

Union Calendar No. 217

105TH CONGRESS
1ST SESSION

H. R. 10

[Report No. 105-164, Parts I, II, and III]

A BILL

To enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes.

NOVEMBER 3, 1997

Reported from the Committee on Commerce with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. LEACH (for himself, Mrs. ROUKEMA, Mr. CASTLE, and Mr. LAZIO of New York) introduced the following bill; which was referred to the Committee on Banking and Financial Services, and in addition to the Committee on 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

JULY 3, 1997

Reported from the Committee on Banking and Financial Services with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JULY 3, 1997

Referral to the Committee on Commerce extended for a period ending not later than September 15, 1997

SEPTEMBER 5, 1997

Referral to the Committee on Commerce extended for a period ending not later than September 30, 1997

SEPTEMBER 30, 1997

Referral to the Committee on Commerce extended for a period ending not later than October 31, 1997

OCTOBER 30, 1997

Referral to the Committee on Commerce extended for a period ending not later than November 3, 1997

NOVEMBER 3, 1997

Reported from the Committee on Commerce with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on January 7, 1997]

A BILL

To enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; PURPOSES; TABLE OF CON-**

4 **TENTS.**

5 (a) *SHORT TITLE.*—*This Act may be cited as the “Fi-*

6 *nancial Services Competition Act of 1997”.*

7 (b) *PURPOSES.*—*The purposes of this Act are as fol-*

8 *lows:*

9 (1) *To ensure the continued safety and soundness*

10 *of depository institutions.*

11 (2) *To reduce and, to the maximum extent prac-*

12 *ticable, to eliminate the legal barriers preventing af-*

13 *filiation among depository institutions, securities*

14 *firms, insurance companies, and other financial serv-*

1 *ice providers and to provide a prudential framework*
 2 *for achieving that result.*

3 (3) *To enhance competition in the financial serv-*
 4 *ices industry.*

5 (4) *To enhance the availability of financial serv-*
 6 *ices to citizens of all economic circumstances and in*
 7 *all geographic areas.*

8 (5) *To enhance the competitiveness of United*
 9 *States financial service providers internationally.*

10 (6) *To ensure compliance by depository institu-*
 11 *tions with the provisions of the Community Reinvest-*
 12 *ment Act of 1977 and enhance the ability of deposi-*
 13 *tory institutions to meet the capital and credit needs*
 14 *of all citizens and communities, including under-*
 15 *served communities and populations.*

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

Sec. 1. Short title; purposes; table of contents.

**TITLE I—POWERS AND AFFILIATIONS OF INSURED DEPOSITORY
 INSTITUTIONS**

*Subtitle A—Removing Barriers to Affiliations Between Insured Depository
 Institutions and Other Financial Institutions*

Sec. 101. Anti-affiliation provisions of “Glass-Steagall Act” repealed.

Sec. 102. Repeal of activity restrictions of Bank Holding Company Act of 1956.

Sec. 103. Qualifying bank holding companies.

Sec. 104. Certain State laws preempted.

Sec. 105. Mutual bank holding companies authorized.

Sec. 106. Companies not engaged in activities financial in nature.

Sec. 107. Amendment to ensure that banks acquired by other entities do not be-
come deposit production offices.

Sec. 108. Clarification of applicability of branch closure requirements in inter-
state banking operations.

Subtitle B—Additional Safeguards

- Sec. 111. Firewall safeguards.*
- Sec. 112. Consumer protection.*
- Sec. 113. Obligations of subsidiaries and affiliates cannot be extended to insured depository institutions.*

Subtitle C—National Council on Financial Services

- Sec. 121. Establishment and operation of the council.*
- Sec. 122. Functions of the council*
- Sec. 123. Advisory council on community revitalization.*

Subtitle D—Bank Holding Company Supervision

- Sec. 131. Streamlining bank holding company supervision.*
- Sec. 132. Administration of the Bank Holding Company Act of 1956.*
- Sec. 133. Bank holding company capital.*
- Sec. 134. Authority of State insurance regulator.*

Subtitle E—Subsidiaries of Insured Depository Institutions

- Sec. 141. Subsidiaries of national banks authorized to engage in financial activities.*
- Sec. 142. Activities of subsidiaries of insured State banks.*
- Sec. 143. Rules applicable to financial subsidiaries.*

Subtitle F—Direct Activities of Banks

- Sec. 151. Powers of national banks.*
- Sec. 152. Banking products defined.*
- Sec. 153. Repeal of stock loan limit in Federal Reserve Act.*

Subtitle G—Noninsured Depository Institutions

- Sec. 161. Wholesale financial institutions.*
- Sec. 162. Holding company control of uninsured depository institutions.*

Subtitle H—Federal Home Loan Bank System

- Sec. 171. Federal home loan banks—*
- Sec. 172. Membership and collateral.*
- Sec. 172A. The Office of Finance.*
- Sec. 172B. Management of banks.*
- Sec. 173. Advances to nonmember borrowers.*
- Sec. 174. Powers and duties of banks.*
- Sec. 174A. Mergers and consolidations of Federal home loan banks.*
- Sec. 174B. Technical amendments.*
- Sec. 175. Definitions.*
- Sec. 176. Resolution funding corporation*
- Sec. 177. Capital structure of the Federal home loan banks.*
- Sec. 178. Investments.*
- Sec. 179. Federal Housing Finance Board.*

Subtitle I—Streamlining Antitrust Review of Bank Acquisitions and Mergers

- Sec. 181. Amendments to the Bank Holding Company Act of 1956.*

- Sec. 182. Amendments to the Federal Deposit Insurance Act to vest in the Attorney General sole responsibility for antitrust review of depository institution mergers.*
- Sec. 183. Information filed by depository institutions; interagency data sharing.*
- Sec. 184. Annual GAO report.*
- Sec. 185. Applicability of antitrust laws.*
- Sec. 186. Effective date.*

Subtitle J—Redomestication of Mutual Insurers

- Sec. 191. Redomestication of mutual insurers.*
- Sec. 192. Effect on State laws restricting redomestication.*
- Sec. 193. Definitions.*
- Sec. 194. Effective date.*

Subtitle K—Applying the Principles of National Treatment and Equality of Competitive Opportunity to Foreign Banks and Foreign Financial Institutions

- Sec. 195. Applying the principles of national treatment and equality of competitive opportunity to foreign banks and foreign financial institutions.*
- Sec. 196. Applying the principles of national treatment and equality of competitive opportunity to foreign banks that are qualifying bank holding companies.*
- Sec. 197. Applying the principles of national treatment and equality of competitive opportunity to foreign banks and foreign financial institutions that are wholesale financial institutions.*

Subtitle L—Effective Date of Title

- Sec. 199. Effective date.*

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

- Sec. 201. Definition of broker.*
- Sec. 202. Definition of dealer.*
- Sec. 203. Bank broker and dealer activities.*
- Sec. 204. Application of this title to banks registered as brokers or dealers.*
- Sec. 205. Exclusion from SIPC membership of banks registered as brokers or dealers.*
- Sec. 206. Effective date.*

Subtitle B—Bank Investment Company Activities

- Sec. 211. Custody of investment company assets by affiliated bank.*
- Sec. 212. Lending to an affiliated investment company.*
- Sec. 213. Independent directors.*
- Sec. 214. Additional SEC disclosure authority.*
- Sec. 215. Definition of broker under the Investment Company Act of 1940.*
- Sec. 216. Definition of dealer under the Investment Company Act of 1940.*
- Sec. 217. Removal of the exclusion from the definition of investment adviser for banks that advise investment companies.*
- Sec. 218. Definition of broker under the Investment Advisers Act of 1940.*
- Sec. 219. Definition of dealer under the Investment Advisers Act of 1940.*
- Sec. 220. Interagency consultation.*
- Sec. 221. Treatment of bank common trust funds.*

- Sec. 222. Investment advisers prohibited from having controlling interest in registered investment company.*
- Sec. 223. Conforming change in definition.*
- Sec. 224. Effective date.*

**TITLE III—MERGER OF BANK AND THRIFT CHARTERS,
REGULATORS, AND INSURANCE FUNDS**

- Sec. 301. Short title; definitions.*

Subtitle A—Facilitating Conversion of Savings Associations to Banks

- Sec. 311. Conversion to State or national banks.*
- Sec. 312. Mutual national banks and Federal mutual bank holding companies authorized.*
- Sec. 313. Grandfathered activities of savings associations.*
- Sec. 314. Branches of former savings associations.*
- Sec. 315. Programs for promoting housing finance.*
- Sec. 316. Savings and loan holding companies.*
- Sec. 317. Treatment of references in adjustable rate mortgages.*
- Sec. 318. Cost of funds indexes.*

Subtitle B—Ending Separate Federal Regulation of Savings Associations and Savings and Loan Holding Companies

- Sec. 321. State savings associations treated as State banks under Federal banking law.*
- Sec. 322. Powers of Federal savings associations accorded to national banks.*
- Sec. 323. Home Owners' Loan Act repealed.*
- Sec. 324. Conforming amendment reflecting elimination of the Federal thrift charter and the separate system of thrift regulation.*
- Sec. 325. Conforming amendments to the Federal Home Loan Bank Act.*
- Sec. 326. Amendments to title 11, United States Code.*

Subtitle C—Combining OTS and OCC

- Sec. 331. Prohibition of merger or consolidation repealed.*
- Sec. 332. Secretary of the Treasury required to formulate plans for combining Office of Thrift Supervision with Office of the Comptroller of the Currency.*
- Sec. 333. Office of Thrift Supervision and position of Director of the Office of Thrift Supervision abolished.*
- Sec. 334. Reconfiguration of board of directors of FDIC as a result of removal of Director of the Office of Thrift Supervision.*
- Sec. 335. Continuation provisions.*

Subtitle D—Technical and Conforming Amendments to the Depository Institution Statutes

- Sec. 341. Amendments to the Federal Deposit Insurance Act.*
- Sec. 342. Amendment to the Bank Holding Company Act of 1956.*
- Sec. 343. Amendments to the Federal Reserve Act.*
- Sec. 344. Amendments to Alternative Mortgage Transaction Parity Act of 1982.*
- Sec. 345. Amendments to the Bank Protection Act of 1968.*
- Sec. 346. Amendments to the Community Reinvestment Act of 1977.*
- Sec. 347. Amendments to the Depository Institutions Deregulation and Monetary Control Act of 1980.*

- Sec. 348. Amendments to the Depository Institution Management Interlocks Act.*
Sec. 349. Amendment to the Economic Growth and Regulatory Paperwork Reduction Act of 1996.
Sec. 350. Amendment to the Emergency Home Finance Act of 1970.
Sec. 351. Amendments to the Expedited Funds Availability Act.
Sec. 352. Amendments to the Federal Credit Union Act.
Sec. 353. Amendments to the Federal Financial Institutions Examination Council Act of 1978.
Sec. 354. Amendments to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.
Sec. 355. Amendments to the Home Mortgage Disclosure Act of 1975.
Sec. 356. Amendments to the Housing and Community Development Act of 1992.
Sec. 357. Amendment to the International Banking Act of 1978.
Sec. 358. Amendments to the National Housing Act.
Sec. 359. Amendment to Public Law 93–495.
Sec. 360. Amendment to the Real Estate Settlement Procedures Act of 1974.
Sec. 361. Amendment to the Revised Statutes of the United States.
Sec. 362. Amendments to the Riegle Community Development and Regulatory Improvement Act of 1994.
Sec. 363. Amendments to the Right to Financial Privacy Act of 1978.
Sec. 364. Amendments to the Truth in Savings Act.
Sec. 365. Effective date.

Subtitle E—Technical and Conforming Amendments to Other Statutes

- Sec. 371. Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985.*
Sec. 372. Amendments to the Consumer Credit Protection Act.
Sec. 373. Amendments to the Flood Disaster Protection Act of 1973.
Sec. 374. Amendments to the Securities Exchange Act of 1934.
Sec. 375. Amendments to title 5, United States Code.
Sec. 376. Amendments to title 18, United States Code.
Sec. 377. Amendment to title 31, United States Code.
Sec. 378. Effective date.

**TITLE IV—UNIFORM MULTISTATE LICENSING OF STATE-LICENSED
INSURANCE AGENTS AND BROKERS**

- Sec. 401. State flexibility in multistate licensing reforms.*
Sec. 402. National Association of Registered Agents and Brokers.
Sec. 403. Purpose.
Sec. 404. Relationship to the Federal government.
Sec. 405. Membership.
Sec. 406. Corporate powers.
Sec. 407. Board of directors.
Sec. 408. Officers.
Sec. 409. Meetings of board of directors.
Sec. 410. Bylaws, rules, and disciplinary action.
Sec. 411. Borrowing authority.
Sec. 412. Assessments.
Sec. 413. Functions of the council.
Sec. 414. Liability of the association and the directors, officers, and employees of the association.
Sec. 415. Relationship to State law.
Sec. 416. Coordination with other regulators.

Sec. 417. Judicial review.

Sec. 418. Definitions.

1 **TITLE I—POWERS AND AFFILI-**
 2 **ATIONS OF INSURED DEPOSI-**
 3 **TORY INSTITUTIONS**

4 **Subtitle A—Removing Barriers to**
 5 **Affiliations Between Insured De-**
 6 **pository Institutions and Other**
 7 **Financial Institutions**

8 **SEC. 101. ANTI-AFFILIATION PROVISIONS OF “GLASS-**
 9 **STEAGALL ACT” REPEALED.**

10 (a) *SECTION 20 REPEALED.*—Section 20 of the Bank-
 11 *ing Act of 1933 (12 U.S.C. 377) is repealed.*

12 (b) *SECTION 32 REPEALED.*—Section 32 of the Bank-
 13 *ing Act of 1933 (12 U.S.C. 78) is repealed.*

14 **SEC. 102. REPEAL OF ACTIVITY RESTRICTIONS OF BANK**
 15 **HOLDING COMPANY ACT OF 1956.**

16 (a) *IN GENERAL.*—Section 4 of the Bank Holding
 17 *Company Act of 1956 (12 U.S.C. 1843) is amended by*
 18 *striking subsections (a), (b), (c), (e), (h), (i), and (j).*

19 (b) *CONFORMING AMENDMENT TO THE BANK HOLDING*
 20 *COMPANY ACT OF 1956 TO REFLECT EXPANSION OF INSUR-*
 21 *ANCE AUTHORITY.*—Section 3 of the Bank Holding Com-
 22 *pany Act of 1956 (12 U.S.C. 1842(f)) is amended—*

23 (1) *by striking subsection (f); and*

1 (2) by redesignating subsection (g) as subsection
2 (f).

3 (c) *TECHNICAL AND CONFORMING AMENDMENT TO*
4 *THE BANK HOLDING COMPANY ACT OF 1956.*—Section
5 *2(h)(2) of the Bank Holding Company Act of 1956 (12*
6 *U.S.C. 1841(h)(2)) is amended by striking the 1st sentence*
7 *and inserting the following new sentence: “A bank holding*
8 *company organized under the laws of a foreign country*
9 *which is principally engaged in the banking business out-*
10 *side of the United States may acquire and hold shares of*
11 *any company organized under the laws of a foreign country*
12 *(or shares held by such company in any company engaged*
13 *in the same general line of business as the investor company*
14 *or in a business related to the business of the investor com-*
15 *pany) that is principally engaged in business outside the*
16 *United States.”.*

17 (d) *CONFORMING CHANGES TO OTHER STATUTES.*—

18 (1) *AMENDMENTS TO THE FEDERAL RESERVE*
19 *ACT TO PRESERVE EXEMPTION FROM SECTION 23A.*—
20 *Section 23A(d)(5) of the Federal Reserve Act (12*
21 *U.S.C. 371c(d)(5)) is amended by striking “of the*
22 *kinds described in section 4(c)(1) of the Bank Holding*
23 *Company Act of 1956;” and inserting “engaged or to*
24 *be engaged solely in—*

1 “(A) holding or operating properties used
2 wholly or substantially by any bank subsidiary
3 of a bank holding company in the operations of
4 such bank subsidiary or acquired for such future
5 use;

6 “(B) conducting a safe deposit business;

7 “(C) furnishing services to or performing
8 services for a bank holding company or its bank
9 subsidiaries; or

10 “(D) liquidating assets acquired from a
11 bank holding company or its bank subsidiaries;”.

12 (2) *AMENDMENTS TO THE BANK EXPORT SERV-*
13 *ICES ACT OF 1982.*—Section 206 of the *Bank Export*
14 *Services Act of 1982 (12 U.S.C. 635a–4)* is amend-
15 *ed—*

16 (A) by striking “as defined in section
17 4(c)(14)(F)(i) of the *Bank Holding Company*
18 *Act of 1956*”; and

19 (B) by inserting at the end of the section the
20 following: “For purposes of this section, the term
21 ‘export trading company’ means a company that
22 does business under the laws of the United States
23 or any State, that is exclusively engaged in ac-
24 tivities related to international trade, and that
25 is organized and operated principally for pur-

1 *poses of exporting goods or services produced in*
2 *the United States or for purposes of facilitating*
3 *the exportation of goods or services produced in*
4 *the United States by unaffiliated persons by pro-*
5 *viding one or more export trade services. For*
6 *purposes of this section, the term ‘export trade*
7 *services’ includes consulting, international mar-*
8 *ket research, advertising, marketing, insurance*
9 *(other than acting as principal, agent or broker*
10 *in the sale of insurance on risks resident or lo-*
11 *cated, or activities performed, in the United*
12 *States, except for insurance covering the trans-*
13 *portation of cargo from any point of origin in*
14 *the United States to a point of final destination*
15 *outside the United States), product research and*
16 *design, legal assistance, transportation, includ-*
17 *ing trade and data processing of foreign orders*
18 *to and for exporters and foreign purchasers,*
19 *warehousing, foreign exchange, financing, and*
20 *taking title to goods, when provided in order to*
21 *facilitate the export of goods or services produced*
22 *in the United States.”.*

23 *(3) AMENDMENT TO THE FEDERAL DEPOSIT IN-*
24 *SURANCE ACT TO PRESERVE DEFINITION OF COM-*
25 *MONLY-CONTROLLED.—Section 5(e)(9)(A) of the Fed-*

1 *eral Deposit Insurance Act (12 U.S.C. 1815(e)(9)(A))*
2 *is amended by striking “section 4(f)(6)” and inserting*
3 *“section 6(g)(6)”.*

4 (4) *AMENDMENT TO THE BANK HOLDING COM-*
5 *PANY ACT AMENDMENTS OF 1970.—Section 105 of the*
6 *Bank Holding Company Act Amendments of 1970 (12*
7 *U.S.C. 1850) is amended by striking “, to engage di-*
8 *rectly or indirectly in a nonbanking activity pursu-*
9 *ant to section 4 of such Act,”.*

10 (5) *AMENDMENT TO THE BANK SERVICE COM-*
11 *PANY ACT.—Section 4(f) of the Bank Service Com-*
12 *pany Act (12 U.S.C. 1864(f)) is amended by striking*
13 *the period and adding at the end the following: “(as*
14 *in effect on the day before the date of enactment of*
15 *the Financial Services Competition Act of 1997).”.*

16 (6) *AMENDMENT TO THE INTERNATIONAL BANK-*
17 *ING ACT OF 1978.—Section 8(d) of the International*
18 *Banking Act of 1978 (12 U.S.C. 3106(d)) is amended*
19 *by striking “and the exemptions provided in sections*
20 *4(c)(1), 4(c)(2), 4(c)(3), and 4(c)(4) of the Bank*
21 *Holding Company Act of 1956 (12 U.S.C. 1843(c)(1),*
22 *(2), (3), and (4))”.*

23 (7) *AMENDMENT TO THE RIGHT TO FINANCIAL*
24 *PRIVACY ACT OF 1978.—Section 1101(6)(B) of the*
25 *Right to Financial Privacy Act of 1978 (12 U.S.C.*

1 3401(6)) is amended by striking “4(f)(1)” and insert-
2 ing “6(f)(1)”.

3 (8) *CONFORMING AMENDMENT TO THE CLAYTON*
4 *ACT.*—Section 7A(c)(8) of the Clayton Act (15 U.S.C.
5 18a(c)(8)) is repealed.

6 **SEC. 103. QUALIFYING BANK HOLDING COMPANIES.**

7 (a) *IN GENERAL.*—The Bank Holding Company Act
8 of 1956 is amended by inserting after section 5 (12 U.S.C.
9 1844) the following new section:

10 **“SEC. 6. QUALIFYING BANK HOLDING COMPANIES.**

11 “(a) *DEFINITIONS.*—For purposes of this section, the
12 following definitions shall apply:

13 “(1) *QUALIFYING BANK HOLDING COMPANY.*—
14 The term ‘qualifying bank holding company’ means
15 any bank holding company—

16 “(A) all of the subsidiary depository insti-
17 tutions of which are well capitalized;

18 “(B) all of the subsidiary depository insti-
19 tutions of which are well managed (as defined in
20 section 5136A(a)(5)(D) of the Revised Statutes of
21 the United States);

22 “(C) all of the subsidiary depository insti-
23 tutions of which have achieved a rating of ‘satis-
24 factory record of meeting community credit

1 *needs’, or better, at the most recent examination*
2 *of each such institution;*

3 “(D) *all of the subsidiary depository insti-*
4 *tutions of which have a demonstrable record of*
5 *performance in the provision of low-cost lifeline*
6 *bank accounts;*

7 “(E) *in the case of any bank holding com-*
8 *pany which underwrites or sells, or any affiliate*
9 *of which underwrites or sells, annuities contracts*
10 *or contracts insuring, guaranteeing, or indem-*
11 *nifying against loss, harm, damage, illness, dis-*
12 *ability, or death, which—*

13 “(i) *has not been adjudicated in any*
14 *Federal court, or has not entered into a con-*
15 *sent decree filed in a Federal court or into*
16 *a settlement agreement, premised upon a*
17 *violation of the Fair Housing Act for the*
18 *activities described in this subparagraph*
19 *and is not in violation of any such decree*
20 *or settlement agreement as determined by a*
21 *court of competent jurisdiction or the agen-*
22 *cy with which the decree or agreement was*
23 *entered into; or*

1 “(i) has been exempted from the re-
2 quirements of clause (i) by the Board under
3 subsection (f)(3).

4 “(F) that is deemed under paragraph (2) to
5 be engaged in activities in the United States that
6 are financial in nature or is engaged in activi-
7 ties that are otherwise permissible under this Act
8 (other than activities engaged in pursuant to
9 subsection (k));

10 “(G) which, with respect to any activities
11 engaged in outside of the United States, engages
12 in such activities in conformance with subsection
13 (f) and section 2(h)(2); and

14 “(H) that has filed with the Board a dec-
15 laration that it is a qualifying bank holding
16 company.

17 “(2) *ACTIVITIES FINANCIAL IN NATURE.*—A bank
18 holding company shall be deemed to be engaged in ac-
19 tivities that are financial in nature if not less than
20 85 percent of the gross revenues of such company from
21 activities conducted in the United States are derived
22 from financial activities in which such company or
23 any of its subsidiaries engages.

24 “(3) *FINANCIAL ACTIVITY.*—The term ‘financial
25 activity’ means any 1 or more of the following:

1 “(A) *Receiving money subject to a deposit*
2 *or other repayment obligation.*

3 “(B) *Lending, exchanging, transferring, in-*
4 *vesting, or safeguarding money or other finan-*
5 *cial assets.*

6 “(C) *Providing any device or other instru-*
7 *mentality for transferring money or other finan-*
8 *cial assets;*

9 “(D) *Insuring, guaranteeing, or indemnify-*
10 *ing against loss, harm, damage, illness, disabil-*
11 *ity, or death, or providing and issuing annu-*
12 *ities, and acting as principal, agent, or broker*
13 *for purposes of the foregoing.*

14 “(E) *Providing financial, investment, or*
15 *economic advisory or information services, in-*
16 *cluding advising an investment company (as de-*
17 *finied in section 3 of the Investment Company*
18 *Act of 1940).*

19 “(F) *Issuing or selling instruments rep-*
20 *resenting interests in pools of assets permissible*
21 *for a bank to hold directly.*

22 “(G) *Directly or indirectly acquiring or*
23 *controlling, whether as principal, on behalf of 1*
24 *or more entities (including entities other than*
25 *depository institutions or subsidiaries of depository*

1 *tory institutions that the bank holding company*
2 *controls), or otherwise, shares, assets, or owner-*
3 *ship interests (including without limitation debt*
4 *or equity securities, partnership interests, trust*
5 *certificates, or other instruments representing*
6 *ownership) of a company or other entity, wheth-*
7 *er or not constituting control of such company or*
8 *entity, engaged in any activity if—*

9 *“(i) the shares, assets, or ownership in-*
10 *terests are not acquired or held directly by*
11 *a depository institution or a subsidiary of*
12 *a depository institution;*

13 *“(ii) such shares, assets, or ownership*
14 *interests are acquired and held as part of a*
15 *bona fide underwriting, or investment bank-*
16 *ing activity (including investment activities*
17 *engaged in for the purpose of appreciation*
18 *and ultimate sale or other disposition of the*
19 *investment);*

20 *“(iii) such shares, assets, or ownership*
21 *interests are held for such a period as will*
22 *permit the sale or disposition thereof on a*
23 *reasonable basis consistent with the nature*
24 *of the activities described in clause (ii); and*

1 “(iv) during the period such shares, as-
2 sets, or ownership interests are held, the
3 bank holding company does not actively
4 manage or operate the company or entity,
5 except insofar as necessary to achieve the
6 objectives of clause (ii).

7 “(H) Directly or indirectly acquiring or
8 controlling, whether as principal, on behalf of 1
9 or more entities (including any subsidiary of the
10 holding company which is not a depository insti-
11 tution or a subsidiary of a depository institu-
12 tion), or otherwise, shares, assets, or ownership
13 interests (including debt or equity securities,
14 partnership interests, trust certificates, or other
15 instruments representing ownership) of a com-
16 pany or other entity, whether or not constituting
17 control of such company or entity, engaged in
18 activities not authorized pursuant to this section
19 if—

20 “(i) the shares, assets, or ownership in-
21 terests are not acquired or held by a deposi-
22 tory institution or a subsidiary of a deposi-
23 tory institution;

24 “(ii) such shares, assets, or ownership
25 interests are acquired and held by an insur-

1 *ance company that is predominantly en-*
2 *gaged in underwriting life, accident and*
3 *health, or property and casualty insurance*
4 *(other than credit-related insurance);*

5 *“(iii) such shares, assets, or ownership*
6 *interests represent an investment made in*
7 *the ordinary course of business of such in-*
8 *surance affiliate in accordance with rel-*
9 *evant State law governing such investments;*
10 *and*

11 *“(iv) during the period such shares, as-*
12 *sets, or ownership interests are held, the*
13 *bank holding company does not directly or*
14 *indirectly participate in the day-to-day*
15 *management or operation of the company*
16 *or entity except insofar as necessary to*
17 *achieve the objectives of clauses (ii) and*
18 *(iii).*

19 *“(I) Arranging, effecting or facilitating fi-*
20 *nancial transactions for the account of third*
21 *parties.*

22 *“(J) Underwriting, dealing in, or making a*
23 *market in securities.*

24 *“(K) Engaging in any activity that was, by*
25 *regulation or order, permissible for a bank hold-*

1 *ing company pursuant to section 4(c)(8) of this*
2 *Act, as in effect on the day before the date of en-*
3 *actment of the Financial Services Competition*
4 *Act of 1997.*

5 *“(L) Engaging, in the United States, in*
6 *any activity that—*

7 *“(i) a bank holding company may en-*
8 *gage in outside the United States; and*

9 *“(ii) the Board determined, under reg-*
10 *ulations issued pursuant to section 4(c)(13)*
11 *of this Act (as in effect on the day before the*
12 *date of enactment of the Financial Services*
13 *Competition Act of 1997) to be usual in*
14 *connection with the transaction of banking*
15 *or other financial operations abroad.*

16 *“(M) Owning shares of any company to the*
17 *extent permissible under paragraph (6) or (7) of*
18 *section 4(c) of this Act, as in effect on the day*
19 *before the date of enactment of the Financial*
20 *Services Competition Act of 1997.*

21 *“(N) Engaging in any activity that the Na-*
22 *tional Council on Financial Services determines,*
23 *by regulation or order, to be the functional*
24 *equivalent of any activity described in 1 or more*
25 *of subparagraphs (A) through (M).*

1 “(O) *Engaging in any activity that the Na-*
2 *tional Council on Financial Services determines*
3 *by regulation or order to be financial, or related*
4 *to a financial activity, having taken into ac-*
5 *count—*

6 “(i) *the purposes of this Act and the*
7 *Financial Services Competition Act of 1997;*

8 “(ii) *changes or reasonably expected*
9 *changes in the market in which bank hold-*
10 *ing companies compete;*

11 “(iii) *changes or reasonably expected*
12 *changes in the technology for delivering fi-*
13 *nancial services; and*

14 “(iv) *whether such activity is necessary*
15 *or appropriate to allow a bank holding*
16 *company and its affiliates to—*

17 “(I) *compete effectively with any*
18 *company seeking to provide financial*
19 *services in the United States;*

20 “(II) *use any available or emerg-*
21 *ing technological means, including any*
22 *application necessary to protect the se-*
23 *curity or efficacy of systems for the*
24 *transmission of data or financial*

1 *transactions, in providing financial*
2 *services; and*

3 *“(III) offer customers any avail-*
4 *able or emerging technological means*
5 *for using financial services.*

6 *“(4) WELL CAPITALIZED.—The term ‘well cap-*
7 *italized’ has the same meaning as in section 38 of the*
8 *Federal Deposit Insurance Act. For purposes of this*
9 *section, the appropriate Federal banking agency shall*
10 *have exclusive jurisdiction to determine whether an*
11 *insured depository institution is well capitalized.*

12 *“(5) FOREIGN BANKS AND COMPANIES.—For*
13 *purposes of paragraph (1), the Board shall establish*
14 *and apply comparable capital standards to a foreign*
15 *bank that operates a branch or agency or owns or*
16 *controls a bank or commercial lending company in*
17 *the United States, and any company that owns or*
18 *controls such foreign bank, giving due regard to the*
19 *principle of national treatment and equality of com-*
20 *petitive opportunity.*

21 *“(6) LIMITED EXCLUSIONS FROM COMMUNITY*
22 *NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOS-*
23 *ITORY INSTITUTIONS.—Any depository institution ac-*
24 *quired by a bank holding company during the 12-*
25 *month period preceding the submission of a notice*

1 *under paragraph (1)(F) and any depository institu-*
2 *tion acquired after the submission of such notice may*
3 *be excluded for purposes of paragraph (1)(C) during*
4 *the 12-month period beginning on the date of such ac-*
5 *quisition if—*

6 *“(A) the bank holding company has submit-*
7 *ted an affirmative plan to the appropriate Fed-*
8 *eral banking agency to take such action as may*
9 *be necessary in order for such institution to*
10 *achieve a rating of ‘satisfactory record of meet-*
11 *ing community credit needs’, or better, at the*
12 *next examination of the institution; and*

13 *“(B) the plan has been accepted by such*
14 *agency.*

15 *“(b) AUTHORITY TO ENGAGE IN ACTIVITIES WITHOUT*
16 *NOTICE.—*

17 *“(1) IN GENERAL.—A qualifying bank holding*
18 *company may engage, directly or through a subsidi-*
19 *ary that is not an insured depository institution (or*
20 *a subsidiary thereof), in any activity to the extent*
21 *permissible under the Financial Services Competition*
22 *Act of 1997 without approval from or notice to the*
23 *Board.*

24 *“(2) RULE OF CONSTRUCTION.—No provision of*
25 *this section shall be construed as authorizing the ac-*

1 *quisition of an depository institution other than in*
2 *accordance with section 3.*

3 “(c) *RESTRICTIONS APPLICABLE TO NONQUALIFYING*
4 *BANK HOLDING COMPANIES.*—*A bank holding company*
5 *that is not a qualifying bank holding company may engage,*
6 *directly or indirectly through a subsidiary that is not an*
7 *insured depository institution (or a subsidiary of an in-*
8 *sured depository institution), only in managing and con-*
9 *trolling depository institutions and in any activity that*
10 *was permissible under section 4(c) (as in effect on the day*
11 *before the date of the enactment of the Financial Services*
12 *Competition Act of 1997) other than underwriting securi-*
13 *ties which a national bank is not authorized to underwrite,*
14 *except as otherwise provided by law.*

15 “(d) *PROVISIONS APPLICABLE TO QUALIFYING BANK*
16 *HOLDING COMPANIES THAT FAIL TO MEET REQUIRE-*
17 *MENTS.*—

18 “(1) *IN GENERAL.*—*If the Board finds that—*
19 “(A) *a qualifying bank holding company is*
20 *engaged, directly or indirectly, in any activity*
21 *other than activities described in subsection (c);*
22 *and*
23 “(B) *such company is not in compliance*
24 *with the requirements of subsection (a)(1),*

1 *the Board shall give notice to the company to that ef-*
2 *fect, describing the conditions giving rise to the no-*
3 *tice.*

4 *“(2) AGREEMENT TO CORRECT CONDITIONS RE-*
5 *QUIRED.—Within 45 days of receipt by a qualifying*
6 *bank holding company of a notice given under para-*
7 *graph (1) (or such additional period as the Board*
8 *may permit), the company shall execute an agreement*
9 *with the Board to comply with the requirements ap-*
10 *licable to a qualifying bank holding company.*

11 *“(3) BOARD MAY IMPOSE LIMITATIONS.—Until*
12 *the conditions described in a notice to a qualifying*
13 *bank holding company under paragraph (1) are cor-*
14 *rected, the Board may impose such limitations on the*
15 *conduct or activities of the company or any affiliate*
16 *of the company as the Board determines to be appro-*
17 *priate under the circumstances.*

18 *“(4) FAILURE TO CORRECT.—If the conditions*
19 *described in a notice to a qualifying bank holding*
20 *company under paragraph (1) are not corrected with-*
21 *in 180 days after receipt by the company of notice*
22 *under paragraph (1), the Board may require such*
23 *company, under such terms and conditions as may be*
24 *imposed by the Board and subject to such extension*

1 *of time as may be granted in the Board's discretion,*
2 *either—*

3 *“(A) to divest control of any subsidiary de-*
4 *pository institutions; or*

5 *“(B) to cease to engage in any activity con-*
6 *ducted by such company or its subsidiaries*
7 *(other than a depository institution or a subsidi-*
8 *ary of a depository institution) that is not an*
9 *activity that is permissible under subsection (c).*

10 *“(e) SAFEGUARDS FOR BANK SUBSIDIARIES.—A*
11 *qualifying bank holding company shall assure that—*

12 *“(1) the procedures of the holding company for*
13 *identifying and managing financial and operational*
14 *risks within the company and the subsidiaries of such*
15 *company which are not insured depository institu-*
16 *tions (or subsidiaries of such subsidiaries) adequately*
17 *protect the subsidiaries of such company which are*
18 *insured depository institutions from such risks;*

19 *“(2) the holding company has reasonable policies*
20 *and procedures to preserve the separate corporate*
21 *identity and limited liability of such company and*
22 *the subsidiaries of such company, for the protection of*
23 *the company's subsidiary insured depository institu-*
24 *tions; and*

1 “(3) *the holding company complies with this sec-*
2 *tion.*

3 “(f) *EXEMPTIVE AUTHORITY.—*

4 “(1) *FOREIGN BANKS AND FOREIGN INVEST-*
5 *MENTS.—The Board may grant exemptions from any*
6 *restriction on activities or investments which is other-*
7 *wise applicable to a bank holding company, including*
8 *a qualifying bank holding company—*

9 “(A) *for shares held or activities conducted*
10 *by a company organized under the laws of a for-*
11 *ign country the greater part of whose business*
12 *is conducted outside the United States; or*

13 “(B) *for shares held of, or activities con-*
14 *ducted by, any company which does no business*
15 *in the United States except as an incident to*
16 *such company’s international or foreign busi-*
17 *ness,*

18 *if the Board, by regulation or order, determines that,*
19 *under the circumstances and subject to any condition*
20 *set forth in the regulation or order, the exemption*
21 *would not be substantially at variance with the pur-*
22 *poses of this Act or the Financial Services Competi-*
23 *tion Act of 1997 and would be in the public interest.*

24 “(2) *CONTINUATION OF PRIOR EXEMPTION.—To*
25 *the extent that such action would not be substantially*

1 *at variance with the purposes of this Act and subject*
2 *to such conditions as the Board considers necessary to*
3 *protect the public interest, the Board by order, after*
4 *opportunity for hearing, may grant exemptions from*
5 *the provisions of subsection (c) to any bank holding*
6 *company which controlled 1 bank prior to July 1,*
7 *1968, and has not thereafter acquired the control of*
8 *any other bank in order—*

9 *“(A) to avoid disrupting business relation-*
10 *ships that have existed over a long period of*
11 *years without adversely affecting the banks or*
12 *communities involved;*

13 *“(B) to avoid forced sales of small locally*
14 *owned banks to purchasers not similarly rep-*
15 *resentative of community interests; or*

16 *“(C) to allow retention of banks that are so*
17 *small in relation to the holding company’s total*
18 *interests and so small in relation to the banking*
19 *market to be served as to minimize the likelihood*
20 *that the bank’s powers to grant or deny credit*
21 *may be influenced by a desire to further the*
22 *holding company’s other interests.*

23 *“(3) VIOLATIONS OF THE FAIR HOUSING ACT.—*

24 *The Board may, on a case-by-case basis, exempt a*
25 *bank holding company from meeting the terms of sub-*

1 *section (a)(1)(E)(i) in satisfying the definition of*
2 *qualified bank holding company.*

3 *“(g) CERTAIN COMPANIES NOT TREATED AS BANK*
4 *HOLDING COMPANIES.—*

5 *“(1) IN GENERAL.—Except as provided in para-*
6 *graph (9), any company which—*

7 *“(A) on March 5, 1987, controlled an insti-*
8 *tution which became a bank as a result of the en-*
9 *actment of the Competitive Equality Amend-*
10 *ments of 1987; and*

11 *“(B) was not a bank holding company on*
12 *the day before the date of the enactment of the*
13 *Competitive Equality Amendments of 1987,*
14 *shall not be treated as a bank holding company for*
15 *purposes of this Act solely by virtue of such compa-*
16 *ny’s control of such institution.*

17 *“(2) LOSS OF EXEMPTION.—Subject to para-*
18 *graph (3), a company described in paragraph (1)*
19 *shall no longer qualify for the exemption provided*
20 *under such paragraph if—*

21 *“(A) such company directly or indirectly—*

22 *“(i) acquires control of an additional*
23 *bank or an insured institution (other than*
24 *an insured institution described in para-*

1 *graph (10) or (12) of this subsection) after*
2 *March 5, 1987; or*

3 *“(ii) acquires control of more than 5*
4 *percent of the shares or assets of an addi-*
5 *tional bank or a savings association other*
6 *than—*

7 *“(I) shares held as a bona fide fi-*
8 *duciary (whether with or without the*
9 *sole discretion to vote such shares);*

10 *“(II) shares held by any person as*
11 *a bona fide fiduciary solely for the ben-*
12 *efit of employees of either the company*
13 *described in paragraph (1) or any sub-*
14 *subsidiary of that company and the bene-*
15 *ficiaries of those employees;*

16 *“(III) shares held temporarily*
17 *pursuant to an underwriting commit-*
18 *ment in the normal course of an un-*
19 *derwriting business;*

20 *“(IV) shares held in an account*
21 *solely for trading purposes;*

22 *“(V) shares over which no control*
23 *is held other than control of voting*
24 *rights acquired in the normal course of*
25 *a proxy solicitation;*

1 “(VI) loans or other accounts re-
2 ceivable acquired in the normal course
3 of business;

4 “(VII) shares or assets acquired in
5 securing or collecting a debt previously
6 contracted in good faith, during the 2-
7 year period beginning on the date of
8 such acquisition or for such additional
9 time (not exceeding 3 years) as the
10 Board may permit if the Board deter-
11 mines that such an extension will not
12 be detrimental to the public interest;

13 “(VIII) shares or assets of a sav-
14 ings association described in para-
15 graph (10) or (12) of this subsection;

16 “(IX) shares of a savings associa-
17 tion held by any insurance company,
18 as defined in section 2(a)(17) of the
19 Investment Company Act of 1940, ex-
20 cept as provided in paragraph (11);

21 “(X) shares issued in a qualified
22 stock issuance under section 10(q) of
23 the Home Owners’ Loan Act; and

24 “(XI) assets that are derived from,
25 or are incidental to, activities in which

1 *institutions described in section*
2 *2(c)(2)(F) are permitted to engage,*
3 *except that the aggregate amount of shares*
4 *held under this clause (other than under*
5 *subclauses (I), (II), (III), (IV), (V), and*
6 *(VIII)) may not exceed 15 percent of all*
7 *outstanding shares or of the voting power of*
8 *a savings association;*

9 *“(B) any bank subsidiary of such company*
10 *engages in any activity in which the bank was*
11 *not lawfully engaged as of March 5, 1987, unless*
12 *the bank is well managed and well capitalized;*

13 *“(C) any bank subsidiary of such company*
14 *both—*

15 *“(i) accepts demand deposits or depos-*
16 *its that the depositor may withdraw by*
17 *check or similar means for payment to 3d*
18 *parties; and*

19 *“(ii) engages in the business of making*
20 *commercial loans (and, for purposes of this*
21 *clause, loans made in the ordinary course of*
22 *a credit card operation shall not be treated*
23 *as commercial loans); or*

24 *“(D) after the date of the enactment of the*
25 *Competitive Equality Amendments of 1987, any*

1 *bank subsidiary of such company permits any*
2 *overdraft (including any intraday overdraft), or*
3 *incurs any such overdraft in such bank's account*
4 *at a Federal reserve bank, on behalf of an affili-*
5 *ate, other than an overdraft described in para-*
6 *graph (3).*

7 “(3) *PERMISSIBLE OVERDRAFTS DESCRIBED.—*
8 *For purposes of paragraph (2)(C), an overdraft is de-*
9 *scribed in this paragraph if—*

10 “(A) *such overdraft results from an inad-*
11 *vertent computer or accounting error that is be-*
12 *yond the control of both the bank and the affili-*
13 *ate; or*

14 “(B) *such overdraft—*

15 “(i) *is permitted or incurred on behalf*
16 *of an affiliate which is monitored by, re-*
17 *ports to, and is recognized as a primary*
18 *dealer by the Federal Reserve Bank of New*
19 *York; and*

20 “(ii) *is fully secured, as required by*
21 *the Board, by bonds, notes, or other obliga-*
22 *tions which are direct obligations of the*
23 *United States or on which the principal*
24 *and interest are fully guaranteed by the*
25 *United States or by securities and obliga-*

1 *tions eligible for settlement on the Federal*
2 *Reserve book entry system.*

3 *“(4) DIVESTITURE IN CASE OF LOSS OF EXEMP-*
4 *TION.—If any company described in paragraph (1)*
5 *fails to qualify for the exemption provided under such*
6 *paragraph by operation of paragraph (2), such ex-*
7 *emption shall cease to apply to such company and*
8 *such company shall divest control of each bank it con-*
9 *trols before the end of the 180-day period beginning*
10 *on the date that the company receives notice from the*
11 *Board that the company has failed to continue to*
12 *qualify for such exemption, unless before the end of*
13 *such 180-day period, the company has—*

14 *“(A) corrected the condition or ceased the*
15 *activity that caused the company to fail to con-*
16 *tinue to qualify for the exemption; and*

17 *“(B) implemented procedures that are rea-*
18 *sonably adapted to avoid the reoccurrence of such*
19 *condition or activity.*

20 *“(5) SUBSECTION CEASES TO APPLY UNDER CER-*
21 *TAIN CIRCUMSTANCES.—This subsection shall cease to*
22 *apply to any company described in paragraph (1) if*
23 *such company—*

24 *“(A) registers as a bank holding company*
25 *under section 5(a) of this Act;*

1 “(B) immediately upon such registration,
2 complies with all of the requirements of this Act,
3 and regulations prescribed by the Board pursu-
4 ant to this Act, including the nonbanking re-
5 strictions of this section; and

6 “(C) does not, at the time of such registra-
7 tion, control banks in more than one State, the
8 acquisition of which would be prohibited by sec-
9 tion 3(d) of this Act if an application for such
10 acquisition by such company were filed under
11 section 3(a) of this Act.

12 “(6) *INFORMATION REQUIREMENT.*—Each com-
13 pany described in paragraph (1) shall, within 60
14 days after the date of enactment of the Competitive
15 Equality Amendments of 1987, provide the Board
16 with the name and address of such company, the
17 name and address of each bank such company con-
18 trols, and a description of each such bank’s activities.

19 “(7) *EXAMINATION.*—The Board may, from time
20 to time, examine a company described in paragraph
21 (1), or a bank controlled by such company, or require
22 reports under oath from appropriate officers or direc-
23 tors of such company or bank solely for purposes of
24 assuring compliance with the provisions of this sub-
25 section and enforcing such compliance.

1 “(8) *ENFORCEMENT.*—

2 “(A) *IN GENERAL.*—*In addition to any*
3 *other power of the Board, the Board may enforce*
4 *compliance with the provisions of this Act which*
5 *are applicable to any company described in*
6 *paragraph (1), and any bank controlled by such*
7 *company, under section 8 of the Federal Deposit*
8 *Insurance Act and such company or bank shall*
9 *be subject to such section (for such purposes) in*
10 *the same manner and to the same extent as if*
11 *such company or bank were a State member in-*
12 *sured bank.*

13 “(B) *APPLICATION OF OTHER ACT.*—*Any*
14 *violation of this Act by any company described*
15 *in paragraph (1), and any bank controlled by*
16 *such company, may also be treated as a viola-*
17 *tion of the Federal Deposit Insurance Act for*
18 *purposes of subparagraph (A).*

19 “(C) *NO EFFECT ON OTHER AUTHORITY.*—
20 *No provision of this paragraph shall be con-*
21 *strued as limiting any authority of the Comp-*
22 *troller of the Currency or the Federal Deposit In-*
23 *surance Corporation.*

24 “(9) *TYING PROVISIONS.*—*A company described*
25 *in paragraph (1) shall be—*

1 “(A) treated as a bank holding company for
2 purposes of section 106 of the Bank Holding
3 Company Act Amendments of 1970 and section
4 22(h) of the Federal Reserve Act and any regula-
5 tion prescribed under any such section; and

6 “(B) subject to the restrictions of section
7 106 of the Bank Holding Company Act Amend-
8 ments of 1970, in connection with any trans-
9 action involving the products or services of such
10 company or affiliate and those of a bank affili-
11 ate, as if such company or affiliate were a bank
12 and such bank were a subsidiary of a bank hold-
13 ing company.

14 “(10) *EXEMPTION UNAFFECTED BY CERTAIN*
15 *EMERGENCY ACQUISITIONS.*—For purposes of clauses
16 (i) and (ii)(VIII) of paragraph (2)(A), an insured in-
17 stitution is described in this paragraph if—

18 “(A) the insured institution was acquired
19 (or any shares or assets of such institution were
20 acquired) by a company described in paragraph
21 (1) in an acquisition under section 408(m) of the
22 National Housing Act or section 13(k) of the
23 Federal Deposit Insurance Act; and

24 “(B) either—

1 “(i) the insured institution is located
2 in a State in which such company con-
3 trolled a bank on March 5, 1987; or

4 “(ii) the insured institution has total
5 assets of \$500,000,000 or more at the time
6 of such acquisition.

7 “(11) *SHARES HELD BY INSURANCE AFFILI-*
8 *ATES.—Shares described in clause (ii)(IX) of para-*
9 *graph (2)(A) shall not be excluded for purposes of*
10 *clause (ii) of such paragraph if—*

11 “(A) all shares held under such clause
12 (i)(IX) by all insurance company affiliates of
13 such savings association in the aggregate exceed
14 5 percent of all outstanding shares or of the vot-
15 ing power of the savings association; or

16 “(B) such shares are acquired or retained
17 with a view to acquiring, exercising, or transfer-
18 ring control of the savings association.

19 “(12) *EXEMPTION UNAFFECTED BY CERTAIN*
20 *OTHER ACQUISITIONS.—For purposes of clauses (i)*
21 *and (ii)(VIII) of paragraph (2)(A), an insured insti-*
22 *tution is described in this paragraph if the insured*
23 *institution was acquired (or any shares or assets of*
24 *such institution were acquired) by a company de-*
25 *scribed in paragraph (1)—*

1 “(A) from the Resolution Trust Corpora-
2 tion, the Federal Deposit Insurance Corporation,
3 or the Director of the Office of Thrift Super-
4 vision, in any capacity; or

5 “(B) in an acquisition in which the insured
6 institution has been found to be in danger of de-
7 fault (as defined in section 3 of the Federal De-
8 posit Insurance Act) by the appropriate Federal
9 or State authority.

10 “(13) SPECIAL RULE RELATING TO SHARES AC-
11 QUIRED IN A QUALIFIED STOCK ISSUANCE.—A com-
12 pany described in paragraph (1) that holds shares is-
13 sued in a qualified stock issuance pursuant to section
14 10(q) of the Home Owners’ Loan Act by any savings
15 association or savings and loan holding company
16 (neither of which is a subsidiary) shall not be deemed
17 to control such savings association or savings and
18 loan holding company solely because such company
19 holds such shares unless—

20 “(A) the company fails to comply with any
21 requirement or condition imposed by paragraph
22 (2)(A)(ii)(X) or section 10(q) of the Home Own-
23 ers’ Loan Act with respect to such shares; or

24 “(B) the shares are acquired or retained
25 with a view to acquiring, exercising, or transfer-

1 *ring control of the savings association or savings*
2 *and loan holding company.*

3 “(h) *LIMITATIONS ON CERTAIN BANKS.—*

4 “(1) *IN GENERAL.—Notwithstanding any other*
5 *provision of this section (other than the last sentence*
6 *of subsection (a)(2)), a bank holding company which*
7 *controls an institution that became a bank as a result*
8 *of the enactment of the Competitive Equality Amend-*
9 *ments of 1987 may retain control of such institution*
10 *if such institution does not—*

11 “(A) *engage in any activity after the date*
12 *of the enactment of such Amendments which*
13 *would have caused such institution to be a bank*
14 *(as defined in section 2(c), as in effect before*
15 *such date) if such activities had been engaged in*
16 *before such date; or*

17 “(B) *increase the number of locations from*
18 *which such institution conducts business after*
19 *March 5, 1987.*

20 “(2) *LIMITATIONS CEASE TO APPLY UNDER CER-*
21 *TAIN CIRCUMSTANCES.—The limitations contained in*
22 *paragraph (1) shall cease to apply to a bank de-*
23 *scribed in such paragraph at such time as the acqui-*
24 *sition of such bank, by the bank holding company re-*

1 ferred to in such paragraph, would not be prohibited
2 under section 3(d) of this Act if—

3 “(A) an application for such acquisition
4 were filed under section 3(a) of this Act; and

5 “(B) such bank were treated as an addi-
6 tional bank (under section 3(d)).

7 “(i) *LIMITATION ON BANK HOLDING COMPANY AFFILI-*
8 *ATIONS.—*

9 “(1) *IN GENERAL.—Except as otherwise provided*
10 *in this Act, a bank holding company may not become*
11 *affiliated with any company—*

12 “(A) less than 85 percent of the gross reve-
13 *nues of which from activities conducted in the*
14 *United States are derived from financial activi-*
15 *ties in which such company or any subsidiary of*
16 *such company engages; and*

17 “(B) which has consolidated assets, at the
18 *time such affiliation first occurs, of more than*
19 *\$750,000,000.*

20 “(2) *MIRROR IMAGE.—Except as otherwise pro-*
21 *vided in this Act, no company that is, or is affiliated*
22 *with, a company described in subparagraphs (A) and*
23 *(B) of paragraph (1) may become a bank holding*
24 *company.*

1 “(j) *TRANSACTIONS WITH NONFINANCIAL AFFILI-*
2 *ATES.—A subsidiary insured depository institution of a*
3 *bank holding company may not engage in a covered trans-*
4 *action (as defined by section 23A(b)(7) of the Federal Re-*
5 *serve Act) with any affiliate unless the affiliate is engaged*
6 *only in activities that are financial in nature (as defined*
7 *in subsection (a)(2)).”.*

8 (b) *GRANDFATHER SHARES HELD UNDER PRIOR EX-*
9 *CEPTION.—A company that, on the date of the enactment*
10 *of this Act, holds shares on the basis of an exception pro-*
11 *vided under section 4 of the Bank Holding Company Act*
12 *of 1956, as in effect on the day before such date of enact-*
13 *ment, may continue to retain such shares after such date*
14 *subject to the same terms and conditions as were applicable,*
15 *in accordance with such section 4 (as in effect on such day),*
16 *to the retention of the shares by the company before such*
17 *date of enactment.*

18 (c) *TECHNICAL AND CONFORMING AMENDMENTS.—*

19 (1) *Section 4 of the Bank Holding Company Act*
20 *of 1956 (12 U.S.C. 1843) is amended by striking sub-*
21 *sections (d), (f), and (g).*

22 (2) *The heading and section designation for sec-*
23 *tion 4 of the Bank Holding Company Act of 1956 is*
24 *amended to read as follows:*

1 **“SEC. 4. [Repealed].”**

2 (3) *Section 2(n) of the Bank Holding Company*
3 *Act of 1956 (12 U.S.C. 1841(n)) is amended by in-*
4 *serting “‘depository institution’,” after “insured de-*
5 *pository institution’,”.*

6 **SEC. 104. CERTAIN STATE LAWS PREEMPTED.**

7 (a) *IN GENERAL.—No State may by law, regulation,*
8 *order, interpretation, or otherwise, prevent or restrict an*
9 *insured depository institution or a wholesale financial in-*
10 *stitution (as authorized pursuant to section 161 of this Act)*
11 *from—*

12 (1) *being affiliated with an entity (including an*
13 *entity engaged in insurance activities) as authorized*
14 *by this Act or any other provision of law; or*

15 (2) *engaging, directly or indirectly or in con-*
16 *junction with such affiliate, in any activity (includ-*
17 *ing the sale of insurance underwritten by an affiliate*
18 *or any other insurance activity) authorized under*
19 *this Act or any other provision of law.*

20 (b) *RULE OF CONSTRUCTION.—No provision of sub-*
21 *section (a) shall be construed so as to prohibit a State regu-*
22 *lator (after giving notice to the appropriate Federal bank-*
23 *ing agency to the extent practicable) from exercising, with*
24 *respect to an affiliate of an insured depository institution,*
25 *such authority as such State regulator may have under*

1 *State law relating to the rehabilitation, conservatorship, re-*
 2 *ceivership, or liquidation of the affiliate.*

3 **SEC. 105. MUTUAL BANK HOLDING COMPANIES AUTHOR-**
 4 **IZED.**

5 *(a) IN GENERAL.—Section 3(f)(2) of the Bank Holding*
 6 *Company Act of 1956 (12 U.S.C. 1842(f)(2)) (as redesign-*
 7 *ated by section 102(b) of this Act) is amended to read as*
 8 *follows:*

9 *“(2) REGULATIONS.—A bank holding company*
 10 *organized as a mutual holding company shall be reg-*
 11 *ulated on terms, and shall be subject to limitations,*
 12 *comparable to those applicable to any other bank*
 13 *holding company.”.*

14 **SEC. 106. COMPANIES NOT ENGAGED IN ACTIVITIES FINAN-**
 15 **CIAL IN NATURE.**

16 *Section 6 of the Bank Holding Company Act of 1956*
 17 *(as added by section 103 of this Act) is amended by adding*
 18 *at the end the following new subsection:*

19 *“(k) CONTROL OF A QUALIFYING BANK HOLDING COM-*
 20 *PANY BY A COMPANY NOT ENGAGED IN ACTIVITIES FINAN-*
 21 *CIAL IN NATURE.—*

22 *“(1) IN GENERAL.—*

23 *“(A) CONTROL OF 1 BANK AUTHORIZED.—*
 24 *Notwithstanding subsection (i), a company that*
 25 *is engaged predominantly in nonfinancial ac-*

1 *tivities on a consolidated basis may only control*
2 *a qualifying bank holding company and not*
3 *more than 1 bank subject to the provisions of this*
4 *subsection.*

5 *“(B) EXCLUSION FROM TREATMENT AS*
6 *HOLDING COMPANY.—Any company that is en-*
7 *gaged predominantly in nonfinancial activities*
8 *and controls a qualifying bank holding company*
9 *and not more than 1 bank in accordance with*
10 *this subsection, shall not become a bank holding*
11 *company for purposes of this Act solely by virtue*
12 *of such company’s control of such qualifying*
13 *bank holding company and bank.*

14 *“(C) FINANCIAL ACTIVITIES REQUIRED TO*
15 *BE CONDUCTED IN HOLDING COMPANY SUBSIDI-*
16 *ARY.—Any financial activity engaged in by a*
17 *company that controls a qualifying bank holding*
18 *company pursuant to paragraph (1) must con-*
19 *duct such activity through a subsidiary of the*
20 *qualifying bank holding company.*

21 *“(2) CONTROL OF 1 BANK.—The provisions of*
22 *subparagraphs (A) and (B) of paragraph (1) shall*
23 *not apply to any company if—*

24 *“(A) such company directly or indirectly*
25 *acquires control of a bank other than—*

1 “(i) an institution described in section
2 2(c)(2) or section 6(g)(1) controlled by such
3 company before the date of enactment of the
4 *Financial Services Competition Act of 1997*
5 that becomes a bank; or

6 “(ii) a bank with total consolidated as-
7 sets not in excess of \$500,000,000 that has
8 been chartered for at least 5 years prior to
9 its date of acquisition by such company;
10 and such bank is and remains at all times
11 a subsidiary of a qualifying bank holding
12 company controlled by such company;

13 “(B) such company directly or indirectly
14 acquires control of all or substantially all of the
15 assets of an additional bank; or

16 “(C) the gross revenues of the bank con-
17 trolled by such company exceed 15 percent of the
18 consolidated gross revenues of such company de-
19 rived from activities conducted in the United
20 States.

21 “(3) *ENFORCEMENT OF VIOLATIONS.*—If the
22 Board finds that a company is not in compliance
23 with the provisions of this subsection, the Board shall
24 enforce the provisions of this subsection in the same

1 manner as that described in subsection (d) for a
2 qualifying bank holding company.

3 “(4) *ANTITYING AND INSIDER TRANSACTIONS.*—A
4 company described in paragraph (1) shall be treated
5 as a bank holding company for purposes of section
6 106 of the *Bank Holding Company Act Amendments*
7 *of 1970* and section 22(h) of the *Federal Reserve Act*
8 *and any regulation prescribed under any such sec-*
9 *tion.*”.

10 **SEC. 107. AMENDMENT TO ENSURE THAT BANKS ACQUIRED**
11 **BY OTHER ENTITIES DO NOT BECOME DE-**
12 **POSIT PRODUCTION OFFICES.**

13 (a) *IN GENERAL.*—Section 109(d) of the *Riegle-Neal*
14 *Interstate Banking and Branching Efficiency Act of 1994*
15 (12 U.S.C. 1835a(d)) is amended—

16 (1) by inserting “, the *Financial Services Com-*
17 *petition Act of 1997,*” after “pursuant to this title”;
18 and

19 (2) by inserting “or such Act” after “made by
20 this title”.

21 (b) *TECHNICAL AND CONFORMING AMENDMENT.*—Sec-
22 *tion 109(e)(4) of the Riegle-Neal Interstate Banking and*
23 *Branching Efficiency Act of 1994 (12 U.S.C. 1835a(e)(4))*
24 *is amended by inserting “and any branch of a bank con-*
25 *trolled by an out-of-State bank holding company (as defined*

1 *in section 2(o)(7) of the Bank Holding Company Act of*
 2 *1956)” before the period.*

3 **SEC. 108. CLARIFICATION OF APPLICABILITY OF BRANCH**
 4 **CLOSURE REQUIREMENTS IN INTERSTATE**
 5 **BANKING OPERATIONS.**

6 *Section 42(d)(4)(A) of the Federal Deposit Insurance*
 7 *Act (12 U.S.C. 1831r-1(d)(4)(A)) is amended by inserting*
 8 *“and any bank controlled by an out-of-State bank holding*
 9 *company (as defined in section 2(o)(7) of the Bank Holding*
 10 *Company Act of 1956)” before the period.*

11 ***Subtitle B—Additional Safeguards***

12 **SEC. 111. FIREWALL SAFEGUARDS.**

13 *(a) COMPTROLLER OF THE CURRENCY.—*

14 *(1) IN GENERAL.—The Comptroller of the Cur-*
 15 *rency may, by regulation or order, impose restrictions*
 16 *or requirements on relationships or transactions be-*
 17 *tween a national bank and a subsidiary of the na-*
 18 *tional bank which the Comptroller finds is consistent*
 19 *with the public interest, the purposes of this Act, title*
 20 *LXII of the Revised Statutes of the United States,*
 21 *and other Federal law applicable to national banks,*
 22 *and the standards in paragraph (2).*

23 *(2) STANDARDS.—The Comptroller of the Cur-*
 24 *rency may exercise authority under paragraph (1) if*

1 *the Comptroller finds that such action will have any*
2 *of the following effects:*

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

6 *(B) Enhance the financial stability of bank*
7 *holding companies.*

8 *(C) Avoid conflicts of interest or other*
9 *abuses.*

10 *(D) Enhance the privacy of customers of the*
11 *national bank or any subsidiary of the bank.*

12 *(E) Promote the application of national*
13 *treatment and equality of competitive oppor-*
14 *tunity between nonbank affiliates owned or con-*
15 *trolled by domestic bank holding companies and*
16 *nonbank affiliates owned or controlled by foreign*
17 *banks operating in the United States.*

18 *(3) REVIEW.—The Comptroller of the Currency*
19 *shall regularly—*

20 *(A) review all restrictions or requirements*
21 *established pursuant to paragraph (1) to deter-*
22 *mine whether there is a continuing need for any*
23 *such restriction or requirement to carry out the*
24 *purposes of the Act, including any purpose de-*
25 *scribed in paragraph (2); and*

1 (B) *modify or eliminate any restriction or*
2 *requirement the Comptroller finds is no longer*
3 *required for such purposes.*

4 (b) *BOARD OF GOVERNORS OF THE FEDERAL RE-*
5 *SERVE SYSTEM.—*

6 (1) *IN GENERAL.—The Board of Governors of the*
7 *Federal Reserve System may, by regulation or order,*
8 *impose restrictions or requirements on relationships*
9 *or transactions—*

10 (A) *between a depository institution sub-*
11 *sidary of a bank holding company and any af-*
12 *filiate of such depository institution (other than*
13 *a subsidiary of such institution); or*

14 (B) *between a State member bank and a*
15 *subsidiary of such bank,*

16 *which the Board finds is consistent with the public*
17 *interest, the purposes of this Act, the Bank Holding*
18 *Company Act of 1956, the Federal Reserve Act and*
19 *other Federal law applicable to depository institution*
20 *subsidiaries of bank holding companies or State banks*
21 *(as the case may be), and the standards in paragraph*
22 *(2).*

23 (2) *STANDARDS.—The Board of Governors of the*
24 *Federal Reserve System may exercise authority under*

1 *paragraph (1) if the Board finds that such action will*
2 *have any of the following effects:*

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

6 *(B) Enhance the financial stability of bank*
7 *holding companies.*

8 *(C) Avoid conflicts of interest or other*
9 *abuses.*

10 *(D) Enhance the privacy of customers of the*
11 *State member bank or any subsidiary of the*
12 *bank.*

13 *(E) Promote the application of national*
14 *treatment and equality of competitive oppor-*
15 *tunity between nonbank affiliates owned or con-*
16 *trolled by domestic bank holding companies and*
17 *nonbank affiliates owned or controlled by foreign*
18 *banks operating in the United States.*

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

21 *(A) review all restrictions or requirements*
22 *established pursuant to paragraph (1) to deter-*
23 *mine whether there is a continuing need for any*
24 *such restriction or requirement to carry out the*

1 *purposes of the Act, including any purpose de-*
2 *scribed in paragraph (2); and*

3 *(B) modify or eliminate any restriction or*
4 *requirement the Board finds is no longer re-*
5 *quired for such purposes.*

6 *(c) FEDERAL DEPOSIT INSURANCE CORPORATION.—*

7 *(1) IN GENERAL.—The Federal Deposit Insur-*
8 *ance Corporation may, by regulation or order, impose*
9 *restrictions or requirements on relationships or trans-*
10 *actions between a State nonmember bank (as defined*
11 *in section 3 of the Federal Deposit Insurance Act)*
12 *and a subsidiary of the State nonmember bank which*
13 *the Corporation finds is consistent with the public in-*
14 *terest, the purposes of this Act, the Federal Deposit*
15 *Insurance Act, or other Federal law applicable to*
16 *State nonmember banks and the standards in para-*
17 *graph (2).*

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

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

1 (B) *Enhance the financial stability of bank*
2 *holding companies.*

3 (C) *Avoid conflicts of interest or other*
4 *abuses.*

5 (D) *Enhance the privacy of customers of the*
6 *State nonmember bank or any subsidiary of the*
7 *bank.*

8 (E) *Promote the application of national*
9 *treatment and equality of competitive oppor-*
10 *tunity between nonbank affiliates owned or con-*
11 *trolled by domestic bank holding companies and*
12 *nonbank affiliates owned or controlled by foreign*
13 *banks operating in the United States.*

14 (3) *REVIEW.—The Federal Deposit Insurance*
15 *Corporation shall regularly—*

16 (A) *review all restrictions or requirements*
17 *established pursuant to paragraph (1) to deter-*
18 *mine whether there is a continuing need for any*
19 *such restriction or requirement to carry out the*
20 *purposes of the Act, including any purpose de-*
21 *scribed in paragraph (2); and*

22 (B) *modify or eliminate any restriction or*
23 *requirement the Corporation finds is no longer*
24 *required for such purposes.*

1 **SEC. 112. CONSUMER PROTECTION.**

2 (a) *IN GENERAL.*—*The Federal Deposit Insurance Act*
3 *(12 U.S.C. 1811 et seq.) is amended by adding at the end*
4 *the following new section:*

5 **“SEC. 45. CONSUMER PROTECTION REGULATIONS.**

6 “(a) *REGULATIONS REQUIRED.*—

7 “(1) *IN GENERAL.*—*Each Federal banking agen-*
8 *cy shall prescribe and publish in final form, not later*
9 *than 3 months after the effective date of the Financial*
10 *Services Competition Act of 1997, consumer protec-*
11 *tion regulations which—*

12 “(A) *apply to retail sales, solicitations, ad-*
13 *vertising, or offers of any nondeposit product by*
14 *any insured depository institution or any person*
15 *who is engaged in such activities at an office of*
16 *the institution or on behalf of the institution;*
17 *and*

18 “(B) *meet the requirements of this section*
19 *and provide such additional protections for con-*
20 *sumers to whom such sales, solicitations, adver-*
21 *tising, or offers are directed as the agency deter-*
22 *mines to be appropriate.*

23 “(2) *APPLICABILITY TO SUBSIDIARIES.*—*The reg-*
24 *ulations prescribed pursuant to paragraph (1) shall*
25 *extend such protections to any subsidiaries of an in-*
26 *sured depository institution, as deemed appropriate*

1 *by the regulators referred to in paragraph (3), where*
2 *such extension is necessary to ensure the consumer*
3 *protections provided by this section.*

4 “(3) *CONSULTATION AND JOINT REGULATIONS.—*
5 *The Federal banking agencies shall consult with each*
6 *other and prescribe joint regulations pursuant to*
7 *paragraph (1), after consultation with the Securities*
8 *and Exchange Commission and the National Associa-*
9 *tion of Insurance Commissioners, as appropriate.*

10 “(4) *NONDEPOSIT PRODUCT DEFINED.—For pur-*
11 *poses of this section, the term ‘nondeposit product’—*

12 “(A) *means any investment and insurance*
13 *product which is not a deposit;*

14 “(B) *includes shares issued by a registered*
15 *investment company; and*

16 “(C) *does not include—*

17 “(i) *any loan or any other extension of*
18 *credit by an insured depository institution;*

19 “(ii) *any letter of credit;*

20 “(iii) *any trust services;*

21 “(iv) *any discount; or*

22 “(v) *any other instrument or insurance*
23 *or investment product specifically excluded*
24 *from the definition of such term by regula-*
25 *tions prescribed jointly by the Federal bank-*

1 *ing agencies, to the extent necessary to*
2 *carry out the purpose of this Act.*

3 “(b) *SALES PRACTICES.*—*The regulations prescribed*
4 *pursuant to subsection (a) shall include the following provi-*
5 *sions relating to sales practices in connection with the sale*
6 *of nondeposit products:*

7 “(1) *ANTICOERCION RULES.*—

8 “(A) *IN GENERAL.*—*Anticoercion rules pro-*
9 *hibiting an insured depository institution from*
10 *engaging in any practice that would lead a*
11 *consumer to believe an extension of credit, in*
12 *violation of section 106(b) of the Bank Holding*
13 *Company Act Amendments of 1970, is condi-*
14 *tional upon—*

15 “(i) *the purchase of a nondeposit prod-*
16 *uct from the institution or any of its affili-*
17 *ates or subsidiaries; or*

18 “(ii) *an agreement by the consumer*
19 *not to obtain, or a prohibition on the*
20 *consumer from obtaining, a nondeposit*
21 *product from an unaffiliated entity.*

22 “(B) *APPLICABILITY TO SUBSIDIARIES.*—
23 *Regulations prescribed under subparagraph (A)*
24 *shall apply to subsidiaries of insured depository*
25 *institutions if the regulators determine such ap-*

1 *plication is necessary to prevent coercive activi-*
2 *ties.*

3 “(2) *SUITABILITY OF PRODUCT.*—

4 “(A) *IN GENERAL.*—*Standards to ensure*
5 *that an investment product sold to a consumer*
6 *is suitable and any other nondeposit product is*
7 *appropriate for the consumer based on financial*
8 *information disclosed by the consumer.*

9 “(B) *RULES OF FAIR PRACTICE.*—*In pre-*
10 *scribing the standards under subparagraph (A)*
11 *with respect to the sale of investments, the Fed-*
12 *eral banking agencies shall take into account the*
13 *Rules of Fair Practice of the National Associa-*
14 *tion of Securities Dealers.*

15 “(c) *DISCLOSURES AND ADVERTISING.*—*The regula-*
16 *tions prescribed pursuant to subsection (a) shall include the*
17 *following provisions relating to disclosures and advertising*
18 *at the time the consumer opens an account for the purchase*
19 *of any nondeposit product or in connection with the initial*
20 *purchase of a nondeposit product:*

21 “(1) *DISCLOSURES.*—

22 “(A) *IN GENERAL.*—*Requirements that the*
23 *following disclosures be made orally and in writ-*
24 *ing before the completion of the initial sale and,*

1 *in the case of clause (iv), at the time of applica-*
2 *tion for an extension of credit:*

3 “(i) *UNINSURED STATUS.*—*The prod-*
4 *uct is not insured by the Federal Deposit*
5 *Insurance Corporation, or the United States*
6 *Government as appropriate.*

7 “(ii) *INSURANCE PRODUCT.*—*In the*
8 *case of an insurance product, the product is*
9 *not guaranteed by an insured depository in-*
10 *stitution.*

11 “(iii) *INVESTMENT RISK.*—*In the case*
12 *of an investment product, there is an invest-*
13 *ment risk associated with the product, in-*
14 *cluding possible loss of principal.*

15 “(iv) *COERCION.*—*The approval of an*
16 *extension of credit may not be conditioned*
17 *on—*

18 “(I) *the purchase of a nondeposit*
19 *product from the institution in which*
20 *the application for credit is pending or*
21 *any of its affiliates or subsidiaries; or*

22 “(II) *an agreement by the*
23 *consumer not to obtain, or a prohibi-*
24 *tion on the consumer from obtaining, a*

1 *nondeposit product from an unaffili-*
2 *ated entity.*

3 “(B) *MAKING DISCLOSURE READILY UNDER-*
4 *STANDABLE.—Regulations prescribed under sub-*
5 *paragraph (A) shall encourage the use of disclo-*
6 *sure that is conspicuous, simple, direct, and*
7 *readily understandable such as the following:*

8 “(i) ‘*NOT FDIC-INSURED*’.

9 “(ii) ‘*NOT GUARANTEED BY THE*
10 *BANK*’.

11 “(iii) ‘*MAY GO DOWN IN VALUE*’.

12 “(C) *ADJUSTMENTS FOR ALTERNATIVE*
13 *METHODS OF PURCHASE.—In prescribing the re-*
14 *quirements under subparagraphs (A) and (D),*
15 *necessary adjustments shall be made for purchase*
16 *in person, by telephone or by electronic media to*
17 *provide for the most appropriate and complete*
18 *form of disclosure and acknowledgements.*

19 “(D) *CONSUMER ACKNOWLEDGEMENT.—*

20 “(i) *IN GENERAL.—A requirement that*
21 *an insured depository institution shall re-*
22 *quire any person selling a nondeposit prod-*
23 *uct at any office of, or on behalf of, the in-*
24 *stitution to obtain, at the time a consumer*
25 *receives the disclosures required under sub-*

1 *section (c)(1) or at the time of the initial*
2 *purchase by the consumer of such product,*
3 *a separate statement, signed and dated by*
4 *the consumer, which contains the declara-*
5 *tion that the purchaser has received the dis-*
6 *closure required under this subsection with*
7 *respect to such product.*

8 *“(ii) APPLICATION TO SUBSIDI-*
9 *ARIES.—If the regulations require subsidi-*
10 *aries of insured depository institutions to*
11 *make the disclosures under this section, the*
12 *regulations shall require that these subsidi-*
13 *aries obtain the consumer acknowledgement*
14 *provided for in this subparagraph.*

15 *“(2) PROHIBITION ON MISREPRESENTATIONS.—*

16 *“(A) INSURANCE.—A prohibition on any*
17 *practice, or any advertising, at any office of, or*
18 *on behalf of, the insured depository institution,*
19 *or any subsidiary as appropriate, which could*
20 *mislead any person or otherwise cause a reason-*
21 *able person to reach an erroneous belief with re-*
22 *spect to—*

23 *“(i) the uninsured nature of any non-*
24 *deposit insurance product sold, or offered*

1 *for sale by the institution or any subsidiary*
2 *of the institution; or*

3 “(ii) *the investment risk associated*
4 *with any such product.*

5 “(B) *SECURITIES.—With regard to securi-*
6 *ties, a prohibition on any practice, or any ad-*
7 *vertising, at any office of the insured depository*
8 *institution, or any subsidiary as appropriate,*
9 *which could violate section 10(b) of the Securities*
10 *Exchange Act of 1934.*

11 “(d) *SEPARATION OF BANKING AND NONBANKING AC-*
12 *TIVITIES.—*

13 “(1) *REGULATIONS REQUIRED.—The regulations*
14 *prescribed pursuant to subsection (a) shall include*
15 *such provisions as the Federal banking agencies con-*
16 *sider appropriate to ensure that the routine accept-*
17 *ance of deposits is kept, to the extent practicable,*
18 *physically segregated from nondeposit product activ-*
19 *ity.*

20 “(2) *MINIMUM REQUIREMENTS.—Regulations*
21 *prescribed pursuant to paragraph (1) shall include,*
22 *at a minimum, the following requirements:*

23 “(A) *SEPARATE SETTING.—A clear delineation*
24 *of the setting in which, and the cir-*
25 *cumstances under which, transactions involving*

1 *nondeposit products may be effected to ensure*
2 *that such activity is conducted in a location*
3 *physically segregated from the area where retail*
4 *deposits are routinely accepted.*

5 “(B) *CERTAIN PERSONS PROHIBITED FROM*
6 *SELLING NONDEPOSIT PRODUCTS.—Standards*
7 *prohibiting any person accepting deposits from*
8 *the public in an area where deposits are rou-*
9 *tinely taken in an insured depository institution*
10 *from selling or offering to sell, or offering an*
11 *opinion or investment advice on, any nondeposit*
12 *product.*

13 “(C) *REFERRALS.—The regulations shall*
14 *include standards which permit any such person*
15 *to refer a customer who seeks to purchase, or*
16 *seeks an opinion or investment advice on, any*
17 *nondeposit product to a qualified person who*
18 *sells or provides opinions or investment advice*
19 *on such product, only if the person making the*
20 *referral receives no more than a one-time nomi-*
21 *nal fee of a fixed dollar amount for each referral*
22 *that does not depend on whether the referral re-*
23 *sults in a transaction.*

24 “(D) *QUALIFICATION REQUIREMENTS AND*
25 *TRAINING.—Standards prohibiting any insured*

1 *depository institution from permitting any per-*
2 *son to sell or offer for sale, or provide an opinion*
3 *or investment advice about, any nondeposit*
4 *product in any part of any office of the institu-*
5 *tion, or on behalf of the institution, unless such*
6 *person—*

7 *“(i) is registered with a self-regulatory*
8 *organization or the Securities and Ex-*
9 *change Commission, as appropriate, as a*
10 *broker or dealer, as a representative of a*
11 *broker or dealer, or as an investment ad-*
12 *viser; or*

13 *“(ii) meets qualification and training*
14 *requirements which the Federal banking*
15 *agencies jointly determine are equivalent to*
16 *the training and qualification requirements*
17 *applicable to a person who is registered*
18 *with a self-regulatory organization or the*
19 *Commission as a broker or dealer, as a rep-*
20 *resentative of a broker or dealer, or as an*
21 *investment adviser, as the case may be; or*

22 *“(iii) in the case of insurance sales, is*
23 *appropriately qualified.*

24 *“(E) COMPENSATION PROGRAMS.—Stand-*
25 *ards to ensure that compensation programs are*

1 *not structured in such a way as to provide in-*
2 *centives for the sales of nondeposit products that*
3 *are not suitable or appropriate for the consumer.*

4 “(e) *CONSUMER GRIEVANCE PROCESS.—The Federal*
5 *banking agencies shall jointly establish a consumer com-*
6 *plaint mechanism, for receiving and addressing expedi-*
7 *tiously meritorious consumer complaints alleging a viola-*
8 *tion of regulations issued under the section, which shall—*

9 “(1) *establish a group within each regulatory*
10 *agency to receive such complaints;*

11 “(2) *develop procedures for investigating such*
12 *complaints;*

13 “(3) *develop procedures for informing consumers*
14 *of rights they may have in connection with such com-*
15 *plaints; and*

16 “(4) *develop procedures for addressing concerns*
17 *raised by such complaints, as appropriate.*

18 “(f) *NO EFFECT ON OTHER AUTHORITY.—*

19 “(1) *IN GENERAL.—No provision of this section*
20 *shall be construed as granting, limiting, or otherwise*
21 *affecting—*

22 “(A) *any authority of the Securities and*
23 *Exchange Commission, any self-regulatory orga-*
24 *nization, the Municipal Securities Rulemaking*

1 *Board, or the Secretary of the Treasury under*
2 *any Federal securities law;*

3 “(B) *any authority of any State insurance*
4 *commissioner or other State authority under any*
5 *State insurance law; or*

6 “(C) *the applicability of any Federal secu-*
7 *rities law or any State securities or insurance*
8 *law, or any regulation prescribed by the Com-*
9 *mission, any self-regulatory organization, the*
10 *Municipal Securities Rulemaking Board, the*
11 *Secretary of the Treasury, or any State insur-*
12 *ance commissioner or other State authority pur-*
13 *suant to any such law, to any person.*

14 “(2) *DEFINITIONS.—For purposes of this sub-*
15 *section, the following definitions shall apply:*

16 “(A) *FEDERAL SECURITIES LAW.—The term*
17 *‘Federal securities law’ has the meaning given to*
18 *the term ‘securities laws’ in section 3(a)(47) of*
19 *the Securities Exchange Act of 1934.*

20 “(B) *SELF-REGULATORY ORGANIZATION.—*
21 *The term ‘self-regulatory organization’ has the*
22 *meaning given to such term in section 3(a)(26)*
23 *of the Securities Exchange Act of 1934.”.*

1 (b) *SAFEGUARDS APPLICABLE TO BROKERS AND*
2 *DEALERS THAT ARE, OR ARE AFFILIATED WITH, INSURED*
3 *DEPOSITORY INSTITUTIONS.—*

4 (1) *IN GENERAL.—The Securities and Exchange Com-*
5 *mission, in consultation with the appropriate Federal bank-*
6 *ing agencies, shall carry out the purposes of this section*
7 *by prescribing rules regarding sales of securities by—*

8 (A) *any insured depository institution reg-*
9 *istered as a broker under the Securities Ex-*
10 *change Act of 1934; or*

11 (B) *any registered broker or dealer that is*
12 *a subsidiary or affiliate of an insured depository*
13 *institution.*

14 (2) *SCOPE OF REGULATIONS.—Regulations pre-*
15 *scribed under paragraph (1) shall, at a minimum, es-*
16 *tablish requirements with respect to—*

17 (A) *disclosures of information concerning*
18 *coverage under the Securities Investor Protection*
19 *Act of 1970 and the Federal Deposit Insurance*
20 *Act; and*

21 (B) *disclosures of the financial interest of*
22 *the depository institution or any securities sub-*
23 *sidary or securities affiliate with respect to re-*
24 *ferrals or transactions.*

1 (3) *MAKING DISCLOSURE READILY UNDERSTAND-*
2 *ABLE.—*

3 (A) *WRITTEN DISCLOSURE.—Regulations*
4 *prescribed under this subsection shall encourage*
5 *the use of disclosure that is simple, direct, and*
6 *readily understandable, such as the following:*

7 (i) *“NOT FDIC-INSURED OR SIPC-*
8 *INSURED”.*

9 (ii) *“NOT GUARANTEED BY THE*
10 *BANK”.*

11 (iii) *“MAY GO DOWN IN VALUE”.*

12 (B) *ORAL DISCLOSURE.—Regulations pre-*
13 *scribed under this subsection shall encourage the*
14 *use of oral disclosure as a supplement to written*
15 *disclosure.*

16 (c) *AUTHORITY OF NATIONAL COUNCIL ON FINANCIAL*
17 *SERVICES.—To carry out the purposes of this section, the*
18 *National Council on Financial Services may—*

19 (1) *prescribe regulations under section 45 of the*
20 *Federal Deposit Insurance Act that are more strin-*
21 *gent than those prescribed by the appropriate Federal*
22 *banking agencies; and*

23 (2) *prescribe regulations under subsection (b)*
24 *that are more stringent than those prescribed by the*
25 *Securities and Exchange Commission.*

1 (d) *BIENNIAL REVIEW OF REGULATIONS.*—Beginning
2 on June 30, 2001, the National Council on Financial Serv-
3 ices shall biennially review the regulations prescribed under
4 this section to determine whether they adequately carry out
5 the purposes of this section.

6 (e) *DEFINITIONS.*—For purposes of this section, the
7 terms “appropriate Federal banking agency” and “insured
8 depository institution” have the same meanings as in sec-
9 tion 3 of the Federal Deposit Insurance Act.

10 **SEC. 113. OBLIGATIONS OF SUBSIDIARIES AND AFFILIATES**

11 **CANNOT BE EXTENDED TO INSURED DEPOSI-**
12 **TORY INSTITUTIONS.**

13 The Federal Deposit Insurance Act (12 U.S.C. 1811
14 et seq.) is amended by inserting after section 45 (as added
15 by section 112(a) of this subtitle) the following new section:

16 **“SEC. 46. OBLIGATIONS OF SUBSIDIARIES AND AFFILIATES**

17 **CANNOT BE EXTENDED TO INSURED DEPOSI-**
18 **TORY INSTITUTIONS.**

19 “(a) *IN GENERAL.*—Notwithstanding any other law
20 (including any law relating to insurance), no obligation of
21 an affiliate or subsidiary of an insured depository institu-
22 tion arising more than 270 days after the date of enactment
23 of the Financial Services Competition Act of 1997 may be
24 charged against such insured depository institution by rea-
25 son of any ruling, determination, or judgment disregarding

1 *the separate corporate identity or limited liability of the*
2 *insured depository institution or the affiliate or subsidiary.*

3 “(b) *MAINTENANCE OF SEPARATE CORPORATE IDEN-*
4 *TITY AND SEPARATE LEGAL STATUS.—*

5 “(1) *IN GENERAL.—The appropriate Federal*
6 *banking agency shall take steps, including conducting*
7 *the review required by paragraph (2), to assure that*
8 *each insured depository institution observes the sepa-*
9 *rate corporate identity and separate legal status of*
10 *each of the institutions’ subsidiaries and affiliates.*

11 “(2) *EXAMINATIONS.—Each appropriate Federal*
12 *banking agency, when examining an insured deposi-*
13 *tory institution, shall review whether the institution*
14 *is observing the separate corporate identity and sepa-*
15 *rate legal status of the institution’s subsidiaries and*
16 *affiliates.*

17 “(c) *MISREPRESENTATIONS REGARDING DEPOSITORY*
18 *INSTITUTION LIABILITY PROHIBITED.—*

19 “(1) *IN GENERAL.—No institution-affiliated*
20 *party of an insured depository institution or institu-*
21 *tion-affiliated party of a subsidiary or affiliate of an*
22 *insured depository institution shall fraudulently rep-*
23 *resent that the institution is or will be liable for any*
24 *obligation of a subsidiary or other affiliate of the in-*
25 *stitution.*

1 “(2) *CRIMINAL PENALTY.*—Whoever violates
2 *paragraph (1) shall be fined not more than \$100,000,*
3 *imprisoned for not more than 1 year, or both.*

4 “(3) *INSTITUTION-AFFILIATED PARTY DE-*
5 *FINED.*—For purposes of this subsection, the term ‘in-
6 *stitution-affiliated party’ with respect to a subsidiary*
7 *or affiliate has the same meaning as in section 3 ex-*
8 *cept references to an insured depository institution*
9 *shall be deemed to be references to a subsidiary or af-*
10 *filiate of an insured depository institution.*

11 “(d) *RULE OF CONSTRUCTION.*—This section shall not
12 *be construed as—*

13 “(1) *excusing an insured depository institution*
14 *from—*

15 “(A) *any liability that it has expressly and*
16 *lawfully assumed; or*

17 “(B) *any liability to which it would be oth-*
18 *erwise subject for engaging or participating in*
19 *any violation of law or any breach of contract;*

20 “(2) *limiting the authority of the Corporation*
21 *under section 5(e);*

22 “(3) *permitting any obligation to be charged*
23 *against an insured depository institution that would*
24 *not otherwise be charged against the institution; or*

1 “(4) prohibiting joint or cooperative marketing,
2 information sharing, or the purchase or sale of serv-
3 ices among affiliates.”.

4 ***Subtitle C—National Council on***
5 ***Financial Services***

6 ***SEC. 121. ESTABLISHMENT AND OPERATION OF THE COUN-***
7 ***CIL.***

8 (a) *ESTABLISHMENT AND PURPOSES.*—As of the date
9 of enactment of this Act, there is established a National
10 Council on Financial Services (hereafter in this subtitle re-
11 ferred to as the “Council”), which, among other functions
12 specified in this Act, shall seek generally to improve the effi-
13 ciency and competitiveness of the United States financial
14 services system by increasing coordination among regu-
15 lators of financial services providers and monitoring inno-
16 vations in the delivery of financial services for the benefit
17 of the United States economy and consumers.

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

20 (1) *The Secretary of the Treasury.*

21 (2) *The Chairman of the Board of Governors of*
22 *the Federal Reserve System.*

23 (3) *The Chairperson of the Federal Deposit In-*
24 *surance Corporation.*

25 (4) *The Comptroller of the Currency.*

1 (5) *The Chairman of the Securities and Ex-*
2 *change Commission.*

3 (6) *The Chairman of the Commodity Futures*
4 *Trading Commission.*

5 (7) *1 individual with current or prior experience*
6 *in securities regulation at the State level who shall be*
7 *appointed by the President, by and with the advice*
8 *and consent of the Senate, for a term of 3 years..*

9 (8) *2 individuals with current or prior experi-*
10 *ence in insurance regulation at the State level who*
11 *shall be appointed by the President (after soliciting*
12 *the views of the National Association of Insurance*
13 *Commissioners with regard to any such appoint-*
14 *ment), by and with the advice and consent of the Sen-*
15 *ate, for a term of 3 years.*

16 (9) *1 individual with current or prior experience*
17 *in State banking supervision who shall be appointed*
18 *by the President, by and with the advice and consent*
19 *of the Senate, for a term of 3 years.*

20 (c) *CHAIRPERSON.—The Secretary of the Treasury*
21 *shall be the Chairperson of the Council.*

22 (d) *VICE CHAIRPERSON.—The Chairman of the Board*
23 *of Governors of the Federal Reserve System shall be the*
24 *Vice-Chairperson of the Council.*

25 (e) *COMPENSATION.—*

1 (1) *AGENCY MEMBERS.*—Each member of the
2 Council specified in paragraphs (1) through (6) of
3 subsection (b) (hereafter in this section referred to as
4 “agency members”) shall serve without additional
5 compensation.

6 (2) *INDIVIDUAL MEMBER.*—The members of the
7 Council described in paragraph (7), (8), or (9) of sub-
8 section (b) shall serve without compensation, but shall
9 be entitled, *per diem*, to reasonable expenses directly
10 related to duties carried out as a member of the Coun-
11 cil.

12 (f) *EXPENSES OF THE COUNCIL.*—

13 (1) *AGENCY MEMBER EXPENSES.*—The agency of
14 each agency member of the Council shall be respon-
15 sible for expenses associated with the agency member’s
16 participation in the functions of the Council.

17 (2) *OTHER EXPENSES.*—Any other expenses of
18 the Council, including expenses described in sub-
19 section (e)(2), shall be shared *pro rata* among the
20 agencies of the agency members.

21 (g) *ACTION BY THE COUNCIL.*—

22 (1) *QUORUM.*—A majority of members of the
23 Council shall constitute a quorum.

