. The Commission's policy recommendations must consider cost, geography, culture, transportation, workforce and other factors that influence access to care.

And, the Commission's strategy must also provide guidelines on how to combat waste, fraud and abuse by long-term care providers, address flaws in Medicare reimbursement policies, increase access to home and community-based services through Medicaid, and promote fiscally responsible ways to finance long-term care. The Commission on Improving Long-term Care and Community Services has two years to submit a report to the President, Congress and the general public about their recommendations and findings.

Madam Speaker, I urge my colleagues to join me in supporting the National Commission on Improving Long-term Care and Community Services Act of 2010 and truly invest in the welfare of our Nation's health and health care system.

HONORING BARTOW HIGH SCHOOL

HON. ADAM H. PUTNAM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PUTNAM. Madam Speaker, today I rise to honor my high school alma mater, Bartow High School, for winning the 5A state title in boys' basketball. The final game had the Bartow Yellow Jackets beating the Tampa Sickles in a 51–37 match hosted in the Lakeland Center. This will be Bartow High's fourth boys' basketball title, but its first since 1988. The boys were led by head coach Terrence McGriff and seniors Jeremiah Samarippas, Weedlens Beauvil, Adrian Brackins, Richard Murvin, Vincent Reed, and Reginald Polite.

The school's athletics program is also recognized for its girls' softball team, who appeared in the state championship game for 10 consecutive years from 1997–2006 and won 7 out of the 10 matches. Bartow High also has many football alumni who went on to compete

at the NCAA Division I and professional National Football League levels.

Not only does Bartow High have a state champion in its basketball program, but they compete on a national level with their academic programs. The school houses the International Baccalaureate School at Bartow High, which annually finishes in the top 5 composite SAT scores in the United States. Bartow High earned approval to offer the International Baccalaureate Diploma in 1996. Until this year, this was the only such program in Polk County. In 2007, the U.S. News and World Report, the premier school rating entity, ranked the International Baccalaureate program as the third best school in the nation.

Bartow High was originally named the Summerlin Institute, which was founded in 1887 but moved to its current location in 1970. The school currently houses the prestigious military school of the same name, Summerlin Academy. On behalf of Florida's 12th Congressional District, especially Polk County, I wish to congratulate Bartow High's boys' basketball team for the state championship title and Bartow High for its continued well-rounded successes.

IVAN BURCIAGA

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PERLMUTTER. Madam Speaker, I rise today to recognize and applaud Ivan Burciaga who has received the Arvada Wheat Ridge Service Ambassadors for Youth award. Ivan Burciaga is a 12th grader at Arvada School and received this award because his determination and hard work have allowed him to overcome adversities.

The dedication demonstrated by Ivan Burciaga is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations once again to Ivan Burciaga for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt he will exhibit the same dedication and character to all his future accomplishments.

IN REMEMBRANCE AND RECOGNITION OF THE 35TH ANNIVERSARY OF THE FALL OF SAIGON

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. KUCINICH. Madam Speaker, I rise today in remembrance and recognition of the 35th Anniversary of the Fall of Saigon. This historical date commemorates the end of the Vietnam War, and represents the beginning of a new life for tens of thousands of Vietnamese people, as they began their hopeful journey to America.

On April 30, 1975, the ancient city of Saigon fell to the conquest of communist troops. This action solidified the communist takeover of South Vietnam. Thirty-five years later, I rise to honor the memory and sacrifice of the hundreds of thousands of South Vietnamese soldiers, American soldiers and civilians who made the ultimate sacrifice in the name of liberty.

Despite the violent takeover and the rule of repression that followed, the culture, spirit and hope reflected by the Vietnamese people remained steadfast. After the fall of Saigon, thousands of Vietnamese, determined to rebuild their lives, began a treacherous exodus out of Vietnam. Their daring escape was on foot, through thick jungles and over jagged mountains. They escaped by boat, through snake-infested rivers and across turbulent seas. They became refugees in many nations, including America, with nothing more than the clothes on their backs and the hope for freedom in their hearts.

Madam Speaker and colleagues, please join me in honor and remembrance of the hundreds of thousands of women, men and children who struggled for peace and freedom. We also honor the City of Cleveland and the Vietnamese Community of Greater Cleveland, which offers support, services and hope to immigrants from all over the world. The Vietnamese culture, through the care and commitment of its people, has flourished in Cleveland and across America. Yet it remains forever connected to its ancient cultural and historical traditions that spiral back throughout the centuries, connecting the old world to the new, spanning oceans and borders in the ageless quest for peace—from Vietnam to America.

IN COMMEMORATION AND HONOR OF DR. DOROTHY IRENE HEIGHT

HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Ms. MATSUI. Madam Speaker, I rise today to recognize and honor the life of Dr. Dorothy Irene Height, who passed away on April 20, 2010. Dr. Height was a noble woman who devoted her life to the service of others and for the advancement of civil liberty and freedom for all.

After earning her bachelors and masters degrees from New York University, Dr. Height started her career as a caseworker for the New York City Welfare Department. Possessing an audacious and strong spirit, Dr. Height helped fuel the civil rights movement as an activist with the National Council of Negro Women. She made it her life's work to fight for civil equality for African-Americans and women of all colors.

Dr. Height worked vigorously for the NCNW for more than 60 years. During her tenure, she served as the chair and president emerita of the NCNW, and worked alongside the Rev. Martin Luther King Jr., Congressman JOHN LEWIS and A. Philip Randolph. Dr. Height was among the few fortunate people to have stood on the platform when Dr. King delivered his "I Have a Dream" speech in 1963.

While helping to lead the NCNW in the 1960s, Dr. Height organized the famous "Wednesdays in Mississippi" group, which brought women of all faiths and colors together in Mississippi to break racial, class, and regional barriers. Because of her leadership and ability to bring people together, she was often sought by First Lady Eleanor Roosevelt for counsel. Additionally, she encouraged President Dwight Eisenhower to desegregate schools, and urged President Lyndon Johnson to appoint African-American women to positions in government.

Dr. Height has received numerous awards and commendations for her work, including the Congressional Gold Medal, Presidential Medal of Freedom, Spingarn Medal from the NAACP, and in 1993, was inducted into the National Women's Hall of Fame.

Madam Speaker, I am honored to recognize and honor the life of one of our Nation's greatest civil rights leaders. I ask all my colleagues to join me in honoring Dr. Dorothy Irene Height for her life-long service to the principles of freedom, justice, and equality for all.

NATIONAL HEALTHY SCHOOLS DAY

SPEECH OF

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 27, 2010

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in support of H. Res. 1280, a resolution expressing the support of the House of Representatives for National Healthy Schools Day. Unhealthy school environments have a traumatic effect of our students' health, learning, and productivity, and increase health care costs down the road. Fifty-five million students spend the week in American schools, and it is critical to our Nation's future that they be provided a safe and healthy learning environment.

While we take time to recognize this important issue, I would like to acknowledge the work of the Healthy Schools Campaign, a Chicago-based not-for-profit organization dedicated to encouraging and nurturing healthy school environments. Under the leadership of Founding Executive Director Rochelle Davis, the Healthy Schools Campaign has been a champion and model in the push to develop healthy school meals, which studies show have a significant impact on the cognitive and behavioral well-being of students.

We must work to ensure that every child born in this country has the opportunity to take advantage of its great resources. Guaranteeing a healthy school environment for all children will play a critical role in this effort, and I will continue to strongly support legislation and initiatives targeting that goal.

RECOGNITION OF SILBERLINE MANUFACTURING COMPANY INC. FOR 65 YEARS OF SERVICE

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. HOLDEN. Madam Speaker, I rise today to recognize Silberline Manufacturing Company, Inc. of Tamaqua, Pennsylvania which will celebrate its 65th anniversary on May 1, 2010. Silberline manufactures and sells metallic and special effect pigments, which are used

in paints, coatings, and plastics around the world.

Many of the items used in everyday life get their sparkle from Silberline, as key markets for the products include automotive coatings, consumer electronics such as cell phones, plastics, and inks and industrial arts.

Silberline has always been a family owned and operated business. When founded in 1945 by Mr. Ernest Scheller Sr., Silberline consisted of a single, small factory located in Stamford, Connecticut. Today, Silberline is a global business, headquartered in Tamaqua, Pennsylvania and includes four manufacturing facilities in the United States, as well as manufacturing in Europe and Asia. It has sales, technical support, and research and development in the United States and around the world. Silberline is known as a world leader in the industry, using science and technology to create, manufacture, and supply high quality pigments that have unique aesthetics, functionality, ease of use, and environmental friendliness.