24 (2) *FINAL ACTION BY THE COUNCIL.*—On mat-
25 ters determined by the Council to require an affirma-

1 *tive vote to constitute final action by the Council,*
2 *such vote shall require a majority of a quorum of*
3 *Council members.*

4 (3) *DIRECT VOTING.—Members of the Council*
5 *shall not vote through any designee.*

6 **SEC. 122. FUNCTIONS OF THE COUNCIL.**

7 (a) *IN GENERAL.—In addition to the authority con-*
8 *ferred on the Council by other provisions of this Act, the*
9 *Council shall have the authority specified in this section.*

10 (b) *AUTHORITY TO ISSUE REGULATIONS.—*

11 (1) *CALCULATION OF GROSS REVENUES TEST.—*
12 *Before the end of the 1-year period beginning on the*
13 *date of enactment of this Act, the Council shall issue*
14 *final regulations prescribing the method for calculat-*
15 *ing compliance with the gross revenues test for pur-*
16 *poses of section 6(a)(2) of the Bank Holding Com-*
17 *pany Act of 1956.*

18 (2) *RESOLUTION OF DISPUTES INVOLVING THE*
19 *DEFINITION OF INSURANCE.—The Council shall deter-*
20 *mine whether an activity or product is an insurance*
21 *activity or product or a banking activity or product*
22 *as provided in section 5136(b)(2) of the Revised Stat-*
23 *utes of the United States.*

24 (3) *DEFINITION OF FINANCIAL ACTIVITY AND AC-*
25 *TIVITY RELATED TO A FINANCIAL ACTIVITY.—The*

1 *Council may issue regulations or orders finding an*
2 *activity to be financial or related to a financial activ-*
3 *ity, or nonfinancial or not related to a financial ac-*
4 *tivity, for purposes of section 6(a)(3) of the Bank*
5 *Holding Company Act of 1956 or section 5136A of*
6 *the Revised Statutes.*

7 (4) *ADDITIONAL SAFEGUARDS.—The Council*
8 *may, by regulation or order, impose restrictions or re-*
9 *quirements on relationships or transactions involving*
10 *a depository institution and any affiliate or subsidi-*
11 *ary of any such institution engaged in any activity*
12 *that is not permissible for a national bank to engage*
13 *in directly, if the Council finds that such restrictions*
14 *or requirements will promote safety and soundness in*
15 *the financial services system or will enhance*
16 *consumer protection.*

17 (c) *ENFORCEMENT OF COUNCIL ACTIONS.—Actions*
18 *taken by the Council shall be binding on the agencies rep-*
19 *resented on the Council and enforced by the agency respon-*
20 *sible for supervising an entity to which an action of the*
21 *Council applies.*

22 (d) *PRIVACY STUDY.—The members of the National*
23 *Council on Financial Services, or the designees of any such*
24 *members, in consultation with the Federal Trade Commis-*
25 *sion, shall—*

1 *among officers and employees of the department,*
2 *agency or independent establishment of which*
3 *such member is the head.*

4 *(B) 1 member appointed by the Secretary of*
5 *Commerce from among individuals who, by vir-*
6 *tue of their education, training, or experience,*
7 *are well-qualified to represent the views of the*
8 *insurance industry on the Advisory Council.*

9 *(C) 1 member appointed by the Chairman*
10 *of the Securities and Exchange Commission from*
11 *among individuals who, by virtue of their edu-*
12 *cation, training, or experience, are well-qualified*
13 *to represent the views of the securities industry*
14 *on the Advisory Council.*

15 *(D) 2 members appointed by the Secretary*
16 *of the Treasury from among representatives of*
17 *well-established, nationally recognized consumer*
18 *organizations.*

19 (2) *CHAIRPERSON.—The member appointed by*
20 *the Secretary of the Treasury under paragraph (1)(A)*
21 *shall serve as the chairperson of the Advisory Council.*

22 (3) *COMPENSATION.—*

23 *(A) AGENCY MEMBERS.—Each member of*
24 *the Advisory Council who is appointed under*

1 *paragraph (1)(A) shall serve without additional*
2 *compensation.*

3 *(B) INDIVIDUAL MEMBER.—Each member of*
4 *the Advisory Council who is appointed under*
5 *subparagraph (B), (C), or (D) of paragraph (1)*
6 *shall serve without compensation, but shall re-*
7 *ceive travel expenses, including per diem in lieu*
8 *of subsistence, in accordance with sections 5702*
9 *and 5703 of title 5, United States Code.*

10 *(4) TERM.—Each member shall be appointed for*
11 *the life of the Advisory Council.*

12 *(5) VACANCY.—A vacancy in the Advisory Coun-*
13 *cil shall be filled in the manner in which the original*
14 *appointment was made.*

15 *(6) MEETINGS.—The Advisory Council shall*
16 *meet, not less frequently than quarterly, subject to the*
17 *call of the chairperson or a majority of the members.*

18 *(7) QUORUM.—A majority of the members ap-*
19 *pointed under paragraph (1)(A) and a majority of*
20 *the members appointed under subparagraphs (B), (C),*
21 *and (D) of paragraph (1) shall constitute a quorum*
22 *for purposes of agreeing to the contents of any report*
23 *submitted under this section but a lesser number may*
24 *meet to conduct routine business.*

25 *(c) RECOMMENDATIONS AND REPORTS.—*

1 (1) *RECOMMENDATIONS FOR MEETING CREDIT*
2 *AND INSURANCE NEEDS.*—*Before the end of the 1-year*
3 *period beginning on the date of the enactment of this*
4 *Act, the Advisory Council shall submit recommenda-*
5 *tions to the Congress and the Council for enhancing*
6 *insurance and securities activities of qualifying bank*
7 *holding companies to meet the credit and insurance*
8 *needs of all citizens and communities, including un-*
9 *derserved communities and populations.*

10 (2) *PERIODIC REPORTS ON IMPACT OF ACT FOR*
11 *LIMITED PERIOD.*—*Before the end of the 18-month pe-*
12 *riod beginning on the date of the enactment of this*
13 *Act and annually thereafter for a 5-year period, the*
14 *Advisory Council shall submit a report to the Con-*
15 *gress and the Council on the impact this Act (and the*
16 *amendments made by this Act to other provisions of*
17 *law) on the capital and credit needs of all citizens*
18 *and communities, including underserved communities*
19 *and populations.*

20 (d) *EXPENSES AND ADMINISTRATIVE SUPPORT.*—

21 (1) *EXPENSES.*—*The expenses of the Advisory*
22 *Council shall be paid by the Council in the manner*
23 *described in section 121(f)(2), except that, for pur-*
24 *poses of this paragraph, the Commodity Futures*
25 *Trading Commission shall not be included in the dis-*

1 *tribution of expenses among member agencies under*
2 *such section.*

3 (2) *ADMINISTRATIVE SUPPORT.*—*The agencies*
4 *represented by members appointed under subsection*
5 *(b)(1)(A) shall provide to the Advisory Council the*
6 *administrative support services necessary for the Ad-*
7 *visory Council to carry out its responsibilities under*
8 *this section.*

9 (e) *FEDERAL ADVISORY COMMITTEE ACT DOES NOT*
10 *APPLY.*—*The Federal Advisory Committee Act shall not*
11 *apply with respect to the Advisory Council.*

12 ***Subtitle D—Bank Holding Company***
13 ***Supervision***

14 ***SEC. 131. STREAMLINING BANK HOLDING COMPANY SUPER-***
15 ***VISION.***

16 *Section 5(c) of the Bank Holding Company Act of*
17 *1956 (12 U.S.C. 1844(c)) is amended to read as follows:*

18 “(c) *REPORTS AND EXAMINATIONS.*—

19 “(1) *REPORTS.*—

20 “(A) *IN GENERAL.*—*The Board from time to*
21 *time may require any bank holding company to*
22 *submit reports, under oath or otherwise, to en-*
23 *able the Board to determine compliance with the*
24 *provisions of this Act and regulations and orders*
25 *issued thereunder.*

1 “(B) *USE OF EXISTING REPORTS.*—

2 “(i) *IN GENERAL.*—*The Board shall*
3 *not require any report pursuant to sub-*
4 *paragraph (A) if information sufficient for*
5 *the Board to make the determinations re-*
6 *quired under subparagraph (A) is reason-*
7 *ably available from any other source.*

8 “(ii) *USE.*—*The Board shall, as far as*
9 *possible, use the reports of examination or*
10 *comparable reports prepared by any Fed-*
11 *eral or State regulatory agency, or any self-*
12 *regulatory organization for purposes of sub-*
13 *paragraph (A).*

14 “(iii) *AVAILABILITY.*—*Each Federal*
15 *and State regulatory agency and self-regu-*
16 *latory organization referred to in clause (ii)*
17 *shall make the reports referred to in such*
18 *clause available to the Board upon request.*

19 “(C) *EXEMPTIONS FROM REPORTING RE-*
20 *QUIREMENTS.*—

21 “(i) *IN GENERAL.*—*The Board may, by*
22 *regulation or order, exempt any company*
23 *or class of companies, under such terms and*
24 *conditions and for such periods as the*
25 *Board shall provide, from this paragraph*

1 *and any regulations prescribed under this*
2 *paragraph.*

3 “(ii) *CRITERIA FOR EXEMPTION.—In*
4 *granting an exemption under clause (i), the*
5 *Board shall consider, among other factors—*

6 “(I) *whether information of the*
7 *type required under this paragraph is*
8 *available from a supervisory agency*
9 *(as defined in section 1101(7) of the*
10 *Right to Financial Privacy Act of*
11 *1978), the Commodity Futures Trad-*
12 *ing Commission, or a foreign regu-*
13 *latory body of a similar type;*

14 “(II) *the primary business of the*
15 *company;*

16 “(III) *the nature and extent of do-*
17 *mestic or foreign regulation of the ac-*
18 *tivities of such company; and*

19 “(IV) *the absolute and relative*
20 *size within the company of the subsidi-*
21 *ary depository institutions of the com-*
22 *pany.*

23 “(2) *EXAMINATIONS.—*

24 “(A) *EXAMINATION AUTHORITY.—The*
25 *Board may make examinations of each bank*

1 *holding company and each subsidiary thereof,*
2 *the cost of which shall be assessed against, and*
3 *made payable by such holding company.*

4 “(B) *LIMITATIONS ON EXAMINATION AU-*
5 *THORITY FOR BANK HOLDING COMPANIES AND*
6 *NONBANK SUBSIDIARIES.—The Board may make*
7 *examinations of each bank holding company and*
8 *each nonbank subsidiary (other than a subsidi-*
9 *ary of a depository institution) in order to—*

10 “(i) *inform the Board of the nature of*
11 *the operations and financial condition of*
12 *the holding company and such subsidiaries;*

13 “(ii) *inform the Board of—*

14 “(I) *the financial and operational*
15 *risks within the holding company sys-*
16 *tem that may pose a threat to the safe-*
17 *ty and soundness of any subsidiary de-*
18 *pository institution of such holding*
19 *company; and*

20 “(II) *the systems of the holding*
21 *company; and*

22 “(iii) *monitor compliance with the*
23 *provisions of this Act and those governing*
24 *transactions and relationships between any*

1 *subsidiary depository institution and such*
2 *subsidiaries.*

3 “(C) *RESTRICTED FOCUS OF EXAMINA-*
4 *TIONS.—The Board shall, to the fullest extent*
5 *possible, limit the focus and scope of any exam-*
6 *ination of a bank holding company to—*

7 “(i) *the bank holding company; and*

8 “(ii) *any nonbank subsidiary of the*
9 *holding company (other than a subsidiary*
10 *of a depository institution) that, because*
11 *of—*

12 “(I) *the size, condition, or activi-*
13 *ties of the subsidiary;*

14 “(II) *the nature or size of trans-*
15 *actions between such subsidiary and*
16 *any depository institution which is*
17 *also a subsidiary of such holding com-*
18 *pany; or*

19 “(III) *the centralization of func-*
20 *tions within the holding company sys-*
21 *tem,*

22 *could have a materially adverse effect on the*
23 *safety and soundness of any depository in-*
24 *stitution affiliate of the holding company.*

1 “(D) *DEFERENCE TO BANK EXAMINA-*
2 *TIONS.—The Board shall, to the fullest extent*
3 *possible, use, for the purposes of this section, the*
4 *reports of examinations of depository institutions*
5 *made by the appropriate Federal and State de-*
6 *pository institution supervisory authority.*

7 “(E) *DEFERENCE TO OTHER EXAMINA-*
8 *TIONS.—The Board shall, to the fullest extent*
9 *possible, use the reports of examination made*
10 *of—*

11 “(i) *any registered broker or dealer by*
12 *or on behalf of the Securities and Exchange*
13 *Commission;*

14 “(ii) *any licensed insurance company*
15 *by or on behalf of any state regulatory au-*
16 *thority responsible for the supervision of in-*
17 *surance companies; and*

18 “(iii) *any other subsidiary that the*
19 *Board finds to be comprehensively super-*
20 *vised by a Federal or State authority.*

21 “(3) *NOTICE TO BANKING AGENCIES OF FINAN-*
22 *CIAL AND OPERATIONAL CONCERNS.—Any agency rep-*
23 *resented on the National Council on Financial Serv-*
24 *ices or any State supervisory authority shall notify*
25 *the Board and the appropriate Federal banking agen-*

1 *cy or State bank supervisor of significant financial or*
2 *operational risks to any depository institution result-*
3 *ing from the activities of any affiliate of a depository*
4 *institution.*

5 *“(4) TRANSFER OF BOARD AUTHORITY TO AP-*
6 *PROPRIATE FEDERAL BANKING AGENCY.—*

7 *“(A) IN GENERAL.—In the case of any bank*
8 *holding company which is not significantly en-*
9 *gaged in nonbanking activities, the Board, in*
10 *consultation with the appropriate Federal bank-*
11 *ing agency, may designate the appropriate Fed-*
12 *eral banking agency of the lead insured deposi-*
13 *tory institution subsidiary of such holding com-*
14 *pany as the appropriate Federal banking agency*
15 *for the bank holding company.*

16 *“(B) AUTHORITY TRANSFERRED.—An agen-*
17 *cy designated by the Board under subparagraph*
18 *(A) shall have the same authority as the Board*
19 *under this Act to—*

20 *“(i) examine and require reports from*
21 *the bank holding company and any affiliate*
22 *of such company (other than a bank) under*
23 *section 5;*

1 “(ii) approve or disapprove applica-
2 tions or transactions under section 3, 6, or
3 11;

4 “(iii) take actions and impose pen-
5 alties under subsections (e) and (f) of sec-
6 tion 5 and section 8; and

7 “(iv) take actions regarding the hold-
8 ing company, any affiliate of the holding
9 company (other than a bank), or any insti-
10 tution-affiliated party of such company or
11 affiliate under the Federal Deposit Insur-
12 ance Act and any other statute which the
13 Board may designate.

14 “(C) AGENCY ORDERS.—Section 9 (of this
15 Act) and section 105 of the Bank Holding Com-
16 pany Act Amendments of 1970 shall apply to or-
17 ders issued by an agency designated under sub-
18 paragraph (A) in the same manner such sections
19 apply to orders issued by the Board.

20 “(5) FUNCTIONAL REGULATION OF SECURITIES
21 AND INSURANCE ACTIVITIES.—The Board shall defer
22 to—

23 “(A) the Securities and Exchange Commis-
24 sion with regard to all interpretations of, and
25 the enforcement of, applicable Federal securities

1 *laws relating to the activities, conduct, and oper-*
2 *ations of registered brokers, dealers, investment*
3 *advisers, and investment companies; and*

4 *“(B) the relevant State insurance authori-*
5 *ties with regard to all interpretations of, and the*
6 *enforcement of, applicable State insurance laws*
7 *relating to the activities, conduct, and operations*
8 *of insurance companies and insurance agents.”.*

9 **SEC. 132. ADMINISTRATION OF THE BANK HOLDING COM-**
10 **PANY ACT OF 1956.**

11 *(a) PREVENTION OF DUPLICATIVE FILINGS.—Section*
12 *5(a) of the Bank Holding Company Act of 1956 (12 U.S.C.*
13 *1844(a)) is amended by adding the following new sentence*
14 *at the end: “A declaration filed pursuant to section*
15 *6(a)(1)(F) shall satisfy the requirements of this subsection*
16 *with regard to the registration of a bank holding company*
17 *but not any requirement to file an application to acquire*
18 *a bank pursuant to section 3.”.*

19 *(b) DIVESTITURE PROCEDURES.—Section 5(e)(1) of*
20 *the Bank Holding Company Act of 1956 (12 U.S.C.*
21 *1844(e)(1)) is amended—*

22 *(1) by striking “Financial Institutions Super-*
23 *visory Act of 1966, order” and inserting “Financial*
24 *Institutions Supervisory Act of 1966, at the election*
25 *of the bank holding company—*

1 “(A) order”; and

2 (2) by striking “shareholders of the bank holding
3 company. Such distribution” and inserting “share-
4 holders of the bank holding company; or

5 “(B) order the bank holding company, after due
6 notice and opportunity for hearing, and after con-
7 sultation with the bank’s primary supervisor, which
8 shall be the Comptroller of the Currency in the case
9 of a national bank, and the Federal Deposit Insur-
10 ance Corporation and the appropriate State super-
11 visor in the case of an insured nonmember bank, to
12 terminate (within 120 days or such longer period as
13 the Board may direct) the ownership or control of
14 any such bank by such company.

15 “The distribution referred to in subparagraph (A)”.

16 **SEC. 133. BANK HOLDING COMPANY CAPITAL.**

17 Section 5 of the Bank Holding Company Act of 1956
18 (12 U.S.C. 1844) is amended by adding at the end the fol-
19 lowing new subsections:

20 “(g) [Reserved]

21 “(h) CAPITAL ADEQUACY GUIDELINES.—

22 “(1) CAPITAL ADEQUACY PROVISIONS.—The
23 Board may adopt capital adequacy rules or guide-
24 lines for bank holding companies.

1 “(2) *METHODS OF CALCULATION.*—*In developing*
2 *rules or guidelines under paragraph (1)*—

3 “(A) *FOCUS ON DOUBLE LEVERAGE.*—*The*
4 *Board shall address the use by bank holding*
5 *companies of debt and other liabilities to fund*
6 *capital investments in subsidiary depository in-*
7 *stitutions.*

8 “(B) *NO UNWEIGHTED CAPITAL RATIO.*—
9 *The Board shall not, by rule, regulation, guide-*
10 *line, order, or otherwise, impose a capital ratio*
11 *that is not based on appropriate risk-weighting*
12 *considerations.*

13 “(C) *NO CAPITAL REQUIREMENT ON REGU-*
14 *LATED ENTITIES.*—*The Board shall not, by rule,*
15 *regulation, guideline, order, or otherwise, impose*
16 *any capital adequacy provision on a nondeposi-*
17 *tory institution subsidiary that is in compliance*
18 *with applicable capital requirements of another*
19 *Federal or State regulatory authority.*

20 “(D) *APPROPRIATE EXCLUSIONS.*—*The*
21 *Board shall take full account of—*

22 “(i) *the capital requirements made ap-*
23 *plicable to any nondepository institution*
24 *subsidiary by another Federal or State reg-*
25 *ulatory authority; and*

1 “(ii) industry norms for capitalization
2 of a company’s unregulated subsidiaries
3 and activities.

4 “(E) CONSULTATION WITH OTHER SUPER-
5 VISORS.—The Board shall consult with the ap-
6 propriate Federal or State regulatory authority
7 in developing capital adequacy guidelines for
8 bank holding companies that are predominantly
9 engaged, either directly or through nondepository
10 institution subsidiaries, in activities that are su-
11 pervised by that authority.

12 “(F) APPROPRIATE DIFFERENTIATION OF
13 HOLDING COMPANIES.—The Board may differen-
14 tiate between different classes or categories of
15 bank holding companies, in particular between
16 bank holding companies that are predominantly
17 engaged in owning and operating insured depos-
18 itory institutions, bank holding companies which
19 do not own or control insured depository institu-
20 tions, and bank holding companies which are
21 predominantly engaged in activities that are su-
22 pervised by another Federal or State regulatory
23 authority.

24 “(G) INTERNAL RISK MANAGEMENT MOD-
25 ELS.—The Board may incorporate internal risk

1 *management models into its capital adequacy*
2 *guidelines or rules.”.*

3 **SEC. 134. AUTHORITY OF STATE INSURANCE REGULATOR.**

4 *Section 5 of the Bank Holding Company Act of 1956*
5 *(12 U.S.C. 1844) is amended by inserting after subsection*
6 *(h) (as added by section 133 of this subtitle) the following*
7 *new subsection:*

8 “(i) *AUTHORITY OF STATE INSURANCE REGULATOR.—*

9 “(1) *IN GENERAL.—Notwithstanding any other*
10 *provision of law, any regulation, order, or other ac-*
11 *tion of the Board which requires a bank holding com-*
12 *pany to provide funds or other assets to a subsidiary*
13 *insured depository institution shall not be effective*
14 *nor enforceable if—*

15 “(A) *such funds or assets are to be provided*
16 *by—*

17 “(i) *a bank holding company which is*
18 *an insurance company; or*

19 “(ii) *an affiliate of the insured depository*
20 *institution which is an insurance com-*
21 *pany; and*

22 “(B) *the State insurance authority for the*
23 *insurance company determines in writing sent*
24 *to the insurance company and the Board that*
25 *the insurance company shall not provide such*

1 *funds or assets because such action would have*
2 *a material adverse effect on the financial condi-*
3 *tion of the insurance company.*

4 “(2) *DIVESTITURE IN LIEU OF OTHER ACTION.*—
5 *If the Board receives a notice described in paragraph*
6 *(1)(B) from a State insurance authority with regard*
7 *to a bank holding company referred to in such para-*
8 *graph, the Board may order the bank holding com-*
9 *pany to divest the insured depository institution*
10 *within 180 days of receiving notice from the State in-*
11 *sureance authority or such longer period as the Board*
12 *determines consistent with the safe and sound oper-*
13 *ation of the insured depository institution.*

14 “(3) *CONDITIONS BEFORE DIVESTITURE.*—*Dur-*
15 *ing the period beginning on the date an order to di-*
16 *vest is issued by the Board under paragraph (2) to*
17 *a bank holding company and ending on the date the*
18 *divestiture is completed, the Board may impose any*
19 *conditions or restrictions on the holding company’s*
20 *ownership or operation of the insured depository in-*
21 *stitution, including restricting or prohibiting trans-*
22 *actions between the insured depository institution and*
23 *any affiliate of the institution, as are appropriate*
24 *under the circumstances.”.*

1 ***Subtitle E—Subsidiaries of Insured***
2 ***Depository Institutions***

3 ***SEC. 141. SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED***
4 ***TO ENGAGE IN FINANCIAL ACTIVITIES.***

5 *(a) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.—*
6 *Chapter one of title LXII of the Revised Statutes of United*
7 *States (12 U.S.C. 21 et seq.) is amended—*

8 *(1) by redesignating section 5136A as section*
9 *5136C; and*

10 *(2) by inserting after section 5136 (12 U.S.C.*
11 *24) the following new section:*

12 ***“SEC. 5136A. FINANCIAL SUBSIDIARIES OF NATIONAL***
13 ***BANKS.***

14 ***“(a) SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED***
15 ***TO ENGAGE IN FINANCIAL ACTIVITIES.—***

16 ***“(1) IN GENERAL.—A subsidiary of a national***
17 ***bank may engage in an activity that is not permis-***
18 ***sible for a national bank to engage in directly, but***
19 ***only if—***

20 ***“(A) the activity is a financial activity (as***
21 ***defined in paragraph (4));***

22 ***“(B) the national bank is well capitalized,***
23 ***well managed, and achieved a rating of ‘satisfac-***
24 ***tory record of meeting community credit needs’,***

1 *or better, at the most recent examination of the*
2 *bank;*

3 “(C) *all depository institution affiliates of*
4 *such national bank are well capitalized, well*
5 *managed, and have achieved a rating of ‘satis-*
6 *factory record of meeting community credit*
7 *needs’, or better, at the most recent examination*
8 *of each such institution; and*

9 “(D) *the bank has received the approval of*
10 *the Comptroller of the Currency.*

11 “(2) *NO EFFECT ON EDGE ACT OR AGREEMENT*
12 *CORPORATIONS.—Paragraph (1) shall not apply with*
13 *respect to any subsidiary which is a corporation or-*
14 *ganized under section 25A of the Federal Reserve Act*
15 *or a corporation operating under section 25 of such*
16 *Act.*

17 “(3) *OTHER SUBSIDIARIES PROHIBITED.—A na-*
18 *tional bank may not control any subsidiary other*
19 *than a subsidiary—*

20 “(A) *which engages solely in activities that*
21 *are permissible for a national bank to engage in*
22 *directly or are authorized under paragraph (1);*
23 *or*

24 “(B) *which a national bank may control*
25 *pursuant to section 25 or 25A of the Federal Re-*

1 *serve Act, the Bank Service Company Act, or*
2 *any other Act that expressly by its terms author-*
3 *izes national banks to control subsidiaries.*

4 “(4) *FINANCIAL ACTIVITY DEFINED.*—*For pur-*
5 *poses of this section and subject to paragraph (5), the*
6 *term ‘financial activity’ means any 1 or more of the*
7 *following:*

8 “(A) *Receiving money subject to a deposit*
9 *or other repayment obligation.*

10 “(B) *Lending, exchanging, transferring, in-*
11 *vesting, or safeguarding money or other finan-*
12 *cial assets.*

13 “(C) *Providing any device or other instru-*
14 *mentality for transferring money or other finan-*
15 *cial assets.*

16 “(D) *Acting as agent or broker in the place-*
17 *ment of annuities contracts or contracts insur-*
18 *ing, guaranteeing, or indemnifying against loss,*
19 *harm, damage, illness, disability, or death.*

20 “(E) *Providing financial, investment, or*
21 *economic advisory or information services, in-*
22 *cluding advising an investment company (as de-*
23 *finied in section 3 of the Investment Company*
24 *Act of 1940).*

1 “(F) Issuing or selling instruments rep-
2 resenting interests in pools of assets permissible
3 for a bank to hold directly.

4 “(G) Arranging, effecting, or facilitating fi-
5 nancial transactions for the account of third
6 parties.

7 “(H) Underwriting, dealing in, or making
8 a market in securities.

9 “(I) Engaging in any activity that was, by
10 regulation or order, permissible for a bank hold-
11 ing company pursuant to section 4(c)(8) of the
12 Bank Holding Company Act of 1956 (as in effect
13 on the day before the date of enactment of the Fi-
14 nancial Services Competition Act of 1997).

15 “(J) Engaging, in the United States, in
16 any activity that—

17 “(i) a bank holding company may en-
18 gage in outside the United States; and

19 “(ii) the Board of Governors of the
20 Federal Reserve System determined, under
21 regulations issued pursuant to section
22 4(c)(13) of the Bank Holding Company Act
23 of 1956 (as in effect on the day before the
24 date of enactment of the Financial Services
25 Competition Act of 1997) to be usual in

1 *connection with the transaction of banking*
2 *or other financial operations abroad;*

3 “(K) *Owning shares of a company to the*
4 *extent permissible under section 4(c)(7) of the*
5 *Bank Holding Company Act of 1956 (as in effect*
6 *on the day before the date of enactment of the Fi-*
7 *ancial Services Competition Act of 1997).*

8 “(L) *Engaging in any activity that the Na-*
9 *tional Council on Financial Services determines*
10 *by regulation or order is the functional equiva-*
11 *lent of any activity described in 1 or more of*
12 *subparagraphs (A) through (K).*

13 “(M) *Engaging in any activity that the Na-*
14 *tional Council on Financial Services determines*
15 *by regulation or order to be financial, or related*
16 *to a financial activity, having taken into ac-*
17 *count—*

18 “(i) *the purposes of this title and the*
19 *Financial Services Competition Act of 1997;*

20 “(ii) *changes or reasonably expected*
21 *changes in the market in which bank sub-*
22 *sidaries compete;*

23 “(iii) *changes or reasonable expected*
24 *changes in the technology delivering finan-*
25 *cial services; and*

1 “(iv) *whether such activity is necessary*
2 *or appropriate to allow a bank and the sub-*
3 *subsidiaries of a bank to—*

4 “(I) *compete effectively with any*
5 *company seeking to provide financial*
6 *services in the United States;*

7 “(II) *use any available or emerg-*
8 *ing technological means, including any*
9 *application necessary to protect the se-*
10 *curity or efficacy of systems for the*
11 *transmission of data or financial*
12 *transactions, in providing financial*
13 *services; and*

14 “(III) *offer customers any avail-*
15 *able or emerging technological means*
16 *for using financial services.*

17 “(5) *OTHER DEFINITIONS.—For purposes of this*
18 *section, the following definitions shall apply:*

19 “(A) *FINANCIAL SUBSIDIARY.—The term ‘fi-*
20 *nancial subsidiary’ means a company which—*

21 “(i) *is a subsidiary of a national bank*
22 *(other than a corporation organized under*
23 *section 25A of the Federal Reserve Act or a*
24 *corporation operating under section 25 of*
25 *such Act); and*

1 “(i) is engaged in a financial activity
2 pursuant to paragraph (1) that is not a
3 permissible activity for a national bank to
4 engage in directly.

5 “(B) *SUBSIDIARY*.—The term ‘subsidiary’
6 has the meaning given to such term in section 2
7 of the Bank Holding Company Act of 1956.

8 “(C) *WELL CAPITALIZED*.—The term ‘well
9 capitalized’ has the same meaning as in section
10 38 of the Federal Deposit Insurance Act and, for
11 purposes of this section, the Comptroller shall
12 have exclusive jurisdiction to determine whether
13 a national bank is well capitalized.

14 “(D) *WELL MANAGED*.—The term ‘well
15 managed’ means—

16 “(i) in the case of a bank that has been
17 examined, unless otherwise determined in
18 writing by the Comptroller, the achievement
19 of—

20 “(I) a composite rating of 1 or 2
21 under the Uniform Financial Institu-
22 tions Rating System (or an equivalent
23 rating under an equivalent rating sys-
24 tem) in connection with the most re-

1 *cent examination or subsequent review*
2 *of the bank; and*

3 “*(II) at least a rating of 2 for*
4 *management, if that rating is given; or*

5 “*(ii) in the case of any national bank*
6 *that has not been examined, the existence*
7 *and use of managerial resources that the*
8 *Comptroller determines are satisfactory.*

9 “*(6) INSURANCE UNDERWRITING, MERCHANT*
10 *BANKING, AND DIRECT INVESTMENT.—Except as pro-*
11 *vided in section 5136(b)(1)(B) of the Revised Statutes*
12 *of the United States, no subsidiary of a national bank*
13 *(other than a corporation organized under section*
14 *25A of the Federal Reserve Act or a corporation oper-*
15 *ating under section 25 of such Act) may underwrite*
16 *noncredit-related insurance, engage in real estate in-*
17 *vestment or development activities (except to the ex-*
18 *tent a national bank is specifically authorized by*
19 *statute to engage in any such activity directly), or en-*
20 *gage in merchant banking (as described in section*
21 *6(a)(3)(G) of the Bank Holding Company Act of*
22 *1956).*

23 “*(7) LIMITED EXCLUSIONS FROM COMMUNITY*
24 *NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOS-*
25 *ITORY INSTITUTIONS.—Any depository institution*

1 *which becomes affiliated with a national bank during*
2 *the 12-month period preceding the submission of an*
3 *application to acquire a financial subsidiary and*
4 *any depository institution which becomes so affiliated*
5 *after the approval of such application may be ex-*
6 *cluded for purposes of paragraph (1)(C) during the*
7 *12-month period beginning on the date of such acqui-*
8 *sition if—*

9 “(A) *the national bank has submitted an af-*
10 *firmative plan to the Comptroller of the Cur-*
11 *rency to take such action as may be necessary in*
12 *order for such institution to achieve a ‘satisfac-*
13 *tory record of meeting community credit needs’,*
14 *or better, during the most next examination of*
15 *the institution; and*

16 “(B) *the plan has been accepted by the*
17 *Comptroller.*

18 “(b) *CAPITAL DEDUCTION REQUIRED.—*

19 “(1) *IN GENERAL.—In determining compliance*
20 *with applicable capital standards—*

21 “(A) *the amount of a national bank’s equity*
22 *investment in a financial subsidiary shall be de-*
23 *ducted from the national bank’s assets and tan-*
24 *gible equity; and*

1 “(B) *the financial subsidiary’s assets and*
2 *liabilities shall not be consolidated with those of*
3 *the national bank.*

4 “(2) *REGULATIONS REQUIRED.—The Comptrol-*
5 *ler shall prescribe regulations implementing this sub-*
6 *section.*

7 “(c) *SAFEGUARDS FOR THE BANK.—A national bank*
8 *that establishes or maintains a financial subsidiary shall*
9 *assure that—*

10 “(1) *the bank’s procedures for identifying and*
11 *managing financial and operational risks within the*
12 *bank and financial subsidiaries of the bank ade-*
13 *quately protect the bank from such risks;*

14 “(2) *the bank has, for the protection of the bank,*
15 *reasonable policies and procedures to preserve the sep-*
16 *arate corporate identity and limited liability of the*
17 *bank and subsidiaries of the bank; and*

18 “(3) *the bank complies with this section.*

19 “(d) *NATIONAL BANKS WHICH DO NOT COMPLY WITH*
20 *REQUIREMENTS OF THIS SECTION.—*

21 “(1) *IN GENERAL.—If the Comptroller deter-*
22 *mines that a national bank which controls a financial*
23 *subsidiary, or a depository institution affiliate of*
24 *such national bank, does not continue to meet the re-*
25 *quirements of subsection (a), the Comptroller shall*

1 *give notice to the bank to that effect, describing the*
2 *conditions giving rise to the notice.*

3 “(2) *AGREEMENT TO CORRECT CONDITIONS RE-*
4 *QUIRED.—*

5 “(A) *CONTENT OF AGREEMENT.—Within 45*
6 *days of the receipt by a depository institution of*
7 *a notice given under paragraph (1) (or such ad-*
8 *ditional period as the Comptroller may permit),*
9 *the depository institution failing to meet the re-*
10 *quirements of subsection (a) shall execute an*
11 *agreement with the appropriate Federal banking*
12 *agency for such institution to correct the condi-*
13 *tions described in the notice.*

14 “(B) *COMPTROLLER MAY IMPOSE LIMITA-*
15 *TIONS.—Until the conditions giving rise to the*
16 *notice are corrected, the Comptroller may impose*
17 *such limitations on the conduct of the business of*
18 *the national bank or subsidiary of such bank as*
19 *the Comptroller determines to be appropriate*
20 *under the circumstances.*

21 “(3) *FAILURE TO CORRECT.—If the conditions*
22 *described in the notice are not corrected within 180*
23 *days after the bank receives the notice, the Comptrol-*
24 *ler may require, under such terms and conditions as*
25 *may be imposed by the Comptroller and subject to*

1 *such extensions of time as may be granted in the dis-*
 2 *cretion of the Comptroller—*

3 *(A) the national bank to divest control of*
 4 *each subsidiary engaged in an activity that is*
 5 *not permissible for the bank to engage in di-*
 6 *rectly; or*

7 *“(B) each subsidiary of the national bank to*
 8 *cease any activity that is not permissible for the*
 9 *bank to engage in directly.”.*

10 *(b) CLERICAL AMENDMENT.—The table of sections for*
 11 *chapter one of title LXII of the Revised Statutes of the Unit-*
 12 *ed States is amended—*

13 *(1) by redesignating the item relating to section*
 14 *5136A as section 5136C; and*

15 *(2) by inserting after the item relating to section*
 16 *5136 the following new item:*

“5136A. Financial subsidiaries of national banks.”.

17 **SEC. 142. ACTIVITIES OF SUBSIDIARIES OF INSURED STATE**
 18 **BANKS.**

19 *Section 24(d) of the Federal Deposit Insurance Act (12*
 20 *U.S.C. 1831a(d)) is amended—*

21 *(1) by adding at the end the following new para-*
 22 *graphs:*

23 *“(3) CONDITIONS ON CERTAIN ACTIVITIES.—*

24 *“(A) IN GENERAL.—Subject to the approval*
 25 *of the appropriate Federal banking agency, a*

1 *subsidiary of a State bank may engage in an ac-*
2 *tivity in which a subsidiary of a national bank*
3 *may engage as principal pursuant to subsection*
4 *(a)(1) of section 5136A of the Revised Statutes of*
5 *the United States but only if the State bank*
6 *meets the same requirements which are applica-*
7 *ble to national banks under subparagraphs (B)*
8 *and (C) of such subsection and subsections (b)*
9 *and (c) of such section.*

10 “(B) *APPLICATION OF SECTION 5136A OF*
11 *REVISED STATUTES.—For purposes of applying*
12 *section 5136A of the Revised Statutes of the*
13 *United States with regard to the activities of a*
14 *subsidiary of a State bank, all references in such*
15 *section to the Comptroller of the Currency, or*
16 *regulations and orders of the Comptroller, shall*
17 *be deemed to be references to the appropriate*
18 *Federal banking agency with respect to such*
19 *State bank, and regulations and orders of such*
20 *agency.*

21 “(4) *STATE BANKS WHICH FAIL TO COMPLY*
22 *WITH PARAGRAPH (3) CONDITIONS.—*

23 “(A) *IN GENERAL.—If the appropriate Fed-*
24 *eral banking agency determines that a State*
25 *bank that controls a subsidiary which is engaged*

1 *as principal in financial activities pursuant to*
2 *paragraph (3) does not meet the requirements of*
3 *subparagraph (A) of such paragraph, the appro-*
4 *priate Federal banking agency shall give notice*
5 *to the bank to that effect, describing the condi-*
6 *tions giving rise to the notice.*

7 “(A) *AGREEMENT TO CORRECT CONDITIONS*
8 *REQUIRED.—*

9 “(i) *CONTENT OF AGREEMENT.—With-*
10 *in 45 days of the receipt by a bank of a no-*
11 *tice given under paragraph (1) (or such ad-*
12 *ditional period as the appropriate Federal*
13 *banking agency for such bank may permit),*
14 *the bank failing to meet the requirements of*
15 *paragraph (3)(A) shall execute an agree-*
16 *ment with the appropriate Federal banking*
17 *agency for such bank to correct the condi-*
18 *tions described in the notice.*

19 “(B) *AGENCY MAY IMPOSE LIMITATIONS.—*
20 *Until the conditions giving rise to the notice are*
21 *corrected, the appropriate Federal banking agen-*
22 *cy for the State bank may impose such limita-*
23 *tions on the conduct of the business of the bank*
24 *or a subsidiary of the bank as the agency deter-*
25 *mines to be appropriate under the circumstances.*

1 “(C) *FAILURE TO CORRECT.*—If the condi-
2 tions described in the notice are not corrected
3 within 180 days after the bank receives the no-
4 tice, the appropriate Federal banking agency for
5 the State may require, under such terms and
6 conditions as may be imposed by such agency
7 and subject to such extensions of time as may be
8 granted in the discretion of the agency—

9 “(i) the bank to divest control of each
10 subsidiary engaged in an activity as prin-
11 cipal that is not permissible for the bank to
12 engage in directly; or

13 “(ii) each subsidiary of the bank to
14 cease any activity as principal that is not
15 permissible for the bank to engage in di-
16 rectly.”.

17 **SEC. 143. RULES APPLICABLE TO FINANCIAL SUBSIDIARIES.**

18 (a) *TRANSACTIONS BETWEEN FINANCIAL SUBSIDI-*
19 *ARIES AND OTHER AFFILIATES.*—Section 23A of the Fed-
20 *eral Reserve Act (12 U.S.C. 371c) is amended—*

21 (1) by redesignating subsection (e) as subsection
22 (f); and

23 (2) by inserting after subsection (d), the follow-
24 ing new subsection:

1 “(e) *RULES RELATING TO BANKS WITH FINANCIAL*
2 *SUBSIDIARIES.*—

3 “(1) *FINANCIAL SUBSIDIARY DEFINED.*—*For*
4 *purposes of this section and section 23B, the term ‘fi-*
5 *nancial subsidiary’ means a company which—*

6 “(A) *is a subsidiary of a bank (other than*
7 *a corporation organized under section 25A of the*
8 *Federal Reserve Act or a corporation operating*
9 *under section 25 of such Act); and*

10 “(B) *is engaged in a financial activity (as*
11 *defined in section 5136A(a)(4)) that is not a per-*
12 *missible activity for a national bank to engage*
13 *in directly.*

14 “(2) *APPLICATION TO TRANSACTIONS BETWEEN A*
15 *FINANCIAL SUBSIDIARY OF A BANK AND THE BANK.*—

16 *For purposes of applying this section and section 23B*
17 *to a transaction between a financial subsidiary of a*
18 *bank and the bank (or between such financial subsidi-*
19 *ary and any other subsidiary of the bank which is*
20 *not a financial subsidiary) and notwithstanding sub-*
21 *section (b)(2) and section 23B(d)(1), the financial*
22 *subsidiary of the bank—*

23 “(A) *shall be an affiliate of the bank and*
24 *any other subsidiary of the bank which is not a*
25 *financial subsidiary; and*

1 “(B) shall not be treated as a subsidiary of
2 the bank.

3 “(3) *APPLICATION TO TRANSACTIONS BETWEEN*
4 *FINANCIAL SUBSIDIARY AND NONBANK AFFILIATES.—*

5 “(A) *IN GENERAL.—A transaction between*
6 *a financial subsidiary and an affiliate of the fi-*
7 *nancial subsidiary shall not be deemed to be a*
8 *transaction between a subsidiary of a national*
9 *bank and an affiliate of the bank for purposes of*
10 *section 23A or section 23B of the Federal Reserve*
11 *Act.*

12 “(B) *CERTAIN AFFILIATES EXCLUDED.—For*
13 *purposes of subparagraph (A) and notwithstand-*
14 *ing paragraph (4), the term ‘affiliate’ shall not*
15 *include a bank, or a subsidiary of a bank, which*
16 *is engaged exclusively in activities permissible*
17 *for a national bank to engage in directly.*

18 “(4) *EQUITY INVESTMENTS EXCLUDED SUBJECT*
19 *TO THE APPROVAL OF THE BANKING AGENCY.—Sub-*
20 *section (a)(1) shall not apply so as to limit the equity*
21 *investment of a bank in a financial subsidiary of*
22 *such bank, except that any investment that exceeds the*
23 *amount of a dividend that the bank could pay at the*
24 *time of the investment without obtaining prior ap-*
25 *proval of the appropriate Federal banking agency and*

1 *is in excess of the limitation which would apply*
2 *under subsection (a)(1), but for this paragraph, may*
3 *be made only with the approval of the appropriate*
4 *Federal banking agency (as defined in section 3(q) of*
5 *the Federal Deposit Insurance Act) with respect to*
6 *such bank.”.*

7 *(b) TREATMENT OF FINANCIAL SUBSIDIARIES UNDER*
8 *OTHER PROVISIONS OF LAW.—*

9 *(1) BANK HOLDING COMPANY ACT AMENDMENTS*
10 *OF 1970.—Section 106(a) of the Bank Holding Com-*
11 *pany Act Amendments of 1970 is amended by adding*
12 *at the end the following new sentence: “For purposes*
13 *of this section, a financial subsidiary (as defined in*
14 *section 5136A(a)(5)(A) of the Revised Statutes of the*
15 *United States or referenced in the 20th undesignated*
16 *paragraph of section 9 of the Federal Reserve Act or*
17 *section 24(d)(3)(A) of the Federal Deposit Insurance*
18 *Act) shall be deemed to be a subsidiary of a bank*
19 *holding company, and not a subsidiary of a bank.”;*
20 *and*

21 *(2) FEDERAL RESERVE ACT.—The 20th undesign-*
22 *ated paragraph of section 9 of the Federal Reserve*
23 *Act (12 U.S.C. 335) is amended by adding at the end*
24 *of the following new sentence: “To the extent per-*
25 *mitted under State law, a State member bank may*

1 *acquire or establish and retain a financial subsidiary*
 2 *(as defined in section 5136A(a)(3)(A) of the Revised*
 3 *Statutes of the United States, except that all ref-*
 4 *erences in that section to the Comptroller of the Cur-*
 5 *rency, the Comptroller, or regulations or orders of the*
 6 *Comptroller shall be deemed to be references to the*
 7 *Board or regulations or orders of the Board.”.*

8 ***Subtitle F—Direct Activities of***
 9 ***Banks***

10 ***SEC. 151. POWERS OF NATIONAL BANKS.***

11 *(a) NATIONAL BANK INSURANCE ACTIVITIES.—Section*
 12 *5136 of the Revised Statutes of the United States (12 U.S.C.*
 13 *24) is amended—*

14 *(1) by striking “Upon duly making and filing*
 15 *articles of association” and inserting “(a) IN GEN-*
 16 *ERAL.—Upon duly making and filing articles of asso-*
 17 *ciation”; and*

18 *(2) by adding at the end of the following new*
 19 *subsections:*

20 ***“(b) SCOPE OF PRINCIPAL ACTIVITIES.—***

21 ***“(1) EXISTING PRODUCTS.—***

22 ***“(A) IN GENERAL.—Subject to subpara-***
 23 ***graph (B), a national bank may not provide in-***
 24 ***surance in a State as principal.***

1 “(B) *EXCEPTION.*—*Except for title insur-*
2 *ance and annuity contracts as described in*
3 *paragraph (3)(A), subparagraph (A) shall not*
4 *apply to—*

5 “(i) *insurance that national banks or*
6 *subsidiaries of national banks had author-*
7 *ity to provide as principal pursuant to sub-*
8 *section (a) as of January 1, 1997; or*

9 “(ii) *a product that was regulated as*
10 *insurance as of January 1, 1997, by the ap-*
11 *propriate insurance regulatory authority of*
12 *the State in which the product is to be pro-*
13 *vided but ceases to be so regulated after the*
14 *date of enactment of the Financial Services*
15 *Competition Act of 1997.*

16 “(2) *NEW PRODUCTS.*—

17 “(A) *IN GENERAL.*—*This paragraph shall*
18 *apply with regard to any product which—*

19 “(i) *is not described in paragraph (1);*
20 *and*

21 “(ii) *the Comptroller of the Currency*
22 *has determined a national bank may pro-*
23 *vide as principal.*

24 “(B) *PETITION FOR DEFINITION OF OTHER*
25 *PRODUCTS.*—

1 “(i) *IN GENERAL.*—*Any State insur-*
2 *ance supervisory agency may petition the*
3 *National Council of Financial Services*
4 *(hereafter in this paragraph referred to as*
5 *the ‘Council’)* *objecting to a determination*
6 *of the Comptroller of the Currency referred*
7 *to in subparagraph (A)(ii) and requesting a*
8 *determination under 122(b)(2) of the Fi-*
9 *ancial Services Competition Act of 1997*
10 *whether a product described in subpara-*
11 *graph (A) constitutes an insurance product*
12 *or a banking product.*

13 “(ii) *STATEMENTS AND ARGUMENTS.*—
14 *A petition submitted under clause (i) shall*
15 *include a concise statement of the questions*
16 *presented for review, a concise statement of*
17 *any facts material to the consideration of*
18 *the questions, and a statement of the argu-*
19 *ments of the petitioner on the merits.*

20 “(iii) *STATUTE OF LIMITATION.*—*No*
21 *petition may be filed with the Council*
22 *under clause (i) after the end of the 2-year*
23 *period beginning on the date on which the*
24 *first public notice is made of the determina-*

1 *tion by the Comptroller to which the peti-*
2 *tion relates.*

3 “(iii) *FILING WITH COMPTROLLER OF*
4 *THE CURRENCY.—A copy of any petition*
5 *filed with the Council under clause (i) shall*
6 *be filed with the Comptroller of the Cur-*
7 *rency at the same time as such filing.*

8 “(C) *EXPEDITED REVIEW OF PETITION BY*
9 *FEDERAL RESERVE BOARD.—*

10 “(i) *REFERRAL TO BOARD.—Upon re-*
11 *ceipt of a petition filed with the Council*
12 *under subparagraph (B)(i), the Council*
13 *shall refer the petition, together with the*
14 *statements and arguments accompanying*
15 *the petition, to the Board of Governors of*
16 *the Federal Reserve System for review.*

17 “(ii) *REVIEW.—The Board shall review*
18 *the material referred pursuant to clause (i)*
19 *to determine whether the petition raises a*
20 *substantial question for review, taking into*
21 *account the nature of the product and the*
22 *history of its regulation, and report the*
23 *findings and conclusions of the Board in*
24 *connection with such review to the Council*

1 before the end of the 15-day period begin-
2 ning on the date of the referral.

3 “(iii) *DISMISSAL UPON FINDING OF*
4 *LACK OF A SUBSTANTIAL QUESTION.*—If the
5 Board reports to the Council that the peti-
6 tion failed to raise a substantial question
7 for review of the decision of the Comptroller
8 of the Currency on the merits, the Council
9 shall dismiss the petition and the deter-
10 mination of the Comptroller of the Currency
11 shall constitute final agency action, subject
12 to judicial review. The Council shall
13 promptly notify the Comptroller and any
14 affected party of any such dismissal.

15 “(iv) *DETERMINATION BY COUNCIL*
16 *UPON FINDING OF A SUBSTANTIAL QUES-*
17 *TION.*—If the Board reports to the Council
18 that the petition raises a substantial ques-
19 tion for review of the decision of the Comp-
20 troller of the Currency on the merits, the
21 Council shall proceed to consider such peti-
22 tion under section 122(b)(2) of the Finan-
23 cial Services Competition Act of 1997 and
24 in accordance with the subsequent subpara-
25 graphs of this paragraph.

1 “(D) *PARTICIPATION OF COMPTROLLER OF*
2 *THE CURRENCY AND ANY AFFECTED PARTY.*—

3 “(i) *RESPONSE.*—*Unless notified by*
4 *the Council of the dismissal of the petition*
5 *under subparagraph (C)(iii), the Comptrol-*
6 *ler of the Currency and any affected party*
7 *supporting the Comptroller may file, before*
8 *the end of the 60-day period beginning on*
9 *the date of the filing of any petition with*
10 *the Council under subparagraph (B)(i), a*
11 *response to such petition with the Council.*

12 “(ii) *PARTICIPATION IN HEARING.*—
13 *The Comptroller of the Currency or any af-*
14 *fected party may participate, as a party, in*
15 *any hearing under subparagraph (E).*

16 “(E) *HEARING.*—

17 “(i) *REQUEST.*—*The State insurance*
18 *supervisory agency, the Comptroller of the*
19 *Currency, or any affected party may re-*
20 *quest a hearing by the Council on any peti-*
21 *tion filed with the Council in accordance*
22 *with subparagraph (B) which was not dis-*
23 *missed under subparagraph (C)(iii).*

24 “(ii) *NOTICE AND SELECTION OF*
25 *HEARING OFFICER.*—*If a hearing is re-*

1 *requested pursuant to clause (i), the Council*
2 *shall promptly—*

3 *“(I) notify the State insurance su-*
4 *pervisory agency, the Comptroller of*
5 *the Currency, or any affected party of*
6 *such request and the time and place for*
7 *such hearing; and*

8 *“(II) select a hearing officer from*
9 *among administrative law judges who*
10 *are employed by agencies that are not*
11 *represented on the Council.*

12 *“(iii) TIME.—Any hearing under this*
13 *subparagraph shall commence before the end*
14 *of the 60-day period beginning on the date*
15 *a request for such hearing is filed with the*
16 *Council under clause (i) and shall be con-*
17 *ducted and concluded expeditiously.*

18 *“(iv) HEARING ON A RECORD.—In any*
19 *hearing under this subparagraph, all issues*
20 *shall be determined on a record in accord-*
21 *ance with section 554 of title 5, United*
22 *States Code.*

23 *“(v) RECOMMENDED OPINION.—Upon*
24 *the conclusion of any hearing under this*
25 *subparagraph, the administrative law judge*

1 *shall promptly submit a recommended opin-*
2 *ion on all issues considered in such hearing*
3 *to the Council.*

4 “(F) *FINAL DECISION BY COUNCIL.*—

5 “(i) *DETERMINATION AFTER HEAR-*
6 *ING.*—*If a hearing was requested under this*
7 *paragraph, the Council shall, before the end*
8 *of the 60-day period beginning on the date*
9 *the recommended opinion of the administra-*
10 *tive law judge is filed with the Council,*
11 *make a final determination regarding the*
12 *matter on the basis of the record of the hear-*
13 *ing.*

14 “(ii) *DETERMINATION IF NO HEARING*
15 *IS REQUESTED.*—*If a hearing was not re-*
16 *quested with regard to a petition filed with*
17 *the Council under subparagraph (B)(i), the*
18 *Council shall, before the end of the 60-day*
19 *period beginning on the date by which the*
20 *Council received such petition and any re-*
21 *sponse to such petition pursuant to sub-*
22 *paragraph (D)(i), make a final determina-*
23 *tion regarding the matter.*

24 “(G) *APPEAL OF FINAL DECISION.*—

1 “(i) *IN GENERAL.*—*Any State insur-*
2 *ance supervisory agency which filed a peti-*
3 *tion under subparagraph (B)(i), the Comp-*
4 *troller of the Currency (if the Comptroller*
5 *filed a response to such petition or partici-*
6 *ated as a party in a hearing with regard*
7 *to such petition), or an affected party (if*
8 *the party filed a response to the petition or*
9 *participated as a party in a hearing with*
10 *regard to the petition) may obtain judicial*
11 *review of the final decision of the Council*
12 *with regard to such petition by the United*
13 *States court of appeals for the circuit in*
14 *which the State insurance supervisory agen-*
15 *cy is located or the United States Circuit*
16 *Court of Appeals for the District of Colum-*
17 *bia Circuit, in accordance with section 706*
18 *of title 5, United States Code, and title 28*
19 *of such Code, by filing a notice of appeal in*
20 *such court within 10 days after the date of*
21 *the final determination of the Council.*

22 “(ii) *NOTICE TO COUNCIL AND OTHER*
23 *PARTIES.*—*Any party who petitions for ju-*
24 *dicial review of any final decision of the*
25 *Council under this paragraph shall simulta-*

1 neously send a copy of such petition to the
2 Council and the Comptroller of the Cur-
3 rency, the State insurance supervisory agen-
4 cy, and any affected party, as the case may
5 be, by registered or certified mail.

6 “(iii) *SUBMISSION OF RECORD.*—The
7 Council shall promptly certify and file in
8 the appropriate court of appeal the record
9 on which a final decision was based.

10 “(3) *DEFINITIONS.*—For purposes of this sub-
11 section, the following definitions shall apply:

12 “(A) *INSURANCE.*—The term ‘insurance’
13 shall include any product regulated as insurance
14 as of January 1, 1997, in accordance with the
15 relevant State insurance law in the State in
16 which the product is to be provided, any new
17 form of such product that is developed after Jan-
18 uary 1, 1997, and any annuity contract the in-
19 come on which is tax deferred under section 72
20 of the Internal Revenue Code of 1986.

21 “(B) *AFFECTED PARTY.*—The term ‘affected
22 party’ means any party that sought or otherwise
23 was a party to the determination that is the sub-
24 ject of the petition filed with the Council under
25 paragraph (2)(B)(i).

1 “(4) *AUTHORITY.*—

2 “(A) *IN GENERAL.*—*For purposes of this*
3 *subsection, national banks had authority to pro-*
4 *vide a product in any State as of January 1,*
5 *1997, if on or before such date—*

6 “(i) *the Comptroller of the Currency*
7 *had determined, in writing, that national*
8 *banks may provide the product; or*

9 “(ii) *national banks were providing*
10 *the product.*

11 “(B) *EXCEPTION.*—*Notwithstanding sub-*
12 *paragraph (A), national banks did not have au-*
13 *thority to provide a product in a State as of*
14 *January 1, 1997, if on or before such date a*
15 *court of relevant jurisdiction for such State had,*
16 *by final judgment, overturned a determination of*
17 *the Comptroller of the Currency that national*
18 *banks may provide such product.”.*

19 (b) *AUTHORITY TO UNDERWRITE CERTAIN MUNICIPAL*
20 *BONDS.*—*The paragraph designated the Seventh of section*
21 *5136(a) of the Revised Statutes of the United States (12*
22 *U.S.C. 24(7)) (as amended by subsection (a) of this section)*
23 *is amended by adding at the end the following new sentence:*
24 *“In addition to the provisions in this paragraph for dealing*
25 *in, underwriting or purchasing securities, the limitations*

1 *and restrictions contained in this paragraph as to dealing*
2 *in, underwriting, and purchasing investment securities for*
3 *the national bank's own account shall not apply to obliga-*
4 *tions (including limited obligation bonds, revenue bonds,*
5 *and obligations that satisfy the requirements of section*
6 *142(b)(1) of the Internal Revenue Code of 1986) issued by*
7 *or on behalf of any state or political subdivision of a state,*
8 *including any municipal corporate instrumentality of 1 or*
9 *more states, or any public agency or authority of any state*
10 *or political subdivision of a state, if the national banking*
11 *association is well capitalized (as defined in section 38 of*
12 *the Federal Deposit Insurance Act).”.*

13 (c) *AUTHORITY TO SELL AND UNDERWRITE TITLE IN-*
14 *SURANCE.—*

15 (1) *IN GENERAL.—Notwithstanding any other*
16 *provision of this Act or any other law, no national*
17 *bank, and no subsidiary of a national bank, may en-*
18 *gage in any activity involving the underwriting or*
19 *sale of title insurance other than title insurance sales*
20 *activities in which such national bank or subsidiary*
21 *was actively and lawfully engaged before the date of*
22 *the enactment of this Act.*

23 (2) *PROHIBITION ON BANKING ACTIVITIES BY*
24 *TITLE INSURANCE UNDERWRITER.—No company en-*

1 *gaged in the provision of title insurance may own a*
2 *subsidiary engaged in banking.*

3 **SEC. 152. BANKING PRODUCTS DEFINED.**

4 *Section 18 of the Federal Deposit Insurance Act (12*
5 *U.S.C. 1828) is amended by adding at the end the following*
6 *new subsection:*

7 *“(t) BANKING PRODUCTS DEFINITION.—*

8 *“(1) DEFINITION.—The term ‘banking product’,*
9 *as used in paragraphs (4) and (5) of section 3(a) of*
10 *the Securities Exchange Act of 1934, means—*

11 *“(A) a deposit account, savings account,*
12 *certificate of deposit, or other deposit instrument*
13 *issued by a bank;*

14 *“(B) a banker’s acceptance;*

15 *“(C) a letter of credit issued by a bank;*

16 *“(D) a debit account at a bank arising from*
17 *a credit card or similar arrangement;*

18 *“(E) a loan or loan participation issued in*
19 *the ordinary course of bank business, including*
20 *any debt security issued in connection with sov-*
21 *ereign debt restructuring which a bank purchases*
22 *and sells pursuant to such bank’s lending au-*
23 *thority;*

24 *“(F) a qualified financial contract (as de-*
25 *finied in or determined pursuant to section*

1 11(e)(8)(D)(i)), *except that such term does not*
2 *include—*

3 “(i) *any securities contract (as defined*
4 *in section 11(e)(8)(D)(ii)) that is based on*
5 *or directly relates to a security that section*
6 *5136 of the Revised Statutes of the United*
7 *States does not expressly authorize a na-*
8 *tional bank to underwrite or deal in, unless*
9 *the appropriate Federal banking agency de-*
10 *termines that such securities contract is ap-*
11 *propriate for a bank to underwrite or deal*
12 *in, taking into account other qualified fi-*
13 *ancial contracts which a bank is permitted*
14 *to underwrite or deal in; and*

15 “(ii) *any agreement, contract, or*
16 *transaction that the Corporation determines*
17 *(in a regulation prescribed after the date of*
18 *the enactment of the Financial Services*
19 *Competition Act of 1997) to be a qualified*
20 *financial contract, unless the appropriate*
21 *Federal banking agency determines that*
22 *such agreement, contract, or transaction*
23 *shall be treated as a qualified financial con-*
24 *tract for purposes of this subsection;*

1 “(G) notwithstanding subparagraph (F),
2 swap agreements (as defined in or pursuant to
3 section 11(e)(8)(D)(vi) of the Federal Deposit In-
4 surance Act) including credit swaps and equity
5 swaps, unless the appropriate Federal banking
6 agency determines that credit swaps and equity
7 swaps shall not be included in the definition of
8 such term; and

9 “(H) any other product that is available in
10 the course of a banking business if the Board of
11 Governors of the Federal Reserve System, after
12 consultation with the Securities and Exchange
13 Commission, determines by order or regula-
14 tion—

15 “(i) that the product is more appro-
16 priately regulated as a banking product;
17 and

18 “(ii) that regulation of the product as
19 a banking product is consistent with the
20 maintenance of fair and orderly markets
21 and the protection of investors.

22 “(2) SECURITIZATION.—Paragraph (1) does not
23 authorize any agency to exempt from the require-
24 ments of paragraphs (4) and (5) of section 3(a) of the
25 Securities Exchange Act of 1934 securities backed by

1 **“SEC. 5136B. NATIONAL WHOLESALE FINANCIAL INSTITU-**
2 **TIONS.**

3 “(a) *AUTHORIZATION OF THE COMPTROLLER RE-*
4 *QUIRED.*—A national bank may apply to the Comptroller,
5 on such forms and in accordance with such regulations as
6 the Comptroller may prescribe, for permission to operate
7 as a national wholesale financial institution.

8 “(b) *REGULATION.*—A national wholesale financial in-
9 stitution may exercise, in accordance with such institu-
10 tion’s articles of incorporation and regulations issued by
11 the Comptroller, all the powers and privileges of a national
12 bank formed in accordance with section 5133 of the Revised
13 Statutes of the United States, subject to the same limita-
14 tions and restrictions imposed under section 9B of the Fed-
15 eral Reserve Act.

16 “(c) *COMMUNITY REINVESTMENT ACT OF 1977.*—A
17 national wholesale financial institution shall be subject to
18 the Community Reinvestment Act of 1977.”.

19 (2) *CLERICAL AMENDMENT.*—The table of sec-
20 tions for chapter one of title LXII of the Revised Stat-
21 utes of the United States is amended by inserting
22 after the item relating to section 5136A (as added by
23 section 141(b) of this title) the following new item:

“5136B. National wholesale financial institutions.”.

1 (b) *STATE WHOLESALE FINANCIAL INSTITUTIONS.*—
2 *The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended*
3 *by inserting after section 9A the following new section:*

4 **“SEC. 9B. STATE WHOLESALE FINANCIAL INSTITUTIONS.**

5 “(a) *APPLICATION FOR MEMBERSHIP AS WHOLESALE*
6 *FINANCIAL INSTITUTION.*—

7 “(1) *APPLICATION REQUIRED.*—

8 “(A) *IN GENERAL.*—*Any State bank may*
9 *apply to the Board of Governors of the Federal*
10 *Reserve System to become a wholesale financial*
11 *institution and as a wholesale financial institu-*
12 *tion, to subscribe to the stock of the Federal re-*
13 *serve bank organized within the district where*
14 *the applying bank is located.*

15 “(B) *TREATMENT AS MEMBER BANK.*—*Any*
16 *application under subparagraph (A) shall be*
17 *treated as an application under, and shall be*
18 *subject to the provisions of, section 9.*

19 “(2) *INSURANCE TERMINATION.*—*No bank that is*
20 *insured under the Federal Deposit Insurance Act may*
21 *become a wholesale financial institution unless it has*
22 *met all requirements under that Act for voluntary ter-*
23 *mination of deposit insurance.*

24 “(b) *GENERAL REQUIREMENTS APPLICABLE TO*
25 *WHOLESALE FINANCIAL INSTITUTIONS.*—

1 “(1) *FEDERAL RESERVE ACT.*—*Except as other-*
2 *wise provided in this section, wholesale financial in-*
3 *stitutions shall be member banks and shall be subject*
4 *to the provisions of this Act that apply to member*
5 *banks to the same extent and in the same manner as*
6 *State member insured banks, except that a wholesale*
7 *financial institution may terminate membership*
8 *under this Act only with the prior written approval*
9 *of the Board and on terms and conditions that the*
10 *Board determines are appropriate to carry out the*
11 *purposes of this Act.*

12 “(2) *PROMPT CORRECTIVE ACTION.*—*A wholesale*
13 *financial institution shall be deemed to be an insured*
14 *depository institution for purposes of section 38 of the*
15 *Federal Deposit Insurance Act except that—*

16 “(A) *the relevant capital levels and capital*
17 *measures for each capital category shall be the*
18 *levels specified by the Board for wholesale finan-*
19 *cial institutions; and*

20 “(B) *all references to the appropriate Fed-*
21 *eral banking agency or to the Corporation in*
22 *that section shall be deemed to be references to*
23 *the Board.*

24 “(3) *ENFORCEMENT AUTHORITY.*—*Subsections*
25 *(j) and (k) of section 7, subsections (b) through (n),*

1 (s), (u), and (v) of section 8, and section 19 of the
2 *Federal Deposit Insurance Act shall apply to a whole-*
3 *sale financial institution in the same manner and to*
4 *the same extent as such provisions apply to State*
5 *member insured banks and any reference in such sec-*
6 *tions to an insured depository institution shall be*
7 *deemed to include a reference to a wholesale financial*
8 *institution.*

9 “(4) *CERTAIN OTHER STATUTES APPLICABLE.—*
10 *A wholesale financial institution shall be deemed to*
11 *be a banking institution, and the Board shall be the*
12 *appropriate Federal banking agency for such bank*
13 *and all such bank’s affiliates, for purposes of the*
14 *International Lending Supervision Act.*

15 “(5) *BANK MERGER ACT.—A wholesale financial*
16 *institution shall be subject to provisions of sections*
17 *18(c) and 44 of the Federal Deposit Insurance Act in*
18 *the same manner and to the same extent the wholesale*
19 *financial institution would be subject to such sections*
20 *if the institution were a State member insured bank.*

21 “(6) *COMMUNITY REINVESTMENT ACT OF 1977.—*
22 *A State wholesale financial institution shall be subject*
23 *to the Community Reinvestment Act of 1977.*

24 “(c) *SPECIFIC REQUIREMENTS APPLICABLE TO*
25 *WHOLESALE FINANCIAL INSTITUTIONS.—*

1 “(1) *LIMITATIONS ON DEPOSITS.*—

2 “(A) *MINIMUM AMOUNT.*—

3 “(i) *IN GENERAL.*—*No wholesale finan-*
4 *cial institution may receive initial deposits*
5 *of \$100,000 or less, other than on an inci-*
6 *dental and occasional basis.*

7 “(ii) *LIMITATION ON DEPOSITS OF*
8 *LESS THAN \$100,000.*—*No bank may be*
9 *treated as a wholesale financial institution*
10 *if the total amount of the initial deposits of*
11 *\$100,000 or less at such bank constitute*
12 *more than 5 percent of the bank’s total de-*
13 *posits.*

14 “(B) *NO DEPOSIT INSURANCE.*—*No deposits*
15 *held by a wholesale financial institution shall be*
16 *insured deposits under the Federal Deposit In-*
17 *surance Act.*

18 “(C) *ADVERTISING AND DISCLOSURE.*—*The*
19 *Board shall prescribe regulations pertaining to*
20 *advertising and disclosure by wholesale financial*
21 *institutions to ensure that each depositor is noti-*
22 *fied that deposits at the wholesale financial in-*
23 *stitution are not federally insured or otherwise*
24 *guaranteed by the United States Government.*

1 “(2) *SPECIAL CAPITAL REQUIREMENTS APPLICA-*
2 *BLE TO WHOLESALE FINANCIAL INSTITUTIONS.—*

3 “(A) *IN GENERAL.—The Board shall, by*
4 *regulation, adopt capital requirements for whole-*
5 *sale financial institutions—*

6 “(i) *to account for the status of whole-*
7 *sale financial institutions as institutions*
8 *that accept deposits that are not insured*
9 *under the Federal Deposit Insurance Act;*
10 *and*

11 “(ii) *to provide for the safe and sound*
12 *operation of the wholesale financial institu-*
13 *tion without undue risk to creditors or other*
14 *persons, including Federal reserve banks,*
15 *engaged in transactions with the bank.*

16 “(B) *MINIMUM TIER 1 CAPITAL RATIO.—The*
17 *minimum ratio of tier 1 capital to total risk-*
18 *weighted assets of wholesale financial institu-*
19 *tions shall be not less than the level required for*
20 *a State member insured bank to be well capital-*
21 *ized unless the Board determines otherwise, con-*
22 *sistent with safety and soundness.*

23 “(3) *ADDITIONAL REQUIREMENTS APPLICABLE*
24 *TO WHOLESALE FINANCIAL INSTITUTIONS.—In addi-*
25 *tion to any requirement otherwise applicable to State*

1 *member banks or applicable, under this section, to*
2 *wholesale financial institutions, the Board may pre-*
3 *scribe, by regulation or order, for wholesale financial*
4 *institutions—*

5 *“(A) limitations on transactions with affili-*
6 *ates to prevent—*

7 *“(i) the transfer of risk to the deposit*
8 *insurance funds; or*

9 *“(ii) an affiliate from gaining access*
10 *to, or the benefits of, credit from a Federal*
11 *reserve bank, including overdrafts at a Fed-*
12 *eral reserve bank;*

13 *“(B) special clearing balance requirements;*

14 *“(C) any additional requirements that the*
15 *Board determines to be appropriate or necessary*
16 *to—*

17 *“(i) promote the safety and soundness*
18 *of the wholesale financial institution or any*
19 *insured depository institution affiliate of*
20 *the wholesale financial institution;*

21 *“(ii) prevent the transfer of risk to the*
22 *deposit insurance funds; or*

23 *“(iii) protect creditors and other per-*
24 *sons, including Federal reserve banks, en-*

1 gaged in transactions with the wholesale fi-
2 nancial institution; and

3 “(D) any additional requirements that the
4 Board determines to be appropriate or necessary
5 to assure compliance with the Community Rein-
6 vestment Act of 1977.

7 “(4) *EXEMPTIONS FOR WHOLESALE FINANCIAL*
8 *INSTITUTIONS.*—The Board may, by regulation or
9 order, exempt any wholesale financial institution
10 from any provision applicable to a member bank that
11 is not a wholesale financial institution (other than
12 the provisions of this section), if the Board finds that
13 such exemption is not inconsistent with—

14 “(A) the promotion of the safety and sound-
15 ness of the wholesale financial institution or any
16 insured depository institution affiliate of the
17 wholesale financial institution;

18 “(B) the protection of the deposit insurance
19 funds; and

20 “(C) the protection of creditors and other
21 persons, including Federal reserve banks, en-
22 gaged in transactions with the wholesale finan-
23 cial institution.

24 “(5) *LIMITATION ON TRANSACTIONS BETWEEN A*
25 *WHOLESALE FINANCIAL INSTITUTION AND AN IN-*

1 *SURED BANK.—For purposes of section 23A(d)(1) of*
2 *the Federal Reserve Act, a wholesale financial institu-*
3 *tion that is affiliated with an insured bank shall not*
4 *be a bank.*

5 “(6) *NO EFFECT ON OTHER PROVISIONS.—This*
6 *section shall not be construed as limiting the Board’s*
7 *authority over member banks under any other provi-*
8 *sion of law, or to create any obligation for any Fed-*
9 *eral reserve bank to make, increase, renew, or extend*
10 *any advance or discount under this Act to any mem-*
11 *ber bank or other depository institution.*

12 “(d) *CONSERVATORSHIP AUTHORITY.—*

13 “(1) *IN GENERAL.—The Board may appoint a*
14 *conservator to take possession and control of a whole-*
15 *sale financial institution to the same extent and in*
16 *the same manner as the Comptroller of the Currency*
17 *may appoint a conservator for a national bank under*
18 *section 203 of the Bank Conservation Act, and the*
19 *conservator shall exercise the same powers, functions,*
20 *and duties, subject to the same limitations, as are*
21 *provided under such Act for conservators of national*
22 *banks.*

23 “(2) *BOARD AUTHORITY.—The Board shall have*
24 *the same authority with respect to any conservator*
25 *appointed under paragraph (1) and the wholesale fi-*

1 *nancial institution for which such conservator has*
2 *been appointed as the Comptroller of the Currency*
3 *has under the Bank Conservation Act with respect to*
4 *a conservator appointed under such Act and a na-*
5 *tional bank for which the conservator has been ap-*
6 *pointed.*

7 “(e) *EXCLUSIVE JURISDICTION.*—Subsections (c) and
8 (e) of section 43 of the Federal Deposit Insurance Act shall
9 not apply to any wholesale financial institution.”.

10 (c) *TECHNICAL AND CONFORMING AMENDMENTS TO*
11 *THE BANK HOLDING COMPANY ACT OF 1956.*—

12 (1) *DEFINITION OF BANK.*—Section 2(c)(1) of the
13 *Bank Holding Company Act of 1956 (12 U.S.C.*
14 *1841(c)(1)) is amended by inserting after subpara-*
15 *graph (B) the following new subparagraph:*

16 “(C) *A wholesale financial institution char-*
17 *tered under section 5136B of the Revised Stat-*
18 *utes of the United States or section 9B of the*
19 *Federal Reserve Act the deposits of which are not*
20 *insured by the Federal Deposit Insurance Cor-*
21 *poration.*”.

22 (2) *EXCEPTION TO INSURED BANK REQUIRE-*
23 *MENT.*—Section 3(e) of the *Bank Holding Company*
24 *Act of 1956 (12 U.S.C. 1842(e)) is amended by strik-*
25 *ing “Every bank” and inserting “Except with regard*

1 to a wholesale financial institution described in sec-
2 tion 2(c)(1)(C), every bank”.

3 (d) *VOLUNTARY TERMINATION OF INSURED STATUS BY*
4 *CERTAIN INSTITUTIONS.*—

5 (1) *SECTION 8 DESIGNATIONS.*—Section 8(a) of
6 the *Federal Deposit Insurance Act* (12 U.S.C.
7 1818(a)) is amended—

8 (A) by striking paragraph (1); and

9 (B) by redesignating paragraphs (2)
10 through (10) as paragraphs (1) through (9), re-
11 spectively.

12 (2) *VOLUNTARY TERMINATION OF INSURED STA-*
13 *TUS.*—The *Federal Deposit Insurance Act* (12 U.S.C.
14 1811 *et seq.*) is amended by inserting after section 8
15 the following new section:

16 “**SEC. 8A. VOLUNTARY TERMINATION OF STATUS AS IN-**
17 **SURED DEPOSITORY INSTITUTION.**

18 “(a) *IN GENERAL.*—Except as provided in subsection
19 (b), an insured State bank or a national bank may volun-
20 tarily terminate such bank’s status as an insured depository
21 institution in accordance with regulations of the Corpora-
22 tion if—

23 “(1) the bank provides written notice of the
24 bank’s intent to terminate such insured status—

1 “(A) to the Corporation and the Board of
2 Governors of the Federal Reserve System not less
3 than 6 months before the effective date of such
4 termination; and

5 “(B) to all depositors at such bank, not less
6 than 6 months before the effective date of the ter-
7 mination of such status; and

8 “(2) either—

9 “(A) the deposit insurance fund of which
10 such bank is a member equals or exceeds the
11 fund’s designated reserve ratio as of the date the
12 bank provides a written notice under paragraph
13 (1) and the Corporation determines that the fund
14 will equal or exceed the applicable designated re-
15 serve ratio for the 2 semiannual assessment peri-
16 ods immediately following such date; or

17 “(B) the Corporation and the Board of Gov-
18 ernors of the Federal Reserve System approve the
19 termination of the bank’s insured status and the
20 bank pays an exit fee in accordance with sub-
21 section (e).

22 “(b) EXCEPTION.—Subsection (a) shall not apply with
23 respect to—

24 “(1) an insured savings association;

1 “(2) an insured branch that is required to be in-
2 sured under subsection (a) or (b) of section 6 of the
3 *International Banking Act of 1978*; or

4 “(3) any institution described in section 2(c)(2)
5 of the *Bank Holding Company Act of 1956*.

6 “(c) *ELIGIBILITY FOR INSURANCE TERMINATED.*—
7 Any bank that voluntarily elects to terminate the bank’s
8 insured status under subsection (a) shall not be eligible for
9 insurance on any deposits or any assistance authorized
10 under this Act after the period specified in subsection (f)(1).

11 “(d) *INSTITUTION MUST BECOME WHOLESALE FINAN-*
12 *CIAL INSTITUTION OR TERMINATE DEPOSIT-TAKING AC-*
13 *TIVITIES.*—Any depository institution which voluntarily
14 terminates such institution’s status as an insured deposi-
15 tory institution under this section may not, upon termi-
16 nation of insurance, accept any deposits unless the institu-
17 tion is a wholesale financial institution under section 9B
18 of the *Federal Reserve Act*.

19 “(e) *EXIT FEES.*—

20 “(1) *IN GENERAL.*—Any bank that voluntarily
21 terminates such bank’s status as an insured deposi-
22 tory institution under this section shall pay an exit
23 fee in an amount that the Corporation determines is
24 sufficient to account for the institution’s pro rata
25 share of the amount (if any) which would be required

1 to restore the relevant deposit insurance fund to the
2 fund's designated reserve ratio as of the date the bank
3 provides a written notice under subsection (a)(1).

4 “(2) *PROCEDURES.*—The Corporation shall pre-
5 scribe, by regulation, procedures for assessing any exit
6 fee under this subsection.

7 “(f) *TEMPORARY INSURANCE OF DEPOSITS INSURED*
8 *AS OF TERMINATION.*—

9 “(1) *TRANSITION PERIOD.*—The insured deposits
10 of each depositor in a State bank or a national bank
11 on the effective date of the voluntary termination of
12 the bank's insured status, less all subsequent with-
13 drawals from any deposits of such depositor, shall
14 continue to be insured for a period of not less than
15 6 months and not more than 2 years, as determined
16 by the Corporation. During such period, no additions
17 to any such deposits, and no new deposits in the de-
18 pository institution made after the effective date of
19 such termination shall be insured by the Corporation.

20 “(2) *TEMPORARY ASSESSMENTS; OBLIGATIONS*
21 *AND DUTIES.*—During the period specified in para-
22 graph (1) with respect to any bank, the bank shall
23 continue to pay assessments under section 7 as if the
24 bank were an insured depository institution. The
25 bank shall, in all other respects, be subject to the au-

1 *thority of the Corporation and the duties and obliga-*
2 *tions of an insured depository institution under this*
3 *Act during such period, and in the event that the*
4 *bank is closed due to an inability to meet the de-*
5 *mands of the bank's depositors during such period,*
6 *the Corporation shall have the same powers and*
7 *rights with respect to such bank as in the case of an*
8 *insured depository institution.*

9 “(g) *ADVERTISEMENTS.*—

10 “(1) *IN GENERAL.*—A bank that voluntarily ter-
11 *minates the bank's insured status under this section*
12 *shall not advertise or hold itself out as having insured*
13 *deposits, except that the bank may advertise the tem-*
14 *porary insurance of deposits under subsection (f) if,*
15 *in connection with any such advertisement, the adver-*
16 *tisement also states with equal prominence that addi-*
17 *tions to deposits and new deposits made after the ef-*
18 *fective date of the termination are not insured.*

19 “(2) *CERTIFICATES OF DEPOSIT, OBLIGATIONS,*
20 *AND SECURITIES.*—Any certificate of deposit or other
21 *obligation or security issued by a State bank or a na-*
22 *tional bank after the effective date of the voluntary*
23 *termination of the bank's insured status under this*
24 *section shall be accompanied by a conspicuous,*
25 *prominently displayed notice that such certificate of*

1 *deposit or other obligation or security is not insured*
2 *under this Act.*

3 “(h) *NOTICE REQUIREMENTS.*—

4 “(1) *NOTICE TO THE CORPORATION.*—*The notice*
5 *required under subsection (a)(1)(A) shall be in such*
6 *form as the Corporation may require.*

7 “(2) *NOTICE TO DEPOSITORS.*—*The notice re-*
8 *quired under subsection (a)(1)(B) shall be—*

9 “(A) *sent to each depositor’s last address of*
10 *record with the bank; and*

11 “(B) *in such manner and form as the Cor-*
12 *poration finds to be necessary and appropriate*
13 *for the protection of depositors.”.*

14 “(3) *DEFINITION.*—*Section 19(b)(1)(A)(i) of the*
15 *Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)) is*
16 *amended—*

17 (A) *by striking “Act or any bank” and in-*
18 *serting “Act, any bank”; and*

19 (B) *by inserting “, or any wholesale finan-*
20 *cial institution as defined in section 9B” before*
21 *the semicolon at the end.*

22 “(e) *REPORTS ON DISCOUNTS AND ADVANCES TO*
23 *WHOLESALE FINANCIAL INSTITUTIONS.*—*Section 10B of*
24 *the Federal Reserve Act (12 U.S.C. 347(b)) is amended by*
25 *adding at the end the following new subsection:*

1 “(c) *REPORTS ON DISCOUNTS AND ADVANCES TO*
2 *WHOLESALE FINANCIAL INSTITUTIONS.*—

3 “(1) *IN GENERAL.*—*The Board shall submit a re-*
4 *port to the Congress at the end of any year in which*
5 *any wholesale financial institution has obtained a*
6 *discount, advance, or other extension of credit from a*
7 *Federal reserve bank.*

8 “(2) *CONTENTS.*—*Any report submitted under*
9 *paragraph (1) shall explain the circumstances and*
10 *need for any discount, advance, or other extension of*
11 *credit to a wholesale financial institution during the*
12 *period covered by the report, including the type and*
13 *amount of credit extended and the amount of credit*
14 *remaining outstanding as of the date of the report.”.*

15 **SEC. 162. HOLDING COMPANY CONTROL OF UNINSURED DE-**
16 **POSITORY INSTITUTIONS.**

17 “(a) *IN GENERAL.*—*Section 6 of the Bank Holding*
18 *Company Act of 1956 (as added by section 103 of this title)*
19 *is amended by inserting after subsection (k) (as added by*
20 *section 106 of this title) the following new subsection:*

21 “(l) *CONTROL OF UNINSURED DEPOSITORY INSTITU-*
22 *TIONS.*—

23 “(1) *SCOPE OF APPLICATION.*—*This subsection*
24 *shall apply to bank holding companies which control*
25 *only wholesale financial institutions and control no*

1 *insured depository institution (other than an institu-*
2 *tion described in subparagraph (C) or (G) of section*
3 *2(c)(2)).*

4 “(2) *FINDINGS AND PURPOSES.—*

5 “(A) *FINDINGS.—The Congress finds as fol-*
6 *lows:*

7 “(i) *Some investment banking, insur-*
8 *ance, and other financial companies invest*
9 *in nonfinancial companies—*

10 “(I) *as an incident to their core*
11 *business; or*

12 “(II) *in recognition of an unusual*
13 *investment opportunity.*

14 “(ii) *Such ownership, which would not*
15 *otherwise be permitted under this Act if the*
16 *investment banking, insurance, or other fi-*
17 *nancial company were a bank holding com-*
18 *pany—*

19 “(I) *is in most cases small in re-*
20 *lation to the overall size of the com-*
21 *pany, generally no more than 5 per-*
22 *cent of the total consolidated revenue of*
23 *such company’s revenues and, in the*
24 *case of a foreign bank, such ownership*
25 *in the United States is generally no*

1 *more than 5 percent of the total con-*
2 *solidated revenue of such foreign bank*
3 *in the United States; and*

4 “(II) *in no way detracts from the*
5 *financial focus of the company’s plan-*
6 *ning, operations, resource allocation,*
7 *and risk management.*

8 “(iii) *Investments of this type should*
9 *not disqualify an investment banking, in-*
10 *surance, or other financial company from*
11 *an affiliation with an uninsured depository*
12 *institution.*

13 “(B) *PURPOSE.—It is the purpose of this*
14 *subsection to provide the flexibility necessary to*
15 *accommodate limited investments in non-*
16 *financial firms that wish to control an unin-*
17 *insured depository institution (and do not other-*
18 *wise control any insured depository institution)*
19 *while maintaining the separation of banking*
20 *and commerce intended by this Act.*

21 “(3) *LIMITED INVESTMENTS ALLOWED BY FINAN-*
22 *CIAL COMPANIES CONTROLLING ONLY UNINSURED DE-*
23 *POSITORY INSTITUTIONS.—Consistent with the pur-*
24 *poses of this subsection, the Board shall, by regulation*

1 or order, allow bank holding companies to control the
2 shares of nonfinancial companies so long as—

3 “(A) the nonfinancial firm is sufficiently
4 small such that the financial nature of the bank
5 holding company is unaffected by the control of
6 such shares;

7 “(B) the bank holding company does not
8 control any depository institution (other than a
9 wholesale financial institution or an institution
10 described in subparagraph (C) or (G) of section
11 2(c)(2); and

12 “(C) the purposes of this Act, including the
13 separation of banking and commerce and the
14 preservation of the safety and soundness of de-
15 pository institutions, are fulfilled.

16 “(4) PROVISIONS APPLICABLE TO HOLDING COM-
17 PANIES WITH INVESTMENTS UNDER THIS SUB-
18 SECTION.—

19 “(A) CROSS MARKETING RESTRICTIONS.—A
20 wholesale financial institution or other depository
21 institution controlled by a bank holding
22 company which also controls a company pursu-
23 ant to this subsection shall not—

24 “(i) offer or market, directly or
25 through any arrangement, any product or

1 *service of an affiliate whose shares are*
2 *owned or controlled by the bank holding*
3 *company pursuant to this subsection; or*

4 “(i) *permit any product or service of*
5 *such wholesale financial institution or other*
6 *institution to be offered or marketed, di-*
7 *rectly or through any arrangement, by or*
8 *through any such affiliate.*

9 “(B) *USE OF COMMON NAME.—A bank hold-*
10 *ing company shall not permit a wholesale finan-*
11 *cial institution or other depository institution*
12 *subsidiary to adopt a name which is the same as*
13 *or similar to, or a variation of, the name or title*
14 *of an affiliate engaged in activities pursuant to*
15 *this subsection.*

16 “(C) *COMMODITIES.—*

17 “(i) *IN GENERAL.—A bank holding*
18 *company which controls a company pursu-*
19 *ant to this subsection and was predomi-*
20 *nately engaged as of January 1, 1995, in*
21 *securities activities in the United States (or*
22 *any successor to any such company) may*
23 *engage in, or directly or indirectly own or*
24 *control shares of a company engaged in, ac-*
25 *tivities related to the trading, sale, or in-*

1 *vestment in commodities and underlying*
2 *physical properties that were not permis-*
3 *sible for bank holding companies to conduct*
4 *in the United States as of January 1, 1995,*
5 *if such bank holding company, or any sub-*
6 *sidary of such holding company, was en-*
7 *gaged directly, indirectly, or through any*
8 *such company in any of such activities as*
9 *of January 1, 1995, in the United States.*

10 “(ii) *LIMITATION.—Notwithstanding*
11 *any other provision of this subsection, the*
12 *aggregate investment by a bank holding*
13 *company in activities under this subpara-*
14 *graph (other than those otherwise permitted*
15 *for all bank holding companies under this*
16 *Act) shall not at any time exceed 5 percent*
17 *of the total consolidated assets of such bank*
18 *holding company.*

19 “(iii) *SUCCESSOR DEFINED.—For pur-*
20 *poses of clause (i), the term ‘successor’*
21 *means, with respect to any bank holding*
22 *company described in clause (i), any com-*
23 *pany that merges with, or acquires control*
24 *of, such bank holding company.*

1 “(D) *QUALIFIED INVESTOR IN A BANK*
2 *HOLDING COMPANY WHICH CONTROLS A COMPANY*
3 *UNDER THIS SUBSECTION.—*

4 “(i) *IN GENERAL.—Notwithstanding*
5 *any other provision of Federal or State law,*
6 *a qualified investor—*

7 “(I) *shall not be, or be deemed to*
8 *be, a bank holding company or any*
9 *similar organization; and*

10 “(II) *shall not be deemed to con-*
11 *trol or be affiliated with any such com-*
12 *pany or organization or any subsidi-*
13 *ary of any such company or organiza-*
14 *tion (other than for purposes of section*
15 *23A and 23B of the Federal Reserve*
16 *Act),*

17 *by virtue of the investor’s ownership or con-*
18 *trol of shares of a bank holding company*
19 *which controls a company pursuant to this*
20 *subsection.*

21 “(ii) *QUALIFIED INVESTOR DE-*
22 *FINED.—For purposes of this subparagraph,*
23 *the term ‘qualified investor’ means any*
24 *United States company (including a parent*
25 *company and all subsidiaries of which the*

1 *parent company holds at least 80 percent of*
2 *the total voting equity securities) which*
3 *since February 27, 1995, has directly or in-*
4 *directly owned or controlled shares of cap-*
5 *ital stock representing at least 10 percent,*
6 *and not more than 45 percent, of the out-*
7 *standing voting shares or voting power of a*
8 *company that—*

9 *“(I) becomes a bank holding com-*
10 *pany which controls a company pursu-*
11 *ant to this subsection or a subsidiary*
12 *of any such bank holding company;*
13 *and*

14 *“(II) before the company became a*
15 *bank holding company which controls*
16 *a company pursuant to this subsection,*
17 *or a subsidiary of any such bank hold-*
18 *ing company, had more than 50 per-*
19 *cent of the company’s assets employed*
20 *directly or indirectly in securities ac-*
21 *tivities.*

22 *“(iii) CROSS-MARKETING AND COMMON*
23 *NAME.—A wholesale financial institution or*
24 *other uninsured depository institution*
25 *which is controlled by a bank holding com-*

1 pany which controls a company pursuant
2 to this subsection shall not—

3 “(I) offer or market products or
4 services of a qualified investor in the
5 bank holding company of which the
6 wholesale financial institution is an
7 affiliate;

8 “(II) permit the products or serv-
9 ices of such wholesale financial institu-
10 tion or uninsured depository institu-
11 tion to be offered or marketed in con-
12 nection with products or services of
13 such qualified investor; or

14 “(III) adopt a name which is the
15 same as or similar to, or a variation
16 of, the name or title of such qualified
17 investor.

18 “(iv) *EXAMINATION AND REPORTING.*—
19 Notwithstanding any other provision of law,
20 the Board may conduct examinations of, or
21 require reports from, a qualified investor
22 only to the extent that the Board reasonably
23 determines that such examinations or re-
24 ports are necessary—

1 “(I) to ensure compliance with
2 this subparagraph; or

3 “(II) to the extent that the quali-
4 fied investor is an affiliate of a whole-
5 sale financial institution for purposes
6 of section 23A of the Federal Reserve
7 Act, to ensure compliance with restric-
8 tions imposed by law or regulation on
9 transactions between the qualified in-
10 vestor and such wholesale financial in-
11 stitution.

12 “(5) NO DEPOSIT INSURANCE FUND LIABILITY.—
13 No Federal deposit insurance funds may be used in
14 connection with the failure of, or any proposed assist-
15 ance to, a wholesale financial institution or other un-
16 insured depository institution controlled by a bank
17 holding company which controls a company pursuant
18 to this subsection.

19 “(6) QUALIFICATION OF FOREIGN BANK AS BANK
20 HOLDING COMPANY WITH INVESTMENTS PURSUANT TO
21 THIS SUBSECTION.—

22 “(A) IN GENERAL.—Any foreign bank that
23 operates a branch, agency or commercial lending
24 company in the United States (and any com-
25 pany that owns or controls such foreign bank),

1 *including a foreign bank that does not own or*
2 *control a wholesale financial institution, may re-*
3 *quest a determination from the Board that such*
4 *bank or company be treated as a bank holding*
5 *company which controls a company pursuant to*
6 *this subsection.*

7 “(B) *CONDITIONS FOR TREATMENT AS A*
8 *BANK HOLDING COMPANY SUBJECT TO THIS SUB-*
9 *SECTION.—A foreign bank and a company that*
10 *owns or controls a foreign bank may not be*
11 *treated, under this paragraph, as a bank holding*
12 *company which controls a company pursuant to*
13 *this subsection, unless the bank and company*
14 *meet and continue to meet the following criteria:*

15 “(i) *NO INSURED DEPOSITS.—No de-*
16 *posits which are held directly by a foreign*
17 *bank or through an affiliate are insured*
18 *under the Federal Deposit Insurance Act.*

19 “(ii) *CAPITAL STANDARDS.—The for-*
20 *foreign bank meets risk-based capital stand-*
21 *ards comparable to the capital standards*
22 *required for a wholesale financial institu-*
23 *tion, giving due regard to the principle of*
24 *national treatment and equality of competi-*
25 *tive opportunity.*

1 “(iii) *TRANSACTIONS WITH AFFILI-*
2 *ATES.—Transactions between a branch,*
3 *agency, or commercial lending company*
4 *subsidiary of the foreign bank in the United*
5 *States, and any affiliate or company in*
6 *which the foreign bank (or any company*
7 *that owns or controls such foreign bank) has*
8 *invested in accordance with this subsection,*
9 *shall comply with the provisions of sections*
10 *23A and 23B of the Federal Reserve Act in*
11 *the same manner and to the same extent as*
12 *such transactions would be required to com-*
13 *ply with such sections if the bank were a*
14 *member bank.*

15 “(C) *TREATMENT AS A WHOLESALE FINAN-*
16 *CIAL INSTITUTION.—*

17 “(i) *IN GENERAL.—Any foreign bank*
18 *which is, or is affiliated with a company*
19 *which is, treated as a bank holding com-*
20 *pany which controls a company pursuant*
21 *to this subsection shall be treated as a*
22 *wholesale financial institution for purposes*
23 *of subparagraphs (A) and (B) of paragraph*
24 *(3) and section 111 of the Financial Serv-*
25 *ices Competition Act of 1997, except that*

1 *the Board may adopt such modifications,*
2 *conditions, or exemptions as the Board*
3 *deems appropriate, giving due regard to the*
4 *principle of national treatment and equal-*
5 *ity of competitive opportunity.*

6 “(ii) *APPLICABILITY OF COMMUNITY*
7 *REINVESTMENT ACT OF 1977.—The branches*
8 *in the United States of any foreign bank*
9 *that is, or is affiliated with a company*
10 *which is, treated as a bank holding com-*
11 *pany which controls a company pursuant*
12 *to this subsection shall be subject to section*
13 *9B(b)(6) of the Federal Reserve Act as if the*
14 *foreign bank were a wholesale financial in-*
15 *stitution under such section. The Board and*
16 *the Comptroller of the Currency shall apply*
17 *the provisions of sections 803(2), 804, and*
18 *807(1) of the Community Reinvestment Act*
19 *of 1977 to branches of foreign banks which*
20 *receive only such deposits as are permissible*
21 *for receipt by a corporation organized*
22 *under section 25A of the Federal Reserve*
23 *Act, in the same manner and to the same*
24 *extent such sections apply to such a cor-*
25 *poration.*

1 “(D) *NONAPPLICABILITY OF OTHER EXEMP-*
2 *TION.—Any foreign bank or company which is*
3 *treated as a bank holding company which con-*
4 *trols a company pursuant to this subsection shall*
5 *not be eligible for any exemption described in*
6 *section 2(h).*

7 “(E) *SUPERVISION ASSESSMENT.—The*
8 *Board shall assess the extent to which any for-*
9 *foreign bank which is, or is affiliated with a com-*
10 *pany which is, treated as a bank holding com-*
11 *pany which controls a company pursuant to this*
12 *subsection is subject to supervision by authorities*
13 *in the home country of such foreign bank.*

14 “(F) *AUTHORITY TO IMPOSE ADDITIONAL*
15 *RESTRICTIONS AND REQUIREMENTS.—The Board*
16 *may impose additional requirements on any for-*
17 *foreign bank which is, or is affiliated with a com-*
18 *pany which is, treated as a bank holding com-*
19 *pany which controls a company pursuant to this*
20 *subsection that are determined to be appropriate*
21 *or necessary to protect taxpayers and the finan-*
22 *cial system from risks associated with access to*
23 *the payments system and availability of dis-*
24 *counts, advances, and other extensions of credit*
25 *from a Federal reserve bank, giving due regard*

1 to the principles of national treatment and
2 equality of competitive opportunity.”.

3 ***Subtitle H—Federal Home Loan***
4 ***Bank System***

5 **SEC. 171. FEDERAL HOME LOAN BANKS—**

6 *The 1st sentence of section 3 of the Federal Home Loan*
7 *Bank Act (12 U.S.C. 1423) is amended—*

8 (1) *by striking “the continental United States”*
9 *and all that follows through the “eight”; and*

10 (2) *by inserting “the States into not less than 1”*
11 *before “nor”.*

12 **SEC. 172. MEMBERSHIP AND COLLATERAL.**

13 (a) *Subsection (f) of section 5 of the Home Owners’*
14 *Loan Act (12 U.S.C. 1464) is amended to read as follows:*

15 “*(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—A*
16 *Federal savings association may become a member, of the*
17 *Federal Home Loan Bank System, and shall qualify for*
18 *such membership in the manner provided by the Federal*
19 *Home Loan Bank Act, beginning January 1, 1999.*”.

20 (b) *Section 10(a)(5) of the Federal Home Loan Bank*
21 *Act (12 U.S.C. 1430(a)(5)) is amended—*

22 (1) *in the 2d sentence, by striking “and the*
23 *Board”; and*

24 (2) *in the 3d sentence, by striking “Board” and*
25 *inserting “Bank”.*

1 (c) Section 10(a) of the Federal Home Loan Bank Act
2 (12 U.S.C. 1430(a)) is amended—

3 (1) in the 2d sentence, by striking “All long-term
4 advances” and inserting “Except as provided in the
5 succeeding sentence, all long-term advances”;

6 (2) by inserting after the 2d sentence, the follow-
7 ing sentence: “Notwithstanding the preceding sen-
8 tence, long-term advances may be made to FDIC-in-
9 sured members which have less than \$500,000,000 in
10 total assets for the purpose of funding small busi-
11 nesses, agriculture, rural development, or low-income
12 community development (as defined by the Board).”;
13 and

14 (3) by redesignating paragraph (5) as para-
15 graph (6) and inserting after paragraph (4) the fol-
16 lowing new paragraph:

17 “(5) In the case of any FDIC-insured member
18 which has total assets of less than \$500,000,000, se-
19 cured loans for small business, agriculture, rural de-
20 velopment, or low-income community development, or
21 securities representing a whole interest in such se-
22 cured loans.”.

23 (d) Section 4(a) of the Federal Home Loan Bank Act
24 (12 U.S.C. 1424(a)) is amended by adding at the end the
25 following new paragraph:

1 “(3) *ELIGIBILITY REQUIREMENTS FOR COMMU-*
2 *NITY FINANCIAL INSTITUTIONS.*—*The requirements of*
3 *paragraph (2) (other than subparagraph (B) of such*
4 *paragraph) shall not apply to any FDIC-insured de-*
5 *pository institution which has total assets of less than*
6 *\$500,000,000.*

7 *(e) Section 10 of the Federal Home Loan Bank Act*
8 *(12 U.S.C. 1430) is amended by striking the 1st of the 2*
9 *subsections designated as subsection (e) (relating to quali-*
10 *fied thrift lender status).*

11 **SEC. 172A. THE OFFICE OF FINANCE.**

12 *The Federal Home Loan Bank Act (12 U.S.C. 1421)*
13 *is amended by inserting after section 4 the following new*
14 *section:*

15 **“SEC. 5. THE OFFICE OF FINANCE.**

16 “(a) *OPERATION.*—*The Federal home loan banks shall*
17 *operate jointly an office of finance (hereafter in this section*
18 *referred to as the ‘Office’) to issue the notes, bonds, and de-*
19 *bentures of the Federal home loan banks in accordance with*
20 *this Act.*

21 “(b) *POWERS.*—*Subject to the other provisions of this*
22 *Act and such safety and soundness regulations as the Fi-*
23 *nance Board may prescribe, the Office shall be authorized*
24 *by the Federal home loan banks to act as the agent of such*
25 *banks to issue Federal home loan bank notes, bonds and*

1 *debentures pursuant to section 11 of this Act on behalf of*
2 *the banks.*

3 “(c) *CENTRAL BOARD OF DIRECTORS.*—

4 “(1) *ESTABLISHMENT.*—*The Federal home loan*
5 *banks shall establish a central board of directors of*
6 *the Office to administer the affairs of the Office in ac-*
7 *cordance with the provisions of this Act.*

8 “(2) *COMPOSITION OF BOARD.*—*Each Federal*
9 *home loan bank shall annually select 1 individual*
10 *who, as of the time of the election, is an officer or di-*
11 *rector of such bank to serve as a member of the*
12 *central board of directors of the Office.*

13 “(d) *STATUS.*—*Except to the extent expressly provided*
14 *in this Act, the Office shall be treated as a Federal home*
15 *loan bank for purposes of any law.”.*

16 **SEC. 172B. MANAGEMENT OF BANKS.**

17 (a) *Subsections (a) and (b) of section 7 of the Federal*
18 *Home Loan Bank Act (12 U.S.C. 1427(a) and (b)) are*
19 *amended to read as follows:*

20 “(a) *The management of each Federal home loan bank*
21 *shall be vested in a board of 15 directors, 9 of whom shall*
22 *be elected by the members in accordance with this section,*
23 *6 of whom shall be appointed by the Board referred to in*
24 *section 2A, and all of whom shall be citizens of the United*
25 *States and bona fide residents of the district in which such*

1 bank is located. At least 2 of the Federal home loan bank
2 directors who are appointed by the Board shall be represent-
3 atives chosen from organizations with more than a 2-year
4 history of representing consumer or community interests on
5 banking services, credit needs, housing, or financial
6 consumer protections. No Federal home loan bank director
7 who is appointed pursuant to this subsection may, during
8 such bank director's term of office, serve as an officer of
9 any Federal home loan bank or a director or officer of any
10 member of a bank, or hold shares, or any other financial
11 interest in, any member of a bank.

12 “(b) The elective directors shall be divided into three
13 classes, designated as classes A, B, and C, as nearly equal
14 in number as possible. Each directorship shall be filled by
15 a person who is an officer or director of a member located
16 in that bank's district. Each class shall represent members
17 of similar asset size, and the Board shall, to the maximum
18 extent possible, seek to achieve geographic diversity. The Fi-
19 nance Board shall establish the minimum and maximum
20 asset size for each class. Any member shall be entitled to
21 nominate and elect eligible persons for its class of director-
22 ship; such offices shall be filled from such nominees by a
23 plurality of the votes which members of each class may cast
24 for nominees in their corresponding class of directors in an
25 election held for the purpose of filling such offices. Each

1 member shall be permitted to cast one vote for each share
2 of Federal home loan bank stock owned by that member.
3 No person who is an officer or director of a member that
4 fails to meet any applicable capital requirement is eligible
5 to hold the office of Federal Home Loan Bank director. As
6 used in this subsection, the term “member” means a mem-
7 ber of a Federal home loan bank which was a member of
8 such Bank as of a record date established by the Bank.”.

9 (b) Section 7 of the Federal Home Loan Bank Act (12
10 U.S.C. 1427) is amended—

11 (1) by striking subsections (c) and (h); and

12 (2) by redesignating subsections (d), (e), (f), (g),
13 (i), (j), and (k) as subsections (c), (d), (e), (f), (g),
14 (h), and (i), respectively.

15 (c) Subsection (c) of section 7 of the Federal Home
16 Loan Bank Act (12 U.S.C. 1427(d)) (as so redesignated by
17 subsection (b) of this section) is amended by striking the
18 1st and 2d sentences and inserting the following 2 new sen-
19 tences: “The term of each elective directorship and each ap-
20 pointive directorship shall be 3 years. No director serving
21 for 3 consecutive terms, nor any other officer, director or
22 that member or any affiliated depository institution, shall
23 be eligible for another term earlier than 3 years after the
24 expiration of the last expiring of said 3-year terms. 3 elected

1 *directors of different classes as specified by the Finance*
2 *Board shall be elected by ballot annually.”.*

3 *(d) Subsection (d) of section 7 of the Federal Home*
4 *Loan Bank Act (12 U.S.C. 1427(e)) (as so redesignated by*
5 *subsection (b) of this section) is amended to read as follows:*

6 *“(d) TRANSITION PROVISION.—In the 1st election after*
7 *the date of the enactment of the Financial Services Competi-*
8 *tion Act of 1997, 3 directors shall be elected in each of the*
9 *3 classes of elective directorship. The Finance Board may,*
10 *in the 1st election after such date of enactment, designate*
11 *the terms of each elected director in each class, not to exceed*
12 *3 years, to assure that, in each subsequent election, 3 direc-*
13 *tors from different classes of elective directorships are elected*
14 *each year.”.*

15 *(e) Subsection (g) of section 7 of the Federal Home*
16 *Loan Bank Act (12 U.S.C. 1427(i)) (as so redesignated by*
17 *subsection (b) of this section) is amended by striking “sub-*
18 *ject to the approval of the board”.*

19 **SEC. 173. ADVANCES TO NONMEMBER BORROWERS.**

20 *Section 10b of the Federal Home Loan Bank Act (12*
21 *U.S.C. 1430b) is amended—*

22 *(1) in subsection (a), by striking “(a) IN GEN-*
23 *ERAL.—”;*

24 *(2) by striking the 4th sentence of subsection (a),*
25 *and inserting “Notwithstanding the preceding sen-*

1 *tence, if an advance is made for the purpose of facili-*
2 *tating mortgage lending that benefits individuals and*
3 *families that meet the income requirements set forth*
4 *in section 142(d) or 143(f) of the Internal Revenue*
5 *Code of 1986, the advance may be collateralized as*
6 *provided in section 10(a) of this Act.”; and*

7 *(3) by striking subsection (b).*

8 **SEC. 174. POWERS AND DUTIES OF BANKS.**

9 *(a) Subsection (a) of section 11 of the Federal Home*
10 *Loan Bank Act (12 U.S.C. 1431(a)) is amended—*

11 *(1) by inserting “through the Office of Finance”*
12 *after “to issue”;*

13 *(2) by striking “Board” after “upon such terms*
14 *and conditions as the” and inserting “board of direc-*
15 *tors of the bank”.*

16 *(b) Subsection (b) of section 11 of the Federal Home*
17 *Loan Bank Act (12 U.S.C. 1431(b)) is amended to read*
18 *as follows:*

19 *“(b) ISSUANCE OF FEDERAL HOME LOAN BANK CON-*
20 *SOLIDATED BONDS.—*

21 *“(1) IN GENERAL.— The Office of Finance may*
22 *issue consolidated Federal home loan bank bonds and*
23 *other consolidated obligations on behalf of the banks.*

1 “(2) *JOINT AND SEVERAL OBLIGATION; TERMS*
2 *AND CONDITIONS.—Consolidated obligations issued by*
3 *the Office of Finance under paragraph (1) shall—*

4 “(A) *be the joint and several obligations of*
5 *all the Federal home loan banks; and*

6 “(B) *shall be issued upon such terms and*
7 *conditions as shall be established by the Office of*
8 *Finance subject to such rules and regulations as*
9 *the Finance Board may prescribe.”.*

10 (c) *Section 11(f) of the Federal Home Loan Bank Act*
11 *(12 U.S.C. 1430(f) (as designated before the redesignation*
12 *by subsection (e) of this section) is amended by striking both*
13 *commas immediately following “permit” and inserting*
14 *“or”.*

15 (d) *Subsection (i) of section 11 of the Federal Home*
16 *Loan Bank Act (12 U.S.C. 1431(i)) is amended by striking*
17 *the 2d undesignated paragraph.*

18 (e) *Section 11 of the Federal Home Loan Bank Act*
19 *(12 U.S.C. 1431) is amended—*

20 (1) *by striking subsection (c); and*

21 (2) *by redesignating subsections (d) through (k)*
22 *as subsections (c) through (j), respectively.*

1 **SEC. 174A. MERGERS AND CONSOLIDATIONS OF FEDERAL**
2 **HOME LOAN BANKS.**

3 *Section 26 of the Federal Home Loan Bank Act (12*
4 *U.S.C. 1446) is amended by designating the current para-*
5 *graph as “(a)” and adding the following new sections:*

6 *“(b) Nothing in this section shall preclude voluntary*
7 *mergers, combinations or consolidation by or among the*
8 *Federal home loan banks pursuant to such regulations as*
9 *the Finance Board may prescribe.*

10 *“(c) NUMBER OF ELECTED DIRECTORS OF RESULTING*
11 *BANK.—Subject to section 7 of this Act, any bank resulting*
12 *from a merger, combination, or consolidation pursuant to*
13 *this section may have a number of elected directors equal*
14 *to or less than the total number of elected directors of all*
15 *the banks which participated in such transaction (as deter-*
16 *mined immediately before such transaction).*

17 *“(d) NUMBER OF APPOINTED DIRECTORS OF RESULT-*
18 *ING BANK.—The number of appointed directors of any bank*
19 *resulting from a merger, combination, or consolidation pur-*
20 *suant to this section shall be a number that is three less*
21 *than the number of elected directors.*

22 *“(e) ADJUSTMENT OF DISTRICT BOUNDARIES.—After*
23 *consummation of any merger, combination, or consolida-*
24 *tion of 2 or more Federal home loan banks, the Finance*
25 *Board shall adjust the districts established in section 3 of*

1 *this Act to reflect such merger, combination, or consolida-*
2 *tion.”.*

3 **SEC. 174B. TECHNICAL AMENDMENTS.**

4 (a) *REPEAL OF SECTIONS 22A AND 27.—The Federal*
5 *Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended*
6 *by striking sections 22A (12 U.S.C. 1442a) and 27 (12*
7 *U.S.C. 1447).*

8 (b) *SECTION 12.—*

9 (1) *Section 12(a) of the Federal Home Loan*
10 *Bank Act (12 U.S.C. 1432(a)) is amended—*

11 (A) *by striking “subject to the approval of*
12 *the Board” immediately following “transaction*
13 *of its business”; and*

14 (B) *by striking “and, by its Board of direc-*
15 *tors, to prescribe, amend, and repeal by-laws,*
16 *rules, and regulations governing the manner in*
17 *which its affairs may be administered; and the*
18 *powers granted to it by law may be exercised*
19 *and enjoyed subject to the approval of the Board.*
20 *The president of a Federal Home Loan Bank*
21 *may also be a member of the Board of directors*
22 *thereof, but no other officer, employee, attorney,*
23 *or agent of such bank,” and inserting “and, by*
24 *the board of directors of the bank, to prescribe,*
25 *amend, and repeal by-laws governing the man-*

1 *ner in which its affairs may be administered,*
2 *consistent with applicable statute and regula-*
3 *tion, as administered by the Finance Board. No*
4 *officer, employee, attorney, or agent of a Federal*
5 *home loan bank”.*

6 *(2) Section 12 of the Federal Home Loan Bank*
7 *Act (12 U.S.C. 1432) is amended by inserting after*
8 *subsection (b) the following new subsection:*

9 “(c) *PROHIBITION ON EXCESSIVE COMPENSATION.*—

10 “(1) *IN GENERAL.*—*The Finance Board shall*
11 *prohibit the Federal home loan banks from providing*
12 *compensation to any officer, director, or employee*
13 *that is not reasonable and comparable with the com-*
14 *ensation for employment in other similar businesses*
15 *involving similar duties and responsibilities. How-*
16 *ever, the Finance Board may not prescribe or set a*
17 *specific level or range of compensation for any officer,*
18 *director, or employee.*

19 “(2) *REGULATIONS.*—*The Finance Board, by*
20 *regulation, may provide for the requirements of para-*
21 *graph (1) to be phased-in over a period not to exceed*
22 *3 years.*

23 “(3) *EXCEPTION FOR EXISTING CONTRACTS.*—
24 *Paragraph (1) shall not apply to any contract en-*
25 *tered into before June 1, 1997.”.*

1 (c) *POWERS AND DUTIES OF FEDERAL HOUSING FI-*
2 *NANCE BOARD.*—

3 (1) *Subsection (a)(1) of section 2B of the Federal*
4 *Home Loan Bank Act (12 U.S.C. 1422b(a)(1)) is*
5 *amended by striking the period at the end of the sen-*
6 *tence and inserting “; and to have the same powers,*
7 *rights, and duties to enforce this Act with respect to*
8 *the Federal home loan banks and the senior officers*
9 *and directors of such banks as the Office of Federal*
10 *Housing Enterprise Oversight has over the Federal*
11 *housing enterprises and the senior officers and direc-*
12 *tors of such enterprises under the Federal Housing*
13 *Enterprises Financial Safety and Soundness Act of*
14 *1992.”.*

15 (2) *Subsection (b) of section 2B of the Federal*
16 *Home Loan Bank Act (12 U.S.C. 1422b(b)) is amend-*
17 *ed—*

18 (A) *by striking “(1) BOARD STAFF.—”;*

19 (B) *by striking “function to any employee,*
20 *administrative unit” and inserting “function to*
21 *any employee or administrative unit”;*

22 (C) *by striking the 2d sentence in para-*
23 *graph (1); and*

24 (D) *by striking paragraph (2).*

1 (3) *Section 111 of Public Law 93-495 (12*
2 *U.S.C. 250) is amended by striking “Federal Home*
3 *Loan Bank Board” and inserting “Federal Housing*
4 *Finance Board”.*

5 (d) *ELIGIBILITY TO SECURE ADVANCES.—*

6 (1) *SECTION 9.—Section 9 of the Federal Home*
7 *Loan Bank Act (12 U.S.C. 1429) is amended—*

8 (A) *in the second sentence, by striking*
9 *“with the approval of the Board”; and*

10 (B) *in the third sentence, by striking “, sub-*
11 *ject to the approval of the Board,”.*

12 (2) *SECTION 10.—*

13 (A) *Subsection (a) of section 10 of the Fed-*
14 *eral Home Loan Bank Act (12 U.S.C. 1430(a))*
15 *is amended in paragraph (3), by striking “De-*
16 *posits” and inserting “Cash or deposits”.*

17 (B) *Subsection (c) of section 10 of the Fed-*
18 *eral Home Loan Bank Act (12 U.S.C. 1430(c))*
19 *is amended—*

20 (i) *in the 1st sentence by striking*
21 *“Board” and inserting “Federal home loan*
22 *bank”; and*

23 (ii) *by striking the 2d sentence.*

1 (C) Subsection (d) of section 10 of the Fed-
2 eral Home Loan Bank Act (12 U.S.C. 1430(d))
3 is amended—

4 (i) in the 1st sentence, by striking
5 “and the approval of the Board”;

6 (ii) in the last sentence, by striking
7 “Subject to the approval of the Board, any”
8 and inserting “Any”.

9 (D) Section 10(j) of the Federal Home Loan
10 Bank Act (12 U.S.C. 1430(j)) is amended—

11 (i) in the 1st sentence of paragraph (1)
12 by striking “to subsidize the interest rate on
13 advances” and inserting “to provide sub-
14 sidies, including subsidized interest rates on
15 advances”;

16 (ii) in paragraphs (2), (3), (4), (5),
17 (9), (11), and (12) by striking “advances”
18 and “subsidized advances” each place such
19 terms appear and inserting “subsidies, in-
20 cluding subsidized advances”;

21 (iii) in paragraph (1), by inserting
22 “(A)” before the 1st sentence, and inserting
23 the following at the end of the paragraph:

24 “(B) Subject to such regulations as the Fi-
25 nance Board may prescribe, the board of direc-

1 *tors of each Federal home loan bank may ap-*
2 *prove or disapprove requests from members for*
3 *Affordable Housing Program subsidies, and may*
4 *not delegate such authority.”;*

5 *(iv) in paragraph (2), by striking sub-*
6 *paragraph (B) and inserting the following*
7 *new subparagraph:*

8 *“(B) finance the purchase, construction or*
9 *rehabilitation of rental housing if, for a period*
10 *of at least 15 years, either 20 percent or more of*
11 *the units in such housing are occupied by and*
12 *affordable for households whose income is 50 per-*
13 *cent or less of area median income (as deter-*
14 *mined by the Secretary of Housing and Urban*
15 *Development, and as adjusted for family size); or*
16 *40 percent or more of the units in such housing*
17 *are occupied by and affordable for households*
18 *whose income is 60 percent or less of area me-*
19 *dian income (as determined by the Secretary of*
20 *Housing and Urban Development, and as ad-*
21 *justed for family size).”;*

22 *(v) in paragraph (5)—*

23 *(I) by striking the colon after “Af-*
24 *fordable Housing Program”;*

1 (II) by striking subparagraphs
2 (A) and (B); and

3 (III) by striking “(C) In 1995,
4 and subsequent years,”;
5 (vi) in paragraph (11)—

6 (I) by inserting “, pursuant to a
7 nomination process that is as broad
8 and as participatory as possible, and
9 giving consideration to the size of the
10 District and the diversity of low- and
11 moderate-income housing needs and ac-
12 tivities within the District,” after “Ad-
13 visory Council of 7 to 15 persons”;

14 (II) by inserting “a diverse range
15 of” before “community and nonprofit
16 organizations”; and

17 (III) by inserting after the 1st
18 sentence, the following new sentence:
19 “Representatives of no one group shall
20 constitute an undue proportion of the
21 membership of the Advisory Council.”;
22 and

23 (vii) in paragraph (13), by striking
24 subparagraph (D) and inserting the follow-
25 ing new subparagraph:

1 “(D) *AFFORDABLE*.—For purposes of para-
2 graph (2)(B), the term “affordable” means that
3 the rent with respect to a unit shall not exceed
4 30 percent of the income limitation under para-
5 graph (2)(B) applicable to occupants of such
6 unit.”.

7 (e) *SECTION 16*.—Subsection (a) of section 16 of the
8 *Federal Home Loan Bank Act (12 U.S.C. 1436)* is amended
9 in the 3d sentence by striking “net earnings” and inserting
10 “previously retained earnings or current net earnings”; by
11 striking “, and then only with the approval of the Federal
12 Housing Finance Board”; and by striking the 4th sentence.

13 (f) *SECTION 18*.—Subsection (b) of section 18 of the
14 *Federal Home Loan Bank Act (12 U.S.C. 1438)* is amended
15 by striking paragraph (4).

16 (g) *SECTION 11*.—Section 11 of the *Federal Home*
17 *Loan Bank Act (12 U.S.C. 1431)* is amended by inserting
18 after subsection (j) (as so redesignated by section 174(e) of
19 this subtitle) the following subsection:

20 “(k) *PROHIBITION ON OTHER ACTIVITIES*.—

21 “(1) A Federal home loan bank may not engage
22 in any activity other than the activities authorized
23 under this Act and activities incidental to such au-
24 thorized activities.

1 “(2) All activities specified in paragraph (1) are
2 subject to Finance Board approval.”.

3 **SEC. 175. DEFINITIONS.**

4 Paragraph (3) of section 2 of the Federal Home Loan
5 Bank Act (12 U.S.C. 1422(3)) is amended to read as fol-
6 lows:

7 “(3) The term “State” in addition to the states
8 of the United States, includes the District of Colum-
9 bia, Guam, Puerto Rico, the United States Virgin Is-
10 lands, American Samoa, and the Commonwealth of
11 the Northern Mariana Islands.”

12 **SEC. 176. RESOLUTION FUNDING CORPORATION**

13 (a) *IN GENERAL.*—Section 21B(f)(2)(C) of the Federal
14 Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)) is amend-
15 ed to read as follows:

16 “(C) *PAYMENTS BY FEDERAL HOME LOAN*
17 *BANKS.*—To the extent the amounts available
18 pursuant to subparagraphs (A) and (B) are in-
19 sufficient to cover the amount of interest pay-
20 ments, each Federal home loan bank shall pay to
21 the Funding Corporation each calendar year
22 20.75 percent of the net earnings of such bank
23 (after deducting expenses relating to subsection
24 (j) of section 10 and operating expenses).”.

1 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
2 *section (a) shall take effect on January 1, 1999.*

3 **SEC. 177. CAPITAL STRUCTURE OF THE FEDERAL HOME**
4 **LOAN BANKS.**

5 (a) *IN GENERAL.*—*Section 6 of the Federal Home*
6 *Loan Bank Act (12 U.S.C. 1426) is amended to read as*
7 *follows:*

8 **“SEC. 6. CAPITAL STRUCTURE OF FEDERAL HOME LOAN**
9 **BANKS.**

10 “(a) *CAPITAL STRUCTURE PLAN.*—*On or before Janu-*
11 *ary 1, 1999, the board of directors of each Federal home*
12 *loan bank shall submit for Finance Board approval a plan*
13 *establishing and implementing a capital structure for such*
14 *bank which—*

15 “(1) *the board of directors determines is the best*
16 *suited for the condition and operation of the bank*
17 *and the interests of the shareholders of the bank;*

18 “(2) *meets the requirements of subsection (b);*
19 *and*

20 “(3) *meets the minimum capital standards and*
21 *requirements established under subsection (c) and any*
22 *regulations prescribed by the Finance Board pursuant*
23 *to such subsection.*

1 “(b) *CONTENTS OF PLAN.*—*The capital structure plan*
2 *of each Federal home loan bank shall meet the following*
3 *requirements:*

4 “(1) *STOCK PURCHASE REQUIREMENTS.*—

5 “(A) *IN GENERAL.*—*Each capital structure*
6 *plan of a Federal home loan bank shall require*
7 *the shareholders of the bank to maintain an in-*
8 *vestment in the stock of the bank in amount not*
9 *less than—*

10 “(i) *a minimum percentage of the total*
11 *assets of the shareholder; and*

12 “(ii) *a minimum percentage of the out-*
13 *standing advances from the bank to the*
14 *shareholder.*

15 “(B) *MINIMUM PERCENTAGE LEVELS.*—*The*
16 *minimum percentages established pursuant to*
17 *subparagraph (A) shall be set at levels sufficient*
18 *to meet the bank’s minimum capital require-*
19 *ments established by the Finance Board under*
20 *subsection (c).*

21 “(C) *MAXIMUM ASSET BASED CAPITAL RE-*
22 *QUIREMENT.*—*The asset-based capital require-*
23 *ment applicable to any shareholder of a Federal*
24 *home loan bank in any year shall not exceed the*
25 *lesser of—*

1 “(i) 0.6 percent of a shareholder’s total
2 assets at the close of the preceding year; or

3 “(ii) \$300,000,000.

4 “(D) *MAXIMUM ADVANCE-BASED REQUIRE-*
5 *MENT.—The advance-based capital requirement*
6 *applicable to any shareholder of a Federal home*
7 *loan bank shall not exceed 6 percent of the total*
8 *outstanding advances from the bank to the share-*
9 *holder.*

10 “(E) *MINIMUM STOCK PURCHASE REQUIRE-*
11 *MENT AUTHORIZED.—A capital structure plan*
12 *may establish a minimum dollar amount of*
13 *stock of a Federal home loan bank in which a*
14 *shareholder shall be required to invest.*

15 “(2) *ADJUSTMENTS TO STOCK PURCHASE RE-*
16 *QUIREMENTS.—The capital structure plan adopted by*
17 *each Federal home loan bank shall impose a continu-*
18 *ing obligation on the board of directors of the bank*
19 *to review and adjust as necessary member stock pur-*
20 *chase requirements in order to ensure that the bank*
21 *remains in compliance with applicable minimum*
22 *capital levels established by the Finance Board.*

23 “(3) *TRANSITION RULE FOR STOCK PURCHASE*
24 *REQUIREMENTS.—*

1 “(A) *IN GENERAL.*—*A capital structure*
2 *plan may allow shareholders who were members*
3 *of a Federal home loan bank on the date of the*
4 *enactment of the Financial Services Competition*
5 *Act of 1997 to come into compliance with the*
6 *asset-based stock purchase requirement estab-*
7 *lished under paragraph (1) during a transition*
8 *period established under the plan of not more*
9 *than 3 years, if such requirement exceeds the*
10 *asset-based stock purchase requirement in effect*
11 *on such date of enactment.*

12 “(B) *INTERIM PURCHASE REQUIRE-*
13 *MENTS.*—*A capital structure plan may establish*
14 *interim asset-based stock purchase requirements*
15 *applicable to members referred to in subpara-*
16 *graph (A) during a transition period established*
17 *under subparagraph (A).*

18 “(4) *CLASSES OF STOCK.*—

19 “(A) *IN GENERAL.*—*Each capital structure*
20 *plan shall afford each shareholder of a Federal*
21 *home loan bank the option of meeting the share-*
22 *holder’s stock purchase requirements through the*
23 *purchase of any combination of Class A or Class*
24 *B stock.*

1 “(B) *CLASS A STOCK.*—*Class A stock shall*
2 *be stock of a Federal home loan bank that shall*
3 *be redeemed in cash and at par by the bank no*
4 *later than 12 months following submission of a*
5 *written notice by a shareholder of the sharehold-*
6 *er’s intention to divest all shares of stock in the*
7 *bank.*

8 “(C) *CLASS B STOCK.*—*Class B stock shall*
9 *be stock of a Federal home loan bank that shall*
10 *be redeemed in cash and at par by the bank no*
11 *later than 5 years following submission of a*
12 *written notice by a shareholder of the sharehold-*
13 *er’s intention to divest all shares of stock in the*
14 *bank.*

15 “(D) *RIGHTS REQUIREMENT.*—*The Class B*
16 *stock of a Federal home loan bank may receive*
17 *a dividend premium over that paid on Class A*
18 *stock, and may have preferential voting rights in*
19 *the election of Federal home loan bank directors.*

20 “(E) *LOWER STOCK PURCHASE REQUIRE-*
21 *MENTS FOR CLASS B STOCK.*—*A capital struc-*
22 *ture plan may provide for lower stock purchase*
23 *requirements with respect to those shareholder’s*
24 *that elect to purchase Class B stock in a manner*
25 *that is consistent with meeting the bank’s own*

1 *minimum capital requirements as established by*
2 *the Finance Board.*

3 “(F) *NO OTHER CLASSES OF STOCK PER-*
4 *MITTED.—No class of stock other than the Class*
5 *A and Class B stock described in subparagraphs*
6 *(B) and (C) may be issued by a Federal home*
7 *loan bank.*

8 “(5) *LIMITED TRANSFERABILITY OF STOCK.—*
9 *Each capital structure plan shall provide that any*
10 *equity securities issued by the bank shall be available*
11 *only to, held only by, and tradable only among share-*
12 *holders of the bank.*

13 “(c) *CAPITAL STANDARDS.—*

14 “(1) *IN GENERAL.—The Finance Board shall*
15 *prescribe, by regulation, uniform capital standards*
16 *applicable to each Federal home loan bank which*
17 *shall include—*

18 “(A) *a leverage limit in accordance with*
19 *paragraph (2); and*

20 “(B) *a risk-based capital requirement in ac-*
21 *cordance with paragraph (3).*

22 “(2) *MINIMUM LEVERAGE LIMIT.—The leverage*
23 *limit established by the Finance Board shall require*
24 *each Federal home loan bank to maintain total cap-*
25 *ital in an amount not less than 5 percent of the total*

1 *assets of the bank. In determining compliance with*
2 *the minimum leverage ratio, the amount of retained*
3 *earnings and the paid-in value of Class B stock, if*
4 *any, shall be multiplied by 1.5 and such higher*
5 *amount shall be deemed to be capital for purposes of*
6 *meeting the 5 percent minimum leverage ratio.*

7 *“(3) RISK-BASED CAPITAL STANDARD.—The risk-*
8 *based capital requirement shall be composed of the fol-*
9 *lowing components:*

10 *“(A) Capital sufficient to meet the credit*
11 *risk to which a Federal home loan bank is sub-*
12 *ject, based on an amount which is not less than*
13 *the amount of tier 1, risk-based capital required*
14 *by regulations prescribed, or guidelines issued*
15 *under section 38 of the Federal Deposit Insur-*
16 *ance Act for a well capitalized insured deposi-*
17 *tory institution.*

18 *“(B) Capital sufficient to meet the interest*
19 *rate risk to which a Federal home loan bank is*
20 *subject, based on an interest rate stress test ap-*
21 *plied by the Finance Board that rigorously tests*
22 *for changes in interest rates, rate volatility, and*
23 *changes in the shape of the yield curve.*

24 *“(d) REDEMPTION OF CAPITAL.—*

1 “(1) *IN GENERAL.*—*Any shareholder of a Federal*
2 *home loan bank shall have the right to withdraw the*
3 *shareholder’s membership from a Federal home loan*
4 *bank and to redeem the shareholder’s stock in accord-*
5 *ance with the redemption rights associated with the*
6 *class of stock the shareholder holds, if—*

7 “(A) *such shareholder has filed a written*
8 *notice of an intention to redeem all such shares;*
9 *and*

10 “(B) *the shareholder has no outstanding ad-*
11 *vances from any Federal home loan bank at the*
12 *time of such redemption.*

13 “(2) *PARTIAL REDEMPTION.*—*A shareholder who*
14 *files notice of intention to redeem all shares of stock*
15 *in a Federal home loan bank may redeem not more*
16 *than 1/2 of all such shares, in cash and at par, 6*
17 *months before the date by which the bank is required*
18 *to redeem such stock pursuant to subparagraph (B) or*
19 *(C) of subsection (b)(4).*

20 “(3) *DIVESTITURE.*—*The board of directors of*
21 *any Federal home loan bank may, after a hearing,*
22 *order the divestiture by any shareholder of all owner-*
23 *ship interests of such shareholder in the bank, if—*

24 “(A) *in the opinion of the board of direc-*
25 *tors, such shareholder has failed to comply with*

1 *a provision of this Act or any regulation pre-*
2 *scribed under this Act; or*

3 *“(B) the shareholder has been determined to*
4 *be insolvent, or otherwise subject to the appoint-*
5 *ment of a conservator, receiver, or other legal*
6 *custodian, by a State or Federal authority with*
7 *regulatory and supervisory responsibility for*
8 *such shareholder.*

9 *“(4) RETIREMENT OF EXCESS STOCK.—Any*
10 *shareholder may—*

11 *“(A) retire shares of Class A stock or, at the*
12 *option of the shareholder, shares of Class B stock,*
13 *or any combination of Class A and Class B*
14 *stock, that are excess to the minimum stock pur-*
15 *chase requirements applicable to the shareholder;*
16 *and*

17 *“(B) receive from the Federal home loan*
18 *bank a prompt payment in cash equal to the par*
19 *value of such stock.*

20 *“(5) IMPAIRMENT OF CAPITAL.—If the Finance*
21 *Board or the board of directors of a Federal home*
22 *loan bank determines that the paid-in capital of the*
23 *bank is, or is likely to be, impaired as a result of*
24 *losses in or depreciation of the assets of the bank, the*
25 *Federal home loan bank shall withhold that portion*

1 of the amount due any shareholder with respect to
2 any redemption or retirement of any class of stock
3 which bears the same ratio to the total of such
4 amount as the amount of the impaired capital bears
5 to the total amount of capital allocable to such class
6 of stock.

7 “(6) *POLICIES.*—Subject to the requirements of
8 this section, the board of directors of each Federal
9 home loan bank shall promptly establish policies, con-
10 sistent with this Act, governing the capital stock of
11 such bank and other provisions of this section.”.

12 **SEC. 178. INVESTMENTS.**

13 Subsection (j) of section 11 of the Federal Home Loan
14 Bank Act (12 U.S.C. 1431) (as so redesignated by section
15 174(e) of this subtitle) is amended to read as follows:

16 “(j) *INVESTMENTS.*—Each bank shall reduce its invest-
17 ments to those necessary for liquidity purposes, for safe and
18 sound operation of the banks, or for housing finance, as ad-
19 ministered by the Finance Board.”.

20 **SEC. 179. FEDERAL HOUSING FINANCE BOARD.**

21 Section 2A(b)(1) of the Federal Home Loan Bank Act
22 (12 U.S.C. 1422(b)(1)) is amended—

23 (1) by redesignating subparagraphs (A) and (B)
24 as subparagraphs (B) and (C), respectively;

1 (2) by inserting before subparagraph (B) (as so
2 redesignated by paragraph (1) of this section) the fol-
3 lowing new subparagraph:

4 “(A) The Secretary of the Treasury (or the
5 Secretary of the Treasury’s designee), who shall
6 serve without additional compensation.”; and

7 (3) in subparagraph (C) (as so redesignated by
8 paragraph (1) of this section) by striking “Four” and
9 inserting “3”.

10 ***Subtitle I—Streamlining Antitrust***
11 ***Review of Bank Acquisitions and***
12 ***Mergers***

13 ***SEC. 181. AMENDMENTS TO THE BANK HOLDING COMPANY***
14 ***ACT OF 1956.***

15 (a) *AMENDMENTS TO SECTION 3 TO REQUIRE FILING*
16 *OF APPLICATION COPIES WITH ATTORNEY GENERAL.—Sec-*
17 *tion 3 of the Bank Holding Company Act of 1956 (12*
18 *U.S.C. 1842) is amended—*

19 (1) in subsection (b) by inserting after para-
20 graph (2) the following new paragraph:

21 “(3) *REQUIREMENT TO FILE INFORMATION WITH*
22 *ATTORNEY GENERAL.—Any applicant seeking prior*
23 *approval of the Board to engage in an acquisition*
24 *transaction under this section must file simulta-*
25 *neously with the Attorney General copies of any docu-*

1 *ments regarding the proposed transaction required by*
2 *the Board.”; and*

3 *(2) in subsection (c)—*

4 *(A) by striking paragraph (1); and*

5 *(B) by redesignating paragraphs (2)*
6 *through (5) as paragraphs (1) through (4), re-*
7 *spectively.*

8 *(b) AMENDMENTS TO SECTION 11 TO MODIFY JUSTICE*
9 *DEPARTMENT NOTIFICATION AND POST-APPROVAL WAIT-*
10 *ING PERIOD FOR SECTION 3 TRANSACTIONS.—Section 11*
11 *of the Bank Holding Company Act of 1956 (12 U.S.C.*
12 *1849) is amended—*

13 *(1) in subsection (b)(1)—*

14 *(A) by striking “, if the Board has not re-*
15 *ceived any adverse comment from the Attorney*
16 *General of the United States relating to competi-*
17 *tive factors,”;*

18 *(B) by striking “as may be prescribed by*
19 *the Board with the concurrence of the Attorney*
20 *General, but in no event less than 15 calendar*
21 *days after the date of approval.” and inserting*
22 *“as may be prescribed by the Attorney General.”;*
23 *and*

24 *(C) by striking the 3d to last sentence and*
25 *the penultimate sentence; and*

1 (2) by striking subsections (c) and (e) and redesi-
2 gnating subsections (d) and (f) as subsections (c) and
3 (d), respectively.

4 **SEC. 182. AMENDMENTS TO THE FEDERAL DEPOSIT INSUR-**
5 **ANCE ACT TO VEST IN THE ATTORNEY GEN-**
6 **ERAL SOLE RESPONSIBILITY FOR ANTITRUST**
7 **REVIEW OF DEPOSITORY INSTITUTION MERG-**
8 **ERS.**

9 Section 18(c) of the Federal Deposit Insurance Act (12
10 U.S.C. 1828) is amended—

11 (1) in paragraph (3)(C) by striking “during a
12 period at least as long as the period allowed for fur-
13 nishing reports under paragraph (4) of this sub-
14 section”;

15 (2) by striking paragraph (4) and inserting the
16 following new paragraph:

17 “(4) *FACTORS TO BE CONSIDERED.*—In deter-
18 mining whether to approve a transaction, the respon-
19 sible agency shall in every case take into consider-
20 ation the financial and managerial resources and fu-
21 ture prospects of the existing and proposed institu-
22 tions, and the convenience and needs of the commu-
23 nity to be served.”;

24 (3) by striking paragraph (5) and inserting the
25 following new paragraph:

1 “(5) NOTICE TO ATTORNEY GENERAL.—The re-
2 sponsible agency shall immediately notify the Attor-
3 ney General of any approval by it pursuant to this
4 subsection of a proposed merger transaction. If the re-
5 sponsible agency has found that it must act imme-
6 diately in order to prevent the probable failure of one
7 of the banks involved, the transaction may be con-
8 summated immediately upon approval by the agency.
9 If the responsible agency has notified the other Fed-
10 eral banking agencies referred to in this section of the
11 existence of an emergency requiring expeditious ac-
12 tion and has required the submission of views and
13 recommendations within 10 days, the transaction
14 may not be consummated before the 5th calendar day
15 after the date of approval of the responsible agency.
16 In all other cases, the transaction may not be con-
17 summated before the 30th calendar day after the date
18 of approval by the agency, or such shorter period of
19 time as may be prescribed by the Attorney General.”;
20 (4) by striking paragraph (6) and redesignating
21 paragraphs (7) through (11) as paragraphs (6)
22 through (10), respectively;
23 (5) in subparagraph (A) of paragraph (6) (as so
24 redesignated by paragraph (4) of this section))—

1 (A) by striking “(5)” and inserting “(4)”;

2 and

3 (B) by striking “(6)” and inserting “(5)”;

4 (C) by striking “In any such action, the
5 court shall review *de novo* the issues presented.”;

6 (6) in paragraph (6) (as so redesignated by
7 paragraph (4) of this section)—

8 (A) by striking subparagraphs (B) and (D);

9 and

10 (B) by redesignating subparagraph (C) as
11 subparagraph (B);

12 (7) in paragraph (8) (as so redesignated by
13 paragraph (4) of this section)—

14 (A) by inserting “and” after the semicolon
15 at the end of subparagraph (A):

16 (B) by striking subparagraph (B); and

17 (C) by redesignating subparagraph (C) as
18 subparagraph (B); and

19 (8) by inserting after paragraph (10) (as so re-
20 designated by paragraph (4) of this section) the fol-
21 lowing new paragraph:

22 “(11) *REQUIREMENT TO FILE INFORMATION*
23 *WITH ATTORNEY GENERAL.*—Any applicant seeking
24 prior written approval of the responsible Federal
25 banking agency to engage in a merger transaction

1 *application until the Attorney General notifies the*
2 *agency that the application is complete.*

3 (4) *EMERGENCY ACTION.*—*This provision shall*
4 *not affect the appropriate Federal banking agency’s*
5 *authority to act immediately—*

6 (A) *to prevent the probable failure of 1 of*
7 *the banks involved; or*

8 (B) *to reduce or eliminate a post approval*
9 *waiting period in case of an emergency requir-*
10 *ing expeditious action.*

11 (5) *EXEMPTION FOR CERTAIN FILINGS.*—*With*
12 *the concurrence of the Attorney General, the appro-*
13 *priate Federal banking agency may exempt classes of*
14 *persons, acquisitions, or transactions that are not*
15 *likely to violate the antitrust laws from the require-*
16 *ment that applicants file a competitive effects section.*

17 (b) *INTERAGENCY DATA SHARING REQUIREMENT.*—

18 (1) *IN GENERAL.*—*To the extent not prohibited*
19 *by other law, the Federal banking agencies shall make*
20 *available to the Attorney General any data in their*
21 *possession that the Attorney General deems necessary*
22 *for antitrust reviews of transactions requiring ap-*
23 *proval under section 3 of the Bank Holding Company*
24 *Act of 1956 or section 18(c) of the Federal Deposit In-*
25 *surance Act.*

1 (2) *CONTINUATION OF DATA COLLECTION AND*
2 *ANALYSIS.*—*The Federal banking agencies shall con-*
3 *tinue to provide market analysis, deposit share infor-*
4 *mation, and other relevant information for determin-*
5 *ing market competition as needed by the Attorney*
6 *General in the same manner such agencies provided*
7 *analysis and information under section 18(c) of the*
8 *Federal Deposit Insurance Act and 3(c) of the Bank*
9 *Holding Company Act of 1956 (as such sections were*
10 *in effect on the day before the date of the enactment*
11 *of this Act) and shall continue to collect information*
12 *necessary or useful for such analysis.*

13 **SEC. 184. ANNUAL GAO REPORT.**

14 (a) *IN GENERAL.*—*By the end of the 1-year period be-*
15 *ginning on the date of the enactment of this Act and annu-*
16 *ally thereafter the Comptroller General of the United States*
17 *shall submit a report to the Congress on market concentra-*
18 *tion in the financial services industry.*

19 (b) *ANALYSIS.*—*Each report submitted under sub-*
20 *section (a) shall contain an analysis of—*

21 (1) *the positive and negative effects of affiliations*
22 *between various types of financial companies, and of*
23 *acquisitions pursuant to this Act and the amend-*
24 *ments made by this Act to other provisions of law, in-*
25 *cluding any positive or negative effects on registered*

1 securities brokers and dealers which have been pur-
2 chased by depository institutions or depository insti-
3 tution holding companies;

4 (2) the changes in business practices and the ef-
5 fects of any such changes on the availability of ven-
6 ture capital and the availability of capital and credit
7 for small businesses; and

8 (3) the acquisition patterns among depository
9 institutions, depository institution holding compa-
10 nies, securities firms, and insurance companies in-
11 cluding acquisitions among the largest 20 percent of
12 firms and acquisitions within a limited geographical
13 area.

14 **SEC. 185. APPLICABILITY OF ANTITRUST LAWS.**

15 No provision of this subtitle shall be construed as af-
16 fecting—

17 (1) the applicability of antitrust laws (as defined
18 in section 11(d) of the Bank Holding Company Act
19 of 1956; as so redesignated pursuant to this subtitle);
20 or

21 (2) the applicability, if any, of any State law
22 which is similar to the antitrust laws.

23 **SEC. 186. EFFECTIVE DATE.**

24 This subtitle shall become effective 6 months after the
25 date of enactment of this Act.

1 ***Subtitle J—Redomestication of***
2 ***Mutual Insurers***

3 **SEC. 191. REDOMESTICATION OF MUTUAL INSURERS.**

4 (a) *REDOMESTICATION.*—A mutual insurer organized
5 under the laws of any State may transfer its domicile to
6 a transferee domicile as a step in a reorganization in
7 which, pursuant to the laws of the transferee domicile, the
8 mutual insurer becomes a stock insurer (whether as a direct
9 or indirect subsidiary of a mutual holding company or oth-
10 erwise).

11 (b) *RESULTING DOMICILE.*—Upon complying with the
12 applicable law of the transferee domicile governing transfers
13 of domicile and completion of a transfer pursuant to this
14 section, the mutual insurer shall cease to be a domestic in-
15 surer in the transferor domicile and, as a continuation of
16 its corporate existence, shall be a domestic insurer of the
17 transferee domicile.

18 (c) *LICENSES PRESERVED.*—The certificate of author-
19 ity, agents' appointments and licenses, rates, approvals and
20 other items that a licensed State allows and that are in
21 existence immediately prior to the date that a redomesticat-
22 ing insurer transfers its domicile pursuant to this subtitle
23 shall continue in full force and effect upon transfer, if the
24 insurer remains duly qualified to transact the business of
25 insurance in such licensed State.

1 (d) *EFFECTIVENESS OF OUTSTANDING POLICIES AND*
2 *CONTRACTS.*—

3 (1) *IN GENERAL.*—*All outstanding insurance*
4 *policies and annuities contracts of a redomesticating*
5 *insurer shall remain in full force and effect and need*
6 *not be endorsed as to the new domicile of the insurer,*
7 *unless so ordered by the State insurance regulator of*
8 *a licensed State, and then only in the case of out-*
9 *standing policies and contracts whose owners reside*
10 *in such licensed State.*

11 (2) *FORMS.*—

12 (A) *Applicable State law may require a re-*
13 *domesticating insurer to file new policy forms*
14 *with the State insurance regulator of a licensed*
15 *State on or before the effective date of the trans-*
16 *fer.*

17 (B) *Notwithstanding subparagraph (A), a*
18 *redomesticating insurer may use existing policy*
19 *forms with appropriate endorsements to reflect*
20 *the new domicile of the redomesticating insurer*
21 *until the new policy forms are approved for use*
22 *by the State insurance regulator of such licensed*
23 *State.*

24 (e) *NOTICE.*—*A redomesticating insurer shall give no-*
25 *tice of the proposed transfer to the State insurance regulator*

1 of each licensed State and shall file promptly any resulting
2 amendments to corporate documents required to be filed by
3 a foreign licensed mutual insurer with the insurance regu-
4 lator of each such licensed State.

5 (f) *RULE OF CONSTRUCTION.*—No provision of this
6 subtitle shall be construed so as to preempt any provision
7 of a State law relating to the establishment of a mutual
8 insurance holding company which protects the rights of pol-
9 icy holders.

10 **SEC. 192. EFFECT ON STATE LAWS RESTRICTING REDOMES-**
11 **TICATION.**

12 (a) *IN GENERAL.*—Unless otherwise permitted by this
13 subtitle, State laws that conflict with the purposes and in-
14 tent of this subtitle are preempted, including but not limited
15 to—

16 (1) any law that has the purpose or effect of im-
17 peding the activities of, taking any action against, or
18 applying any provision of law or regulation to, any
19 insurer or an affiliate of such insurer because that in-
20 surer or any affiliate plans to redomesticate or has
21 redomesticated pursuant to this subtitle;

22 (2) any law that has the purpose or effect of im-
23 peding the activities of, taking action against, or ap-
24 plying any provision of law or regulation to, any in-
25 sured or any insurance licensee or other intermediary

1 *because such person or entity has procured insurance*
2 *from or placed insurance with any insurer or affiliate*
3 *of such insurer that plans to redomesticate or has re-*
4 *domesticated pursuant to this subtitle;*

5 *(3) any law that has the purpose or effect of ter-*
6 *minating, because of the redomestication of a mutual*
7 *insurer pursuant to this subtitle, any certificate of*
8 *authority, agent appointment or license, rate ap-*
9 *proval or other approval, of any State insurance reg-*
10 *ulator or other State authority in existence imme-*
11 *diately prior to the redomestication in any State*
12 *other than the transferee domicile.*

13 *(b) DIFFERENTIAL TREATMENT PROHIBITED.—No*
14 *State law, regulation, interpretation, or functional equiva-*
15 *lent thereof, may treat a redomesticating or redomesticated*
16 *insurer or any affiliate thereof any differently than an in-*
17 *surer operating in that State that is not a redomesticating*
18 *or redomesticated insurer.*

19 *(c) LAWS PROHIBITING OPERATIONS.—If any licensed*
20 *State fails to issue, delays the issuance of, or seeks to revoke*
21 *an original or renewal certificate of authority of a redomes-*
22 *ticated insurer immediately following redomestication, ex-*
23 *cept on grounds and in a manner consistent with its past*
24 *practices regarding the issuance of certificates of authority*
25 *to foreign insurers that are not redomesticating, then the*

1 *redomesticating insurer shall be exempt from any State law*
2 *of the licensed State to the extent that such State law or*
3 *the operation of such State law would make unlawful, or*
4 *regulate, directly or indirectly, the operation of the redomes-*
5 *ticated insurer, except that such licensed State may require*
6 *the redomesticated insurer to—*

7 (1) *comply with the unfair claim settlement*
8 *practices law of the licensed State;*

9 (2) *pay, on a nondiscriminatory basis, applica-*
10 *ble premium and other taxes which are levied on li-*
11 *icensed insurers or policyholders under the laws of the*
12 *licensed State;*

13 (3) *register with and designate the State insur-*
14 *ance regulator as its agent solely for the purpose of*
15 *receiving service of legal documents or process;*

16 (4) *submit to an examination by the State insur-*
17 *ance regulator in any licensed state in which the re-*
18 *domesticated insurer is doing business to determine*
19 *the insurer's financial condition, if—*

20 (A) *the State insurance regulator of the*
21 *transferee domicile has not begun and has re-*
22 *fused to initiate an examination of the redomes-*
23 *ticated insurer; and*

24 (B) *any such examination is coordinated to*
25 *avoid unjustified duplication and repetition;*

1 (5) *comply with a lawful order issued in—*

2 (A) *a delinquency proceeding commenced by*
3 *the State insurance regulator of any licensed*
4 *State if there has been a judicial finding of fi-*
5 *nancial impairment under paragraph (7); or*

6 (B) *a voluntary dissolution proceeding;*

7 (6) *comply with any State law regarding decep-*
8 *tive, false, or fraudulent acts or practices, except that*
9 *if the licensed State seeks an injunction regarding the*
10 *conduct described in this paragraph, such injunction*
11 *must be obtained from a court of competent jurisdic-*
12 *tion as provided in subsection (d);*

13 (7) *comply with an injunction issued by a court*
14 *of competent jurisdiction, upon a petition by the*
15 *State insurance regulator alleging that the redomes-*
16 *ticating insurer is in hazardous financial condition*
17 *or is financially impaired;*

18 (8) *participate in any insurance insolvency*
19 *guaranty association on the same basis as any other*
20 *insurer licensed in the licensed State; and*

21 (9) *require a person acting, or offering to act, as*
22 *an insurance licensee for a redomesticated insurer in*
23 *the licensed State to obtain a license from that State,*
24 *except that such State may not impose any qualifica-*

1 *tion or requirement that discriminates against a non-*
2 *resident insurance licensee.*

3 (d) *JUDICIAL REVIEW.*—*The appropriate United*
4 *States district court shall have exclusive jurisdiction over*
5 *litigation arising under this section involving any redomes-*
6 *ticating or redomesticated insurer.*

7 (e) *SEVERABILITY.*—*If any provision of this section,*
8 *or the application thereof to any person or circumstances,*
9 *is held invalid, the remainder of the section, and the appli-*
10 *cation of such provision to other persons or circumstances,*
11 *shall not be affected thereby.*

12 **SEC. 193. DEFINITIONS.**

13 *For purposes of this subtitle, the following definitions*
14 *shall apply:*

15 (1) *COURT OF COMPETENT JURISDICTION.*—*The*
16 *term “court of competent jurisdiction” means a court*
17 *authorized pursuant to section 192(d) to adjudicate*
18 *litigation arising under this subtitle.*

19 (2) *DOMICILE.*—*The term “domicile” means the*
20 *State in which an insurer is incorporated, chartered,*
21 *or organized.*

22 (3) *INSURANCE LICENSEE.*—*The term “insurance*
23 *licensee” means any person holding a license under*
24 *State law to act as insurance agent, subagent, broker,*
25 *or consultant.*

1 (4) *INSTITUTION.*—*The term “institution” means*
2 *a corporation, joint stock company, limited liability*
3 *company, limited liability partnership, association,*
4 *trust, partnership, or any similar entity.*

5 (5) *LICENSED STATE.*—*The term “licensed*
6 *State” means any State, Puerto Rico, or the U.S.*
7 *Virgin Islands in which the redomesticating insurer*
8 *has a certificate of authority in effect immediately*
9 *prior to the redomestication.*

10 (6) *MUTUAL INSURER.*—*The term “mutual in-*
11 *surer” means a mutual insurer organized under the*
12 *laws of any State.*

13 (7) *PERSON.*—*The term “person” means an in-*
14 *dividual, institution, government or governmental*
15 *agency, State or political subdivision of a State, pub-*
16 *lic corporation, board, association, estate, trustee, or*
17 *fiduciary, or other similar entity.*

18 (8) *REDOMESTICATED INSURER.*—*The term “re-*
19 *domesticated insurer” means a mutual insurer that*
20 *has redomesticated pursuant to this subtitle.*

21 (9) *REDOMESTICATING INSURER.*—*The term “re-*
22 *domesticating insurer” means a mutual insurer that*
23 *is redomesticating pursuant to this subtitle.*

24 (10) *REDOMESTICATION OR TRANSFER.*—*The*
25 *terms “redomestication” and “transfer” mean the*

1 *transfer of the domicile of a mutual insurer from one*
2 *State to another State pursuant to this subtitle.*

3 (11) *STATE INSURANCE REGULATOR.*—*The term*
4 *“State insurance regulator” means the principal in-*
5 *surance regulatory authority of a State or of Puerto*
6 *Rico, or the United States Virgin Islands.*

7 (12) *STATE LAW.*—*The term “State law” means*
8 *the statutes of any State or of Puerto Rico, or the*
9 *U.S. Virgin Islands and any regulation, order, or re-*
10 *quirement prescribed pursuant to any such statute.*

11 (13) *TRANSFeree DOMICILE.*—*The term “trans-*
12 *feree domicile” means the State to which a mutual*
13 *insurer is redomesticating pursuant to this subtitle.*

14 (14) *TRANSFEROR DOMICILE.*—*The term “trans-*
15 *feror domicile” means the State from which a mutual*
16 *insurer is redomesticating pursuant to this subtitle.*

17 **SEC. 194. EFFECTIVE DATE.**

18 *This subtitle shall become effective on the date of enact-*
19 *ment of this Act.*

1 ***Subtitle K—Applying the Principles***
2 ***of National Treatment and***
3 ***Equality of Competitive Oppor-***
4 ***tunity to Foreign Banks and For-***
5 ***ign Financial Institutions***

6 **SEC. 195. APPLYING THE PRINCIPLES OF NATIONAL TREAT-**
7 **MENT AND EQUALITY OF COMPETITIVE OP-**
8 **PORTUNITY TO FOREIGN BANKS AND FOR-**
9 **EIGN FINANCIAL INSTITUTIONS.**

10 *The purpose of this subtitle is to apply the reforms of*
11 *this Act to foreign banks and other foreign financial institu-*
12 *tions in a manner consistent with the principles of national*
13 *treatment and equality of competitive opportunity, without*
14 *disadvantaging either foreign or domestic banks or other fi-*
15 *ancial institutions in relation to each other.*

16 **SEC. 196. APPLYING THE PRINCIPLES OF NATIONAL TREAT-**
17 **MENT AND EQUALITY OF COMPETITIVE OP-**
18 **PORTUNITY TO FOREIGN BANKS THAT ARE**
19 **QUALIFYING BANK HOLDING COMPANIES.**

20 *Section 8(c) of the International Banking Act of 1978*
21 *(12 U.S.C. 3106(c)) is amended by adding at the end the*
22 *following new paragraph:*

23 *“(3) TERMINATION OF GRANDFATHERED*
24 *RIGHTS.—*

1 “(A) *IN GENERAL.*—*If any foreign bank or*
2 *foreign company files a declaration under section*
3 *6(a)(1)(F) of the Bank Holding Company Act of*
4 *1956 or receives a determination from the Board*
5 *under section 6(l)(6) of such Act, any authority*
6 *conferred by this subsection on any foreign bank*
7 *or company to engage in any financial activity*
8 *(as defined in section 6(a)(3) of such Act) shall*
9 *terminate immediately.*

10 “(B) *RESTRICTIONS AND REQUIREMENTS*
11 *AUTHORIZED.*—*If a foreign bank or company*
12 *that engages, directly or through an affiliate*
13 *pursuant to paragraph (1), in a financial activ-*
14 *ity (as defined in section 6(a)(3) of the Bank*
15 *Holding Company Act of 1956) has not filed a*
16 *declaration with the the Board of its status as a*
17 *qualifying bank holding company under section*
18 *6(a) of the Bank Holding Company Act of 1956*
19 *by the end of the second year after the date of*
20 *enactment of the Financial Services Competition*
21 *Act of 1997, the Board, giving due regard to the*
22 *principle of national treatment and equality of*
23 *competitive opportunity, may impose such re-*
24 *strictions and requirements on the conduct of*
25 *such activities by such foreign bank or company*

1 *as are comparable to those imposed on a qualify-*
2 *ing bank holding company organized under the*
3 *laws of the United States, including a require-*
4 *ment to conduct such activities in compliance*
5 *with the safeguards of section 6 of the Bank*
6 *Holding Company Act of 1956 and any addi-*
7 *tional safeguards imposed by the National Coun-*
8 *cil on Financial Services.”.*

9 **SEC. 197. APPLYING THE PRINCIPLES OF NATIONAL TREAT-**
10 **MENT AND EQUALITY OF COMPETITIVE OP-**
11 **PORTUNITY TO FOREIGN BANKS AND FOR-**
12 **EIGN FINANCIAL INSTITUTIONS THAT ARE**
13 **WHOLESALE FINANCIAL INSTITUTIONS.**

14 *Section 8A of the Federal Deposit Insurance Act (as*
15 *added by section 161 of this Act) is amended by adding*
16 *at the end the following new subsection:*

17 “(i) **VOLUNTARY TERMINATION OF DEPOSIT INSUR-**
18 **ANCE.**—*The provisions on voluntary termination of insur-*
19 *ance in this section apply to an insured branch of a foreign*
20 *bank (including a Federal branch) in the same manner and*
21 *to the same extent as they apply to an insured State bank*
22 *or a national bank.”.*

1 **Subtitle L—Effective Date of Title**

2 **SEC. 199. EFFECTIVE DATE.**

3 *Except with regard to any subtitle or other provision*
4 *of this title for which a specific effective date is provided,*
5 *this title and the amendments made by this title shall take*
6 *effect at the end of the 270-day period beginning on the*
7 *date of the enactment of this Act.*

8 **TITLE II—FUNCTIONAL**
9 **REGULATION**

10 **Subtitle A—Brokers and Dealers**

11 **SEC. 201. DEFINITION OF BROKER.**

12 *Section 3(a)(4) of the Securities Exchange Act of 1934*
13 *(15 U.S.C. 78c(a)(4)) is amended to read as follows:*

14 “(4) *BROKER.—*

15 “(A) *IN GENERAL.—The term ‘broker’*
16 *means any person engaged in the business of*
17 *effecting transactions in securities for the ac-*
18 *count of others.*

19 “(B) *EXCLUSION OF BANKS.—The term*
20 *‘broker’ does not include a bank unless such*
21 *bank—*

22 “(i) *publicly solicits the business of*
23 *effecting securities transactions for the ac-*
24 *count of others; or*

1 “(i) is compensated for such business
2 by the payment of commissions or similar
3 remuneration based on effecting trans-
4 actions in securities (other than fees cal-
5 culated as a percentage of assets under
6 management) in excess of the bank’s incre-
7 mental costs directly attributable to
8 effecting such transactions (hereafter re-
9 ferred to as ‘incentive compensation’).

10 “(C) *EXEMPTION FOR CERTAIN BANK AC-*
11 *TIVITIES.—A bank shall not be considered to be*
12 *a broker because the bank engages in any of the*
13 *following activities under the conditions de-*
14 *scribed:*

15 “(i) *THIRD PARTY BROKERAGE AR-*
16 *RANGEMENTS.—The bank enters into a con-*
17 *tractual or other arrangement with a broker*
18 *or dealer registered under this title under*
19 *which the broker or dealer offers brokerage*
20 *services on or off the premises of the bank*
21 *if—*

22 “(I) *such broker or dealer is clear-*
23 *ly identified as the person performing*
24 *the brokerage services;*

1 “(II) the broker or dealer performs
2 *brokerage services in an area that is*
3 *clearly marked and, unless made im-*
4 *possible by space or personnel consider-*
5 *ations, physically separate from the*
6 *routine deposit-taking activities of the*
7 *bank;*

8 “(III) any materials used by the
9 *bank to advertise or promote generally*
10 *the availability of brokerage services*
11 *under the contractual or other arrange-*
12 *ment clearly indicate that the broker-*
13 *age services are being provided by the*
14 *broker or dealer and not by the bank;*

15 “(IV) any materials used by the
16 *bank to advertise or promote generally*
17 *the availability of brokerage services*
18 *under the contractual or other arrange-*
19 *ment are in compliance with the Fed-*
20 *eral securities laws before distribution;*

21 “(V) bank employees perform only
22 *clerical or ministerial functions in*
23 *connection with brokerage transactions,*
24 *including scheduling appointments*
25 *with the associated persons of a broker*

1 or dealer and, on behalf of a broker or
2 dealer, transmitting orders or handling
3 customers funds or securities, except
4 that bank employees who are not so
5 qualified may describe in general terms
6 investment vehicles under the contrac-
7 tual or other arrangement and accept
8 customer orders on behalf of the broker
9 or dealer if such employees have re-
10 ceived training that is substantially
11 equivalent to the training required for
12 personnel qualified to sell securities
13 pursuant to the requirements of a self-
14 regulatory organization;

15 “(VI) bank employees do not di-
16 rectly receive incentive compensation
17 for any brokerage transaction unless
18 such employees are associated persons
19 of a broker or dealer and are qualified
20 pursuant to the requirements of a self-
21 regulatory organization (as so defined)
22 except that the bank employees may re-
23 ceive nominal cash and noncash com-
24 pensation for customer referrals if the
25 cash compensation is a one-time fee of

1 *a fixed dollar amount and the pay-*
2 *ment of the fee is not contingent on*
3 *whether the referral results in a trans-*
4 *action;*

5 *“(VII) such services are provided*
6 *by the broker or dealer on a basis in*
7 *which all customers which receive any*
8 *services are fully disclosed to the broker*
9 *or dealer; and*

10 *“(VIII) the broker or dealer in-*
11 *forms each customer that the brokerage*
12 *services are provided by the broker or*
13 *dealer and not by the bank and that*
14 *the securities are not deposits or other*
15 *obligations of the bank, are not guar-*
16 *anteed by the bank, and are not in-*
17 *sured by the Federal Deposit Insurance*
18 *Corporation.*

19 *“(ii) TRUST ACTIVITIES.—The bank*
20 *engages in trust activities (including*
21 *effecting transactions in the course of such*
22 *trust activities) permissible for national*
23 *banks under the first section of the Act of*
24 *September 28, 1962, or for State banks*
25 *under relevant State trust statutes or law*

1 *(including securities safekeeping, self-di-*
2 *rected individual retirement accounts, or*
3 *managed agency accounts or other function-*
4 *ally equivalent accounts of a bank) unless*
5 *the bank—*

6 *“(I) publicly solicits brokerage*
7 *business, other than by advertising that*
8 *it effects transactions in securities in*
9 *conjunction with advertising its other*
10 *trust activities; or*

11 *“(II) receives incentive compensa-*
12 *tion for such brokerage activities.*

13 *“(iii) PERMISSIBLE SECURITIES*
14 *TRANSACTIONS.—The bank effects trans-*
15 *actions in exempted securities, commercial*
16 *paper, bankers acceptances, commercial*
17 *bills, qualified Canadian government obli-*
18 *gations as defined in section 5136 of the Re-*
19 *vised Statutes, obligations of the Washing-*
20 *ton Metropolitan Area Transit Authority*
21 *which are guaranteed by the Secretary of*
22 *Transportation under section 9 of the Na-*
23 *tional Capital Transportation Act of 1969,*
24 *obligations of the North American Develop-*
25 *ment Bank, and obligations of any local*

1 *public agency (as defined in section 110(h)*
2 *of the Housing Act of 1949) or any public*
3 *housing agency (as defined in the United*
4 *States Housing Act of 1937) that are ex-*
5 *pressly authorized by section 5136 of the*
6 *Revised Statutes of the United States as*
7 *permissible for a national bank to under-*
8 *write or deal in.*

9 “(iv) *EMPLOYEE AND SHAREHOLDER*
10 *BENEFIT PLANS.—The bank effects trans-*
11 *actions as part of any bonus, profit-sharing,*
12 *pension, retirement, thrift, savings, incen-*
13 *tive, stock purchase, stock ownership, stock*
14 *appreciation, stock option, dividend rein-*
15 *vestment, or similar plan for employees or*
16 *shareholders of an issuer or its subsidiaries.*

17 “(v) *SWEEP ACCOUNTS.—The bank ef-*
18 *fects transactions as part of a program for*
19 *the investment or reinvestment of bank de-*
20 *posit funds into any no-load, open-end*
21 *management investment company registered*
22 *under the Investment Company Act of 1940*
23 *that holds itself out as a money market*
24 *fund.*

1 “(vi) *AFFILIATE TRANSACTIONS.*—*The*
2 *bank effects transactions for the account of*
3 *any affiliate of the bank (as defined in sec-*
4 *tion 2 of the Bank Holding Company Act*
5 *of 1956).*

6 “(vii) *PRIVATE SECURITIES OFFER-*
7 *INGS.*—*The bank—*

8 “(I) *effects sales as part of a pri-*
9 *mary offering of securities by an is-*
10 *ssuer, not involving a public offering,*
11 *pursuant to section 3(b), 4(2), or 4(6)*
12 *of the Securities Act of 1933 and the*
13 *rules and regulations issued there-*
14 *under; and*

15 “(II) *effects such sales exclusively*
16 *to an accredited investor, as defined in*
17 *section 2 of the Securities Act of 1933.*

18 “(viii) *DE MINIMUS EXEMPTION.*—*If*
19 *the bank does not have a subsidiary or affil-*
20 *iate registered as a broker or dealer under*
21 *section 15, the bank effects, other than in*
22 *transactions referred to in clauses (i)*
23 *through (vii), not more than—*

1 “(I) 800 transactions in any cal-
2 endar year in securities for which a
3 ready market exists, and

4 “(II) 200 other transactions in se-
5 curities in any calendar year.

6 “(ix) *SAFEKEEPING AND CUSTODY*
7 *SERVICES.—The bank, as part of customary*
8 *banking activities—*

9 “(I) provides safekeeping or cus-
10 tody services with respect to securities,
11 including the exercise of warrants or
12 other rights on behalf of customers;

13 “(II) clears or settles transactions
14 in securities;

15 “(III) effects securities lending or
16 borrowing transactions with or on be-
17 half of customers as part of services
18 provided to customers pursuant to sub-
19 clauses (I) and (II) or invests cash col-
20 lateral pledged in connection with such
21 transactions; or

22 “(IV) holds securities pledged by
23 one customer to another customer or se-
24 curities subject to resale agreements be-
25 tween customers or facilitates the

1 pledging or transfer of such securities
2 by book entry.

3 “(x) *CONTRACTS OF INSURANCE.*—The
4 bank effects transactions in contracts of in-
5 surance.

6 “(xi) *BANKING PRODUCTS.*—The bank
7 effects transactions in banking products, as
8 defined in section 18 of the Federal Deposit
9 Insurance Act.

10 “(D) *EXEMPTION FOR ENTITIES SUBJECT*
11 *TO SECTION 15(e).*—The term ‘broker’ does not
12 include a bank that—

13 “(i) was, immediately prior to the en-
14 actment of the Financial Services Competi-
15 tion Act of 1997, subject to section 15(e);
16 and

17 “(ii) is subject to such restrictions and
18 requirements as the Commission considers
19 appropriate.”.

20 **SEC. 202. DEFINITION OF DEALER.**

21 Section 3(a)(5) of the Securities Exchange Act of 1934
22 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

23 “(5) *DEALER.*—

24 “(A) *IN GENERAL.*—The term ‘dealer’
25 means any person engaged in the business of

1 *buying and selling securities for such person's*
2 *own account through a broker or otherwise.*

3 “(B) *EXCEPTION FOR PERSON NOT EN-*
4 *GAGED IN THE BUSINESS OF DEALING.—The*
5 *term ‘dealer’ does not include a person that buys*
6 *or sells securities for such person's own account,*
7 *either individually or in a fiduciary capacity,*
8 *but not as a part of a regular business.*

9 “(C) *EXEMPTION FOR CERTAIN BANK AC-*
10 *TIVITIES.—A bank shall not be considered to be*
11 *a dealer because the bank engages in any of the*
12 *following activities under the conditions de-*
13 *scribed:*

14 “(i) *The bank buys and sells commer-*
15 *cial paper, bankers acceptances, exempted*
16 *securities, qualified Canadian Government*
17 *obligations as defined in section 5136 of the*
18 *Revised Statutes, obligations of the Wash-*
19 *ington Metropolitan Area Transit Authority*
20 *which are guaranteed by the Secretary of*
21 *Transportation under section 9 of the Na-*
22 *tional Capital Transportation Act of 1969,*
23 *obligations of the North American Develop-*
24 *ment Bank, and obligations of any local*
25 *public agency (as defined in section 110(h)*

1 of the *Housing Act of 1949*) or any public
2 housing agency (as defined in the *United*
3 *States Housing Act of 1937*) that are ex-
4 pressly authorized by section 5136 of the
5 *Revised Statutes of the United States* as
6 permissible for a national bank to under-
7 write or deal in.

8 “(ii) *The bank buys and sells securities*
9 *for investment purposes for the bank or for*
10 *accounts for which the bank acts as a trust-*
11 *ee or fiduciary.*

12 “(iii) *The bank effects transactions in*
13 *contracts of insurance.*

14 “(iv) *The bank offers or sells, solely to*
15 *any accredited investor (as defined in sec-*
16 *tion 2 of the Securities Act of 1933) securi-*
17 *ties backed by or representing an interest in*
18 *notes, drafts, acceptances, loans, leases, re-*
19 *ceivables, other obligations, or pools of any*
20 *such obligations originated or purchased by*
21 *the bank or any affiliate of the bank.*

22 “(v) *The bank buys and sells banking*
23 *products, as defined in section 18 of the*
24 *Federal Deposit Insurance Act.*”.

1 **SEC. 203. BANK BROKER AND DEALER ACTIVITIES.**

2 *Section 3 of the Securities Exchange Act of 1934 (15*
3 *U.S.C. 78c) is amended by adding at the end the following:*

4 *“(h) EXEMPTION FROM DEFINITION OF BROKER OR*
5 *DEALER.—With respect to the employees of a bank that en-*
6 *gages in the offer and sale of securities to the retail public,*
7 *such employees shall be subject to the same rules and regula-*
8 *tions of a self-regulatory organization applicable under au-*
9 *thority of section 15A to employees of securities and other*
10 *nonbank firms.”.*

11 **SEC. 204. APPLICATION OF THIS TITLE TO BANKS REG-**
12 **ISTERED AS BROKERS OR DEALERS.**

13 *Section 15 of the Securities Exchange Act of 1934 (15*
14 *U.S.C. 78o) is amended by adding at the end the following*
15 *new subsection:*

16 *“(i) APPLICATION OF THIS TITLE TO BANKS REG-*
17 *ISTERED AS BROKERS OR DEALERS.—*

18 *“(1) NONDISCRIMINATION.—In administering*
19 *and enforcing this title with respect to banks that are*
20 *registered brokers or dealers, the Commission shall not*
21 *treat banks more restrictively than any other entities*
22 *that are registered as brokers or dealers pursuant to*
23 *this section.*

24 *“(2) CAPITAL REQUIREMENTS.—*

25 *“(A) WELL-CAPITALIZED BANKS.—Capital*
26 *requirements for brokers or dealers shall not*

1 *apply to a bank that is well-capitalized (as de-*
2 *defined in section 38 of the Federal Deposit Insur-*
3 *ance Act) and determined by the appropriate*
4 *Federal banking agency (as defined in section 3*
5 *of such Act), if the bank's brokerage and dealer*
6 *activities requiring registration do not represent*
7 *the predominant portion of the gross revenues of*
8 *the bank.*

9 “(B) *OTHER BANKS.—The Commission, in*
10 *consultation with the appropriate Federal regu-*
11 *latory agencies for banks, shall provide appro-*
12 *priate transitional relief to banks that are reg-*
13 *istered brokers or dealers, and that cease to be*
14 *well-capitalized but are adequately capitalized*
15 *(as defined in section 38 of the Federal Deposit*
16 *Insurance Act). Such rules shall take account of*
17 *the purposes of this section and the extent to*
18 *which bank capital requirements further those*
19 *purposes.*

20 “(3) *SCOPE OF APPLICATION.—The regulation,*
21 *under this Act, of any bank registered under this Act*
22 *as a broker or dealer shall apply only with respect to*
23 *activities of the bank for which the bank is required*
24 *under this Act to be registered as a broker or dealer.”.*

1 **SEC. 205. EXCLUSION FROM SIPC MEMBERSHIP OF BANKS**
2 **REGISTERED AS BROKERS OR DEALERS.**

3 *Section 3(a)(2)(A) of the Securities Investor Protection*
4 *Act of 1970 (15 U.S.C. 78ccc(a)(2)(A)) is amended—*

5 *(1) in clause (i), by striking “and” after the*
6 *semicolon;*

7 *(2) in clause (ii), by striking the period at the*
8 *end and inserting “; and”; and*

9 *(3) by adding at the end the following new*
10 *clause:*

11 *“(iii) banks.”.*

12 **SEC. 206. EFFECTIVE DATE.**

13 *This subtitle shall take effect at the end of the 270-*
14 *day period beginning on the date of the enactment of this*
15 *Act.*

16 ***Subtitle B—Bank Investment***
17 ***Company Activities***

18 **SEC. 211. CUSTODY OF INVESTMENT COMPANY ASSETS BY**
19 ***AFFILIATED BANK.***

20 *(a) MANAGEMENT COMPANIES.—Section 17(f) of the*
21 *Investment Company Act of 1940 (15 U.S.C. 80a–17(f)) is*
22 *amended—*

23 *(1) by redesignating paragraphs (1), (2), and (3)*
24 *as subparagraphs (A), (B), and (C), respectively;*

25 *(2) by striking “(f) Every registered” and insert-*
26 *ing the following:*

1 “(f) *CUSTODY OF SECURITIES.*—

2 “(1) *Every registered*”;

3 (3) *by redesignating the 2d, 3d, 4th, and 5th sen-*
4 *tences of such subsection as paragraphs (2) through*
5 *(5), respectively, and indenting the left margin of*
6 *such paragraphs appropriately; and*

7 (4) *by adding at the end the following new para-*
8 *graph:*

9 “(6) *Notwithstanding any provision of this sub-*
10 *section, if a bank described in paragraph (1) or an*
11 *affiliated person of such bank is an affiliated person,*
12 *promoter, organizer, or sponsor of, or principal un-*
13 *derwriter for the registered company, such bank may*
14 *serve as custodian under this subsection in accordance*
15 *with such rules, regulations, or orders as the Commis-*
16 *sion may prescribe, consistent with the protection of*
17 *investors, after consulting in writing with the appro-*
18 *priate Federal banking agency, as defined in section*
19 *3 of the Federal Deposit Insurance Act.*”.

20 (b) *UNIT INVESTMENT TRUSTS.*—*Section 26(a)(1) of*
21 *the Investment Company Act of 1940 (15 U.S.C. 80a-*
22 *6(a)(1)) is amended by inserting before the semicolon at the*
23 *end the following: “, except that, if the trustee or custodian*
24 *described in this subsection is an affiliated person of such*
25 *underwriter or depositor, the Commission may adopt rules*

1 *and regulations or issue orders, consistent with the protec-*
 2 *tion of investors, prescribing the conditions under which*
 3 *such trustee or custodian may serve, after consulting in*
 4 *writing with the appropriate Federal banking agency (as*
 5 *defined in section 3 of the Federal Deposit Insurance Act)”.*

6 (c) *FIDUCIARY DUTY OF CUSTODIAN.*—Section 36(a)
 7 *of the Investment Company Act of 1940 (15 U.S.C. 80a-*
 8 *35(a)) is amended—*

9 (1) *in paragraph (1), by striking “or” at the*
 10 *end;*

11 (2) *in paragraph (2), by striking the period at*
 12 *the end and inserting “; or”; and*

13 (3) *by inserting after paragraph (2) the follow-*
 14 *ing:*

15 “(3) *as custodian.*”.

16 **SEC. 212. LENDING TO AN AFFILIATED INVESTMENT COM-**
 17 **PANY.**

18 *Section 18 of the Investment Company Act of 1940 (15*
 19 *U.S.C. 80a-18) is amended by adding at the end the follow-*
 20 *ing:*

21 *“Notwithstanding any provision of this section, it shall be*
 22 *unlawful for any affiliated person of a registered investment*
 23 *company or any affiliated person of such a person to loan*
 24 *money to such investment company in contravention of*
 25 *such rules, regulations, or orders as the Commission may*

1 *prescribe in the public interest and consistent with the pro-*
2 *tection of investors.”.*

3 **SEC. 213. INDEPENDENT DIRECTORS.**

4 (a) *IN GENERAL.*—Section 2(a)(19)(A) of the *Invest-*
5 *ment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(A))*
6 *is amended—*

7 (1) *by striking clause (v) and inserting the fol-*
8 *lowing new clause:*

9 “(v) *any person (other than a reg-*
10 *istered investment company) that, at any*
11 *time during the preceding 6 months, has ex-*
12 *ecuted any portfolio transactions for, en-*
13 *gaged in any principal transactions with,*
14 *or distributed shares for—*

15 “(I) *the investment company,*

16 “(II) *any other investment com-*
17 *pany having the same investment ad-*
18 *viser as such investment company or*
19 *holding itself out to investors as a re-*
20 *lated company for purposes of invest-*
21 *ment or investor services, or*

22 “(III) *any account over which the*
23 *investment company’s investment ad-*
24 *viser has brokerage placement discre-*

1 *tion, or any affiliated person of such a*
2 *person,”;*

3 *(2) by redesignating clause (vi) as clause (vii);*
4 *and*

5 *(3) by inserting after clause (v) the following*
6 *new clause:*

7 *“(vi) any person (other than a reg-*
8 *istered investment company) that, at any*
9 *time during the preceding 6 months, has*
10 *loaned money to—*

11 *“(I) the investment company,*

12 *“(II) any other investment com-*
13 *pany having the same investment ad-*
14 *viser as such investment company or*
15 *holding itself out to investors as a re-*
16 *lated company for purposes of invest-*
17 *ment or investor services, or*

18 *“(III) any account for which the*
19 *investment company’s investment ad-*
20 *viser has borrowing authority,*

21 *or any affiliated person of such a person,*
22 *or”.*

23 *(b) CONFORMING AMENDMENT.—Section 2(a)(19)(B)*
24 *of the Investment Company Act of 1940 (15 U.S.C. 80a–*
25 *2(a)(19)(B)) is amended—*

1 (1) *by striking clause (v) and inserting the fol-*
2 *lowing new clause:*

3 “(v) *any person (other than a reg-*
4 *istered investment company) that, at any*
5 *time during the preceding 6 months, has ex-*
6 *ecuted any portfolio transactions for, en-*
7 *gaged in any principal transactions with,*
8 *or distributed shares for—*

9 “(I) *any investment company for*
10 *which the investment adviser or prin-*
11 *cipal underwriter serves as such,*

12 “(II) *any investment company*
13 *holding itself out to investors, for pur-*
14 *poses of investment or investor services,*
15 *as a company related to any invest-*
16 *ment company for which the invest-*
17 *ment adviser or principal underwriter*
18 *serves as such, or*

19 “(III) *any account over which the*
20 *investment adviser has brokerage place-*
21 *ment discretion, or any affiliated per-*
22 *son of such a person,”;*

23 (2) *by redesignating clause (vi) as clause (vii);*

24 *and*

1 (3) by inserting after clause (v) the following
2 *new clause:*

3 “(vi) any person (other than a reg-
4 istered investment company) that, at any
5 time during the preceding 6 months, has
6 loaned money to—

7 “(I) any investment company for
8 which the investment adviser or prin-
9 cipal underwriter serves as such,

10 “(II) any investment company
11 holding itself out to investors, for pur-
12 poses of investment or investor services,
13 as a company related to any invest-
14 ment company for which the invest-
15 ment adviser or principal underwriter
16 serves as such, or

17 “(III) any account for which the
18 investment adviser has borrowing au-
19 thority,

20 or any affiliated person of such a person,
21 or”.

22 (c) *AFFILIATION OF DIRECTORS.*—Section 10(c) of the
23 *Investment Company Act of 1940 (15 U.S.C. 80a-10(c)) is*
24 *amended by striking “bank, except” and inserting “bank*
25 *(and its subsidiaries) or any single bank holding company*

1 *(and the affiliates and subsidiaries of such holding com-*
2 *pany) (as such terms are defined in the Bank Holding Com-*
3 *pany Act of 1956), except”.*

4 *(d) EFFECTIVE DATE.—The provisions of subsection*
5 *(a) of this section shall take effect at the end of the 1-year*
6 *period beginning on the date of enactment of this subtitle.*

7 **SEC. 214. ADDITIONAL SEC DISCLOSURE AUTHORITY.**

8 *(a) MISREPRESENTATION.—Section 35(a) of the In-*
9 *vestment Company Act of 1940 (15 U.S.C. 80a–34(a)) is*
10 *amended to read as follows:*

11 *“(a) MISREPRESENTATION OF GUARANTEES.—*

12 *“(1) IN GENERAL.—It shall be unlawful for any*
13 *person, issuing or selling any security of which a reg-*
14 *istered investment company is the issuer, to represent*
15 *or imply in any manner whatsoever that such secu-*
16 *rity or company—*

17 *“(A) has been guaranteed, sponsored, rec-*
18 *ommended, or approved by the United States, or*
19 *any agency, instrumentality or officer of the*
20 *United States;*

21 *“(B) has been insured by the Federal De-*
22 *posit Insurance Corporation; or*

23 *“(C) is guaranteed by or is otherwise an ob-*
24 *ligation of any bank or insured depository insti-*
25 *tution.*

1 “(2) *DISCLOSURES.*—*Any person issuing or sell-*
2 *ing the securities of a registered investment company*
3 *shall prominently disclose that the investment com-*
4 *pany or any security issued by the investment com-*
5 *pany—*

6 “(A) *is not insured by the Federal Deposit*
7 *Insurance Corporation;*

8 “(B) *is not guaranteed by an affiliated in-*
9 *sured depository institution; and*

10 “(C) *is not otherwise an obligation of any*
11 *bank or insured depository institution,*

12 *in accordance with such rules, regulations, or orders*
13 *as the Commission may prescribe as reasonably nec-*
14 *essary or appropriate in the public interest for the*
15 *protection of investors, after consulting in writing*
16 *with the appropriate Federal banking agencies.*

17 “(3) *DEFINITIONS.*—*The terms ‘insured depository*
18 *institution’ and ‘appropriate Federal banking*
19 *agency’ have the meaning given to such terms in sec-*
20 *tion 3 of the Federal Deposit Insurance Act.”.*

21 (b) *DECEPTIVE USE OF NAMES.*—*Section 35(d) of the*
22 *Investment Company Act of 1940 (15 U.S.C. 80a–34(d))*
23 *is amended to read as follows:*

24 “(d) *It shall be unlawful for any registered investment*
25 *company to adopt as part of the name or title of such com-*

1 *pany, or of any securities of which it is the issuer, any*
2 *word or words that the Commission finds are materially*
3 *deceptive or misleading. The Commission may adopt such*
4 *rules or regulations or issue such orders as are necessary*
5 *or appropriate to prevent the use of deceptive or misleading*
6 *names or titles by investment companies.”.*

7 **SEC. 215. DEFINITION OF BROKER UNDER THE INVEST-**
8 **MENT COMPANY ACT OF 1940.**

9 *Section 2(a)(6) of the Investment Company Act of*
10 *1940 (15 U.S.C. 80a-2(a)(6)) is amended to read as follows:*

11 *“(6) The term ‘broker’ has the same meaning as*
12 *in the Securities Exchange Act of 1934, except that*
13 *such term does not include any person solely by rea-*
14 *son of the fact that such person is an underwriter for*
15 *one or more investment companies.”.*

16 **SEC. 216. DEFINITION OF DEALER UNDER THE INVESTMENT**
17 **COMPANY ACT OF 1940.**

18 *Section 2(a)(11) of the Investment Company Act of*
19 *1940 (15 U.S.C. 80a-2(a)(11)) is amended to read as fol-*
20 *lows:*

21 *“(11) The term ‘dealer’ has the same meaning as*
22 *in the Securities Exchange Act of 1934, but does not*
23 *include an insurance company or investment com-*
24 *pany.”.*

1 **SEC. 217. REMOVAL OF THE EXCLUSION FROM THE DEFINI-**
2 **TION OF INVESTMENT ADVISER FOR BANKS**
3 **THAT ADVISE INVESTMENT COMPANIES.**

4 (a) *INVESTMENT ADVISER.*—Section 202(a)(11) of the
5 *Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11))*
6 *is amended in subparagraph (A), by striking “investment*
7 *company” and inserting “investment company, except that*
8 *the term ‘investment adviser’ includes any bank or bank*
9 *holding company to the extent that such bank or bank hold-*
10 *ing company acts as an investment adviser to a registered*
11 *investment company, or if, in the case of a bank, such serv-*
12 *ices are performed through a separately identifiable depart-*
13 *ment or division, the department or division, and not the*
14 *bank itself, shall be deemed to be the investment adviser”.*

15 (b) *SEPARATELY IDENTIFIABLE DEPARTMENT OR DI-*
16 *VISION.*—Section 202(a) of the *Investment Advisers Act of*
17 *1940 (15 U.S.C. 80b–2(a)) is amended by adding at the*
18 *end the following:*

19 “(26) *The term ‘separately identifiable depart-*
20 *ment or division’ of a bank means a unit—*

21 *“(A) that is under the direct supervision of*
22 *an officer or officers designated by the board of*
23 *directors of the bank as responsible for the day-*
24 *to-day conduct of the bank’s investment adviser*
25 *activities for one or more investment companies,*
26 *including the supervision of all bank employees*

1 engaged in the performance of such activities;
2 and

3 “(B) for which all of the records relating to
4 its investment adviser activities are separately
5 maintained in or extractable from such unit’s
6 own facilities or the facilities of the bank, and
7 such records are so maintained or otherwise ac-
8 cessible as to permit independent examination
9 and enforcement of this Act or the Investment
10 Company Act of 1940 and rules and regulations
11 promulgated under this Act or the Investment
12 Company Act of 1940.”.