Lisa Jane Scheller, Silberline's current President and CEO, is the granddaughter of founder Ernest Scheller. Ms. Scheller grew up in Tamaqua and in 1987 she joined Silberline as Data Processing Manager. She has been leading the company since 1997. It is her vision to see Silberline continue to grow and thrive while remaining committed to its seven core values—commitments to safety, employees, customers, environment, community, and continual improvement, all while conducting business with integrity around the world.

I congratulate Silberline on their 65 years of success and wish them the best of luck for the next 65.

WHY I OPPOSED H.R. 5146, BLOCKING THE COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Ms. KILPATRICK of Michigan. Madam Speaker, I voted today in opposition to H.R. 5146, Blocking the Cost of Living Adjustment for Congress. This legislation was introduced today, had no hearings, was not considered for a mark-up, and was brought to the floor of the House under an expedited procedure that would not allow for any amendments nor its full and complete consideration. I oppose this bill because Congress has established a fair system to regulate the pay of Members of Congress. This bill, by denying a reasonable and fair cost of living increase for Members of Congress, casts a wider chill on the respect and value that we give to all public servants.

Under Article I, Section Six of the U.S. Constitution, Congress is to determine its own pay. Historically, Congress has not frequently raised their pay. According to the Congressional Research Service, between 1789 through 1968—(179 years)—Congress raised their pay only 22 times. Stand-alone legislation was used to increase Congress' pay in 1982, 1983, 1989 and 1991, and in 1989, an automatic annual adjustment was used. This automatic annual adjustment was to eliminate the need for significant boosts in the salaries of Members of Congress. The cost of living increase for Members of Congress is not to exceed the rate given for any and all other federal employees. This is a fair and equitable system.

The Omnibus Appropriations Act of 2009 included a freeze on the salaries of Members of Congress. I supported this measure. I supported the cost of living adjustment freeze then, because the bill had been through the legislative process. I could measure the benefits of the overall bill for the people of the 13th Congressional District of Michigan and America. That is not true of H.R. 5146.

I also oppose this bill because this bill denigrates public service and the institution of Congress. Like all other public servants, Members of Congress work for the people of this country. In order to serve the people of America, Members of Congress must establish two residences and fly between Washington, DC, and our homes almost every week. Members of Congress spend hours, days and sometimes weeks away from our homes working for 600,000 or more constituents in our districts. We travel throughout the world to investigate and understand how America can make a positive difference.

I am proud of the tremendous responsibility it takes to be a public servant as a Member of Congress. I am honored and humbled by the faith that the people of the 13th Congressional District of Michigan have in my service to them. In voting against this bill, I am saying loud and clear that we should value the hard work and dedication of all of our public servants. We work hard each and every day to ensure that America is safe, strong and the best place in the world for all Americans. I value this hallowed and great institution called the U.S. House of Representatives. If we, as Members of Congress, do not stand up for ourselves, how can we stand up for the hundreds of thousands of other public servants who look to us as leaders?

I am proud to be elected to the U.S. House of Representatives. I am honored and proud to be a public servant. Congress established a fair and equitable way to automatically compensate the hard and difficult work of Members of Congress. I supported previous legislation denying the automatic pay raise because that bill went through regular order and contained many provisions important to the people of the 13th Congressional District and America. This bill was not considered under the regular rules of the House. This bill says that we do not value the work of America's public servants.

PAYING TRIBUTE TO THE CHI STATE CHAPTER OF DELTA KAPPA GAMMA SOCIETY INTERNATIONAL

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. COSTA. Madam Speaker, I rise today to pay tribute to the Chi State Chapter of Delta Kappa Gamma Society International on the occasion of holding their State Conference in Fresno, California, in 2010.

Delta Kappa Gamma Society International was founded in 1929 by Dr. Annie Webb Glanton with the overriding goal of providing guidance and inspiration to women educators in pursuing excellence in their professional lives. This service oriented group offers opportunities to enhance leadership development for women at local, regional, and international levels.

As an international honorary society of over 107,000 key women educators in 16 countries, Delta Kappa Gamma Society mentors women educators, provides mutual support and interaction in all educational fields at all levels. Delta Kappa Gamma helps women pursuing professional careers in education by offering financial aid to help them attain their graduate education.

It is truly an honor that Delta Kappa Gamma has selected Fresno, California, for their 2010 State Conference. I ask my colleagues to join me in recognizing the Chi State Chapter of Delta Kappa Gamma Society International as they continue to promote excellence in education and professional growth in women educators.

TRIBUTE TO RICHARD KELLY, CIVIL RIGHTS ACTIVIST AND JUSTICE ADVOCATE

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. DAVIS of Illinois. Madam Speaker, for as long as I can remember, Richard (Dick) Kelly was always at meetings, marches, demonstrations, political rallies and in Chicago, doing what we call door knocking or walking precincts during political campaigns. Dick was what we called a community organizer, one who spent most of their time working on issues, raising awareness, solving problems and being engaged, for the most part without pay. Richard was an idealist who never gave up on hope.

He started work in Mississippi in 1964, spent time there, returned to Chicago and Oak Park and settled into a lifetime of social activism. Richard grew up in the Beverly Community of Chicago, graduated from the St. Ignatius College Prep and got a degree in Political Science from Notre Dame University. In Mississippi he taught at Freedom Schools for black children, and being white, was arrested several times for minor infractions, e.g., jaywalking.

Richard taught in the Chicago Public Schools for twenty years, drove a taxi for another fifteen. He was active with the Chicago Teachers Union, had few material needs and spent most of his money on newspapers, magazines and books. He worked for a brief period with Governor Dan Walker's Administration as a labor liaison, was active with fair-housing activities in Oak Park and became an active member of the St. Giles Catholic Church. I extend condolences and best wishes to his wife, children, siblings, and other family members.

JAMES LEWIS BAKER

HON. STEVE AUSTRIA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. AUSTRIA. Madam Speaker, I rise today to honor the memory of James Lewis Baker.

Jim Baker of Springfield, Ohio, was born June 18, 1945, and his life was dedicated to his family and neighbors. His acts of charity and goodwill made him well-known and loved in his local community and his energetic presence will be missed.

A 1963 graduate of Northeastern High School, Jim served in the United States Air Force as an Air Policeman, conducting a tour in Vietnam and achieving the rank of sergeant. He received the Bronze Star for bravery as he was the first to respond in an emergency, saving the life of a fellow officer.

After his service, Jim established his family in Springfield, Ohio, with his wife, Jean (Woolweaver) Baker, and two sons. He was a local area businessman and served as the traffic control officer for the Springfield Police Department until his retirement. Jim was an active and respected member of the community, known best for his hard work and willingness to help others. He received the Springfield Citizenship Award for heroically assisting police officers in capturing a suspect.

Jim Baker, 64, had an enthusiasm for life that left an impression on each person he was encountered. He was a corner stone of the community and his life is an outstanding example of good citizenship. It is a privilege to honor his life today.

JOHN E.D. BALL

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. WOLF. Madam Speaker, I call to the attention of the House the passing on March 25 of John E.D. Ball, 77, a resident of Vienna, Virginia, who was the founding president of the National Captioning Institute and two-time national Emmy Award winner for his television engineering work.

Mr. Ball was a native of Glasgow, Scotland. An avid electronics buff as a teenager, he was a graduate of Glasgow's Royal College of Science and Technology. He served two years in the Royal Air Force as a radio signaller and 13 years with the BBC. Recruited by Computer Sciences Corporation, he and his family arrived in the United States in 1966. He joined the Public Broadcasting Service in 1971 and helped implement the first domestic satellite distribution system. Completed in 1978, the project won Mr. Ball his first Emmy award for engineering.

His interest in developing closed captioning for television programs was spawned in 1972 when he attended a briefing at Gallaudet College (now Gallaudet University) and was struck by the enthusiasm from the largely deaf audience following a demonstration by ABC–TV and the National Bureau of Standards of a subtitling system for the deaf. He worked over the next 7 years at PBS to make closed caption television a reality and in 1980 accepted on behalf of PBS a second national engineering Emmy Award.

Mr. Ball's effort led to the establishment later that year of the National Captioning Institute, a nonprofit that worked to expand the availability of closed captioning, for which Mr. Ball served as the founding president and chief executive officer for 15 years. At the urging of NCI and others, Congress passed the Television Decoder Circuitry Act in 1990 that required new televisions with screens larger than 13 inches to be equipped with closed-captioning technology. Today the "talking TV" logo has become one of the most recognizable symbols in the country.