13 **SEC. 218. DEFINITION OF BROKER UNDER THE INVEST-**
14 **MENT ADVISERS ACT OF 1940.**

15 Section 202(a)(3) of the Investment Advisers Act of
16 1940 (15 U.S.C. 80b–2(a)(3)) is amended to read as follows:

17 “(3) The term ‘broker’ has the same meaning as
18 in the Securities Exchange Act of 1934.”.

19 **SEC. 219. DEFINITION OF DEALER UNDER THE INVESTMENT**
20 **ADVISERS ACT OF 1940.**

21 Section 202(a)(7) of the Investment Advisers Act of
22 1940 (15 U.S.C. 80b–2(a)(7)) is amended to read as follows:

23 “(7) The term ‘dealer’ has the same meaning as
24 in the Securities Exchange Act of 1934, but does not

1 *include an insurance company or investment com-*
2 *pany.”.*

3 **SEC. 220. INTERAGENCY CONSULTATION.**

4 *The Investment Advisers Act of 1940 (15 U.S.C. 80b-*
5 *1 et seq.) is amended by inserting after section 210 the fol-*
6 *lowing new section:*

7 **“SEC. 210A. CONSULTATION.**

8 **“(a) EXAMINATION RESULTS AND OTHER INFORMA-**
9 **TION.—**

10 *“(1) The appropriate Federal banking agency*
11 *shall provide the Commission upon request the results*
12 *of any examination, reports, records, or other infor-*
13 *mation as each may have access to with respect to the*
14 *investment advisory activities of any bank holding*
15 *company, bank, or separately identifiable department*
16 *or division of a bank, that is registered under section*
17 *203 of this title, or, in the case of a bank holding*
18 *company or bank, that has a subsidiary or a sepa-*
19 *rately identifiable department or division registered*
20 *under that section, to the extent necessary for the*
21 *Commission to carry out its statutory responsibilities.*

22 *“(2) The Commission shall provide to the appro-*
23 *priate Federal banking agency upon request the re-*
24 *sults of any examination, reports, records, or other*
25 *information with respect to the investment advisory*

1 *activities of any bank holding company, bank, or sep-*
2 *arately identifiable department or division of a bank,*
3 *any of which is registered under section 203 of this*
4 *title, to the extent necessary for the agency to carry*
5 *out its statutory responsibilities.*

6 “(b) *EFFECT ON OTHER AUTHORITY.*—*Nothing herein*
7 *shall limit in any respect the authority of the appropriate*
8 *Federal banking agency with respect to such bank holding*
9 *company, bank, or department or division under any provi-*
10 *sion of law.*

11 “(c) *DEFINITION.*—*For purposes of this section, the*
12 *term ‘appropriate Federal banking agency’ shall have the*
13 *same meaning as in section 3 of the Federal Deposit Insur-*
14 *ance Act.’.*”

15 **SEC. 221. TREATMENT OF BANK COMMON TRUST FUNDS.**

16 (a) *SECURITIES ACT OF 1933.*—*Section 3(a)(2) of the*
17 *Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended*
18 *by striking “or any interest or participation in any com-*
19 *mon trust fund or similar fund maintained by a bank ex-*
20 *clusively for the collective investment and reinvestment of*
21 *assets contributed thereto by such bank in its capacity as*
22 *trustee, executor, administrator, or guardian” and insert-*
23 *ing “or any interest or participation in any common trust*
24 *fund or similar fund that is excluded from the definition*

1 of the term ‘investment company’ under section 3(c)(3) of
2 the Investment Company Act of 1940’.

3 (b) SECURITIES EXCHANGE ACT OF 1934.—Section
4 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934 (15
5 U.S.C. 78c(a)(12)(A)(iii)) is amended to read as follows:

6 “(iii) any interest or participation in
7 any common trust fund or similar fund
8 that is excluded from the definition of the
9 term ‘investment company’ under section
10 3(c)(3) of the Investment Company Act of
11 1940;”.

12 (c) INVESTMENT COMPANY ACT OF 1940.—Section
13 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C.
14 80a–3(c)(3)) is amended by inserting before the period the
15 following: “, if—

16 “(A) such fund is employed by the bank
17 solely as an aid to the administration of trusts,
18 estates, or other accounts created and main-
19 tained for a fiduciary purpose;

20 “(B) except in connection with the ordinary
21 advertising of the bank’s fiduciary services, in-
22 terests in such fund are not—

23 “(i) advertised; or

24 “(ii) offered for sale to the general pub-
25 lic; and

1 “(C) fees and expenses charged by such fund
2 are not in contravention of fiduciary principles
3 established under applicable Federal or State
4 law”.

5 **SEC. 222. INVESTMENT ADVISERS PROHIBITED FROM HAV-**
6 **ING CONTROLLING INTEREST IN REG-**
7 **ISTERED INVESTMENT COMPANY.**

8 Section 15 of the Investment Company Act of 1940 (15
9 U.S.C. 80a–15) is amended by adding at the end the follow-
10 ing new subsection:

11 “(g) **CONTROLLING INTEREST IN INVESTMENT COM-**
12 **PANY PROHIBITED.**—

13 “(1) **IN GENERAL.**—If any investment adviser to
14 a registered investment company, or an affiliated per-
15 son of that investment adviser, holds a controlling in-
16 terest in that registered investment company in a
17 trustee or fiduciary capacity, such person shall—

18 “(A) if it holds the shares in a trustee or fi-
19 duciary capacity with respect to any employee
20 benefit plan subject to the Employee Retirement
21 Income Security Act of 1974, transfer the power
22 to vote the shares of the investment company
23 through to another person acting in a fiduciary
24 capacity with respect to the plan who is not an

1 *affiliated person of that investment adviser or*
2 *any affiliated person thereof; or*

3 “(B) *if it holds the shares in a trustee or fi-*
4 *duciary capacity with respect to any other per-*
5 *son or entity other than an employee benefit*
6 *plan subject to the Employee Retirement Income*
7 *Security Act of 1974—*

8 “(i) *transfer the power to vote the*
9 *shares of the investment company through*
10 *to—*

11 “(I) *the beneficial owners of the*
12 *shares;*

13 “(II) *another person acting in a*
14 *fiduciary capacity who is not an affili-*
15 *ated person of that investment adviser*
16 *or any affiliated person thereof; or*

17 “(III) *any person authorized to*
18 *receive statements and information*
19 *with respect to the trust who is not an*
20 *affiliated person of that investment ad-*
21 *viser or any affiliated person thereof;*

22 “(ii) *vote the shares of the investment*
23 *company held by it in the same proportion*
24 *as shares held by all other shareholders of*
25 *the investment company; or*

1 “(iii) vote the shares of the investment
2 company as otherwise permitted under such
3 rules, regulations, or orders as the Commis-
4 sion may prescribe for the protection of in-
5 vestors.

6 “(2) *EXEMPTION.*—Paragraph (1) shall not
7 apply to any investment adviser to a registered in-
8 vestment company, or an affiliated person of that in-
9 vestment adviser, holding shares of the investment
10 company in a trustee or fiduciary capacity if that
11 registered investment company consists solely of assets
12 held in such capacities.

13 “(3) *SAFE HARBOR.*—No investment adviser to a
14 registered investment company or any affiliated per-
15 son of such investment adviser shall be deemed to have
16 acted unlawfully or to have breached a fiduciary duty
17 under State or Federal law solely by reason of acting
18 in accordance with clause (i), (ii), or (iii) of para-
19 graph (1)(B).

20 “(4) *CHURCH PLAN EXEMPTION.*—Paragraph (1)
21 shall not apply to any investment adviser to a reg-
22 istered investment company, or an affiliated person of
23 that investment adviser, holding shares in such a ca-
24 pacity, if such investment adviser or such affiliated

1 *person is an organization described in section*
2 *414(e)(3)(A) of the Internal Revenue Code of 1986.”.*

3 **SEC. 223. CONFORMING CHANGE IN DEFINITION.**

4 *Section 2(a)(5) of the Investment Company Act of*
5 *1940 (15 U.S.C. 80a-2(a)(5)) is amended by striking “(A)*
6 *a banking institution organized under the laws of the Unit-*
7 *ed States” and inserting “(A) a depository institution (as*
8 *defined in section 3 of the Federal Deposit Insurance Act)*
9 *or a branch or agency of a foreign bank (as such terms*
10 *are defined in section 1(b) of the International Banking Act*
11 *of 1978)”.*

12 **SEC. 224. EFFECTIVE DATE.**

13 *This subtitle shall take effect 90 days after the date*
14 *of the enactment of this Act.*

15 **TITLE III—MERGER OF BANK**
16 **AND THRIFT CHARTERS, REG-**
17 **ULATORS, AND INSURANCE**
18 **FUNDS**

19 **SEC. 301. SHORT TITLE; DEFINITIONS.**

20 (a) *SHORT TITLE.*—*This title may be cited as the*
21 *“Thrift Charter Transition Act of 1997”.*

22 (b) *DEFINITIONS.*—*Unless otherwise defined in this*
23 *Act, the terms “bank holding company”, “depository insti-*
24 *tution”, “Federal savings association”, “insured depository*
25 *institution”, “savings association”, “State bank”, and*

1 “State savings association” (as used in the uncodified pro-
2 visions of this Act) have the same meanings as in section
3 3 of the Federal Deposit Insurance Act, as in effect on the
4 day before the date of enactment of this Act.

5 **Subtitle A—Facilitating Conversion**
6 **of Savings Associations to Banks**

7 **SEC. 311. CONVERSION TO STATE OR NATIONAL BANKS.**

8 (a) **AUTOMATIC CONVERSION OF FEDERAL SAVINGS**
9 **ASSOCIATIONS TO NATIONAL BANKS.—**

10 (1) **IN GENERAL.—**Effective 2 years after the
11 date of enactment of this Act, each Federal savings
12 association then in existence shall be converted to a
13 national bank by operation of law.

14 (2) **PRESERVATION OF RIGHTS, POWERS, AND**
15 **PRIVILEGES.—**Unless otherwise provided in this Act,
16 a Federal savings association that is converted to a
17 State bank or a national bank under this section shall
18 continue to have all of the rights, powers, privileges,
19 and immunities that such bank had as a Federal sav-
20 ings association on the day before the date of the con-
21 version to a bank.

22 (3) **RETENTION OF “FEDERAL” IN NAME OF CON-**
23 **VERTED FEDERAL SAVINGS ASSOCIATION.—**Section 2
24 of the Act entitled “An Act to enable national banking
25 associations to increase their capital stock and to

1 *change their names or locations.” and approved May*
2 *1, 1886 (12 U.S.C. 30) is amended by adding at the*
3 *end the following new subsection:*

4 “(d) *RETENTION OF ‘FEDERAL’ IN NAME OF CON-*
5 *VERTED FEDERAL SAVINGS ASSOCIATION.—*

6 “(1) *IN GENERAL.—Notwithstanding subsection*
7 *(a) or any other provision of law, any depository in-*
8 *stitution the charter of which is converted from that*
9 *of a Federal savings association to a national bank*
10 *or a State bank after the date of the enactment of the*
11 *Financial Services Competition Act of 1997 may re-*
12 *tain the term ‘Federal’ in the name of such institu-*
13 *tion so long as such depository institution remains an*
14 *insured depository institution.*

15 “(2) *DEFINITIONS.—For purposes of this sub-*
16 *section, the terms ‘depository institution’, ‘insured de-*
17 *pository institution’, ‘national bank’, and ‘State*
18 *bank’ have the same meanings given to such terms in*
19 *section 3 of the Federal Deposit Insurance Act.”.*

20 (b) *EARLIER CONVERSIONS TO NATIONAL BANK .—*
21 *The following paragraphs shall apply during the 22-month*
22 *period beginning 60 days after the date of enactment of this*
23 *Act:*

24 (1) *ACCELERATED CONVERSION OF FEDERAL*
25 *SAVINGS ASSOCIATIONS.—Any Federal savings asso-*

1 *ciation may file with the Comptroller of the Currency*
2 *a notice of its election to accelerate its conversion to*
3 *a national bank to a specified date that is not earlier*
4 *than 30 days after the date on which the notice is*
5 *filed, and the association shall be converted to a na-*
6 *tional bank on the date specified in the notice.*

7 (2) *STREAMLINED CONVERSION OF STATE SAV-*
8 *INGS ASSOCIATIONS.—Any State savings association*
9 *may (to the extent consistent with State law) convert*
10 *to a national bank by filing with the Comptroller of*
11 *the Currency a notice of its election to convert on a*
12 *specified date that is not earlier than 30 days after*
13 *the date on which the notice is filed, and the associa-*
14 *tion shall be converted to a national bank on the date*
15 *specified in the notice.*

16 (c) *CONVERSION TO MUTUAL NATIONAL BANK.—A*
17 *savings association that is operating in mutual form on*
18 *the date it is converted to a national bank under this section*
19 *shall be converted to a mutual national bank as defined*
20 *in section 5133A of the Revised Statutes of the United*
21 *States.*

22 (d) *OTHER AUTHORITY NOT AFFECTED.—The author-*
23 *ity to convert to a national bank under this section shall*
24 *be in addition to any other authority of a savings associa-*

1 *tion to convert to a national bank, State bank, or State*
 2 *savings association.*

3 (e) *EFFECTIVE DATE.*—*This section shall take effect 60*
 4 *days after the date of enactment of this Act.*

5 **SEC. 312. MUTUAL NATIONAL BANKS AND FEDERAL MU-**
 6 **TUAL BANK HOLDING COMPANIES AUTHOR-**
 7 **IZED.**

8 (a) *IN GENERAL.*—*Chapter one of title LXII of the Re-*
 9 *vised Statutes of the United States (12 U.S.C. 21 et seq.)*
 10 *is amended by inserting after section 5133 the following*
 11 *new sections:*

12 **“SEC. 5133A. MUTUAL NATIONAL BANKS.**

13 “(a) *IN GENERAL.*—*The Comptroller of the Currency*
 14 *may charter national banking associations as mutual na-*
 15 *tional banks, either de novo or through the conversion of*
 16 *an insured depository institution, in accordance with this*
 17 *section and such regulations as the Comptroller may pre-*
 18 *scribe.*

19 “(b) *APPLICABLE LAW.*—*Unless otherwise provided by*
 20 *this section or by the Comptroller of the Currency because*
 21 *of the mutual form of the institution, a mutual national*
 22 *bank—*

23 “(1) *shall be subject to the same laws, require-*
 24 *ments, duties, and obligations that apply to a na-*
 25 *tional banking association operating in stock form;*

1 “(2) shall have the same powers and privileges
2 as, and may engage in the same activities subject to
3 the same restrictions and limitations that apply to, a
4 national banking association operating in stock form;
5 and

6 “(3) shall be supervised and examined by the
7 Comptroller in the same manner and to the same ex-
8 tent as a national banking association operating in
9 stock form.

10 “(c) CONVERSIONS.—Subject to any requirements im-
11 posed by the Comptroller—

12 “(1) a mutual national bank may convert to, or
13 acquire and retain all or substantially all of the as-
14 sets and liabilities of, a national banking association
15 operating in stock form; and

16 “(2) a national banking association operating in
17 stock form may convert to a mutual national bank.

18 “(d) DEFINITIONS.—For purposes of this section, the
19 following definitions shall apply:

20 “(1) INSURED DEPOSITORY INSTITUTION.—The
21 term ‘insured depository institution’ has the same
22 meaning as in section 3 of the Federal Deposit Insur-
23 ance Act.

24 “(2) MUTUAL NATIONAL BANK.—The term ‘mu-
25 tual national bank’ means a national banking asso-

1 *ciation that operates in mutual form and is chartered*
2 *by the Comptroller under this section.*

3 “(e) *CONFORMING REFERENCES.—Unless otherwise*
4 *provided by the Comptroller—*

5 “(1) *any reference in any Federal law to a na-*
6 *tional bank, including a reference to the term ‘na-*
7 *tional banking association’, ‘member bank’, ‘national*
8 *bank’, ‘national association’, ‘bank’, ‘insured bank’,*
9 *‘insured depository institution’, or ‘depository institu-*
10 *tion’, shall be deemed to refer also to a ‘mutual na-*
11 *tional bank’;*

12 “(2) *any reference in any Federal law to the*
13 *term ‘shareholder’, ‘shareholders’, ‘stockholder’, or*
14 *‘stockholders’ of a national bank shall be deemed to*
15 *refer also to any member or members of a mutual na-*
16 *tional bank;*

17 “(3) *any reference in any Federal law to the*
18 *term ‘board of directors’, ‘director’, or ‘directors’ of a*
19 *national bank shall be deemed to refer also to the*
20 *board of trustees, trustee, or trustees, respectively, of*
21 *a mutual national bank; and*

22 “(4) *any terms in Federal law that may apply*
23 *only to a national bank operating in stock form, in-*
24 *cluding the terms ‘stock’, ‘shares’, ‘shares of stock’,*
25 *‘capital stock’, ‘common stock’, ‘stock certificate’,*

1 *'stock certificates', 'certificate representing shares of*
2 *stock', 'stock dividend', 'transferable stock', 'each class*
3 *of stock', 'cumulate such shares', 'par value', 'pre-*
4 *ferred stock', 'body corporate', 'corporation', 'cor-*
5 *porate powers', 'incorporated', 'articles of association',*
6 *and 'corporate existence', shall not apply to a mutual*
7 *national bank, unless the Comptroller determines that*
8 *the context requires otherwise.*

9 **“SEC. 5133B. FEDERAL MUTUAL BANK HOLDING COMPA-**
10 **NIES.**

11 “(a) *REORGANIZATION OF MUTUAL NATIONAL BANK*
12 *AS A HOLDING COMPANY.—*

13 “(1) *IN GENERAL.—Subject to approval under*
14 *the Bank Holding Company Act of 1956, a mutual*
15 *national bank may reorganize so as to become a Fed-*
16 *eral mutual bank holding company by submitting a*
17 *reorganization plan to the Comptroller of the Cur-*
18 *rency for the Comptroller’s approval.*

19 “(2) *PLAN APPROVAL.—Upon the approval of the*
20 *reorganization plan by the Comptroller of the Cur-*
21 *rency and the issuance of the appropriate charters—*

22 “(A) *the substantial part of the mutual na-*
23 *tional bank’s assets and liabilities, including all*
24 *of the bank’s insured liabilities, shall be trans-*
25 *ferred to a national banking association, the*

1 *stock of which is owned (except as otherwise pro-*
2 *vided by this section) by the mutual national*
3 *bank; and*

4 *“(B) the mutual national bank shall become*
5 *a Federal mutual bank holding company.*

6 *“(b) DIRECTORS AND CERTAIN ACCOUNT HOLDERS’*
7 *APPROVAL OF PLAN REQUIRED.—This subsection does not*
8 *authorize a reorganization unless—*

9 *“(1) a majority of the mutual national bank’s*
10 *board of directors has approved the plan providing*
11 *for such reorganization; and*

12 *“(2) in the case of a mutual national bank in*
13 *which holders of accounts and obligors exercise voting*
14 *rights, a majority of such individuals has approved*
15 *the plan at a meeting held at the call of the directors*
16 *under the procedures prescribed by the bank’s charter*
17 *and bylaws.*

18 *“(c) RETENTION OF CAPITAL.—In connection with a*
19 *transaction described in subsection (a), a mutual national*
20 *bank may, subject to the Comptroller’s approval, retain*
21 *capital at the holding company level to the extent that the*
22 *capital retained at the holding company level exceeds the*
23 *amount of capital required for the national banking asso-*
24 *ciation chartered as a part of a transaction described in*

1 *subsection (a) to meet all relevant capital standards estab-*
2 *lished by the Comptroller for national banking associations.*

3 “(d) *OWNERSHIP.*—

4 “(1) *IN GENERAL.*—*Persons having ownership*
5 *rights in the mutual national bank under Federal or*
6 *State law shall have the same ownership rights with*
7 *respect to the Federal mutual bank holding company.*

8 “(2) *HOLDERS OF CERTAIN ACCOUNTS.*—*Holders*
9 *of savings, demand, or other accounts in the following*
10 *institutions shall have the same ownership rights with*
11 *respect to the Federal mutual bank holding company*
12 *as persons described in paragraph (1):*

13 “(A) *A national bank chartered as part of*
14 *a transaction described in subsection (a).*

15 “(B) *A mutual bank acquired through the*
16 *merger of the mutual bank into a national bank*
17 *subsidiary of the holding company or an interim*
18 *national bank subsidiary of the holding com-*
19 *pany.*

20 “(e) *REGULATION.*—*A Federal mutual bank holding*
21 *company shall be—*

22 “(1) *chartered by the Comptroller of the Cur-*
23 *rency and shall be subject to such regulations as the*
24 *Comptroller shall prescribe; and*

1 “(2) *regulated under the Bank Holding Com-*
2 *pany Act of 1956 on the same terms and subject to*
3 *the same limitations as any other company that con-*
4 *trols a bank.*

5 “(f) *CAPITAL IMPROVEMENT.—*

6 “(1) *PLEDGE OF STOCK OF NATIONAL BANK SUB-*
7 *SIDIARY.—This section shall not prohibit a Federal*
8 *mutual bank holding company from pledging all or*
9 *a portion of the stock of a national banking associa-*
10 *tion chartered as part of a transaction described in*
11 *subsection (a) to raise capital for such bank.*

12 “(2) *ISSUANCE OF NONVOTING SHARES.—This*
13 *section shall not prohibit a national banking associa-*
14 *tion chartered as part of a transaction described in*
15 *subsection (a) from issuing any nonvoting shares, or*
16 *less than 50 percent of the voting shares of such bank,*
17 *to any person other than the Federal mutual bank*
18 *holding company.*

19 “(g) *INSOLVENCY AND LIQUIDATION.—*

20 “(1) *IN GENERAL.—Notwithstanding any other*
21 *provision of law, the Comptroller of the Currency*
22 *may file a petition under chapter 7 of title 11, United*
23 *States Code, with respect to a Federal mutual bank*
24 *holding company upon—*

25 “(A) *the default of any national bank—*

1 “(i) the stock of which is owned by the
2 Federal mutual bank holding company; and

3 “(ii) that was chartered in a trans-
4 action described in subsection (a); or

5 “(B) a foreclosure on a pledge by the Fed-
6 eral mutual bank holding company described in
7 subsection (f)(1).

8 “(2) *DISTRIBUTION OF NET PROCEEDS.*—*Except*
9 *as provided in paragraph (3), the net proceeds of any*
10 *liquidation of any Federal mutual bank holding com-*
11 *pany under paragraph (1) shall be transferred to per-*
12 *sons who hold ownership interests in such Federal*
13 *mutual bank holding company.*

14 “(3) *RECOVERY BY FDIC.*—*If the Federal Deposit*
15 *Insurance Corporation incurs a loss as a result of the*
16 *default of any insured bank subsidiary of a Federal*
17 *mutual bank holding company that is liquidated*
18 *under paragraph (1), the Federal Deposit Insurance*
19 *Corporation shall succeed to the ownership interests of*
20 *the depositors of the bank in the Federal mutual bank*
21 *holding company, to the extent of the Federal Deposit*
22 *Insurance Corporation’s loss.*

23 “(h) *DEFINITIONS.*—

24 “(1) *FEDERAL MUTUAL BANK HOLDING COM-*
25 *PANY.*—*The term ‘Federal mutual bank holding com-*

1 pany’ means a corporation chartered under this sec-
2 tion.

3 “(2) *DEFAULT.*—With respect to a national
4 bank, the term ‘default’ means an adjudication or
5 other official determination by any court of competent
6 jurisdiction, the Comptroller, or other public author-
7 ity pursuant to which a conservator, receiver, or other
8 legal custodian is appointed for the national bank.”.

9 (b) *TECHNICAL AMENDMENT.*—The table of sections for
10 chapter one of title LXII of the Revised Statutes of the Unit-
11 ed States (12 U.S.C. 21 et seq) is amended by inserting
12 after the item relating to section 5133 the following new
13 items:

 “5133A. *Mutual national banks.*

 “5133B. *Federal mutual bank holding companies.*”.

14 (c) *APPROPRIATE FEDERAL BANKING AGENCY FOR*
15 *FEDERAL MUTUAL BANK HOLDING COMPANIES.*—Section
16 3(q)(1) of the Federal Deposit Insurance Act (12 U.S.C.
17 1813(q)(1)) is amended to read as follows:

18 “(1) *The Comptroller of the Currency in the case*
19 *of—*

20 “(A) *any national banking association, any*
21 *District bank, or any Federal branch or agency*
22 *of a foreign bank; and*

23 “(B) *supervisory or regulatory proceedings*
24 *arising from the authority given to the Comp-*

1 *troller under section 5133B of the Revised Stat-*
2 *utes of the United States.”.*

3 *(d) MUTUAL HOLDING COMPANY CONVERSION.—*

4 *(1) IN GENERAL.—Any mutual holding company*
5 *may convert to a Federal mutual bank holding com-*
6 *pany by filing with the Comptroller of the Currency*
7 *a notice of its election to convert on a specified date*
8 *that is not earlier than 30 days after the date on*
9 *which the notice is filed, and the mutual holding com-*
10 *pany shall be converted to a Federal mutual holding*
11 *company charter on the date specified in the notice.*

12 *(2) AUTOMATIC CONVERSION.—On the date 2*
13 *years after the date of enactment of this Act, each mu-*
14 *tual holding company shall become a Federal mutual*
15 *bank holding company by operation of law.*

16 *(3) DEFINITIONS.—For purposes of this sub-*
17 *section, the following definitions shall apply:*

18 *(A) FEDERAL MUTUAL BANK HOLDING COM-*
19 *PANY.—The term “Federal mutual bank holding*
20 *company” has the same meaning as in section*
21 *5133B of the Revised Statutes of the United*
22 *States (as added by this section).*

23 *(B) MUTUAL HOLDING COMPANY.—The term*
24 *“mutual holding company” has the same mean-*
25 *ing as in section 10(o)(10)(A) of the Home Own-*

1 *ers' Loan Act as in effect on the day before the*
2 *date of enactment of this Act.*

3 *(e) LIMITATION ON FEDERAL REGULATION OF MU-*
4 *TUAL STATE BANKS.—Except as otherwise provided in Fed-*
5 *eral law, the Comptroller of the Currency, Board of Gov-*
6 *ernors of the Federal Reserve System, and Federal Deposit*
7 *Insurance Corporation may not adopt or enforce any regu-*
8 *lation which contravenes the corporation governance rules*
9 *prescribed by State law or regulation for mutual State*
10 *banks unless the Comptroller, Board, or Corporation finds*
11 *that such Federal regulation is necessary to assure the safe-*
12 *ty and soundness of such State banks.*

13 *(f) EFFECTIVE DATE.—This section shall take effect 60*
14 *days after the date of enactment of this Act.*

15 **SEC. 313. GRANDFATHERED ACTIVITIES OF SAVINGS ASSO-**
16 **CIATIONS.**

17 *(a) SAVINGS ASSOCIATIONS THAT CONVERT TO NA-*
18 *TIONAL BANKS.—Except as provided in subsection (b), any*
19 *Federal savings association that converted to a national*
20 *bank under section 311 may continue to engage in any ac-*
21 *tivity, including the holding of any asset, in which it was*
22 *lawfully engaged prior to conversion pursuant to section*
23 *311.*

24 *(b) INVESTMENTS NOT AUTHORIZED FOR NATIONAL*
25 *BANKS TO HOLD DIRECTLY.—*

1 (1) *IN GENERAL.*—Notwithstanding section 5136
2 of the Revised Statutes of the United States or any
3 other provision of law, a national bank resulting from
4 the conversion of a savings association to a national
5 bank under section 311 may retain an equity invest-
6 ment that is not permissible for a national bank to
7 hold directly only if the bank complies with section
8 5(t)(5) of the Home Owners' Loan Act (as in effect
9 on the day before the date of the enactment of the
10 Thrift Charter Transition Act of 1997) to the same
11 extent as if the institution were a savings association
12 subject to the Home Owners' Loan Act.

13 (2) *REGULATIONS OF EXISTING ACTIVITIES.*—In-
14 vestments held by a national bank resulting from the
15 conversion of a savings association referred to in
16 paragraph (1) held on the date of the enactment of the
17 Thrift Charter Transition Act of 1997 shall be subject
18 to the same regulations and supervision as if the in-
19 stitution were a savings association subject to the
20 Home Owners' Loan Act as in effect on the day before
21 the date of the enactment of the Thrift Charter Tran-
22 sition Act of 1997.

23 (3) *INVESTMENTS ACQUIRED AFTER ENACT-*
24 *MENT.*—For investments acquired after the date of en-
25 actment of the Thrift Charter Transition Act of 1997

1 *but before the conversion of a savings association to*
2 *a national bank under section 311, such national*
3 *bank—*

4 *(A) may, if a subsidiary of the bank is en-*
5 *gaged in an activity that is not permissible for*
6 *a national bank to engage in directly, retain an*
7 *equity investment in the subsidiary only if the*
8 *bank and the subsidiary comply with section*
9 *5136A of the Revised Statutes of the United*
10 *States; and*

11 *(B) shall, in determining compliance with*
12 *applicable capital standards, deduct from the*
13 *bank's assets and tangible equity capital the*
14 *amount of any equity investment (other than in-*
15 *vestment subject to subparagraph (A)) that is not*
16 *a permissible investment for a national bank to*
17 *hold directly.*

18 *(c) PERMISSIBLE ACTIVITIES OF STATE SAVINGS AS-*
19 *SOCIATIONS THAT CONVERT TO STATE BANKS.—For pur-*
20 *poses of section 24 of the Federal Deposit Insurance Act,*
21 *a State savings association that converts to a State bank*
22 *may, to the extent permitted by applicable State law, con-*
23 *tinue to engage (in the same manner) in any activity, in-*
24 *cluding the holding of any asset, permitted under section*
25 *28 of the Federal Deposit Insurance Act (as in effect on*

1 *the day before the date of enactment of this Act) in which*
2 *the savings association was lawfully engaged on the day*
3 *before the date of enactment of this Act.*

4 (d) *TRANSITION PROVISION.—Notwithstanding any*
5 *other provision of this Act, in the case of any insured sav-*
6 *ings association described in this section securities offerings*
7 *and other financing transactions completed by such an in-*
8 *stitution on or before the date of its conversion pursuant*
9 *to section 311 shall continue to be governed by the capital*
10 *and accounting rules of the Office of Thrift Supervision as*
11 *in effect on the date that such institution converts to a bank*
12 *or becomes treated as a State bank.*

13 **SEC. 314. BRANCHES OF FORMER SAVINGS ASSOCIATIONS.**

14 (a) *BRANCHES.—*

15 (1) *EXISTING BRANCHES RETAINED.—Notwith-*
16 *standing any other provision of law, any depository*
17 *institution that qualifies under paragraph (2), and*
18 *any successor to such an institution, may continue,*
19 *after the depository institution becomes a bank, to op-*
20 *erate any branch or agency that the institution oper-*
21 *ated as a branch or agency, or was in the process of*
22 *establishing as a branch or agency, respectively, as of*
23 *the date of enactment of the Thrift Charter Transition*
24 *Act of 1997.*

1 (2) *DEPOSITORY INSTITUTION DEFINED.*—A de-
2 pository institution qualifies under this paragraph
3 for purposes of paragraph (1) if it—

4 (A)(i) is a savings association on the date
5 of enactment of the Thrift Charter Transition
6 Act of 1997; or

7 (ii) has filed an application to become a
8 savings association by the date of enactment of
9 the Thrift Charter Transition Act of 1997; and

10 (B) on or before the date 2 years after the
11 date of enactment of this Act, becomes a State or
12 national bank.

13 (b) *BRANCHING RIGHTS OBTAINED IN ASSISTED AC-*
14 *QUISITIONS.*—Notwithstanding any other provision of law,
15 if a depository institution has branching rights under a
16 contract entered into with the Federal Home Loan Bank
17 Board or the Federal Savings and Loan Insurance Cor-
18 poration or pursuant to a resolution of the Federal Home
19 Loan Bank Board or action of the Office of Thrift Super-
20 vision or Resolution Trust Corporation as part of a trans-
21 action in which the depository institution acquired or
22 merged with a failed or failing savings association (prior
23 to 1992), the depository institution may continue to branch
24 in a manner consistent with that contract, resolution, or
25 action.

1 (c) *BRANCHING RIGHTS OF STATE CHARTERED INSTI-*
2 *TUTIONS NOT AFFECTED.*—*Except as provided in sub-*
3 *section (b), applicable State law and Federal law shall gov-*
4 *ern the authority of a savings association that converts to*
5 *a State savings association charter or a State bank charter*
6 *to continue to operate any branch or agency that the insti-*
7 *tution operated prior to conversion and the future branch-*
8 *ing rights of the converted institution.*

9 (d) *INTRASTATE BRANCHES.*—*Any branch operated*
10 *under subsection (a)(1) in a State other than the depository*
11 *institution’s home State may acquire, establish or operate*
12 *additional branches in the host State to the same extent*
13 *as permitted for a national bank with its main office lo-*
14 *cated in the host State.*

15 **SEC. 315. PROGRAMS FOR PROMOTING HOUSING FINANCE.**

16 *Section 22 of the Federal Deposit Insurance Act (12*
17 *U.S.C. 1830) is amended by—*

18 (1) *striking “It is not” and inserting “(a) IN*
19 *GENERAL.—It is not”; and*

20 (2) *adding at the end the following new sub-*
21 *section:*

22 “(b) *PROGRAMS FOR PROMOTING HOUSING FI-*
23 *NANCE.—*

24 “(1) *FINDINGS.—The Congress finds that it is in*
25 *the national interest to protect and promote housing*

1 *finance in the process of converting savings associa-*
2 *tions to banks and eliminating the separate Federal*
3 *regulation of savings associations.*

4 “(2) *PROGRAMS REQUIRED.*—*In furtherance of*
5 *paragraph (1), each appropriate Federal banking*
6 *agency shall—*

7 “(A) *develop and implement a program de-*
8 *signed to—*

9 “(i) *facilitate the conversion of savings*
10 *associations to banks and the treatment of*
11 *State savings associations as State banks;*
12 *and*

13 “(ii) *promote housing finance by as-*
14 *suming that insured depository institutions*
15 *may, at their own election, specialize in ac-*
16 *quisition, development, residential mortgage*
17 *finance, and residential mortgage and hous-*
18 *ing production lending; and*

19 “(B) *develop guidelines and procedures for*
20 *assuring that insured depository institutions are*
21 *not subject to supervisory criticism or sanction*
22 *for prudently concentrating in acquisition, devel-*
23 *opment, residential mortgage finance, and resi-*
24 *dential mortgage and housing production lend-*
25 *ing.”.*

1 **SEC. 316. SAVINGS AND LOAN HOLDING COMPANIES.**

2 *Section 3 of the Bank Holding Company Act of 1956*
3 *(12 U.S.C. 1842) is amended by inserting after subsection*
4 *(f) (as so redesignated by section 102(b)(2) of this Act) the*
5 *following new subsection:*

6 *“(g) SAVINGS AND LOAN HOLDING COMPANY POWERS*
7 *GRANDFATHERED.—*

8 *“(1) IN GENERAL.—A company that qualifies*
9 *under paragraph (2) may—*

10 *“(A) maintain or enter into any nonbank*
11 *affiliation that the company was permitted pur-*
12 *suant to section 10 of the Home Owners’ Loan*
13 *Act to maintain or enter into prior to becoming*
14 *a bank holding company pursuant to paragraph*
15 *(2)(C); and*

16 *“(B) engage in any activity, including*
17 *holding any asset, in which the company or any*
18 *affiliate described in subparagraph (A) was per-*
19 *mitted pursuant to section 10 of the Home Own-*
20 *ers’ Loan Act to engage prior to becoming a*
21 *bank holding company pursuant to paragraph*
22 *(2)(C).*

23 *“(2) QUALIFIED GRANDFATHERED COMPANIES.—*

24 *“(A) GRANDFATHERED COMPANIES DE-*
25 *FINED.—A company qualifies under this para-*
26 *graph for purposes of paragraph (1) if—*

1 “(i) as of the date of enactment of the
2 *Thrift Charter Transition Act of 1997, the*
3 *company—*

4 “(I) was a savings and loan hold-
5 *ing company (as defined in section 10*
6 *of the Home Owners’ Loan Act, as in*
7 *effect on that date); or*

8 “(II) had filed an application to
9 *become a savings and loan holding*
10 *company; and*

11 “(ii) the company—

12 “(I) becomes a bank holding com-
13 *pany by operation of law; or*

14 “(II) was exempt from section 4
15 *(as in effect on the date of enactment*
16 *of the Thrift Charter Transition Act of*
17 *1997) under an order issued by the*
18 *Board under section 4(d) (as in effect*
19 *on the date of enactment of the Thrift*
20 *Charter Transition Act of 1997).*

21 “(B) *HOLDING COMPANIES WITH IDENTICAL*
22 *SHAREHOLDERS.—A company also qualifies*
23 *under this paragraph for purposes of paragraph*
24 *(1) if the company—*

1 “(i) is formed by a company qualified
2 under subparagraph (A); and

3 “(ii) the shareholders of such company
4 are identical to the shareholders of the com-
5 pany referred to in (i).

6 “(C) OPERATION OF LAW DEFINED.—For
7 purposes of this subsection, a savings and loan
8 holding company becomes a bank holding com-
9 pany by operation of law if a savings associa-
10 tion controlled by the company is converted to a
11 bank or is treated as a bank under an amend-
12 ment made by the Thrift Charter Transition Act
13 of 1997.

14 “(3) REQUIREMENTS TO RETAIN GRAND-
15 FATHERED POWERS.—

16 “(A) IN GENERAL.—Paragraph (1) shall
17 cease to apply to a company if the company does
18 not comply with this paragraph.

19 “(B) ACQUISITION OF BANKS .—

20 “(i) IN GENERAL.—The company may
21 not acquire (by any form of business com-
22 bination) control of a bank after the date of
23 enactment of the Thrift Charter Transition
24 Act of 1997.

1 “(ii) *EXCEPTIONS TO PROHIBITION.*—
2 *Clause (i) shall not apply to the acquisition*
3 *of—*

4 “(I) *a bank, during the period*
5 *ending on the date 2 years after the*
6 *date of enactment of the Thrift Charter*
7 *Transition Act of 1997, if the acquisi-*
8 *tion results from the conversion of a*
9 *savings association or the treatment of*
10 *a savings association as a bank under*
11 *amendments made by the Thrift Char-*
12 *ter Transition Act of 1997;*

13 “(II) *a bank, if the assets of such*
14 *bank are merged with an insured de-*
15 *pository institution which was con-*
16 *trolled by such company before the date*
17 *of enactment of the Thrift Charter*
18 *Transition Act of 1997, and if the re-*
19 *sulting institution continues to comply*
20 *with the requirements of Section 10(m)*
21 *of the Home Owners’ Loan Act as in*
22 *effect on the day prior to enactment of*
23 *the Thrift Charter Transition Act of*
24 *1997;*

1 “(III) shares held as a bona fide
2 fiduciary (whether with or without the
3 sole discretion to vote such shares);

4 “(IV) shares held by any person
5 as a bona fide fiduciary solely for the
6 benefit of employees of either the com-
7 pany or any subsidiary of the com-
8 pany and the beneficiaries of those em-
9 ployees;

10 “(V) an entity described in section
11 2(c)(2);

12 “(VI) shares held temporarily
13 pursuant to an underwriting commit-
14 ment in the normal course of an un-
15 derwriting business;

16 “(VII) shares held in an account
17 solely for trading purposes;

18 “(VIII) shares over which no con-
19 trol is held other than control of voting
20 rights acquired in the normal course of
21 a proxy solicitation;

22 “(IX) shares or assets acquired in
23 securing or collecting a debt previously
24 contracted in good faith, during the 2-
25 year period beginning on the date of

1 *such acquisition or for such additional*
2 *time (not exceeding 3 years) as the*
3 *Board may permit if the Board deter-*
4 *mines that such an extension will not*
5 *be detrimental to the public interest;*

6 *“(X) a bank from the Federal De-*
7 *posit Insurance Corporation, in any*
8 *capacity; and*

9 *“(XI) a bank in an acquisition in*
10 *which the bank has been found to be in*
11 *danger of default by the appropriate*
12 *Federal or State authority.*

13 *“(C) The company may not control a sav-*
14 *ings association or a national bank resulting*
15 *from the conversion of a savings association to a*
16 *national bank pursuant to section 311 if such*
17 *savings association or national bank fails to*
18 *comply with the requirements of section 5(c)(2)*
19 *and section 10(m) of the Home Owners’ Loan*
20 *Act as in effect on the day before the date of the*
21 *enactment of the Thrift Charter Transition Act*
22 *of 1997.*

23 *“(4) GRANDFATHERED POWERS NONTRANSFER-*
24 *ABLE.—*

1 “(A) *IN GENERAL.*—Paragraph (1) shall
2 *not apply with respect to any company if after*
3 *the date of the enactment of the Thrift Charter*
4 *Transition Act of 1997—*

5 “(i) *any company (other than a com-*
6 *pany qualified under paragraph (2)) not*
7 *under common control with such company*
8 *as of that date acquires, directly, or indi-*
9 *rectly, control of the company; or*

10 “(ii) *the company is the subject of any*
11 *merger, consolidation, or other type of busi-*
12 *ness combination as a result of which a*
13 *company (other than a company qualified*
14 *under paragraph (2)) not under common*
15 *control with such company acquires, di-*
16 *rectly or indirectly, control of such com-*
17 *pany.*

18 “(B) *ANTI-EVASION.*—*The appropriate Fed-*
19 *eral banking agency may issue interpretations,*
20 *regulations, or orders that it deems necessary to*
21 *administer and carry out the purpose, and pre-*
22 *vent evasions, of this paragraph, including deter-*
23 *mining that (notwithstanding the form of a*
24 *transaction) the transaction would in substance*
25 *effect a change in control.*

1 “(5) SAVINGS AND LOAN HOLDING COMPANIES
2 THAT BECOME BANK HOLDING COMPANIES.—

3 “(A) EXCLUSION FROM APPLICATION RE-
4 QUIREMENT.—A company that qualifies under
5 subparagraph (B) shall not be required to obtain
6 the approval of the Board under subsection (a)
7 to become a bank holding company if such com-
8 pany becomes a bank holding company after the
9 date of enactment of the Thrift Charter Transi-
10 tion Act of 1997 as a result of the conversion of
11 a savings association subsidiary to a bank or by
12 virtue of the treatment of a savings association
13 subsidiary as a bank under an amendment made
14 by this Act.

15 “(B) COMPANIES EXCLUDED FROM APPLICA-
16 TION REQUIREMENT.—A company qualifies for
17 purposes of subparagraph (A) if the company, as
18 of the date of the enactment of the Thrift Charter
19 Transition Act of 1997, was a savings and loan
20 holding company (as defined in section 10(a) of
21 the Home Owners’ Loan Act as in effect on that
22 date) or has filed an application to become a
23 savings and loan holding company.

1 “(C) SUPERVISION AND REGULATION OF
2 COMPANIES THAT WERE PREVIOUSLY SAVINGS
3 AND LOAN HOLDING COMPANIES.—

4 “(i) IN GENERAL.—Any company that
5 qualifies under paragraph (2) and complies
6 with paragraph (3) and was registered and
7 regulated under section 10 of the Home
8 Owners’ Loan Act on the day before becom-
9 ing a bank holding company described in
10 paragraphs (2) and (3) shall continue to be
11 regulated, for a period of 3 years after be-
12 coming such holding company, under the
13 terms of section 10 of the Home Owners’
14 Loan Act in the same manner and to the
15 same extent and subject to the same require-
16 ments as by the Office of Thrift Supervision
17 before the date of the enactment of the Thrift
18 Charter Transition Act of 1997.

19 “(ii) HOLDING COMPANY CAPITAL EX-
20 CEPTION.—With regard to holding company
21 capital, any company that qualifies under
22 paragraph (2) and complies with para-
23 graph (3) and was registered and regulated
24 under section 10 of the Home Owners’ Loan
25 Act before June 19, 1997, or had an appli-

1 *cation pending to do so on such date, shall*
2 *continue to be regulated under the terms of*
3 *section 10 of the Home Owners' Loan Act*
4 *in the same manner and to the same extent*
5 *and subject to the same requirements as by*
6 *the Office of Thrift Supervision before the*
7 *date of the enactment of the Thrift Charter*
8 *Transition Act of 1997.*

9 “(iii) *SUBMISSIONS TO REGU-*
10 *LATORS.—A company shall provide for a*
11 *period of 3 years after becoming a bank*
12 *holding company described in paragraphs*
13 *(2) and (3) the appropriate Federal bank-*
14 *ing agency with—*

15 *“(I) notice of acquisition of any*
16 *company not controlled or affiliated on*
17 *the date of enactment of the Thrift*
18 *Charter Transition Act of 1997 that is*
19 *engaged in nonbanking activities with-*
20 *in 15 days after completion of any*
21 *such transaction; and*

22 *“(II) copies of such quarterly and*
23 *annual reports as it is otherwise re-*
24 *quired to file with any other govern-*
25 *mental agency.*

1 “(iv) *REPORTING REQUIREMENTS.*—
2 *The appropriate Federal banking agency*
3 *may adopt, for a period of 3 years after a*
4 *company becomes a bank holding company*
5 *described in paragraphs (2) and (3), report-*
6 *ing requirements substantially similar to*
7 *and no more burdensome than required by*
8 *the Office of Thrift Supervision as of Janu-*
9 *ary 1, 1997.*

10 “(v) *REGULATORY AUTHORITY.*—*The*
11 *appropriate Federal banking agency shall,*
12 *for a period of 3 years after a company be-*
13 *comes a bank holding company described in*
14 *paragraphs (2) and (3)—*

15 “(I) *have the same authority to*
16 *examine a company or any subsidiary*
17 *or affiliate thereof only to the same ex-*
18 *tent as the Office of Thrift Supervision*
19 *had as of January 1, 1997; and*

20 “(II) *conduct only the same type*
21 *of examination and with the same fre-*
22 *quency as the Office of Thrift Super-*
23 *vision prior to January 1, 1997, unless*
24 *required to prevent an unsafe or un-*
25 *sound activity or course of conduct of*

1 *the savings institution converted to a*
2 *bank pursuant to the Thrift Charter*
3 *Transition Act of 1997.”.*

4 **SEC. 317. TREATMENT OF REFERENCES IN ADJUSTABLE**
5 **RATE MORTGAGES.**

6 (a) *TREATMENT OF REFERENCES IN ADJUSTABLE*
7 *RATE MORTGAGES ISSUED BEFORE FIRREA.*—*For pur-*
8 *poses of section 402(e) of Financial Institutions Reform,*
9 *Recovery, and Enactment Act of 1989 (12 U.S.C. 1437*
10 *note), any reference in such section to—*

11 (1) *the Director of the Office of Thrift Super-*
12 *vision shall be deemed to be a reference to the Sec-*
13 *retary of the Treasury; and*

14 (2) *a Savings Association Insurance Fund mem-*
15 *ber shall be deemed to be a reference to an insured de-*
16 *pository institution (as defined in section 3 of the*
17 *Federal Deposit Insurance Act).*

18 (b) *TREATMENT OF REFERENCES IN ADJUSTABLE*
19 *RATE MORTGAGES INSTRUMENTS ISSUED AFTER*
20 *FIRREA.*—

21 (1) *IN GENERAL.*—*For purposes of adjustable*
22 *rate mortgage instruments that are in effect as of the*
23 *date of enactment of this Act, any reference in the in-*
24 *strument to the Director of the Office of Thrift Super-*
25 *vision or Savings Association Insurance Fund mem-*

1 *bers shall be treated as a reference to the Secretary of*
2 *the Treasury or insured depository institutions (as*
3 *defined in section 3 of the Federal Deposit Insurance*
4 *Act), as appropriate.*

5 (2) *SUBSTITUTION FOR INDEXES.—If any index*
6 *used to calculate the applicable interest rate on any*
7 *adjustable rate mortgage instrument is no longer cal-*
8 *culated and made available as a direct or indirect re-*
9 *sult of the enactment of this title, any index—*

10 (A) *made available by the Secretary of the*
11 *Treasury; or*

12 (B) *determined by the Secretary of the*
13 *Treasury, pursuant to paragraph (4), to be sub-*
14 *stantially similar to the index which is no longer*
15 *calculated or made available,*

16 *may be substituted by the holder of any such adjust-*
17 *able rate mortgage instrument upon notice to the bor-*
18 *rower.*

19 (3) *AGENCY ACTION REQUIRED TO PROVIDE CON-*
20 *TINUED AVAILABILITY OF INDEXES.—Promptly after*
21 *the enactment of this subsection, the Secretary of the*
22 *Treasury, the Chairperson of the Federal Deposit In-*
23 *surance Corporation, and the Comptroller of the Cur-*
24 *rency shall take such action as may be necessary to*
25 *assure that the indexes prepared by the Director of the*

1 *Office of Thrift Supervision immediately before the*
2 *enactment of this subsection and used to calculate the*
3 *interest rate on adjustable rate mortgage instruments*
4 *continue to be available.*

5 (4) *REQUIREMENTS RELATING TO SUBSTITUTE*
6 *INDEXES.—If any agency can no longer make avail-*
7 *able an index pursuant to paragraph (3), an index*
8 *that is substantially similar to such index may be*
9 *substituted for such index for purposes of paragraph*
10 *(2) if the Secretary of the Treasury determines, after*
11 *notice and opportunity for comment, that—*

12 (A) *the new index is based upon data sub-*
13 *stantially similar to that of the original index;*
14 *and*

15 (B) *the substitution of the new index will*
16 *result in an interest rate substantially similar to*
17 *the rate in effect at the time the original index*
18 *became unavailable.*

19 **SEC. 318. COST OF FUNDS INDEXES.**

20 (a) *COST OF FUNDS INDEX DEFINED.—The term “cost*
21 *of funds indexed” means any index that is published by*
22 *a Federal home loan bank and is based, in whole or in part,*
23 *upon the cost of funds of such bank’s members.*

24 (b) *CALCULATIONS BASED ON TYPE OF CHARTER AND*
25 *INSURANCE FUND MEMBERSHIP OF MEMBERS.— If any*

1 *cost of funds index includes data based on charter type, in-*
2 *surance fund membership, or other similar characteristics*
3 *of members of a Federal home loan bank, such index shall*
4 *be calculated after the date of the enactment of this Act*
5 *using data only from insured depository institutions which*
6 *were bank members and whose data was included in such*
7 *index on or before such date of enactment.*

8 (c) *ACQUISITION OF DATA.*—

9 (1) *IN GENERAL.*—*Each insured depository in-*
10 *stitution the data from which is required to compile*
11 *a cost of funds index in accordance with subsection*
12 *(b) shall provide to the Federal home loan bank which*
13 *maintains the index such information as may be nec-*
14 *essary, and in such form as may be appropriate, for*
15 *the bank to calculate and publish the index.*

16 (2) *ENFORCEMENT BY BANKING AGENCIES.*—
17 *Each appropriate Federal banking agency shall take*
18 *such action as may be necessary to ensure that in-*
19 *surated depository institutions which are required to*
20 *provide information to any Federal home loan bank*
21 *under paragraph (1) furnish such information on a*
22 *timely basis and in the form required by the bank.*

23 (3) *TREATMENT OF INSTITUTIONS.*—*Notwith-*
24 *standing any other provision of law, an insured de-*
25 *pository institution which furnishes information to a*

1 *Federal home loan bank pursuant to this section for*
2 *use in compiling a cost of funds index shall not be*
3 *deemed to control, directly, or indirectly, such index.*

4 *(d) CERTAIN DATA EXCLUDED.—Notwithstanding*
5 *subsections (b) and (c), no cost of funds index shall include*
6 *any data from any insured depository institution which re-*
7 *sults from the merger, consolidation, or other combination*
8 *of a member of a Federal home loan bank with a nonmem-*
9 *ber of any such bank if—*

10 *(1) the total assets of the nonmember exceed the*
11 *total assets of the bank member at the time of such*
12 *merger, consolidation, or other combination; or*

13 *(2) in the case of a merger, consolidation, or*
14 *other merger in which a member of a Federal home*
15 *loan bank is the resulting insured depository institu-*
16 *tion, combined ratio of the average amount of single-*
17 *family loan balances to average total assets of all in-*
18 *insured depository institutions involved in such merger,*
19 *consolidation, or other combination for the 12-months*
20 *period ending on the date of such transaction is less*
21 *than 70 percent.*

22 *(e) OTHER DEFINITIONS.—For purposes of this sec-*
23 *tion, the terms “appropriate Federal banking agency” and*
24 *“insured depository institution” shall have the same mean-*
25 *ings as in section 3 of the Federal Deposit Insurance Act.*

1 ***Subtitle B—Ending Separate Fed-***
2 ***eral Regulation of Savings Asso-***
3 ***ciations and Savings and Loan***
4 ***Holding Companies***

5 ***SEC. 321. STATE SAVINGS ASSOCIATIONS TREATED AS***
6 ***STATE BANKS UNDER FEDERAL BANKING***
7 ***LAW.***

8 *(a) AMENDMENTS TO THE FEDERAL DEPOSIT INSUR-*
9 *ANCE ACT.—Section 3 of the Federal Deposit Insurance Act*
10 *(12 U.S.C. 1813) is amended—*

11 *(1) by striking paragraph (2) of subsection (a)*
12 *and inserting the following new paragraph:*

13 *“(2) STATE BANK.—*

14 *“(A) IN GENERAL.—The term ‘State bank’*
15 *means any bank, banking association, trust com-*
16 *pany, savings bank, industrial bank (or similar*
17 *depository institution which the Board of Direc-*
18 *tors finds to be operating in substantially the*
19 *same manner as an industrial bank), building*
20 *and loan association, savings and loan associa-*
21 *tion, homestead association, cooperative bank, or*
22 *other banking institution—*

23 *“(i) which is engaged in the business of*
24 *receiving deposits, other than trust funds*
25 *(as defined in this section); and*

1 “(i) which—

2 “(I) is incorporated under the
3 laws of any State;

4 “(II) is organized and operating
5 according to the laws of the State in
6 which such institution is chartered or
7 organized; or

8 “(III) is operating under the Code
9 of Law for the District of Columbia
10 (except a national bank).

11 “(B) CERTAIN INSURED BANKS IN-
12 CLUDED.—The term ‘State bank’ includes any
13 cooperative bank or other unincorporated bank
14 the deposits of which were insured by the Cor-
15 poration on the day before the date of enactment
16 of the Financial Institutions Reform, Recovery,
17 and Enforcement Act of 1989.

18 “(C) CERTAIN UNINSURED BANKS EX-
19 CLUDED.—The term ‘State bank’ shall not in-
20 clude any cooperative bank or other unincor-
21 porated bank the deposits of which were not in-
22 sured by the Corporation on the day before the
23 date of enactment of the Financial Institutions
24 Reform, Recovery, and Enforcement Act of
25 1989.”; and

1 (2) *in subsection (q), by—*

2 (A) *inserting “and” after the semicolon at*
3 *the end of paragraph (2);*

4 (B) *striking “; and” at the end of para-*
5 *graph (3) and inserting a period; and*

6 (C) *striking paragraph (4).*

7 (b) *AMENDMENT TO THE BANK HOLDING COMPANY*
8 *ACT OF 1956.—Section 2(a)(5) of the Bank Holding Com-*
9 *pany Act of 1956 (12 U.S.C. 1841(a)(5)) is amended by*
10 *striking subparagraph (E).*

11 (c) *AMENDMENTS TO THE FEDERAL RESERVE ACT.—*
12 *Section 1 of the Federal Reserve Act (12 U.S.C. 221) is*
13 *amended by inserting “(as defined in section 3 of the Fed-*
14 *eral Deposit Insurance Act)” after “State bank” each place*
15 *such term appears.*

16 (d) *EFFECTIVE DATE.—This section shall take effect*
17 *2 years after the date of the enactment of this Act.*

18 **SEC. 322. POWERS OF FEDERAL SAVINGS ASSOCIATIONS AC-**
19 **CORDED TO NATIONAL BANKS.**

20 (a) *ADDITIONAL POWERS FOR NATIONAL BANKS TO*
21 *ACCOMMODATE FEDERAL SAVINGS ASSOCIATION CONVER-*
22 *SIONS.—Subsection (a) of section 5136 of the Revised Stat-*
23 *utes of the United States (12 U.S.C. 24) (as so designated*
24 *by section 151(a) of this Act) is amended by adding at the*
25 *end the following new paragraph:*

1 “(12) To exercise all the powers and privileges
2 authorized by the Director of the Office of Thrift Su-
3 pervision for a Federal savings association on the day
4 before the date of enactment of the Financial Services
5 Competition Act of 1997, subject to the requirements
6 otherwise applicable to national banks, including sec-
7 tions 5136A and 5155, except this paragraph shall
8 not confer on a national bank the power granted to
9 a Federal savings association under section 5(c)(4)(B)
10 of the Home Owners’ Loan Act to invest in a corpora-
11 tion engaged in real estate development and the power
12 granted to a Federal savings association under section
13 5(c)(4)(B) of the Home Owners’ Loan Act to invest in
14 a corporation may be exercised by a national bank
15 only if the investment is made in a corporation that
16 is a subsidiary of the bank.”.

17 (b) *EFFECTIVE DATE.*—This section shall take effect
18 2 years after the date of the enactment of this Act.

19 **SEC. 323. HOME OWNERS’ LOAN ACT REPEALED.**

20 *Effective 2 years after the date of enactment of this*
21 *Act, the Home Owners’ Loan Act (12 U.S.C. 1461–1468c)*
22 *is repealed.*

1 **SEC. 324. CONFORMING AMENDMENT REFLECTING ELIMI-**
2 **NATION OF THE FEDERAL THRIFT CHARTER**
3 **AND THE SEPARATE SYSTEM OF THRIFT REG-**
4 **ULATION.**

5 *Section 2704(c) of the Economic Growth and Regu-*
6 *latory Paperwork Reduction Act of 1996 is amended to read*
7 *as follows:*

8 “(c) *EFFECTIVE DATE.*—*This section and the amend-*
9 *ments made by this section shall take effect on the earlier*
10 *of—*

11 “(1) *January 1, 2000; or*

12 “(2) *the end of the 2-year period beginning on*
13 *the date of the enactment of the Thrift Charter Tran-*
14 *sition Act of 1997.”.*

15 **SEC. 325. CONFORMING AMENDMENTS TO THE FEDERAL**
16 **HOME LOAN BANK ACT.**

17 (a) *AMENDMENT TO SECTION 2.*—*Section 2 of the Fed-*
18 *eral Home Loan Bank Act (12 U.S.C. 1422) is amended*
19 *by striking paragraph (9) and redesignating paragraphs*
20 *(10) through (12) as paragraphs (9) through (11), respec-*
21 *tively.*

22 (b) *AMENDMENTS TO SECTION 10.*—*Subsection (h) of*
23 *section 10 of the Federal Home Loan Bank Act (12 U.S.C.*
24 *1430) is amended to read as follows:*

25 “(h) *[Repealed]*”.

1 (c) *AMENDMENTS TO SECTION 11.*—Section
2 *11(d)(2)(C) of the Federal Home Loan Bank Act (12 U.S.C.*
3 *1431(e)(2)(C)) (as so redesignated by section 174(e) of this*
4 *Act) is amended by—*

5 (1) *striking “, and with respect to the collection*
6 *and settlement (including payment by the payor in-*
7 *stitution) of items payable by Federal savings and*
8 *loan associations and Federal mutual savings*
9 *banks,”; and*

10 (2) *striking “, associations, or banks”.*

11 (d) *AMENDMENT TO SECTION 18.*—Section 18(c) of the
12 *Federal Home Loan Bank Act (12 U.S.C. 1438(c)) is re-*
13 *pealed.*

14 (e) *AMENDMENT TO SECTION 22.*—Section 22(a) of the
15 *Federal Home Loan Bank Act (12 U.S.C. 1442(a)) is*
16 *amended by striking “, and the Director of the Office of*
17 *Thrift Supervision” each place such appears and inserting*
18 *“and” before “the Chairperson of the National Credit Union*
19 *Administration”.*

20 (f) *AMENDMENT TO SECTION 24.*—Section 24 of the
21 *Federal Home Loan Bank Act (12 U.S.C. 1444) is repealed.*

22 (g) *EFFECTIVE DATE.*—This section shall become effec-
23 *tive 2 years after the date of enactment of this Act.*

1 **SEC. 326. AMENDMENTS TO TITLE 11, UNITED STATES**

2 **CODE.**

3 (a) *DEFINITION OF FEDERAL MUTUAL BANK HOLDING*
4 *COMPANY.*—Section 101 of title 11, United States Code, is
5 amended by inserting after paragraph (21B) the following
6 new paragraph:

7 “(21C) ‘Federal mutual bank holding company’
8 has the same meaning as in section 5133B(h)(1) of
9 the Revised Statutes of the United States.”.

10 (b) *CONSERVATOR OR RECEIVER MAY PETITION.*—
11 Section 303(b) of title 11, United States Code, is amend-
12 ed—

13 (1) in paragraph (3)(B) by striking “or” at the
14 end;

15 (2) in paragraph (4) by striking the period at
16 the end and inserting “; or”; and

17 (3) by adding at the end the following:

18 “(5) in a proceeding concerning a Federal mu-
19 tual bank holding company, the Comptroller of the
20 Currency.”

21 (c) *EFFECT OF INVOLUNTARY PETITION BY COMP-*
22 *TROLLER.*—

23 (1) *EXEMPTION FROM INDEMNIFICATION.*—Sec-
24 tion 303(e) of title 11, United States Code, is amend-
25 ed by inserting “, other than a petitioner specified in

1 **SEC. 332. SECRETARY OF THE TREASURY REQUIRED TO**
2 **FORMULATE PLANS FOR COMBINING OFFICE**
3 **OF THRIFT SUPERVISION WITH OFFICE OF**
4 **THE COMPTROLLER OF THE CURRENCY.**

5 *Not later than 9 months after the date of the enactment*
6 *of this Act, the Secretary of the Treasury, in consultation*
7 *with the Director of the Office of Thrift Supervision and*
8 *the Comptroller of the Currency, shall formulate a plan for*
9 *consolidating the Office of Thrift Supervision with the Of-*
10 *fice of the Comptroller of the Currency by the end of the*
11 *2-year period beginning on the date of enactment of this*
12 *Act. The Director of the Office of Thrift Supervision and*
13 *the Comptroller of the Currency shall implement that plan,*
14 *notwithstanding any other provision of Federal banking*
15 *laws.*

16 **SEC. 333. OFFICE OF THRIFT SUPERVISION AND POSITION**
17 **OF DIRECTOR OF THE OFFICE OF THRIFT SU-**
18 **PERVISION ABOLISHED.**

19 *Effective 2 years after the date of enactment of this*
20 *Act, the Office of Thrift Supervision and the position of*
21 *Director of the Office of Thrift Supervision are abolished.*

1 **SEC. 334. RECONFIGURATION OF BOARD OF DIRECTORS OF**
2 **FDIC AS A RESULT OF REMOVAL OF DIREC-**
3 **TOR OF THE OFFICE OF THRIFT SUPER-**
4 **VISION.**

5 (a) *IN GENERAL.*—Section 2(a)(1) of the Federal De-
6 posit Insurance Act (12 U.S.C. 1812(a)(1)) is amended to
7 read as follows:

8 “(1) *IN GENERAL.*—The management of the Cor-
9 poration shall be vested in a Board of Directors con-
10 sisting of 5 members—

11 “(A) 1 of whom shall be the Comptroller of
12 the Currency; and

13 “(B) 4 of whom shall be appointed by the
14 President, and with the advice and consent of the
15 Senate, from among individuals who are citizens
16 of the United States, 1 of whom shall have State
17 bank supervisory experience.”.

18 (b) *TECHNICAL AND CONFORMING AMENDMENTS.*—

19 (1) Section 2(d)(2) of the Federal Deposit Insur-
20 ance Act (12 U.S.C. 1812(d)(2)) is amended—

21 (A) by striking “or the office of Director of
22 the Office of Thrift Supervision”;

23 (B) by striking “or such Director”;

24 (C) by striking “or the acting Director of
25 the Office of Thrift Supervision, as the case may
26 be”; and

1 (D) by striking “or Director”.

2 (2) Section 2(f)(2) of the Federal Deposit Insur-
3 ance Act (12 U.S.C. 1812(f)(2)) is amended by strik-
4 ing “or of the Office of Thrift Supervision”.

5 (c) *EFFECTIVE DATE.*—The amendments made by sub-
6 sections (a) and (b) shall take effect at the end of the 2-
7 year period beginning on the date of the enactment of this
8 Act.

9 **SEC. 335. CONTINUATION PROVISIONS.**

10 (a) *CONTINUATION OF ORDERS, RESOLUTIONS, DE-*
11 *TERMINATIONS AND REGULATIONS.*—All orders, resolutions,
12 determinations and regulations of the Office of Thrift Su-
13 pervision that have been issued, made, prescribed or allowed
14 to become effective by the Office of Thrift Supervision (in-
15 cluding orders, resolutions, determinations and regulations
16 that relate to the conduct of conservatorship and receiver-
17 ships), or by a court of competent jurisdiction, and are in
18 effect on the day before the date of enactment, shall continue
19 in effect according to the terms of such orders, resolutions,
20 determinations, and regulations and shall be enforceable by
21 or against the appropriate successor agency until modified,
22 terminated, set aside or superseded in accordance with ap-
23 plicable law by the appropriate successor agency or by a
24 court of competent jurisdiction or by operation of law.

1 (b) *CONTINUATION OF SUITS.*—No action or other pro-
2 ceeding commenced by or against the Office of Thrift Super-
3 vision shall abate because of the enactment of this Act, ex-
4 cept that the appropriate successor agency to the Office of
5 Thrift Supervision shall be substituted for the Office of
6 Thrift Supervision as a party to any such action or pro-
7 ceeding.

8 (c) *CONTINUATION OF AGENCY SERVICES.*—Any agen-
9 cy, department, or other instrumentality of the United
10 States, and any successor to such agency, department, or
11 instrumentality, that was providing supporting services to
12 the Office of Thrift Supervision shall—

13 (1) continue to provide such services, on a reim-
14 bursable basis or as otherwise agreed before the date
15 of enactment, to the Office of Thrift Supervision; and

16 (2) consult with the Office of Thrift Supervision
17 to coordinate and facilitate a prompt and reasonable
18 completion or termination of such services.

19 (d) *TRANSFER OF PROPERTY.*—Not later than two
20 years of the date of enactment, all property of the Office
21 of Thrift Supervision shall be transferred to the Office of
22 the Comptroller of the Currency, or another appropriate
23 successor agency, in accordance with the division of respon-
24 sibilities and activities effected by this Act. For purposes
25 of this subsection, the term “property” includes, but is not

1 *limited to, all interests in real property and all personal*
2 *property, including financial assets, computer hardware*
3 *and software, furniture, fixtures, books, accounts, records,*
4 *reports of examination, work papers and correspondence re-*
5 *lated to such reports of examination, and any information,*
6 *materials, property, and assets not specifically listed. The*
7 *Secretary of the Treasury shall resolve any disagreement*
8 *between successor agencies.*

9 ***Subtitle D—Technical and Con-***
10 ***forming Amendments to the De-***
11 ***pository Institution Statutes***

12 ***SEC. 341. AMENDMENTS TO THE FEDERAL DEPOSIT INSUR-***
13 ***ANCE ACT.***

14 *(a) AMENDMENT TO SECTION 1.—Section 1(a) of the*
15 *Federal Deposit Insurance Act (12 U.S.C. 1811(a)) is*
16 *amended by striking “and savings associations”.*

17 *(b) AMENDMENTS TO SECTION 3.—Section 3 of the*
18 *Federal Deposit Insurance Act (12 U.S.C. 1813) is amend-*
19 *ed—*

20 *(1) in subsection (b)—*

21 *(A) by striking subparagraph (A) of para-*
22 *graph (1);*

23 *(B) by striking “and the Director of the Of-*
24 *fice of Thrift Supervision jointly determine” in*
25 *paragraph (1)(C) and inserting “determines”;*

1 (C) by redesignating subparagraphs (B)
2 and (C) of paragraph (1) (as amended by sub-
3 paragraph (B) of this paragraph) as subpara-
4 graphs (A) and (B), respectively;

5 (D) by striking paragraph (2); and

6 (E) by redesignating paragraph (3) as
7 paragraph (2);

8 (2) in subsection (l)(5)—

9 (A) by striking “or savings association”
10 each place such term appears; and

11 (B) by striking “Director of the Office of
12 Thrift Supervision”; and

13 (3) in subsection (2), by striking “the Director of
14 the Office of Thrift Supervision,”.

15 (c) AMENDMENT TO SECTION 4.—Section 4(a) of the
16 Federal Deposit Insurance Act (12 U.S.C. 1814(a)) is
17 amended—

18 (1) by striking “(1) BANKS.—”; and

19 (2) by striking paragraph (2).

20 (d) AMENDMENTS TO SECTION 7.—Section 7 of the
21 Federal Deposit Insurance Act (12 U.S.C. 1817) is amend-
22 ed—

23 (1) in subsection (a)(2)(A), by striking “the Di-
24 rector of the Office of Thrift Supervision,”;

25 (2) in subsection (a)(2)(B)—

1 (A) by inserting “and” after “Comptroller
2 of the Currency,”; and

3 (B) by striking “and the Director of the Of-
4 fice of Thrift Supervision”;

5 (3) in subsection (a)(3)—

6 (A) by inserting “and” after “Comptroller
7 of the Currency,”; and

8 (B) by striking “, and the Director of the
9 Office of Thrift Supervision”;

10 (4) in subsection (a)(7), by striking “the Direc-
11 tor of the Office of Thrift Supervision,” ; and

12 (5) by striking subsection (n).

13 (e) AMENDMENTS TO SECTION 8.—Section 8 of the
14 Federal Deposit Insurance Act (12 U.S.C. 1818) is amend-
15 ed—

16 (1) in paragraph (7) (as so redesignated by sec-
17 tion 161(d)(1) of this Act) of subsection (a)—

18 (A) by striking subparagraph (B); and

19 (B) by redesignating subparagraphs (C)
20 through (H) as subparagraphs (B) through (G),
21 respectively;

22 (2) in subsection (b)—

23 (A) by striking paragraph (9); and

24 (B) by redesignating paragraph (10) as
25 paragraph (9);

1 (3) in subsection (o), by striking the last sen-
2 tence; and

3 (4) in subsection (w)(3)(A), by striking “and the
4 Office of Thrift Supervision, where appropriate”.

5 (f) AMENDMENT TO SECTION 10.—Section 10(c) of the
6 Federal Deposit Insurance Act (12 U.S.C. 1820(c)) is
7 amended by striking “savings association,”.

8 (g) AMENDMENTS TO SECTION 11.—Section 11 of the
9 Federal Deposit Insurance Act (12 U.S.C. 1821) is amend-
10 ed—

11 (1) in subsection (c)—

12 (A) by striking paragraph (6); and

13 (B) by redesignating paragraphs (7)
14 through (13) as paragraphs (6) through (12), re-
15 spectively;

16 (2) in subsection (d)(2)(F), by striking “re-
17 ceiver—” and all that follows through “(ii) with” and
18 inserting “receiver with”;

19 (3) in subsection (d)(17)(A), by striking “or the
20 Director of the Office of Thrift Supervision”; and

21 (4) in subsection (d)(18)(B), by striking “or the
22 Director of the Office of Thrift Supervision”.

23 (h) AMENDMENT TO SECTION 13.—Section 13 of the
24 Federal Deposit Insurance Act (12 U.S.C. 1823) is amended
25 by striking subsection (k).

1 (i) *AMENDMENTS TO SECTION 18.*—Section 18 of the
2 *Federal Deposit Insurance Act (12 U.S.C. 1828)* is amend-
3 *ed*—

4 (1) *in subsection (c)(2)*—

5 (A) *by inserting “and” after the semicolon*
6 *at the end of subparagraph (B);*

7 (B) *in subparagraph (C), by striking “(ex-*
8 *cept a District bank or a savings bank super-*
9 *vised by the Director of the Office of Thrift Su-*
10 *pervision); and” and inserting “(except a Dis-*
11 *trict bank).”;* and

12 (C) *by striking subparagraph (D);*

13 (2) *in subsection (g)(1), by striking “and the Di-*
14 *rector of the Office of Thrift Supervision”;*

15 (3) *in subsection (i)(2)*—

16 (A) *by inserting “and” after the semicolon*
17 *at the end of subparagraph (B);*

18 (B) *by striking “; and” in subparagraph*
19 *(C) and inserting a period; and*

20 (C) *by striking subparagraph (D); and*

21 (4) *by striking subsection (m).*

22 (j) *AMENDMENTS TO SECTION 22.*—Section 22 of the
23 *Federal Deposit Insurance Act (12 U.S.C. 1830)* is amend-
24 *ed*—

1 (1) by striking “or State savings associations
2 and in favor of national or member banks or Federal
3 savings associations, respectively” and inserting “and
4 in favor of national or member banks”; and

5 (2) by striking “and savings associations”.

6 (k) AMENDMENT TO SECTION 28.—Section 28 of the
7 Federal Deposit Insurance Act (12 U.S.C. 1831e) is re-
8 pealed.

9 (l) AMENDMENT TO SECTION 33.—Section 33(e) of the
10 Federal Deposit Insurance Act (12 U.S.C. 1831j(e)) is
11 amended by striking “, and the Director of the Office of
12 Thrift Supervision” and inserting “and” before “the Comp-
13 troller of the Currency”.

14 (m) AMENDMENT TO SECTION 38.—Section 38(o) of
15 the Federal Deposit Insurance Act (12 U.S.C. 1831o(o)) is
16 repealed.

17 **SEC. 342. AMENDMENT TO THE BANK HOLDING COMPANY**
18 **ACT OF 1956.**

19 Section 2 of the Bank Holding Company Act of 1956
20 (12 U.S.C. 1841) is amended by striking subsections (i) and
21 (j) and inserting the following new subsections:

22 “(i) [Repealed]

23 “(ii) [Repealed]”.

1 **SEC. 343. AMENDMENTS TO THE FEDERAL RESERVE ACT.**

2 (a) AMENDMENTS TO SECTION 11.—Section
3 11(a)(2)(B) of the Federal Reserve Act (12 U.S.C.
4 248(a)(2)(B)) is amended—

5 (1) by inserting “and” after the comma at the
6 end of clause (ii);

7 (2) by striking clause (iii); and

8 (3) by redesignating clause (iv) as clause (iii).

9 (b) AMENDMENTS TO SECTION 19.—Section 19(b) of
10 the Federal Reserve Act (12 U.S.C. 461(b)) is amended—

11 (1) in paragraph (1)(A)—

12 (A) by inserting “and” after the semicolon
13 at the end of clause (v);

14 (B) by striking clause (vi); and

15 (C) by redesignating clause (vii) as clause
16 (vi); and

17 (2) by striking “the Director of the Office of
18 Thrift Supervision,” each place it appears.

19 **SEC. 344. AMENDMENTS TO ALTERNATIVE MORTGAGE**
20 **TRANSACTION PARITY ACT OF 1982.**

21 Section 804(a) of the Alternative Mortgage Trans-
22 action Parity Act of 1982 (12 U.S.C. 3803) is amended—

23 (1) in paragraph (1)—

24 (A) by inserting “(as such term is defined
25 in section 3 of the Federal Deposit Insurance

1 *Act) and all other housing creditors” after “with*
2 *respect to banks”; and*

3 *(B) by inserting “and” after the semicolon*
4 *at the end of the paragraph;*

5 *(2) by deleting “; and” at the end of paragraph*
6 *(2) and inserting a period; and*

7 *(3) by striking paragraph (3).*

8 **SEC. 345. AMENDMENTS TO THE BANK PROTECTION ACT OF**
9 **1968.**

10 *Section 2 of the Bank Protection Act of 1968 (12*
11 *U.S.C. 1881) is amended—*

12 *(1) by striking the comma at the end of para-*
13 *graph (2) and inserting “; and”;*

14 *(2) by striking “, and” at the end of paragraph*
15 *(3) and inserting a period; and*

16 *(3) by striking paragraph (4).*

17 **SEC. 346. AMENDMENTS TO THE COMMUNITY REINVEST-**
18 **MENT ACT OF 1977.**

19 *Section 803 of the Community Reinvestment Act of*
20 *1977 (12 U.S.C. 2902) is amended—*

21 *(1) in paragraph (1)—*

22 *(A) by inserting “and” after the semicolon*
23 *at the end of subparagraph (B); and*

24 *(B) by striking “; and” in subparagraph*
25 *(C) and inserting a period;*

1 (2) by striking the first paragraph (2); and
2 (3) in paragraph (3)(A), by striking “or Federal
3 savings and loan association”.

4 **SEC. 347. AMENDMENTS TO THE DEPOSITORY INSTITU-**
5 **TIONS DEREGULATION AND MONETARY CON-**
6 **TROL ACT OF 1980.**

7 Section 208(a) of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C.
8 3507(a)) is amended—

10 (1) by striking “; and” at the end of paragraph
11 (1)(C) and inserting a period; and
12 (2) by striking paragraph (2).

13 **SEC. 348. AMENDMENTS TO THE DEPOSITORY INSTITUTION**
14 **MANAGEMENT INTERLOCKS ACT.**

15 (a) **AMENDMENT TO SECTION 202.**—Section 202(2) of
16 the Depository Institution Management Interlocks Act (12
17 U.S.C. 3201(2)) is amended by inserting “or” before “a
18 company which would be” and striking “, or a savings and
19 loan holding company” and all that follows through “Hous-
20 ing Act”.

21 (b) **AMENDMENT TO SECTION 205.**—Section 205 of the
22 Depository Institution Management Interlocks Act (12
23 U.S.C. 3204) is amended—

24 (1) in the portion of paragraph (8)(A) which
25 precedes clause (i), by striking “diversified savings”

1 *and all that follows through “with respect to” and in-*
2 *serting “company which is, or has filed an applica-*
3 *tion to become, a depository institution holding com-*
4 *pany and which satisfies the consolidated net worth*
5 *and consolidated net earnings requirements for a di-*
6 *versified savings and loan holding company (as set*
7 *forth in section 10(1)(F) of the Home Owners’ Loan*
8 *Act, as such section is in effect and interpreted on*
9 *such date, which shall be applicable for purposes of*
10 *this paragraph without regard to the fact that a de-*
11 *pository institution subsidiary of such holding com-*
12 *pany has ceased to be a savings association after Jan-*
13 *uary 1, 1997) with respect to”;* and

14 *(2) by striking paragraph (9).*

15 *(c) AMENDMENTS TO SECTION 207.—Section 207 of*
16 *the Depository Institution Management Interlocks Act (12*
17 *U.S.C. 3206) is amended—*

18 *(1) by striking paragraph (4); and*

19 *(2) by redesignating paragraphs (5) and (6) as*
20 *paragraphs (4) and (5), respectively.*

21 *(d) AMENDMENT TO SECTION 209.—Section 209 of the*
22 *Depository Institution Management Interlocks Act (12*
23 *U.S.C. 3207) is amended—*

24 *(1) by inserting “and” after the comma at the*
25 *end of paragraph (3);*

1 (2) by striking paragraph (4); and

2 (3) by redesignating paragraph (5) as para-
3 graph (4).

4 **SEC. 349. AMENDMENT TO THE ECONOMIC GROWTH AND**
5 **REGULATORY PAPERWORK REDUCTION ACT**
6 **OF 1996.**

7 Section 2227 of the *Economic Growth and Regulatory*
8 *Paperwork Reduction Act of 1996 (Public Law 104–208)*
9 *is amended by striking “the Director of the Office of Thrift*
10 *Supervision,”.*

11 **SEC. 350. AMENDMENT TO THE EMERGENCY HOME FI-**
12 **NANCE ACT OF 1970.**

13 Section 305(b) of the *Emergency Home Finance Act*
14 *of 1970 (12 U.S.C. 1454(b)) is amended by striking “any*
15 *Federal savings and loan association,”.*

16 **SEC. 351. AMENDMENTS TO THE EXPEDITED FUNDS AVAIL-**
17 **ABILITY ACT.**

18 Section 610(a) of the *Expedited Funds Availability*
19 *Act (12 U.S.C. 4009(a)) is amended—*

20 (1) by inserting “and” after the semicolon at the
21 end of paragraph (1)(C);

22 (2) by striking paragraph (2); and

23 (3) by redesignating paragraph (3) as para-
24 graph (2).

1 **SEC. 352. AMENDMENTS TO THE FEDERAL CREDIT UNION**
2 **ACT.**

3 (a) *AMENDMENT TO SECTION 107.—Section 107(7)(D)*
4 *of the Federal Credit Union Act (12 U.S.C. 1757(7)(D))*
5 *is amended by striking “the Federal Savings and Loan In-*
6 *surance Corporation or”.*

7 (b) *AMENDMENT TO SECTION 206.—Section*
8 *206(g)(7)(A)(ii) of the Federal Credit Union Act (12 U.S.C.*
9 *1786(g)(7)(A)(ii)) is amended by striking “, or as a savings*
10 *association under section 8(b)(8) of such Act”.*

11 **SEC. 353. AMENDMENTS TO THE FEDERAL FINANCIAL IN-**
12 **STITUTIONS EXAMINATION COUNCIL ACT OF**
13 **1978.**

14 (a) *AMENDMENT TO SECTION 1003(1).—Section*
15 *1003(1) of the Federal Financial Institutions Examination*
16 *Council Act of 1978 (12 U.S.C. 3302(1)) is amended by*
17 *striking “the Office of Thrift Supervision,”.*

18 (b) *AMENDMENT TO SECTION 1004.—Section 1004(a)*
19 *of the Federal Financial Institutions Examination Council*
20 *Act of 1978 (12 U.S.C. 3303(a)) is amended—*

21 (1) *by inserting “and” after the comma at the*
22 *end of paragraph (3);*

23 (2) *by striking paragraph (4); and*

24 (3) *by redesignating paragraph (5) as para-*
25 *graph (4).*

1 **SEC. 354. AMENDMENTS TO THE FINANCIAL INSTITUTIONS**
2 **REFORM, RECOVERY, AND ENFORCEMENT**
3 **ACT OF 1989.**

4 (a) *AMENDMENT TO SECTION 1121.*—Section 1121(6)
5 of the *Financial Institutions Reform, Recovery, and En-*
6 *forcement Act of 1989 (12 U.S.C. 3350(6))* is amended by
7 striking “*the Office of Thrift Supervision,*”.

8 (b) *AMENDMENT TO SECTION 1206.*—Section 1206 of
9 the *Financial Institutions Reform, Recovery, and Enforce-*
10 *ment Act of 1989 (12 U.S.C. 1833b)* is amended by striking
11 “*and the Office of Thrift Supervision,*” and inserting “*and*”
12 before “*the Farm Credit Administration*”.

13 (c) *AMENDMENT TO SECTION 1216.*—Section 1216 of
14 the *Financial Institutions Reform, Recovery, and Enforce-*
15 *ment Act of 1989 (12 U.S.C. 1833e)* is amended—

16 (1) in subsection (a), by striking paragraph (2)
17 and redesignating paragraphs (3) through (6) as
18 paragraphs (2) through (5), respectively; and

19 (2) in subsection (c), by striking “*the Director of*
20 *the Office of Thrift Supervision,*”.

21 **SEC. 355. AMENDMENTS TO THE HOME MORTGAGE DISCLO-**
22 **SURE ACT OF 1975.**

23 (a) *AMENDMENTS TO SECTION 304.*—Section 304(h)
24 of the *Home Mortgage Disclosure Act of 1975 (12 U.S.C.*
25 *2803(h))* is amended—

26 (1) by striking paragraph (2);

1 (b) *AMENDMENT TO SECTION 1317(c).*—Section
2 *1317(c) of the Housing and Community Development Act*
3 *of 1992 (12 U.S.C. 4517(c)) is amended by striking “, or*
4 *the Director of the Office of Thrift Supervision” and insert-*
5 *ing “or” before “the Federal Deposit Insurance Corpora-*
6 *tion”.*

7 **SEC. 357. AMENDMENT TO THE INTERNATIONAL BANKING**
8 **ACT OF 1978.**

9 Section 15 of the *International Banking Act of 1978*
10 *(12 U.S.C. 3109) is amended by striking “Federal Deposit*
11 *Insurance Corporation, and Director of the Office of Thrift*
12 *Supervision” each place that it appears and inserting “and*
13 *Federal Deposit Insurance Corporation”.*

14 **SEC. 358. AMENDMENTS TO THE NATIONAL HOUSING ACT.**

15 (a) *AMENDMENTS TO SECTION 203.*—The 1st of the 2
16 *subsections designated as subsection (s) of section 203 of the*
17 *National Housing Act (12 U.S.C. 1709(s)) is amended—*

18 (1) *by inserting “and” after the semicolon at the*
19 *end of paragraph (6);*

20 (2) *in paragraph (7)—*

21 (A) *by inserting “(as defined in section 3 of*
22 *the Federal Deposit Insurance Act)” after “State*
23 *bank”; and*

24 (B) *striking “; and” and inserting a period;*

25 *and*

1 (3) *by striking paragraph (8).*

2 (b) *AMENDMENT TO SECTION 502.—Section 502 of the*
3 *National Housing Act (12 U.S.C. 1701c(c)) is amended by*
4 *striking “and the Director of the Office of Thrift Super-*
5 *vision, respectively”.*

6 **SEC. 359. AMENDMENT TO PUBLIC LAW 93–495.**

7 *Section 202(a)(12) of Public Law 93–495 (12 U.S.C.*
8 *2402(a)(12)) is amended by striking “thrift, or other busi-*
9 *ness entities, including one representative each of commer-*
10 *cial banks, mutual savings banks, savings and loan associa-*
11 *tions,” and inserting “or other business entities, including*
12 *3 representatives from different types of insured depository*
13 *institutions (as defined in section 3 of the Federal Deposit*
14 *Insurance Act) and 1 representative each of”.*

15 **SEC. 360. AMENDMENT TO THE REAL ESTATE SETTLEMENT**
16 **PROCEDURES ACT OF 1974.**

17 *The 1st sentence of section 4(a) of the Real Estate Set-*
18 *tlement Procedures Act of 1974 (12 U.S.C. 2603(a)) is*
19 *amended—*

20 (1) *by striking the comma after “Affairs”;*

21 (2) *by inserting “and” before “the Federal De-*
22 *posit Insurance Corporation”; and*

23 (3) *by striking “, and the Director of the Office*
24 *of Thrift Supervision”.*

1 **SEC. 361. AMENDMENT TO THE REVISED STATUTES OF THE**
2 **UNITED STATES.**

3 *Section 324 of the Revised Statutes of the United*
4 *States (12 U.S.C. 1) is amended by striking “The Comptrol-*
5 *ler of the Currency shall have the same authority over mat-*
6 *ters within the jurisdiction of the Comptroller as the Direc-*
7 *tor of the Office of Thrift Supervision has over matters*
8 *within the Director’s jurisdiction under section 3(b)(3) of*
9 *the Home Owners’ Loan Act” and inserting “The Secretary*
10 *of the Treasury may not intervene in any matter or pro-*
11 *ceeding before the Comptroller of the Currency (including*
12 *agency enforcement actions) unless otherwise specifically*
13 *provided by law”.*

14 **SEC. 362. AMENDMENTS TO THE RIEGLE COMMUNITY DE-**
15 **VELOPMENT AND REGULATORY IMPROVE-**
16 **MENT ACT OF 1994.**

17 (a) *AMENDMENT TO SECTION 307.—Section 307(a) of*
18 *the Riegle Community Development and Regulatory Im-*
19 *provement Act of 1994 (12 U.S.C. 4805(a)) is amended by*
20 *striking “savings association financial reports,”.*

21 (b) *AMENDMENT TO SECTION 117.—Section 117(e) of*
22 *the Riegle Community Development and Regulatory Im-*
23 *provement Act of 1994 (12 U.S.C. 4716(e)) is amended by*
24 *striking “the Director of the Office of Thrift Supervision,”.*

1 **SEC. 363. AMENDMENTS TO THE RIGHT TO FINANCIAL PRI-**
2 **VACY ACT OF 1978.**

3 *Section 1101 of the Right to Financial Privacy Act*
4 *of 1978 (12 U.S.C. 3401) is amended—*

5 *(1) in paragraph (6)—*

6 *(A) by inserting “and” after the semicolon*
7 *at the end of subparagraph (A), ;*

8 *(B) by striking “; and” at the end of sub-*
9 *paragraph (B) and inserting a period; and*

10 *(C) by striking subparagraph (C); and*

11 *(2) in paragraph (7)—*

12 *(A) by striking subparagraph (B); and*

13 *(B) by redesignating subparagraphs (C)*
14 *through (H) as subparagraphs (B) through (G),*
15 *respectively.*

16 **SEC. 364. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.**

17 *Section 270(a)(1) of the Truth in Savings Act (12*
18 *U.S.C. 4309(a)(1)) is amended—*

19 *(1) by inserting “and” after the semicolon at the*
20 *end of subparagraph (A);*

21 *(2) in subparagraph (B)—*

22 *(A) by striking “or (iii)” and inserting*
23 *“(iii) or (v)”; and*

24 *(B) by striking “; and” and inserting a pe-*
25 *riod; and*

26 *(3) by striking subparagraph (C).*

1 **SEC. 365. EFFECTIVE DATE.**

2 *This subtitle shall become effective 2 years after the*
 3 *date of enactment of this Act.*

4 **Subtitle E—Technical and Con-**
 5 **forming Amendments to Other**
 6 **Statutes**

7 **SEC. 371. AMENDMENTS TO THE BALANCED BUDGET AND**
 8 **EMERGENCY DEFICIT CONTROL ACT OF 1985.**

9 (a) *AMENDMENT TO SECTION 250.—Section*
 10 *250(c)(19) of the Balanced Budget and Emergency Deficit*
 11 *Control Act of 1985 (2 U.S.C. 900(c)(19)) is amended by*
 12 *striking “the Office of Thrift Supervision,”.*

13 (b) *AMENDMENT TO SECTION 256.—Section 256(h)(4)*
 14 *of the Balanced Budget and Emergency Deficit Control Act*
 15 *of 1985 (2 U.S.C. 906(h)(4)) is amended—*

16 (1) *by striking subparagraphs (C) and (D); and*
 17 (2) *by redesignating subparagraphs (E) through*
 18 *(I) as subparagraphs (C) through (G), respectively.*

19 **SEC. 372. AMENDMENTS TO THE CONSUMER CREDIT PRO-**
 20 **TECTION ACT.**

21 (a) *AMENDMENTS TO SECTION 108.—Section 108(a)*
 22 *of the Consumer Credit Protection Act (15 U.S.C. 1607(a))*
 23 *is amended—*

24 (1) *in paragraph (1)(C), by inserting “(as de-*
 25 *finied in section 3 of the Federal Deposit Insurance*
 26 *Act (12 U.S.C. 1813))” before “insured by”;*

1 (2) *by striking paragraph (2); and*

2 (3) *by redesignating paragraphs (3) through (6)*

3 *as paragraphs (2) through (5), respectively.*

4 (b) *AMENDMENTS TO SECTION 621.—Section 621(b) of*
5 *the Consumer Credit Protection Act (15 U.S.C. 1681s(b))*
6 *is amended—*

7 (1) *in paragraph (1)(C), by inserting “(as de-*
8 *defined in section 3 of the Federal Deposit Insurance*
9 *Act (12 U.S.C. 1813))” before “insured by”;*

10 (2) *by striking paragraph (2); and*

11 (3) *by redesignating paragraphs (3) through (6)*
12 *as paragraphs (2) through (5), respectively.*

13 (c) *AMENDMENTS TO SECTION 704.—Section 704(a) of*
14 *the Consumer Credit Protection Act (15 U.S.C. 1691c(a))*
15 *is amended—*

16 (1) *in paragraph (1)(C), by inserting “(as de-*
17 *defined in section 3 of the Federal Deposit Insurance*
18 *Act (12 U.S.C. 1813))” before “insured by”;*

19 (2) *by striking paragraph (2); and*

20 (3) *by redesignating paragraphs (3) through (9)*
21 *as paragraphs (2) through (8), respectively.*

22 (d) *AMENDMENTS TO SECTION 814.—Section 814(b) of*
23 *the Consumer Credit Protection Act (15 U.S.C. 1692l(b))*
24 *is amended—*

1 (1) in paragraph (1)(C), by inserting “(as de-
2 fined in section 3 of the Federal Deposit Insurance
3 Act (12 U.S.C. 1813))” before “insured by”;

4 (2) by striking paragraph (2); and

5 (3) by redesignating paragraphs (3) through (6)
6 as paragraphs (2) through (5), respectively.

7 (e) **AMENDMENTS TO SECTION 917.**—Section 917(a) of
8 the Consumer Credit Protection Act (15 U.S.C. 1693o(a))
9 is amended—

10 (1) in paragraph (1)(C), by inserting “(as de-
11 fined in section 3 of the Federal Deposit Insurance
12 Act (12 U.S.C. 1813))” before “insured by”;

13 (2) by striking paragraph (2); and

14 (3) by redesignating paragraphs (3) through (5)
15 as paragraphs (2) through (4), respectively.

16 **SEC. 373. AMENDMENTS TO THE FLOOD DISASTER PROTEC-**
17 **TION ACT OF 1973.**

18 (a) **AMENDMENT TO SECTION 3.**—Section 3(a)(5) of
19 the Flood Disaster Protection Act of 1973 (42 U.S.C.
20 4003(a)(5)) is amended by striking “the Office of Thrift Su-
21 pervision,”.

22 (b) **AMENDMENT TO SECTION 1370.**—Section
23 1370(a)(9) of the Flood Disaster Protection Act of 1973 (42
24 U.S.C. 4121(a)(9)) is amended by striking “the Office of
25 Thrift Supervision,”.

1 **SEC. 374. AMENDMENTS TO THE SECURITIES EXCHANGE**

2 **ACT OF 1934.**

3 (a) *AMENDMENTS TO SECTION 3.*—Section
4 *3(a)(34)(G) of the Securities Exchange Act of 1934 (15*
5 *U.S.C. 78c(a)(34)(G)) is amended—*

6 (1) *in clause (iii)—*

7 (A) *by inserting “(as defined in section 3 of*
8 *the Federal Deposit Insurance Act (12 U.S.C.*
9 *1813))” before “insured by”; and*

10 (B) *by striking “or a Federal savings*
11 *bank”;*

12 (2) *by striking clause (iv) and redesignating*
13 *clause (v) as clause (iv); and*

14 (3) *by striking “, and the term ‘District of Co-*
15 *lumbia savings and loan association’ means any asso-*
16 *ciation subject to examination and supervision by the*
17 *Office of Thrift Supervision under section 8 of Home*
18 *Owners’ Loan Act of 1933”.*

19 (b) *AMENDMENT TO SECTION 15C.*—Section *15C(g)(1)*
20 *of the Securities Exchange Act of 1934 (15 U.S.C. 78o-*
21 *5(g)(1)) is amended by striking “the Director of the Office*
22 *of Thrift Supervision,”.*

23 **SEC. 375. AMENDMENTS TO TITLE 5, UNITED STATES CODE.**

24 (a) *AMENDMENT TO SECTION 3132.*—Section
25 *3132(a)(1)(D) of title 5, United States Code, is amended*
26 *by striking “the Office of Thrift Supervision,”.*

1 (b) *AMENDMENT TO SECTION 5314.*—Section 5314 of
2 *title 5, United States Code, is amended by striking “Direc-*
3 *tor of the Office of Thrift Supervision”.*

4 **SEC. 376. AMENDMENTS TO TITLE 18, UNITED STATES**
5 **CODE.**

6 (a) *AMENDMENT TO SECTION 212.*—Section 212 of
7 *title 18, United States Code, is amended by striking “, by*
8 *the Office of Thrift Supervision”.*

9 (b) *AMENDMENT TO SECTION 1006.*—Section 1006 of
10 *title 18, United States Code, is amended by striking “, Of-*
11 *fice of Thrift Supervision”.*

12 (c) *AMENDMENT TO SECTION 1014.*—Section 1014 of
13 *title 18, United States Code, is amended by striking “, the*
14 *Office of Thrift Supervision”.*

15 (d) *AMENDMENT TO SECTION 1032.*—Section 1032 of
16 *title 18, United States Code, is amended by striking “or*
17 *the Director of the Office of Thrift Supervision”.*

18 **SEC. 377. AMENDMENT TO TITLE 31, UNITED STATES CODE.**

19 Section 714(a) of title 31, United States Code, is
20 *amended by striking “, and the Office of Thrift Super-*
21 *vision” and inserting “and” before “the Office of the Comp-*
22 *troller”.*

23 **SEC. 378. EFFECTIVE DATE.**

24 *This subtitle shall take effect at the end of the 2-year*
25 *period beginning on the date of the enactment of this Act.*

1 **TITLE IV—UNIFORM MULTI-**
2 **STATE LICENSING OF STATE-**
3 **LICENSED INSURANCE**
4 **AGENTS AND BROKERS**

5 **SEC. 401. STATE FLEXIBILITY IN MULTISTATE LICENSING**
6 **REFORMS.**

7 (a) *IN GENERAL.*—The provisions of this title shall
8 take effect if, and only if, by the end of the 3-year period
9 beginning on the date of the enactment of this Act, a major-
10 ity of the States have not enacted uniform laws and regula-
11 tions governing the licensure of individuals and entities au-
12 thorized to sell and solicit the purchase of insurance within
13 the State.

14 (b) *UNIFORMITY REQUIRED.*—States shall be deemed
15 to have established the uniformity necessary to satisfy sub-
16 section (a) if they—

17 (1) *establish uniform criteria regarding the in-*
18 *tegrity, personal qualifications, education, training,*
19 *and experience, of licensed insurance producers, in-*
20 *cluding the qualification and training of sales person-*
21 *nel in ascertaining the appropriateness of a particu-*
22 *lar insurance product for a prospective customer;*

23 (2) *establish uniform continuing education re-*
24 *quirements for licensed insurance producers;*

1 (3) *establish uniform ethics course requirements*
2 *for licensed insurance producers in conjunction with*
3 *the continuing education requirements under para-*
4 *graph (2);*

5 (4) *establish uniform criteria to ensure that an*
6 *insurance product, including any annuity contract,*
7 *sold to a consumer is suitable and appropriate for the*
8 *consumer based on financial information disclosed by*
9 *the consumer; and*

10 (5) *do not impose any requirement upon any li-*
11 *icensed insurance producer that has the effect of limit-*
12 *ing or conditioning that producer's activities because*
13 *of its residence or place of operations.*

14 (c) *DETERMINATION.*—*At the end of the 3-year period*
15 *beginning on the date of the enactment of this Act, the Na-*
16 *tional Association of Insurance Commissioners shall deter-*
17 *mine, in consultation with the insurance commissioners or*
18 *chief insurance regulatory officials of the States, whether*
19 *the uniformity required by subsections (a) and (b) has been*
20 *achieved.*

21 (d) *CONTINUED APPLICATION.*—*If at any time after*
22 *the end of the 3-year period referred to in subsection (c),*
23 *the uniformity required by subsections (a) and (b) no longer*
24 *exists, the provisions of this title shall take effect.*

1 **SEC. 402. NATIONAL ASSOCIATION OF REGISTERED AGENTS**
2 **AND BROKERS.**

3 (a) *ESTABLISHMENT.*—*There is established a body cor-*
4 *porate to be known as the “National Association of Reg-*
5 *istered Agents and Brokers” (hereafter in this title referred*
6 *to as the “Association”).*

7 (b) *STATUS.*—*The Association shall—*

8 (1) *be a nonprofit corporation;*

9 (2) *have succession until dissolved by an Act of*
10 *Congress;*

11 (3) *not be an agency or establishment of the*
12 *United States Government; and*

13 (4) *except as otherwise provided in this Act, be*
14 *subject to, and have all the powers conferred upon a*
15 *nonprofit corporation by the District of Columbia*
16 *Nonprofit Corporation Act (D.C. Code, sec. 29–1001*
17 *et seq.).*

18 **SEC. 403. PURPOSE.**

19 *The purpose of the Association shall be to provide a*
20 *mechanism through which uniform licensing, continuing*
21 *education, and other insurance producer sales qualification*
22 *requirements and conditions can be adopted and applied*
23 *on a multistate basis, while preserving the right of States*
24 *to license, supervise, and discipline insurance producers*
25 *and to prescribe and enforce laws and regulations with re-*

1 *gard to insurance-related consumer protection and unfair*
2 *trade practices.*

3 **SEC. 404. RELATIONSHIP TO THE FEDERAL GOVERNMENT.**

4 (a) *IN GENERAL.*—*The Association shall be subject to*
5 *the supervision and oversight of the National Financial*
6 *Services Council (hereafter in this title referred to as the*
7 *“Council”).*

8 (b) *RECEIPTS AND DISBURSEMENTS OF ASSOCIATION*
9 *NOT INCLUDED IN BUDGET.*—*Section 406 of the Congres-*
10 *sional Budget Act of 1974 (2 U.S.C. 655) is amended by*
11 *adding at the end the following new subsection:*

12 “(c) *Notwithstanding any other provision of law, the*
13 *receipts and disbursements of the National Association of*
14 *Registered Agents and Brokers shall not be included for the*
15 *purposes of—*

16 “(1) *the budget of the United States Government*
17 *as submitted by the President;*

18 “(2) *the congressional budget and the Congres-*
19 *sional Budget and Impoundment Control Act of 1974;*
20 *or*

21 “(3) *the Balanced Budget and Emergency Deficit*
22 *Control Act of 1985.”*

23 (c) *FUNDS NOT AVAILABLE TO THE UNITED STATES*
24 *GOVERNMENT.*—*The United States Government may not*
25 *borrow or pledge funds held by or due to the Association.*

1 **SEC. 405. MEMBERSHIP.**

2 (a) *IN GENERAL.*—Any State-licensed producer shall
3 be eligible for membership in the Association.

4 (b) *AUTHORITY TO ESTABLISH MEMBERSHIP CRI-*
5 *TERIA.*—The Association shall have the authority to estab-
6 lish membership criteria that—

7 (1) bear a reasonable relationship to the pur-
8 poses for which the Association was established; and

9 (2) do not unfairly limit the access of smaller
10 agencies to the Association membership.

11 (c) *ESTABLISHMENT OF CLASSES AND CATEGORIES.*—

12 (1) *CLASSES OF MEMBERSHIP.*—The Association
13 may establish separate classes of membership, with
14 separate criteria, if the Association reasonably deter-
15 mines that performance of different duties requires
16 different levels of education, training, or experience.

17 (2) *CATEGORIES.*—The Association may estab-
18 lish separate categories of membership for individuals
19 and for other persons.

20 (d) *MEMBERSHIP CRITERIA.*—

21 (1) *IN GENERAL.*—The Association may establish
22 membership criteria to establish the integrity, per-
23 sonal qualifications, education, training, and experi-
24 ence of members, and any criteria reasonably inciden-
25 tal to any such criteria.

1 (2) *STANDARD.*—*In establishing criteria under*
2 *paragraph (1), the Association shall be guided by the*
3 *highest levels set by the States with regard to their*
4 *comparable licensing laws.*

5 (e) *EFFECT OF MEMBERSHIP.*—*Membership in the As-*
6 *sociation shall operate as licensure in each State in which*
7 *the member of the Association pays the licensing fee set by*
8 *such State, subject to section 415.*

9 (f) *ANNUAL RENEWAL.*—*Membership in the Associa-*
10 *tion shall be renewed on an annual basis and shall be sub-*
11 *ject to reasonable continuing education requirements.*

12 (g) *SUSPENSION AND REVOCATION.*—*The Association*
13 *may—*

14 (1) *inspect and examine the members of the As-*
15 *sociation to determine compliance with the criteria*
16 *for membership established by the Association; and*

17 (2) *suspend or revoke membership upon showing*
18 *that—*

19 (A) *applicable membership criteria are no*
20 *longer being met; or*

21 (B) *a member has been subject to discipli-*
22 *nary proceedings under the jurisdiction of a*
23 *State insurance regulator, and the Association*
24 *concludes that retention of membership in the*
25 *Association would not be in the public interest.*

1 (h) *OFFICE OF CONSUMER COMPLAINTS.*—*The Asso-*
2 *ciation shall establish and publicize an office with a toll-*
3 *free telephone number that shall—*

4 (1) *receive and investigate complaints from both*
5 *consumers and State insurance regulators related to*
6 *members of the Association; and*

7 (2) *take any disciplinary actions the Association*
8 *considers appropriate to the extent that any such ac-*
9 *tion is not inconsistent with State law.*

10 **SEC. 406. CORPORATE POWERS.**

11 *The Association shall have the following powers:*

12 (1) *To sue and be sued, in the corporate name*
13 *of the Association and through its own counsel in any*
14 *Federal court of competent jurisdiction.*

15 (2) *To adopt, alter, and use a corporate seal,*
16 *which shall be judicially noticed.*

17 (3) *To adopt, amend, and repeal, by the Board*
18 *of Directors of the Association, such bylaws and rules*
19 *as may be necessary or appropriate to carry out the*
20 *purposes of this title, including bylaws relating to—*

21 (A) *the conduct of business; and*

22 (B) *the indemnity of the directors, officers,*
23 *and employees of the Association for liabilities*
24 *and expenses actually and reasonably incurred*
25 *by any such person in connection with the de-*

1 *fense or settlement of an action or suit if such*
2 *person acted in good faith and in a manner rea-*
3 *sonably believed to be consistent with the pur-*
4 *poses of this title.*

5 *(4) To adopt, amend, and repeal, by the Board*
6 *of Directors of the Association, such rules as may be*
7 *necessary or appropriate to carry out the purposes of*
8 *this title, including rules relating to—*

9 *(A) the definition of terms used in this title,*
10 *other than those terms for which a definition is*
11 *provided in this title;*

12 *(B) the procedures for payment of the as-*
13 *sessments imposed by the Association; and*

14 *(C) the exercise of all other rights and pow-*
15 *ers granted to the Association by this title.*

16 *(5) To conduct the business of the Association*
17 *(including the carrying on of operations and the*
18 *maintenance of offices) and to exercise all other rights*
19 *and powers granted to the Association by this title in*
20 *any State or other jurisdiction without regard to any*
21 *qualification, licensing, or other statutory require-*
22 *ment in such State or other jurisdiction.*

23 *(6) To lease, purchase, accept gifts or donations*
24 *or otherwise acquire, to own, hold, improve, use, or*
25 *otherwise deal in or with, and to sell, convey, mort-*

1 *gage, pledge, lease, exchange, or otherwise dispose of*
2 *any property, real, personal or mixed, or any interest*
3 *in any such property, wherever situated.*

4 (7) *To elect or appoint such officers, attorneys,*
5 *employees, and agents as may be required, to deter-*
6 *mine their qualifications, to define their duties, to fix*
7 *their salaries, require bonds for them, and fix the pen-*
8 *alty thereof.*

9 (8) *To enter into contracts, to execute instru-*
10 *ments, to incur liabilities, and to do any and all*
11 *other acts and things as may be necessary or inciden-*
12 *tal to the conduct of the business of the Association*
13 *and the exercise of all other rights and powers grant-*
14 *ed to the Association by this title.*

15 (9) *To suspend or revoke the membership in the*
16 *Association of any member in the manner provided in*
17 *this title.*

18 (10) *To impose and collect assessments, in the*
19 *manner and to the extent provided under this title,*
20 *upon the members of the Association to cover the ad-*
21 *ministrative expenses of the Association in a manner*
22 *that does not unfairly discriminate against smaller*
23 *insurance producers.*

24 (11) *To submit advice and recommendations to*
25 *the Congress, the courts, the National Association of*

1 *Insurance Commissioners, State insurance regulators,*
2 *and the Council on matters pertaining to the regula-*
3 *tion and practices of insurance producers.*

4 **SEC. 407. BOARD OF DIRECTORS.**

5 (a) *ESTABLISHMENT.*—*The management of the Asso-*
6 *ciation shall be vested in a board of directors.*

7 (b) *POWERS.*—

8 (1) *IN GENERAL.*—*The board of directors shall be*
9 *vested with all powers necessary for the management*
10 *and administration of the affairs of the Association*
11 *and the promotion of the purposes of the Association*
12 *as authorized by this title.*

13 (2) *SPECIFIED IN BY-LAWS.*—*The authority of*
14 *the board of directors shall be specified in the bylaws*
15 *of the Association.*

16 (c) *COMPOSITION.*—

17 (1) *MEMBERS.*—*The Board shall be composed of*
18 *7 members appointed by the Chairperson of the Coun-*
19 *cil from a list of candidates recommended to the*
20 *Chairperson by the National Association of Insurance*
21 *Commissioners.*

22 (2) *REPRESENTATION OF COMMISSIONERS.*—*At*
23 *least 50 percent of the members of the board of direc-*
24 *tors shall be composed of members of the National As-*
25 *sociation of Insurance Commissioners.*

1 (d) *TERMS.*—

2 (1) *IN GENERAL.*—*The term of each director*
3 *shall, after the initial appointment of the members of*
4 *the board of directors, be for 3 years, with $\frac{1}{3}$ of the*
5 *directors to be appointed each year.*

6 (2) *NO TERM LIMITS.*—*Directors may be ap-*
7 *pointed to serve for any number of terms.*

8 (e) *VACANCIES.*—*A vacancy in the Board shall be filled*
9 *in the same manner as the original appointment.*

10 (f) *COMPENSATION.*—*All matters relating to com-*
11 *ensation of directors shall be as provided in the bylaws*
12 *of the Association.*

13 **SEC. 408. OFFICERS.**

14 (a) *IN GENERAL.*—*The officers of the Association shall*
15 *consist of a chairperson and a vice chairperson of the board*
16 *of directors and a president, secretary, and treasurer of the*
17 *Association and may include 1 or more vice presidents and*
18 *such other officers and assistant officers as may be deemed*
19 *necessary.*

20 (b) *MANNER OF SELECTION.*—

21 (1) *DESCRIBED IN BYLAWS.*—*Each officer of the*
22 *board of directors and the Association shall be elected*
23 *or appointed at such time and in such manner and*
24 *for such terms not exceeding 3 years as may be pre-*
25 *scribed in the bylaws of the Association.*

1 (2) *DEFAULT PROVISION.*—*In the absence of any*
2 *provision in the bylaws of the Association for the elec-*
3 *tion or appointment of the officers of the board of di-*
4 *rectors and the Association, all officers shall be elected*
5 *or appointed annually by the board of directors.*

6 (3) *CRITERIA FOR CHAIRPERSON.*—*Only indi-*
7 *viduals who are members of the National Association*
8 *of Insurance Commissioners shall be eligible to serve*
9 *as the chairperson of the board of directors.*

10 **SEC. 409. MEETINGS OF BOARD OF DIRECTORS.**

11 *The board of directors shall meet at the call of the*
12 *chairperson, or as otherwise provided by the bylaws of the*
13 *Association.*

14 **SEC. 410. BYLAWS, RULES, AND DISCIPLINARY ACTION.**

15 (a) *ADOPTION AND AMENDMENT OF BYLAWS.*—

16 (1) *COPY REQUIRED TO BE FILED WITH COUN-*
17 *CIL.*—*The board of directors of the Association shall*
18 *file with the Council a copy of the proposed bylaws*
19 *and any proposed amendment to the bylaws, accom-*
20 *panied by a concise general statement of the basis and*
21 *purpose of such proposal.*

22 (2) *EFFECTIVE DATE.*—*Except as provided in*
23 *paragraph (3), any proposed bylaw or proposed*
24 *amendment shall take effect—*

1 (A) 30 days after the date of the filing of
2 a copy with the Council;

3 (B) upon such later date as the Association
4 may designate; or

5 (C) such earlier date as the Council may de-
6 termine.

7 (3) *DISAPPROVAL BY THE COUNCIL.*—Notwith-
8 standing paragraph (2), a proposed bylaw or amend-
9 ment shall not take effect if—

10 (A) the Council disapproves such proposal
11 as being contrary to the public interest or con-
12 trary to the purposes of this title and provides
13 notice to the Association setting forth the reasons
14 for such disapproval; or

15 (B) the Council finds that such proposal in-
16 volves a matter of such significant public interest
17 that public comment should be obtained, in
18 which case it may, after notifying the Associa-
19 tion in writing of such finding, require that the
20 procedures set forth in subsection (b) be followed
21 with respect to such proposal, in the same man-
22 ner as if such proposed bylaw change were a pro-
23 posed rule change within the meaning of such
24 paragraph.

25 (b) *ADOPTION AND AMENDMENT OF RULES.*—

1 (1) *FILING PROPOSED REGULATIONS WITH COUN-*
2 *CIL.—*

3 (A) *IN GENERAL.—The board of directors of*
4 *the Association shall file with the Council a copy*
5 *of any proposed rule or any proposed amend-*
6 *ment to a rule of the Association which shall be*
7 *accompanied by a concise general statement of*
8 *the basis and purpose of such proposal.*

9 (B) *PUBLICATION OF NOTICE.—The Council*
10 *shall, upon the filing of any proposal, publish*
11 *notice thereof, together with the terms of sub-*
12 *stance of such proposal or a description of the*
13 *subjects and issues involved.*

14 (C) *OPPORTUNITY FOR COMMENT.—The*
15 *Council shall give interested persons an oppor-*
16 *tunity to submit written views and arguments*
17 *with respect to such proposal.*

18 (D) *OTHER REGULATIONS INEFFECTIVE.—*
19 *No proposed rule or amendment shall take effect*
20 *unless approved by the Council or otherwise per-*
21 *mitted in accordance with this paragraph.*

22 (2) *INITIAL CONSIDERATION BY COUNCIL.—With-*
23 *in 35 days after the date of publication of notice of*
24 *filing of a proposal, or before the end of such longer*
25 *period not to exceed 90 days as the Council may des-*

1 *ignite after such date if the Council finds such longer*
2 *period to be appropriate and publishes the reasons for*
3 *so finding, or as to which the Association consents,*
4 *the Council shall—*

5 *(A) by order approve such proposed rule or*
6 *amendment; or*

7 *(B) institute proceedings to determine*
8 *whether such proposed rule or amendment should*
9 *be modified or disapproved.*

10 *(3) COUNCIL PROCEEDINGS.—*

11 *(A) IN GENERAL.—Proceedings instituted*
12 *by the Council with respect to a proposed rule or*
13 *amendment pursuant to paragraph (2) shall—*

14 *(i) include notice of the grounds for*
15 *disapproval under consideration;*

16 *(ii) provide opportunity for hearing;*
17 *and*

18 *(iii) be concluded within 180 days*
19 *after the date of publication of notice of the*
20 *filing of such proposed rule or amendment.*

21 *(B) DISPOSITION OF PROPOSAL.—At the*
22 *conclusion of any proceeding under subpara-*
23 *graph (A), the Council shall, by order, approve*
24 *or disapprove the proposed rule or amendment.*

1 (C) *EXTENSION OF TIME FOR CONSIDER-*
2 *ATION.—The Council may extend the time for*
3 *concluding any proceeding under subparagraph*
4 *(A) for—*

5 (i) *not more than 60 days if the Coun-*
6 *cil finds good cause for such extension and*
7 *publishes the reasons for so finding; or*

8 (ii) *for such longer period as to which*
9 *the Association consents.*

10 (4) *STANDARDS FOR REVIEW.—*

11 (A) *GROUND FOR APPROVAL.—The Council*
12 *shall approve a proposed rule or amendment if*
13 *the Council finds that the rule or amendment is*
14 *in the public interest and is consistent with the*
15 *purposes of this Act.*

16 (B) *GROUND FOR DISAPPROVAL.—The*
17 *Council shall disapprove a proposed rule or*
18 *amendment if the Council finds that the pro-*
19 *posed rule or amendment does not meet the*
20 *standards for approval in subparagraph (A).*

21 (C) *EFFECT OF APPROVAL.—Any proposed*
22 *rule or amendment approved by the Council*
23 *under this subsection shall have the force and ef-*
24 *fect of a regulation prescribed by the Council*
25 *under subtitle C of title I of this Act.*

1 (D) *APPROVAL BEFORE END OF NOTICE PE-*
2 *RIOD.*—*The Council shall not approve any pro-*
3 *posed rule change before the end of the 30-day*
4 *period beginning on the date of publication of*
5 *notice in accordance with paragraph (1)(B) un-*
6 *less the Council finds good cause for so doing*
7 *and publishes the reasons for so finding.*

8 (5) *ALTERNATE PROCEDURE.*—

9 (A) *IN GENERAL.*—*Notwithstanding any*
10 *provision of this subsection other than subpara-*
11 *graph (B), a proposed rule or amendment may*
12 *take effect—*

13 (i) *upon the date of filing with the*
14 *Council, if such proposed rule or amend-*
15 *ment is designated by the Association as re-*
16 *lating solely to matters which the Council,*
17 *consistent with the public interest and the*
18 *purposes of this subsection, determines by*
19 *rule do not require the procedures set forth*
20 *in this paragraph; or*

21 (ii) *upon such date as the Council*
22 *shall for good cause determine.*

23 (B) *FILING AFTER EFFECTIVE DATE.*—*Any*
24 *proposed rule or amendment which takes effect*
25 *under subparagraph (A)(ii) before the proposed*

1 *rule or amendment is filed with the Council shall*
2 *be filed promptly with the Council after the effec-*
3 *tive date of the rule or amendment and reviewed*
4 *in accordance with paragraph (2).*

5 (C) *ABROGATION BY COUNCIL.—*

6 (i) *IN GENERAL.—At any time within*
7 *60 days after the date of filing of any pro-*
8 *posed rule or amendment under subpara-*
9 *graph (A)(i) or (B)(ii), the Council may*
10 *summarily abrogate such rule or amend-*
11 *ment and require that the rule or amend-*
12 *ment be refiled and reviewed in accordance*
13 *with this paragraph, if the Council finds*
14 *that such action is necessary or appropriate*
15 *in the public interest, for the protection of*
16 *insurance producers or policyholders, or*
17 *otherwise in furtherance of the purposes of*
18 *this title.*

19 (ii) *EFFECT OF RECONSIDERATION BY*
20 *COUNCIL.—Any action of the Council pur-*
21 *suant to clause (i) shall—*

22 (I) *not affect the validity or force*
23 *of a rule change during the period such*
24 *rule or amendment was in effect;*

1 (II) not be subject to judicial re-
2 view; and

3 (III) not be considered to be final
4 agency action.

5 (c) *ACTION REQUIRED BY THE COUNCIL.*—The Coun-
6 cil may, in accordance with such regulations as the Council
7 determines to be necessary or appropriate to the public in-
8 terest or to carry out the purposes of this title, require the
9 Association to adopt, amend, or repeal any bylaw or regula-
10 tion of the Association, whenever adopted.

11 (d) *LEGAL EFFECT OF BYLAWS AND RULES.*—The by-
12 laws and rules adopted pursuant to this section shall be
13 subject to judicial review in the same manner as the regula-
14 tions of the Council.

15 (e) *DISCIPLINARY ACTION BY THE ASSOCIATION.*—

16 (1) *SPECIFICATION OF CHARGES.*—In any pro-
17 ceeding to determine whether membership shall be de-
18 nied, suspended, revoked, and not renewed (hereafter
19 in this section referred to as a “disciplinary action”),
20 the Association shall bring specific charges, notify
21 such member of such charges and give the member an
22 opportunity to defend against the charges, and keep
23 a record.

1 (2) *SUPPORTING STATEMENT.*—*A determination*
2 *to take disciplinary action shall be supported by a*
3 *statement setting forth—*

4 (A) *any act or practice in which such mem-*
5 *ber has been found to have been engaged;*

6 (B) *the specific provision of this title, the*
7 *rules or regulations under this title, or the rules*
8 *of the Association which any such act or practice*
9 *is deemed to violate; and*

10 (C) *the sanction imposed and the reason for*
11 *such sanction.*

12 (f) *COUNCIL REVIEW OF DISCIPLINARY ACTION.*—

13 (1) *NOTICE TO COUNCIL.*—*If the Association or-*
14 *ders any disciplinary action, the Association shall*
15 *promptly notify the Council of such action.*

16 (2) *REVIEW BY COUNCIL.*—*Any disciplinary ac-*
17 *tion taken by the Association shall be subject to re-*
18 *view by the Council—*

19 (A) *on the Council's own motion; or*

20 (B) *upon application by any person ag-*
21 *grieved by such action if such application is filed*
22 *with the Council not more than 30 days after the*
23 *later of—*

1 (i) the date the notice by the Associa-
2 tion was filed with the Council pursuant to
3 paragraph (1); or

4 (ii) the date the notice of the discipli-
5 nary action was received by such aggrieved
6 person.

7 (3) *EFFECT OF REVIEW.*—*The filing of an appli-*
8 *cation to the Council for review of a disciplinary ac-*
9 *tion, or the institution of review by the Council on*
10 *the Council’s own motion, shall not operate as a stay*
11 *of disciplinary action unless the Council otherwise or-*
12 *ders.*

13 (4) *SCOPE OF REVIEW.*—

14 (A) *IN GENERAL.*—*In any proceeding to re-*
15 *view such action, after notice and the oppor-*
16 *tunity for hearing, the Council shall—*

17 (i) *determine whether the action should*
18 *be taken;*

19 (ii) *affirm, modify, or rescind the dis-*
20 *ciplinary sanction; or*

21 (iii) *remand the case to the Association*
22 *for further proceedings.*

23 (B) *DISMISSAL OF REVIEW.*—*The Council*
24 *may dismiss a proceeding to review disciplinary*
25 *action if the Council finds that—*

- 1 (i) *the specific grounds on which the*
2 *action is based exist in fact;*
- 3 (ii) *the action is in accordance with*
4 *applicable rules and regulations; and*
- 5 (iii) *such rules and regulations are,*
6 *and were, applied in a manner consistent*
7 *with the purposes of this Act.*

8 **SEC. 411. BORROWING AUTHORITY.**

9 (a) *IN GENERAL.*—

10 (1) *APPROVAL OF BOARD OF DIRECTORS.*—*The*
11 *Association shall have the authority to borrow as nec-*
12 *essary and upon prior approval of the board of direc-*
13 *tors.*

14 (2) *TERMS AND CONDITIONS.*—*Any borrowing by*
15 *the Association shall be made upon such terms and*
16 *conditions as the board of directors determines, except*
17 *that any funds so borrowed shall be repaid out of the*
18 *assessments as collected.*

19 (3) *PLEDGE OF FUTURE ASSESSMENTS.*—*To se-*
20 *cure the payment of principal and interest on any*
21 *borrowing by the Association, the board of directors*
22 *may pledge future assessments.*

23 (b) *NONLIABILITY OF FEDERAL GOVERNMENT.*—*No*
24 *provision of this title may be construed as—*

1 (1) *obligating the United States Government, di-*
2 *rectly or indirectly, to provide any funds to any per-*
3 *son or entity to honor, reimburse, or otherwise guar-*
4 *antee any obligation or liability of the Association; or*

5 (2) *implying that any obligations or securities of*
6 *the Association are backed by the full faith and credit*
7 *of the United States.*

8 **SEC. 412. ASSESSMENTS.**

9 (a) *INSURANCE PRODUCERS SUBJECT TO ASSESS-*
10 *MENT.—Each insurance producer that is a member of the*
11 *Association shall be subject to assessments for the costs of*
12 *considering the application by producer, on acceptance as*
13 *a member, and annually thereafter.*

14 (b) *AMOUNTS DETERMINED BY ASSOCIATION.—The*
15 *amount of any assessment under subsection (a) shall be set*
16 *by the Association by rule and shall cover the costs of oper-*
17 *ation of the Association.*

18 **SEC. 413. FUNCTIONS OF THE COUNCIL.**

19 (a) *ADMINISTRATIVE PROCEDURE.—Determinations of*
20 *the Council, for purposes of making rules pursuant to sec-*
21 *tion 410, shall be made after appropriate notice and oppor-*
22 *tunity for a hearing and for submission of views of inter-*
23 *ested persons, in accordance with section 553 of title 5,*
24 *United States Code.*

25 (b) *EXAMINATIONS AND REPORTS.—*

1 (1) *The Council may make such examinations*
2 *and inspections of the Association and require the As-*
3 *sociation to furnish it with such reports and records*
4 *or copies thereof as the Council may consider nec-*
5 *essary or appropriate in the public interest or to ef-*
6 *fectuate the purposes of this title.*

7 (2) *As soon as practicable after the close of each*
8 *fiscal year, the Association shall submit to the Coun-*
9 *cil a written report relative to the conduct of its busi-*
10 *ness, and the exercise of the other rights and powers*
11 *granted by this title, during such fiscal year. Such re-*
12 *port shall include financial statements setting forth*
13 *the financial position of the Association at the end of*
14 *such fiscal year and the results of its operations (in-*
15 *cluding the source and application of its funds) for*
16 *such fiscal year. The financial statements so included*
17 *shall be examined by an independent accountant in*
18 *the same manner as for the financial reports of feder-*
19 *ally certified insurers under this Act, and shall be ac-*
20 *companied by the report thereon by such accountant.*
21 *The Council shall transmit such report to the Presi-*
22 *dent and the Congress with such comment thereon as*
23 *the Council determines to be appropriate.*

24 (c) *DELEGATION OF POWERS.—*

1 (1) *IN GENERAL.*—*The Council may delegate the*
2 *responsibility for exercising any of the powers under*
3 *subsection (b) or section 410(f) to any member agency*
4 *of the Council.*

5 (2) *OVERSIGHT OF COUNCIL.*—*The Council shall*
6 *have, at all times—*

7 (A) *the responsibility to supervise and regu-*
8 *late the exercise of any authority delegated under*
9 *paragraph (1); and*

10 (B) *the final responsibility for the proper*
11 *exercise of any such authority.*

12 **SEC. 414. LIABILITY OF THE ASSOCIATION AND THE DIREC-**
13 **TORS, OFFICERS, AND EMPLOYEES OF THE**
14 **ASSOCIATION.**

15 (a) *IN GENERAL.*—*The Association shall not be deemed*
16 *to be an insurer or insurance producer within the meaning*
17 *of any State law, rule, regulation, or order regulating or*
18 *taxing insurers, insurance producers, or other entities en-*
19 *gaged in the business of insurance, including provisions im-*
20 *posing premium taxes, regulating insurer solvency or fi-*
21 *nancial condition, establishing guaranty funds and levying*
22 *assessments, or requiring claims settlement practices. The*
23 *Association additionally shall be exempt from all taxes, as-*
24 *sessments, or other levies imposed by any State, municipal,*
25 *county, or local government.*

1 (b) *LIABILITY OF THE ASSOCIATION, ITS DIRECTORS,*
2 *OFFICERS, AND EMPLOYEES.*—Neither the Association nor
3 any of its directors, officers, or employees shall have any
4 liability to any person for any action taken or omitted in
5 good faith under or in connection with any matter subject
6 to this title.

7 **SEC. 415. RELATIONSHIP TO STATE LAW.**

8 (a) *PREEMPTION OF STATE LAWS.*—State laws, regu-
9 lations, provisions, or actions purporting to regulate insur-
10 ance producers shall be preempted in the following in-
11 stances:

12 (1) No State shall impede the activities of, take
13 any action against, or apply any provision of law or
14 regulation to, any insurance producer because that
15 insurance producer or any affiliate plans to become,
16 has applied to become, or is, a member of the Associa-
17 tion.

18 (2) No State shall impose any requirement upon
19 a member of the Association that has the effect of lim-
20 iting or conditioning that member's activities because
21 of its residence or place of operations including, but
22 not limited to, any requirement that a licensed insur-
23 ance producer be a resident of a particular State, any
24 requirement that it comply with the conditions of a

1 *countersignature law, or any requirement that it pay*
2 *a different licensing fee based on its residency.*

3 *(3) No State shall impose any licensing, integ-*
4 *egrity, personal qualification, education, training, expe-*
5 *rience, or continuing education requirement upon a*
6 *member of the Association that is different from the*
7 *criteria for membership in the Association or renewal*
8 *of such membership.*

9 *(4) No State shall implement the procedures of*
10 *such State's system of licensing or renewing the li-*
11 *censes of insurance producers in a manner different*
12 *from authority of the Association under section 405.*

13 *(b) SAVINGS PROVISION.—Except as provided in sub-*
14 *section (a), no provision of this section shall be construed*
15 *as altering or affecting the continuing effectiveness of any*
16 *law, regulation, provision, or action of any State which*
17 *purports to regulate insurance producers, including any*
18 *such law, regulation, provision, or action which purports*
19 *to regulate unfair trade practices or establish consumer pro-*
20 *tectons.*

21 *(c) PREEMPTION AUTHORITY.—If it is unclear whether*
22 *State laws or regulations fall into the categories enumerated*
23 *in subsection (a), the Council shall have the authority, by*
24 *regulation, to define those State laws and regulations that*
25 *have been preempted by this Act. The Council shall also*

1 *have the authority to issue, after the opportunity for a hear-*
2 *ing on the record, an order that stays the effect of any State*
3 *law or regulation which is preempted until the Council can*
4 *complete the issuance of a regulation defining such preemp-*
5 *tion.*

6 **SEC. 416. COORDINATION WITH OTHER REGULATORS.**

7 (a) *COORDINATION WITH STATE INSURANCE REGU-*
8 *LATORS.—The Association shall have the authority to—*

9 (1) *issue uniform insurance producer applica-*
10 *tions and renewal applications that may be used to*
11 *apply for the issuance or removal of State licenses,*
12 *while preserving the ability of each State to impose*
13 *such conditions on the issuance or renewal of a license*
14 *as are consistent with section 415;*

15 (2) *establish a central clearinghouse through*
16 *which the members of the Association may apply for*
17 *the issuance or renewal of licenses in multiple States;*
18 *and*

19 (3) *establish or utilize a national database for*
20 *the collection of regulatory information concerning*
21 *the activities of insurance producers.*

22 (b) *COORDINATION WITH THE NATIONAL ASSOCIATION*
23 *OF SECURITIES DEALERS.—The Association shall coordi-*
24 *nate with the National Association of Securities Dealers in*
25 *order to ease any administrative burdens that fall on per-*

1 sons that are members of both associations, consistent with
2 the purposes of this title and the Federal securities laws.

3 **SEC. 417. JUDICIAL REVIEW.**

4 (a) *JURISDICTION.*—The appropriate United States
5 district court shall have exclusive jurisdiction over litiga-
6 tion involving the Association, including disputes between
7 the Association and its members that arise under this title.
8 Suits brought in State court involving the Association shall
9 be deemed to have arisen under Federal law and therefore
10 be subject to jurisdiction in the appropriate United States
11 district court.

12 (b) *EXHAUSTION OF REMEDIES.*—An aggrieved person
13 must exhaust the administrative remedies before the Asso-
14 ciation before it may seek judicial review of the Association
15 decision.

16 **SEC. 418. DEFINITIONS.**

17 For purposes of this title, the following definitions
18 shall apply:

19 (1) *INSURANCE.*—The term “insurance” means
20 any product defined or regulated as insurance by the
21 appropriate State insurance regulatory authority.

22 (2) *INSURANCE PRODUCER.*—The term “insur-
23 ance producer” means any insurance agent or broker,
24 surplus lines broker, insurance consultant, limited in-
25 surance representative, and any other person that so-

1 *licits, negotiates, effects, procures, delivers, renews,*
 2 *continues, or binds policies of insurance or offers ad-*
 3 *vice, counsel, opinions, or services related to insur-*
 4 *ance.*

5 (3) *STATE LAW.*—*The term “State law” includes*
 6 *all laws, decisions, rules, regulations, or other State*
 7 *action having the effect of law, of any State. A law*
 8 *of the United States applicable only to the District of*
 9 *Columbia shall be treated as a State law rather than*
 10 *a law of the United States.*

11 (4) *STATE.*—*The term “State” includes any*
 12 *State, the District of Columbia, territory of the Unit-*
 13 *ed States, and any political subdivision, agency, or*
 14 *instrumentality thereof.*

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

16 (a) **SHORT TITLE.**—**This Act may be cited as**
 17 **the “Financial Services Act of 1997”.**

18 (b) **TABLE OF CONTENTS.**—**The table of con-**
 19 **tents for this Act is as follows:**

Sec. 1. Short title; table of contents.

TITLE I—FACILITATING AFFILIATION AMONG SECURITIES
 FIRMS, INSURANCE COMPANIES, AND DEPOSITORY IN-
 STITUTIONS

Subtitle A—Affiliations

Sec. 101. Glass-Steagall Act reformed.

Sec. 102. Activity restrictions applicable to bank holding com-
 panies which are not financial holding compa-
 nies.

Sec. 103. Financial holding companies.

Sec. 104. Certain State affiliation laws preempted.

- Sec. 105. Mutual bank holding companies authorized.
- Sec. 106. Prohibition on deposit production offices.
- Sec. 107. Clarification of branch closure requirements.
- Sec. 108. Amendments relating to limited purpose banks.

Subtitle B—Streamlining Supervision of Financial Holding Companies

- Sec. 111. Streamlining financial holding company supervision.
- Sec. 112. Elimination of application requirement for financial holding companies.
- Sec. 113. Authority of State insurance regulator and Securities and Exchange Commission.
- Sec. 114. Prudential safeguards.
- Sec. 115. Examination of investment companies.
- Sec. 116. Limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board.

Subtitle C—Subsidiaries of National Banks

- Sec. 121. Permissible activities for subsidiaries of national banks.
- Sec. 122. Misrepresentations regarding depository institution liability for obligations of affiliates.
- Sec. 123. Repeal of stock loan limit in Federal Reserve Act.

Subtitle D—Investment Bank Holding Companies; Wholesale Financial Institutions

CHAPTER 1—INVESTMENT BANK HOLDING COMPANIES

- Sec. 131. Investment bank holding companies established.
- Sec. 132. Authorization to release reports.
- Sec. 133. Conforming amendments.

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

- Sec. 136. Wholesale financial institutions.

Subtitle E—Streamlining Antitrust Review of Bank Acquisitions and Mergers

- Sec. 141. Amendments to the Bank Holding Company act of 1956.
- Sec. 142. Amendments to the Federal Deposit Insurance Act to vest in the attorney general sole responsibility for antitrust review of depository institution mergers.
- Sec. 143. Information filed by depository institutions; inter-agency data sharing.
- Sec. 144. Applicability of antitrust laws.
- Sec. 145. Clarification of status of subsidiaries and affiliates.
- Sec. 146. Effective date.

Subtitle F—Applying the Principles of National Treatment and Equality of Competitive Opportunity to Foreign Banks and Foreign Financial Institutions

- Sec. 151. Applying the principles of national treatment and equality of competitive opportunity to foreign banks that are financial holding companies.**
- Sec. 152. Applying the principles of national treatment and equality of competitive opportunity to foreign banks and foreign financial institutions that are wholesale financial institutions.**

Subtitle G—Effective Date of Title

- Sec. 171. Effective date.**

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

- Sec. 201. Definition of broker.**
- Sec. 202. Definition of dealer.**
- Sec. 203. Registration for sales of private securities offerings.**
- Sec. 204. Grievance process.**
- Sec. 205. Information sharing.**
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- Sec. 211. Custody of investment company assets by affiliated bank.**
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- Sec. 219. Definition of dealer under the Investment Advisers Act of 1940.**
- Sec. 220. Interagency consultation.**
- Sec. 221. Treatment of bank common trust funds.**
- Sec. 222. Investment advisers prohibited from having controlling interest in registered investment company.**
- Sec. 223. Conforming change in definition.**
- Sec. 224. Conforming amendment.**
- Sec. 225. Effective date.**

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

- Sec. 231. Supervision of investment bank holding companies by the securities and exchange commission.**

Subtitle D—Study

- Sec. 241. Study of methods to inform investors and consumers of uninsured products.**

TITLE III—INSURANCE**Subtitle A—State Regulation of Insurance**

- Sec. 301. State regulation of the business of insurance.**
Sec. 302. Mandatory insurance licensing requirements.
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Sec. 304. Insurance underwriting in national banks.
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- Sec. 311. General application.**
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- Sec. 321. State flexibility in multistate licensing reforms.**
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Sec. 323. Purpose.
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TITLE IV—MERGER OF BANK AND THRIFT CHARTERS, REGULATORS, AND INSURANCE FUNDS

Sec. 401. Short title; definitions.**Subtitle A—Facilitating Conversion of Savings Associations to Banks**

- Sec. 411. Conversion to State or national banks.**
- Sec. 412. Mutual national banks and Federal mutual bank holding companies authorized.**
- Sec. 413. Grandfathered activities of savings associations.**
- Sec. 414. Branches of former savings associations.**
- Sec. 415. Programs for promoting housing finance.**
- Sec. 416. Savings and loan holding companies.**
- Sec. 417. Treatment of references in adjustable rate mortgages.**
- Sec. 418. Cost of funds indexes.**

Subtitle B—Ending Separate Federal Regulation of Savings Associations and Savings and Loan Holding Companies

- Sec. 421. State savings associations treated as State banks under Federal banking law.**
- Sec. 422. Home Owners' Loan Act repealed.**
- Sec. 423. Conforming amendment reflecting elimination of the Federal thrift charter and the separate system of thrift regulation.**
- Sec. 424. Conforming amendments to the Federal Home Loan Bank Act.**
- Sec. 425. Amendments to title 11, United States Code.**

Subtitle C—Combining OTS and OCC

- Sec. 431. Prohibition of merger or consolidation repealed.**
- Sec. 432. Secretary of the Treasury required to formulate plans for combining Office of Thrift Supervision with Office of the Comptroller of the Currency.**
- Sec. 433. Office of Thrift Supervision and position of Director of the Office of Thrift Supervision abolished.**
- Sec. 434. Reconfiguration of Board of Directors of FDIC as a result of removal of Director of the Office of Thrift Supervision.**
- Sec. 435. Continuation provisions.**

Subtitle D—Technical and Conforming Amendments to the Depository Institution Statutes

- Sec. 441. Amendments to the Federal Deposit Insurance Act.**
- Sec. 442. Amendment to the Bank Holding Company Act of 1956.**
- Sec. 443. Amendments to the Federal Reserve Act.**
- Sec. 444. Amendments to Alternative Mortgage Transaction Parity Act of 1982.**
- Sec. 445. Amendments to the Bank Protection Act of 1968.**
- Sec. 446. Amendments to the Community Reinvestment Act of 1977.**
- Sec. 447. Amendments to the Depository Institutions Deregulation and Monetary Control Act of 1980.**
- Sec. 448. Amendments to the Depository Institution Management Interlocks Act.**

- Sec. 449. Amendment to the Economic Growth and Regulatory Paperwork Reduction Act of 1996.
- Sec. 450. Amendment to the Emergency Home Finance Act of 1970.
- Sec. 451. Amendments to the Expedited Funds Availability Act.
- Sec. 452. Amendments to the Federal Credit Union Act.
- Sec. 453. Amendments to the Federal Financial Institutions Examination Council Act of 1978.
- Sec. 454. Amendments to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.
- Sec. 455. Amendments to the Home Mortgage Disclosure Act of 1975.
- Sec. 456. Amendments to the Housing and Community Development Act of 1992.
- Sec. 457. Amendment to the International Banking Act of 1978.
- Sec. 458. Amendments to the National Housing Act.
- Sec. 459. Amendment to Public Law 93-495.
- Sec. 460. Amendment to the Real Estate Settlement Procedures Act of 1974.
- Sec. 461. Amendment to the Revised Statutes of the United States.
- Sec. 462. Amendments to the Riegle Community Development and Regulatory Improvement Act of 1994.
- Sec. 463. Amendments to the Right to Financial Privacy Act of 1978.
- Sec. 464. Amendments to the Truth in Savings Act.
- Sec. 465. Effective date.

1 **TITLE I—FACILITATING AFFILI-**
 2 **ATION AMONG SECURITIES**
 3 **FIRMS, INSURANCE COMPA-**
 4 **NIES, AND DEPOSITORY IN-**
 5 **STITUTIONS**

6 **Subtitle A—Affiliations**

7 **SEC. 101. GLASS-STEAGALL ACT REFORMED.**

8 (a) **SECTION 20 REPEALED.—Section 20 (12**
 9 **U.S.C. 377) of the Banking Act of 1933 (com-**
 10 **monly referred to as the “Glass-Steagall Act”)**
 11 **is repealed.**

1 **(b) SECTION 32 REPEALED.—Section 32 (12**
2 **U.S.C. 78) of the Banking Act of 1933 is re-**
3 **pealed.**

4 **SEC. 102. ACTIVITY RESTRICTIONS APPLICABLE TO BANK**
5 **HOLDING COMPANIES WHICH ARE NOT FI-**
6 **NANCIAL HOLDING COMPANIES.**

7 **(a) IN GENERAL.—Section 4(c)(8) of the**
8 **Bank Holding Company Act of 1956 (12 U.S.C.**
9 **1843(c)(8)) is amended to read as follows:**

10 **“(8) shares of any company the activi-**
11 **ties of which had been determined by the**
12 **Board by regulation under this para-**
13 **graph as of the day before the date of the**
14 **enactment of the Financial Services Act**
15 **of 1997, to be so closely related to bank-**
16 **ing as to be a proper incident thereto**
17 **(subject to such terms and conditions**
18 **contained in such regulation, unless**
19 **modified by the Board);”.**

20 **(b) CONFORMING CHANGES TO OTHER STAT-**
21 **UTES.—**

22 **(1) AMENDMENT TO THE BANK HOLDING**
23 **COMPANY ACT AMENDMENTS OF 1970.—Sec-**
24 **tion 105 of the Bank Holding Company**
25 **Act Amendments of 1970 (12 U.S.C. 1850)**

1 is amended by striking “, to engage di-
2 rectly or indirectly in a nonbanking ac-
3 tivity pursuant to section 4 of such Act,”.

4 (2) AMENDMENT TO THE BANK SERVICE
5 COMPANY ACT.—Section 4(f) of the Bank
6 Service Company Act (12 U.S.C. 1864(f)) is
7 amended by striking the period and add-
8 ing at the end the following: “as of the
9 day before the date of enactment of the
10 Financial Services Act of 1997.”.

11 SEC. 103. FINANCIAL HOLDING COMPANIES.

12 (a) IN GENERAL.—The Bank Holding Com-
13 pany Act of 1956 is amended by inserting after
14 section 5 (12 U.S.C. 1844) the following new
15 section:

16 “SEC. 6. FINANCIAL HOLDING COMPANIES.

17 “(a) FINANCIAL HOLDING COMPANY DE-
18 FINED.—For purposes of this section, the term
19 ‘financial holding company’ means a bank
20 holding company which meets the require-
21 ments of subsection (b).

22 “(b) ELIGIBILITY REQUIREMENTS FOR FINAN-
23 CIAL HOLDING COMPANIES.—

24 “(1) IN GENERAL.—No bank holding
25 company may engage in any activity or

1 **directly or indirectly acquire or retain**
2 **shares of any company under this section**
3 **unless the bank holding company meets**
4 **the following requirements:**

5 **“(A) All of the subsidiary deposi-**
6 **tory institutions of the bank holding**
7 **company are well capitalized.**

8 **“(B) All of the subsidiary deposi-**
9 **tory institutions of the bank holding**
10 **company are well managed.**

11 **“(C) All of the subsidiary deposi-**
12 **tory institutions of the bank holding**
13 **company have achieved a rating of**
14 **‘satisfactory record of meeting com-**
15 **munity credit needs’, or better, at the**
16 **most recent examination of each such**
17 **institution under the Community Re-**
18 **investment Act of 1977.**

19 **“(D) The company has filed with**
20 **the Board a declaration that the com-**
21 **pany elects to be a financial holding**
22 **company and certifying that the com-**
23 **pany meets the requirements of sub-**
24 **paragraphs (A) through (C).**

1 **“(2) FOREIGN BANKS AND COMPANIES.—**
2 **For purposes of paragraph (1), the Board**
3 **shall establish and apply comparable cap-**
4 **ital standards to a foreign bank that op-**
5 **erates a branch or agency or owns or**
6 **controls a bank or commercial lending**
7 **company in the United States, and any**
8 **company that owns or controls such for-**
9 **oreign bank, giving due regard to the prin-**
10 **ciple of national treatment and equality**
11 **of competitive opportunity.**

12 **“(3) LIMITED EXCLUSIONS FROM COMMU-**
13 **NITY NEEDS REQUIREMENTS FOR NEWLY AC-**
14 **QUIRED DEPOSITORY INSTITUTIONS.—**

15 **“(A) IN GENERAL.—If the require-**
16 **ments of subparagraph (B) are met,**
17 **any depository institution acquired**
18 **by a bank holding company during**
19 **the 24-month period preceding the**
20 **submission of a declaration under**
21 **paragraph (1)(D) and any depository**
22 **institution acquired after the submis-**
23 **sion of such declaration may be ex-**
24 **cluded for purposes of paragraph**
25 **(1)(C) until the later of—**

1 “(i) the end of the 24-month
2 period beginning on the date the
3 acquisition of the depository in-
4 stitution by such company is con-
5 summed; or

6 “(ii) the date of completion of
7 the 1st examination of such de-
8 pository institution under the
9 Community Reinvestment Act of
10 1977 which is conducted after the
11 date of the acquisition of the de-
12 pository institution.

13 “(B) REQUIREMENTS.—The require-
14 ments of this subparagraph are met
15 with respect to any bank holding
16 company referred to in subparagraph
17 (A) if—

18 “(i) the bank holding company
19 has submitted an affirmative plan
20 to the appropriate Federal bank-
21 ing agency to take such action as
22 may be necessary in order for
23 such institution to achieve a rat-
24 ing of ‘satisfactory record of
25 meeting community credit needs’,

1 or better, at the next examination
2 of the institution under the Com-
3 munity Reinvestment Act of 1977;
4 and

5 “(ii) the plan has been ap-
6 proved by such agency.

7 “(c) ENGAGING IN ACTIVITIES FINANCIAL IN
8 NATURE.—

9 “(1) IN GENERAL.—Notwithstanding
10 section 4(a), a financial holding company
11 and a Board supervised investment bank
12 holding company may engage in any ac-
13 tivity and acquire and retain the shares
14 of any company the activities of which
15 the Board has determined (by regulation
16 or order) to be financial in nature or inci-
17 dental to such financial activities.

18 “(2) FACTORS TO BE CONSIDERED.—In
19 determining whether an activity is finan-
20 cial in nature or incidental to financial
21 activities, the Board shall take into ac-
22 count—

23 “(A) the purposes of this Act and
24 the Financial Services Act of 1997;

1 **“(B) changes or reasonably ex-**
2 **pected changes in the marketplace in**
3 **which bank holding companies com-**
4 **pete;**

5 **“(C) changes or reasonably ex-**
6 **pected changes in the technology for**
7 **delivering financial services; and**

8 **“(D) whether such activity is nec-**
9 **essary or appropriate to allow a bank**
10 **holding company and the affiliates of**
11 **a bank holding company to—**

12 **“(i) compete effectively with**
13 **any company seeking to provide**
14 **financial services in the United**
15 **States;**

16 **“(ii) use any available or**
17 **emerging technological means, in-**
18 **cluding any application necessary**
19 **to protect the security or efficacy**
20 **of systems for the transmission of**
21 **data or financial transactions, in**
22 **providing financial services; and**

23 **“(iii) offer customers any**
24 **available or emerging techno-**

1 **logical means for using financial**
2 **services.**

3 **“(3) ACTIVITIES THAT ARE FINANCIAL IN**
4 **NATURE.—The following activities shall be**
5 **considered to be financial in nature:**

6 **“(A) Lending, exchanging, trans-**
7 **ferring, investing for others, or safe-**
8 **guarding money or securities.**

9 **“(B) Insuring, guaranteeing, or in-**
10 **demnifying against loss, harm, dam-**
11 **age, illness, disability, or death, or**
12 **providing and issuing annuities, and**
13 **acting as principal, agent, or broker**
14 **for purposes of the foregoing.**

15 **“(C) Providing financial, invest-**
16 **ment, or economic advisory services,**
17 **including advising an investment**
18 **company (as defined in section 3 of**
19 **the Investment Company Act of 1940).**

20 **“(D) Issuing or selling instru-**
21 **ments representing interests in pools**
22 **of assets permissible for a bank to**
23 **hold directly.**

24 **“(E) Underwriting, dealing in, or**
25 **making a market in securities.**

1 **“(F) Engaging in any activity that**
2 **the Board has determined, by order**
3 **or regulation that is in effect on the**
4 **date of enactment of the Financial**
5 **Services Act of 1997, to be so closely**
6 **related to banking or managing or**
7 **controlling banks as to be a proper**
8 **incident thereto (subject to the same**
9 **terms and conditions contained in**
10 **such order or regulation, unless**
11 **modified by the Board).**

12 **“(G) Engaging, in the United**
13 **States, in any activity that—**

14 **“(i) a bank holding company**
15 **may engage in outside the United**
16 **States; and**

17 **“(ii) the Board has deter-**
18 **mined, under regulations issued**
19 **pursuant to section 4(c)(13) of this**
20 **Act (as in effect on the day before**
21 **the date of enactment of the Fi-**
22 **ancial Services Act of 1997) to be**
23 **usual in connection with the**
24 **transaction of banking or other fi-**
25 **ancial operations abroad.**

1 **“(H) Directly or indirectly acquir-**
2 **ing or controlling, whether as prin-**
3 **icipal, on behalf of 1 or more entities**
4 **(including entities, other than a de-**
5 **pository institution or subsidiary of a**
6 **depository institution, that the bank**
7 **holding company controls) or other-**
8 **wise, shares, assets, or ownership in-**
9 **terests (including without limitation**
10 **debt or equity securities, partnership**
11 **interests, trust certificates or other**
12 **instruments representing ownership)**
13 **of a company or other entity, whether**
14 **or not constituting control of such**
15 **company or entity, engaged in any ac-**
16 **tivity not authorized pursuant to this**
17 **section if—**

18 **“(i) the shares, assets, or own-**
19 **ership interests are not acquired**
20 **or held by a depository institu-**
21 **tion or subsidiary of a depository**
22 **institution;**

23 **“(ii) such shares, assets, or**
24 **ownership interests are acquired**
25 **and held by a securities affiliate**

1 **or an affiliate thereof as part of a**
2 **bona fide underwriting or mer-**
3 **chant banking activity, including**
4 **investment activities engaged in**
5 **for the purpose of appreciation**
6 **and ultimate resale or disposition**
7 **of the investment;**

8 **“(iii) such shares, assets, or**
9 **ownership interests, are held only**
10 **for such a period of time as will**
11 **permit the sale or disposition**
12 **thereof on a reasonable basis con-**
13 **sistent with the nature of the ac-**
14 **tivities described in clause (ii);**
15 **and**

16 **“(iv) during the period such**
17 **shares, assets, or ownership inter-**
18 **ests are held, the bank holding**
19 **company does not actively par-**
20 **ticipate in the day to day manage-**
21 **ment or operation of such com-**
22 **pany or entity, except insofar as**
23 **necessary to achieve the objec-**
24 **tives of clause (ii).**

1 **“(I) Directly or indirectly acquir-**
2 **ing or controlling, whether as prin-**
3 **icipal, on behalf of 1 or more entities**
4 **(including entities, other than a de-**
5 **pository institution or subsidiary of a**
6 **depository institution, that the bank**
7 **holding company controls) or other-**
8 **wise, shares, assets, or ownership in-**
9 **terests (including without limitation**
10 **debt or equity securities, partnership**
11 **interests, trust certificates or other**
12 **instruments representing ownership)**
13 **of a company or other entity, whether**
14 **or not constituting control of such**
15 **company or entity, engaged in any ac-**
16 **tivity not authorized pursuant to this**
17 **section if—**

18 **“(i) the shares, assets, or own-**
19 **ership interests are not acquired**
20 **or held by a depository institu-**
21 **tion or a subsidiary of a deposi-**
22 **tory institution;**

23 **“(ii) such shares, assets, or**
24 **ownership interests are acquired**
25 **and held by an insurance com-**

1 pany that is predominantly en-
2 gaged in underwriting life, acci-
3 dent and health, or property and
4 casualty insurance (other than
5 credit-related insurance);

6 “(iii) such shares, assets, or
7 ownership interests represent an
8 investment made in the ordinary
9 course of business of such insur-
10 ance company in accordance with
11 relevant State law governing such
12 investments; and

13 “(iv) during the period such
14 shares, assets, or ownership inter-
15 ests are held, the bank holding
16 company does not directly or in-
17 directly participate in the day-to-
18 day management or operation of
19 the company or entity except in-
20 sofar as necessary to achieve the
21 objectives of clauses (ii) and (iii).

22 “(4) ACTIONS REQUIRED.—The Board
23 shall, by regulation or order, define, con-
24 sistent with the purposes of this Act, the
25 following activities as, and the extent to

1 **which such activities are, financial in na-**
2 **ture or incidental to activities which are**
3 **financial in nature:**

4 **“(A) Lending, exchanging, trans-**
5 **ferring, investing for others, or safe-**
6 **guarding financial assets other than**
7 **money or securities.**

8 **“(B) Providing any device or**
9 **other instrumentality for transferring**
10 **money or other financial assets;**

11 **“(C) Arranging, effecting, or facili-**
12 **tating financial transactions for the**
13 **account of third parties.**

14 **“(5) POST CONSUMMATION NOTIFICA-**
15 **TION.—**

16 **“(A) IN GENERAL.—A financial**
17 **holding company and a Board super-**
18 **vised investment bank holding com-**
19 **pany that acquires any company, or**
20 **commences any activity, pursuant to**
21 **this subsection shall provide written**
22 **notice to the Board describing the ac-**
23 **tivity commenced or conducted by**
24 **the company acquired no later than**
25 **30 calendar days after commencing**

1 **the activity or consummating the ac-**
2 **quisition.**

3 **“(B) APPROVAL NOT REQUIRED FOR**
4 **CERTAIN FINANCIAL ACTIVITIES.—Except**
5 **as provided in section 4(j) with re-**
6 **gard to the acquisition of a savings**
7 **association, a financial holding com-**
8 **pany and a Board supervised invest-**
9 **ment bank holding company may**
10 **commence any activity, or acquire**
11 **any company, pursuant to paragraph**
12 **(3) or any regulation prescribed or**
13 **order issued under paragraph (4),**
14 **without prior approval of the Board.**

15 **“(d) PROVISIONS APPLICABLE TO FINANCIAL**
16 **HOLDING COMPANIES THAT FAIL TO MEET RE-**
17 **QUIREMENTS.—**

18 **“(1) IN GENERAL.—If the Board finds**
19 **that a financial holding company is not**
20 **in compliance with the requirements of**
21 **subparagraph (A), (B), or (C) of sub-**
22 **section (b)(1), the Board shall give notice**
23 **of such finding to the company.**

24 **“(2) AGREEMENT TO CORRECT CONDI-**
25 **TIONS REQUIRED.—Within 45 days of re-**

1 **ceipt by a financial holding company of a**
2 **notice given under paragraph (1) (or such**
3 **additional period as the Board may per-**
4 **mit), the company shall execute an agree-**
5 **ment acceptable to the Board to comply**
6 **with the requirements applicable to a fi-**
7 **ancial holding company.**

8 **“(3) BOARD MAY IMPOSE LIMITATIONS.—**
9 **Until the conditions described in a notice**
10 **to a financial holding company under**
11 **paragraph (1) are corrected, the Board**
12 **may impose such limitations on the con-**
13 **duct or activities of the company or any**
14 **affiliate of the company as the Board de-**
15 **termines to be appropriate under the cir-**
16 **cumstances.**

17 **“(4) FAILURE TO CORRECT.—If, after re-**
18 **ceiving a notice under paragraph (1), a fi-**
19 **ancial holding company does not—**

20 **“(A) execute and implement an**
21 **agreement in accordance with para-**
22 **graph (2);**

23 **“(B) comply with any limitations**
24 **imposed under paragraph (3);**

1 **“(C) in the case of a notice of fail-**
2 **ure to comply with subsection**
3 **(b)(1)(A), restore each depository in-**
4 **stitution subsidiary to well capital-**
5 **ized status before the end of the 180-**
6 **day period beginning on the date**
7 **such notice is received by the com-**
8 **pany (or such other period permitted**
9 **by the Board); or**

10 **“(D) in the case of a notice of fail-**
11 **ure to comply with subparagraph (B)**
12 **or (C) of subsection (b)(1), restore**
13 **compliance with any such subpara-**
14 **graph by the date the next examina-**
15 **tion of the depository institution sub-**
16 **subsidiary is completed or by the end of**
17 **such other period as the Board deter-**
18 **mines to be appropriate,**

19 **the Board may require such company,**
20 **under such terms and conditions as may**
21 **be imposed by the Board and subject to**
22 **such extension of time as may be granted**
23 **in the Board’s discretion, to divest con-**
24 **trol of any depository institution subsidi-**
25 **ary or, at the election of the financial**

1 holding company, instead to cease to en-
2 gage in any activity conducted by such
3 company or its subsidiaries pursuant to
4 this section.

5 “(5) CONSULTATION.—In taking any ac-
6 tion under this subsection, the Board
7 shall consult with all relevant Federal
8 and State regulatory agencies.

9 “(e) SAFEGUARDS FOR BANK SUBSIDIARIES.—
10 A financial holding company shall assure
11 that—

12 “(1) the procedures of the holding
13 company for identifying and managing fi-
14 nancial and operational risks within the
15 company, and the subsidiaries of such
16 company, adequately protect the subsidi-
17 aries of such company which are insured
18 depository institutions from such risks;

19 “(2) the holding company has reason-
20 able policies and procedures to preserve
21 the separate corporate identity and lim-
22 ited liability of such company and the
23 subsidiaries of such company, for the
24 protection of the company’s subsidiary
25 insured depository institutions; and

1 **“(3) the holding company complies**
2 **with this section.**

3 **“(f) NONFINANCIAL ACTIVITIES.—**

4 **“(1) IN GENERAL.—Notwithstanding**
5 **section 4(a), a financial holding company**
6 **may engage in activities which are not**
7 **(or have not been determined to be) fi-**
8 **ancial in nature or incidental to activi-**
9 **ties which are financial in nature, or ac-**
10 **quire and retain ownership and control**
11 **of the shares of a company engaged in**
12 **such activities, if—**

13 **“(A) the aggregate annual gross**
14 **revenues derived from all such activi-**
15 **ties and all such companies does not**
16 **exceed the lesser of—**

17 **“(i) 5 percent of the consoli-**
18 **dated annual gross revenues of**
19 **the financial holding company; or**

20 **“(ii) \$500,000,000;**

21 **“(B) the consolidated total assets**
22 **of any company the shares of which**
23 **are acquired by the financial holding**
24 **company pursuant to this paragraph**
25 **are less than \$750,000,000 at the time**

1 the shares are acquired by the hold-
2 ing company; and

3 “(C) the holding company pro-
4 vides notice to the Board within 30
5 days of commencing the activity or
6 acquiring the ownership or control.

7 “(2) INCLUSION OF GRANDFATHERED AC-
8 TIVITIES.—For purposes of determining
9 the limits contained in paragraph (1)(A),
10 the gross revenues derived from all ac-
11 tivities conducted, and companies the
12 shares of which are held, under sub-
13 section (g) shall be considered to be de-
14 rived or held under this subsection.

15 “(3) FOREIGN BANKS.—In lieu of the
16 limitation contained in paragraph (1)(A)
17 in the case of a foreign bank or a com-
18 pany that owns or controls a foreign
19 bank which engages in any activity or ac-
20 quires or retains ownership or control of
21 shares of any company pursuant to para-
22 graph (1), the aggregate annual gross rev-
23 enues derived from all such activities and
24 all such companies in the United States
25 shall not exceed the lesser of—

1 **“(A) 5 percent of the consolidated**
2 **annual gross revenues of the foreign**
3 **bank or company in the United States**
4 **derived from any branch, agency,**
5 **commercial lending company, or de-**
6 **pository institution controlled by the**
7 **foreign bank or company and any**
8 **subsidiary engaged in the United**
9 **States in activities permissible under**
10 **section 4 or 6; or**

11 **“(B) \$500,000,000.**

12 **“(4) INDEXING REVENUE TEST.—After**
13 **December 31, 1998, the Board shall annu-**
14 **ally adjust the dollar amount contained**
15 **in paragraphs (1)(A) and (3) by the an-**
16 **nuual percentage increase in the**
17 **Consumer Price Index for Urban Wage**
18 **Earners and Clerical Workers published**
19 **by the Bureau of Labor Statistics.**

20 **“(5) NONAPPLICABILITY OF OTHER EX-**
21 **EMPTION.—Any foreign bank or company**
22 **that owns or controls a foreign bank**
23 **which engages in any activity or acquires**
24 **or retains ownership or control of shares**
25 **of any company pursuant to this sub-**

1 **section shall not be eligible for any ex-**
2 **ception described in section 2(h).**

3 **“(g) AUTHORITY TO RETAIN LIMITED NON-**
4 **FINANCIAL ACTIVITIES AND AFFILIATIONS.—**

5 **“(1) IN GENERAL.—Notwithstanding**
6 **subsection (f)(1) and section 4(a), a com-**
7 **pany that is not a bank holding company**
8 **or a foreign bank (as defined in section**
9 **1(b)(7) of the International Banking Act**
10 **of 1978) and becomes a financial holding**
11 **company after the date of the enactment**
12 **of the Financial Services Act of 1997 may**
13 **continue to engage in any activity and re-**
14 **tain direct or indirect ownership or con-**
15 **trol of shares of a company engaged in**
16 **any activity if—**

17 **“(A) the holding company lawfully**
18 **was engaged in the activity or held**
19 **the shares of such company on Sep-**
20 **tember 30, 1997;**

21 **“(B) the holding company is pre-**
22 **dominantly engaged in financial ac-**
23 **tivities as defined in paragraph (2);**
24 **and**

1 **“(C) the company engaged in such**
2 **activity continues to engage only in**
3 **the same activities that such com-**
4 **pany conducted on September 30,**
5 **1997, and other activities permissible**
6 **under this Act.**

7 **“(2) PREDOMINANTLY FINANCIAL.—For**
8 **purposes of this subsection, a company is**
9 **predominantly engaged in financial ac-**
10 **tivities if, as of the day before the com-**
11 **pany becomes a financial holding com-**
12 **pany, the annual gross revenues derived**
13 **by the holding company and all subsidi-**
14 **aries of the holding company, on a con-**
15 **solidated basis, from engaging in activi-**
16 **ties that are financial in nature or are in-**
17 **cidental to activities that are financial in**
18 **nature under subsection (c) represent at**
19 **least 85 percent of the consolidated an-**
20 **nuual gross revenues of the company.**

21 **“(3) NO EXPANSION OF GRANDFATHERED**
22 **COMMERCIAL ACTIVITIES THROUGH MERGER**
23 **OR CONSOLIDATION.—A financial holding**
24 **company that engages in activities or**
25 **holds shares pursuant to this subsection,**

1 or a subsidiary of such financial holding
2 company, may not acquire, in any merg-
3 er, consolidation, or other type of busi-
4 ness combination, assets of any other
5 company which is engaged in any activ-
6 ity which the Board has not determined
7 to be financial in nature or incidental to
8 activities that are financial in nature
9 under subsection (c).

10 “(4) CROSS MARKETING RESTRICTIONS
11 APPLICABLE TO COMMERCIAL ACTIVITIES.—A
12 depository institution controlled by a fi-
13 nancial holding company shall not—

14 “(A) offer or market, directly or
15 through any arrangement, any prod-
16 uct or service of a company whose ac-
17 tivities are conducted or whose
18 shares are owned or controlled by the
19 financial holding company pursuant
20 to this subsection, subsection (f), or
21 subparagraph (H) or (I) of subsection
22 (c)(3); or

23 “(B) permit any of its products or
24 services to be offered or marketed, di-
25 rectly or through any arrangement,

1 by or through any company described
2 in subparagraph (A).

3 “(5) **TRANSACTIONS WITH NONFINANCIAL**
4 **AFFILIATES.—An insured depository insti-**
5 **tution controlled by a financial holding**
6 **company may not engage in a covered**
7 **transaction (as defined by section**
8 **23A(b)(7) of the Federal Reserve Act)**
9 **with any affiliate controlled by the com-**
10 **pany pursuant to this subsection or sub-**
11 **paragraph (H) or (I) of subsection (c)(3).**

12 “(h) **DEVELOPING ACTIVITIES.—A financial**
13 **holding company and a Board supervised in-**
14 **vestment bank holding company may engage,**
15 **or directly or indirectly or acquire shares of**
16 **any company engaged, in any activity that the**
17 **Board has not determined to be financial in**
18 **nature or incidental to financial activities**
19 **under subsection (c) if—**

20 “(1) **the holding company reasonably**
21 **concludes that the activity is financial in**
22 **nature or incidental to financial activi-**
23 **ties;**

24 “(2) **the gross revenues from all ac-**
25 **tivities conducted under this subsection**

1 represent less than 5 percent of the con-
2 solidated gross revenues of the holding
3 company;

4 “(3) the aggregate total assets of all
5 companies the shares of which are held
6 under this subsection do not exceed 5
7 percent of the holding company’s consoli-
8 dated total assets;

9 “(4) the total capital invested in ac-
10 tivities conducted under this subsection
11 represents less than 5 percent of the con-
12 solidated total capital of the holding com-
13 pany;

14 “(5) the Board has not previously de-
15 termined that the activity is not financial
16 in nature or incidental to financial activi-
17 ties under subsection (c); and

18 “(6) the holding company provides
19 written notification to the Board describ-
20 ing the activity commenced or conducted
21 by the company acquired no later than 10
22 business days after commencing the ac-
23 tivity or consummating the acquisition.”.

1 SEC. 104. CERTAIN STATE AFFILIATION LAWS PREEMPTED.

2 (a) IN GENERAL.—Section 7 of the Bank
3 Holding Company Act of 1956 (12 U.S.C. 1846)
4 is amended by adding at the end the following
5 new subsection:

6 “(c) PREEMPTION OF CERTAIN STATE RE-
7 STRICTIONS.—

8 “(1) AFFILIATIONS.—No State may by
9 law, regulation, order, interpretation, or
10 otherwise, prevent or restrict an insured
11 depository institution or a wholesale fi-
12 nancial institution from being affiliated
13 with an entity (including an entity en-
14 gaged in insurance activities) as author-
15 ized by this Act or section 17(i) of the Se-
16 curities Exchange Act of 1934.

17 “(2) CERTAIN ACTIVITIES CONDUCTED IN
18 CONJUNCTION WITH AFFILIATES.—No State
19 may by law, regulation, order, interpreta-
20 tion, or otherwise, prevent a national
21 bank or a wholesale financial institution
22 from engaging, or significantly interfere
23 with the ability of such national bank or
24 wholesale financial institution to engage,
25 directly or indirectly, or in conjunction
26 with an affiliate referred to in paragraph

1 **Efficiency Act of 1994 (12 U.S.C. 1835a(d)) is**
2 **amended—**

3 **(1) by inserting “, the Financial Serv-**
4 **ices Act of 1997,” after “pursuant to this**
5 **title”; and**

6 **(2) by inserting “or such Act” after**
7 **“made by this title”.**

8 **(b) TECHNICAL AND CONFORMING AMEND-**
9 **MENT.—Section 109(e)(4) of the Riegle-Neal**
10 **Interstate Banking and Branching Efficiency**
11 **Act of 1994 (12 U.S.C. 1835a(e)(4)) is amended**
12 **by inserting “and any branch of a bank con-**
13 **trolled by an out-of-State bank holding com-**
14 **pany (as defined in section 2(o)(7) of the Bank**
15 **Holding Company Act of 1956)” before the pe-**
16 **riod.**

17 **SEC. 107. CLARIFICATION OF BRANCH CLOSURE REQUIRE-**
18 **MENTS.**

19 **Section 42(d)(4)(A) of the Federal Deposit**
20 **Insurance Act (12 U.S.C. 1831r-1(d)(4)(A)) is**
21 **amended by inserting “and any bank con-**
22 **trolled by an out-of-State bank holding com-**
23 **pany (as defined in section 2(o)(7) of the Bank**
24 **Holding Company Act of 1956)” before the pe-**
25 **riod.**

1 SEC. 108. AMENDMENTS RELATING TO LIMITED PURPOSE
2 BANKS.

3 Section 4(f) of the Bank Holding Company
4 Act of 1956 (12 U.S.C. 1843(f)) is amended—

5 (1) in paragraph (2)(A)(ii)—

6 (A) by striking “and” at the end of
7 subclause (IX);

8 (B) by inserting “and” after the
9 semicolon at the end of subclause (X);
10 and

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

13 “(XI) assets that are de-
14 rived from, or are incidental
15 to, activities in which institu-
16 tions described in section
17 2(c)(2)(F) are permitted to en-
18 gage,”;

19 (2) in paragraph (2), by striking sub-
20 paragraph (B) and inserting the following
21 new subparagraphs:

22 “(B) any bank subsidiary of such
23 company engages in any activity in
24 which the bank was not lawfully en-
25 gaged as of March 5, 1987, unless the

1 **bank is well managed and well cap-**
2 **italized;**

3 **“(C) any bank subsidiary of such**
4 **company both—**

5 **“(i) accepts demand deposits**
6 **or deposits that the depositor**
7 **may withdraw by check or similar**
8 **means for payment to third par-**
9 **ties; and**

10 **“(ii) engages in the business**
11 **of making commercial loans (and,**
12 **for purposes of this clause, loans**
13 **made in the ordinary course of a**
14 **credit card operation shall not be**
15 **treated as commercial loans); or**

16 **“(D) after the date of the enact-**
17 **ment of the Competitive Equality**
18 **Amendments of 1987, any bank sub-**
19 **subsidiary of such company permits any**
20 **overdraft (including any intraday**
21 **overdraft), or incurs any such over-**
22 **draft in such bank’s account at a Fed-**
23 **eral reserve bank, on behalf of an af-**
24 **iliate, other than an overdraft de-**
25 **scribed in paragraph (3).”;** and

1 **(3) by striking paragraphs (3) and (4)**
2 **and inserting the following new para-**
3 **graphs:**

4 **“(3) PERMISSIBLE OVERDRAFTS DE-**
5 **SCRIBED.—For purposes of paragraph**
6 **(2)(D), an overdraft is described in this**
7 **paragraph if—**

8 **“(A) such overdraft results from**
9 **an inadvertent computer or account-**
10 **ing error that is beyond the control of**
11 **both the bank and the affiliate; or**

12 **“(B) such overdraft—**

13 **“(i) is permitted or incurred**
14 **on behalf of an affiliate which is**
15 **monitored by, reports to, and is**
16 **recognized as a primary dealer by**
17 **the Federal Reserve Bank of New**
18 **York; and**

19 **“(ii) is fully secured, as re-**
20 **quired by the Board, by bonds,**
21 **notes, or other obligations which**
22 **are direct obligations of the Unit-**
23 **ed States or on which the prin-**
24 **cipal and interest are fully guar-**
25 **anteed by the United States or by**

1 securities and obligations eligible
2 for settlement on the Federal Re-
3 serve book entry system.

4 “(4) **DIVESTITURE IN CASE OF LOSS OF**
5 **EXEMPTION.—**If any company described in
6 **paragraph (1) fails to qualify for the ex-**
7 **emption provided under such paragraph**
8 **by operation of paragraph (2), such ex-**
9 **emption shall cease to apply to such com-**
10 **pany and such company shall divest con-**
11 **trol of each bank it controls before the**
12 **end of the 180-day period beginning on**
13 **the date that the company receives notice**
14 **from the Board that the company has**
15 **failed to continue to qualify for such ex-**
16 **emption, unless before the end of such**
17 **180-day period, the company has—**

18 “(A) **corrected the condition or**
19 **ceased the activity that caused the**
20 **company to fail to continue to qualify**
21 **for the exemption; and**

22 “(B) **implemented procedures that**
23 **are reasonably adapted to avoid the**
24 **reoccurrence of such condition or ac-**
25 **tivity.”.**

1 **Subtitle B—Streamlining Super-**
2 **vision of Financial Holding**
3 **Companies**

4 **SEC. 111. STREAMLINING FINANCIAL HOLDING COMPANY**
5 **SUPERVISION.**

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

9 **“(c) REPORTS AND EXAMINATIONS.—**

10 **“(1) REPORTS.—**

11 **“(A) IN GENERAL.—The Board from**
12 **time to time may require any bank**
13 **holding company and any subsidiary**
14 **of such company to submit reports**
15 **under oath to keep the Board in-**
16 **formed as to—**

17 **“(i) its financial condition,**
18 **systems for monitoring and con-**
19 **trolling financial and operating**
20 **risks, and transactions with de-**
21 **pository institution subsidiaries**
22 **of the holding company; and**

23 **“(ii) compliance by the com-**
24 **pany or subsidiary with applica-**
25 **ble provisions of this Act.**

1 **“(B) USE OF EXISTING REPORTS.—**

2 **“(i) IN GENERAL.—The Board**
3 **shall, to the fullest extent pos-**
4 **sible, accept reports in fulfillment**
5 **of the Board’s reporting require-**
6 **ments under this paragraph that**
7 **a bank holding company or any**
8 **subsidiary of such company has**
9 **provided or been required to pro-**
10 **vide to other Federal and State**
11 **supervisors or to appropriate self-**
12 **regulatory organizations.**

13 **“(ii) AVAILABILITY.—A bank**
14 **holding company or a subsidiary**
15 **of such company shall provide to**
16 **the Board, at the request of the**
17 **Board, a report referred to in**
18 **clause (i).**

19 **“(iii) REQUIRED USE OF PUB-**
20 **LICLY REPORTED INFORMATION.—**
21 **The Board shall, to the fullest ex-**
22 **tent possible, accept in fulfillment**
23 **of any reporting or recordkeeping**
24 **requirements under this Act in-**
25 **formation that is otherwise re-**

1 **quired to be reported publicly**
2 **and externally audited financial**
3 **statements.**

4 **“(iv) REPORTS FILED WITH**
5 **OTHER AGENCIES.—In the event the**
6 **Board requires a report from a**
7 **functionally regulated nondeposi-**
8 **tory institution subsidiary of a**
9 **bank holding company of a kind**
10 **that is not required by another**
11 **Federal or State regulator or ap-**
12 **propriate self-regulatory organi-**
13 **zation, the Board shall request**
14 **that the appropriate regulator or**
15 **self-regulatory organization ob-**
16 **tain such report. If the report is**
17 **not made available to the Board,**
18 **and the report is necessary to as-**
19 **sess a material risk to the bank**
20 **holding company or its subsidiary**
21 **depository institution or compli-**
22 **ance with this Act, the Board may**
23 **require such subsidiary to pro-**
24 **vide such a report to the Board.**

1 **“(C) DEFINITION.—For purposes of**
2 **this subsection, the term ‘functionally**
3 **regulated nondepository institution’**
4 **means—**

5 **“(i) a broker or dealer reg-**
6 **istered under the Securities Ex-**
7 **change Act of 1934;**

8 **“(ii) an investment adviser**
9 **registered under the Investment**
10 **Advisers Act of 1940, with respect**
11 **to the investment advisory activi-**
12 **ties of such investment adviser**
13 **and activities incidental to such**
14 **investment advisory activities;**

15 **“(iii) an insurance company**
16 **subject to supervision by a State**
17 **insurance commission, agency, or**
18 **similar authority; and**

19 **“(iv) an entity subject to regu-**
20 **lation by the Commodity Futures**
21 **Trading Commission, with respect**
22 **to the commodities activities of**
23 **such entity and activities inciden-**
24 **tal to such commodities activities.**

25 **“(2) EXAMINATIONS.—**

1 **“(A) EXAMINATION AUTHORITY.—**

2 **“(i) IN GENERAL.—The Board**
3 **may make examinations of each**
4 **bank holding company and each**
5 **subsidiary of a bank holding com-**
6 **pany.**

7 **“(ii) FUNCTIONALLY REGULATED**
8 **NONDEPOSITORY INSTITUTION SUB-**
9 **SIDIARIES.—Notwithstanding**
10 **clause (i), the Board may make**
11 **examinations of a functionally**
12 **regulated nondepository institu-**
13 **tion subsidiary of a bank holding**
14 **company only if—**

15 **“(I) the Board has reason-**
16 **able cause to believe that**
17 **such subsidiary is engaged in**
18 **activities that pose a material**
19 **risk to an affiliated deposi-**
20 **tory institution, or**

21 **“(II) based on reports and**
22 **other available information,**
23 **the Board has reasonable**
24 **cause to believe that a sub-**
25 **subsidiary is not in compliance**

1 with this Act or with provi-
2 sions relating to transactions
3 with an affiliated depository
4 institution and the Board can-
5 not make such determination
6 through examination of the
7 affiliated depository institu-
8 tion or bank holding com-
9 pany.

10 “(B) LIMITATIONS ON EXAMINATION
11 AUTHORITY FOR BANK HOLDING COMPA-
12 NIES AND SUBSIDIARIES.—Subject to
13 subparagraph (A)(ii), the Board may
14 make examinations under subpara-
15 graph (A)(i) of each bank holding
16 company and each subsidiary of such
17 holding company in order to—

18 “(i) inform the Board of the
19 nature of the operations and fi-
20 nancial condition of the holding
21 company and such subsidiaries;

22 “(ii) inform the Board of—

23 “(I) the financial and
24 operational risks within the
25 holding company system that

1 **may pose a threat to the safe-**
2 **ty and soundness of any sub-**
3 **subsidiary depository institution**
4 **of such holding company; and**

5 **“(II) the systems for mon-**
6 **itoring and controlling such**
7 **risks; and**

8 **“(iii) monitor compliance with**
9 **the provisions of this Act and**
10 **those governing transactions and**
11 **relationships between any sub-**
12 **subsidiary depository institution and**
13 **its affiliates.**

14 **“(C) RESTRICTED FOCUS OF EXAMI-**
15 **NATIONS.—The Board shall, to the full-**
16 **est extent possible, limit the focus**
17 **and scope of any examination of a**
18 **bank holding company to—**

19 **“(i) the bank holding com-**
20 **pany; and**

21 **“(ii) any subsidiary of the**
22 **holding company that, because**
23 **of—**

24 **“(I) the size, condition, or**
25 **activities of the subsidiary;**

1 **“(II) the nature or size of**
2 **transactions between such**
3 **subsidiary and any depository**
4 **institution which is also a**
5 **subsidiary of such holding**
6 **company; or**

7 **“(III) the centralization of**
8 **functions within the holding**
9 **company system,**

10 **could have a materially adverse**
11 **effect on the safety and sound-**
12 **ness of any depository institution**
13 **affiliate of the holding company.**

14 **“(D) DEFERENCE TO BANK EXAMINA-**
15 **TIONS.—The Board shall, to the fullest**
16 **extent possible, use, for the purposes**
17 **of this paragraph, the reports of ex-**
18 **aminations of depository institutions**
19 **made by the appropriate Federal and**
20 **State depository institution super-**
21 **visory authority.**

22 **“(E) DEFERENCE TO OTHER EXAMI-**
23 **NATIONS.—The Board shall, to the full-**
24 **est extent possible, address the cir-**
25 **cumstances which might otherwise**

1 **permit or require an examination by**
2 **the Board by forgoing an examination**
3 **and instead reviewing the reports of**
4 **examination made of—**

5 **“(i) any registered broker or**
6 **dealer or registered investment**
7 **adviser by or on behalf of the Se-**
8 **curities and Exchange Commis-**
9 **sion;**

10 **“(ii) any licensed insurance**
11 **company by or on behalf of any**
12 **state regulatory authority respon-**
13 **sible for the supervision of insur-**
14 **ance companies; and**

15 **“(iii) any other subsidiary**
16 **that the Board finds to be com-**
17 **prehensively supervised by a Fed-**
18 **eral or State authority.**

19 **“(3) CAPITAL.—**

20 **“(A) IN GENERAL.—The Board shall**
21 **not, by regulation, guideline, order or**
22 **otherwise, prescribe or impose any**
23 **capital or capital adequacy rules,**
24 **guidelines, standards, or require-**
25 **ments on any subsidiary of a finan-**

1 **cial holding company that is not a de-**
2 **pository institution and—**

3 **“(i) is in compliance with ap-**
4 **plicable capital requirements of**
5 **another Federal regulatory au-**
6 **thority (including the Securities**
7 **and Exchange Commission) or**
8 **State insurance authority; or**

9 **“(ii) is registered as an invest-**
10 **ment adviser under the Invest-**
11 **ment Advisers Act of 1940.**

12 **“(B) RULE OF CONSTRUCTION.—Sub-**
13 **paragraph (A) shall not be construed**
14 **as preventing the Board from impos-**
15 **ing capital or capital adequacy rules,**
16 **guidelines, standards, or require-**
17 **ments with respect to activities of a**
18 **registered investment adviser other**
19 **than investment advisory activities or**
20 **activities incidental to investment ad-**
21 **visory activities.**

22 **“(4) TRANSFER OF BOARD AUTHORITY TO**
23 **APPROPRIATE FEDERAL BANKING AGENCY.—**

24 **“(A) IN GENERAL.—In the case of**
25 **any bank holding company which is**

1 not significantly engaged in non-
2 banking activities, the Board, in con-
3 sultation with the appropriate Fed-
4 eral banking agency, may designate
5 the appropriate Federal banking
6 agency of the lead insured depository
7 institution subsidiary of such holding
8 company as the appropriate Federal
9 banking agency for the bank holding
10 company.