For his exceptional dedication and work, Mr. Ball was awarded an honorary degree from Gallaudet University and also received a distinguished service award from the American-Speech-Language-Hearing Association.

Madam Speaker, we extend our sympathies to Mr. Ball's family, including his wife, the former Elizabeth Rodger of Vienna, Virginia; three sons, Norman Ball of Leesburg, Adrian Ball of Arlington County and Evan Ball of Vienna; and a grandson.

INTRODUCTION OF A RESOLUTION SUPPORTING THE GOALS AND IDEALS OF THE INTERNATIONAL YEAR OF BIODIVERSITY

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Ms. BORDALLO. Madam Speaker, today I have introduced a resolution to support the goals and ideas of the International Year of Biodiversity and to recognize the importance of biodiversity to ecosystems and human well-being. As our understanding of the interactions between humans and the environment grows, it has never been more evident and is highly dependent on our natural resources for the ecological goods, services and raw materials that underpin our economies, provide for our well-being, and are functional to many cultures. And accordingly, many of the goods and services on which we depend, both directly and indirectly, are supported by Earth's rich biodiversity.

Biodiversity describes the variety of plant and animal life on earth, the places they inhabit, and the interactions between them. Today scientists have identified over 1.7 million species and have estimated that at least 13 million are in existence. Biodiversity allows ecosystems to be resilient in the face of change, which is critical to consider as we move toward a world where increasing population, economic growth, and unpredictable climate will place additional pressures on our natural resources.

This resolution to support the goals and ideals of the International Year of biodiversity which I have introduced today, recognizes the environmental and societal value of diversity and the urgent need to protect this precious global heritage.

Globally, 35 percent of mangrove swamps have been removed, 40 percent of been cut down, 50 percent of freshwater wetlands have been lost, and 20 percent of coral reefs have been destroyed. While some of these losses might be restored in the future, regrettably many species and habitats, once lost, are gone forever. Moreover, the current pace of habitat loss is rapid, as more natural areas are altered or removed to provide for agriculture and aquaculture production, housing and urban industry and recreation. In my home territory of Guam, we are particularly vulnerable to climate change impacts, including increasing sea temperature, ocean acidification, and sea level rise, which threaten biodiversity within marine habitats. International and domestic conservation strategies are necessary to prevent the unfettered loss of critical areas of biodiversity, in Guam and globally, to ensure that ecosystem goods and services—such as shore protection and sustainable fisheries—are provided future generations.

I look forward to working with my colleagues on both sides of the aisle to advance this important resolution to reaffirm the United States' global leadership and longstanding commitment to the preservation and conservation of Earth's biodiversity, and to raise awareness about biodiversity's important role in supporting ecological and human well-being across the world.

COMMEMORATING THE 250TH ANNIVERSARY OF BETHESDA PRESBYTERIAN CHURCH, YORK COUNTY, SOUTH CAROLINA

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. SPRATT. Madam Speaker, I want to call the attention of the House to a landmark event in the Fifth Congressional District of South Carolina. On Sunday, May 2, 2010, the Bethesda Presbyterian Church of York County will celebrate its 250th anniversary. For 2½ centuries, Bethesda Presbyterian Church has kept the faith, preaching the gospel and bearing witness to its faith through Christian service and community leadership.

Worship at Bethesda began in the 1760s among some one hundred forty families, most of whom had immigrated from northern Ireland by way of Pennsylvania, Virginia, and the low country of South Carolina. Bethesda Presbyterian Church was formally organized in 1769, and became instrumental in forming other Presbyterian churches in our area. According to church records, its outreach included two churches in western Mississippi.

During the Revolution, after the fall of Charleston in 1781, Bethesda became a stronghold of resistance to the British. Its members figured prominently in the Battle of Huck's Defeat at the nearby Williamson Plantation. In the early 1800s, Bethesda was the site of evangelical meetings, now called the Great Awakening, which inspired the creation of churches throughout the upcountry of South Carolina.

The Bethesda church buildings have undergone various changes over the years, but the church's exterior still reflects the simple, old meeting house design, and the cemetery on the grounds is as hallowed as it is historic. In 1977 the Bethesda Presbyterian Church was placed on the National Register of Historic Places.

Despite the social changes of 250 years, war, economic crisis, and the ravages of time,

Bethesda has remained an old rock of the faith, with a future as promising as its past. In view of its long and glorious history, I ask that this commemoration of the Bethesda Presbyterian Church's 250th anniversary be noted by the Nation through entry in the CONGRESSIONAL RECORD.

CONGRATULATING THE ENTERPRISE ASSOCIATION OF STEAMFITTERS, UNITED ASSOCIATION LOCAL UNION 638

HON. THEODORE E. DEUTCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. DEUTCH. Madam Speaker, I am both honored and privileged to congratulate the over five hundred Enterprise Association of Steamfitters, United Association Local Union 638 retirees and their families who live in the state of Florida as they celebrate the 125th anniversary of the founding of their great union.

Steamfitters Local 638 was chartered in 1884 as Local Assembly 3189 under the Knights of Labor. In 1914 the Local Assembly became one of the first Enterprise Association of Steamfitters locals to join the United Association, eventually being incorporated as United Association Local 638 in August of 1947. Since their incorporation, the Enterprise Association has trained close to 3,000 apprentices, ensuring a dignified wage, benefits, and a skilled trade to all who have passed through the program.

Although many things have changed throughout its distinguished history, the Enterprise Association has preserved its reputation as an organization of highly skilled craftsmen dedicated to the preservation and protection of its members and their trade. The presence of so many Local 638 members in our community has helped Florida's working families overcome many barriers in their daily struggle to earn a living wage. South Florida is truly a better place because of their active engagement in the betterment of our community.

I salute the Enterprise Association for 125 years of service to the trade union movement and for facilitating a dignified living wage. I wish the members and retirees of United Association Local 638 congratulations during this momentous occasion.

IN HONOR OF MICHAEL D. PATTERSON, RECREATION DIRECTOR FOR THE CITY OF ROCKY RIVER

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. KUCINICH. Madam Speaker, I rise today in honor of Michael D. Patterson, Recreation Director for the City of Rocky River, in celebration of his retirement after 34 years of service.

Thanks to his hard work and expertise, the Rocky River Parks and Recreation Department has been able to expand, offering programs to better the quality of life for all residents. Mr. Patterson began his career with the Parks and Recreation Department after earning a Master's degree from the University of Tennessee in 1976. When he first started, the Department only had five full-time employees. Today, the department employs sixteen.

Under Mr. Patterson's leadership, the Rocky River Outdoor Pool was renovated; the ice rink was renovated twice; a new civic center was constructed; and Rocky River's parklands were restored and maintained. Mr. Patterson has been a longtime member of the Ohio Parks and Recreation Association, including his service as President of the board from 2000 to 2001. During his time as Recreation Director, the City of Rocky River was honored with several awards from the State of Ohio, including the Superior Award for Teen Programs and the Outstanding Facility Award for the Don Umerley Civic Center.

Madam Speaker and colleagues, please join me in honoring Michael D. Patterson, whose unwavering dedication to the Parks and Recreation Department in Rocky River, Ohio has helped to preserve and promote the green spaces in our community. I wish Mr. Patterson and his family an abundance of health, happiness and peace in all of their future endeavors.

HONORING THE RAINIER CLUB'S ARTIST LAUREATE

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. MCDERMOTT. Madam Speaker, I rise today, on the occasion of the honoring of Stephen Wadsworth's lifetime achievement by one of Seattle's historic organizations and keeper of the arts, the Rainier Club. The people of the State of Washington hold up as a national inspiration the work of Stephen Wadsworth, stage director and writer.

Associated with Seattle Opera for more than 25 years, Stephen Wadsworth is a renowned director whose work has included acclaimed productions at the Metropolitan Opera, Teatro alla Scala, Royal Opera Covent Garden, Vienna Staatsoper, Nederlandse Opera, and Edinburgh Festival, and in San Francisco, Los Angeles, Toronto, and Santa Fe. He made his Seattle Opera debut with Jancek's Jenufa and has returned for Gluck's Iphigenia in Tauris (a co-production with the Metropolitan Opera) and Orphée et Eurydice; Handel's Xerxes; and Wagner's Lohengrin, Fliegende Holländer, and Ring.

Highlights of his operatic work include the Seattle Orphée (1988), on which he collaborated with Mark Morris. Of that production, The New Yorker magazine wrote "Inspired productions touch the heart of a listener's being, reveal music's power to sound every string of a psyche; make the theater what it should be, a place of, at once, ecstasy, entertainment, and moral and political enlightenment. The Seattle Orphée was such a production. It made the absurd extravagances of opera, all that it costs in public and private money and personal, hardworking devotion, seem worthwhile."

Wadsworth has staged much-traveled productions of plays by Shakespeare, Molière, Marivaux, Goldoni, Shaw, Wilde, and Coward. Wadsworth wrote the opera A Quiet Place with Leonard Bernstein, and directed the world premieres of Daron Aric Hagen's Shining Brow and Peter Lieberson's Ashoka's Dream, as well as new plays by Beth Henley and Anna Deavere Smith. He has translated a number of works for the stage, including works by Monteverdi, Handel, and Mozart.

The French government named Stephen Wadsworth a Chevalier de l'Ordre des Arts et des Lettres for his work on Molière and Marivaux. He is the Head of Dramatic Studies at the Metropolitan Opera's Lindemann Young Artist Development Program, and the James S. Marcus Faculty Fellow and Director of Opera Studies at the Juilliard School, where he has launched the first intensive acting program for opera singers.

Stephen Wadsworth's influence is international and broad in scope, but it is our honor that his presence is local to Washington State's 7th Congressional District. His work has brought a rich luminosity to the Seattle arts community for many years, and I am privileged now to note his profound contribution to our cultural life.

CONGRATULATING COMMANDER KAREN MILLER ON HER RETIREMENT

HON. PETER J. ROSKAM

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. ROSKAM. Madam Speaker, I rise today to honor a dedicated public servant from my Congressional District, Commander Karen Miller. After spending 25 years in the Addison Police Department, she is retiring at the end of April.

Commander Miller started her career in the Dispatch Department and was then assigned to the Patrol Division for 8 years. In 1993 she was named the full time D.A.R.E. /Crime Prevention Officer for the Department. For those 8 years Karen taught more than one thousand 5th grade students the importance of living a drug-free life.

Additionally, Commander Miller developed many programs within the Addison Police Department designed to better educate the public about crime prevention. The programs created under her leadership include the Citizens Police Academy, Senior Citizen Police Academy, Citizens on Patrol, Volunteers In Policing Service, Seniors And Law-Enforcement Together, and Community Emergency Response Team.

Madam Speaker and Distinguished Colleagues, Karen Miller is a remarkable public servant who has dedicated her life to serving the people of Addison. Please join me in recognizing her extraordinary service and wishing her happiness in the well deserved respite of her retirement.

CELEBRATING THE CENTENNIAL ANNIVERSARY OF THE ANNUNCIATION GREEK ORTHODOX CHURCH OF PENSACOLA

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. MILLER of Florida. Madam Speaker, I rise today to celebrate the 100th anniversary of the founding of Pensacola's Annunciation Greek Orthodox Church. This remarkable milestone is a testament to the years of great work by the church.

The year 2010 is a relatively small occurrence on the timeline of Orthodox Christianity, a faith that traces its beginnings all the way back to the apostles and dates many of its earliest traditions back to the days of St. John Chrysostom. 2010 also marks the 100th anniversary of Pensacola, Florida's oldest Orthodox congregation. The first Greeks to come to Pensacola were seamen who migrated during the 1860s. As the Greek community continued to grow, it was decided to build a church where Greek ideals and customs could be preserved as well as a place where spiritual needs could be met. Today, the Annunciation Greek Orthodox Church of Pensacola is a place of worship for more than 150 families of various ethnic backgrounds.

In thinking about the tremendous occasion before us and the countless good deeds that have been carried out in the name of the Father by this body, I am reminded of the words of the Apostle Paul. Paul wrote to the church of Galatia, ''And let us not be weary in well doing: for in due season we shall reap, if we faint not.'' On this 100th year anniversary of the Annunciation Greek Orthodox Church of Pensacola, I ask that they too heed the words of the Apostle Paul. After all these years, I encourage the church not to lose heart in doing what is good, but rather continue to serve the Lord and accomplish His work. I ask that they don't give up, but continue to show the fruit of the Spirit which is love, joy, peace, longsuffering, kindness, goodness, faithfulness, gentleness and self-control.

Madam Speaker, it is my great privilege to honor Pensacola's Annunciation Greek Orthodox Church on their centennial anniversary. These 100 years have been a testament to the compassion and good will that exists among mankind.

INTRODUCING A RESOLUTION URGING THE GOVERNMENT OF CANADA TO END THE COMMERCIAL SEAL HUNT

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. HASTINGS of Florida. Madam Speaker, I rise today to introduce a resolution urging the Government of Canada to end the commercial seal hunt.

While the vast majority of countries have banned the commercial seal hunt long ago, Canada is by far the largest remaining seal killer in the world. Each year, about 300,000 harp seal pups are killed for their meat, oil and pelts and almost exclusively traded internationally.

The United States and the European Union have banned both the hunting of seals and the importation of any seal products. Polling has shown that the majority of people in Canada oppose the commercial seal hunt and support foreign nations' ending their trade in seal products. A recent poll even reveals that half of Newfoundland sealers support a federal buyout of the commercial sealing industry.

Indeed, the few thousand fishermen who participate in the commercial seal hunt in Canada earn, on average, only a tiny fraction of their annual income from killing seals, with the remainder coming from traditional seafood. In recent years, the Minister of Fisheries and Oceans of Canada has authorized historically high quotas for harp seals despite high pup mortality, low seal fur prices and reduced industry participation.

Madam Speaker, the commercial seal hunt is not only unnecessary but cruel. Ninety-seven percent of the seals killed are pups between just twelve days and twelve weeks of age, without any ability to defend themselves. Most of them have not even learned how to swim. They are either shot or struck on the head by a hakapik or club. Many are injured in the course of the hunt and escape beneath the ice where they die slowly and are never recovered. Seal pups can also be skinned while still alive.

Several reports concluded that avoidable suffering occurs during hunting, sealers fail to comply with regulations and authorities do not effectively monitor the hunt and enforce regulations. This slaughter has to come to an end.

My resolution will urge the Government of Canada to prohibit the commercial hunting of seals, while allowing subsistence hunting for aboriginal communities. It will also encourage other countries to ban trade in seal products.

Madam Speaker, wild animals are a very important part of our commonly held natural resources and contribute to the diversity and stability of our environment. We cannot let economic interests take over our moral values. Animal cruelty is an inexcusable abomination. The United States must continue to protect those animals that cannot protect themselves and ensure fair and humane treatment. It is essential to maintain a balanced and healthy ecosystem that allows for the coexistence of both human beings and the world's most incredible species.

I urge my colleagues to join me in protecting wildlife and environmental conservation across the globe by supporting this important resolution.

HONORING JAMES J. DOWLING

HON. PATRICK J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. PATRICK J. MURPHY of Pennsylvania. Madam Speaker, I rise today to recognize James J. Dowling, for his lifetime of service and dedication to the United Way of Bucks County.

Since the 1970s Mr. Dowling has been an integral part of the United Way of Bucks County and since then has been a leader in the community and within the United Way.

During Mr. Dowling's time as Chair of the Community Investment Cabinet for the United Way of Bucks County, programs for children's education have flourished. He has been one of the driving forces here in the 8th District when it comes to strengthening early education.

Mr. Dowling has led the United Way of Bucks County through tough economic times and has never wavered in his commitment to the organization and to the community. He never lost sight of the hard work that needs to be done to support those who need help the most.

Madam Speaker, I am proud today to recognize James J. Dowling for his commitment to our community and for his vision as a leader. He's a true asset to Bucks County and I'm proud to be his Congressman.

COMMEMORATING THE RETIREMENT OF RICHARD CAROL (RC) SMITH

HON. PHIL HARE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. HARE. Madam Speaker, I rise today to recognize the long and distinguished career of public service of Richard Carol Smith, known to family, friends and colleagues as RC.

A life-long resident of the Midwest, RC has been a fixture in Macon County and in particular Long Creek Township through his work in government service as well as his political activism. What is even more impressive is that while working diligently for the public good, he was employed by Wabash, Norfolk & Western and Norfolk-Southern Railways, for some 39 years. Yet he found the time to be an incredibly active and respected member of his community and our region.

His service and commitment to Long Creek is unparalleled. He currently serves as Long Creek Township Clerk, a post he has held since 1997, as well as being a former assessor for the town. He has also served Long Creek as the township supervisor and assistant supervisor.

His service to Macon County is just as impressive. RC served on the Macon County board for almost 30 years. He was first elected to the board in 1970 and served as chairman from 1985 to 1986 and as vice-chairman for 6 years. He also served as the Mt. Zion Township Supervisor and was the first Democrat elected to the post in 20 years.