11 “(B) AUTHORITY TRANSFERRED.—An
12 agency designated by the Board
13 under subparagraph (A) shall have
14 the same authority as the Board
15 under this Act to—

16 “(i) examine and require re-
17 ports from the bank holding com-
18 pany and any affiliate of such
19 company (other than a depository
20 institution) under section 5;

21 “(ii) approve or disapprove
22 applications or transactions
23 under section 3;

24 “(iii) take actions and impose
25 penalties under subsections (e)

1 **and (f) of section 5 and section 8;**
2 **and**

3 **“(iv) take actions regarding**
4 **the holding company, any affiliate**
5 **of the holding company (other**
6 **than a depository institution), or**
7 **any institution-affiliated party of**
8 **such company or affiliate under**
9 **the Federal Deposit Insurance**
10 **Act and any other statute which**
11 **the Board may designate.**

12 **“(C) AGENCY ORDERS.—Section 9**
13 **(of this Act) and section 105 of the**
14 **Bank Holding Company Act Amend-**
15 **ments of 1970 shall apply to orders is-**
16 **sued by an agency designated under**
17 **subparagraph (A) in the same manner**
18 **such sections apply to orders issued**
19 **by the Board.**

20 **“(5) FUNCTIONAL REGULATION OF SECUR-**
21 **RITIES AND INSURANCE ACTIVITIES.—The**
22 **Board shall defer to—**

23 **“(A) the Securities and Exchange**
24 **Commission with regard to all inter-**
25 **pretations of, and the enforcement of,**

1 applicable Federal securities laws re-
2 lating to the activities, conduct, and
3 operations of registered brokers,
4 dealers, investment advisers, and in-
5 vestment companies; and

6 “(B) the relevant State insurance
7 authorities with regard to all inter-
8 pretations of, and the enforcement of,
9 applicable State insurance laws relat-
10 ing to the activities, conduct, and op-
11 erations of insurance companies and
12 insurance agents.”.

13 SEC. 112. ELIMINATION OF APPLICATION REQUIREMENT
14 FOR FINANCIAL HOLDING COMPANIES.

15 (a) PREVENTION OF DUPLICATIVE FILINGS.—
16 Section 5(a) of the Bank Holding Company
17 Act of 1956 (12 U.S.C. 1844(a)) is amended by
18 adding the following new sentence at the end:
19 “A declaration filed in accordance with sec-
20 tion 6(b)(1)(D) shall satisfy the requirements
21 of this subsection with regard to the registra-
22 tion of a bank holding company but not any
23 requirement to file an application to acquire
24 a bank pursuant to section 3.”.

1 **(b) DIVESTITURE PROCEDURES.—Section**
2 **5(e)(1) of the Bank Holding Company Act of**
3 **1956 (12 U.S.C. 1844(e)(1)) is amended—**

4 **(1) by striking “Financial Institutions**
5 **Supervisory Act of 1966, order” and in-**
6 **serting “Financial Institutions Super-**
7 **visory Act of 1966, at the election of the**
8 **bank holding company—**

9 **“(A) order”; and**

10 **(2) by striking “shareholders of the**
11 **bank holding company. Such distribu-**
12 **tion” and inserting “shareholders of the**
13 **bank holding company; or**

14 **“(B) order the bank holding company,**
15 **after due notice and opportunity for**
16 **hearing, and after consultation with the**
17 **bank’s primary supervisor, which shall be**
18 **the Comptroller of the Currency in the**
19 **case of a national bank, and the Federal**
20 **Deposit Insurance Corporation and the**
21 **appropriate State supervisor in the case**
22 **of an insured nonmember bank, to termi-**
23 **nate (within 120 days or such longer pe-**
24 **riod as the Board may direct) the owner-**

1 under the Securities Exchange
2 Act of 1934; or

3 “(ii) an affiliate of the deposi-
4 tory institution which is an insur-
5 ance company or a broker or
6 dealer registered under such Act;
7 and

8 “(B) the State insurance authority
9 for the insurance company or the Se-
10 curities and Exchange Commission
11 for the registered broker or dealer, as
12 the case may be, determines in writ-
13 ing sent to the holding company and
14 the Board that the holding company
15 shall not provide such funds or assets
16 because such action would have a
17 material adverse effect on the finan-
18 cial condition of the insurance com-
19 pany or the broker or dealer, as the
20 case may be.

21 “(2) NOTICE TO STATE INSURANCE AU-
22 THORITY OR SEC REQUIRED.—If the Board
23 requires a bank holding company, or an
24 affiliate of a bank holding company,
25 which is an insurance company or a

1 **broker or dealer described in paragraph**
2 **(1)(A) to provide funds or assets to an in-**
3 **insured depository institution subsidiary of**
4 **the holding company pursuant to any**
5 **regulation, order, or other action of the**
6 **Board referred to in paragraph (1), the**
7 **Board shall promptly notify the State in-**
8 **surance authority for the insurance com-**
9 **pany or the Securities and Exchange**
10 **Commission, as the case may be, of such**
11 **requirement.**

12 **“(3) DIVESTITURE IN LIEU OF OTHER AC-**
13 **TION.—If the Board receives a notice de-**
14 **scribed in paragraph (1)(B) from a State**
15 **insurance authority or the Securities and**
16 **Exchange Commission with regard to a**
17 **bank holding company or affiliate re-**
18 **ferred to in such paragraph, the Board**
19 **may order the bank holding company to**
20 **divest the insured depository institution**
21 **within 180 days of receiving notice or**
22 **such longer period as the Board deter-**
23 **mines consistent with the safe and sound**
24 **operation of the insured depository insti-**
25 **tution.**

1 **“(4) CONDITIONS BEFORE DIVESTITURE.—**
2 **During the period beginning on the date**
3 **an order to divest is issued by the Board**
4 **under paragraph (3) to a bank holding**
5 **company and ending on the date the di-**
6 **vestiture is completed, the Board may im-**
7 **pose any conditions or restrictions on the**
8 **holding company’s ownership or oper-**
9 **ation of the insured depository institu-**
10 **tion, including restricting or prohibiting**
11 **transactions between the insured deposi-**
12 **tory institution and any affiliate of the**
13 **institution, as are appropriate under the**
14 **circumstances.”.**

15 **SEC. 114. PRUDENTIAL SAFEGUARDS.**

16 **Section 5 of the Bank Holding Company**
17 **Act of 1956 (12 U.S.C. 1844) is amended by in-**
18 **serting after subsection (g) (as added by sec-**
19 **tion 113 of this subtitle) the following new**
20 **subsection:**

21 **“(h) PRUDENTIAL SAFEGUARDS.—**

22 **“(1) IN GENERAL.—The Board may, by**
23 **regulation or order, impose restrictions**
24 **or requirements on relationships or**
25 **transactions between a depository insti-**

1 **tution subsidiary of a bank holding com-**
2 **pany and any affiliate of such depository**
3 **institution (other than a subsidiary of**
4 **such institution) which the Board finds is**
5 **consistent with the public interest, the**
6 **purposes of this Act, the Financial Serv-**
7 **ices Act of 1997, the Federal Reserve Act,**
8 **and other Federal law applicable to de-**
9 **pository institution subsidiaries of bank**
10 **holding companies and the standards in**
11 **paragraph (2).**

12 **“(2) STANDARDS.—The Board may ex-**
13 **ercise authority under paragraph (1) if**
14 **the Board finds that such action will**
15 **have any of the following effects:**

16 **“(A) Avoid any significant risk to**
17 **the safety and soundness of depository**
18 **institutions or any Federal de-**
19 **posit insurance fund.**

20 **“(B) Enhance the financial stabil-**
21 **ity of bank holding companies.**

22 **“(C) Avoid conflicts of interest or**
23 **other abuses.**

24 **“(D) Enhance the privacy of cus-**
25 **tomers of depository institutions.**

1 “(E) Promote the application of
2 national treatment and equality of
3 competitive opportunity between
4 nonbank affiliates owned or con-
5 trolled by domestic bank holding
6 companies and nonbank affiliates
7 owned or controlled by foreign banks
8 operating in the United States.

9 “(3) REVIEW.—The Board shall regu-
10 larly—

11 “(A) review all restrictions or re-
12 quirements established pursuant to
13 paragraph (1) to determine whether
14 there is a continuing need for any
15 such restriction or requirement to
16 carry out the purposes of the Act, in-
17 cluding any purpose described in
18 paragraph (2); and

19 “(B) modify or eliminate any re-
20 striction or requirement the Board
21 finds is no longer required for such
22 purposes.”.

23 SEC. 115. EXAMINATION OF INVESTMENT COMPANIES.

24 (a) EXCLUSIVE COMMISSION AUTHORITY.—

1 **(1) IN GENERAL.—The Commission**
2 **shall be the sole Federal agency with au-**
3 **thority to inspect and examine any reg-**
4 **istered investment company that is not a**
5 **bank holding company.**

6 **(2) PROHIBITION ON BANKING AGEN-**
7 **CIES.—A Federal banking agency may not**
8 **inspect or examine any registered invest-**
9 **ment company that is not a bank holding**
10 **company.**

11 **(b) EXAMINATION RESULTS AND OTHER IN-**
12 **FORMATION.—The Commission shall provide to**
13 **any Federal banking agency, upon request,**
14 **the results of any examination, reports,**
15 **records, or other information with respect to**
16 **any registered investment company to the ex-**
17 **tent necessary for the agency to carry out its**
18 **statutory responsibilities.**

19 **(c) DEFINITIONS.—For purposes of this sec-**
20 **tion, the following definitions shall apply:**

21 **(1) BANK HOLDING COMPANY.—The term**
22 **“bank holding company” has the meaning**
23 **given to such term in section 2 of the**
24 **Bank Holding Company Act of 1956.**

1 **(2) COMMISSION.—**The term “Commis-
2 **sion”** means the Securities and Exchange
3 **Commission.**

4 **(3) FEDERAL BANKING AGENCY.—**The
5 **term “Federal banking agency”** has the
6 **meaning given to such term in section**
7 **3(z) of the Federal Deposit Insurance Act.**

8 **(4) REGISTERED INVESTMENT COM-**
9 **PANY.—**The term “registered investment
10 **company”** means an investment company
11 **which is registered with the Commission**
12 **under the Investment Company Act of**
13 **1940.**

14 **SEC. 116. LIMITATION ON RULEMAKING, PRUDENTIAL, SU-**
15 **PERVISORY, AND ENFORCEMENT AUTHORITY**
16 **OF THE BOARD.**

17 **The Bank Holding Company Act of 1956**
18 **(12 U.S.C. 1841 et seq.) is amended by insert-**
19 **ing after section 10 the following new section:**

20 **“SEC. 10A. LIMITATION ON RULEMAKING, PRUDENTIAL, SU-**
21 **PERVISORY, AND ENFORCEMENT AUTHORITY**
22 **OF THE BOARD.**

23 **“(a) LIMITATION ON DIRECT ACTION.—**

24 **“(1) IN GENERAL.—**The Board may not
25 **prescribe regulations, issue or seek entry**

1 of orders, impose restraints, restrictions,
2 guidelines, requirements, safeguards, or
3 standards, or otherwise take any action
4 under or pursuant to any provision of
5 this Act or section 8 of the Federal De-
6 posit Insurance Act against or with re-
7 spect to a regulated subsidiary of a bank
8 holding company unless the action is nec-
9 essary to prevent or redress an unsafe or
10 unsound practice or breach of fiduciary
11 duty by such subsidiary that poses a ma-
12 terial risk to—

13 “(A) the financial safety, sound-
14 ness, or stability of an affiliated de-
15 pository institution; or

16 “(B) the domestic or international
17 payment system.

18 “(2) CRITERIA FOR BOARD ACTION.—The
19 Board shall not take action otherwise
20 permitted under paragraph (1) unless the
21 Board finds that it is not reasonably pos-
22 sible to effectively protect against the
23 material risk at issue through action di-
24 rected at or against the affiliated deposi-

1 **tory institution or against depository in-**
2 **stitutions generally.**

3 **“(b) LIMITATION ON INDIRECT ACTION.—The**
4 **Board may not prescribe regulations, issue or**
5 **seek entry of orders, impose restraints, re-**
6 **strictions, guidelines, requirements, safe-**
7 **guards, or standards, or otherwise take any**
8 **action under or pursuant to any provision of**
9 **this Act or section 8 of the Federal Deposit In-**
10 **surance Act against or with respect to a finan-**
11 **cial holding company or an investment bank**
12 **holding company where the purpose or effect**
13 **of doing so would be to take action indirectly**
14 **against or with respect to a regulated subsidi-**
15 **ary that may not be taken directly against or**
16 **with respect to such subsidiary in accordance**
17 **with subsection (a).**

18 **“(c) ACTIONS SPECIFICALLY AUTHORIZED.—**
19 **Notwithstanding subsection (a), the Board**
20 **may take action under this Act or section 8 of**
21 **the Federal Deposit Insurance Act to enforce**
22 **compliance by a regulated subsidiary with**
23 **Federal law that the Board has specific juris-**
24 **diction to enforce against such subsidiary.**

1 **“(d) REGULATED SUBSIDIARY DEFINED.—For**
2 **purposes of this section, the term ‘regulated**
3 **subsidiary’ means any company that is not a**
4 **bank holding company and is—**

5 **“(1) a broker or dealer registered**
6 **under the Securities Exchange Act of**
7 **1934;**

8 **“(2) an investment adviser registered**
9 **under the Investment Advisers Act of**
10 **1940, with respect to the investment advi-**
11 **sory activities of such investment adviser**
12 **and activities incidental to such invest-**
13 **ment advisory activities;**

14 **“(3) an investment company reg-**
15 **istered under the Investment Company**
16 **Act of 1940;**

17 **“(4) an insurance company or an in-**
18 **surance agency subject to supervision by**
19 **a State insurance commission, agency, or**
20 **similar authority; or**

21 **“(5) an entity subject to regulation by**
22 **the Commodity Futures Trading Commis-**
23 **sion, with respect to the commodities ac-**
24 **tivities of such entity and activities inci-**
25 **dental to such commodities activities.”.**

1 **Subtitle C—Subsidiaries of**
2 **National Banks**

3 **SEC. 121. PERMISSIBLE ACTIVITIES FOR SUBSIDIARIES OF**
4 **NATIONAL BANKS.**

5 **(a) FINANCIAL SUBSIDIARIES OF NATIONAL**
6 **BANKS.—Chapter one of title LXII of the Re-**
7 **vised Statutes of United States (12 U.S.C. 21**
8 **et seq.) is amended—**

9 **(1) by redesignating section 5136A as**
10 **section 5136C; and**

11 **(2) by inserting after section 5136 (12**
12 **U.S.C. 24) the following new section:**

13 **“SEC. 5136A. SUBSIDIARIES OF NATIONAL BANKS.**

14 **“(a) SUBSIDIARIES OF NATIONAL BANKS AU-**
15 **THORIZED TO ENGAGE IN FINANCIAL ACTIVI-**
16 **TIES.—**

17 **“(1) EXCLUSIVE AUTHORITY.—No provi-**
18 **sion of section 5136 or any other provi-**
19 **sion of this title LXII of the Revised Stat-**
20 **utes shall be construed as authorizing a**
21 **subsidiary of a national bank to engage**
22 **in, or own any share of any company en-**
23 **gaged in, any activity that—**

24 **“(A) is not permissible for a na-**
25 **tional bank to engage in directly; or**

1 **“(B) is conducted under terms or**
2 **conditions other than those that**
3 **would govern the conduct of such ac-**
4 **tivity by a national bank,**
5 **unless a national bank is specifically au-**
6 **thorized by the express terms of a Fed-**
7 **eral statute and not by implication or in-**
8 **terpretation to acquire shares of or con-**
9 **trol such subsidiary, such as by para-**
10 **graph (2) of this subsection and section**
11 **25A of the Federal Reserve Act.**

12 **“(2) SPECIFIC AUTHORIZATION TO CON-**
13 **DUCT INSURANCE AGENCY ACTIVITIES.—A na-**
14 **tional bank may control a company en-**
15 **gaged in general insurance agency activi-**
16 **ties if—**

17 **“(A) the national bank is well cap-**
18 **italized and well managed, and has**
19 **achieved a rating of satisfactory or**
20 **better at the most recent examination**
21 **of the bank under the Community Re-**
22 **investment Act of 1977;**

23 **“(B) all depository institution af-**
24 **filiates of the national bank are well**
25 **capitalized and well managed, and**

1 **have achieved a rating of satisfactory**
2 **or better at the most recent examina-**
3 **tion of each such depository institu-**
4 **tion under the Community Reinvest-**
5 **ment Act of 1977; and**

6 **“(C) the bank has received the ap-**
7 **proval of the Comptroller of the Cur-**
8 **rency.**

9 **“(3) DEFINITIONS.—**

10 **“(A) COMPANY; CONTROL; SUBSIDI-**
11 **ARY.—The terms ‘company’, ‘control’,**
12 **and ‘subsidiary’ have the meanings**
13 **given to such terms in section 2 of the**
14 **Bank Holding Company Act of 1956.**

15 **“(B) WELL CAPITALIZED.—The term**
16 **‘well capitalized’ has the same mean-**
17 **ing as in section 38 of the Federal De-**
18 **posit Insurance Act and, for purposes**
19 **of this section, the Comptroller shall**
20 **have exclusive jurisdiction to deter-**
21 **mine whether a national bank is well**
22 **capitalized.**

23 **“(C) WELL MANAGED.—The term**
24 **‘well managed’ means—**

1 “(i) in the case of a bank that
2 has been examined, unless other-
3 wise determined in writing by the
4 Comptroller—

5 “(I) the achievement of a
6 composite rating of 1 or 2
7 under the Uniform Financial
8 Institutions Rating System (or
9 an equivalent rating under an
10 equivalent rating system) in
11 connection with the most re-
12 cent examination or subse-
13 quent review of the bank; and

14 “(II) at least a rating of 2
15 for management, if that rating
16 is given; or

17 “(ii) in the case of any na-
18 tional bank that has not been ex-
19 amined, the existence and use of
20 managerial resources that the
21 Comptroller determines are satis-
22 factory.

23 “(b) LIMITED EXCLUSIONS FROM COMMUNITY
24 NEEDS REQUIREMENTS FOR NEWLY ACQUIRED
25 DEPOSITORY INSTITUTIONS.—Any depository in-

1 **stitution which becomes affiliated with a na-**
2 **tional bank during the 24-month period pre-**
3 **ceding the submission of an application to ac-**
4 **quire a subsidiary under subsection (a)(2),**
5 **and any depository institution which becomes**
6 **so affiliated after the approval of such appli-**
7 **cation, may be excluded for purposes of sub-**
8 **section (a)(2)(B) during the 24-month period**
9 **beginning on the date of such acquisition if—**

10 **“(1) the depository institution has**
11 **submitted an affirmative plan to the ap-**
12 **propriate Federal banking agency (as de-**
13 **fin ed in section 3 of the Federal Deposit**
14 **Insurance Act) to take such action as may**
15 **be necessary in order for such institution**
16 **to achieve a ‘satisfactory record of meet-**
17 **ing community credit needs’, or better, at**
18 **the next examination of the institution**
19 **under the Community Reinvestment Act**
20 **of 1977; and**

21 **“(2) the plan has been approved by**
22 **the appropriate Federal banking agen-**
23 **cy.”.**

24 **(b) LIMITATION ON CERTAIN ACTIVITIES IN**
25 **SUBSIDIARIES.—Section 21(a)(1) of the Banking**

1 Act of 1933 (12 U.S.C. 378(a)(1)) is amended by
2 inserting “, or to be a subsidiary of any per-
3 son, firm, corporation, association, business
4 trust, or similar organization engaged (unless
5 such subsidiary was engaged in such securi-
6 ties activities as of September 15, 1997),” after
7 “to engage at the same time”.

8 (c) TECHNICAL AND CONFORMING AMEND-
9 MENTS.—

10 (1) ANTITYING.—Section 106(a) of the
11 Bank Holding Company Act Amendments
12 of 1970 is amended by adding at the end
13 the following new sentence: “For pur-
14 poses of this section, a subsidiary of a na-
15 tional bank which engages in activities as
16 an agent pursuant to section 5136A(a)(2)
17 shall be deemed to be a subsidiary of a
18 bank holding company, and not a subsidi-
19 ary of a bank.”.

20 (2) SECTION 23B.—Section 23B(a) of the
21 Federal Reserve Act (12 U.S.C. 371c-1(a))
22 is amended by adding at the end the fol-
23 lowing new paragraph:

24 “(4) INSURANCE SUBSIDIARY OF NA-
25 TIONAL BANK.—For purposes of this sec-

1 **tion, a subsidiary of a national bank**
2 **which engages in activities as an agent**
3 **pursuant to section 5136A(a)(2) shall be**
4 **deemed to be an affiliate of the national**
5 **bank and not a subsidiary of the bank.”**

6 **(d) CLERICAL AMENDMENT.—The table of**
7 **sections for chapter one of title LXII of the Re-**
8 **vised Statutes of the United States is amend-**
9 **ed—**

10 **(1) by redesignating the item relating**
11 **to section 5136A as section 5136C; and**

12 **(2) by inserting after the item relat-**
13 **ing to section 5136 the following new**
14 **item:**

“5136A. Financial subsidiaries of national banks.”.

15 **SEC. 122. MISREPRESENTATIONS REGARDING DEPOSITORY**
16 **INSTITUTION LIABILITY FOR OBLIGATIONS**
17 **OF AFFILIATES.**

18 **(a) IN GENERAL.—Chapter 47 of title 18,**
19 **United States Code, is amended by inserting**
20 **after section 1007 the following new section:**

21 **“§ 1008. Misrepresentations regarding financial insti-**
22 **tution liability for obligations of affiliates**

23 **“(a) IN GENERAL.—No institution-affiliated**
24 **party of an insured depository institution or**
25 **institution-affiliated party of a subsidiary or**

1 **affiliate of an insured depository institution**
2 **shall fraudulently represent that the institu-**
3 **tion is or will be liable for any obligation of**
4 **a subsidiary or other affiliate of the institu-**
5 **tion.**

6 **“(b) CRIMINAL PENALTY.—Whoever violates**
7 **subsection (a) shall be fined under this title,**
8 **imprisoned for not more than 1 year, or both.**

9 **“(c) INSTITUTION-AFFILIATED PARTY DE-**
10 **FINED.—For purposes of this section, the term**
11 **‘institution-affiliated party’ with respect to a**
12 **subsidiary or affiliate has the same meaning**
13 **as in section 3 except references to an insured**
14 **depository institution shall be deemed to be**
15 **references to a subsidiary or affiliate of an in-**
16 **sured depository institution.**

17 **“(d) OTHER DEFINITIONS.—For purposes of**
18 **this section, the terms ‘affiliate’, ‘insured de-**
19 **pository institution’, and ‘subsidiary’ have**
20 **same meanings as in section 3 of the Federal**
21 **Deposit Insurance Act.”.**

22 **(b) CLERICAL AMENDMENT.—The table of**
23 **sections for chapter 47 of title 18, United**
24 **States Code, is amended by inserting after the**

1 **item relating to section 1007 the following**
2 **new item:**

“1008. Misrepresentations regarding financial institution liability for obligations of affiliates.”.

3 **SEC. 123. REPEAL OF STOCK LOAN LIMIT IN FEDERAL RE-**
4 **SERVE ACT.**

5 **Section 11 of the Federal Reserve Act (12**
6 **U.S.C. 248) is amended by striking the para-**
7 **graph designated as “(m)” and inserting “(m)**
8 **[Repealed]”.**

9 **Subtitle D—Investment Bank Hold-**
10 **ing Companies; Wholesale Fi-**
11 **ancial Institutions**

12 **CHAPTER 1—INVESTMENT BANK**
13 **HOLDING COMPANIES**

14 **SEC. 131. INVESTMENT BANK HOLDING COMPANIES ESTAB-**
15 **LISHED.**

16 **(a) DEFINITION AND SUPERVISION.—Section**
17 **10 of the Bank Holding Company Act of 1956**
18 **(12 U.S.C. 1841 et seq.) is amended to read as**
19 **follows:**

20 **“SEC. 10. INVESTMENT BANK HOLDING COMPANIES.**

21 **“(a) COMPANIES THAT CONTROL WHOLESALE**
22 **FINANCIAL INSTITUTIONS.—**

1 **“(1) IN GENERAL.—Any company shall**
2 **be supervised in accordance with this**
3 **section if the company—**

4 **“(A) either—**

5 **“(i) is substantially engaged in**
6 **the securities business, as pro-**
7 **vided in paragraph (2); or**

8 **“(ii) was, as of the date of the**
9 **enactment of the Financial Serv-**
10 **ices Act of 1997, a bank holding**
11 **company;**

12 **“(B) controls 1 or more wholesale**
13 **financial institutions;**

14 **“(C) does not control—**

15 **“(i) a bank other than a**
16 **wholesale financial institution;**

17 **“(ii) an insured bank other**
18 **than an institution permitted**
19 **under subparagraph (D), (F), or**
20 **(G) of section 2(c)(2); or**

21 **“(iii) a savings association;**
22 **and**

23 **“(D) is not a foreign bank (as de-**
24 **defined in section 1(b)(7) of the Inter-**
25 **national Banking Act of 1978).**

1 **“(2) SUBSTANTIALLY ENGAGED IN SECURITIES BUSINESS.—A company shall be**
2 **treated as being substantially engaged in**
3 **the securities business for purposes of**
4 **this section if—**

6 **“(A) the company controls 1 or**
7 **more registered securities brokers or**
8 **dealers; and**

9 **“(B) either—**

10 **“(i) the annual total consoli-**
11 **dated net revenues derived by the**
12 **company and its subsidiaries**
13 **from effecting transactions in or**
14 **buying and selling securities as a**
15 **broker or dealer represent at**
16 **least 35 percent of the annual**
17 **total consolidated net revenues of**
18 **the company; or**

19 **“(ii) the registered brokers or**
20 **dealers controlled by the com-**
21 **pany have in the aggregate total**
22 **consolidated equity capital and**
23 **qualifying subordinated debt**
24 **(based on an average for the 4**
25 **preceding calendar quarters) of**

1 more than \$750,000,000 and such
2 total equity capital and qualifying
3 subordinated debt does not fall
4 below \$500,000,000 (based on an
5 average for the 4 preceding cal-
6 endar quarters).

7 “(3) SAVINGS ASSOCIATION TRANSITION
8 PERIOD.—Notwithstanding paragraph
9 (1)(C)(iii), the Board may permit a com-
10 pany that controls a savings association
11 and that otherwise meets the require-
12 ments of paragraph (1) to become super-
13 vised under paragraph (1), if the com-
14 pany divests control of any such savings
15 association within such period not to ex-
16 ceed 5 years after becoming supervised
17 under paragraph (1) as permitted by the
18 Board.

19 “(b) COMPANIES SUPERVISED BY SECURITIES
20 AND EXCHANGE COMMISSION.—

21 “(1) IN GENERAL.—Except as provided
22 in paragraph (3), any company that is de-
23 scribed in subsection (a)(1) shall be sub-
24 ject to supervision by the Commission
25 under section 17(i) of the Securities Ex-

1 **change Act of 1934 and not by the Board**
2 **and shall, for purposes of this Act, be**
3 **treated as an SEC supervised investment**
4 **bank holding company, if the company—**

5 **“(A) is substantially engaged in**
6 **the securities business, as provided in**
7 **subsection (a)(2); and**

8 **“(B) controls 1 or more wholesale**
9 **financial institutions that in the ag-**
10 **gregate have—**

11 **“(i) consolidated risk-weight-**
12 **ed assets that on an annual basis**
13 **are less than \$15,000,000,000; and**

14 **“(ii) annual gross revenues**
15 **that represent less than 25 per-**
16 **cent of the consolidated annual**
17 **gross revenues of the company.**

18 **“(2) DOLLAR AMOUNT.—**

19 **“(A) RISK-WEIGHTED ASSETS.—For**
20 **purposes of paragraph (1)(A), the con-**
21 **solidated risk-weighted assets of a**
22 **wholesale financial institution shall—**

23 **“(i) be based on the average**
24 **consolidated risk-weighted assets**

1 of the institution for the four pre-
2 vious calendar quarters; and

3 “(ii) include risk-weighted
4 claims on affiliates only to the ex-
5 tent such claims, in the aggregate,
6 exceed the aggregate risk—
7 weighted claims of affiliates on
8 the wholesale financial institu-
9 tion.

10 “(B) TREATMENT OF SUBSIDIARIES.—
11 For purposes of subparagraph (A)(ii),
12 the term “affiliates” shall not include
13 any subsidiary of the wholesale finan-
14 cial institution.

15 “(C) INDEXED GROWTH.—The dollar
16 amount contained in paragraph (1)(A)
17 shall be adjusted annually after De-
18 cember 31, 1998, by the annual per-
19 centage increase in the Consumer
20 Price Index for Urban Wage Earners
21 and Clerical Workers published by
22 the Bureau of Labor Statistics.

23 “(3) ELECTION.—

24 “(A) FILING.—An SEC supervised
25 investment bank holding company

1 **may elect to be supervised by the**
2 **Board and not the Commission by fil-**
3 **ing with the Board the notice of with-**
4 **drawal described in section**
5 **17(i)(3)(B) of the Securities Exchange**
6 **Act of 1934.**

7 **“(B) EFFECTIVE DATE OF TRANSFER**
8 **OF AUTHORITY.—If a company files an**
9 **election under subparagraph (A), the**
10 **Board shall, subject to any condi-**
11 **tions, restrictions or limitations as**
12 **the Board deems necessary or appro-**
13 **priate after consultation with the**
14 **Commission, assume full supervisory**
15 **authority and responsibility for the**
16 **company under this Act immediately**
17 **upon the effectiveness of the compa-**
18 **ny’s notice of withdrawal under sec-**
19 **tion 17(i) of the Securities Exchange**
20 **Act of 1934.**

21 **“(C) RETENTION OF JURISDICTION.—**
22 **The filing of a notice under subpara-**
23 **graph (A) or under section 17(i) of the**
24 **Securities Exchange Act of 1934 shall**
25 **not affect the jurisdiction and author-**

1 **ity of the Commission to take any ac-**
2 **tion authorized by this section or the**
3 **Federal securities laws against any**
4 **person with respect to any action (or**
5 **failure to act) that occurs before the**
6 **transfer of supervisory authority to**
7 **the Board.**

8 **“(4) REVOCATION OF ELECTION.—**

9 **“(A) FILING.—**

10 **“(i) IN GENERAL.—An invest-**
11 **ment bank holding company**
12 **that—**

13 **“(I) has filed an election**
14 **under paragraph (3)(A):**

15 **“(II) meets the require-**
16 **ments of paragraph (1); and**

17 **“(III) is substantially en-**
18 **gaged in the securities busi-**
19 **ness, as provided in sub-**
20 **section (a)(2),**

21 **may revoke its election to be su-**
22 **pervised by the Board and there-**
23 **by become supervised by the**
24 **Commission by filing with the**
25 **Board and the Commission a no-**

1 **tice of revocation in such form as**
2 **the Board may prescribe.**

3 **“(ii) CONDITIONS.—Any revoca-**
4 **tion filed under clause (i) shall be**
5 **subject to any conditions, restric-**
6 **tions or limitations as the Board**
7 **finds to be necessary or appro-**
8 **priate after consultation with the**
9 **Commission.**

10 **“(B) EFFECTIVE DATE OF TRANSFER**
11 **OF AUTHORITY.—If the investment**
12 **bank holding company files a notice**
13 **under subparagraph (A), the Board**
14 **shall discontinue supervision of the**
15 **investment bank holding company on**
16 **the later of—**

17 **“(i) the end of the 45-day pe-**
18 **riod beginning on the date of re-**
19 **ceipt by the Board and the Com-**
20 **mission of the notice of revoca-**
21 **tion; or**

22 **“(ii) such shorter or longer pe-**
23 **riod as the Board shall determine,**
24 **after consultation with the Com-**
25 **mission, is necessary or appro-**

1 **priate to prevent evasion of the**
2 **purposes of this Act.**

3 **“(C) RETENTION OF JURISDICTION.—**

4 **The filing of a notice under subpara-**
5 **graph (A) shall not affect the jurisdic-**
6 **tion and authority of the Board to**
7 **take any action authorized by this**
8 **section against any person with re-**
9 **spect to any action (or failure to act)**
10 **that occurs before the transfer of su-**
11 **pervisory authority to the Commis-**
12 **sion.**

13 **“(D) LIMITATION ON REVOCATIONS.—**

14 **Without the consent of the Board and**
15 **the Commission, an investment bank**
16 **holding company may file a revoca-**
17 **tion of election under subparagraph**
18 **(A) only once during any 5-year pe-**
19 **riod.**

20 **“(5) LIMITED TREATMENT AS BANK HOLD-**

21 **ING COMPANIES.—Notwithstanding section**
22 **2(a), an SEC supervised investment bank**
23 **holding company shall not be a bank**
24 **holding company except for purposes of—**

1 “(A) section 2(g), section 3, section
2 5(f), section 7, section 8, and section
3 11 of this Act;

4 “(B) section 3, section 7(j) and
5 subsections (b) through (n), (s), (u)
6 and (v) of section 8 of the Federal De-
7 posit Insurance Act; and

8 “(C) section 106 of the 1970
9 Amendments to the Bank Holding
10 Company Act.

11 “(c) COMPANIES SUPERVISED BY THE
12 BOARD.—

13 “(1) BOARD SUPERVISION.—Any com-
14 pany described in subsection (a)(1) that is
15 not supervised by the Commission under
16 section 17(i) of the Securities Exchange
17 Act of 1934 shall be supervised by the
18 Board and shall, for purposes of this Act,
19 be a Board supervised investment bank
20 holding company.

21 “(2) IN GENERAL.—The provisions of
22 this section shall govern the reporting,
23 examination, and capital requirements of
24 Board supervised investment bank hold-
25 ing companies.

1 **“(3) REPORTS.—**

2 **“(A) IN GENERAL.—The Board from**
3 **time to time may require any Board**
4 **supervised investment bank holding**
5 **company and any subsidiary of such**
6 **company to submit reports under**
7 **oath to keep the Board informed as**
8 **to—**

9 **“(i) the company’s or subsidi-**
10 **ary’s activities, financial condi-**
11 **tion, policies, systems for mon-**
12 **itoring and controlling financial**
13 **and operational risks, and trans-**
14 **actions with depository institu-**
15 **tion subsidiaries of the holding**
16 **company; and**

17 **“(ii) the extent to which the**
18 **company or subsidiary has com-**
19 **plied with the provisions of this**
20 **Act and regulations prescribed**
21 **and orders issued under this Act.**

22 **“(B) USE OF EXISTING REPORTS.—**

23 **“(i) IN GENERAL.—The Board**
24 **shall, to the fullest extent pos-**
25 **sible, accept reports in fulfillment**

1 of the Board's reporting require-
2 ments under this paragraph that
3 the investment bank holding com-
4 pany or any subsidiary of such
5 company has provided or been re-
6 quired to provide to other Fed-
7 eral and State supervisors or to
8 appropriate self-regulatory orga-
9 nizations.

10 “(ii) AVAILABILITY.—An invest-
11 ment bank holding company or a
12 subsidiary of such company shall
13 provide to the Board, at the re-
14 quest of the Board, a report re-
15 ferred to in clause (i).

16 “(C) EXEMPTIONS FROM REPORTING
17 REQUIREMENTS.—

18 “(i) IN GENERAL.—The Board
19 may, by regulation or order, ex-
20 empt any company or class of
21 companies, under such terms and
22 conditions and for such periods
23 as the Board shall provide in such
24 regulation or order, from the pro-
25 visions of this paragraph and any

1 regulation prescribed under this
2 paragraph.

3 “(ii) **CRITERIA FOR CONSIDER-**
4 **ATION.—**In making any determina-
5 tion under clause (i) with regard
6 to any exemption under such
7 clause, the Board shall consider,
8 among such other factors as the
9 Board may determine to be ap-
10 propriate, the following factors:

11 “(I) Whether information
12 of the type required under
13 this paragraph is available
14 from a supervisory agency (as
15 defined in section 1101(7) of
16 the Right to Financial Privacy
17 Act of 1978) or a foreign regu-
18 latory authority of a similar
19 type.

20 “(II) The primary business
21 of the company.

22 “(III) The nature and ex-
23 tent of the domestic and for-
24 eign regulation of the activi-
25 ties of the company.

1 **“(4) EXAMINATIONS.—**

2 **“(A) LIMITED USE OF EXAMINATION**
3 **AUTHORITY.—The Board may make ex-**
4 **aminations of each Board supervised**
5 **investment bank holding company**
6 **and each subsidiary of such company**
7 **in order to—**

8 **“(i) inform the Board regard-**
9 **ing the nature of the operations**
10 **and financial condition of the in-**
11 **vestment bank holding company**
12 **and its subsidiaries;**

13 **“(ii) inform the Board regard-**
14 **ing—**

15 **“(I) the financial and**
16 **operational risks within the**
17 **investment bank holding com-**
18 **pany system that may affect**
19 **any depository institution**
20 **owned by such holding com-**
21 **pany; and**

22 **“(II) the systems of the**
23 **holding company and its sub-**
24 **subsidiaries for monitoring and**
25 **controlling those risks; and**

1 “(iii) monitor compliance with
2 the provisions of this Act and
3 those governing transactions and
4 relationships between any depository
5 institution controlled by the
6 investment bank holding company
7 and any of the company’s
8 other subsidiaries.

9 “(B) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest
10 extent possible, limit the focus
11 and scope of any examination of an
12 investment bank holding company
13 under this paragraph to—

14 “(i) the holding company; and

15 “(ii) any subsidiary (other
16 than an insured depository institution subsidiary) of the holding
17 company that, because of the size,
18 condition, or activities of the subsidiary,
19 the nature or size of
20 transactions between such subsidiary
21 and any affiliated depository institution,
22 or the centralization
23 of functions within the hold-
24 ing company;
25 and

1 ing company system, could have a
2 materially adverse effect on the
3 safety and soundness of any de-
4 pository institution affiliate of the
5 holding company.

6 “(C) DEFERENCE TO BANK EXAMINA-
7 TIONS.—The Board shall, to the fullest
8 extent possible, use the reports of ex-
9 amination of depository institutions
10 made by the Comptroller of the Cur-
11 rency, the Federal Deposit Insurance
12 Corporation, the Director of the Of-
13 fice of Thrift Supervision or the ap-
14 propriate State depository institution
15 supervisory authority for the pur-
16 poses of this section.

17 “(D) DEFERENCE TO OTHER EXAMI-
18 NATIONS.—The Board shall, to the full-
19 est extent possible, address the cir-
20 cumstances which might otherwise
21 permit or require an examination by
22 the Board by forgoing an examination
23 and by instead reviewing the reports
24 of examination made of—

1 “(i) any registered broker or
2 dealer or any registered invest-
3 ment adviser by or on behalf of
4 the Commission; and

5 “(ii) any licensed insurance
6 company by or on behalf of any
7 State government insurance agen-
8 cy responsible for the supervision
9 of the insurance company.

10 “(E) CONFIDENTIALITY OF REPORTED
11 INFORMATION.—

12 “(i) IN GENERAL.—Notwith-
13 standing any other provision of
14 law, the Board shall not be com-
15 pelled to disclose any nonpublic
16 information required to be re-
17 ported under this paragraph, or
18 any information supplied to the
19 Board by any domestic or foreign
20 regulatory agency, that relates to
21 the financial or operational con-
22 dition of any investment bank
23 holding company or any subsidi-
24 ary of such company.

1 “(ii) COMPLIANCE WITH RE-
2 QUESTS FOR INFORMATION.—No pro-
3 vision of this subparagraph shall
4 be construed as authorizing the
5 Board to withhold information
6 from the Congress, or preventing
7 the Board from complying with a
8 request for information from any
9 other Federal department or
10 agency for purposes within the
11 scope of such department’s or
12 agency’s jurisdiction, or from
13 complying with any order of a
14 court of competent jurisdiction in
15 an action brought by the United
16 States or the Board.

17 “(iii) COORDINATION WITH
18 OTHER LAW.—For purposes of sec-
19 tion 552 of title 5, United States
20 Code, this subparagraph shall be
21 considered to be a statute de-
22 scribed in subsection (b)(3)(B) of
23 such section.

24 “(iv) DESIGNATION OF CON-
25 FIDENTIAL INFORMATION.—In pre-

1 **scribing regulations to carry out**
2 **the requirements of this sub-**
3 **section, the Board shall designate**
4 **information described in or ob-**
5 **tained pursuant to this paragraph**
6 **as confidential information.**

7 **“(F) COSTS.—The cost of any ex-**
8 **amination conducted by the Board**
9 **under this section may be assessed**
10 **against, and made payable by, the in-**
11 **vestment bank holding company.**

12 **“(5) CAPITAL ADEQUACY GUIDELINES.—**

13 **“(A) CAPITAL ADEQUACY PROVI-**
14 **SIONS.—Subject to the requirements**
15 **of, and solely in accordance with, the**
16 **terms of this paragraph, the Board**
17 **may adopt capital adequacy rules or**
18 **guidelines for Board supervised in-**
19 **vestment bank holding companies.**

20 **“(B) METHOD OF CALCULATION.—In**
21 **developing rules or guidelines under**
22 **this paragraph, the following provi-**
23 **sions shall apply:**

24 **“(i) FOCUS ON DOUBLE LEVER-**
25 **AGE.—The Board shall focus on**

1 the use by investment bank hold-
2 ing companies of debt and other
3 liabilities to fund capital invest-
4 ments in subsidiaries.

5 “(ii) NO UNWEIGHTED CAPITAL
6 RATIO.—The Board shall not, by
7 regulation, guideline, order, or
8 otherwise, impose under this sec-
9 tion a capital ratio that is not
10 based on appropriate risk-
11 weighting considerations.

12 “(iii) NO CAPITAL REQUIREMENT
13 ON REGULATED ENTITIES.—The
14 Board shall not, by regulation,
15 guideline, order or otherwise,
16 prescribe or impose any capital
17 or capital adequacy rules, stand-
18 ards, guidelines, or requirements
19 upon any subsidiary that—

20 “(I) is not a depository in-
21 stitution; and

22 “(II) is in compliance with
23 applicable capital require-
24 ments of another Federal reg-
25 ulatory authority (including

1 the Securities and Exchange
2 Commission) or State insur-
3 ance authority.

4 “(iv) LIMITATION.—The Board
5 shall not, by regulation, guideline,
6 order or otherwise, prescribe or
7 impose any capital or capital ade-
8 quacy rules, standards, guide-
9 lines, or requirements upon any
10 subsidiary that is not a deposi-
11 tory institution and that is reg-
12 istered as an investment adviser
13 under the Investment Advisers
14 Act of 1940, except that this
15 clause shall not be construed as
16 preventing the Board from impos-
17 ing capital or capital adequacy
18 rules, guidelines, standards, or re-
19 quirements with respect to activi-
20 ties of a registered investment ad-
21 viser other than investment advi-
22 sory activities or activities inci-
23 dental to investment advisory ac-
24 tivities.

1 **“(v) APPROPRIATE EXCLU-**
2 **SIONS.—The Board shall take full**
3 **account of—**

4 **“(I) the capital require-**
5 **ments made applicable to any**
6 **subsidiary that is not a depos-**
7 **itory institution by another**
8 **Federal regulatory authority**
9 **or State insurance authority;**
10 **and**

11 **“(II) industry norms for**
12 **capitalization of a company’s**
13 **unregulated subsidiaries and**
14 **activities.**

15 **“(vi) INTERNAL RISK MANAGE-**
16 **MENT MODELS.—The Board may in-**
17 **corporate internal risk manage-**
18 **ment models of investment bank**
19 **holding companies into its capital**
20 **adequacy guidelines or rules and**
21 **may take account of the extent to**
22 **which resources of a subsidiary**
23 **depository institution may be**
24 **used to service the debt or other**

1 **liabilities of the investment bank**
2 **holding company.**

3 **“(d) NONFINANCIAL ACTIVITIES AND INVEST-**
4 **MENTS.—**

5 **“(1) AUTHORITY FOR LIMITED AMOUNTS**
6 **OF NEW ACTIVITIES AND INVESTMENTS.—**

7 **“(A) IN GENERAL.—Notwithstand-**
8 **ing section 4(a), a Board supervised**
9 **investment bank holding company**
10 **may engage in activities which are**
11 **not (or have not been determined to**
12 **be) financial in nature or incidental**
13 **to activities which are financial in**
14 **nature, or acquire and retain owner-**
15 **ship and control of the shares of a**
16 **company engaged in such activities**
17 **if—**

18 **“(i) the aggregate annual**
19 **gross revenues derived from all**
20 **such activities and of all such**
21 **companies does not exceed 5 per-**
22 **cent of the consolidated annual**
23 **gross revenues of the investment**
24 **bank holding company or, in the**
25 **case of a foreign bank or any**

1 **company that owns or controls a**
2 **foreign bank, the aggregate an-**
3 **nuual gross revenues derived from**
4 **any such activities in the United**
5 **States does not exceed 5 percent**
6 **of the consolidated annual gross**
7 **revenues of the foreign bank or**
8 **company in the United States de-**
9 **derived from any branch, agency,**
10 **commercial lending company, or**
11 **depository institution controlled**
12 **by the foreign bank or company**
13 **and any subsidiary engaged in**
14 **the United States in activities**
15 **permissible under section 4 or 6**
16 **or this subsection;**

17 “(ii) the consolidated total as-

18 sets of any company the shares of

19 which are acquired pursuant to

20 this subsection are less than

21 \$750,000,000 at the time the

22 shares are acquired by the invest-

23 ment bank holding company; and

24 “(iii) such company provides

25 notice to the Board within 30

1 **days of commencing the activity**
2 **or acquiring the ownership or**
3 **control.**

4 **“(B) INCLUSION OF GRANDFATHERED**
5 **ACTIVITIES.—For purposes of deter-**
6 **mining compliance with the limits**
7 **contained in subparagraph (A), the**
8 **gross revenues derived from all ac-**
9 **tivities conducted and companies the**
10 **shares of which are held under para-**
11 **graph (2) shall be considered to be**
12 **derived or held under this paragraph.**

13 **“(C) REPORT.—No later than 5**
14 **years after the date of enactment of**
15 **the Financial Services Act of 1997, the**
16 **Board shall submit to the Congress a**
17 **report regarding the activities con-**
18 **ducted and companies held pursuant**
19 **to this paragraph or section**
20 **17(i)(7)(C) of the Securities Exchange**
21 **Act of 1934 and the effect, if any, that**
22 **affiliations permitted under those**
23 **provisions have had on affiliated de-**
24 **pository institutions. The report shall**
25 **include recommendations regarding**

1 the appropriateness of retaining, in-
2 creasing, or decreasing the limits con-
3 tained in those provisions. In prepar-
4 ing the report, the Board shall con-
5 sult with and incorporate the views
6 of the Commission.

7 “(2) GRANDFATHERED ACTIVITIES.—

8 “(A) IN GENERAL.—Notwithstand-
9 ing paragraph (1)(A) and section 4(a),
10 a company that becomes an invest-
11 ment bank holding company may con-
12 tinue to engage, directly or indirectly,
13 in any activity and may retain owner-
14 ship and control of shares of a com-
15 pany engaged in any activity if—

16 “(i) on the date of the enact-
17 ment of the Financial Services
18 Act of 1997, such investment bank
19 holding company was lawfully en-
20 gaged in that nonfinancial activ-
21 ity, held the shares of such com-
22 pany, or had entered into a con-
23 tract to acquire shares of any
24 company engaged in such activ-
25 ity; and

1 “(ii) the company engaged in
2 such activity continues to engage
3 only in the same activities that
4 such company conducted on the
5 date of the enactment of the Fi-
6 nancial Services Act of 1997, and
7 other activities permissible under
8 this Act.

9 “(B) NO EXPANSION OF GRAND-
10 FATHERED COMMERCIAL ACTIVITIES
11 THROUGH MERGER OR CONSOLIDATION.—
12 An investment bank holding company
13 that engages in activities or holds
14 shares pursuant to this paragraph, or
15 a subsidiary of such investment bank
16 holding company, may not acquire, in
17 any merger, consolidation, or other
18 type of business combination, assets
19 of any other company which is en-
20 gaged in any activity which the
21 Board has not determined to be fi-
22 nancial in nature or incidental to ac-
23 tivities that are financial in nature
24 under section 6(c).

1 **“(C) LIMITATION TO SINGLE EXEMP-**
2 **TION.—No company that engages in**
3 **any activity or controls any shares**
4 **under subsection (f) or (g) of section**
5 **6 may engage in any activity or own**
6 **any shares pursuant to this para-**
7 **graph or paragraph (1).**

8 **“(3) COMMODITIES.—**

9 **“(A) IN GENERAL.—Notwithstand-**
10 **ing section 4(a), an investment bank**
11 **holding company which was predomi-**
12 **nately engaged as of January 1, 1997,**
13 **in securities activities in the United**
14 **States (or any successor to any such**
15 **company) may engage in, or directly**
16 **or indirectly own or control shares of**
17 **a company engaged in, activities re-**
18 **lated to the trading, sale, or invest-**
19 **ment in commodities and underlying**
20 **physical properties that were not per-**
21 **missible for bank holding companies**
22 **to conduct in the United States as of**
23 **January 1, 1997, if such investment**
24 **bank holding company, or any sub-**
25 **subsidiary of such holding company, was**

1 engaged directly, indirectly, or
2 through any such company in any of
3 such activities as of January 1, 1997,
4 in the United States.

5 “(B) LIMITATION.—Notwithstand-
6 ing paragraph (1)(A)(i), the attributed
7 aggregate investment by an invest-
8 ment bank holding company in activi-
9 ties permitted under this paragraph
10 and not otherwise permitted for all
11 bank holding companies under this
12 Act may not exceed 5 percent of the
13 capital of the investment bank hold-
14 ing company, except that the Board
15 may increase such percentage of cap-
16 ital by such amounts and under such
17 circumstances as the Board considers
18 appropriate, consistent with the pur-
19 poses of this Act.

20 “(C) ATTRIBUTED INVESTMENT
21 AMOUNT.—For purposes of subpara-
22 graph (B), the amount of the invest-
23 ment by an investment bank holding
24 company which are attributable to
25 activities described in such subpara-

1 **graph shall be determined pursuant**
2 **to regulations issued by the Board**
3 **which attribute capital on the basis**
4 **of such activities in relation to all ac-**
5 **tivities of the company.**

6 **“(4) CROSS MARKETING RESTRICTIONS.—**
7 **A Board supervised investment bank**
8 **holding company shall not permit—**

9 **“(A) any company whose shares it**
10 **owns or controls pursuant to para-**
11 **graph (1), (2), or (3) to offer or market**
12 **any product or service of an affiliated**
13 **wholesale financial institution; or**

14 **“(B) any affiliated wholesale fi-**
15 **nancial institution to offer or market**
16 **any product or service of any com-**
17 **pany whose shares are owned or con-**
18 **trolled by such investment bank hold-**
19 **ing company pursuant to such para-**
20 **graphs.**

21 **“(e) QUALIFICATION OF FOREIGN BANK AS IN-**
22 **VESTMENT BANK HOLDING COMPANY.—**

23 **“(1) IN GENERAL.—Any foreign bank,**
24 **or any company that owns or controls a**
25 **foreign bank, that—**

1 **“(A) operates a branch, agency, or**
2 **commercial lending company in the**
3 **United States, including a foreign**
4 **bank or company that owns or con-**
5 **trols a wholesale financial institution;**
6 **and**

7 **“(B) owns, controls, or is affiliated**
8 **with a security affiliate that engages**
9 **in underwriting corporate equity se-**
10 **curities,**

11 **may request a determination from the**
12 **Board that such bank or company be**
13 **treated as a Board supervised investment**
14 **bank holding company for purposes of**
15 **subsection (d).**

16 **“(2) CONDITIONS FOR TREATMENT AS AN**
17 **INVESTMENT BANK HOLDING COMPANY.—A**
18 **foreign bank and a company that owns or**
19 **controls a foreign bank may not be treat-**
20 **ed as an investment bank holding com-**
21 **pany unless the bank and company meet**
22 **and continue to meet the following cri-**
23 **teria:**

24 **“(A) NO INSURED DEPOSITS.—No de-**
25 **posits held directly by a foreign bank**

1 or through an affiliate are insured
2 under the Federal Deposit Insurance
3 Act.

4 “(B) CAPITAL STANDARDS.—The for-
5 eign bank meets risk-based capital
6 standards comparable to the capital
7 standards required for a wholesale fi-
8 nancial institution, giving due regard
9 to the principle of national treatment
10 and equality of competitive oppor-
11 tunity.

12 “(C) TRANSACTION WITH AFFILI-
13 ATES.—Transactions between a
14 branch, agency, or commercial lend-
15 ing company subsidiary of the foreign
16 bank in the United States, and any se-
17 curities affiliate or company in which
18 the foreign bank (or any company
19 that owns or controls such foreign
20 bank) has invested pursuant to sub-
21 section (d) comply with the provi-
22 sions of sections 23A and 23B of the
23 Federal Reserve Act in the same man-
24 ner and to the same extent as such
25 transactions would be required to

1 **comply with such sections if the bank**
2 **were a member bank.**

3 **“(3) TREATMENT AS A WHOLESALE FINAN-**
4 **CIAL INSTITUTION.—Any foreign bank**
5 **which is, or is affiliated with a company**
6 **which is, treated as an investment bank**
7 **holding company under this subsection**
8 **shall be treated as a wholesale financial**
9 **institution for purposes of subsection**
10 **(d)(4) of this section and subsections**
11 **(c)(1)(C) and (c)(3) of section 9B of the**
12 **Federal Reserve Act, and any such for-**
13 **foreign bank or company shall be subject to**
14 **paragraphs (3), (4), and (5) of section**
15 **9B(d) of the Federal Reserve Act, except**
16 **that the Board may adopt such modifica-**
17 **tions, conditions, or exemptions as the**
18 **Board deems appropriate, giving due re-**
19 **gard to the principle of national treat-**
20 **ment and equality of competitive oppor-**
21 **tunity.**

22 **“(4) NONAPPLICABILITY OF OTHER EX-**
23 **EMPTION.—Any foreign bank or company**
24 **which is treated as an investment bank**
25 **holding company under this subsection**

1 shall not be eligible for any exception de-
2 scribed in section 2(h).

3 **“(5) SUPERVISION OF FOREIGN BANK**
4 **WHICH MAINTAINS NO BANKING PRESENCE**
5 **OTHER THAN CONTROL OF A WHOLESale FI-**
6 **NANCIAL INSTITUTION.—A foreign bank that**
7 **owns or controls a wholesale financial in-**
8 **stitution but does not operate a branch,**
9 **agency, or commercial lending company**
10 **in the United States (and any company**
11 **that owns or controls such foreign bank)**
12 **may request a determination from the**
13 **Board that such bank or company be**
14 **treated as a Board supervised investment**
15 **bank holding company for purposes of**
16 **subsection (d), except that such bank or**
17 **company shall be subject to the restric-**
18 **tions of paragraph (4) of this subsection.**

19 **“(6) NO EFFECT ON OTHER PROVI-**
20 **SIONS.—This section shall not be con-**
21 **strued as limiting the authority of the**
22 **Board under the International Banking**
23 **Act of 1978 with respect to the regulation,**
24 **supervision, or examination of foreign**

1 banks and their offices and affiliates in
2 the United States.

3 “(7) APPLICABILITY OF COMMUNITY REIN-
4 VESTMENT ACT OF 1977.—The branches in
5 the United States of a foreign bank that
6 is, or is affiliated with a company that is,
7 treated as a Board supervised investment
8 bank holding company shall be subject to
9 section 9B(b)(11) of the Federal Reserve
10 Act as if the foreign bank were a whole-
11 sale financial institution under such sec-
12 tion. The Board and the Comptroller of
13 the Currency shall apply the provisions
14 of sections 803(2), 804, and 807(1) of the
15 Community Reinvestment Act of 1977 to
16 branches of foreign banks which receive
17 only such deposits as are permissible for
18 receipt by a corporation organized under
19 section 25A of the Federal Reserve Act, in
20 the same manner and to the same extent
21 such sections apply to such a corpora-
22 tion.

23 “(f) BOARD BACKUP ENFORCEMENT AND EX-
24 AMINATION AUTHORITY.—

25 “(1) ENFORCEMENT AUTHORITY.—

1 **“(A) IN GENERAL.—The Board may**
2 **take any action or initiate any inves-**
3 **tigation or proceeding under this Act**
4 **or the Federal Deposit Insurance Act**
5 **involving any SEC supervised invest-**
6 **ment bank holding company, any sub-**
7 **subsidiary of such a company, or any in-**
8 **stitution-affiliated party of such a**
9 **company or subsidiary for the pur-**
10 **pose of enforcing compliance with the**
11 **applicable provisions of this Act, the**
12 **1970 Amendments to the Bank Hold-**
13 **ing Company Act of 1956, section 17(i)**
14 **of the Securities Exchange Act of**
15 **1934, the Federal Deposit Insurance**
16 **Act, or the Federal Reserve Act.**

17 **“(B) PRIOR CONSULTATION AND OP-**
18 **PORTUNITY TO CORRECT.—**

19 **“(i) NOTICE OF PROPOSED AC-**
20 **TION.—At least 30 days before ini-**
21 **tiating any action, investigation,**
22 **or proceeding under this sub-**
23 **section (or such shorter period as**
24 **the Board and Commission may**
25 **agree), the Board shall provide**

1 the Commission with notice of the
2 Board’s proposed action, an ex-
3 planation of the basis for such
4 proposed action, and a rec-
5 ommendation for Commission ac-
6 tion.

7 “(ii) BOARD ACTION.—If, after
8 receipt of notice under clause (i),
9 the Commission does not take the
10 actions recommended by the
11 Board or other actions deemed
12 appropriate by the Board, the
13 Board may initiate an action, in-
14 vestigation or proceeding under
15 this subsection.

16 “(iii) EXIGENT CIR-
17 CUMSTANCES.—The Board may ex-
18 ercise its authority under para-
19 graph (1)(A) without regard to the
20 time period set forth in clause (i)
21 if the Board finds that such ac-
22 tion is necessary or appropriate
23 in light of exigent circumstances.

24 “(2) BACKUP EXAMINATION.—

1 **“(A) IN GENERAL.—In cir-**
2 **cumstances where examinations of**
3 **Board supervised bank holding com-**
4 **panies and subsidiaries of such hold-**
5 **ing companies by the Board are per-**
6 **missible under subparagraphs (A)**
7 **and (B) of section 5(c)(2), the Board**
8 **may make examinations of any SEC**
9 **supervised investment bank holding**
10 **company and any subsidiary of such**
11 **company for the purpose of monitor-**
12 **ing and enforcing compliance by the**
13 **company or any subsidiary of such**
14 **company with the laws described in**
15 **subparagraph (E).**

16 **“(B) RESTRICTED FOCUS.—The**
17 **Board shall limit the focus and scope**
18 **of any examination permitted under**
19 **subparagraph (A) to those trans-**
20 **actions, policies, procedures, systems,**
21 **or records that are reasonably nec-**
22 **essary to monitor and enforce compli-**
23 **ance by the company or any subsidi-**
24 **ary of the company with the laws de-**
25 **scribed in subparagraph (E).**

1 **“(C) DEFERENCE TO OTHER EXAMI-**
2 **NATIONS.—To the fullest extent pos-**
3 **sible, the Board shall address the cir-**
4 **cumstances which might otherwise**
5 **permit or require an examination by**
6 **the Board by forgoing an examination**
7 **and instead reviewing the reports of**
8 **examinations made of—**

9 **“(i) any registered broker or**
10 **dealer or registered investment**
11 **adviser by or on behalf of the**
12 **Commission; and**

13 **“(ii) any licensed insurance**
14 **company by or on behalf of any**
15 **State government insurance agen-**
16 **cy responsible for the supervision**
17 **of the insurance company.**

18 **“(D) NOTIFICATION.—To the fullest**
19 **extent possible, the Board shall notify**
20 **the Commission before conducting**
21 **any examination of a SEC supervised**
22 **investment bank holding company.**

23 **“(E) DEFINITION.—For purposes of**
24 **this subsection, the laws described in**
25 **this subparagraph are this Act, sec-**

1 **tion 17(i) of the Securities Exchange**
2 **Act of 1934, and all Federal laws for**
3 **which the Board has enforcement au-**
4 **thority with respect to State member**
5 **banks or bank holding companies or**
6 **their subsidiaries.**

7 **“(g) INFORMATION SHARING.—The Board**
8 **and the Comptroller of the Currency (in the**
9 **case of a national wholesale financial institu-**
10 **tion) shall, upon request by the Commission,**
11 **provide to the Commission such reports,**
12 **records, or other information, including re-**
13 **ports of examination or other confidential su-**
14 **pervisory information, that the Board or the**
15 **Comptroller has available concerning a**
16 **wholesale financial institution (or any sub-**
17 **sidary of a wholesale financial institution)**
18 **that is controlled by a SEC supervised invest-**
19 **ment bank holding company to assist the**
20 **Commission in carrying out its responsibil-**
21 **ities under this Act or the Federal securities**
22 **laws.**

23 **“(h) DEFERENCE TO COMMISSION.—The**
24 **Board shall defer to the Commission with re-**
25 **gard to all interpretations of, and the enforce-**

1 **ment of, applicable Federal securities laws re-**
2 **lating to the activities, conduct and oper-**
3 **ations of registered brokers, dealers, invest-**
4 **ment advisers, and investment companies.**

5 **“(i) CONSULTATION.—The Board shall con-**
6 **sult with the Commission concerning the ex-**
7 **ercise of the Board’s authority and respon-**
8 **sibility under section 6(c) to assure, to the**
9 **fullest extent possible, the consistency of in-**
10 **terpretation and the maintenance of competi-**
11 **tive equality.”.**

12 **(b) UNINSURED STATE BANKS.—Section 9 of**
13 **the Federal Reserve Act (U.S.C. 321 et seq.) is**
14 **amended by adding at the end the following**
15 **new paragraph:**

16 **“(24) ENFORCEMENT AUTHORITY OVER**
17 **UNINSURED STATE MEMBER BANKS.—Section**
18 **3(u) of the Federal Deposit Insurance Act,**
19 **subsections (j) and (k) of section 7 of such**
20 **Act, and subsections (b) through (n), (s),**
21 **(u), and (v) of section 8 of such Act shall**
22 **apply to an uninsured State member**
23 **bank in the same manner and to the**
24 **same extent such provisions apply to an**
25 **insured State member bank and any ref-**

1 erence in any such provision to ‘insured
2 depository institution’ shall be deemed to
3 be a reference to ‘uninsured State mem-
4 ber bank’ for purposes of this para-
5 graph.”.

6 SEC. 132. AUTHORIZATION TO RELEASE REPORTS.

7 (a) FEDERAL RESERVE ACT.—The last sen-
8 tence of the 8th undesignated paragraph of
9 section 9 of the Federal Reserve Act (12 U.S.C.
10 326) is amended to read as follows: “The
11 Board of Governors of the Federal Reserve
12 System, at its discretion, may furnish reports
13 of examination or other confidential super-
14 visory information concerning State member
15 banks or any other entities examined under
16 any other authority of the Board to any Fed-
17 eral or State authorities with supervisory or
18 regulatory authority over the examined en-
19 tity, to officers, directors, or receivers of the
20 examined entity, and to any other person that
21 the Board determines to be proper.”.

22 (b) COMMODITY FUTURES TRADING COMMIS-
23 SION.—

1 **(1) Section 1101(7) of the Right to Fi-**
2 **ancial Privacy Act of 1978 (12 U.S.C.**
3 **3401(7)) is amended—**

4 **(A) by redesignating subpara-**
5 **graphs (G) and (H) as subparagraphs**
6 **(H) and (I), respectively; and**

7 **(B) by inserting after subpara-**
8 **graph (F) the following new subpara-**
9 **graph:**

10 **“(G) the Commodity Futures**
11 **Trading Commission; or” and**

12 **(2) Section 1112(e) of the Right to Fi-**
13 **ancial Privacy Act (12 U.S.C. 3412(e)) is**
14 **amended by striking “and the Securities**
15 **and Exchange Commission” and inserting**
16 **“, the Securities and Exchange Commis-**
17 **sion, and the Commodity Futures Trad-**
18 **ing Commission”.**

19 **SEC. 133. CONFORMING AMENDMENTS.**

20 **(a) BANK HOLDING COMPANY ACT OF 1956.—**

21 **(1) DEFINITIONS.—Section 2 of the**
22 **Bank Holding Company Act of 1956 (12**
23 **U.S.C. 1842) is amended by adding at the**
24 **end the following new subsections:**

1 **“(p) WHOLESale FINANCIAL INSTITUTION.—**
2 **The term ‘wholesale financial institution’**
3 **means a wholesale financial institution sub-**
4 **ject to section 9B of the Federal Reserve Act.**

5 **“(q) COMMISSION.—The term ‘Commission’**
6 **means the Securities and Exchange Commis-**
7 **sion.**

8 **“(r) DEPOSITORY INSTITUTION.—The term**
9 **‘depository institution’—**

10 **“(1) has the meaning given to such**
11 **term in section 3 of the Federal Deposit**
12 **Insurance Act; and**

13 **“(2) includes a wholesale financial in-**
14 **stitution.”.**

15 **(2) DEFINITION OF BANK INCLUDES**
16 **WHOLESale FINANCIAL INSTITUTION.—Sec-**
17 **tion 2(c)(1) of the Bank Holding Company**
18 **Act of 1956 (12 U.S.C. 1841(c)(1)) is**
19 **amended by adding at the end the follow-**
20 **ing new subparagraph:**

21 **“(C) A wholesale financial institu-**
22 **tion.”.**

23 **(3) INCORPORATED DEFINITIONS.—Sec-**
24 **tion 2(n) of the Bank Holding Company**
25 **Act of 1956 (12 U.S.C. 1841(n)) is amended**

1 by inserting “insured bank,” after “in
2 danger of default’”.

3 (4) EXCEPTION TO DEPOSIT INSURANCE
4 REQUIREMENT.—Section 3(e) of the Bank
5 Holding Company Act of 1956 (12 U.S.C.
6 1842(e)) is amended by adding at the end
7 the following: “This subsection shall not
8 apply to a wholesale financial institu-
9 tion.”

10 (b) FEDERAL DEPOSIT INSURANCE ACT.—Sec-
11 tion 3(q)(2)(A) of the Federal Deposit Insur-
12 ance Act (12 U.S.C. 1813(q)(2)(A)) is amended
13 to read as follows:

14 “(A) any State member insured
15 bank (except a District bank) and any
16 wholesale financial institution as au-
17 thorized pursuant to section 9B of the
18 Federal Reserve Act;”

19 CHAPTER 2—WHOLESALE FINANCIAL
20 INSTITUTIONS

21 SEC. 136. WHOLESALE FINANCIAL INSTITUTIONS.

22 (a) NATIONAL WHOLESALE FINANCIAL INSTI-
23 TUTIONS.—

24 (1) IN GENERAL.—Chapter one of title
25 LXII of the Revised Statutes of the United

1 **States (12 U.S.C. 21 et seq.) is amended by**
2 **inserting after section 5136A the follow-**
3 **ing new section:**

4 **“SEC. 5136B. NATIONAL WHOLESALE FINANCIAL INSTITU-**
5 **TIONS.**

6 **“(a) AUTHORIZATION OF THE COMPTROLLER**
7 **REQUIRED.—A national bank may apply to the**
8 **Comptroller on such forms and in accordance**
9 **with such regulations as the Comptroller may**
10 **prescribe, for permission to operate as a na-**
11 **tional wholesale financial institution.**

12 **“(b) REGULATION.—A national wholesale fi-**
13 **nancial institution may exercise, in accord-**
14 **ance with such institution’s articles of incor-**
15 **poration and regulations issued by the Comp-**
16 **troller, all the powers and privileges of a na-**
17 **tional bank formed in accordance with sec-**
18 **tion 5133 of the Revised Statutes of the United**
19 **States, subject to section 9B of the Federal Re-**
20 **serve Act and the limitations and restrictions**
21 **contained therein.**

22 **“(c) COMMUNITY REINVESTMENT ACT OF**
23 **1977.—A national wholesale financial institu-**
24 **tion shall be subject to the Community Rein-**
25 **vestment Act of 1977.**

1 **“(d) EXAMINATION REPORTS.—The Comp-**
2 **troller of the Currency shall, to the fullest ex-**
3 **tent possible, use the report of examinations**
4 **made by the Board of Governors of the Fed-**
5 **eral Reserve System of a wholesale financial**
6 **institution.”.**

7 **(2) CLERICAL AMENDMENT.—The table**
8 **of sections for chapter one of title LXII of**
9 **the Revised Statutes of the United States**
10 **is amended by inserting after the item re-**
11 **lating to section 5136A (as added by sec-**
12 **tion 121(d) of this title) the following new**
13 **item:**

“5136B. National wholesale financial institutions.”.

14 **(b) STATE WHOLESALE FINANCIAL INSTITU-**
15 **TIONS.—The Federal Reserve Act (12 U.S.C. 221**
16 **et seq.) is amended by inserting after section**
17 **9A the following new section:**

18 **“SEC. 9B. WHOLESALE FINANCIAL INSTITUTIONS.**

19 **“(a) APPLICATION FOR MEMBERSHIP AS**
20 **WHOLESALE FINANCIAL INSTITUTION.—**

21 **“(1) APPLICATION REQUIRED.—**

22 **“(A) IN GENERAL.—Any bank may**
23 **apply to the Board of Governors of**
24 **the Federal Reserve System to be-**
25 **come a wholesale financial institution**

1 **and, as a wholesale financial institu-**
2 **tion, to subscribe to the stock of the**
3 **Federal reserve bank organized with-**
4 **in the district where the applying**
5 **bank is located.**

6 **“(B) TREATMENT AS MEMBER**
7 **BANK.—Any application under sub-**
8 **paragraph (A) shall be treated as an**
9 **application under, and shall be sub-**
10 **ject to the provisions of, section 9.**

11 **“(2) INSURANCE TERMINATION.—No**
12 **bank the deposits of which are insured**
13 **under the Federal Deposit Insurance Act**
14 **may become a wholesale financial institu-**
15 **tion unless it has met all requirements**
16 **under that Act for voluntary termination**
17 **of deposit insurance.**

18 **“(b) GENERAL REQUIREMENTS APPLICABLE**
19 **TO WHOLESALE FINANCIAL INSTITUTIONS.—**

20 **“(1) FEDERAL RESERVE ACT.—Except as**
21 **otherwise provided in this section, whole-**
22 **sale financial institutions shall be mem-**
23 **ber banks and shall be subject to the pro-**
24 **visions of this Act that apply to member**
25 **banks to the same extent and in the same**

1 manner as State member insured banks,
2 except that a wholesale financial institu-
3 tion may terminate membership under
4 this Act only with the prior written ap-
5 proval of the Board and on terms and
6 conditions that the Board determines are
7 appropriate to carry out the purposes of
8 this Act.

9 “(2) PROMPT CORRECTIVE ACTION.—A
10 wholesale financial institution shall be
11 deemed to be an insured depository insti-
12 tution for purposes of section 38 of the
13 Federal Deposit Insurance Act except
14 that—

15 “(A) the relevant capital levels
16 and capital measures for each capital
17 category shall be the levels specified
18 by the Board for wholesale financial
19 institutions; and

20 “(B) all references to the appro-
21 priate Federal banking agency or to
22 the Corporation in that section shall
23 be deemed to be references to the
24 Board.

1 **“(3) ENFORCEMENT AUTHORITY.—Sub-**
2 **sections (j) and (k) of section 7, sub-**
3 **sections (b) through (n), (s), and (v) of**
4 **section 8, and section 19 of the Federal**
5 **Deposit Insurance Act shall apply to a**
6 **wholesale financial institution in the**
7 **same manner and to the same extent as**
8 **such provisions apply to State member**
9 **insured banks and any reference in such**
10 **sections to an insured depository institu-**
11 **tion shall be deemed to include a ref-**
12 **erence to a wholesale financial institu-**
13 **tion.**

14 **“(4) CERTAIN OTHER STATUTES APPLICA-**
15 **BLE.—A wholesale financial institution**
16 **shall be deemed to be a banking institu-**
17 **tion, and the Board shall be the appro-**
18 **priate Federal banking agency for such**
19 **bank and all such bank’s affiliates, for**
20 **purposes of the International Lending**
21 **Supervision Act.**

22 **“(5) BANK MERGER ACT.—A wholesale**
23 **financial institution shall be subject to**
24 **sections 18(c) and 44 of the Federal De-**
25 **posit Insurance Act in the same manner**

1 and to the same extent the wholesale fi-
2 nancial institution would be subject to
3 such sections if the institution were a
4 State member insured bank.

5 “(6) BRANCHING.—Notwithstanding
6 any other provision of law, a wholesale fi-
7 nancial institution may establish and op-
8 erate a branch at any location on such
9 terms and conditions as established by
10 the Board and, in the case of a State-
11 chartered wholesale financial institution,
12 with the approval of the Board, and, in
13 the case of a national bank wholesale fi-
14 nancial institution, with the approval of
15 the Comptroller of the Currency.

16 “(7) ACTIVITIES OF OUT-OF-STATE
17 BRANCHES OF WHOLESALE FINANCIAL INSTI-
18 TUTIONS.—

19 “(A) GENERAL.—A State-chartered
20 wholesale financial institution shall
21 be deemed a State bank and an in-
22 sured State bank and a national
23 wholesale financial institution shall
24 be deemed a national bank for pur-
25 poses of paragraphs (1), (2), and (3) of

1 **section 24(j) of the Federal Deposit**
2 **Insurance Act.**

3 **“(B) DEFINITIONS.—The following**
4 **definitions shall apply solely for pur-**
5 **poses of applying paragraph (1):**

6 **“(i) HOME STATE.—The term**
7 **‘home State’ means—**

8 **“(I) with respect to a na-**
9 **tional wholesale financial in-**
10 **stitution, the State in which**
11 **the main office of the institu-**
12 **tion is located; and**

13 **“(II) with respect to a**
14 **State-chartered wholesale fi-**
15 **nancial institution, the State**
16 **by which the institution is**
17 **chartered.**

18 **“(ii) HOST STATE.—The term**
19 **‘host State’ means a State, other**
20 **than the home State of the whole-**
21 **sale financial institution, in**
22 **which the institution maintains,**
23 **or seeks to establish and main-**
24 **tain, a branch.**

1 **“(iii) OUT-OF-STATE BANK.—The**
2 **term ‘out-of-State bank’ means,**
3 **with respect to any State, a**
4 **wholesale financial institution**
5 **whose home State is another**
6 **State.**

7 **“(8) DISCRIMINATION REGARDING INTER-**
8 **EST RATES.—Section 27 of the Federal De-**
9 **posit Insurance Act (12 U.S.C. 1831d)**
10 **shall apply to State-chartered wholesale**
11 **financial institutions in the same manner**
12 **and to the same extent as such provisions**
13 **apply to State member insured banks and**
14 **any reference in such section to a State-**
15 **chartered insured depository institution**
16 **shall be deemed to include a reference to**
17 **a State-chartered wholesale financial in-**
18 **stitution.**

19 **“(9) PREEMPTION OF STATE LAWS RE-**
20 **QUIRING DEPOSIT INSURANCE FOR WHOLE-**
21 **SALE FINANCIAL INSTITUTIONS.—The appro-**
22 **priate State banking authority may grant**
23 **a charter to a wholesale financial institu-**
24 **tion notwithstanding any State constitu-**
25 **tion or statute requiring that the institu-**

1 **tion obtain insurance of its deposits and**
2 **any such State constitution or statute is**
3 **hereby preempted solely for purposes of**
4 **this paragraph.**

5 **“(10) PARITY FOR WHOLESALE FINANCIAL**
6 **INSTITUTIONS.—A State bank that is a**
7 **wholesale financial institution under this**
8 **section shall have all of the rights, pow-**
9 **ers, privileges, and immunities (including**
10 **those derived from status as a federally**
11 **chartered institution) of and as if it were**
12 **a national bank, subject to such terms**
13 **and conditions as established by the**
14 **Board.**

15 **“(11) COMMUNITY REINVESTMENT ACT OF**
16 **1977.—A State wholesale financial institu-**
17 **tion shall be subject to the Community**
18 **Reinvestment Act of 1977.**

19 **“(c) SPECIFIC REQUIREMENTS APPLICABLE**
20 **TO WHOLESALE FINANCIAL INSTITUTIONS.—**

21 **“(1) LIMITATIONS ON DEPOSITS.—**

22 **“(A) MINIMUM AMOUNT.—**

23 **“(i) IN GENERAL.—No wholesale**
24 **financial institution may receive**
25 **initial deposits of \$100,000 or less,**

1 **other than on an incidental and**
2 **occasional basis.**

3 **“(ii) LIMITATION ON DEPOSITS**
4 **OF LESS THAN \$100,000.—No whole-**
5 **sale financial institution may re-**
6 **ceive initial deposits of \$100,000**
7 **or less if such deposits constitute**
8 **more than 5 percent of the insti-**
9 **tution’s total deposits.**

10 **“(B) NO DEPOSIT INSURANCE.—No**
11 **deposits held by a wholesale financial**
12 **institution shall be insured deposits**
13 **under the Federal Deposit Insurance**
14 **Act.**

15 **“(C) ADVERTISING AND DISCLO-**
16 **SURE.—The Board shall prescribe reg-**
17 **ulations pertaining to advertising**
18 **and disclosure by wholesale financial**
19 **institutions to ensure that each de-**
20 **positor is notified that deposits at the**
21 **wholesale financial institution are**
22 **not federally insured or otherwise**
23 **guaranteed by the United States Gov-**
24 **ernment.**

1 **“(2) MINIMUM CAPITAL LEVELS APPLICA-**
2 **BLE TO WHOLESALE FINANCIAL INSTITU-**
3 **TIONS.—The Board shall, by regulation,**
4 **adopt capital requirements for wholesale**
5 **financial institutions—**

6 **“(A) to account for the status of**
7 **wholesale financial institutions as in-**
8 **stitutions that accept deposits that**
9 **are not insured under the Federal De-**
10 **posit Insurance Act; and**

11 **“(B) to provide for the safe and**
12 **sound operation of the wholesale fi-**
13 **ancial institution without undue**
14 **risk to creditors or other persons, in-**
15 **cluding Federal reserve banks, en-**
16 **gaged in transactions with the bank.**

17 **“(3) ADDITIONAL REQUIREMENTS APPLI-**
18 **CABLE TO WHOLESALE FINANCIAL INSTITU-**
19 **TIONS.—In addition to any requirement**
20 **otherwise applicable to State member in-**
21 **sured banks or applicable, under this sec-**
22 **tion, to wholesale financial institutions,**
23 **the Board may impose, by regulation or**
24 **order, upon wholesale financial institu-**
25 **tions—**

1 “(A) limitations on transactions,
2 direct or indirect, with affiliates to
3 prevent—

4 “(i) the transfer of risk to the
5 deposit insurance funds; or

6 “(ii) an affiliate from gaining
7 access to, or the benefits of, credit
8 from a Federal reserve bank, in-
9 cluding overdrafts at a Federal
10 reserve bank;

11 “(B) special clearing balance re-
12 quirements; and

13 “(C) any additional requirements
14 that the Board determines to be ap-
15 propriate or necessary to—

16 “(i) promote the safety and
17 soundness of the wholesale finan-
18 cial institution or any insured de-
19 pository institution affiliate of the
20 wholesale financial institution;

21 “(ii) prevent the transfer of
22 risk to the deposit insurance
23 funds; or

24 “(iii) protect creditors and
25 other persons, including Federal

1 **reserve banks, engaged in trans-**
2 **actions with the wholesale finan-**
3 **cial institution.**

4 **“(4) EXEMPTIONS FOR WHOLESAL**
5 **FI**
6 **NANCIAL INSTITUTIONS.—The Board may,**
7 **by regulation or order, exempt any**
8 **wholesale financial institution from any**
9 **provision applicable to a member bank**
10 **that is not a wholesale financial institu-**
11 **tion, if the Board finds that such exemp-**
12 **tion is not inconsistent with—**

13 **“(A) the promotion of the safety**
14 **and soundness of the wholesale finan-**
15 **cial institution or any insured deposi-**
16 **tory institution affiliate of the whole-**
17 **sale financial institution;**

18 **“(B) the protection of the deposit**
19 **insurance funds; and**

20 **“(C) the protection of creditors**
21 **and other persons, including Federal**
22 **reserve banks, engaged in trans-**
23 **actions with the wholesale financial**
24 **institution.**

25 **“(5) LIMITATION ON TRANSACTIONS BE-**
 TWEEN A WHOLESAL
 FI
 NANCIAL INSTITUTION

1 AND AN INSURED BANK.—For purposes of
2 section 23A(d)(1) of the Federal Reserve
3 Act, a wholesale financial institution that
4 is affiliated with an insured bank shall
5 not be a bank.

6 “(6) NO EFFECT ON OTHER PROVI-
7 SIONS.—This section shall not be con-
8 strued as limiting the Board’s authority
9 over member banks under any other pro-
10 vision of law, or to create any obligation
11 for any Federal reserve bank to make, in-
12 crease, renew, or extend any advance or
13 discount under this Act to any member
14 bank or other depository institution.

15 “(d) CAPITAL AND MANAGERIAL REQUIRE-
16 MENTS.—

17 “(1) IN GENERAL.—A wholesale finan-
18 cial institution controlled by a company
19 that is subject to section 17(i) of the Secu-
20 rities Exchange Act of 1934 or section 10
21 of the Bank Holding Company Act of 1956
22 must be well capitalized and well man-
23 aged.

24 “(2) NOTICE TO COMPANY.—The Board
25 shall promptly provide notice to a com-

1 pany described in paragraph (1) when-
2 ever any wholesale financial institution
3 controlled by such company is not well
4 capitalized or well managed.

5 “(3) AGREEMENT TO RESTORE INSTITU-
6 TION.—Within 45 days of receipt of a no-
7 tice under paragraph (2) (or such addi-
8 tional period not to exceed 90 days as the
9 Board may permit), the company shall
10 execute an agreement acceptable to the
11 Board to restore the wholesale financial
12 institution to compliance with all of the
13 requirements of paragraph (1).

14 “(4) LIMITATIONS UNTIL INSTITUTION RE-
15 STORED.—Until the wholesale financial in-
16 stitution is restored to compliance with
17 all of the requirements of paragraph (1),
18 the Board may impose such limitations
19 on the conduct or activities of the com-
20 pany or any affiliate of the company as
21 the Board determines to be appropriate
22 under the circumstances.

23 “(5) FAILURE TO RESTORE.—If the com-
24 pany does not execute and implement an
25 agreement in accordance with paragraph

1 **(3), comply with any limitation imposed**
2 **under paragraph (4), restore the whole-**
3 **sale financial institution to well capital-**
4 **ized status within 180 days after receipt**
5 **by the company of the notice described in**
6 **paragraph (2), or restore the wholesale fi-**
7 **ancial institution to well managed sta-**
8 **tus within such period as the Board may**
9 **permit, the company shall, under such**
10 **terms and conditions as may be imposed**
11 **by the Board and subject to such exten-**
12 **sion of time as may be granted in the**
13 **Board’s discretion, divest control of its**
14 **subsidiary depository institutions.**

15 **“(6) NOTICE TO COMMISSION REGARDING**
16 **DIVESTITURES.—The Board shall notify the**
17 **Commission if (A) a wholesale financial**
18 **institutions controlled by a company sub-**
19 **ject to section 17(i) of the Securities Ex-**
20 **change Act of 1934 is not well capitalized**
21 **or well managed, or (B) such a company**
22 **is required to divest control of a subsidi-**
23 **ary wholesale financial institution under**
24 **this subsection.**

1 **“(7) DEFINITIONS.—For purposes of**
2 **this subsection, the following definitions**
3 **shall apply:**

4 **“(A) WELL MANAGED.—The term**
5 **‘well managed’ has the same meaning**
6 **as in section 2 of the Bank Holding**
7 **Company Act of 1956.**

8 **“(B) COMMISSION.—The term ‘Com-**
9 **mission’ means the Securities and Ex-**
10 **change Commission.**

11 **“(e) CONSERVATORSHIP AUTHORITY.—**

12 **“(1) IN GENERAL.—The Board may ap-**
13 **point a conservator to take possession**
14 **and control of a wholesale financial insti-**
15 **tution to the same extent and in the same**
16 **manner as the Comptroller of the Cur-**
17 **rency may appoint a conservator for a**
18 **national bank under section 203 of the**
19 **Bank Conservation Act, and the con-**
20 **servator shall exercise the same powers,**
21 **functions, and duties, subject to the same**
22 **limitations, as are provided under such**
23 **Act for conservators of national banks.**

24 **“(2) BOARD AUTHORITY.—The Board**
25 **shall have the same authority with re-**

1 **spect to any conservator appointed under**
2 **paragraph (1) and the wholesale financial**
3 **institution for which such conservator**
4 **has been appointed as the Comptroller of**
5 **the Currency has under the Bank Con-**
6 **servation Act with respect to a conserva-**
7 **tor appointed under such Act and a na-**
8 **tional bank for which the conservator**
9 **has been appointed.**

10 **“(f) EXCLUSIVE JURISDICTION.—Subsections**
11 **(c) and (e) of section 43 of the Federal Deposit**
12 **Insurance Act shall not apply to any whole-**
13 **sale financial institution.”.**

14 **(c) VOLUNTARY TERMINATION OF INSURED**
15 **STATUS BY CERTAIN INSTITUTIONS.—**

16 **(1) SECTION 8 DESIGNATIONS.—Section**
17 **8(a) of the Federal Deposit Insurance Act**
18 **(12 U.S.C. 1818(a)) is amended—**

19 **(A) by striking paragraph (1); and**

20 **(B) by redesignating paragraphs**

21 **(2) through (10) as paragraphs (1)**
22 **through (9), respectively.**

23 **(2) VOLUNTARY TERMINATION OF IN-**
24 **SURED STATUS.—The Federal Deposit In-**
25 **surance Act (12 U.S.C. 1811 et seq.) is**

1 or exceeds the fund's designated re-
2 serve ratio as of the date the bank
3 provides a written notice under para-
4 graph (1) and the Corporation deter-
5 mines that the fund will equal or ex-
6 ceed the applicable designated re-
7 serve ratio for the 2 semiannual as-
8 sessment periods immediately follow-
9 ing such date; or

10 "(B) the Corporation and the
11 Board of Governors of the Federal
12 Reserve System approved the termi-
13 nation of the bank's insured status
14 and the bank pays an exit fee in ac-
15 cordance with subsection (e).

16 "(b) EXCEPTION.—Subsection (a) shall not
17 apply with respect to—

18 "(1) an insured savings association; or

19 "(2) an insured branch that is re-
20 quired to be insured under subsection (a)
21 or (b) of section 6 of the International
22 Banking Act of 1978.

23 "(c) ELIGIBILITY FOR INSURANCE TERMI-
24 NATED.—Any bank that voluntarily elects to
25 terminate the bank's insured status under

1 subsection (a) shall not be eligible for insur-
2 ance on any deposits or any assistance au-
3 thorized under this Act after the period speci-
4 fied in subsection (f)(1).

5 “(d) INSTITUTION MUST BECOME WHOLESALE
6 FINANCIAL INSTITUTION OR TERMINATE DEPOSIT-
7 TAKING ACTIVITIES.—Any depository institu-
8 tion which voluntarily terminates such insti-
9 tution’s status as an insured depository insti-
10 tution under this section may not, upon termi-
11 nation of insurance, accept any deposits un-
12 less the institution is a wholesale financial in-
13 stitution subject to section 9B of the Federal
14 Reserve Act.

15 “(e) EXIT FEES.—

16 “(1) IN GENERAL.—Any bank that vol-
17 untarily terminates such bank’s status as
18 an insured depository institution under
19 this section shall pay an exit fee in an
20 amount that the Corporation determines
21 is sufficient to account for the institu-
22 tion’s pro rata share of the amount (if
23 any) which would be required to restore
24 the relevant deposit insurance fund to
25 the fund’s designated reserve ratio as of

1 the date the bank provides a written no-
2 tice under subsection (a)(1).

3 “(2) PROCEDURES.—The Corporation
4 shall prescribe, by regulation, procedures
5 for assessing any exit fee under this sub-
6 section.

7 “(f) TEMPORARY INSURANCE OF DEPOSITS IN-
8 SURED AS OF TERMINATION.—

9 “(1) TRANSITION PERIOD.—The insured
10 deposits of each depositor in a State bank
11 or a national bank on the effective date
12 of the voluntary termination of the
13 bank’s insured status, less all subsequent
14 withdrawals from any deposits of such
15 depositor, shall continue to be insured
16 for a period of not less than 6 months and
17 not more than 2 years, as determined by
18 the Corporation. During such period, no
19 additions to any such deposits, and no
20 new deposits in the depository institution
21 made after the effective date of such ter-
22 mination shall be insured by the Cor-
23 poration.

24 “(2) TEMPORARY ASSESSMENTS; OBLIGA-
25 TIONS AND DUTIES.—During the period

1 specified in paragraph (1) with respect to
2 any bank, the bank shall continue to pay
3 assessments under section 7 as if the
4 bank were an insured depository institu-
5 tion. The bank shall, in all other respects,
6 be subject to the authority of the Cor-
7 poration and the duties and obligations
8 of an insured depository institution
9 under this Act during such period, and in
10 the event that the bank is closed due to
11 an inability to meet the demands of the
12 bank's depositors during such period, the
13 Corporation shall have the same powers
14 and rights with respect to such bank as
15 in the case of an insured depository insti-
16 tution.

17 **“(g) ADVERTISEMENTS.—**

18 **“(1) IN GENERAL.—**A bank that volun-
19 tarily terminates the bank's insured sta-
20 tus under this section shall not advertise
21 or hold itself out as having insured de-
22 posits, except that the bank may adver-
23 tise the temporary insurance of deposits
24 under subsection (f) if, in connection
25 with any such advertisement, the adver-

1 **tisement also states with equal promi-**
2 **nence that additions to deposits and new**
3 **deposits made after the effective date of**
4 **the termination are not insured.**

5 **“(2) CERTIFICATES OF DEPOSIT, OBLIGA-**
6 **TIONS, AND SECURITIES.—Any certificate of**
7 **deposit or other obligation or security is-**
8 **ssued by a State bank or a national bank**
9 **after the effective date of the voluntary**
10 **termination of the bank’s insured status**
11 **under this section shall be accompanied**
12 **by a conspicuous, prominently displayed**
13 **notice that such certificate of deposit or**
14 **other obligation or security is not in-**
15 **ssured under this Act.**

16 **“(h) NOTICE REQUIREMENTS.—**

17 **“(1) NOTICE TO THE CORPORATION.—The**
18 **notice required under subsection**
19 **(a)(1)(A) shall be in such form as the Cor-**
20 **poration may require.**

21 **“(2) NOTICE TO DEPOSITORS.—The no-**
22 **tice required under subsection (a)(1)(B)**
23 **shall be—**

24 **“(A) sent to each depositor’s last**
25 **address of record with the bank; and**

1 “(B) in such manner and form as
2 the Corporation finds to be necessary
3 and appropriate for the protection of
4 depositors.”.

5 (3) DEFINITION.—Section 19(b)(1)(A)(i)
6 of the Federal Reserve Act (12 U.S.C.
7 461(b)(1)(A)(i)) is amended by inserting “,
8 or any wholesale financial institution
9 subject to section 9B of this Act” after
10 “such Act”.

11 **Subtitle E—Streamlining Antitrust**
12 **Review of Bank Acquisitions**
13 **and Mergers**

14 SEC. 141. AMENDMENTS TO THE BANK HOLDING COMPANY
15 ACT OF 1956.

16 (a) AMENDMENTS TO SECTION 3 TO REQUIRE
17 FILING OF APPLICATION COPIES WITH ANTITRUST
18 AGENCIES.—Section 3 of the Bank Holding
19 Company Act of 1956 (12 U.S.C. 1842) is
20 amended—

21 (1) in subsection (b) by inserting after
22 paragraph (2) the following new para-
23 graph:

24 “(3) REQUIREMENT TO FILE INFORMA-
25 TION WITH ANTITRUST AGENCIES.—Any ap-

1 **plicant seeking prior approval of the**
2 **Board to engage in an acquisition trans-**
3 **action under this section must file simul-**
4 **taneously with the Attorney General and,**
5 **if the transaction also involves an acqui-**
6 **sition under section 4 or 6, the Federal**
7 **Trade Commission copies of any docu-**
8 **ments regarding the proposed trans-**
9 **action required by the Board.”; and**

10 **(2) in subsection (c)—**

11 **(A) by striking paragraph (1); and**

12 **(B) by redesignating paragraphs**
13 **(2) through (5) as paragraphs (1)**
14 **through (4), respectively.**

15 **(b) AMENDMENTS TO SECTION 11 TO MODIFY**
16 **JUSTICE DEPARTMENT NOTIFICATION AND POST-**
17 **APPROVAL WAITING PERIOD FOR SECTION 3**
18 **TRANSACTIONS.—Section 11 of the Bank Hold-**
19 **ing Company Act of 1956 (12 U.S.C. 1849) is**
20 **amended—**

21 **(1) in subsection (b)(1)—**

22 **(A) by striking “, if the Board has**
23 **not received any adverse comment**
24 **from the Attorney General of the**

1 **United States relating to competitive**
2 **factors,”;**

3 **(B) by striking “as may be pre-**
4 **scribed by the Board with the concur-**
5 **rence of the Attorney General, but in**
6 **no event less than 15 calendar days**
7 **after the date of approval.” and in-**
8 **serting “as may be prescribed by the**
9 **appropriate antitrust agency.”; and**

10 **(C) by striking the 3d to last sen-**
11 **tence and the penultimate sentence;**
12 **and**

13 **(2) by striking subsections (c) and (e)**
14 **and redesignating subsections (d) and (f)**
15 **as subsections (c) and (d), respectively.**

16 **(c) DEFINITIONS.—Section 2(o) of the Bank**
17 **Holding Company Act of 1956 (12 U.S.C.**
18 **1841(o)) is amended by adding at the end the**
19 **following new paragraphs:**

20 **“(8) ANTITRUST AGENCIES.—The term**
21 **‘antitrust agencies’ means the Attorney**
22 **General and the Federal Trade Commis-**
23 **sion.**

24 **“(9) APPROPRIATE ANTITRUST AGENCY.—**
25 **With respect to a particular transaction,**

1 **the term ‘appropriate antitrust agency’**
2 **means the antitrust agency engaged in**
3 **reviewing the competitive effects of such**
4 **transaction.”.**

5 **SEC. 142. AMENDMENTS TO THE FEDERAL DEPOSIT INSUR-**
6 **ANCE ACT TO VEST IN THE ATTORNEY GEN-**
7 **ERAL SOLE RESPONSIBILITY FOR ANTITRUST**
8 **REVIEW OF DEPOSITORY INSTITUTION MERG-**
9 **ERS.**

10 **Section 18(c) of the Federal Deposit Insur-**
11 **ance Act (12 U.S.C. 1828) is amended—**

12 **(1) in paragraph (3)(C) by striking**
13 **“during a period at least as long as the**
14 **period allowed for furnishing reports**
15 **under paragraph (4) of this subsection”;**

16 **(2) by striking paragraph (4) and in-**
17 **serting the following new paragraph:**

18 **“(4) FACTORS TO BE CONSIDERED.—In**
19 **determining whether to approve a trans-**
20 **action, the responsible agency shall in**
21 **every case take into consideration the fi-**
22 **ancial and managerial resources and fu-**
23 **ture prospects of the existing and pro-**
24 **posed institutions, and the convenience**

1 and needs of the community to be
2 served.”;

3 (3) by striking paragraph (5) and in-
4 serting the following new paragraph:

5 “(5) NOTICE TO ATTORNEY GENERAL.—

6 The responsible agency shall immediately
7 notify the Attorney General of any ap-
8 proval by it pursuant to this subsection
9 of a proposed merger transaction. If the
10 responsible agency has found that it must
11 act immediately in order to prevent the
12 probable failure of one of the banks in-
13 volved, the transaction may be con-
14 summated immediately upon approval by
15 the agency. If the responsible agency has
16 notified the other Federal banking agen-
17 cies referred to in this section of the ex-
18 istence of an emergency requiring expe-
19 ditious action and has required the sub-
20 mission of views and recommendations
21 within 10 days, the transaction may not
22 be consummated before the 5th calendar
23 day after the date of approval of the re-
24 sponsible agency. In all other cases, the
25 transaction may not be consummated be-

1 fore the 30th calendar day after the date
2 of approval by the agency, or such short-
3 er period of time as may be prescribed by
4 the Attorney General.”;

5 (4) by striking paragraph (6) and re-
6 designating paragraphs (7) through (11)
7 as paragraphs (6) through (10), respec-
8 tively;

9 (5) in subparagraph (A) of paragraph
10 (6) (as so redesignated by paragraph (4)
11 of this section)—

12 (A) by striking “(5)” and inserting
13 “(4)”; and

14 (B) by striking “(6)” and inserting
15 “(5)”;

16 (C) by striking “In any such ac-
17 tion, the court shall review de novo
18 the issues presented.”;

19 (6) in paragraph (6) (as so redesign-
20 ated by paragraph (4) of this section)—

21 (A) by striking subparagraphs (B)
22 and (D); and

23 (B) by redesignating subpara-
24 graph (C) as subparagraph (B);

1 **(7) in paragraph (8) (as so redesign-**
2 **ated by paragraph (4) of this section)—**

3 **(A) by inserting “and” after the**
4 **semicolon at the end of subparagraph**
5 **(A):**

6 **(B) by striking subparagraph (B);**
7 **and**

8 **(C) by redesignating subpara-**
9 **graph (C) as subparagraph (B); and**

10 **(8) by inserting after paragraph (10)**
11 **(as so redesignated by paragraph (4) of**
12 **this section) the following new para-**
13 **graph:**

14 **“(11) REQUIREMENT TO FILE INFORMA-**
15 **TION WITH ATTORNEY GENERAL.—Any appli-**
16 **cant seeking prior written approval of**
17 **the responsible Federal banking agency**
18 **to engage in a merger transaction under**
19 **this subsection shall file simultaneously**
20 **with the Attorney General copies of any**
21 **documents regarding the proposed trans-**
22 **action required by the Federal banking**
23 **agency.”.**

1 SEC. 143. INFORMATION FILED BY DEPOSITORY INSTITU-
2 TIONS; INTERAGENCY DATA SHARING.

3 (a) **FORMAT OF NOTICE.—**

4 (1) **IN GENERAL.—**Notice of any pro-
5 posed transaction for which approval is
6 required under section 3 of the Bank
7 Holding Company Act of 1956 or section
8 18(c) of the Federal Deposit Insurance
9 Act shall be in a format designated and
10 required by the appropriate Federal
11 banking agency (as defined in section 3
12 of the Federal Deposit Insurance Act)
13 and shall contain a section on the likely
14 competitive effects of the proposed trans-
15 action.

16 (2) **DESIGNATION BY AGENCY.—**The ap-
17 propriate Federal banking agency, with
18 the concurrence of the antitrust agencies,
19 shall designate and require the form and
20 content of the competitive effects section.

21 (3) **NOTICE OF SUSPENSION.—**Upon noti-
22 fication by the appropriate antitrust
23 agency that the competitive effects sec-
24 tion of an application is incomplete, the
25 appropriate Federal banking agency
26 shall notify the applicant that the agency

1 will suspend processing of the applica-
2 tion until the appropriate antitrust agen-
3 cy notifies the agency that the applica-
4 tion is complete.

5 (4) **EMERGENCY ACTION.**—This provi-
6 sion shall not affect the appropriate Fed-
7 eral banking agency’s authority to act im-
8 mediately—

9 (A) to prevent the probable fail-
10 ure of 1 of the banks involved; or

11 (B) to reduce or eliminate a post
12 approval waiting period in case of an
13 emergency requiring expeditious ac-
14 tion.

15 (5) **EXEMPTION FOR CERTAIN FILINGS.**—
16 With the concurrence of the antitrust
17 agencies, the appropriate Federal bank-
18 ing agency may exempt classes of per-
19 sons, acquisitions, or transactions that
20 are not likely to violate the antitrust laws
21 from the requirement that applicants file
22 a competitive effects section.

23 (b) **INTERAGENCY DATA SHARING REQUIRE-**
24 **MENT.**—

1 **(1) IN GENERAL.—To the extent not**
2 **prohibited by other law, the Federal**
3 **banking agencies shall make available to**
4 **the antitrust agencies any data in their**
5 **possession that the antitrust agencies**
6 **deem necessary for antitrust reviews of**
7 **transactions requiring approval under**
8 **section 3 of the Bank Holding Company**
9 **Act of 1956 or section 18(c) of the Federal**
10 **Deposit Insurance Act.**

11 **(2) CONTINUATION OF DATA COLLECTION**
12 **AND ANALYSIS.—The Federal banking**
13 **agencies shall continue to provide mar-**
14 **ket analysis, deposit share information,**
15 **and other relevant information for deter-**
16 **mining market competition as needed by**
17 **the Attorney General in the same manner**
18 **such agencies provided analysis and in-**
19 **formation under section 18(c) of the Fed-**
20 **eral Deposit Insurance Act and 3(c) of the**
21 **Bank Holding Company Act of 1956 (as**
22 **such sections were in effect on the day**
23 **before the date of the enactment of this**
24 **Act) and shall continue to collect infor-**

1 **mation necessary or useful for such anal-**
2 **ysis.**

3 **(c) DEFINITIONS.—For purposes of this sec-**
4 **tion, the following definitions shall apply:**

5 **(1) ANTITRUST AGENCIES.—The term**
6 **“antitrust agencies” means the Attorney**
7 **General and the Federal Trade Commis-**
8 **sion.**

9 **(2) APPROPRIATE ANTITRUST AGENCY.—**
10 **With respect to a particular transaction,**
11 **the term “appropriate antitrust agency”**
12 **means the antitrust agency engaged in**
13 **reviewing the competitive effects of such**
14 **transaction.**

15 **SEC. 144. APPLICABILITY OF ANTITRUST LAWS.**

16 **No provision of this subtitle shall be con-**
17 **strued as affecting—**

18 **(1) the applicability of antitrust laws**
19 **(as defined in section 11(d) of the Bank**
20 **Holding Company Act of 1956; as so re-**
21 **designated pursuant to this subtitle); or**

22 **(2) the applicability, if any, of any**
23 **State law which is similar to the antitrust**
24 **laws.**

1 SEC. 145. CLARIFICATION OF STATUS OF SUBSIDIARIES
2 AND AFFILIATES.

3 (a) CLARIFICATION OF FEDERAL TRADE COM-
4 MISSION JURISDICTION.—Any person which di-
5 rectly or indirectly controls, is controlled di-
6 rectly or indirectly by, or is directly or indi-
7 rectly under common control with, any bank
8 or savings association (as such terms are de-
9 fined in section 3 of the Federal Deposit In-
10 surance Act) and is not itself a bank or sav-
11 ings association shall not be deemed to be a
12 bank or savings association for purposes of
13 the Federal Trade Commission Act or any
14 other law enforced by the Federal Trade Com-
15 mission.

16 (b) SAVINGS PROVISION.—No provision of
17 this section shall be construed as restricting
18 the authority of any Federal banking agency
19 (as defined in section 3 of the Federal Deposit
20 Insurance Act) under any Federal banking
21 law, including section 8 of the Federal De-
22 posit Insurance Act.

23 SEC. 146. EFFECTIVE DATE.

24 This subtitle shall take effect 6 months
25 after the date of enactment of this Act.

1 **Subtitle F—Applying the Principles**
2 **of National Treatment and**
3 **Equality of Competitive Oppor-**
4 **tunity to Foreign Banks and**
5 **Foreign Financial Institutions**

6 SEC. 151. APPLYING THE PRINCIPLES OF NATIONAL TREAT-
7 MENT AND EQUALITY OF COMPETITIVE OP-
8 PORTUNITY TO FOREIGN BANKS THAT ARE
9 FINANCIAL HOLDING COMPANIES.

10 **Section 8(c) of the International Banking**
11 **Act of 1978 (12 U.S.C. 3106(c)) is amended by**
12 **adding at the end the following new para-**
13 **graph:**

14 **“(3) TERMINATION OF GRANDFATHERED**
15 **RIGHTS.—**

16 **“(A) IN GENERAL.—If any foreign**
17 **bank or foreign company files a dec-**
18 **laration under section 6(b)(1)(D) or**
19 **which receives a determination**
20 **under section 10(e)(1) of the Bank**
21 **Holding Company Act of 1956, any au-**
22 **thority conferred by this subsection**
23 **on any foreign bank or company to**
24 **engage in any activity which the**
25 **Board has determined to be permis-**

1 **sible for financial holding companies**
2 **under section 6 of such Act shall ter-**
3 **minate immediately.**

4 **“(B) RESTRICTIONS AND REQUIRE-**
5 **MENTS AUTHORIZED.—If a foreign bank**
6 **or company that engages, directly or**
7 **through an affiliate pursuant to para-**
8 **graph (1), in an activity which the**
9 **Board has determined to be permis-**
10 **sible for financial holding companies**
11 **under section 6 of the Bank Holding**
12 **Company Act of 1956 has not filed a**
13 **declaration with the Board of its sta-**
14 **tus as a financial holding company**
15 **under such section or received a de-**
16 **termination under section 10(e)(1) by**
17 **the end of the 2-year period begin-**
18 **ning on the date of enactment of the**
19 **Financial Services Act of 1997, the**
20 **Board, giving due regard to the prin-**
21 **ciple of national treatment and equal-**
22 **ity of competitive opportunity, may**
23 **impose such restrictions and require-**
24 **ments on the conduct of such activi-**
25 **ties by such foreign bank or company**

1 as are comparable to those imposed
2 on a financial holding company orga-
3 nized under the laws of the United
4 States, including a requirement to
5 conduct such activities in compliance
6 with any prudential safeguards estab-
7 lished under section 5(h) of the Bank
8 Holding Company Act of 1956.”.

9 SEC. 152. APPLYING THE PRINCIPLES OF NATIONAL TREAT-
10 MENT AND EQUALITY OF COMPETITIVE OP-
11 PORTUNITY TO FOREIGN BANKS AND FOR-
12 EIGN FINANCIAL INSTITUTIONS THAT ARE
13 WHOLESALE FINANCIAL INSTITUTIONS.

14 Section 8A of the Federal Deposit Insur-
15 ance Act (as added by section 136(c)(2) of this
16 Act) is amended by adding at the end the fol-
17 lowing new subsection:

18 “(i) VOLUNTARY TERMINATION OF DEPOSIT
19 INSURANCE.—The provisions on voluntary ter-
20 mination of insurance in this section shall
21 apply to an insured branch of a foreign bank
22 (including a Federal branch) in the same man-
23 ner and to the same extent as they apply to
24 an insured State bank or a national bank.”.

1 **Subtitle G—Effective Date of Title**

2 **SEC. 171. EFFECTIVE DATE.**

3 **Except with regard to any subtitle or**
4 **other provision of this title for which a spe-**
5 **cific effective date is provided, this title and**
6 **the amendments made by this title shall take**
7 **effect at the end of the 270-day period begin-**
8 **ning on the date of the enactment of this Act.**

9 **TITLE II—FUNCTIONAL** 10 **REGULATION**

11 **Subtitle A—Brokers and Dealers**

12 **SEC. 201. DEFINITION OF BROKER.**

13 **Section 3(a)(4) of the Securities Exchange**
14 **Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to**
15 **read as follows:**

16 **“(4) BROKER.—**

17 **“(A) IN GENERAL.—The term**
18 **‘broker’ means any person engaged in**
19 **the business of effecting transactions**
20 **in securities for the account of oth-**
21 **ers.**

22 **“(B) EXCEPTION FOR CERTAIN BANK**
23 **ACTIVITIES.—A bank shall not be con-**
24 **sidered to be a broker because the**
25 **bank engages in any of the following**

1 **activities under the conditions de-**
2 **scribed:**

3 **“(i) THIRD PARTY BROKERAGE**
4 **ARRANGEMENTS.—The bank enters**
5 **into a contractual or other ar-**
6 **rangement with a broker or deal-**
7 **er registered under this title**
8 **under which the broker or dealer**
9 **offers brokerage services on or off**
10 **the premises of the bank if—**

11 **“(I) such broker or dealer**
12 **is clearly identified as the**
13 **person performing the bro-**
14 **kerage services;**

15 **“(II) the broker or dealer**
16 **performs brokerage services**
17 **in an area that is clearly**
18 **marked and, to the extent**
19 **practicable, physically sepa-**
20 **rate from the routine deposit-**
21 **taking activities of the bank;**

22 **“(III) any materials used**
23 **by the bank to advertise or**
24 **promote generally the avail-**
25 **ability of brokerage services**

1 **under the contractual or**
2 **other arrangement clearly in-**
3 **dicating that the brokerage**
4 **services are being provided**
5 **by the broker or dealer and**
6 **not by the bank;**

7 **“(IV) any materials used**
8 **by the bank to advertise or**
9 **promote generally the avail-**
10 **ability of brokerage services**
11 **under the contractual or**
12 **other arrangement are in**
13 **compliance with the Federal**
14 **securities laws before dis-**
15 **tribution;**

16 **“(V) bank employees**
17 **(other than associated per-**
18 **sons of a broker or dealer**
19 **who are qualified pursuant to**
20 **the rules of a self-regulatory**
21 **organization) perform only**
22 **clerical or ministerial func-**
23 **tions in connection with bro-**
24 **kerage transactions including**
25 **scheduling appointments with**

1 **the associated persons of a**
2 **broker or dealer, except that**
3 **bank employees may forward**
4 **customer funds or securities**
5 **and may describe in general**
6 **terms the range of investment**
7 **vehicles available from the**
8 **bank and the broker or dealer**
9 **under the contractual or**
10 **other arrangement;**

11 “(VI) bank employees do
12 not directly receive incentive
13 compensation for any broker-
14 age transaction unless such
15 employees are associated per-
16 sons of a broker or dealer and
17 are qualified pursuant to the
18 rules of a self-regulatory orga-
19 nization, except that the bank
20 employees may receive com-
21 pensation for the referral of
22 any customer if the com-
23 pensation is a nominal one-
24 time cash fee of a fixed dollar
25 amount and the payment of

1 **the fee is not contingent on**
2 **whether the referral results**
3 **in a transaction;**

4 **“(VII) such services are**
5 **provided by the broker or**
6 **dealer on a basis in which all**
7 **customers which receive any**
8 **services are fully disclosed to**
9 **the broker or dealer;**

10 **“(VIII) the bank does not**
11 **carry a securities account of**
12 **the customer except in a cus-**
13 **tomary custodian or trustee**
14 **capacity; and**

15 **“(IX) the bank, broker, or**
16 **dealer informs each customer**
17 **that the brokerage services**
18 **are provided by the broker or**
19 **dealer and not by the bank**
20 **and that the securities are not**
21 **deposits or other obligations**
22 **of the bank, are not guaran-**
23 **teed by the bank, and are not**
24 **insured by the Federal De-**
25 **posit Insurance Corporation.**

1 **“(ii) TRUST ACTIVITIES.—The**
2 **bank—**

3 **“(I) effects transactions in**
4 **a trustee capacity and is pri-**
5 **marily compensated based on**
6 **a percentage of assets under**
7 **management; or**

8 **“(II) is an insured bank**
9 **and—**

10 **“(aa) effects trans-**
11 **actions in a fiduciary ca-**
12 **capacity in its trust depart-**
13 **ment in connection with**
14 **the provision of invest-**
15 **ment advice or the exer-**
16 **cise of investment discre-**
17 **tion;**

18 **“(bb) is primarily com-**
19 **pensated based on a per-**
20 **centage of assets under**
21 **management, and does**
22 **not receive incentive com-**
23 **penetration for such broker-**
24 **age activities;**

1 “(cc) does not publicly
2 solicit brokerage business,
3 other than by advertising
4 that it effects transactions
5 in securities in conjunc-
6 tion with advertising its
7 other trust activities; and

8 “(dd) such services are
9 not provided by an em-
10 ployee of the bank who is
11 also an employee of a
12 broker or dealer.

13 “(iii) PERMISSIBLE SECURITIES
14 TRANSACTIONS.—The bank effects
15 transactions in—

16 “(I) commercial paper,
17 bankers acceptances, or com-
18 mercial bills;

19 “(II) exempted securities,
20 other than transactions in
21 municipal revenue bonds that
22 a national bank is not explic-
23 itly authorized to buy or sell
24 for its own account by the
25 Seventh paragraph of section

1 **5136 of the Revised Statutes**
2 **of the United States (as in ef-**
3 **fect on September 1, 1997)**
4 **without percentage limitation**
5 **on the amount of the invest-**
6 **ment for its own account;**

7 **“(III) qualified Canadian**
8 **government obligations as de-**
9 **fin ed in section 5136 of the**
10 **Revised Statutes, in conform-**
11 **ity with section 15C of this**
12 **title and the rules and regula-**
13 **tions thereunder, or obliga-**
14 **tions of the North American**
15 **Development Bank; or**

16 **“(IV) any standardized,**
17 **credit enhanced debt security**
18 **issued by a foreign govern-**
19 **ment pursuant to the March**
20 **1989 plan of then Secretary of**
21 **the Treasury Brady, used by**
22 **such foreign government to**
23 **retire outstanding commercial**
24 **bank loans.**

1 **“(iv) EMPLOYEE AND SHARE-**
2 **HOLDER BENEFIT PLANS.—The bank**
3 **effects transactions in—**

4 **“(I) the securities of an is-**
5 **suer as part of any pension,**
6 **retirement, profit-sharing,**
7 **bonus, thrift, savings, incen-**
8 **tive, or other similar benefit**
9 **plan for the employees of that**
10 **issuer or its subsidiaries, if**
11 **the bank does not—**

12 **“(aa) solicit trans-**
13 **actions; or**

14 **“(bb) receive any com-**
15 **pen- sation directly or indi-**
16 **rectly from employees for**
17 **effecting such trans-**
18 **actions, other than a flat**
19 **per order processing fee**
20 **that does not exceed the**
21 **bank’s incremental costs**
22 **directly attributable to**
23 **effecting such trans-**
24 **actions; or**

1 **“(II) the securities of an**
2 **issuer as part of that issuer’s**
3 **dividend reinvestment and**
4 **stock purchase plan for its**
5 **shareholders, if the bank does**
6 **not—**

7 **“(aa) solicit trans-**
8 **actions;**

9 **“(bb) receive any com-**
10 **penetration directly or indi-**
11 **rectly from shareholders**
12 **for effecting such trans-**
13 **actions, other than a flat**
14 **per order processing fee**
15 **that does not exceed the**
16 **bank’s incremental costs**
17 **directly attributable to**
18 **effecting such trans-**
19 **actions; or**

20 **“(cc) net shareholders’**
21 **buy and sell orders.**

22 **“(v) SWEEP ACCOUNTS.—The**
23 **bank effects transactions as part**
24 **of a program for the investment**
25 **or reinvestment of bank deposit**

1 funds into any no-load, open-end
2 management investment company
3 registered under the Investment
4 Company Act of 1940 that holds
5 itself out as a money market fund.

6 “(vi) AFFILIATE TRANS-
7 ACTIONS.—The bank effects trans-
8 actions for the account of any af-
9 filiate of the bank (as defined in
10 section 2 of the Bank Holding
11 Company Act of 1956) other
12 than—

13 “(I) a registered broker or
14 dealer; or

15 “(II) an affiliate that is en-
16 gaged in merchant banking,
17 as described in section
18 17(i)(7)(B)(ii)(VIII) of this title.

19 “(vii) PRIVATE SECURITIES OF-
20 FERINGS.—The bank—

21 “(I) effects sales as part of
22 a primary offering of securi-
23 ties not involving a public of-
24 fering, pursuant to section
25 3(b), 4(2), or 4(6) of the Securi-

1 **ties Act of 1933 or the rules**
2 **and regulations issued there-**
3 **under;**

4 **“(II) at any time after one**
5 **year after the date of enact-**
6 **ment of the Financial Services**
7 **Act of 1997, is not affiliated**
8 **with a broker or dealer that**
9 **has been registered for more**
10 **than one year; and**

11 **“(III) effects transactions**
12 **exclusively with qualified in-**
13 **vestors.**

14 **“(viii) SAFEKEEPING AND CUS-**
15 **TODY SERVICES.—The bank—**

16 **“(I) provides safekeeping**
17 **or custody services with re-**
18 **spect to securities that are**
19 **pledged by one customer to**
20 **another customer in connec-**
21 **tion with a repurchase agree-**
22 **ment or similar financing ar-**
23 **rangement;**

24 **“(II) facilitates the trans-**
25 **fer of funds or securities, as a**

1 **custodian or a clearing agen-**
2 **cy, in connection with the**
3 **clearance and settlement of**
4 **its customers' transactions in**
5 **securities; or**

6 **“(III) effects or facilitates**
7 **the lending or borrowing of**
8 **securities with or on behalf of**
9 **its customers as part of serv-**
10 **ices provided to those cus-**
11 **tomers pursuant to subclause**
12 **(I) or (II).**

13 **“(ix) BANKING PRODUCTS.—The**
14 **bank effects transactions in bank-**
15 **ing products, as defined in para-**
16 **graph (54) of this subsection.**

17 **“(x) DE MINIMIS EXCEPTION.—**
18 **The bank effects, other than in**
19 **transactions referred to in**
20 **clauses (i) through (ix), not more**
21 **than 500 transactions in securi-**
22 **ties in any calendar year, and**
23 **such transactions are not effected**
24 **by an employee of the bank who**

1 **is also an employee of a broker or**
2 **dealer.**

3 **“(C) EXCEPTION FOR ENTITIES SUB-**
4 **JECT TO SECTION 15(e).—The term**
5 **‘broker’ does not include a bank**
6 **that—**

7 **“(i) was, immediately prior to**
8 **the enactment of the Financial**
9 **Services Act of 1997, subject to**
10 **section 15(e); and**

11 **“(ii) is subject to such restric-**
12 **tions and requirements as the**
13 **Commission considers appro-**
14 **priate.”.**

15 **SEC. 202. DEFINITION OF DEALER.**

16 **Section 3(a)(5) of the Securities Exchange**
17 **Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to**
18 **read as follows:**

19 **“(5) DEALER.—**

20 **“(A) IN GENERAL.—The term ‘deal-**
21 **er’ means any person engaged in the**
22 **business of buying and selling securi-**
23 **ties for such person’s own account**
24 **through a broker or otherwise.**

1 **“(B) EXCEPTION FOR PERSON NOT**
2 **ENGAGED IN THE BUSINESS OF DEAL-**
3 **ING.—The term ‘dealer’ does not in-**
4 **clude a person that buys or sells secu-**
5 **rities for such person’s own account,**
6 **either individually or in a fiduciary**
7 **capacity, but not as a part of a regu-**
8 **lar business.**

9 **“(C) EXCEPTION FOR CERTAIN BANK**
10 **ACTIVITIES.—A bank shall not be con-**
11 **sidered to be a dealer because the**
12 **bank engages in any of the following**
13 **activities under the conditions de-**
14 **scribed:**

15 **“(i) PERMISSIBLE SECURITIES**
16 **TRANSACTIONS.—The bank buys or**
17 **sells—**

18 **“(I) commercial paper,**
19 **bankers acceptances, or com-**
20 **mercial bills;**

21 **“(II) exempted securities,**
22 **other than purchases and**
23 **sales of municipal revenue**
24 **bonds that a national bank is**
25 **not explicitly authorized to**

1 buy or sell for its own account
2 by the Seventh paragraph of
3 section 5136 of the Revised
4 Statutes of the United States
5 (as in effect on September 1,
6 1997) without percentage limi-
7 tation on the amount of the
8 investment for its own ac-
9 count;

10 “(III) qualified Canadian
11 government obligations as de-
12 fined in section 5136 of the
13 Revised Statutes of the United
14 States, in conformity with sec-
15 tion 15C of this title and the
16 rules and regulations there-
17 under, or obligations of the
18 North American Development
19 Bank; or

20 “(IV) any standardized,
21 credit enhanced debt security
22 issued by a foreign govern-
23 ment pursuant to the March
24 1989 plan of then Secretary of
25 the Treasury Brady, used by

1 **such foreign government to**
2 **retire outstanding commercial**
3 **bank loans.**

4 **“(ii) INVESTMENT, TRUSTEE, AND**
5 **FIDUCIARY TRANSACTIONS.—The**
6 **bank buys or sells securities for**
7 **investment purposes—**

8 **“(I) for the bank; or**

9 **“(II) for accounts for**
10 **which the bank acts as a**
11 **trustee or fiduciary.**

12 **“(iii) ASSET-BACKED TRANS-**
13 **ACTIONS.—The bank engages in**
14 **the issuance or sale to qualified**
15 **investors, through a grantor trust**
16 **or otherwise, of securities backed**
17 **by or representing an interest in**
18 **notes, drafts, acceptances, loans,**
19 **leases, receivables, other obliga-**
20 **tions, or pools of any such obliga-**
21 **tions predominantly originated**
22 **by the bank, or a syndicate of**
23 **banks of which the bank is a**
24 **member, or an affiliate of any**

1 **such bank other than a broker or**
2 **dealer.**

3 **“(iv) TRANSACTIONS IN BANKING**
4 **PRODUCTS.—The bank buys or**
5 **sells banking products, as defined**
6 **in paragraph (54) of this sub-**
7 **section.**

8 **“(v) DERIVATIVE INSTRU-**
9 **MENTS.—The bank issues, buys, or**
10 **sells any derivative instrument to**
11 **which the bank is a party—**

12 **“(I) to or from a corpora-**
13 **tion, limited liability com-**
14 **pany, or partnership that**
15 **owns and invests on a discre-**
16 **tionary basis, not less than**
17 **\$10,000,000 in investments, or**
18 **to or from a qualified inves-**
19 **tor, except that if the instru-**
20 **ment provides for the delivery**
21 **of one or more securities**
22 **(other than a derivative in-**
23 **strument or government secu-**
24 **rity), the transaction shall be**
25 **effected with or through a**

1 registered broker or dealer;
2 or

3 “(II) to or from other per-
4 sons, except that if the deriva-
5 tive instrument provides for
6 the delivery of one or more
7 securities (other than a deriv-
8 ative instrument or govern-
9 ment security), or is a secu-
10 rity (other than a government
11 security), the transaction
12 shall be effected with or
13 through a registered broker
14 or dealer; or

15 “(III) to or from any per-
16 son if the instrument is nei-
17 ther a security nor provides
18 for the delivery of one or
19 more securities (other than a
20 derivative instrument).”.

21 **SEC. 203. REGISTRATION FOR SALES OF PRIVATE SECURI-**
22 **TIES OFFERINGS.**

23 **Section 15A of the Securities Exchange**
24 **Act of 1934 (15 U.S.C. 78o-3) is amended by in-**

1 **serting after subsection (i) the following new**
2 **subsection:**

3 **“(j) REGISTRATION FOR SALES OF PRIVATE**
4 **SECURITIES OFFERINGS.—A registered securi-**
5 **ties association shall create a limited quali-**
6 **fication category for any associated person of**
7 **a member who effects sales as part of a pri-**
8 **mary offering of securities not involving a**
9 **public offering, pursuant to section 3(b), 4(2),**
10 **or 4(6) of the Securities Act of 1933 and the**
11 **rules and regulations thereunder, and shall**
12 **deem qualified in such limited qualification**
13 **category, without testing, any bank employee**
14 **who, in the six month period preceding the**
15 **date of enactment of this Act, engaged in**
16 **effecting such sales.”.**

17 **SEC. 204. GRIEVANCE PROCESS.**

18 **Section 18 of the Federal Deposit Insur-**
19 **ance Act is amended by adding at the end the**
20 **following new subsection:**

21 **“(s) GRIEVANCE PROCESS WITH RESPECT TO**
22 **SECURITIES ACTIVITIES.—**

23 **“(1) PROCEDURES REQUIRED.—The ap-**
24 **propriate Federal banking agencies shall**
25 **jointly establish procedures and facilities**

1 **for receiving and expeditiously process-**
2 **ing complaints against any bank or em-**
3 **ployee of a bank arising in connection**
4 **with the purchase or sale of a security by**
5 **a customer. The use of any such proce-**
6 **dures and facilities by such a customer**
7 **shall be at the election of the customer.**

8 **“(2) REQUIRED ACTIONS.—The actions**
9 **required by the Federal banking agencies**
10 **under paragraph (1) shall include the fol-**
11 **lowing:**

12 **“(A) establishing a group, unit, or**
13 **bureau within each such agency to**
14 **receive such complaints;**

15 **“(B) developing and establishing**
16 **procedures for investigating such**
17 **complaints;**

18 **“(C) developing and establishing**
19 **procedures for informing customers**
20 **of the rights they may have in con-**
21 **nection with such complaints; and**

22 **“(D) developing and establishing**
23 **procedures for resolving such com-**
24 **plaints, including procedures for the**

1 recovery of losses to the extent ap-
2 propriate.

3 **“(3) PROCEDURES IN ADDITION TO OTHER**
4 **REMEDIES.—The procedures and remedies**
5 **provided under this subsection shall be**
6 **in addition to, and not in lieu of, any**
7 **other remedies available under law.**

8 **“(4) DEFINITION.—As used in this sub-**
9 **section, the term ‘security’ has the mean-**
10 **ing provided in section 3(a)(10) of the Se-**
11 **curities Exchange Act of 1934.”.**

12 **SEC. 205. INFORMATION SHARING.**

13 **Section 18 of the Federal Deposit Insur-**
14 **ance Act is amended by adding at the end the**
15 **following new subsection:**

16 **“(t) RECORDKEEPING REQUIREMENTS.—**

17 **“(1) REQUIREMENTS.—Each appro-**
18 **priate Federal banking agency, after con-**
19 **sultation with and consideration of the**
20 **views of the Commission, shall establish**
21 **recordkeeping requirements for banks**
22 **relying on exceptions contained in para-**
23 **graphs (4) and (5) of section 3(a) of the**
24 **Securities Exchange Act of 1934. Such**
25 **recordkeeping requirements shall be suf-**

1 **efficient to demonstrate compliance with**
2 **the terms of such exceptions and be de-**
3 **signed to facilitate compliance with such**
4 **exceptions. Each appropriate Federal**
5 **banking agency shall make any such in-**
6 **formation available to the Commission**
7 **upon request.**

8 **“(2) DEFINITIONS.—As used in this sub-**
9 **section the term ‘Commission’ means the**
10 **Securities and Exchange Commission.”.**

11 **SEC. 206. BANKING PRODUCTS, DERIVATIVE INSTRUMENT,**
12 **AND QUALIFIED INVESTOR DEFINED.**

13 **Section 3(a) of the Securities Exchange**
14 **Act of 1934 is amended by adding at the end**
15 **the following new paragraphs:**

16 **“(54) BANKING PRODUCT.—**

17 **“(A) DEFINITION.—The term ‘bank-**
18 **ing product’ means—**

19 **“(i) a deposit account, savings**
20 **account, certificate of deposit, or**
21 **other deposit instrument issued**
22 **by a bank;**

23 **“(ii) a banker’s acceptance;**

24 **“(iii) a letter of credit issued**
25 **or loan made by a bank;**

1 “(iv) a debit account at a bank
2 arising from a credit card or simi-
3 lar arrangement;

4 “(v) a participation in a loan
5 which the bank or an affiliate of
6 the bank (other than a broker or
7 dealer) funds, participates in, or
8 owns that is sold—

9 “(I) to qualified investors;

10 or

11 “(II) by an employee of a
12 bank who is not also an em-
13 ployee of a broker or dealer to
14 other persons that—

15 “(aa) have the oppor-
16 tunity to review and as-
17 sess any material informa-
18 tion, including informa-
19 tion regarding the bor-
20 rower’s creditworthiness;
21 and

22 “(bb) based on such
23 factors as financial so-
24 phistication, net worth,
25 and knowledge and expe-

1 **rience in financial mat-**
2 **ters, have the capability**
3 **to evaluate the informa-**
4 **tion available; or**

5 **“(vi) any derivative instru-**
6 **ment, whether or not individually**
7 **negotiated, involving or relating**
8 **to foreign currencies, except op-**
9 **tions on foreign currencies that**
10 **trade on a national securities ex-**
11 **change.**

12 **“(B) CLASSIFICATION LIMITED.—**
13 **Classification of a particular product**
14 **as a banking product pursuant to this**
15 **paragraph shall not be construed as**
16 **finding or implying that such product**
17 **is or is not a security for any purpose**
18 **under the securities laws, or is or is**
19 **not an account, agreement, contract,**
20 **or transaction for any purpose under**
21 **the Commodity Exchange Act.**

22 **“(55) DERIVATIVE INSTRUMENT.—**

23 **“(A) DEFINITION.—The term ‘deriv-**
24 **ative instrument’ means any individ-**
25 **ually negotiated contract, agreement,**

1 warrant, note, or option that is based,
2 in whole or in part, on the value of,
3 any interest in, or any quantitative
4 measure or the occurrence of any
5 event relating to, one or more com-
6 modities, securities, currencies, inter-
7 est or other rates, indices, or other
8 assets, but does not include a banking
9 product.

10 “(B) CLASSIFICATION LIMITED.—
11 Classification of a particular contract
12 as a derivative instrument pursuant
13 to this paragraph shall not be con-
14 strued as finding or implying that
15 such instrument is or is not a secu-
16 rity for any purpose under the securi-
17 ties laws, or is or is not an account,
18 agreement, contract, or transaction
19 for any purpose under the Commod-
20 ity Exchange Act.

21 “(56) QUALIFIED INVESTOR.—

22 “(A) DEFINITION.—The term ‘quali-
23 fied investor’ means—

24 “(i) any investment company
25 registered with the Commission

1 **under section 8 of the Investment**
2 **Company Act of 1940;**

3 **“(ii) any issuer eligible for an**
4 **exclusion from the definition of**
5 **investment company pursuant to**
6 **section 3(c)(7) of the Investment**
7 **Company Act of 1940;**

8 **“(iii) any bank (as defined in**
9 **paragraph (6) of this subsection),**
10 **savings and loan association (as**
11 **defined in section 3(b) of the Fed-**
12 **eral Deposit Insurance Act),**
13 **broker, dealer, insurance com-**
14 **pany (as defined in section**
15 **2(a)(13) of the Securities Act of**
16 **1933), or business development**
17 **company (as defined in section**
18 **2(a)(48) of the Investment Com-**
19 **pany Act of 1940);**

20 **“(iv) any small business in-**
21 **vestment company licensed by**
22 **the United States Small Business**
23 **Administration under section**
24 **301(c) or (d) of the Small Business**
25 **Investment Act of 1958;**

1 “(v) any State sponsored em-
2 ployee benefit plan, or any other
3 employee benefit plan, within the
4 meaning of the Employee Retire-
5 ment Income Security Act of 1974,
6 other than an individual retire-
7 ment account, if the investment
8 decisions are made by a plan fidu-
9 ciary, as defined in section 3(21)
10 of that Act, which is either a
11 bank, savings and loan associa-
12 tion, insurance company, or reg-
13 istered investment adviser;

14 “(vi) any trust whose pur-
15 chases of securities are directed
16 by a person described in clauses
17 (i) through (v) of this subpara-
18 graph;

19 “(vii) any market
20 intermediary exempt under sec-
21 tion 3(c)(2) of the Investment
22 Company Act of 1940;

23 “(viii) any associated person
24 of a broker or dealer other than a
25 natural person; or

1 “(ix) any foreign bank (as de-
2 fined in section 1(b)(7) of the
3 International Banking Act of
4 1978).

5 “(B) ADDITIONAL AUTHORITY.—The
6 Commission may, by rule or order,
7 define a ‘qualified investor’ as any
8 other person, other than a natural
9 person, taking into consideration
10 such factors as the person’s financial
11 sophistication, net worth, and knowl-
12 edge and experience in financial mat-
13 ters.”.

14 SEC. 207. GOVERNMENT SECURITIES DEFINED.

15 Section 3(a)(42) of the Securities Ex-
16 change Act of 1934 (15 U.S.C. 78c(a)(42)) is
17 amended—

18 (1) by striking “or” at the end of sub-
19 paragraph (C);

20 (2) by striking the period at the end
21 of subparagraph (D) and inserting “; or”;
22 and

23 (3) by adding at the end the following
24 new subparagraph:

1 “(E) for purposes of section 15C as
2 applied to a bank, a qualified Cana-
3 dian government obligation as de-
4 fined in section 5136 of the Revised
5 Statutes.”.

6 SEC. 208. EFFECTIVE DATE.

7 This subtitle shall take effect at the end
8 of the 270-day period beginning on the date of
9 the enactment of this Act.

10 **Subtitle B—Bank Investment** 11 **Company Activities**

12 SEC. 211. CUSTODY OF INVESTMENT COMPANY ASSETS BY
13 AFFILIATED BANK.

14 (a) **MANAGEMENT COMPANIES.—Section**
15 **17(f) of the Investment Company Act of 1940**
16 **(15 U.S.C. 80a-17(f)) is amended—**

17 (1) by redesignating paragraphs (1),
18 (2), and (3) as subparagraphs (A), (B), and
19 (C), respectively;

20 (2) by striking “(f) Every registered”
21 and inserting the following:

22 “(f) **CUSTODY OF SECURITIES.—**

23 “(1) Every registered”;

24 (3) by redesignating the 2d, 3d, 4th,
25 and 5th sentences of such subsection as

1 paragraphs (2) through (5), respectively,
2 and indenting the left margin of such
3 paragraphs appropriately; and

4 (4) by adding at the end the following
5 new paragraph:

6 “(6) The Commission may adopt rules
7 and regulations, and issue orders, con-
8 sistent with the protection of investors,
9 prescribing the conditions under which a
10 bank, or an affiliated person of a bank,
11 either of which is an affiliated person,
12 promoter, organizer, or sponsor of, or
13 principal underwriter for, a registered
14 management company may serve as cus-
15 todian of that registered management
16 company.”.

17 (b) UNIT INVESTMENT TRUSTS.—Section 26
18 of the Investment Company Act of 1940 (15
19 U.S.C. 80a-26) is amended—

20 (1) by redesignating subsections (b)
21 through (e) as subsections (c) through (f),
22 respectively; and

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

1 “(b) The Commission may adopt rules and
2 regulations, and issue orders, consistent with
3 the protection of investors, prescribing the
4 conditions under which a bank, or an affili-
5 ated person of a bank, either of which is an
6 affiliated person of a principal underwriter
7 for, or depositor of, a registered unit invest-
8 ment trust, may serve as trustee or custodian
9 under subsection (a)(1).”.

10 (c) FIDUCIARY DUTY OF CUSTODIAN.—Sec-
11 tion 36(a) of the Investment Company Act of
12 1940 (15 U.S.C. 80a-35(a)) is amended—

13 (1) in paragraph (1), by striking “or”
14 at the end;

15 (2) in paragraph (2), by striking the
16 period at the end and inserting “; or”;
17 and

18 (3) by inserting after paragraph (2)
19 the following:

20 “(3) as custodian.”.

21 SEC. 212. LENDING TO AN AFFILIATED INVESTMENT COM-
22 PANY.

23 Section 17(a) of the Investment Company
24 Act of 1940 (15 U.S.C. 80a-17(a)) is amended—

1 (1) by striking “or” at the end of para-
2 graph (2);

3 (2) by striking the period at the end
4 of paragraph (3) and inserting “; or”; and

5 (3) by adding at the end the following
6 new paragraph:

7 “(4) to loan money or other property
8 to such registered company, or to any
9 company controlled by such registered
10 company, in contravention of such rules,
11 regulations, or orders as the Commission
12 may prescribe or issue consistent with
13 the protection of investors.”.

14 SEC. 213. INDEPENDENT DIRECTORS.

15 (a) IN GENERAL.—Section 2(a)(19)(A) of the
16 Investment Company Act of 1940 (15 U.S.C.
17 80a-2(a)(19)(A)) is amended—

18 (1) by striking clause (v) and insert-
19 ing the following new clause:

20 “(v) any person or any affili-
21 ated person of a person (other
22 than a registered investment com-
23 pany) that, at any time during the
24 6-month period preceding the
25 date of the determination of

1 **whether that person or affiliated**
2 **person is an interested person,**
3 **has executed any portfolio trans-**
4 **actions for, engaged in any prin-**
5 **cipal transactions with, or distrib-**
6 **uted shares for—**

7 **“(I) the investment com-**
8 **pany,**

9 **“(II) any other investment**
10 **company having the same in-**
11 **vestment adviser as such in-**
12 **vestment company or holding**
13 **itself out to investors as a re-**
14 **lated company for purposes of**
15 **investment or investor serv-**
16 **ices, or**

17 **“(III) any account over**
18 **which the investment compa-**
19 **ny’s investment adviser has**
20 **brokerage placement discre-**
21 **tion,”;**

22 **(2) by redesignating clause (vi) as**
23 **clause (vii); and**

24 **(3) by inserting after clause (v) the**
25 **following new clause:**

1 “(vi) any person or any affili-
2 ated person of a person (other
3 than a registered investment com-
4 pany) that, at any time during the
5 6-month period preceding the
6 date of the determination of
7 whether that person or affiliated
8 person is an interested person,
9 has loaned money or other prop-
10 erty to—

11 “(I) the investment com-
12 pany,

13 “(II) any other investment
14 company having the same in-
15 vestment adviser as such in-
16 vestment company or holding
17 itself out to investors as a re-
18 lated company for purposes of
19 investment or investor serv-
20 ices, or

21 “(III) any account for
22 which the investment compa-
23 ny’s investment adviser has
24 borrowing authority,”.

1 **(b) CONFORMING AMENDMENT.—Section**
2 **2(a)(19)(B) of the Investment Company Act of**
3 **1940 (15 U.S.C. 80a-2(a)(19)(B)) is amended—**

4 **(1) by striking clause (v) and insert-**
5 **ing the following new clause:**

6 **“(v) any person or any affili-**
7 **ated person of a person (other**
8 **than a registered investment com-**
9 **pany) that, at any time during the**
10 **6-month period preceding the**
11 **date of the determination of**
12 **whether that person or affiliated**
13 **person is an interested person,**
14 **has executed any portfolio trans-**
15 **actions for, engaged in any prin-**
16 **cipal transactions with, or distrib-**
17 **uted shares for—**

18 **“(I) any investment com-**
19 **pany for which the invest-**
20 **ment adviser or principal un-**
21 **derwriter serves as such,**

22 **“(II) any investment com-**
23 **pany holding itself out to in-**
24 **vestors, for purposes of in-**
25 **vestment or investor services,**

1 as a company related to any
2 investment company for
3 which the investment adviser
4 or principal underwriter
5 serves as such, or

6 “(III) any account over
7 which the investment adviser
8 has brokerage placement dis-
9 cretion,”;

10 (2) by redesignating clause (vi) as
11 clause (vii); and

12 (3) by inserting after clause (v) the
13 following new clause:

14 “(vi) any person or any affili-
15 ated person of a person (other
16 than a registered investment com-
17 pany) that, at any time during the
18 6-month period preceding the
19 date of the determination of
20 whether that person or affiliated
21 person is an interested person,
22 has loaned money or other prop-
23 erty to—

24 “(I) any investment com-
25 pany for which the invest-

1 **ment adviser or principal un-**
2 **derwriter serves as such,**

3 **“(II) any investment com-**
4 **pany holding itself out to in-**
5 **vestors, for purposes of in-**
6 **vestment or investor services,**
7 **as a company related to any**
8 **investment company for**
9 **which the investment adviser**
10 **or principal underwriter**
11 **serves as such, or**

12 **“(III) any account for**
13 **which the investment adviser**
14 **has borrowing authority,”.**

15 **(c) AFFILIATION OF DIRECTORS.—Section**
16 **10(c) of the Investment Company Act of 1940**
17 **(15 U.S.C. 80a–10(c)) is amended by striking**
18 **“bank, except” and inserting “bank (together**
19 **with its affiliates and subsidiaries) or any one**
20 **bank holding company (together with its af-**
21 **filates and subsidiaries) (as such terms are**
22 **defined in section 2 of the Bank Holding Com-**
23 **pany Act of 1956), except”.**

24 **(d) EFFECTIVE DATE.—The amendments**
25 **made by this section shall take effect at the**

1 **end of the 1-year period beginning on the date**
2 **of enactment of this subtitle.**

3 **SEC. 214. ADDITIONAL SEC DISCLOSURE AUTHORITY.**

4 **Section 35(a) of the Investment Company**
5 **Act of 1940 (15 U.S.C. 80a-34(a)) is amended to**
6 **read as follows:**

7 **“(a) MISREPRESENTATION OF GUARANTEES.—**

8 **“(1) IN GENERAL.—It shall be unlawful**
9 **for any person, issuing or selling any se-**
10 **curity of which a registered investment**
11 **company is the issuer, to represent or**
12 **imply in any manner whatsoever that**
13 **such security or company—**

14 **“(A) has been guaranteed, spon-**
15 **sored, recommended, or approved by**
16 **the United States, or any agency, in-**
17 **strumentality or officer of the United**
18 **States;**

19 **“(B) has been insured by the Fed-**
20 **eral Deposit Insurance Corporation;**
21 **or**

22 **“(C) is guaranteed by or is other-**
23 **wise an obligation of any bank or in-**
24 **sured depository institution.**

1 **“(2) DISCLOSURES.—Any person issu-**
2 **ing or selling the securities of a reg-**
3 **istered investment company that is ad-**
4 **vised by, or sold through, a bank shall**
5 **prominently disclose that an investment**
6 **in the company is not insured by the Fed-**
7 **eral Deposit Insurance Corporation or**
8 **any other government agency. The Com-**
9 **mission may adopt rules and regulations,**
10 **and issue orders, consistent with the pro-**
11 **tection of investors, prescribing the man-**
12 **ner in which the disclosure under this**
13 **paragraph shall be provided.**

14 **“(3) DEFINITIONS.—The terms ‘insured**
15 **depository institution’ and ‘appropriate**
16 **Federal banking agency’ have the mean-**
17 **ing given to such terms in section 3 of the**
18 **Federal Deposit Insurance Act.”.**

19 **SEC. 215. DEFINITION OF BROKER UNDER THE INVEST-**
20 **MENT COMPANY ACT OF 1940.**

21 **Section 2(a)(6) of the Investment Com-**
22 **pany Act of 1940 (15 U.S.C. 80a-2(a)(6)) is**
23 **amended to read as follows:**

24 **“(6) The term ‘broker’ has the same**
25 **meaning as in the Securities Exchange**

1 pany to the extent that such bank or bank
2 holding company serves or acts as an invest-
3 ment adviser to a registered investment com-
4 pany, but if, in the case of a bank, such serv-
5 ices or actions are performed through a sepa-
6 rately identifiable department or division, the
7 department or division, and not the bank it-
8 self, shall be deemed to be the investment ad-
9 viser”.

10 (b) SEPARATELY IDENTIFIABLE DEPARTMENT
11 OR DIVISION.—Section 202(a) of the Investment
12 Advisers Act of 1940 (15 U.S.C. 80b-2(a)) is
13 amended by adding at the end the following:

14 “(26) The term ‘separately identifiable
15 department or division’ of a bank means
16 a unit—

17 “(A) that is under the direct su-
18 pervision of an officer or officers des-
19 igned by the board of directors of
20 the bank as responsible for the day-
21 to-day conduct of the bank’s invest-
22 ment adviser activities for one or
23 more investment companies, includ-
24 ing the supervision of all bank em-

1 **ployees engaged in the performance**
2 **of such activities; and**

3 **“(B) for which all of the records**
4 **relating to its investment adviser ac-**
5 **tivities are separately maintained in**
6 **or extractable from such unit’s own**
7 **facilities or the facilities of the bank,**
8 **and such records are so maintained**
9 **or otherwise accessible as to permit**
10 **independent examination and en-**
11 **forcement by the Commission of this**
12 **Act or the Investment Company Act**
13 **of 1940 and rules and regulations pro-**
14 **mulgated under this Act or the In-**
15 **vestment Company Act of 1940.”.**

16 **SEC. 218. DEFINITION OF BROKER UNDER THE INVEST-**
17 **MENT ADVISERS ACT OF 1940.**

18 **Section 202(a)(3) of the Investment Advis-**
19 **ers Act of 1940 (15 U.S.C. 80b-2(a)(3)) is**
20 **amended to read as follows:**

21 **“(3) The term ‘broker’ has the same**
22 **meaning as in the Securities Exchange**
23 **Act of 1934.”.**

1 SEC. 219. DEFINITION OF DEALER UNDER THE INVEST-
2 MENT ADVISERS ACT OF 1940.

3 Section 202(a)(7) of the Investment Advis-
4 ers Act of 1940 (15 U.S.C. 80b-2(a)(7)) is
5 amended to read as follows:

6 “(7) The term ‘dealer’ has the same
7 meaning as in the Securities Exchange
8 Act of 1934, but does not include an in-
9 surance company or investment com-
10 pany.”.

11 SEC. 220. INTERAGENCY CONSULTATION.

12 The Investment Advisers Act of 1940 (15
13 U.S.C. 80b-1 et seq.) is amended by inserting
14 after section 210 the following new section:

15 “SEC. 210A. CONSULTATION.

16 “(a) EXAMINATION RESULTS AND OTHER IN-
17 FORMATION.—

18 “(1) The appropriate Federal banking
19 agency shall provide the Commission
20 upon request the results of any examina-
21 tion, reports, records, or other informa-
22 tion to which such agency may have ac-
23 cess with respect to the investment advi-
24 sory activities—

25 “(A) of any—

26 “(i) bank holding company,

1 “(ii) bank, or

2 “(iii) separately identifiable
3 department or division of a bank,
4 that is registered under section 203 of
5 this title; and

6 “(B) in the case of a bank holding
7 company or bank that has a subsidi-
8 ary or a separately identifiable de-
9 partment or division registered under
10 that section, of such bank or bank
11 holding company.

12 “(2) The Commission shall provide to
13 the appropriate Federal banking agency
14 upon request the results of any examina-
15 tion, reports, records, or other informa-
16 tion with respect to the investment advi-
17 sory activities of any bank holding com-
18 pany, bank, or separately identifiable de-
19 partment or division of a bank, any of
20 which is registered under section 203 of
21 this title.

22 “(b) EFFECT ON OTHER AUTHORITY.—Noth-
23 ing in this section shall limit in any respect
24 the authority of the appropriate Federal
25 banking agency with respect to such bank

1 holding company, bank, or department or di-
2 vision under any provision of law.

3 “(c) DEFINITION.—For purposes of this sec-
4 tion, the term ‘appropriate Federal banking
5 agency’ shall have the same meaning as in
6 section 3 of the Federal Deposit Insurance
7 Act.”.

8 SEC. 221. TREATMENT OF BANK COMMON TRUST FUNDS.

9 (a) SECURITIES ACT OF 1933.—Section
10 3(a)(2) of the Securities Act of 1933 (15 U.S.C.
11 77c(a)(2)) is amended by striking “or any in-
12 terest or participation in any common trust
13 fund or similar fund maintained by a bank ex-
14 clusively for the collective investment and re-
15 investment of assets contributed thereto by
16 such bank in its capacity as trustee, executor,
17 administrator, or guardian” and inserting “or
18 any interest or participation in any common
19 trust fund or similar fund that is excluded
20 from the definition of the term ‘investment
21 company’ under section 3(c)(3) of the Invest-
22 ment Company Act of 1940”.

23 (b) SECURITIES EXCHANGE ACT OF 1934.—
24 Section 3(a)(12)(A)(iii) of the Securities Ex-

1 **change Act of 1934 (15 U.S.C. 78c(a)(12)(A)(iii))**
2 **is amended to read as follows:**

3 **“(iii) any interest or participation**
4 **in any common trust fund or similar**
5 **fund that is excluded from the defini-**
6 **tion of the term ‘investment company’**
7 **under section 3(c)(3) of the Invest-**
8 **ment Company Act of 1940;”.**

9 **(c) INVESTMENT COMPANY ACT OF 1940.—**
10 **Section 3(c)(3) of the Investment Company**
11 **Act of 1940 (15 U.S.C. 80a-3(c)(3)) is amended**
12 **by inserting before the period the following:**
13 **“, if—**

14 **“(A) such fund is employed by the**
15 **bank solely as an aid to the adminis-**
16 **tration of trusts, estates, or other ac-**
17 **counts created and maintained for a**
18 **fiduciary purpose;**

19 **“(B) except in connection with the**
20 **ordinary advertising of the bank’s fi-**
21 **duciary services, interests in such**
22 **fund are not—**

23 **“(i) advertised; or**

24 **“(ii) offered for sale to the**
25 **general public; and**

1 **“(C) fees and expenses charged by**
2 **such fund are not in contravention of**
3 **fiduciary principles established**
4 **under applicable Federal or State**
5 **law”.**

6 **SEC. 222. INVESTMENT ADVISERS PROHIBITED FROM HAV-**
7 **ING CONTROLLING INTEREST IN REG-**
8 **ISTERED INVESTMENT COMPANY.**

9 **Section 15 of the Investment Company Act**
10 **of 1940 (15 U.S.C. 80a-15) is amended by add-**
11 **ing at the end the following new subsection:**

12 **“(g) CONTROLLING INTEREST IN INVESTMENT**
13 **COMPANY PROHIBITED.—**

14 **“(1) IN GENERAL.—If an investment ad-**
15 **viser to a registered investment company,**
16 **or an affiliated person of that investment**
17 **adviser, holds a controlling interest in**
18 **that registered investment company in a**
19 **trustee or fiduciary capacity, such person**
20 **shall—**

21 **“(A) if it holds the shares in a**
22 **trustee or fiduciary capacity with re-**
23 **spect to any employee benefit plan**
24 **subject to the Employee Retirement**
25 **Income Security Act of 1974, transfer**

1 **the power to vote the shares of the in-**
2 **vestment company through to an-**
3 **other person acting in a fiduciary ca-**
4 **capacity with respect to the plan who is**
5 **not an affiliated person of that invest-**
6 **ment adviser or any affiliated person**
7 **thereof; or**

8 **“(B) if it holds the shares in a**
9 **trustee or fiduciary capacity with re-**
10 **spect to any person or entity other**
11 **than an employee benefit plan subject**
12 **to the Employee Retirement Income**
13 **Security Act of 1974—**

14 **“(i) transfer the power to vote**
15 **the shares of the investment com-**
16 **pany through to—**

17 **“(I) the beneficial owners**
18 **of the shares;**

19 **“(II) another person act-**
20 **ing in a fiduciary capacity**
21 **who is not an affiliated per-**
22 **son of that investment adviser**
23 **or any affiliated person there-**
24 **of; or**

1 **“(III) any person author-**
2 **ized to receive statements and**
3 **information with respect to**
4 **the trust who is not an affili-**
5 **ated person of that invest-**
6 **ment adviser or any affiliated**
7 **person thereof;**

8 **“(ii) vote the shares of the in-**
9 **vestment company held by it in**
10 **the same proportion as shares**
11 **held by all other shareholders of**
12 **the investment company; or**

13 **“(iii) vote the shares of the in-**
14 **vestment company as otherwise**
15 **permitted under such rules, regu-**
16 **lations, or orders as the Commis-**
17 **sion may prescribe or issue con-**
18 **sistent with the protection of in-**
19 **vestors.**

20 **“(2) EXEMPTION.—Paragraph (1) shall**
21 **not apply to any investment adviser to a**
22 **registered investment company, or any**
23 **affiliated person of that investment ad-**
24 **viser, that holds shares of the investment**
25 **company in a trustee or fiduciary capac-**

1 **ity if that registered investment company**
2 **consists solely of assets held in such ca-**
3 **pacities.**

4 **“(3) SAFE HARBOR.—No investment ad-**
5 **viser to a registered investment company**
6 **or any affiliated person of such invest-**
7 **ment adviser shall be deemed to have**
8 **acted unlawfully or to have breached a fi-**
9 **duciary duty under State or Federal law**
10 **solely by reason of acting in accordance**
11 **with clause (i), (ii), or (iii) of paragraph**
12 **(1)(B).”.**

13 **SEC. 223. CONFORMING CHANGE IN DEFINITION.**

14 **Section 2(a)(5) of the Investment Com-**
15 **pany Act of 1940 (15 U.S.C. 80a-2(a)(5)) is**
16 **amended by striking “(A) a banking institu-**
17 **tion organized under the laws of the United**
18 **States” and inserting “(A) a depository insti-**
19 **tution (as defined in section 3 of the Federal**
20 **Deposit Insurance Act) or a branch or agency**
21 **of a foreign bank (as such terms are defined**
22 **in section 1(b) of the International Banking**
23 **Act of 1978)”.**

1 SEC. 224. CONFORMING AMENDMENT.

2 **Section 202 of the Investment Advisers**
3 **Act of 1940 (15 U.S.C. 80b-2) is amended by**
4 **adding at the end the following new sub-**
5 **section:**

6 **“(c) CONSIDERATION OF PROMOTION OF EFFI-**
7 **CIENCY, COMPETITION, AND CAPITAL FORMA-**
8 **TION.—Whenever pursuant to this title the**
9 **Commission is engaged in rulemaking and is**
10 **required to consider or determine whether an**
11 **action is necessary or appropriate in the pub-**
12 **lic interest, the Commission shall also con-**
13 **sider, in addition to the protection of inves-**
14 **tors, whether the action will promote effi-**
15 **ciency, competition, and capital formation.”.**

16 SEC. 225. EFFECTIVE DATE.

17 **This subtitle shall take effect 90 days after**
18 **the date of the enactment of this Act.**

1 **Subtitle C—Securities and Ex-**
2 **change Commission Supervision**
3 **of Investment Bank Holding**
4 **Companies**

5 **SEC. 231. SUPERVISION OF INVESTMENT BANK HOLDING**
6 **COMPANIES BY THE SECURITIES AND EX-**
7 **CHANGE COMMISSION.**

8 **(a) AMENDMENT.—Section 17 of the Securi-**
9 **ties Exchange Act of 1934 (15 U.S.C. 78q) is**
10 **amended—**

11 **(1) by redesignating subsection (i) as**
12 **subsection (l); and**

13 **(2) by inserting after subsection (h)**
14 **the following new subsections:**

15 **“(i) INVESTMENT BANK HOLDING COMPA-**
16 **NIES.—**

17 **“(1) MANDATORY SUPERVISION OF ANY**
18 **INVESTMENT BANK HOLDING COMPANY SUB-**
19 **STANTIALLY ENGAGED IN THE SECURITIES**
20 **BUSINESS, HAVING AN AFFILIATE THAT IS A**
21 **WHOLESALE FINANCIAL INSTITUTION.—**

22 **“(A) MANDATORY SUPERVISION.—An**
23 **investment bank holding company**
24 **that—**

1 “(i) is substantially engaged in
2 the securities business;

3 “(ii) controls one or more
4 wholesale financial institutions
5 that, in the aggregate, have—

6 “(I) consolidated risk-
7 weighted assets that are less
8 than \$15,000,000,000; and

9 “(II) annual gross reve-
10 nues that represent less than
11 25 percent of the consolidated
12 annual gross revenues of the
13 company;

14 “(iii) does not control—

15 “(I) a bank other than a
16 wholesale financial institu-
17 tion;

18 “(II) an insured bank
19 other than an institution per-
20 mitted under subparagraph
21 (D), (F), or (G) of section
22 2(c)(2) of the Bank Holding
23 Company Act of 1956; or

24 “(III) a savings associa-
25 tion;

1 “(iv) is not a foreign bank;
2 and

3 “(v) has not elected to be su-
4 pervised by the Board of Gov-
5 ernors of the Federal Reserve
6 System,

7 shall be regulated by the Commission
8 as a supervised investment bank
9 holding company in accordance with
10 this section and comply with the
11 rules promulgated by the Commission
12 applicable to supervised investment
13 bank holding companies.

14 “(B) METHOD OF CALCULATION.—

15 “(i) RISK-WEIGHTED ASSETS.—
16 For purposes of subparagraph
17 (A)(ii)(I), the consolidated risk-
18 weighted assets of a wholesale fi-
19 nancial institution shall—

20 “(I) be based on the aver-
21 age consolidated risk-weight-
22 ed assets of the institution for
23 the four previous calendar
24 quarters; and

1 **“(II) include risk-weighted**
2 **claims on affiliates only to the**
3 **extent such claims, in the ag-**
4 **gregate, exceed the aggregate**
5 **risk-weighted claims of affili-**
6 **ates on the wholesale finan-**
7 **cial institution.**

8 **For purposes of this clause, the**
9 **term ‘affiliates’ shall not include**
10 **any subsidiary of the wholesale fi-**
11 **nancial institution.**

12 **“(ii) INDEXED GROWTH.—The**
13 **dollar amount contained in sub-**
14 **paragraph (A)(ii)(I) shall be ad-**
15 **justed annually after December**
16 **31, 1998, by the annual percent-**
17 **age increase in the Consumer**
18 **Price Index for Urban Wage Earn-**
19 **ers and Clerical Workers pub-**
20 **lished by the Bureau of Labor**
21 **Statistics.**

22 **“(2) ELECTIVE SUPERVISION OF AN IN-**
23 **VESTMENT BANK HOLDING COMPANY NOT**
24 **HAVING A BANK OR SAVINGS ASSOCIATION AF-**
25 **FILIATE.—**

1 **“(A) IN GENERAL.—An investment**
2 **bank holding company that is not—**

3 **“(i) an affiliate of a wholesale**
4 **financial institution, an insured**
5 **bank (other than an institution**
6 **described in paragraph**
7 **(1)(A)(iii)(II)), or a savings asso-**
8 **ciation,**

9 **“(ii) a foreign bank, foreign**
10 **company, or company that is de-**
11 **scribed in section 8(a) of the**
12 **International Banking Act of**
13 **1978, or**

14 **“(iii) a foreign bank that con-**
15 **trols, directly or indirectly, a cor-**
16 **poration chartered under section**
17 **25A of the Federal Reserve Act,**

18 **may elect to become supervised by fil-**
19 **ing with the Commission a notice of**
20 **intention to become supervised, pur-**
21 **suant to subparagraph (B) of this**
22 **paragraph. Any investment bank**
23 **holding company filing such a notice**
24 **shall be supervised in accordance**
25 **with this section and comply with the**

1 rules promulgated by the Commission
2 applicable to supervised investment
3 bank holding companies.

4 “(B) NOTIFICATION OF STATUS AS A
5 SUPERVISED INVESTMENT BANK HOLDING
6 COMPANY.—An investment bank hold-
7 ing company that elects under sub-
8 paragraph (A) to become supervised
9 by the Commission shall file with the
10 Commission a written notice of inten-
11 tion to become supervised by the
12 Commission in such form and con-
13 taining such information and docu-
14 ments concerning such investment
15 bank holding company as the Com-
16 mission, by rule, may prescribe as
17 necessary or appropriate in further-
18 ance of the purposes of this section.
19 Unless the Commission finds that
20 such supervision is not necessary or
21 appropriate in furtherance of the
22 purposes of this section, such super-
23 vision shall become effective 45 days
24 after receipt of such written notice by
25 the Commission or within such short-

1 er time period as the Commission, by
2 rule or order, may determine.

3 **“(3) WITHDRAWAL FROM SUPERVISION BY**
4 **THE COMMISSION AS AN INVESTMENT BANK**
5 **HOLDING COMPANY FOR COMPANIES THAT**
6 **MUST CONTINUE TO BE SUPERVISED.—**

7 **“(A) MANDATORY WITHDRAWAL.—A**
8 **supervised investment bank holding**
9 **company that owns or controls one or**
10 **more wholesale financial institutions,**
11 **and ceases to meet any requirements**
12 **of paragraph (1), shall—**

13 **“(i) file a written notice of**
14 **withdrawal from Commission su-**
15 **pervision upon such terms and**
16 **conditions as the Commission,**
17 **after consultation with the Board**
18 **of Governors of the Federal Re-**
19 **serve System, deems necessary or**
20 **appropriate;**

21 **“(ii) provide a copy of such**
22 **notice to the Board of Governors**
23 **of the Federal Reserve System;**
24 **and**

1 “(iii) be supervised by the
2 Board of Governors of the Fed-
3 eral Reserve System under appli-
4 cable provisions of the Bank
5 Holding Company Act of 1956.

6 “(B) VOLUNTARY WITHDRAWAL.—A
7 supervised investment bank holding
8 company described in paragraph
9 (1)(A), upon such terms and condi-
10 tions as the Commission deems nec-
11 essary or appropriate after consulta-
12 tion with the Board of Governors of
13 the Federal Reserve System, may
14 elect not to be supervised by the
15 Commission by filing with the Com-
16 mission a written notice of with-
17 drawal from Commission supervision,
18 and shall provide a copy of such no-
19 tice to the Board of Governors of the
20 Federal Reserve System.

21 “(C) EFFECTIVE DATE OF WITH-
22 DRAWAL.—A written notice of with-
23 drawal from Commission supervision
24 pursuant to this paragraph shall be-
25 come effective 45 days after receipt

1 by the Commission or such shorter or
2 longer period as the Commission, by
3 order, deems necessary or appro-
4 priate to prevent evasion of the pur-
5 poses of this section.

6 “(D) REQUIRED PROCEDURES.—The
7 Commission, after consultation with
8 the Board of Governors of the Fed-
9 eral Reserve System, shall, by rule,
10 establish standards and procedures
11 to require or permit, as appropriate,
12 supervised investment bank holding
13 companies described in paragraph
14 (1)(A) to withdraw from Commission
15 supervision pursuant to this para-
16 graph.

17 “(4) ELECTION NOT TO BE SUPERVISED
18 BY THE COMMISSION AS AN INVESTMENT BANK
19 HOLDING COMPANY FOR COMPANIES THAT
20 ARE VOLUNTARILY REGULATED.—

21 “(A) VOLUNTARY WITHDRAWAL.—A
22 supervised investment bank holding
23 company that is supervised pursuant
24 to paragraph (2) may, upon such
25 terms and conditions as the Commis-

1 **sion deems necessary or appropriate,**
2 **elect not to be supervised by the**
3 **Commission by filing a written notice**
4 **of withdrawal from Commission su-**
5 **per vision. Such notice shall not be-**
6 **come effective until one year after re-**
7 **ceipt by the Commission, or such**
8 **shorter or longer period as the Com-**
9 **mission deems necessary or appro-**
10 **priate to ensure effective supervision**
11 **of the material risks to the super-**
12 **vised investment bank holding com-**
13 **pany and to the affiliated broker or**
14 **dealer, or to prevent evasion of the**
15 **purposes of this section.**

16 **“(B) DISCONTINUATION OF COMMIS-**
17 **SION SUPERVISION FOR COMPANIES THAT**
18 **ARE VOLUNTARILY REGULATED.—If the**
19 **Commission finds that any supervised**
20 **investment bank holding company**
21 **that is supervised pursuant to para-**
22 **graph (2) is no longer in existence or**
23 **has ceased to be an investment bank**
24 **holding company, or if the Commis-**
25 **sion finds that continued supervision**

1 **of such a supervised investment bank**
2 **holding company is not consistent**
3 **with the purposes of this section, the**
4 **Commission may discontinue the su-**
5 **pervision pursuant to a rule or order,**
6 **if any, promulgated by the Commis-**
7 **sion under this section.**

8 **“(5) SUPERVISION OF INVESTMENT BANK**
9 **HOLDING COMPANIES.—**

10 **“(A) RECORDKEEPING AND REPORT-**
11 **ING.—**

12 **“(i) IN GENERAL.—Every super-**
13 **vised investment bank holding**
14 **company and each affiliate there-**
15 **of shall make and keep for pre-**
16 **scribed periods such records, fur-**
17 **nish copies thereof, and make**
18 **such reports, as the Commission**
19 **may require by rule, in order to**
20 **keep the Commission informed as**
21 **to—**

22 **“(I) the company’s or af-**
23 **filiate’s activities, financial**
24 **condition, policies, systems**
25 **for monitoring and control-**

1 **ling financial and operational**
2 **risks, and transactions and**
3 **relationships between any**
4 **broker, dealer, or wholesale**
5 **financial institution affiliate**
6 **of the supervised investment**
7 **bank holding company; and**

8 **“(II) the extent to which**
9 **the company or affiliate has**
10 **complied with the provisions**
11 **of this Act and regulations**
12 **prescribed and orders issued**
13 **under this Act.**

14 **“(ii) FORM AND CONTENTS.—**
15 **Such records and reports shall be**
16 **prepared in such form and ac-**
17 **ording to such specifications (in-**
18 **cluding certification by an inde-**
19 **pendent public accountant), as**
20 **the Commission may require and**
21 **shall be provided promptly at any**
22 **time upon request by the Com-**
23 **mission. Such records and reports**
24 **may include—**

1 **“(I) a balance sheet and**
2 **income statement;**

3 **“(II) an assessment of the**
4 **consolidated capital of the su-**
5 **pervised investment bank**
6 **holding company;**

7 **“(III) an independent**
8 **auditor’s report attesting to**
9 **the supervised investment**
10 **bank holding company’s com-**
11 **pliance with its internal risk**
12 **management and internal**
13 **control objectives; and**

14 **“(IV) reports concerning**
15 **the extent to which the com-**
16 **pany or affiliate has complied**
17 **with the provisions of this**
18 **title and any regulations pre-**
19 **scribed and orders issued**
20 **under this title.**

21 **“(B) USE OF EXISTING REPORTS.—**

22 **“(i) IN GENERAL.—The Commis-**
23 **sion shall, to the fullest extent**
24 **possible, accept reports in fulfill-**
25 **ment of the requirements under**

1 **this paragraph that the super-**
2 **vised investment bank holding**
3 **company or its affiliates have**
4 **been required to provide to an-**
5 **other appropriate regulatory**
6 **agency or self-regulatory organi-**
7 **zation.**

8 **“(ii) AVAILABILITY.—A super-**
9 **vised investment bank holding**
10 **company or an affiliate of such**
11 **company shall provide to the**
12 **Commission, at the request of the**
13 **Commission, any report referred**
14 **to in clause (i).**

15 **“(C) EXAMINATION AUTHORITY.—**

16 **“(i) FOCUS OF EXAMINATION AU-**
17 **THORITY.—The Commission may**
18 **make examinations of any super-**
19 **vised investment bank holding**
20 **company and any affiliate of such**
21 **company in order to—**

22 **“(I) inform the Commis-**
23 **sion regarding—**

24 **“(aa) the nature of the**
25 **operations and financial**

1 **condition of the super-**
2 **vised investment bank**
3 **holding company and its**
4 **affiliates;**

5 **“(bb) the financial and**
6 **operational risks within**
7 **the supervised investment**
8 **bank holding company**
9 **that may affect any**
10 **broker, dealer, or whole-**
11 **sale financial institution**
12 **controlled by such super-**
13 **vised investment bank**
14 **holding company; and**

15 **“(cc) the systems of**
16 **the supervised investment**
17 **bank holding company**
18 **and its affiliates for mon-**
19 **itoring and controlling**
20 **those risks; and**

21 **“(II) monitor compliance**
22 **with the provisions of this**
23 **subsection, provisions govern-**
24 **ing transactions and relation-**
25 **ships between any broker or**

1 **dealer or wholesale financial**
2 **institution affiliated with the**
3 **supervised investment bank**
4 **holding company and any of**
5 **the company’s other affiliates,**
6 **and applicable provisions of**
7 **subchapter II of chapter 53,**
8 **title 31, United States Code**
9 **(commonly referred to as the**
10 **‘Bank Secrecy Act’) and regu-**
11 **lations thereunder.**

12 **“(ii) RESTRICTED FOCUS OF EX-**
13 **AMINATIONS.—The Commission**
14 **shall limit the focus and scope of**
15 **any examination of a supervised**
16 **investment bank holding com-**
17 **pany to—**

18 **“(I) the company;**

19 **“(II) any affiliate of the**
20 **company (other than a whole-**
21 **sale financial institution)**
22 **that, because of its size, condi-**
23 **tion, or activities, the nature**
24 **or size of the transactions be-**
25 **tween such affiliate and any**

1 **affiliated broker, dealer, or**
2 **wholesale financial institu-**
3 **tion, or the centralization of**
4 **functions within the holding**
5 **company system, could, in the**
6 **discretion of the Commission,**
7 **have a materially adverse ef-**
8 **fect on the operational or fi-**
9 **ancial condition of the**
10 **broker or dealer or any affili-**
11 **ated wholesale financial insti-**
12 **tution; and**

13 **“(III) any wholesale finan-**
14 **cial institution affiliate of an**
15 **investment bank holding com-**
16 **pany, for the purpose of mon-**
17 **itoring and enforcing compli-**
18 **ance by such a wholesale fi-**
19 **ancial institution or any of**
20 **its affiliates with the Federal**
21 **securities laws.**

22 **“(iii) NOTICE.—To the fullest**
23 **extent possible, the Commission**
24 **shall notify the appropriate regu-**
25 **latory agency prior to conducting**

1 **an examination of a wholesale fi-**
2 **ancial institution.**

3 **“(iv) DEFERENCE TO OTHER EX-**
4 **AMINATIONS.—For purposes of this**
5 **subparagraph, the Commission**
6 **shall, to the fullest extent pos-**
7 **sible, use the reports of examina-**
8 **tion of a wholesale financial insti-**
9 **tution or an institution described**
10 **in subparagraph (D), (F), or (G) of**
11 **section 2(c)(2) of the Bank Hold-**
12 **ing Company Act of 1956 made by**
13 **the appropriate regulatory agen-**
14 **cy, or of a licensed insurance**
15 **company made by the appro-**
16 **priate State insurance regulator.**

17 **“(D) INFORMATION SHARING.—The**
18 **Commission shall, upon request, pro-**
19 **vide to the appropriate regulatory**
20 **agency such reports, records, or other**
21 **information as the Commission has**
22 **available concerning any supervised**
23 **investment bank holding company de-**
24 **scribed in paragraph (1) or any of its**
25 **affiliates to assist the appropriate**

1 regulatory agency in carrying out its
2 responsibilities under the Federal
3 banking laws.

4 **“(6) HOLDING COMPANY CAPITAL.—**

5 **“(A) AUTHORITY.—**If the Commis-
6 sion finds that it is necessary to ade-
7 quately supervise investment bank
8 holding companies and their broker,
9 dealer, or wholesale financial institu-
10 tion affiliates consistent with the pur-
11 poses of this subsection, the Commis-
12 sion may adopt capital adequacy
13 rules for supervised investment bank
14 holding companies.

15 **“(B) METHOD OF CALCULATION.—**In
16 developing rules under this para-
17 graph:

18 **“(i) DOUBLE LEVERAGE.—**The
19 Commission shall consider the
20 use by the supervised investment
21 bank holding company of debt
22 and other liabilities to fund cap-
23 ital investments in affiliates.

24 **“(ii) NO UNWEIGHTED CAPITAL**
25 **RATIO.—**The Commission shall not

1 **impose under this section a cap-**
2 **ital ratio that is not based on ap-**
3 **propriate risk-weighting consid-**
4 **erations.**

5 **“(iii) NO CAPITAL REQUIREMENT**
6 **ON REGULATED ENTITIES.—The**
7 **Commission shall not, by rule,**
8 **regulation, guideline, order or**
9 **otherwise, impose any capital**
10 **adequacy provision on a non-**
11 **banking affiliate (other than a**
12 **broker or dealer) that is in com-**
13 **pliance with applicable capital re-**
14 **quirements of another Federal**
15 **regulatory authority or State in-**
16 **surance authority.**

17 **“(iv) APPROPRIATE EXCLU-**
18 **SIONS.—The Commission shall**
19 **take full account of the applicable**
20 **capital requirements of another**
21 **Federal regulatory authority or**
22 **State insurance regulator.**

23 **“(C) INTERNAL RISK MANAGEMENT**
24 **MODELS.—The Commission may incor-**
25 **porate internal risk management**

1 **models into its capital adequacy rules**
2 **for supervised investment bank hold-**
3 **ing companies.**

4 **“(D) CONSULTATION WITH THE**
5 **BOARD.—The Commission shall con-**
6 **sult with the Board of Governors of**
7 **the Federal Reserve System in devel-**
8 **oping capital adequacy requirements**
9 **for investment bank holding compa-**
10 **nies described in paragraph (1).**

11 **“(7) ACTIVITIES AND INVESTMENTS.—**

12 **“(A) IN GENERAL.—Supervised in-**
13 **vestment bank holding companies de-**
14 **scribed in paragraph (1) may acquire**
15 **and own the shares of a wholesale fi-**
16 **nancial institution in accordance**
17 **with section 3 of the Bank Holding**
18 **Company Act of 1956 and of any insti-**
19 **tution described in subparagraphs**
20 **(D), (F), and (G) of section 2(c)(2) of**
21 **such Act. Such companies may also**
22 **engage in activities, and may acquire**
23 **or retain ownership or control of**
24 **shares of any company engaged in**
25 **any activities, to the extent author-**

1 **ized by subparagraphs (B), (C), (D),**
2 **(E), and (G). Such investment bank**
3 **holding companies may not otherwise**
4 **engage directly or indirectly in activi-**
5 **ties or acquire and retain ownership**
6 **or control of the shares of companies.**

7 **“(B) PERMISSIBLE FINANCIAL ACTIVI-**
8 **TIES AND INVESTMENTS.—**

9 **“(i) IN GENERAL.—A supervised**
10 **investment bank holding com-**
11 **pany described in paragraph (1)**
12 **may engage in any activity, and**
13 **may directly or indirectly acquire**
14 **and retain ownership and control**
15 **of shares of any company engaged**
16 **in any activity—**

17 **“(I) that is permissible for**
18 **a bank holding company**
19 **under section 4(c) (1) through**
20 **(14) of the Bank Holding Com-**
21 **pany Act of 1956; or**

22 **“(II) that are financial in**
23 **nature or incidental to such**
24 **financial activities, as deter-**
25 **mined under clause (ii), or**

1 that the Commission deter-
2 mines by rule, regulation, or
3 order pursuant to clause (iii)
4 to be financial in nature or in-
5 cidental to such financial ac-
6 tivities.

7 “(ii) **ACTIVITIES THAT ARE FI-**
8 **NANCIAL IN NATURE.—**The follow-
9 ing activities shall be considered
10 to be financial in nature:

11 “(I) **Lending, exchanging,**
12 **transferring, investing for**
13 **others, or safeguarding money**
14 **or securities.**

15 “(II) **Insuring, guarantee-**
16 **ing, or indemnifying against**
17 **loss, harm, damage, illness,**
18 **disability, or death, or provid-**
19 **ing and issuing annuities, and**
20 **acting as principal, agent, or**
21 **broker for purposes of the**
22 **foregoing.**

23 “(III) **Providing financial,**
24 **investment, or economic advi-**
25 **sory services, including advis-**

1 **ing an investment company**
2 **(as defined in section 3 of the**
3 **Investment Company Act of**
4 **1940).**

5 **“(IV) Issuing or selling in-**
6 **struments representing inter-**
7 **ests in pools of assets permis-**
8 **sible for a bank to hold di-**
9 **rectly.**

10 **“(V) Underwriting, dealing**
11 **in, or making a market in se-**
12 **curities.**

13 **“(VI) Engaging in any ac-**
14 **tivity that the Board of Gov-**
15 **ernors of the Federal Reserve**
16 **System has determined, by**
17 **order or regulation that is in**
18 **effect on the date of enact-**
19 **ment of the Financial Services**
20 **Act of 1997, to be so closely re-**
21 **lated to banking or managing**
22 **or controlling banks as to be a**
23 **proper incident thereto (sub-**
24 **ject to the same terms and**
25 **conditions contained in such**

1 **order or regulation, unless**
2 **modified by the Board).**

3 **“(VII) Engaging, in the**
4 **United States, in any activity**
5 **that—**

6 **“(aa) a bank holding**
7 **company may engage in**
8 **outside the United States;**
9 **and**

10 **“(bb) the Board of**
11 **Governors of the Federal**
12 **Reserve System has deter-**
13 **mined, under regulations**
14 **issued pursuant to section**
15 **4(c)(13) of Bank Holding**
16 **Company Act (as in effect**
17 **on the day before the date**
18 **of enactment of the Finan-**
19 **cial Services Act of 1997)**
20 **to be usual in connection**
21 **with the transaction of**
22 **banking or other financial**
23 **operations abroad.**

24 **“(VIII) Directly or indi-**
25 **rectly acquiring or control-**

1 **ling, whether as principal, on**
2 **behalf of 1 or more entities**
3 **(including entities, other than**
4 **a depository institution or**
5 **subsidiary of a depository in-**
6 **stitution, that the investment**
7 **bank holding company con-**
8 **trols) or otherwise, shares, as-**
9 **sets, or ownership interests**
10 **(including without limitation**
11 **debt or equity securities, part-**
12 **nership interests, trust certifi-**
13 **cates or other instruments**
14 **representing ownership) of a**
15 **company or other entity,**
16 **whether or not constituting**
17 **control of such company or**
18 **entity, engaged in any activity**
19 **not authorized pursuant to**
20 **this section if—**

21 **“(aa) the shares, as-**
22 **sets, or ownership inter-**
23 **ests are not acquired or**
24 **held by a depository insti-**

1 **tution or subsidiary of a**
2 **depository institution;**

3 **“(bb) such shares, as-**
4 **sets, or ownership inter-**
5 **ests are acquired and held**
6 **by a securities affiliate or**
7 **an affiliate thereof as part**
8 **of a bona fide underwrit-**
9 **ing or merchant banking**
10 **activity, including invest-**
11 **ment activities engaged in**
12 **for the purpose of appre-**
13 **ciation and ultimate re-**
14 **sale or disposition of the**
15 **investment;**

16 **“(cc) such shares, as-**
17 **sets, or ownership inter-**
18 **ests, are held only for**
19 **such a period of time as**
20 **will permit the sale or dis-**
21 **position thereof on a rea-**
22 **sonable basis consistent**
23 **with the nature of the ac-**
24 **tivities described in divi-**
25 **sion (bb); and**

1 “(dd) during the pe-
2 riod such shares, assets,
3 or ownership interests are
4 held, the investment bank
5 holding company does not
6 actively participate in the
7 day to day management or
8 operation of such com-
9 pany or entity, except in-
10 sofar as necessary to
11 achieve the objectives of
12 division (bb).

13 “(IX) Directly or indirectly
14 acquiring or controlling,
15 whether as principal, on be-
16 half of 1 or more entities (in-
17 cluding entities, other than a
18 depository institution or sub-
19 sidiary of a depository institu-
20 tion, that the investment bank
21 holding company controls) or
22 otherwise, shares, assets, or
23 ownership interests (includ-
24 ing without limitation debt or
25 equity securities, partnership

1 **interests, trust certificates or**
2 **other instruments represent-**
3 **ing ownership) of a company**
4 **or other entity, whether or**
5 **not constituting control of**
6 **such company or entity, en-**
7 **gaged in any activity not au-**
8 **thorized pursuant to this sec-**
9 **tion if—**

10 **“(aa) the shares, as-**
11 **sets, or ownership inter-**
12 **ests are not acquired or**
13 **held by a depository insti-**
14 **tution or a subsidiary of a**
15 **depository institution;**

16 **“(bb) such shares, as-**
17 **sets, or ownership inter-**
18 **ests are acquired and held**
19 **by an insurance company**
20 **that is predominantly en-**
21 **gaged in underwriting**
22 **life, accident and health,**
23 **or property and casualty**
24 **insurance (other than**
25 **credit-related insurance);**

1 “(cc) such shares, as-
2 sets, or ownership inter-
3 ests represent an invest-
4 ment made in the ordi-
5 nary course of business of
6 such insurance company
7 in accordance with rel-
8 evant State law governing
9 such investments; and

10 “(dd) during the pe-
11 riod such shares, assets,
12 or ownership interests are
13 held, the investment bank
14 holding company does not
15 directly or indirectly par-
16 ticipate in the day-to-day
17 management or operation
18 of the company or entity
19 except insofar as nec-
20 essary to achieve the ob-
21 jectives of divisions (bb)
22 and (cc).