In addition to a long career in area Democratic Party politics, Mr. Smith has been an ardent supporter of the labor movement, culminating with him serving as the executive director of Decatur Area Labor-Management from 1989–1997.

A man of faith, RC is active in his local church, where he is an ordained Deacon at the Tabernacle Baptist Church. He also served his country honorably in the U.S. Air Force from 1952 to 1956.

RC can't quite shake the pull of politics and will remain the president emeritus of the Long Creek Township Democrats as well as continue as the secretary of the Macon County Democrats. However, with all of the accomplishments and commitments, RC has earned a well deserved retirement from his service as

the chairman of the Long Creek Township Democrats. RC has been married over 45 years to his wife Wanda and is the proud father of three children and a grandfather to boot. I know that he is looking forward to spending more time with his family, but I am confident he will still remain as an active and steadfast force for his community. I hope he enjoys his retirement—it is well earned after many years of service and commitment to the people of our area.

HONORING UNIVERSITY OF FINDLAY PRESIDENT DR. DEBOW FREED

HON. JIM JORDAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. JORDAN of Ohio. Madam Speaker, I am honored to commend to the House the outstanding contributions of Dr. DeBow Freed. Dr. Freed is departing the presidency of the University of Findlay after serving in that office for nearly seven years.

DeBow Freed's distinguished service is a shining example to everyone in the field of higher education. He is a 1946 graduate of the United States Military Academy at West Point, to which he returned as a physics instructor at the conclusion of more than two decades of Army service. He also earned nuclear science and nuclear engineering degrees from the University of Kansas and the University of New Mexico.

He served as dean of Ohio's Mount Union College from 1969 until 1974, when Illinois's Monmouth College selected him as its president. At Monmouth, as would be true in his future assignments, Dr. Freed helped solidify the school's fiscal standing, increase enrollment, and strengthen ties between the campus and the local community.

In 1979, Dr. Freed was chosen to serve as Ohio Northern University's ninth president, a position he held for two decades. At ONU, he oversaw continual balanced budgets, bolstered the school's endowment funds, and supervised numerous renovation and construction projects—including the completion of a performing arts center that bears his name and that of his wife of 61 years, Catherine Moore Freed. Dr. Freed was elected president emeritus in 1999.

In 2003, Findlay's Board of Trustees invited Dr. Freed to accept the presidency on a temporary basis and assist in the search for a longer-term president. He quickly endeared himself to Findlay's students, faculty, and staff through his vision, integrity, and high personal standards. Because of his strong leadership and commitment to the school and the local community, the trustees asked him to remain in office.

The university has benefited tremendously from Dr. Freed's outstanding skills as a manager and educator. During his tenure, he has helped expand the school's academic offerings to include doctoral programs in pharmacy and physical therapy. He has overseen an increase in the number of full-time faculty members from 155 to 195. He is held in the highest regard by students, who appreciate his direct engagement with them and his dedication to their success.

Dr. Freed models the service to community that he encourages in others. He is a trustee of the Toledo Symphony and the Blanchard Valley Health Association, as well as a former chair of the Center of Science and Industry Foundation Board of Trustees.

Dr. Freed is insistent that he is not ''retiring,'' noting that retirement implies a departure. The students, faculty, and staff of the University of Findlay will never be far from his thoughts—just as he will never be far from theirs.

Madam Speaker, on behalf of the people of Ohio's Fourth Congressional District, I offer my congratulations to Dr. DeBow Freed on a long and distinguished academic career. I wish him and his family every success as they move to a new chapter in their lives.

RECOGNIZING MR. GREGORY J. HARBAUGH

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. KIRK. Madam Speaker, I rise to honor a 10th District resident who has experienced what only a handful of Americans have gone through. Mr. Gregory J. Harbaugh of Wilmette logged over 800 hours in space as an astronaut for the National Aeronautics and Space Administration. A graduate of Purdue University, Mr. Harbaugh began his career supporting flight operations from Mission Control at the Johnson Space Center in Houston.

In August 1988, Mr. Harbaugh became an astronaut and went on to participate in four space flights. During those flights, he spent more than 18 hours in extravehicular activity outside of the spaceship. For his service, Mr. Harbaugh received the NASA Distinguished Service Medal, four NASA Space Flight Medals, the NASA Exceptional Service Medal, and the NASA Exceptional Achievement Medal.

Mr. Harbaugh's explorations are invaluable to the advancement of science. I wish him all the best in his future endeavors.

IN RECOGNITION OF THE JEWISH HERITAGE FESTIVAL IN SACRAMENTO

HON. DANIEL E. LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. DANIEL E. LUNGREN of California. Madam Speaker, I rise today to recognize and pay tribute to the Jewish Heritage Festival and the Jewish Federation of the Sacramento Region.

May is National Jewish American Heritage Month, and an opportunity to celebrate all that Jewish life has brought to this Nation.

In conjunction with National Jewish American Heritage Month, the Jewish Federation of the Sacramento Region will bring to the capitol of California the annual Jewish Heritage Festival on May 2, 2010.

The Jewish Federation of the Sacramento Region was founded more than 150 years ago, and has grown to more than 25,000 residents in their eight county area.

The Heritage Festival is a celebration of Jewish culture in the United States, and an opportunity to increase communication, coordination, and cooperation between the local communities and their Jewish and non-Jewish residents.

With so many differences and divergent upbringings, there is much we share as a global community. The Festival will celebrate all that unites people with traditional food, live music and entertainment, dancing troupes, cultural exhibits and displays, family and children activities, and a special teen zone. Global values such as Tikkun Olam (repairing the world) will be highlighted with a variety of booths and activities that participants can learn from.

In collaboration with community organizations, the Tikkun Olam area will highlight the importance of social action in the Sacramento region. The area seeks to improve human welfare, deepen civic culture, and develop group life and commitment to others.

I am pleased to recognize the Jewish Federation of the Sacramento Region for their contribution to our district and their leadership in the Jewish Heritage Festival.

IN MEMORY OF CHRISTIE STANLEY

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. GALLEGLY. Madam Speaker, I rise in memory of Christie Stanley, the first female District Attorney for the County of Santa Barbara, California, who died this week at 61 years young after a courageous fight against cancer.

Christie was elected District Attorney in June 2006 with 70 percent of the vote. In many ways, she epitomizes the American Dream and how hard work and perseverance can bring a person to the pinnacle of her career.

Christie graduated from Ventura College of Law Magna Cum Laude, first in her class, while married, caring for two young daughters and commuting from Lompoc for 4 years—a round-trip of about 160 miles.

She was drawn to a career in law enforcement while in Kansas for her uncle's funeral. While she was there, her uncle's murderer was caught and brought through the small town square. Armed townspeople waited, intent on vengeance. The officers who had him in custody—friends and colleagues of Christie's uncle—brought the killer in safely so he could be prosecuted.

''I was and am consistently impressed by law enforcement professionals who do the right thing, even when it is the hard thing to do,'' Christie said of the experience.

Christie practiced civil law for 2 years before she joined the Santa Barbara County District Attorney's office in 1980. Soon after she was assigned to supervise the Lompoc District Attorney's office. She prosecuted hundreds of cases, including murders, rapes and arson, and had a nearly perfect conviction record.

In 1984, she was recognized as ''Deputy District Attorney of the Year.'' She had been an associate member of the Santa Barbara County Law Enforcement Chiefs since 1991,

was an original Core Committee Member for the creation and operation of the Substance Abuse Treatment Court and trained volunteers for the Lompoc Rape Crisis Center.

Christie is survived by her husband Gary; daughters Renee Edman and Dawn Wright; stepchildren Mark Stanley, Ryan Stanley and Tami Millican; mother Jeanette Claycamp; and her grandchildren.

Madam Speaker, I know my colleagues will join me in offering our condolences to Christie's family and friends and in remembering a life dedicated to incarcerating criminals and caring for their victims.

HONORING WILLIAM T. (BILL) ROBINSON III ON HIS ELECTION AS ABA PRESIDENT-ELECT NOMINEE

HON. GEOFF DAVIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 29, 2010

Mr. DAVIS of Kentucky. Madam Speaker, last week in Washington D.C., members of the American Bar Association (ABA)—including State, local and specialty bar leaders from throughout the USA—gathered to meet with Members of Congress and Administration officials about issues of importance to the legal profession and to the administration of justice.

Among the participants was one of my constituents, William T. (Bill) Robinson III from Kenton County, Kentucky, who recently became the ABA President-Elect Nominee.

Bill Robinson is the Member-in-Charge of the Northern Kentucky offices of Frost Brown Todd OD LLC, a regional law firm with almost 500 lawyers in nine offices located in Kentucky, Ohio, Tennessee, West Virginia and Indiana. Throughout his career, Bill has served as a leader in his profession and his community. Bill successfully completed his three year term as ABA Treasurer in August 2008 and currently serves as Chairman of the ABA Governmental Affairs Committee.

As an active member of the American Bar Association for over 25 years, Bill has served in various leadership roles, including 7 years on the ABA Board of Governors. Bill is a Past Board Chairman of the Greater Cincinnati/Northern Kentucky International Airport, a Past President of the Kentucky Bar Association and a Past Chairman of the Kentucky and the Northern Kentucky Chambers of Commerce.

Bill is a graduate of Thomas More College and the College of Law at the University of Kentucky, where in 2004, he was inducted into the Alumni Hall of Fame.

I ask the House to join me in congratulating Bill on his election as ABA President-Elect Nominee and his distinguished career and service to the Commonwealth of Kentucky.

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S2771–S2985

Measures Introduced: Sixteen bills and six resolutions were introduced, as follows: S. 3278–3293, S. Res. 505–509, and S. Con. Res. 62. **Pages S2802–03**

Measures Reported:

S. 1237, to amend title 38, United States Code, to expand the grant program for homeless veterans with special needs to include male homeless veterans with minor dependents and to establish a grant program for reintegration of homeless women veterans and homeless veterans with children, with an amendment in the nature of a substitute. (S. Rept. No. 111–175)

S. 657, to provide for media coverage of Federal court proceedings. **Page S2802**

Measures Passed:

Daniel Pearl Freedom of the Press Act: Committee on Foreign Relations was discharged from further consideration of H.R. 3714, to amend the Foreign Assistance Act of 1961 to include in the Annual Country Reports on Human Rights Practices information about freedom of the press in foreign countries, and the bill was then passed, clearing the measure for the President. **Page S2981**

Authorizing the Use of the Capitol Grounds: Senate agreed to H. Con. Res. 264, authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service. **Page S2981**

Haiti Earthquake Relief Efforts: Committee on the Judiciary was discharged from further consideration of S. Con. Res. 61, expressing the sense of the Congress that general aviation pilots and industry should be recognized for the contributions made in response to Haiti earthquake relief efforts, and the resolution was then agreed to. **Page S2982**

75th Anniversary of the Natural Resources Conservation Service: Senate agreed to S. Con. Res. 62, congratulating the outstanding professional public servants, both past and present, of the Natural Resources Conservation Service on the occasion of its 75th anniversary. **Pages S2982–83**

Public Service Recognition Week: Committee on Homeland Security and Governmental Affairs was discharged from further consideration of S. Res. 481, expressing the sense of the Senate that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 3 through 9, 2010, and the resolution was then agreed to. **Page S2983**

Dia de los Ninos: Celebrating Young Americans: Senate agreed to S. Res. 507, designating April 30, 2010, as "Dia de los Ninos: Celebrating Young Americans". **Pages S2983–84**

Measures Considered:

Restoring American Financial Stability Act—Agreement: Senate continued consideration of S. 3217, to promote the financial stability of the United States by improving accountability and transparency in the financial system, to end "too big to fail", to protect the American taxpayer by ending bailouts, to protect consumers from abusive financial services practices, taking action on the following amendments proposed thereto: **Pages S2772–84**

Pending:

Reid (for Dodd/Lincoln) Amendment No. 3739, in the nature of a substitute. **Page S2772**

Reid (for Boxer) Amendment No. 3737 (to Amendment No. 3739), to prohibit taxpayers from ever having to bail out the financial sector. **Pages S2772–82**

A unanimous-consent agreement was reached providing for further consideration of the bill at 9:30 a.m., on Friday, April 30, 2010. **Page S2984**

Signing Authority—Agreement: A unanimous-consent agreement was reached providing that the Majority Leader be authorized to sign any duly enrolled bills and joint resolutions for the period of Thursday, April 29, 2010, and Friday, April 30, 2010. **Page S2771**

Nominations Confirmed: Senate confirmed the following nominations:

David J. Hale, of Kentucky, to be United States Attorney for the Western District of Kentucky for the term of four years.

Kerry B. Harvey, of Kentucky, to be United States Attorney for the Eastern District of Kentucky for the term of four years.

Alicia Anne Garrido Limtiaco, of Guam, to be United States Attorney for the District of Guam and concurrently United States Attorney for the District of the Northern Mariana Islands for the term of four years.

Kenneth J. Gonzales, of New Mexico, to be United States Attorney for the District of New Mexico for the term of four years. **Pages S2981, S2985**

Nominations Received: Senate received the following nominations:

Peter A. Diamond, of Massachusetts, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 2000.

Sarah Bloom Raskin, of Maryland, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 2002.

Janet L. Yellen, of California, to be a Member of the Board of Governors of the Federal Reserve System for a term of fourteen years from February 1, 2010.

Janet L. Yellen, of California, to be Vice Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

Malcolm D. Jackson, of Illinois, to be an Assistant Administrator of the Environmental Protection Agency.

Tracie Stevens, of Washington, to be Chairman of the National Indian Gaming Commission for the term of three years.

Routine lists in the Army, National Oceanic and Atmospheric Administration, and Navy.

Pages S2984–85

Messages from the House: **Pages S2800–01**

Measures Referred: **Page S2801**

Enrolled Bills Presented: **Page S2801**

Executive Communications: **Pages S2801–02**

Executive Reports of Committees: **Page S2802**

Additional Cosponsors: **Pages S2803–04**

Statements on Introduced Bills/Resolutions: **Pages S2804–14**

Additional Statements: **Pages S2798–S2800**

Amendments Submitted: **Pages S2814–S2980**

Authorities for Committees to Meet: **Pages S2980–81**

Privileges of the Floor: **Page S2981**

Adjournment: Senate convened at 12:15 p.m. and adjourned at 6:27 p.m., until 9:30 a.m. on Friday, April 30, 2010. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S2984.)

Committee Meetings

(Committees not listed did not meet)

APPROPRIATIONS: FEDERAL RAILROAD ADMINISTRATION AND NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK)

Committee on Appropriations: Subcommittee on Transportation, Housing and Urban Development, and Related Agencies concluded a hearing to examine proposed budget estimates for fiscal year 2011 for the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak), after receiving testimony from Joseph C. Szabo, Administrator, Federal Railroad Administration, and Ann Calvaresi Barr, Deputy Inspector General, both of the Department of Transportation; and Joseph H. Boardman, and Theodore Alves, both of the National Railroad Passenger Corporation (Amtrak), both of Washington, D.C.

HOLDING BANKS ACCOUNTABLE

Committee on Appropriations: Subcommittee on Financial Services and General Government concluded a hearing to examine holding banks accountable, focusing on if treasury and banks are doing enough to help families save their homes, after receiving testimony from Timothy Geithner, Secretary, and Richard Neiman, Member, Congressional Oversight Panel, both of the Department of the Treasury; Kevin Puvalowski, Deputy Special Inspector General for the Troubled Asset Relief Program; and Katie Van Tiem, Neighborhood Housing Services of Chicago, Chicago, Illinois.

APPROPRIATIONS: LIBRARY OF CONGRESS AND OPEN WORLD LEADERSHIP CENTER

Committee on Appropriations: Subcommittee on Legislative Branch concluded a hearing to examine proposed budget estimates for fiscal year 2011 for the Library of Congress and the Open World Leadership Center, after receiving testimony from James H. Billington, Librarian of Congress, and John O'Keefe, Executive Director, Open World Leadership Center, Library of Congress.

BRIEFING ON YEMEN AND SOMALIA

Committee on Armed Services: Committee received a closed briefing on United States policy towards Yemen and Somalia, from Michael G. Vickers, Assistant Secretary for Special Operations/Low-Intensity Conflict and Interdependent Capabilities, Brigadier

General Raymond A. Thomas III, USA, Deputy Director of Special Operations and Counterterrorism (J–3), and Brigadier General Gregg C. Potter, USA, Vice Director for Intelligence (J–2), both of the Joint Chiefs of Staff, all of the Department of Defense.

FINANCIAL MARKETS

Committee on Banking, Housing, and Urban Affairs: Subcommittee on Economic Policy concluded a hearing to examine short-termism in financial markets, after receiving testimony from James E. Rogers, Duke Energy Corporation, Damon A. Silvers, American Federation of Labor and Congress of Industrial Organizations, and Judith Samuelson, Aspen Institute Business and Society Program, all of Washington, D.C.; and J.W. Verret, George Mason University School of Law, Arlington, Virginia.

CHILDREN'S ONLINE PRIVACY PROTECTION ACT

Committee on Commerce, Science, and Transportation: Subcommittee on Consumer Protection, Product Safety, and Insurance concluded a hearing to examine children's privacy, focusing on new technologies and the Children's Online Privacy Protection Act, after receiving testimony from Jessica Rich, Deputy Director, Bureau of Consumer Protection, Federal Trade Commission; Timothy Sparapani, Facebook, Kathryn C. Montgomery, American University School of Communication, Marc Rotenberg, Electronic Privacy Information Center, and Berlin Szoka, Progress and Freedom Foundation Center for Internet Freedom, all of Washington, D.C.; and Michael D. Hintze, Microsoft Corporation, Redmond, Washington.

DOUBLING UNITED STATES EXPORTS

Committee on Finance: Subcommittee on International Trade, Customs, and Global Competitiveness concluded a hearing to examine doubling United States exports, focusing on United States seaports after receiving testimony from Polly Trottenberg, Assistant Secretary of Transportation for Transportation Policy; Nicole Y. Lamb-Hale, Assistant Secretary of Commerce for Manufacturing and Services, International Trade Administration; Leal Sundet, International Longshore and Warehouse Union, and Bill Wyatt, Port of Portland, both of Portland Oregon; Steve Larson, Caterpillar Inc., Morton, Illinois; Errol Rice, Montana Stockgrowers Association (MSGA), Helena; Phil Lutes, Port of Seattle, Seattle, Washington; Larry Paulson, Port of Vancouver, Vancouver, Washington; and Jeff Bishop, Oregon International Port of Coos Bay, Coos Bay.

UNITED STATES-RUSSIAN ARMS CONTROL

Committee on Foreign Relations: Committee concluded a hearing to examine historical and modern context for United States-Russian arms control, after receiving testimony from James Schlesinger, MITRE Corporation, McLean, Virginia; and William J. Perry, Stanford University Center for International Security and Cooperation, Stanford, California.

DEVELOPING FEDERAL EMPLOYEES AND SUPERVISORS

Committee on Homeland Security and Governmental Affairs: Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia concluded a hearing to examine developing Federal employees and supervisors, focusing on mentoring, internships, and training in the Federal government, after receiving testimony from Nancy H. Kichak, Associate Director, Chief Human Capital Officer, Office of Personnel Management; Marilee Fitzgerald, Acting Deputy Under Secretary of Defense for Civilian Personnel Policy; Colleen M. Kelley, National Treasury Employees Union (NTEU), J. David Cox, Sr., American Federation of Government Employees (AFL–CIO), and John Palguta, Partnership for Public Service, all of Washington, D.C.; and Laura Mattimore, The Procter & Gamble Company, Cincinnati, Ohio.

ELEMENTARY AND SECONDARY EDUCATION ACT

Committee on Health, Education, Labor, and Pensions: Committee continued hearings to examine Elementary and Secondary Education Act (ESEA) reauthorization, focusing on meeting the needs of special populations, after receiving testimony from Lucinda Hundley, Littleton Public Schools, Littleton, Colorado; Carmen Medina, Pennsylvania Department of Education, Harrisburg; Michael Hinojosa, Dallas Independent School District, Dallas, Texas; Denise Ross, Prince George's County Public Schools, Upper Marlboro, Maryland; and Kayla VanDyke, Eagan, Minnesota.

INDIAN LANDS BILLS

Committee on Indian Affairs: Committee concluded a hearing to examine S. 2802, to settle land claims within the Fort Hall Reservation, S. 1264, to require the Secretary of the Interior to assess the irrigation infrastructure of the Pine River Indian Irrigation Project in the State of Colorado and provide grants to, and enter into cooperative agreements with, the Southern Ute Indian Tribe to assess, repair, rehabilitate, or reconstruct existing infrastructure, and S. 439, to provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to

Indian-owned business enterprises, to stimulate the development of the private sector of Indian tribal economies, after receiving testimony from Alan R. Parker, Evergreen State College, Olympia, Washington; W. Ron Allen, National Congress of American Indians, Washington, D.C.; Alonzo Coby, Shoshone-Bannock Tribes Fort Hall Business Council, Fort Hall, Idaho; Matthew J. Box, and Lena Atencio, both of the Southern Ute Indian Tribe, Ignacio, Colorado; and Marion P. Walker, Blackfoot, Idaho.

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 657, to provide for media coverage of Federal court proceedings;

S. 446, to permit the televising of Supreme Court proceedings;

S. Res. 339, to express the sense of the Senate in support of permitting the televising of Supreme Court proceedings;

S. 1684, to establish guidelines and incentives for States to establish criminal arsonist and criminal bomber registries and to require the Attorney General to establish a national criminal arsonist and criminal bomber registry program, with an amendment in the nature of a substitute; and

The nominations of David B. Fein, to be United States Attorney for the District of Connecticut, Paul Ward, to be United States Marshal for the District of North Dakota, Clifton Timothy Massanelli, to be United States Marshal for the Eastern District of Arkansas, and Zane David Memeger, to be United States Attorney for the Eastern District of Pennsylvania, all of the Department of Justice.

INTELLIGENCE

Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community.

Committee recessed subject to the call.

House of Representatives

Chamber Action

Public Bills and Resolutions Introduced: 22 public bills, H.R. 5175–5196; and 15 resolutions, H. Con. Res. 271–272; and H. Res. 1307–1319 were introduced. **Pages H3077–79**

Additional Cosponsors: **Pages H3079–80**

Reports Filed: There were no reports filed today.

Speaker: Read a letter from the Speaker wherein she appointed Representative Larsen (WA) to act as Speaker pro tempore for today. **Page H3017**

Recess: The House recessed at 11:23 a.m. and reconvened at 12:15 p.m. **Page H3026**

Puerto Rico Democracy Act: The House passed H.R. 2499, to provide for a federally sanctioned self-determination process for the people of Puerto Rico, by a yea-and-nay vote of 223 yeas to 169 nays with 1 voting "present", Roll No. 242. **Pages H3019–59**

Rejected the Hastings (WA) motion to recommit the bill to the Committee on Natural Resources with instructions to report the same back to the House forthwith with an amendment, by a recorded vote of 194 ayes to 198 noes, Roll No. 241. **Pages H3057–58**

Pursuant to the rule, the amendment in the nature of a substitute recommended by the Committee on Natural Resources now printed in the bill shall be considered as an original bill for the purpose of amendment under the five-minute rule. **Page H3041**

Agreed to:

Foxx amendment (No. 1 printed in H. Rept. 111–468) that allows supporters of the commonwealth status quo the option of voting their preference during the second stage of the plebiscite (by a recorded vote of 223 ayes to 179 noes, Roll No. 234) and **Pages H3041–43, H3052–53**

Burton (IN) amendment (No. 4 printed in H. Rept. 111–468) that retains the requirement that all ballots used for authorized plebiscites include the full content of the ballot printed in English. It also requires the Puerto Rico State Elections Commission to inform voters in all authorized plebiscites that if Puerto Rico retains its current status or is admitted as a State: (1) any official language requirements of the Federal Government shall apply to Puerto Rico to the same extent as throughout the United States; and (2) it is the Sense of Congress that the teaching of English be promoted in Puerto Rico in order for English-language proficiency to be achieved (by a recorded vote of 301 ayes to 100 noes, Roll No. 237). **Pages H3045–47, H3054–55**

Rejected:

Gutierrez amendment (No. 2 printed in H. Rept. 111–468) that sought to provide the Puerto Rican people have the option to choose "none of the above" with regard to the status of Puerto Rico (by

a recorded vote of 164 ayes to 236 noes, Roll No. 235); **Pages H3043–44 H3053**

Gutierrez amendment (No. 3 printed in H. Rept. 111–468) that sought to provide that the ballots in the plebiscite to be conducted under H.R. 2499 are printed in Spanish (by a recorded vote of 13 ayes to 386 noes, Roll No. 236); **Pages H3044–45, H3053–54**

Velázquez amendment (No. 5 printed in H. Rept. 111–468) that sought to expand eligibility to vote in any plebiscites authorized by this bill to U.S. citizens of Puerto Rican descent residing in any of the 50 States (by a recorded vote of 11 ayes to 387 noes, Roll No. 238); **Pages H3047–48, H3055**

Velázquez amendment (No. 6 printed in H. Rept. 111–468) that sought to eliminate the first round of voting in Section 2 of the bill and insert an option for Commonwealth as a fourth option to the ballot. It also sought to provide for a runoff process if no option receives more than 50 percent of the vote that would be between the two options that received the most votes (by a recorded vote of 112 ayes to 285 noes, Roll No. 239); and **Pages H3048–50, H3055–56**

Velázquez amendment in the nature of a substitute (No. 7 printed in H. Rept. 111–468) that sought to express that it is the Sense of Congress that a proposal for a change of status must come first from the Commonwealth of Puerto Rico before Congress decides to consider the issue, therefore respecting their right of self-determination (by a recorded vote of 171 ayes to 223 noes, Roll No. 240). **Pages H3050–51, H3056–57**

Withdrawn:

Hastings (WA) amendment in the nature of a substitute (No. 8 printed in H. Rept. 111–468) that was offered and subsequently withdrawn that would have stated that Puerto Rico has, and has had, the authority to conduct plebiscites. **Pages H3051–52**

H. Res. 1305, the rule providing for consideration of the bill, was agreed to by a yea-and-nay vote of 222 yeas to 190 nays, Roll No. 232, and the subsequent motion to table the motion to reconsider the vote was agreed to by a recorded vote of 199 ayes to 186 noes, Roll No. 233. Earlier, the previous question was ordered on H. Res. 1305 by a yea-and-nay vote of 218 yeas to 188 nays, Roll No. 231. **Pages H3027–29**

Order of Procedure: The House agreed by unanimous consent that the ordering of the yeas and nays be vacated with respect to the motion to suspend the rules and agree to the following resolution to the end that the resolution be considered as adopted in the form considered by the House on Tuesday, April 27th:

Supporting the goals and ideals of Workers' Memorial Day: H. Res. 375, amended, to support the goals and ideals of Workers' Memorial Day in order to honor and remember the workers who have been killed or injured in the workplace. **Page H3059**

Meeting Hour: Agreed that when the House adjourns today, it adjourn to meet at 10 a.m. on Monday, May 3rd, and further, when the House adjourns on that day, it adjourn to meet at 12:30 p.m. on Tuesday, May 4th for morning hour debate. **Page H3060**

Committee on Transportation and Infrastructure—Communication: Read a letter from Chairman Oberstar wherein he transmitted copies of four resolutions for the U.S. Army Corps of Engineers adopted by the Committee on Transportation and Infrastructure on April 29, 2010. **Page H3060**

Senate Message: Message received from the Senate today appears on page H3019.

Quorum Calls—Votes: Three yea-and-nay votes and nine recorded votes developed during the proceedings of today and appear on pages H3027, H3027–28, H3028–29, H3052–53, H3053, H3053–54, H3054–55, H3055, H3055–56, H3056–57, H3058 and H3059. There were no quorum calls.

Adjournment: The House met at 10 a.m. and adjourned at 9:16 p.m.

Committee Meetings

PAKISTAN SECURITY AND STABILITY

Committee on Armed Services: Held a hearing on Security and Stability in Pakistan: Developments in U.S. Policy and Funding. Testimony was heard from the following officials of the Department of Defense: Michele Flournoy, Under Secretary, Policy; and LTG John M. Paxton, Jr., USMC, Director, Operations, J–3, Joint Chiefs of Staff; and Andrew J. Shapiro, Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

CONSUMER PRODUCT SAFETY ENHANCEMENT ACT

Committee on Energy and Commerce: Subcommittee on Commerce, Trade and Consumer Protection held a hearing on the Consumer Product Safety Enhancement Act. Testimony was heard from public witnesses.

NATIONAL BROADBAND PLAN NAVIGATION DEVICE COMPETITIVENESS

Committee on Energy and Commerce: Subcommittee on Communications, Technology and the Internet held a hearing entitled ''The National Broadband Plan:

Competitive Availability of Navigation Devices.'' Testimony was heard from public witnesses.

CREDIT DEFAULT SWAPS/GREEK DEBT CRISIS

Committee on Financial Services: Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises held a hearing entitled ''Credit Default Swaps on Government Debt: Potential Implications of the Greek Debt Crisis.'' Testimony was heard from public witnesses.

QUADRENNIAL HOMELAND SECURITY REVIEW

Committee on Homeland Security: Subcommittee on Management, Investigations, and Oversight held a hearing entitled ''Laying the Framework for the Task Ahead: An Examination of the Department of Homeland Security's Quadrennial Homeland Security Review.'' Testimony was heard from Jane Holl Lute, Deputy Secretary, Department of Homeland Security; and a public witness.

COMBATING HOUSING MARKET PREDATORY LENDING

Committee on the Judiciary: Subcommittee on the Constitution, Civil Rights, and Civil Liberties held a hearing on Protecting the American Dream Part II: Combating Predatory Lending Under the Fair Housing Act. Testimony was heard from Thomas E. Perez, Assistant Attorney General, Civil Rights Division, Department of Justice; A. C. Wharton, Mayor, Memphis, Tennessee; and public witnesses.

MISCELLANEOUS MEASURES

Committee on Transportation and Infrastructure: Ordered reported the following measures: H.R. 5128, amended, To designate the Department of the Interior Building in Washington, District of Columbia, as the ''Stewart Lee Udall Department of Interior Building;'' H. Con. Res. 263, Authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run; H. Con. Res. 247, Authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; H. Res. 1278, amended, In Support and recognition of National Safe Digging Month, April, 2010; H. Res. 1284, amended, Supporting the goals and ideals of National Learn to Fly Day, and for other purposes; and H. Res. 1301, Supporting the goals and ideals of National Train Day.

The Committee also approved U.S. Army Corps of Engineers Survey Resolutions.

REGIONAL ECONOMIC DEVELOPMENT COMMISSIONS BUDGETS

Committee on Transportation and Infrastructure: Subcommittee on Economic Development, Public Buildings, and Emergency Management held a hearing on Proposed Fiscal Year 2011 Budgets for Regional Economic Development Commissions, Priorities and Impacts on Regional Economics and Employment. Testimony was heard from Pete Johnson, Federal Co-Chair, Delta Regional Authority; Earl F. Gohl, Federal Co-Chair, Appalachian Regional Commission; and Joel Neimeyer, Federal Co-Chair, Denali Commission; and public witnesses.

VETERANS SMALL BUSINESSES

Committee on Veterans' Affairs: Subcommittee on Economic Opportunity held a hearing on Status of Veterans Small Businesses. Testimony was heard from William B. Shear, Director, Financial Markets and Community Investment, GAO; Diane Farrell, Director, Export-Import Bank of the United States; the following officials of the SBA: Joseph F. Sobota, Assistant Chief Counsel, Office of Advocacy; and Joseph G. Jordan, Associate Administrator, Government Contracting and Business Development; Tim J. Foreman, Executive Director, Office of Small and Disadvantaged Business Utilization, Department of Veterans Affairs; and representatives of veterans organizations.

VETERANS MEASURES; VA CONTRACT CARE PILOT PROGRAM

Committee on Veterans' Affairs: Subcommittee on Health approved for full Committee action the following bills: H.R. 1017, as amended, Chiropractic Care Available to All Veterans Act; and H.R. 5145, Assuring Quality Care for Veterans Act.

The Subcommittee also held a hearing on VA's Implementation of the Enhanced Contract Care Pilot Program. Testimony was heard from Patricia Vandenberg, Assistant Deputy Under Secretary, Health, Policy and Planning, Acting Director, Office of Rural Health, Veterans Health Administration, Department of Veterans Affairs.

U.S.-CUBA POLICY

Committee on Ways and Means: Subcommittee on Trade held a hearing on U.S.-Cuba Policy. Testimony was heard from public witnesses.

BRIEFING—FLIGHT 253 FORENSICS

Permanent Select Committee on Intelligence: Met in executive session to receive a briefing on Flight 253 Forensics. The Committee was briefed by departmental witnesses.

Joint Meetings

LONG-TERM UNEMPLOYMENT

Joint Economic Committee: Committee concluded a hearing to examine long-term unemployment, focusing on causes, consequences and solutions, after receiving testimony from Lawrence F. Katz, Harvard University, Cambridge, Massachusetts; Till von Wachter, Columbia University, New York, New York; and Diana Furchtgott-Roth, Hudson Institute, Washington, D.C.

COMMITTEE MEETINGS FOR FRIDAY, APRIL 30, 2010

(Committee meetings are open unless otherwise indicated)

Senate

No meetings/hearings scheduled.

House

No committee meetings are scheduled.

Next Meeting of the SENATE

9:30 a.m., Friday, April 30

Senate Chamber

Program for Friday: Senate will continue consideration of S. 3217, Restoring American Financial Stability Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Monday, May 3

House Chamber

Program for Monday: The House will meet in pro forma session at 10 a.m.

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