23 “(iii) ACTIONS REQUIRED.—The
24 Commission shall, by regulation
25 or order, define, consistent with

1 **the purposes of this Act, the fol-**
2 **lowing activities as, and the ex-**
3 **tent to which such activities are,**
4 **financial in nature or incidental**
5 **to activities which are financial**
6 **in nature:**

7 **“(A) Lending, exchanging,**
8 **transferring, investing for**
9 **others, or safeguarding finan-**
10 **cial assets other than money**
11 **or securities.**

12 **“(B) Providing any device**
13 **or other instrumentality for**
14 **transferring money or other**
15 **financial assets;**

16 **“(C) Arranging, effecting,**
17 **or facilitating financial trans-**
18 **actions for the account of**
19 **third parties.**

20 **“(iv) CONSISTENCY OF INTER-**
21 **PRETATION.—The Commission**
22 **shall consult with the Board of**
23 **Governors of the Federal Reserve**
24 **System concerning the exercise of**
25 **its authority and responsibility**

1 under this subparagraph with re-
2 spect to investment bank holding
3 companies to assure, to the fullest
4 extent possible, the consistency of
5 interpretation and the mainte-
6 nance of competitive equality.

7 “(C) PERMISSIBLE NONFINANCIAL
8 ACTIVITIES AND INVESTMENTS.—

9 “(i) IN GENERAL.—A supervised
10 investment bank holding com-
11 pany described in paragraph (1)
12 may engage in any activity not
13 permitted under subparagraph
14 (B) (hereinafter in this subpara-
15 graph and subparagraph (D) re-
16 ferred to as ‘nonfinancial activi-
17 ties’), and acquire and retain
18 ownership and control of shares
19 of any company engaged in any
20 such nonfinancial activity, if—

21 “(I) the aggregate annual
22 gross revenues derived from
23 all such activities and of all
24 such companies does not ex-
25 ceed 5 percent of the consoli-

1 **dated annual gross revenues**
2 **of the supervised investment**
3 **bank holding company;**

4 **“(II) the consolidated total**
5 **assets of any company the**
6 **shares of which are acquired**
7 **by such investment bank**
8 **holding company pursuant to**
9 **this subparagraph are less**
10 **than \$750,000,000 at the time**
11 **such shares are acquired; and**

12 **“(III) such company pro-**
13 **vides notice to the Commis-**
14 **sion within 30 days of com-**
15 **mencing the activity or ac-**
16 **quiring the ownership or con-**
17 **trol.**

18 **“(ii) INCLUSION OF GRAND-**
19 **FATHERED ACTIVITIES.—For pur-**
20 **poses of determining compliance**
21 **with the limits contained in**
22 **clause (i) of this subparagraph,**
23 **the gross revenues derived from**
24 **all activities conducted, and com-**
25 **panies the shares of which are**

1 held, under subparagraph (D)
2 shall be considered to be derived
3 or held under this subparagraph.

4 **“(D) GRANDFATHERED ACTIVITIES.—**

5 **“(i) IN GENERAL.—Notwith-**
6 **standing subparagraph (C)(i), a**
7 **company that becomes a super-**
8 **vised investment bank holding**
9 **company described in paragraph**
10 **(1) may continue to engage, di-**
11 **rectly or indirectly, in any non-**
12 **financial activity and may retain**
13 **ownership and control of shares**
14 **of a company engaged in any non-**
15 **financial activity, if—**

16 **“(I) on the date of enact-**
17 **ment of the Financial Services**
18 **Act of 1997, such investment**
19 **bank holding company was**
20 **lawfully engaged in that non-**
21 **financial activity, held the**
22 **shares of such company, or**
23 **had entered into a contract to**
24 **acquire shares of any com-**

1 pany engaged in such activity;
2 and

3 “(II) the company engaged
4 in such nonfinancial activity
5 continues to engage only in
6 the same activities that such
7 company conducted on the
8 date of enactment of the Fi-
9 nancial Services Act of 1997,
10 and other activities permis-
11 sible under this subsection.

12 “(ii) NO EXPANSION OF GRAND-
13 FATHERED COMMERCIAL ACTIVITIES
14 THROUGH MERGER OR CONSOLIDA-
15 TION.—An investment bank hold-
16 ing company described in para-
17 graph (1) that engages in activi-
18 ties or holds shares pursuant to
19 this paragraph, or a subsidiary of
20 such investment bank holding
21 company, may not acquire, in any
22 merger, consolidation, or other
23 type of business combination, as-
24 sets of any other company which
25 is engaged in any activity which

1 the Commission has not deter-
2 mined to be financial in nature or
3 incidental to activities that are fi-
4 nancial in nature under subpara-
5 graph (B).

6 “(iii) LIMITATION TO SINGLE EX-
7 EMPTION.—No company that en-
8 gages in any activity or controls
9 any shares under subsection (f) or
10 (g) of section 6 of the Bank Hold-
11 ing Company Act of 1956 may en-
12 gage in any activity or own any
13 shares pursuant to this subpara-
14 graph or subparagraph (C).

15 “(E) COMMODITIES.—

16 “(i) IN GENERAL.—An invest-
17 ment bank holding company
18 which was predominately en-
19 gaged as of January 1, 1997, in se-
20 curities activities in the United
21 States (or any successor to any
22 such company) may engage in, or
23 directly or indirectly own or con-
24 trol shares of a company engaged
25 in, activities related to the trad-

1 **ing, sale, or investment in com-**
2 **modities and underlying physical**
3 **properties that were not permis-**
4 **sible for bank holding companies**
5 **to conduct in the United States as**
6 **of January 1, 1997, if such invest-**
7 **ment bank holding company, or**
8 **any subsidiary of such holding**
9 **company, was engaged directly,**
10 **indirectly, or through any such**
11 **company in any of such activities**
12 **as of January 1, 1997, in the Unit-**
13 **ed States.**

14 “(ii) **LIMITATION.—Notwith-**
15 **standing subparagraph (C)(i)(I),**
16 **the attributed aggregate invest-**
17 **ment by an investment bank hold-**
18 **ing company in activities per-**
19 **mitted under this subparagraph**
20 **and not otherwise permitted for**
21 **all investment bank holding com-**
22 **panies under this subsection may**
23 **not exceed 5 percent of the cap-**
24 **ital of the investment bank hold-**
25 **ing company, except that the**

1 **Commission may increase such**
2 **percentage of capital by such**
3 **amounts and under such cir-**
4 **cumstances as the Commission**
5 **considers appropriate, consistent**
6 **with the purposes of this Act.**

7 **“(iii) ATTRIBUTED INVESTMENT**
8 **AMOUNT.—For purposes of clause**
9 **(ii), the amount of the investment**
10 **by an investment bank holding**
11 **company which are attributable**
12 **to activities described in such**
13 **clause shall be determined pursu-**
14 **ant to regulations issued by the**
15 **Commission which attribute cap-**
16 **ital on the basis of such activities**
17 **in relation to all activities of the**
18 **company.**

19 **“(F) CROSS MARKETING RESTRIC-**
20 **TIONS.—A supervised investment bank**
21 **holding company described in para-**
22 **graph (1) shall not permit—**

23 **“(i) any company whose**
24 **shares it owns or controls pursu-**
25 **ant to subparagraph (C) or (D), to**

1 offer or market any product or
2 service of an affiliated wholesale
3 financial institution; or

4 “(ii) any affiliated wholesale
5 financial institution to offer or
6 market any product or service of
7 any company whose shares are
8 owned or controlled by such in-
9 vestment bank holding company
10 pursuant to such subparagraphs.

11 “(G) DEVELOPING ACTIVITIES.—An
12 investment bank holding company de-
13 scribed in paragraph (1) may engage,
14 or directly or indirectly acquire
15 shares of any company engaged, in
16 any activity that the Commission has
17 not determined to be financial in na-
18 ture or incidental to financial activi-
19 ties under subparagraph (B) if—

20 “(i) the holding company rea-
21 sonably concludes that the activ-
22 ity is financial in nature or inci-
23 dental to financial activities;

24 “(ii) the gross revenues from
25 all activities conducted under this

1 subparagraph represent less than
2 5 percent of the consolidated
3 gross revenues of the holding
4 company;

5 “(iii) the aggregate total as-
6 sets of all companies the shares of
7 which are held under this sub-
8 paragraph do not exceed 5 per-
9 cent of the holding company’s
10 consolidated total assets;

11 “(iv) the total capital invested
12 in activities conducted under this
13 subparagraph represents less
14 than 5 percent of the consolidated
15 total capital of the holding com-
16 pany;

17 “(v) the Commission has not
18 previously determined that the
19 activity is not financial in nature
20 or incidental to financial activi-
21 ties under subparagraph (B); and

22 “(vi) the holding company
23 provides written notification to
24 the Commission describing the
25 activity commenced or conducted

1 by the company acquired no later
2 than 10 business days after com-
3 mencing the activity or con-
4 summing the acquisition.

5 “(8) FUNCTIONAL REGULATION OF BANK-
6 ING AND INSURANCE ACTIVITIES OF SUPER-
7 VISED INVESTMENT BANK HOLDING COMPA-
8 NIES.—The Commission shall defer to—

9 “(A) the appropriate regulatory
10 agency with regard to all interpreta-
11 tions of, and the enforcement of, ap-
12 plicable banking laws relating to the
13 activities, conduct, ownership, and
14 operations of banks, wholesale finan-
15 cial institutions, and institutions de-
16 scribed in subparagraph (D), (F), and
17 (G) of section 2(c)(2) of the Bank
18 Holding Company Act of 1956; and

19 “(B) the appropriate State insur-
20 ance regulators with regard to all in-
21 terpretations of, and the enforcement
22 of, applicable State insurance laws re-
23 lating to the activities, conduct, and
24 operations of insurance companies
25 and insurance agents.

1 **“(9) REFERENCE TO BOARD BACKUP EX-**
2 **AMINATION AND ENFORCEMENT AUTHORITY.—**
3 **The Board of Governors of the Federal**
4 **Reserve System has backup authority,**
5 **pursuant to section 10(e) of the Bank**
6 **Holding Company Act of 1956, with re-**
7 **spect to supervised investment bank**
8 **holding companies described in para-**
9 **graph (1).**

10 **“(10) DEFINITIONS.—For purposes of**
11 **this subsection and subsection (j)—**

12 **“(A) The term ‘investment bank**
13 **holding company’ means—**

14 **“(i) any person other than a**
15 **natural person that owns or con-**
16 **trols one or more brokers or deal-**
17 **ers; and**

18 **“(ii) the associated persons of**
19 **the investment bank holding com-**
20 **pany.**

21 **“(B) The term ‘supervised invest-**
22 **ment bank holding company’ means**
23 **any investment bank holding com-**
24 **pany that is supervised by the Com-**

1 mission pursuant to paragraph (1) or
2 (2) of this section.

3 “(C) Any investment bank holding
4 company is ‘substantially engaged in
5 the securities business’ if—

6 “(i) the annual total consoli-
7 dated net revenues derived by the
8 holding company from effecting
9 transactions in or buying and
10 selling securities as a broker or
11 dealer represent at least 35 per-
12 cent of the annual total consoli-
13 dated net revenues of the com-
14 pany; or

15 “(ii) the company controls one
16 or more brokers or dealers that in
17 the aggregate have total equity
18 capital and qualifying subordi-
19 nated debt (based on an average
20 of the four preceding calendar
21 quarters) in excess of \$750,000,000
22 and such total equity capital and
23 qualifying subordinated debt does
24 not fall below \$500,000,000 (based

1 **on an average for the four preced-**
2 **ing calendar quarters).**

3 **“(D) The term ‘wholesale financial**
4 **institution’ means a wholesale finan-**
5 **cial institution subject to section 9B**
6 **of the Federal Reserve Act.**

7 **“(E) The terms ‘affiliate,’ ‘bank,’**
8 **‘bank holding company,’ ‘company,’**
9 **‘control,’ ‘savings association,’ ‘well**
10 **capitalized,’ and ‘well managed’ have**
11 **the meanings given to those terms in**
12 **section 2 of the Bank Holding Com-**
13 **pany Act of 1956 (12 U.S.C. 1841).**

14 **“(F) The term ‘insured bank’ has**
15 **the meaning given to that term in**
16 **section 3 of the Federal Deposit In-**
17 **surance Act.**

18 **“(G) The term ‘foreign bank’ has**
19 **the meaning given to that term in**
20 **section 1(b)(7) of the International**
21 **Banking Act of 1978.**

22 **“(H) The terms “person associated**
23 **with an investment bank holding**
24 **company’ and “associated person of**
25 **an investment bank holding company’**

1 means any person directly or indi-
2 rectly controlling, controlled by, or
3 under common control with, an in-
4 vestment bank holding company.

5 **“(j) COMMISSION BACKUP AUTHORITY.—**

6 **“(1) INSPECTION AUTHORITY FOR INVEST-**
7 **MENT BANK HOLDING COMPANIES THAT ARE**
8 **NOT SUPERVISED INVESTMENT BANK HOLDING**
9 **COMPANIES.—**

10 **“(A) AUTHORITY.—The Commission**
11 **may make inspections of any invest-**
12 **ment bank holding company that—**

13 **“(i) controls a wholesale fi-**
14 **nancial institution,**

15 **“(ii) is not a foreign bank, and**

16 **“(iii) does not control an in-**
17 **sured bank (other than an institu-**
18 **tion permitted under subpara-**
19 **graph (D), (F), or (G) of section**
20 **2(c)(2) of the Bank Holding Com-**
21 **pany Act of 1956) or a savings as-**
22 **sociation,**

23 **and any affiliate of such company, for**
24 **the purpose of monitoring and en-**
25 **forcing compliance by the investment**

1 **bank holding company with the Fed-**
2 **eral securities laws.**

3 **“(B) LIMITATION.—The Commission**
4 **shall limit the focus and scope of any**
5 **inspection under subparagraph (A) to**
6 **those transactions, policies, proce-**
7 **dures, or records that are reasonably**
8 **necessary to monitor and enforce**
9 **compliance by the investment bank**
10 **holding company or any affiliate with**
11 **the Federal securities laws.**

12 **“(C) DEFERENCE TO EXAMINA-**
13 **TIONS.—To the fullest extent possible,**
14 **the Commission shall use, for the pur-**
15 **poses of this subsection, the reports**
16 **of examinations—**

17 **“(i) made by the Board of Gov-**
18 **ernors of the Federal Reserve**
19 **System of any investment bank**
20 **holding company that is super-**
21 **vised by the Board;**

22 **“(ii) made by or on behalf of**
23 **any State regulatory agency re-**
24 **sponsible for the supervision of**

1 **an insurance company of any li-**
2 **censed insurance company; and**

3 **“(iii) made by any Federal or**
4 **State banking agency of any bank**
5 **or institution described in sub-**
6 **paragraph (D), (F), or (G) of sec-**
7 **tion 2(c)(2) of the Bank Holding**
8 **Company Act of 1956.**

9 **“(D) NOTICE.—To the fullest extent**
10 **possible, the Commission shall notify**
11 **the appropriate regulatory agency**
12 **prior to conducting an inspection of a**
13 **wholesale financial institution or in-**
14 **stitution described in subparagraph**
15 **(D), (F), or (G) of section 2(c)(2) of the**
16 **Bank Holding Company Act of 1956.**

17 **“(k) AUTHORITY TO LIMIT DISCLOSURE OF**
18 **INFORMATION.—Notwithstanding any other**
19 **provision of law, the Commission shall not be**
20 **compelled to disclose any information re-**
21 **quired to be reported under subsection (h),**
22 **(i), or (j), or any information supplied to the**
23 **Commission by any domestic or foreign regu-**
24 **latory agency that relates to the financial or**
25 **operational condition of any associated per-**

1 son of a broker or dealer, investment bank
2 holding company, or any affiliate of an invest-
3 ment bank holding company. Nothing in this
4 subsection shall authorize the Commission to
5 withhold information from Congress, or pre-
6 vent the Commission from complying with a
7 request for information from any other Fed-
8 eral department or agency or any self-regu-
9 latory organization requesting the informa-
10 tion for purposes within the scope of its juris-
11 diction, or complying with an order of a court
12 of the United States in an action brought by
13 the United States or the Commission. For pur-
14 poses of section 552 of title 5, United States
15 Code, this subsection shall be considered a
16 statute described in subsection (b)(3)(B) of
17 such section 552. In prescribing regulations to
18 carry out the requirements of this subsection,
19 the Commission shall designate information
20 described in or obtained pursuant to subpara-
21 graphs (A), (B), and (C) of paragraph (5) of
22 subsection (i), and subsection (j) as confiden-
23 tial information for purposes of section
24 24(b)(2) of this title.”.

25 (b) CONFORMING AMENDMENTS.—

1 **(1) Section 3(a)(34) of the Securities**
2 **Exchange Act of 1934 (15 U.S.C.**
3 **78c(a)(34)) is amended by adding at the**
4 **end the following new subparagraphs:**

5 **“(H) When used with respect to a**
6 **wholesale financial institution—**

7 **“(i) the Board of Governors of**
8 **the Federal Reserve System, in**
9 **the case of a wholesale financial**
10 **institution that has a national**
11 **bank charter, a State bank char-**
12 **ter, or is operating under the**
13 **Code of Law for the District of**
14 **Columbia; and**

15 **“(ii) the Comptroller of the**
16 **Currency, in the case of a whole-**
17 **sale financial institution that has**
18 **a national bank charter or is op-**
19 **erating under the Code of Law for**
20 **the District of Columbia.**

21 **“(I) When used with respect to an**
22 **institution described in subpara-**
23 **graph (D), (F), or (G) of section 2(c)(2)**
24 **of the Bank Holding Company Act of**
25 **1956—**

1 “(i) the Comptroller of the
2 Currency, in the case of a na-
3 tional bank or a bank in the Dis-
4 trict of Columbia examined by the
5 Comptroller of the Currency;

6 “(ii) the Board of Governors of
7 the Federal Reserve System, in
8 the case of a State member bank
9 of the Federal Reserve System or
10 any corporation chartered under
11 section 25A of the Federal Re-
12 serve Act;

13 “(iii) the Federal Deposit In-
14 surance Corporation, in the case
15 of any other bank the deposits of
16 which are insured in accordance
17 with the Federal Deposit Insur-
18 ance Act; or

19 “(iv) the Commission in the
20 case of all other such institu-
21 tions.”.

22 (2) Section 15(b)(6)(A) of the Securi-
23 ties Exchange Act of 1934 (15 U.S.C.
24 78o(b)(6)(A)) is amended by inserting
25 after “With respect to any person who is

1 **associated,” the following: “including an**
2 **investment bank holding company, a**
3 **wholesale financial institution, or institu-**
4 **tion described in subparagraph (D), (F),**
5 **or (G) of section 2(c)(2) of the Bank Hold-**
6 **ing Company Act of 1956,”.**

7 **(3) Section 3(a)(18) of the Securities**
8 **Exchange Act of 1934 (15 U.S.C.**
9 **78c(a)(18)) is amended by inserting after**
10 **“under common control with such broker**
11 **or dealer” the following: “(including an**
12 **investment bank holding company,**
13 **wholesale financial institution, or institu-**
14 **tion described in subparagraph (D), (F),**
15 **or (G) of section 2(c)(2) of the Bank Hold-**
16 **ing Company Act of 1956 that is affiliated**
17 **with an investment bank holding com-**
18 **pany)”.**

19 **(4) Section 3(a)(21) of the Securities**
20 **Exchange Act of 1934 (15 U.S.C.**
21 **78c(a)(21)) is amended by inserting after**
22 **“under common control with such mem-**
23 **ber” the following: “(including an invest-**
24 **ment bank holding company, wholesale**
25 **financial institution or institution de-**

1 scribed in subparagraph (D), (F), or (G) of
2 section 2(c)(2) of the Bank Holding Com-
3 pany Act of 1956 that is affiliated with an
4 investment bank holding company”).

5 (5) Section 1112(e) of the Right to Fi-
6 nancial Privacy Act of 1978 (12 U.S.C.
7 3412(e)) is amended—

8 (A) by striking “this title” and in-
9 serting “law”; and

10 (B) by inserting “, examination re-
11 ports” after “financial records”.

12 **Subtitle D—Study**

13 SEC. 241. STUDY OF METHODS TO INFORM INVESTORS AND 14 CONSUMERS OF UNINSURED PRODUCTS.

15 **Within one year after the date of enact-**
16 **ment of this Act, the Comptroller General of**
17 **the United States shall submit a report to the**
18 **Congress regarding the efficacy, costs, and**
19 **benefits of requiring that any depository in-**
20 **stitution that accepts federally insured depos-**
21 **its and that, directly or through a contractual**
22 **or other arrangement with a broker, dealer,**
23 **or agent, buys from, sells to, or effects trans-**
24 **actions for retail investors in securities or**
25 **consumers of insurance to inform such inves-**

1 **tors and consumers through the use of a logo**
2 **or seal that the security or insurance is not**
3 **insured by the Federal Deposit Insurance**
4 **Corporation.**

5 **TITLE III—INSURANCE**
6 **Subtitle A—State Regulation of**
7 **Insurance**

8 **SEC. 301. STATE REGULATION OF THE BUSINESS OF INSUR-**
9 **ANCE.**

10 **The Act entitled “An Act to express the in-**
11 **tent of the Congress with reference to the reg-**
12 **ulation of the business of insurance” and ap-**
13 **proved March 9, 1945 (15 U.S.C. 1011 et seq.),**
14 **commonly referred to as the “McCarran—Fer-**
15 **guson Act”)** remains the law of the United
16 **States.**

17 **SEC. 302. MANDATORY INSURANCE LICENSING REQUIRE-**
18 **MENTS.**

19 **No person or entity shall provide insur-**
20 **ance in a State as principal or agent unless**
21 **such person or entity is licensed by the appro-**
22 **priate insurance regulator of such State.**

23 **SEC. 303. FUNCTIONAL REGULATION OF INSURANCE.**

24 **The insurance sales activity of any person**
25 **or entity shall be functionally regulated.**

1 SEC. 304. INSURANCE UNDERWRITING IN NATIONAL
2 BANKS.

3 (a) IN GENERAL.—Except as provided in
4 section 306, a national bank and the subsidi-
5 aries of a national bank may not provide in-
6 surance in a State as principal except that
7 this prohibition shall not apply to authorized
8 products.

9 (b) AUTHORIZED PRODUCTS.—For the pur-
10 poses of this section, a product is authorized
11 if—

12 (1) as of January 1, 1997, the Comp-
13 troller of the Currency had determined in
14 writing that national banks may provide
15 such product as principal, or national
16 banks were in fact lawfully providing
17 such product as principal;

18 (2) no court of relevant jurisdiction
19 had, by final judgment, overturned a de-
20 termination of the Comptroller of the
21 Currency that national banks may pro-
22 vide such product as principal; and

23 (3) the product is not title insurance,
24 or an annuity contract the income of
25 which is subject to tax treatment under

1 **section 72 of the Internal Revenue Code**
2 **of 1986.**

3 **(c) DEFINITION.—For purposes of this sec-**
4 **tion, the term “insurance” means—**

5 **(1) any product regulated as insur-**
6 **ance as of January 1, 1997, in accordance**
7 **with the relevant State insurance law, in**
8 **the State in which the product is pro-**
9 **vided;**

10 **(2) any product first offered after**
11 **January 1, 1997, which—**

12 **(A) a State insurance regulator**
13 **determines shall be regulated as in-**
14 **surance in the State in which the**
15 **product is provided because the prod-**
16 **uct insures, guarantees, or indem-**
17 **nifies against liability, loss of life, loss**
18 **of health, or loss through damage to**
19 **or destruction of property, including,**
20 **but not limited to, life insurance,**
21 **health insurance, title insurance, and**
22 **property and casualty insurance**
23 **(such as private passenger or com-**
24 **mercial automobile, homeowners,**
25 **commercial multiperil, general liabil-**

1 ity, professional liability, workers'
2 compensation, fire and allied lines,
3 farm owners multiperil, aircraft, fi-
4 delity, surety, medical malpractice,
5 ocean marine, inland marine, and
6 boiler and machinery insurance); and

7 (B) is not a product or service of
8 a bank that is (i) a deposit product,
9 (ii) a loan, discount, letter of credit,
10 or other extension of credit, (iii) a
11 trust or other fiduciary service, (iv) a
12 qualified financial contract (as de-
13 fined in or determined pursuant to
14 section 11(e)(8)(D)(i) of the Federal
15 Deposit Insurance Act), or (v) a finan-
16 cial guaranty, except that this sub-
17 paragraph (B) shall not apply to a
18 product that includes an insurance
19 component such that if the product is
20 offered or proposed to be offered by
21 the bank as principal—

22 (I) it would be treated as a life
23 insurance contract under section
24 7702 of the Internal Revenue
25 Code of 1986, as amended; or

1 **(II) in the event that the prod-**
2 **uct is not a letter of credit or**
3 **other similar extension of credit,**
4 **a qualified financial contract, or a**
5 **financial guaranty, it would qual-**
6 **ify for treatment for losses in-**
7 **curring with respect to such prod-**
8 **uct under section 832(b)(5) of the**
9 **Internal Revenue Code of 1986, as**
10 **amended, if the bank were sub-**
11 **ject to tax as an insurance com-**
12 **pany under section 831 of such**
13 **Code; or**

14 **(3) any annuity contract the income**
15 **on which is subject to tax treatment**
16 **under section 72 of the Internal Revenue**
17 **Code of 1986, as amended.**

18 **SEC. 305. NEW BANK AGENCY ACTIVITIES ONLY THROUGH**
19 **ACQUISITION OF EXISTING LICENSED**
20 **AGENTS.**

21 **If a national bank or a subsidiary of a na-**
22 **tional bank is not providing insurance as**
23 **agent in a State as of the date of the enact-**
24 **ment of this Act, the national bank and the**
25 **subsidiary of the national bank may provide**

1 insurance (which such bank or subsidiary is
2 otherwise authorized to provide) as agent in
3 such State after such date only by acquiring
4 a company which has been licensed by the ap-
5 propriate State regulator to provide insur-
6 ance as agent in such State for not less than
7 2 years before such acquisition.

8 SEC. 306. TITLE INSURANCE ACTIVITIES OF NATIONAL
9 BANKS AND THEIR AFFILIATES.

10 (a) AUTHORITY.—

11 (1) IN GENERAL.—Notwithstanding any
12 other provision of this Act or any other
13 law, no national bank, and no subsidiary
14 of a national bank, may engage in any ac-
15 tivity involving the underwriting or sale
16 of title insurance other than title insur-
17 ance activities in which such national
18 bank or subsidiary was actively and law-
19 fully engaged before the date of the en-
20 actment of this Act.

21 (2) INSURANCE AFFILIATE.—In the case
22 of a national bank which has an affiliate
23 which provides insurance as principal
24 and is not a subsidiary of the bank, the
25 national bank and any subsidiary of the

1 national bank may not engage in any ac-
2 tivity involving the underwriting or sale
3 of title insurance pursuant to paragraph
4 (1).

5 (3) INSURANCE SUBSIDIARY.—In the
6 case of a national bank which has a sub-
7 sidiary which provides insurance as prin-
8 cipal and has no affiliate which provides
9 insurance as principal and is not a sub-
10 sidiary, the national bank may not en-
11 gage in any activity involving the under-
12 writing or sale of title insurance pursu-
13 ant to paragraph (1).

14 (4) AFFILIATE AND SUBSIDIARY DE-
15 FINED.—For purposes of this section, the
16 terms “affiliate” and “subsidiary” have
17 the meaning given such terms in section
18 2 of the Bank Holding Company Act of
19 1956.

20 (b) PARITY EXCEPTION.—Notwithstanding
21 subsection (a), in the case of any State in
22 which banks organized under the laws of such
23 State were authorized to sell title insurance
24 as agent as of January 1, 1997, a national bank
25 and a subsidiary of a national bank may sell

1 title insurance as agent in such State in the
2 same manner and to the same extent such
3 State banks are authorized to sell title insur-
4 ance as agent in such State.

5 SEC. 307. EXPEDITED AND EQUALIZED DISPUTE RESOLU-
6 TION FOR FINANCIAL REGULATORS.

7 (a) IN GENERAL.—

8 (1) FILING.—In the case of a regu-
9 latory conflict between a State insurance
10 regulator and a Federal financial regu-
11 lator as to whether any product is or is
12 not insurance or whether a State law reg-
13 ulating an insurance activity is properly
14 treated as preempted under Federal law,
15 any State insurance regulator or any
16 Federal financial regulator may seek an
17 expedited judicial determination of such
18 conflict including the appropriate classi-
19 fication or definition of a new product, or
20 regulation of an insurance activity, by fil-
21 ing an action in—

22 (A) any United States district
23 court in which such action may be
24 brought under chapter 87 of title 28,
25 United States Code; or

1 **(B) the United States District**
2 **Court for the District of Columbia.**

3 **(2) EXPEDITED REVIEW.—The United**
4 **States district court in which an action**
5 **described in paragraph (1) is filed shall**
6 **complete all action on such case, includ-**
7 **ing rendering a judgment, before the end**
8 **of the 90-day period beginning on the**
9 **date such action is filed, unless all par-**
10 **ties to such action agree to any extension**
11 **of such period.**

12 **(3) SAVINGS PROVISION.—This section**
13 **shall not apply with respect to any deter-**
14 **mination as to whether any product is or**
15 **is not a security for purposes of the secu-**
16 **rities laws (as such term is defined in sec-**
17 **tion 3(a) of the Securities Exchange Act**
18 **of 1934).**

19 **(b) APPEAL.—**

20 **(1) IN GENERAL.—Any petition for re-**
21 **view by any party to an action described**
22 **in subsection (a)(1) of any final judgment**
23 **of a United States district court with re-**
24 **spect to such action shall be filed by such**
25 **party before the end of the 10-day period**

1 **beginning on the date such judgment is**
2 **issued by the district court in—**

3 **(A) the United States court of ap-**
4 **peals for the circuit in which such**
5 **United States district court is located;**
6 **or**

7 **(B) the United States Court of Ap-**
8 **peals for the District of Columbia.**

9 **(2) EXPEDITED REVIEW.—The United**
10 **States court of appeals in which a peti-**
11 **tion for review is filed in accordance**
12 **with paragraph (1) shall complete all ac-**
13 **tion on such petition, including render-**
14 **ing a judgment, before the end of the 60-**
15 **day period beginning on the date such**
16 **petition is filed, unless all parties to such**
17 **proceeding agree to any extension of**
18 **such period.**

19 **(c) SUPREME COURT REVIEW.—Any request**
20 **for certiori to the Supreme Court of the Unit-**
21 **ed States of any judgment of a United States**
22 **court of appeals with respect to a petition for**
23 **review in accordance with subsection (b)**
24 **shall be filed with the United States Supreme**

1 **Court as soon as practicable after such judg-**
2 **ment is issued.**

3 **(d) STATUTE OF LIMITATION.—No action**
4 **may be filed under this section challenging an**
5 **order, ruling, determination, or other action**
6 **of a Federal financial regulator or State in-**
7 **surance regulator after the later of—**

8 **(1) the end of the 12-month period be-**
9 **ginning on the date the first public notice**
10 **is made of such order, ruling, or deter-**
11 **mination in its final form; or**

12 **(2) the end of the 6-month period be-**
13 **ginning on the date such order, ruling, or**
14 **determination takes effect.**

15 **(e) STANDARD OF REVIEW.—The court shall**
16 **decide an action filed under this section**
17 **based on its review on the merits of all ques-**
18 **tions presented under State and Federal law,**
19 **including the nature of the product or activ-**
20 **ity and the history and purpose of its regula-**
21 **tion under State and Federal law, without un-**
22 **equal deference.**

23 **(f) INJUNCTIONS.—The court may issue an**
24 **injunction against a financial regulator or**

1 any person to which an action filed under this
2 section relates.

3 (g) FEDERAL FINANCIAL REGULATOR DE-
4 FINED.—For purposes of this section, the term
5 “Federal financial regulator” means—

6 (1) any Federal banking agency (as
7 defined in section 3(z) of the Federal De-
8 posit Insurance Act); and

9 (2) the Securities and Exchange Com-
10 mission only with respect to the respon-
11 sibilities of the Commission under sec-
12 tion 17(i) of the Securities Exchange Act
13 of 1934.

14 SEC. 308. CONSUMER PROTECTION REGULATIONS.

15 (a) REGULATIONS REQUIRED.—

16 (1) IN GENERAL.—Each Federal bank-
17 ing agency shall prescribe and publish in
18 final form, before the end of the 1-year
19 period beginning on the date of the en-
20 actment of this Act, consumer protection
21 regulations which—

22 (A) apply to retail sales, solicita-
23 tions, advertising, or offers of any in-
24 surance product by any insured de-
25 pository institution or any person

1 **who is engaged in such activities at**
2 **an office of the institution or on be-**
3 **half of the institution; and**

4 **(B) meet the requirements of this**
5 **section and provide such additional**
6 **protections for consumers to whom**
7 **such sales, solicitations, advertising,**
8 **or offers are directed as the agency**
9 **determines to be appropriate.**

10 **(2) APPLICABILITY TO SUBSIDIARIES.—**

11 **The regulations prescribed pursuant to**
12 **paragraph (1) shall extend such protec-**
13 **tions to any subsidiaries of an insured**
14 **depository institution, as deemed appro-**
15 **priate by the regulators referred to in**
16 **paragraph (3), where such extension is**
17 **necessary to ensure the consumer protec-**
18 **tions provided by this section.**

19 **(3) CONSULTATION AND JOINT REGULA-**
20 **TIONS.—The Federal banking agencies**
21 **shall consult with each other and pre-**
22 **scribe joint regulations pursuant to para-**
23 **graph (1), after consultation with the**
24 **State insurance regulators, as appro-**
25 **priate.**

1 **(b) SALES PRACTICES.—**The regulations
2 prescribed pursuant to subsection (a) shall in-
3 clude anticoercion rules applicable to the sale
4 of insurance products which prohibit an in-
5 sured depository institution from engaging in
6 any practice that would lead a consumer to
7 believe an extension of credit, in violation of
8 section 106(b) of the Bank Holding Company
9 Act Amendments of 1970, is conditional
10 upon—

11 (1) the purchase of an insurance
12 product from the institution or any of its
13 affiliates or subsidiaries; or

14 (2) an agreement by the consumer not
15 to obtain, or a prohibition on the
16 consumer from obtaining, an insurance
17 product from an unaffiliated entity.

18 **(c) DISCLOSURES AND ADVERTISING.—**The
19 regulations prescribed pursuant to subsection
20 (a) shall include the following provisions re-
21 lating to disclosures and advertising in con-
22 nection with the initial purchase of an insur-
23 ance product:

24 (1) **DISCLOSURES.—**

1 **(A) IN GENERAL.—Requirements**
2 **that the following disclosures be**
3 **made orally and in writing before the**
4 **completion of the initial sale and, in**
5 **the case of clause (iv), at the time of**
6 **application for an extension of credit:**

7 **(i) UNINSURED STATUS.—As ap-**
8 **propriate, the product is not in-**
9 **sured by the Federal Deposit In-**
10 **surance Corporation, the United**
11 **States Government, or the in-**
12 **sured depository institution.**

13 **(ii) INVESTMENT RISK.—In the**
14 **case of a variable annuity or**
15 **other insurance product which**
16 **involves an investment risk, that**
17 **there is an investment risk associ-**
18 **ated with the product, including**
19 **possible loss of value.**

20 **(iv) COERCION.—The approval**
21 **of an extension of credit may not**
22 **be conditioned on—**

23 **(I) the purchase of an in-**
24 **surance product from the in-**
25 **stitution in which the applica-**

1 **tion for credit is pending or**
2 **any of its affiliates or subsidi-**
3 **aries; or**

4 **(II) an agreement by the**
5 **consumer not to obtain, or a**
6 **prohibition on the consumer**
7 **from obtaining, an insurance**
8 **product from an unaffiliated**
9 **entity.**

10 **(B) MAKING DISCLOSURE READILY**
11 **UNDERSTANDABLE.—Regulations pre-**
12 **scribed under subparagraph (A) shall**
13 **encourage the use of disclosure that**
14 **is conspicuous, simple, direct, and**
15 **readily understandable, such as the**
16 **following:**

17 **(i) “NOT FDIC-INSURED”.**

18 **(ii) “NOT GUARANTEED BY**
19 **THE BANK”.**

20 **(iii) “MAY GO DOWN IN**
21 **VALUE”.**

22 **(C) ADJUSTMENTS FOR ALTERNATIVE**
23 **METHODS OF PURCHASE.—In prescrib-**
24 **ing the requirements under subpara-**
25 **graphs (A) and (D), necessary adjust-**

1 **ments shall be made for purchase in**
2 **person, by telephone, or by electronic**
3 **media to provide for the most appro-**
4 **priate and complete form of disclo-**
5 **sure and acknowledgements.**

6 **(D) CONSUMER ACKNOWLEDGE-**
7 **MENT.—A requirement that an insured**
8 **depository institution shall require**
9 **any person selling an insurance prod-**
10 **uct at any office of, or on behalf of,**
11 **the institution to obtain, at the time a**
12 **consumer receives the disclosures re-**
13 **quired under this paragraph or at the**
14 **time of the initial purchase by the**
15 **consumer of such product, an ac-**
16 **knowledgement by such consumer of**
17 **the receipt of the disclosure required**
18 **under this subsection with respect to**
19 **such product.**

20 **(2) PROHIBITION ON MISREPRESENTA-**
21 **TIONS.—A prohibition on any practice, or**
22 **any advertising, at any office of, or on be-**
23 **half of, the insured depository institu-**
24 **tion, or any subsidiary as appropriate,**
25 **which could mislead any person or other-**

1 **wise cause a reasonable person to reach**
2 **an erroneous belief with respect to—**

3 **(A) the uninsured nature of any**
4 **insurance product sold, or offered for**
5 **sale, by the institution or any subsidi-**
6 **ary of the institution; or**

7 **(B) in the case of a variable annu-**
8 **ity or other insurance product that**
9 **involves an investment risk, the in-**
10 **vestment risk associated with any**
11 **such product.**

12 **(d) SEPARATION OF BANKING AND NON-**
13 **BANKING ACTIVITIES.—**

14 **(1) REGULATIONS REQUIRED.—The regu-**
15 **lations prescribed pursuant to subsection**
16 **(a) shall include such provisions as the**
17 **Federal banking agencies consider appro-**
18 **priate to ensure that the routine accept-**
19 **ance of deposits and the making of loans**
20 **is kept, to the extent practicable, phys-**
21 **ically segregated from insurance product**
22 **activity.**

23 **(2) REQUIREMENTS.—Regulations pre-**
24 **scribed pursuant to paragraph (1) shall**
25 **include the following requirements:**

1 **(A) SEPARATE SETTING.**—A clear de-
2 **lineation of the setting in which, and**
3 **the circumstances under which,**
4 **transactions involving insurance**
5 **products should be conducted in a lo-**
6 **cation physically segregated from an**
7 **area where retail deposits are rou-**
8 **tinely accepted or loans are made.**

9 **(B) REFERRALS.**—Standards which
10 **permit any person accepting deposits**
11 **from, or making loans to, the public**
12 **in an area where such transactions**
13 **are routinely conducted in an insured**
14 **depository institution to refer a cus-**
15 **tomers who seeks to purchase any in-**
16 **surance product to a qualified person**
17 **who sells such product, only if the**
18 **person making the referral receives**
19 **no more than a one-time nominal fee**
20 **of a fixed dollar amount for each re-**
21 **ferred that does not depend on wheth-**
22 **er the referral results in a trans-**
23 **action.**

24 **(C) QUALIFICATION AND LICENSING**
25 **REQUIREMENTS.**—Standards prohibi-

1 **ing any insured depository institution**
2 **from permitting any person to sell or**
3 **offer for sale any insurance product**
4 **in any part of any office of the insti-**
5 **tution, or on behalf of the institution,**
6 **unless such person is appropriately**
7 **qualified and licensed.**

8 **(e) DOMESTIC VIOLENCE DISCRIMINATION**
9 **PROHIBITION.—**

10 **(1) REGULATIONS REQUIRED.—The Fed-**
11 **eral banking agencies shall jointly estab-**
12 **lish regulations which shall prohibit dis-**
13 **crimination, except as required under**
14 **State law, against victims of domestic vi-**
15 **olence by prohibiting the consideration**
16 **of such status as a criterion in any deci-**
17 **sion with regard to insurance underwrit-**
18 **ing, pricing, renewal of insurance poli-**
19 **cies, or payment of insurance claims.**

20 **(2) SCOPE OF APPLICATION.—The regu-**
21 **lations prescribed under paragraph (1)**
22 **shall apply to any insurance product**
23 **which is sold or offered for sale, as prin-**
24 **cipal, agent, or broker, by any insured**
25 **depository institution or any person who**

1 **is engaged in such activities at an office**
2 **of the institution or on behalf of the insti-**
3 **tution.**

4 **(3) SENSE OF THE CONGRESS.—It is the**
5 **sense of the Congress that, by the end of**
6 **the 30-month period beginning on the**
7 **date of the enactment of this Act, the**
8 **States should enact or adopt regulations**
9 **prohibiting discrimination with respect**
10 **to insurance products that are at least as**
11 **strict as the regulations required by**
12 **paragraph (1) of this subsection.**

13 **(f) CONSUMER GRIEVANCE PROCESS.—The**
14 **Federal banking agencies shall jointly estab-**
15 **lish a consumer complaint mechanism, for re-**
16 **ceiving and expeditiously addressing**
17 **consumer complaints alleging a violation of**
18 **regulations issued under the section, which**
19 **shall—**

20 **(1) establish a group within each reg-**
21 **ulatory agency to receive such com-**
22 **plaints;**

23 **(2) develop procedures for investigat-**
24 **ing such complaints;**

1 **(3) develop procedures for informing**
2 **consumers of rights they may have in**
3 **connection with such complaints; and**

4 **(4) develop procedures for addressing**
5 **concerns raised by such complaints, as**
6 **appropriate, including procedures for the**
7 **recovery of losses to the extent appro-**
8 **priate.**

9 **(g) NO EFFECT ON OTHER AUTHORITY.—No**
10 **provision of this section shall be construed as**
11 **granting, limiting, or otherwise affecting—**

12 **(A) any authority of the Securities**
13 **and Exchange Commission, any self-**
14 **regulatory organization, the Municipi-**
15 **pal Securities Rulemaking Board, or**
16 **the Secretary of the Treasury under**
17 **any Federal securities law;**

18 **(B) any authority of any State in-**
19 **surance commissioner or other State**
20 **authority under any State law; or**

21 **(C) the applicability of any State**
22 **law, or any regulation prescribed by**
23 **any State insurance commissioner or**
24 **other State authority pursuant to any**
25 **such law, to any person.**

1 **(h) DEFINITIONS.—For purposes of this sec-**
2 **tion, the following definitions shall apply:**

3 **(1) APPROPRIATE FEDERAL BANKING**
4 **AGENCY; INSURED DEPOSITORY INSTITU-**
5 **TION.—The terms “appropriate Federal**
6 **banking agency” and “insured depository**
7 **institution” have the same meanings as in**
8 **section 3 of the Federal Deposit Insur-**
9 **ance Act.**

10 **(2) INSURANCE PRODUCT.—The term**
11 **“insurance product” includes an annuity**
12 **contract the income of which is subject to**
13 **tax treatment under section 72 of the In-**
14 **ternal Revenue Code of 1986.**

15 **SEC. 309. CERTAIN STATE AFFILIATION LAWS PREEMPTED**
16 **FOR INSURANCE COMPANIES AND AFFILI-**
17 **ATES.**

18 **No State may, by law, regulation, order,**
19 **interpretation, or otherwise—**

20 **(1) prevent or restrict any insurer, or**
21 **any affiliate of an insurer (whether such**
22 **affiliate is organized as a stock company,**
23 **mutual holding company, or otherwise),**
24 **from becoming a financial holding com-**

1 pany or acquiring control of an insured
2 depository institution;

3 (2) limit the amount of an insurer's
4 assets that may be invested in the voting
5 securities of an insured depository insti-
6 tution (or any company which controls
7 such institution), except that the laws of
8 an insurer's State of domicile may limit
9 the amount of such investment to an
10 amount that is not less than 5 percent of
11 the insurer's admitted assets; or

12 (3) prevent, restrict, or have the au-
13 thority to review, approve, or disapprove
14 a plan of reorganization by which an in-
15 surer proposes to reorganize from mutual
16 form to become a stock insurer (whether
17 as a direct or indirect subsidiary of a mu-
18 tual holding company or otherwise) un-
19 less such State is the State of domicile of
20 the insurer.

21 **Subtitle B—Redomestication of** 22 **Mutual Insurers**

23 SEC. 311. GENERAL APPLICATION.

24 This subtitle shall only apply to a mutual
25 insurance company in a State which has not

1 enacted a law which expressly establishes
2 reasonable terms and conditions for a mutual
3 insurance company domiciled in such State to
4 reorganize into a mutual holding company.

5 SEC. 312. REDOMESTICATION OF MUTUAL INSURERS.

6 (a) REDOMESTICATION.—A mutual insurer
7 organized under the laws of any State may
8 transfer its domicile to a transferee domicile
9 as a step in a reorganization in which, pursu-
10 ant to the laws of the transferee domicile and
11 consistent with the standards in subsection
12 (f), the mutual insurer becomes a stock in-
13 surer that is a direct or indirect subsidiary of
14 a mutual holding company.

15 (b) RESULTING DOMICILE.—Upon comply-
16 ing with the applicable law of the transferee
17 domicile governing transfers of domicile and
18 completion of a transfer pursuant to this sec-
19 tion, the mutual insurer shall cease to be a do-
20 mestic insurer in the transferor domicile and,
21 as a continuation of its corporate existence,
22 shall be a domestic insurer of the transferee
23 domicile.

24 (c) LICENSES PRESERVED.—The certificate
25 of authority, agents' appointments and li-

1 censes, rates, approvals and other items that
2 a licensed State allows and that are in exist-
3 ence immediately prior to the date that a re-
4 domesticating insurer transfers its domicile
5 pursuant to this subtitle shall continue in full
6 force and effect upon transfer, if the insurer
7 remains duly qualified to transact the busi-
8 ness of insurance in such licensed State.

9 (d) **EFFECTIVENESS OF OUTSTANDING POLI-**
10 **CIES AND CONTRACTS.—**

11 (1) **IN GENERAL.—**All outstanding in-
12 surance policies and annuities contracts
13 of a redomesticating insurer shall remain
14 in full force and effect and need not be
15 endorsed as to the new domicile of the in-
16 surer, unless so ordered by the State in-
17 surance regulator of a licensed State, and
18 then only in the case of outstanding poli-
19 cies and contracts whose owners reside
20 in such licensed State.

21 (2) **FORMS.—**

22 (A) Applicable State law may re-
23 quire a redomesticating insurer to
24 file new policy forms with the State
25 insurance regulator of a licensed

1 **State on or before the effective date**
2 **of the transfer.**

3 **(B) Notwithstanding subpara-**
4 **graph (A), a redomesticating insurer**
5 **may use existing policy forms with**
6 **appropriate endorsements to reflect**
7 **the new domicile of the redomesticat-**
8 **ing insurer until the new policy forms**
9 **are approved for use by the State in-**
10 **surance regulator of such licensed**
11 **State.**

12 **(e) NOTICE.—A redomesticating insurer**
13 **shall give notice of the proposed transfer to**
14 **the State insurance regulator of each licensed**
15 **State and shall file promptly any resulting**
16 **amendments to corporate documents re-**
17 **quired to be filed by a foreign licensed mutual**
18 **insurer with the insurance regulator of each**
19 **such licensed State.**

20 **(f) PROCEDURAL REQUIREMENTS.—No mu-**
21 **tual insurer may redomesticate to another**
22 **State and reorganize into a mutual holding**
23 **company pursuant to this section unless the**
24 **State insurance regulator of the transferee**
25 **domicile determines that the plan of reorga-**

1 nization of the insurer includes the following
2 requirements:

3 (1) APPROVAL BY BOARD OF DIRECTORS
4 AND POLICYHOLDERS.—The reorganization
5 is approved by at least a majority of the
6 board of directors of the mutual insurer
7 and at least a majority of the policy-
8 holders who vote after notice, disclosure
9 of the reorganization and the effects of
10 the transaction on policyholder contrac-
11 tual rights, and reasonable opportunity
12 to vote, in accordance with such notice,
13 disclosure, and voting procedures as are
14 approved by the State insurance regu-
15 lator of the transferee domicile.

16 (2) CONTINUED VOTING CONTROL BY POL-
17 ICYHOLDERS; REVIEW OF PUBLIC STOCK OF-
18 FERING.—After the consummation of a re-
19 organization, the policyholders of the re-
20 organized insurer shall have the same
21 voting rights with respect to the mutual
22 holding company as they had before the
23 reorganization with respect to the mu-
24 tual insurer. With respect to an initial
25 public offering of stock, the offering shall

1 be conducted in compliance with applica-
2 ble securities laws and in a manner ap-
3 proved by the State insurance regulator
4 of the transferee domicile.

5 (3) AWARD OF STOCK OR GRANT OF OP-
6 TIONS TO OFFICERS AND DIRECTORS.—For a
7 period of 6 months after completion of an
8 initial public offering, neither a stock
9 holding company nor the converted in-
10 surer shall award any stock options or
11 stock grants to persons who are elected
12 officers or directors of the mutual hold-
13 ing company, the stock holding company,
14 or the converted insurer, except with re-
15 spect to any such awards or options to
16 which a person is entitled as a policy-
17 holder and as approved by the State in-
18 surance regulator of the transferee domi-
19 cile.

20 (4) CONTRACTUAL RIGHTS.—Upon reor-
21 ganization into a mutual holding com-
22 pany, the contractual rights of the policy-
23 holders are preserved.

24 (5) FAIR AND EQUITABLE TREATMENT OF
25 POLICYHOLDERS.—The reorganization is

1 placed insurance with any insurer or af-
2 filiate of such insurer that plans to re-
3 domesticate, or has redomesticated, pur-
4 suant to this subtitle, but only to the ex-
5 tent that such law would treat such in-
6 sured licensee or other intermediary dif-
7 ferently than if the person or entity pro-
8 cured insurance from, or placed insur-
9 ance with, an insured licensee or other
10 intermediary which had not redomes-
11 ticated;

12 (3) any law that has the purpose or
13 effect of terminating, because of the re-
14 domestication of a mutual insurer pursu-
15 ant to this subtitle, any certificate of au-
16 thority, agent appointment or license,
17 rate approval, or other approval, of any
18 State insurance regulator or other State
19 authority in existence immediately prior
20 to the redomestication in any State other
21 than the transferee domicile.

22 (b) DIFFERENTIAL TREATMENT PROHIB-
23 ITED.—No State law, regulation, interpreta-
24 tion, or functional equivalent thereof, of a
25 State other than a transferee domicile may

1 **treat a redomesticating or redomesticated in-**
2 **surer or any affiliate thereof any differently**
3 **than an insurer operating in that State that**
4 **is not a redomesticating or redomesticated in-**
5 **surer.**

6 **(c) LAWS PROHIBITING OPERATIONS.—If any**
7 **licensed State fails to issue, delays the issu-**
8 **ance of, or seeks to revoke an original or re-**
9 **newal certificate of authority of a redomes-**
10 **ticated insurer immediately following re-**
11 **domestication, except on grounds and in a**
12 **manner consistent with its past practices re-**
13 **garding the issuance of certificates of author-**
14 **ity to foreign insurers that are not redomes-**
15 **ticating, then the redomesticating insurer**
16 **shall be exempt from any State law of the li-**
17 **censed State to the extent that such State law**
18 **or the operation of such State law would**
19 **make unlawful, or regulate, directly or indi-**
20 **rectly, the operation of the redomesticated in-**
21 **surer, except that such licensed State may re-**
22 **quire the redomesticated insurer to—**

23 **(1) comply with the unfair claim set-**
24 **tlement practices law of the licensed**
25 **State;**

1 **(2) pay, on a nondiscriminatory basis,**
2 **applicable premium and other taxes**
3 **which are levied on licensed insurers or**
4 **policyholders under the laws of the li-**
5 **censed State;**

6 **(3) register with and designate the**
7 **State insurance regulator as its agent**
8 **solely for the purpose of receiving service**
9 **of legal documents or process;**

10 **(4) submit to an examination by the**
11 **State insurance regulator in any licensed**
12 **state in which the redomesticated insurer**
13 **is doing business to determine the insur-**
14 **er's financial condition, if—**

15 **(A) the State insurance regulator**
16 **of the transferee domicile has not**
17 **begun an examination of the re-**
18 **domesticated insurer and has not**
19 **scheduled such an examination to**
20 **begin before the end of the 1-year pe-**
21 **riod beginning on the date of the re-**
22 **domestication; and**

23 **(B) any such examination is co-**
24 **ordinated to avoid unjustified dupli-**
25 **cation and repetition;**

1 **(5) comply with a lawful order issued**
2 **in—**

3 **(A) a delinquency proceeding**
4 **commenced by the State insurance**
5 **regulator of any licensed State if**
6 **there has been a judicial finding of fi-**
7 **nancial impairment under paragraph**
8 **(7); or**

9 **(B) a voluntary dissolution pro-**
10 **ceeding;**

11 **(6) comply with any State law regard-**
12 **ing deceptive, false, or fraudulent acts or**
13 **practices, except that if the licensed**
14 **State seeks an injunction regarding the**
15 **conduct described in this paragraph,**
16 **such injunction must be obtained from a**
17 **court of competent jurisdiction as pro-**
18 **vided in section 314(a);**

19 **(7) comply with an injunction issued**
20 **by a court of competent jurisdiction,**
21 **upon a petition by the State insurance**
22 **regulator alleging that the redomesticat-**
23 **ing insurer is in hazardous financial con-**
24 **dition or is financially impaired;**

1 **(8) participate in any insurance insol-**
2 **vency guaranty association on the same**
3 **basis as any other insurer licensed in the**
4 **licensed State; and**

5 **(9) require a person acting, or offer-**
6 **ing to act, as an insurance licensee for a**
7 **redomesticated insurer in the licensed**
8 **State to obtain a license from that State,**
9 **except that such State may not impose**
10 **any qualification or requirement that dis-**
11 **criminates against a nonresident insur-**
12 **ance licensee.**

13 **SEC. 314. OTHER PROVISIONS.**

14 **(a) JUDICIAL REVIEW.—The appropriate**
15 **United States district court shall have exclu-**
16 **sive jurisdiction over litigation arising under**
17 **this section involving any redomesticating or**
18 **redomesticated insurer.**

19 **(b) SEVERABILITY.—If any provision of this**
20 **section, or the application thereof to any per-**
21 **son or circumstances, is held invalid, the re-**
22 **mainder of the section, and the application of**
23 **such provision to other persons or cir-**
24 **cumstances, shall not be affected thereby.**

1 SEC. 315. DEFINITIONS.

2 For purposes of this subtitle, the follow-
3 ing definitions shall apply:

4 (1) COURT OF COMPETENT JURISDIC-
5 TION.—The term “court of competent ju-
6 risdiction” means a court authorized pur-
7 suant to section 314(a) to adjudicate liti-
8 gation arising under this subtitle.

9 (2) DOMICILE.—The term “domicile”
10 means the State in which an insurer is
11 incorporated, chartered, or organized.

12 (3) INSURANCE LICENSEE.—The term
13 “insurance licensee” means any person
14 holding a license under State law to act
15 as insurance agent, subagent, broker, or
16 consultant.

17 (4) INSTITUTION.—The term “institu-
18 tion” means a corporation, joint stock
19 company, limited liability company, lim-
20 ited liability partnership, association,
21 trust, partnership, or any similar entity.

22 (5) LICENSED STATE.—The term “li-
23 censed State” means any State, the Dis-
24 trict of Columbia, American Samoa,
25 Guam, Puerto Rico, or the United States
26 Virgin Islands in which the redomesticat-

1 **ing insurer has a certificate of authority**
2 **in effect immediately prior to the re-**
3 **domestication.**

4 **(6) MUTUAL INSURER.—The term “mu-**
5 **tual insurer” means a mutual insurer or-**
6 **ganized under the laws of any State.**

7 **(7) PERSON.—The term “person”**
8 **means an individual, institution, govern-**
9 **ment or governmental agency, State or**
10 **political subdivision of a State, public**
11 **corporation, board, association, estate,**
12 **trustee, or fiduciary, or other similar en-**
13 **tity.**

14 **(8) POLICYHOLDER.—The term “policy-**
15 **holder” means the owner of a policy is-**
16 **sued by a mutual insurer, except that,**
17 **with respect to voting rights, the term**
18 **means a member of a mutual insurer or**
19 **mutual holding company granted the**
20 **right to vote, as determined under appli-**
21 **cable State law.**

22 **(9) REDOMESTICATED INSURER.—The**
23 **term “redomesticated insurer” means a**
24 **mutual insurer that has redomesticated**
25 **pursuant to this subtitle.**

1 **(10) REDOMESTICATING INSURER.—**The
2 **term “redomesticating insurer” means a**
3 **mutual insurer that is redomesticating**
4 **pursuant to this subtitle.**

5 **(11) REDOMESTICATION OR TRANSFER.—**
6 **The terms “redomestication” and “trans-**
7 **fer” mean the transfer of the domicile of**
8 **a mutual insurer from one State to an-**
9 **other State pursuant to this subtitle.**

10 **(12) STATE INSURANCE REGULATOR.—**
11 **The term “State insurance regulator”**
12 **means the principal insurance regulatory**
13 **authority of a State, the District of Co-**
14 **lumbia, American Samoa, Guam, Puerto**
15 **Rico, or the United States Virgin Islands.**

16 **(13) STATE LAW.—**The term “State law”
17 **means the statutes of any State, the Dis-**
18 **trict of Columbia, American Samoa,**
19 **Guam, Puerto Rico, or the United States**
20 **Virgin Islands and any regulation, order,**
21 **or requirement prescribed pursuant to**
22 **any such statute.**

23 **(14) TRANSFEREE DOMICILE.—**The term
24 **“transferee domicile” means the State to**

1 **which a mutual insurer is redomesticat-**
2 **ing pursuant to this subtitle.**

3 **(15) TRANSFEROR DOMICILE.—The term**
4 **“transferor domicile” means the State**
5 **from which a mutual insurer is redomes-**
6 **ticating pursuant to this subtitle.**

7 **SEC. 316. EFFECTIVE DATE.**

8 **This subtitle shall take effect on the date**
9 **of enactment of this Act.**

10 **Subtitle C—National Association of**
11 **Registered Agents and Brokers**

12 **SEC. 321. STATE FLEXIBILITY IN MULTISTATE LICENSING**
13 **REFORMS.**

14 **(a) IN GENERAL.—The provisions of this**
15 **subtitle shall take effect unless by the end of**
16 **the 3-year period beginning on the date of the**
17 **enactment of this Act at least a majority of the**
18 **States—**

19 **(1) have enacted uniform laws and**
20 **regulations governing the licensure of in-**
21 **dividuals and entities authorized to sell**
22 **and solicit the purchase of insurance**
23 **within the State; or**

24 **(2) have enacted reciprocity laws and**
25 **regulations governing the licensure of**

1 **nonresident individuals and entities au-**
2 **thorized to sell and solicit insurance**
3 **within those States.**

4 **(b) UNIFORMITY REQUIRED.—States shall be**
5 **deemed to have established the uniformity**
6 **necessary to satisfy subsection (a)(1) if the**
7 **States—**

8 **(1) establish uniform criteria regard-**
9 **ing the integrity, personal qualifications,**
10 **education, training, and experience of li-**
11 **icensed insurance producers, including**
12 **the qualification and training of sales**
13 **personnel in ascertaining the appro-**
14 **priateness of a particular insurance prod-**
15 **uct for a prospective customer;**

16 **(2) establish uniform continuing edu-**
17 **cation requirements for licensed insur-**
18 **ance producers;**

19 **(3) establish uniform ethics course re-**
20 **quirements for licensed insurance pro-**
21 **ducers in conjunction with the continu-**
22 **ing education requirements under para-**
23 **graph (2);**

24 **(4) establish uniform criteria to en-**
25 **sure that an insurance product, including**

1 **any annuity contract, sold to a consumer**
2 **is suitable and appropriate for the**
3 **consumer based on financial information**
4 **disclosed by the consumer; and**

5 **(5) do not impose any requirement**
6 **upon any insurance producer to be li-**
7 **censed or otherwise qualified to do busi-**
8 **ness as a nonresident that has the effect**
9 **of limiting or conditioning that produc-**
10 **er's activities because of its residence or**
11 **place of operations, except that counter-**
12 **signature requirements imposed on non-**
13 **resident producers shall not be deemed**
14 **to have the effect of limiting or condi-**
15 **tioning a producer's activities because of**
16 **its residence or place of operations under**
17 **this section.**

18 **(c) RECIPROCITY REQUIRED.—States shall**
19 **be deemed to have established the reciprocity**
20 **required to satisfy subsection (a)(2) if the fol-**
21 **lowing conditions are met:**

22 **(1) ADMINISTRATIVE LICENSING PROCE-**
23 **DURES.—At least a majority of the States**
24 **permit a producer that has a resident li-**
25 **cense for selling or soliciting the pur-**

1 **chase of insurance in its home State to**
2 **receive a license to sell or solicit the pur-**
3 **chase of insurance in such majority of**
4 **States as a nonresident to the same ex-**
5 **tent such producer is permitted to sell or**
6 **solicit the purchase of insurance in its**
7 **State, without satisfying any additional**
8 **requirements other than submitting—**

9 **(A) a request for licensure;**

10 **(B) the application for licensure**
11 **that the producer submitted to its**
12 **home State;**

13 **(C) proof that the producer is li-**
14 **censed and in good standing in its**
15 **home State; and**

16 **(D) the payment of any requisite**
17 **fee to the appropriate authority,**
18 **if the producer's home State also awards**
19 **such licenses on such a reciprocal basis.**

20 **(2) CONTINUING EDUCATION REQUIRE-**
21 **MENTS.—A majority of the States accept**
22 **an insurance producer's satisfaction of**
23 **its home State's continuing education re-**
24 **quirements for licensed insurance pro-**
25 **ducers to satisfy the States' own continu-**

1 **ing education requirements if the pro-**
2 **ducer's home State also recognizes the**
3 **satisfaction of continuing education re-**
4 **quirements on such a reciprocal basis.**

5 **(3) NO LIMITING NONRESIDENT REQUIRE-**
6 **MENTS.—A majority of the States do not**
7 **impose any requirement upon any insur-**
8 **ance producer to be licensed or other-**
9 **wise qualified to do business as a non-**
10 **resident that has the effect of limiting or**
11 **conditioning that producer's activities**
12 **because of its residence or place of oper-**
13 **ations, except that countersignature re-**
14 **quirements imposed on nonresident pro-**
15 **ducers shall not be deemed to have the**
16 **effect of limiting or conditioning a pro-**
17 **ducer's activities because of its residence**
18 **or place of operations under this section.**

19 **(4) RECIPROCAL RECIPROCITY.—Each of**
20 **the States that satisfies paragraphs (1),**
21 **(2), and (3) grants reciprocity to residents**
22 **of all of the other States that satisfy such**
23 **paragraphs.**

24 **(d) DETERMINATION.—**

1 **(1) NAIC DETERMINATION.—**At the end
2 of the 3-year period beginning on the
3 date of the enactment of this Act, the Na-
4 tional Association of Insurance Commis-
5 sioners shall determine, in consultation
6 with the insurance commissioners or
7 chief insurance regulatory officials of the
8 States, whether the uniformity or reci-
9 procity required by subsections (b) and
10 (c) has been achieved.

11 **(2) JUDICIAL REVIEW.—**The appropriate
12 United States district court shall have ex-
13 clusive jurisdiction over any challenge to
14 the National Association of Insurance
15 Commissioners' determination under this
16 section and such court shall apply the
17 standards set forth in section 706 of title
18 5, United States Code, when reviewing
19 any such challenge.

20 **(e) CONTINUED APPLICATION.—**If, at any
21 time, the uniformity or reciprocity required
22 by subsections (b) and (c) no longer exists, the
23 provisions of this subtitle shall take effect
24 within 2 years, unless the uniformity or reci-
25 procity required by those provisions is satis-

1 fied before the expiration of that 2-year pe-
2 riod.

3 (f) SAVINGS PROVISION.—No provision of
4 this section shall be construed as requiring
5 that any law, regulation, provision, or action
6 of any State which purports to regulate insur-
7 ance producers, including any such law, regu-
8 lation, provision, or action which purports to
9 regulate unfair trade practices or establish
10 consumer protections, including counter-
11 signature laws, be altered or amended in
12 order to satisfy the uniformity or reciprocity
13 required by subsections (b) and (c), unless any
14 such law, regulation, provision, or action is
15 inconsistent with a specific requirement of
16 any such subsection and then only to the ex-
17 tent of such inconsistency.

18 SEC. 322. NATIONAL ASSOCIATION OF REGISTERED
19 AGENTS AND BROKERS.

20 (a) ESTABLISHMENT.—There is established
21 the National Association of Registered Agents
22 and Brokers (hereafter in this subtitle re-
23 ferred to as the “Association”).

24 (b) STATUS.—The Association shall—

1 **(1) be a nonprofit corporation and be**
2 **presumed to have the status of an organi-**
3 **zation described in section 501(c)(6) of**
4 **the Internal Revenue Code of 1986 unless**
5 **the Secretary of the Treasury determines**
6 **that the Association does not meet the re-**
7 **quirements of such section;**

8 **(2) have succession until dissolved by**
9 **an Act of Congress;**

10 **(3) not be an agency or establishment**
11 **of the United States Government; and**

12 **(4) except as otherwise provided in**
13 **this Act, be subject to, and have all the**
14 **powers conferred upon a nonprofit cor-**
15 **poration by the District of Columbia Non-**
16 **profit Corporation Act (D.C. Code, sec.**
17 **29y-1001 et seq.).**

18 **SEC. 323. PURPOSE.**

19 **The purpose of the Association shall be to**
20 **provide a mechanism through which uniform**
21 **licensing, appointment, continuing education,**
22 **and other insurance producer sales qualifica-**
23 **tion requirements and conditions can be**
24 **adopted and applied on a multistate basis,**
25 **while preserving the right of States to license,**

1 supervise, and discipline insurance producers
2 and to prescribe and enforce laws and regula-
3 tions with regard to insurance-related
4 consumer protection and unfair trade prac-
5 tices.

6 SEC. 324. RELATIONSHIP TO THE FEDERAL GOVERNMENT.

7 The Association shall be subject to the su-
8 pervision and oversight of the National Asso-
9 ciation of Insurance Commissioners (here-
10 after in this subtitle referred to as the
11 “NAIC”) and shall not be an agency or an in-
12 strumentality of the United States Govern-
13 ment.

14 SEC. 325. MEMBERSHIP.

15 (a) ELIGIBILITY.—

16 (1) IN GENERAL.—Any State-licensed
17 insurance producer shall be eligible to
18 become a member in the Association.

19 (2) INELIGIBILITY FOR SUSPENSION OR
20 REVOCATION OF LICENSE.—Notwithstanding
21 paragraph (1), a State-licensed insurance
22 producer shall not be eligible to become
23 a member if a State insurance regulator
24 has suspended or revoked such produc-
25 er’s license in that State during the 3-

1 year preceding the date such producer
2 applies for membership.

3 **(3) RESUMPTION OF ELIGIBILITY.—**Para-
4 **graph (2) shall cease to apply to any in-**
5 **surance producer if—**

6 **(A) the State insurance regulator**
7 **renews the license of such producer**
8 **in the State in which the license was**
9 **suspended or revoked; or**

10 **(B) the suspension or revocation**
11 **is subsequently overturned.**

12 **(b) AUTHORITY TO ESTABLISH MEMBERSHIP**
13 **CRITERIA.—**The Association shall have the au-
14 **thority to establish membership criteria**
15 **that—**

16 **(1) bear a reasonable relationship to**
17 **the purposes for which the Association**
18 **was established; and**

19 **(2) do not unfairly limit the access of**
20 **smaller agencies to the Association mem-**
21 **bership.**

22 **(c) ESTABLISHMENT OF CLASSES AND CAT-**
23 **EGORIES.—**

24 **(1) CLASSES OF MEMBERSHIP.—**The As-
25 **sociation may establish separate classes**

1 of membership, with separate criteria, if
2 the Association reasonably determines
3 that performance of different duties re-
4 quires different levels of education, train-
5 ing, or experience.

6 (2) CATEGORIES.—The Association may
7 establish separate categories of member-
8 ship for individuals and for other per-
9 sons. The establishment of any such cat-
10 egories of membership shall be based ei-
11 ther on the types of licensing categories
12 that exist under State laws or on the ag-
13 gregate amount of business handled by
14 an insurance producer. No special cat-
15 egories of membership, and no distinct
16 membership criteria, shall be established
17 for members which are insured deposi-
18 tory institutions or wholesale financial
19 institutions or for their employees,
20 agents, or affiliates.

21 (d) MEMBERSHIP CRITERIA.—

22 (1) IN GENERAL.—The Association may
23 establish criteria for membership which
24 shall include standards for integrity, per-

1 sonal qualifications, education, training,
2 and experience.

3 **(2) MINIMUM STANDARD.—**In establish-
4 ing criteria under paragraph (1), the As-
5 sociation shall consider the highest levels
6 of insurance producer qualifications es-
7 tablished under the licensing laws of the
8 States.

9 **(e) EFFECT OF MEMBERSHIP.—**Membership
10 in the Association shall entitle the member to
11 licensure in each State for which the member
12 pays the requisite fees, including licensing
13 fees and, where applicable, bonding require-
14 ments, set by such State.

15 **(f) ANNUAL RENEWAL.—**Membership in the
16 Association shall be renewed on an annual
17 basis.

18 **(g) CONTINUING EDUCATION.—**The Associa-
19 tion shall establish, as a condition of member-
20 ship, continuing education requirements
21 which shall be comparable to or greater than
22 the continuing education requirements under
23 the licensing laws of a majority of the States.

24 **(h) SUSPENSION AND REVOCATION.—**The As-
25 sociation may—

1 **(1) inspect and examine the records**
2 **and offices of the members of the Asso-**
3 **ciation to determine compliance with the**
4 **criteria for membership established by**
5 **the Association; and**

6 **(2) suspend or revoke the member-**
7 **ship of an insurance producer if—**

8 **(A) the producer fails to meet the**
9 **applicable membership criteria of the**
10 **Association; or**

11 **(B) the producer has been subject**
12 **to disciplinary action pursuant to a**
13 **final adjudicatory proceeding under**
14 **the jurisdiction of a State insurance**
15 **regulator, and the Association con-**
16 **cludes that retention of membership**
17 **in the Association would not be in the**
18 **public interest.**

19 **(i) OFFICE OF CONSUMER COMPLAINTS.—**

20 **(1) IN GENERAL.—The Association shall**
21 **establish an office of consumer com-**
22 **plaints that shall—**

23 **(A) receive and investigate com-**
24 **plaints from both consumers and**

1 **State insurance regulators related to**
2 **members of the Association; and**

3 **(B) recommend to the Association**
4 **any disciplinary actions that the of-**
5 **vice considers appropriate, to the ex-**
6 **tent that any such recommendation is**
7 **not inconsistent with State law.**

8 **(2) RECORDS AND REFERRALS.—The of-**
9 **vice of consumer complaints of the Asso-**
10 **ciation shall—**

11 **(A) maintain records of all com-**
12 **plaints received in accordance with**
13 **paragraph (1) and make such records**
14 **available to the NAIC and to each**
15 **State insurance regulator for the**
16 **State of residence of the consumer**
17 **who filed the complaint; and**

18 **(B) refer, when appropriate, any**
19 **such complaint to any appropriate**
20 **State insurance regulator.**

21 **(3) TELEPHONE AND OTHER ACCESS.—**
22 **The office of consumer complaints shall**
23 **maintain a toll-free telephone number for**
24 **the purpose of this subsection and, as**
25 **practicable, other alternative means of**

1 **communication with consumers, such as**
2 **an Internet home page.**

3 **SEC. 326. BOARD OF DIRECTORS.**

4 **(a) ESTABLISHMENT.—There is established**
5 **the board of directors of the Association**
6 **(hereafter in this subtitle referred to as the**
7 **“Board”) for the purpose of governing and su-**
8 **pervising the activities of the Association and**
9 **the members of the Association.**

10 **(b) POWERS.—The Board shall have such**
11 **powers and authority as may be specified in**
12 **the bylaws of the Association.**

13 **(c) COMPOSITION.—**

14 **(1) MEMBERS.—The Board shall be**
15 **composed of 7 members appointed by the**
16 **NAIC.**

17 **(2) REQUIREMENT.—At least 4 of the**
18 **members of the Board shall have signifi-**
19 **cant experience with the regulation of**
20 **commercial lines of insurance in at least**
21 **1 of the 20 States in which the greatest**
22 **total dollar amount of commercial-lines**
23 **insurance is placed in the United States.**

24 **(3) INITIAL BOARD MEMBERSHIP.—**

1 **(A) IN GENERAL.—**If, by the end of
2 the 2-year period beginning on the
3 date of the enactment of this Act, the
4 NAIC has not appointed the initial 7
5 members of the Board of the Associa-
6 tion, the initial Board shall consist of
7 the 7 State insurance regulators of
8 the 7 States with the greatest total
9 dollar amount of commercial-lines in-
10 surance in place as of the end of such
11 period.

12 **(B) ALTERNATE COMPOSITION.—**If
13 any of the State insurance regulators
14 described in subparagraph (A) de-
15 clines to serve on the Board, the State
16 insurance regulator with the next
17 greatest total dollar amount of com-
18 mercial-lines insurance in place, as
19 determined by the NAIC as of the end
20 of such period, shall serve as a mem-
21 ber of the Board.

22 **(C) INOPERABILITY.—**If fewer than
23 7 State insurance regulators accept
24 appointment to the Board, the Asso-
25 ciation shall be established without

1 **NAIC oversight pursuant to section**
2 **332.**

3 **(d) TERMS.—The term of each director**
4 **shall, after the initial appointment of the**
5 **members of the Board, be for 3 years, with $\frac{1}{3}$**
6 **of the directors to be appointed each year.**

7 **(e) BOARD VACANCIES.—A vacancy on the**
8 **Board shall be filled in the same manner as**
9 **the original appointment of the initial Board**
10 **for the remainder of the term of the vacating**
11 **member.**

12 **(f) MEETINGS.—The Board shall meet at**
13 **the call of the chairperson, or as otherwise**
14 **provided by the bylaws of the Association.**

15 **SEC. 327. OFFICERS.**

16 **(a) IN GENERAL.—**

17 **(1) POSITIONS.—The officers of the As-**
18 **sociation shall consist of a chairperson**
19 **and a vice chairperson of the Board, a**
20 **president, secretary, and treasurer of the**
21 **Association, and such other officers and**
22 **assistant officers as may be deemed nec-**
23 **essary.**

24 **(2) MANNER OF SELECTION.—Each offi-**
25 **cer of the Board and the Association shall**

1 **be elected or appointed at such time and**
2 **in such manner and for such terms not**
3 **exceeding 3 years as may be prescribed**
4 **in the bylaws of the Association.**

5 **(b) CRITERIA FOR CHAIRPERSON.—Only in-**
6 **dividuals who are members of the National**
7 **Association of Insurance Commissioners shall**
8 **be eligible to serve as the chairperson of the**
9 **board of directors.**

10 **SEC. 328. BYLAWS, RULES, AND DISCIPLINARY ACTION.**

11 **(a) ADOPTION AND AMENDMENT OF BY-**
12 **LAWS.—**

13 **(1) COPY REQUIRED TO BE FILED WITH**
14 **THE NAIC.—The board of directors of the**
15 **Association shall file with the NAIC a**
16 **copy of the proposed bylaws or any pro-**
17 **posed amendment to the bylaws, accom-**
18 **panied by a concise general statement of**
19 **the basis and purpose of such proposal.**

20 **(2) EFFECTIVE DATE.—Except as pro-**
21 **vided in paragraph (3), any proposed**
22 **bylaw or proposed amendment shall take**
23 **effect—**

24 **(A) 30 days after the date of the**
25 **filing of a copy with the NAIC;**

1 **(B) upon such later date as the**
2 **Association may designate; or**

3 **(C) such earlier date as the NAIC**
4 **may determine.**

5 **(3) DISAPPROVAL BY THE NAIC.—Not-**
6 **withstanding paragraph (2), a proposed**
7 **bylaw or amendment shall not take effect**
8 **if, after public notice and opportunity to**
9 **participate in a public hearing—**

10 **(A) the NAIC disapproves such**
11 **proposal as being contrary to the**
12 **public interest or contrary to the pur-**
13 **poses of this subtitle and provides no-**
14 **tice to the Association setting forth**
15 **the reasons for such disapproval; or**

16 **(B) the NAIC finds that such pro-**
17 **posal involves a matter of such sig-**
18 **nificant public interest that public**
19 **comment should be obtained, in**
20 **which case it may, after notifying the**
21 **Association in writing of such find-**
22 **ing, require that the procedures set**
23 **forth in subsection (b) be followed**
24 **with respect to such proposal, in the**
25 **same manner as if such proposed**

1 bylaw change were a proposed rule
2 change within the meaning of such
3 paragraph.

4 **(b) ADOPTION AND AMENDMENT OF RULES.—**

5 **(1) FILING PROPOSED REGULATIONS**
6 **WITH THE NAIC.—**

7 **(A) IN GENERAL.—**The board of di-
8 rectors of the Association shall file
9 with the NAIC a copy of any proposed
10 rule or any proposed amendment to a
11 rule of the Association which shall be
12 accompanied by a concise general
13 statement of the basis and purpose of
14 such proposal.

15 **(B) OTHER RULES AND AMENDMENTS**
16 **INEFFECTIVE.—**No proposed rule or
17 amendment shall take effect unless
18 approved by the NAIC or otherwise
19 permitted in accordance with this
20 paragraph.

21 **(2) INITIAL CONSIDERATION BY THE**
22 **NAIC.—**Within 35 days after the date of
23 publication of notice of filing of a pro-
24 posal, or before the end of such longer
25 period not to exceed 90 days as the NAIC

1 **may designate after such date if the NAIC**
2 **finds such longer period to be appro-**
3 **priate and sets forth its reasons for so**
4 **finding, or as to which the Association**
5 **consents, the NAIC shall—**

6 **(A) by order approve such pro-**
7 **posed rule or amendment; or**

8 **(B) institute proceedings to deter-**
9 **mine whether such proposed rule or**
10 **amendment should be modified or**
11 **disapproved.**

12 **(3) NAIC PROCEEDINGS.—**

13 **(A) IN GENERAL.—Proceedings in-**
14 **stituted by the NAIC with respect to**
15 **a proposed rule or amendment pursu-**
16 **ant to paragraph (2) shall—**

17 **(i) include notice of the**
18 **grounds for disapproval under**
19 **consideration;**

20 **(ii) provide opportunity for**
21 **hearing; and**

22 **(iii) be concluded within 180**
23 **days after the date of the Associa-**
24 **tion's filing of such proposed rule**
25 **or amendment.**

1 **(B) DISPOSITION OF PROPOSAL.—**At
2 the conclusion of any proceeding
3 under subparagraph (A), the NAIC
4 shall, by order, approve or dis-
5 approve the proposed rule or amend-
6 ment.

7 **(C) EXTENSION OF TIME FOR CONSID-**
8 **ERATION.—**The NAIC may extend the
9 time for concluding any proceeding
10 under subparagraph (A) for—

11 (i) not more than 60 days if
12 the NAIC finds good cause for
13 such extension and sets forth its
14 reasons for so finding; or

15 (ii) for such longer period as
16 to which the Association con-
17 sents.

18 **(4) STANDARDS FOR REVIEW.—**

19 **(A) GROUNDS FOR APPROVAL.—**The
20 NAIC shall approve a proposed rule
21 or amendment if the NAIC finds that
22 the rule or amendment is in the pub-
23 lic interest and is consistent with the
24 purposes of this Act.

1 **(B) APPROVAL BEFORE END OF NO-**
2 **TICE PERIOD.—**The NAIC shall not ap-
3 **prove any proposed rule before the**
4 **end of the 30-day period beginning on**
5 **the date the Association files pro-**
6 **posed rules or amendments in accord-**
7 **ance with paragraph (1) unless the**
8 **NAIC finds good cause for so doing**
9 **and sets forth the reasons for so find-**
10 **ing.**

11 **(5) ALTERNATE PROCEDURE.—**

12 **(A) IN GENERAL.—**Notwithstanding
13 **any provision of this subsection other**
14 **than subparagraph (B), a proposed**
15 **rule or amendment relating to the ad-**
16 **ministration or organization of the**
17 **Association may take effect—**

18 **(i) upon the date of filing with**
19 **the NAIC, if such proposed rule**
20 **or amendment is designated by**
21 **the Association as relating solely**
22 **to matters which the NAIC, con-**
23 **sistent with the public interest**
24 **and the purposes of this sub-**
25 **section, determines by rule do not**

1 **require the procedures set forth**
2 **in this paragraph; or**

3 **(ii) upon such date as the**
4 **NAIC shall for good cause deter-**
5 **mine.**

6 **(B) ABRIGATION BY THE NAIC.—**

7 **(i) IN GENERAL.—At any time**
8 **within 60 days after the date of**
9 **filing of any proposed rule or**
10 **amendment under subparagraph**
11 **(A)(i) or (B)(ii), the NAIC may re-**
12 **peal such rule or amendment and**
13 **require that the rule or amend-**
14 **ment be refiled and reviewed in**
15 **accordance with this paragraph,**
16 **if the NAIC finds that such action**
17 **is necessary or appropriate in the**
18 **public interest, for the protection**
19 **of insurance producers or policy-**
20 **holders, or otherwise in further-**
21 **ance of the purposes of this sub-**
22 **title.**

23 **(ii) EFFECT OF RECONSIDER-**
24 **ATION BY THE NAIC.—Any action of**

1 the NAIC pursuant to clause (i)
2 shall—

3 (I) not affect the validity
4 or force of a rule change dur-
5 ing the period such rule or
6 amendment was in effect; and

7 (II) not be considered to
8 be final action.

9 (c) **ACTION REQUIRED BY THE NAIC.**—The
10 NAIC may, in accordance with such rules as
11 the NAIC determines to be necessary or ap-
12 propriate to the public interest or to carry out
13 the purposes of this subtitle, require the Asso-
14 ciation to adopt, amend, or repeal any bylaw,
15 rule or amendment of the Association, when-
16 ever adopted.

17 (d) **DISCIPLINARY ACTION BY THE ASSOCIA-**
18 **TION.**—

19 (1) **SPECIFICATION OF CHARGES.**—In any
20 proceeding to determine whether mem-
21 bership shall be denied, suspended, re-
22 voked, and not renewed (hereafter in this
23 section referred to as a “disciplinary ac-
24 tion”), the Association shall bring specific
25 charges, notify such member of such

1 charges and give the member an oppor-
2 tunity to defend against the charges, and
3 keep a record.

4 (2) SUPPORTING STATEMENT.—A deter-
5 mination to take disciplinary action shall
6 be supported by a statement setting
7 forth—

8 (A) any act or practice in which
9 such member has been found to have
10 been engaged;

11 (B) the specific provision of this
12 subtitle, the rules or regulations
13 under this subtitle, or the rules of the
14 Association which any such act or
15 practice is deemed to violate; and

16 (C) the sanction imposed and the
17 reason for such sanction.

18 (e) NAIC REVIEW OF DISCIPLINARY AC-
19 TION.—

20 (1) NOTICE TO THE NAIC.—If the Asso-
21 ciation orders any disciplinary action,
22 the Association shall promptly notify the
23 NAIC of such action.

1 **(2) REVIEW BY THE NAIC.—Any discipli-**
2 **nary action taken by the Association**
3 **shall be subject to review by the NAIC—**

4 **(A) on the NAIC’s own motion; or**

5 **(B) upon application by any per-**
6 **son aggrieved by such action if such**
7 **application is filed with the NAIC not**
8 **more than 30 days after the later of—**

9 **(i) the date the notice was**
10 **filed with the NAIC pursuant to**
11 **paragraph (1); or**

12 **(ii) the date the notice of the**
13 **disciplinary action was received**
14 **by such aggrieved person.**

15 **(f) EFFECT OF REVIEW.—The filing of an ap-**
16 **plication to the NAIC for review of a discipli-**
17 **nary action, or the institution of review by**
18 **the NAIC on the NAIC’s own motion, shall not**
19 **operate as a stay of disciplinary action unless**
20 **the NAIC otherwise orders.**

21 **(g) SCOPE OF REVIEW.—**

22 **(A) IN GENERAL.—In any proceed-**
23 **ing to review such action, after notice**
24 **and the opportunity for hearing, the**
25 **NAIC shall—**

1 **(i) determine whether the ac-**
2 **tion should be taken;**

3 **(ii) affirm, modify, or rescind**
4 **the disciplinary sanction; or**

5 **(iii) remand to the Association**
6 **for further proceedings.**

7 **(B) DISMISSAL OF REVIEW.—The**
8 **NAIC may dismiss a proceeding to re-**
9 **view disciplinary action if the NAIC**
10 **finds that—**

11 **(i) the specific grounds on**
12 **which the action is based exist in**
13 **fact;**

14 **(ii) the action is in accordance**
15 **with applicable rules and regula-**
16 **tions; and**

17 **(iii) such rules and regula-**
18 **tions are, and were, applied in a**
19 **manner consistent with the pur-**
20 **poses of this Act.**

21 **SEC. 329. ASSESSMENTS.**

22 **(a) INSURANCE PRODUCERS SUBJECT TO AS-**
23 **SESSMENT.—The Association may establish**
24 **such application and membership fees as the**
25 **Association finds necessary to cover the costs**

1 of its operations, including fees made reim-
2 bursable to the NAIC under subsection (b), ex-
3 cept that, in setting such fees, the Association
4 may not discriminate against smaller insur-
5 ance producers.

6 (b) NAIC ASSESSMENTS.—The NAIC may as-
7 sess the Association for any costs it incurs
8 under this subtitle.

9 SEC. 330. FUNCTIONS OF THE NAIC.

10 (a) ADMINISTRATIVE PROCEDURE.—Deter-
11 minations of the NAIC, for purposes of mak-
12 ing rules pursuant to section 328, shall be
13 made after appropriate notice and oppor-
14 tunity for a hearing and for submission of
15 views of interested persons.

16 (b) EXAMINATIONS AND REPORTS.—

17 (1) The NAIC may make such exami-
18 nations and inspections of the Associa-
19 tion and require the Association to fur-
20 nish it with such reports and records or
21 copies thereof as the NAIC may consider
22 necessary or appropriate in the public in-
23 terest or to effectuate the purposes of
24 this subtitle.

1 **(2) As soon as practicable after the**
2 **close of each fiscal year, the Association**
3 **shall submit to the NAIC a written report**
4 **regarding the conduct of its business,**
5 **and the exercise of the other rights and**
6 **powers granted by this subtitle, during**
7 **such fiscal year. Such report shall in-**
8 **clude financial statements setting forth**
9 **the financial position of the Association**
10 **at the end of such fiscal year and the re-**
11 **sults of its operations (including the**
12 **source and application of its funds) for**
13 **such fiscal year. The NAIC shall transmit**
14 **such report to the President and the Con-**
15 **gress with such comment thereon as the**
16 **NAIC determines to be appropriate.**

17 **SEC. 331. LIABILITY OF THE ASSOCIATION AND THE DIREC-**
18 **TORS, OFFICERS, AND EMPLOYEES OF THE**
19 **ASSOCIATION.**

20 **(a) IN GENERAL.—The Association shall not**
21 **be deemed to be an insurer or insurance pro-**
22 **ducer within the meaning of any State law,**
23 **rule, regulation, or order regulating or taxing**
24 **insurers, insurance producers, or other enti-**
25 **ties engaged in the business of insurance, in-**

1 **cluding provisions imposing premium taxes,**
2 **regulating insurer solvency or financial con-**
3 **dition, establishing guaranty funds and levy-**
4 **ing assessments, or requiring claims settle-**
5 **ment practices.**

6 **(b) LIABILITY OF THE ASSOCIATION, ITS DI-**
7 **RECTORS, OFFICERS, AND EMPLOYEES.—Neither**
8 **the Association nor any of its directors, offi-**
9 **cers, or employees shall have any liability to**
10 **any person for any action taken or omitted in**
11 **good faith under or in connection with any**
12 **matter subject to this subtitle.**

13 **SEC. 332. ELIMINATION OF NAIC OVERSIGHT.**

14 **(a) IN GENERAL.—The Association shall be**
15 **established without NAIC oversight and the**
16 **provisions set forth in section 324, sub-**
17 **sections (a), (b), (c), and (e) of section 328, and**
18 **sections 329(b) and 330 of this subtitle shall**
19 **cease to be effective if, at the end of the 2-year**
20 **period after the date on which the provisions**
21 **of this subtitle take effect pursuant to section**
22 **321—**

23 **(1) at least a majority of the States**
24 **representing at least 50 percent of the**
25 **total United States commercial-lines in-**

1 **insurance premiums have not satisfied the**
2 **uniformity or reciprocity requirements of**
3 **subsections (a) and (b) of section 321; and**

4 **(2) the NAIC has not approved the As-**
5 **sociation's bylaws as required by section**
6 **328, the NAIC is unable to operate or su-**
7 **pervise the Association, or the Associa-**
8 **tion is not conducting its activities as re-**
9 **quired under this Act.**

10 **(b) BOARD APPOINTMENTS.—If the repeals**
11 **required by subsection (a) are implemented—**

12 **(1) GENERAL APPOINTMENT POWER.—**
13 **The President, with the advice and con-**
14 **sent of the United States Senate, shall ap-**
15 **point the members of the Association's**
16 **Board established under section 326 from**
17 **lists of candidates recommended to the**
18 **President by the National Association of**
19 **Insurance Commissioners.**

20 **(2) PROCEDURES FOR OBTAINING NA-**
21 **TIONAL ASSOCIATION OF INSURANCE COMMIS-**
22 **SIONERS APPOINTMENT RECOMMENDA-**
23 **TIONS.—**

24 **(A) INITIAL DETERMINATION AND**
25 **RECOMMENDATIONS.—After the date on**

1 **which the provisions of part a of this**
2 **section take effect, then the National**
3 **Association of Insurance Commis-**
4 **sioners shall have 60 days to provide**
5 **a list of recommended candidates to**
6 **the President. If the National Associa-**
7 **tion of Insurance Commissioners fails**
8 **to provide a list by that date, or if**
9 **any list that is provided does not in-**
10 **clude at least 14 recommended can-**
11 **didates or comply with the require-**
12 **ments of section 326(c), the President**
13 **shall, with the advice and consent of**
14 **the United States Senate, make the**
15 **requisite appointments without con-**
16 **sidering the views of the NAIC.**

17 **(B) SUBSEQUENT APPOINTMENTS.—**

18 **After the initial appointments, the**
19 **National Association of Insurance**
20 **Commissioners shall provide a list of**
21 **at least 6 recommended candidates**
22 **for the Board to the President by**
23 **January 15 of each subsequent year.**
24 **If the National Association of Insur-**
25 **ance Commissioners fails to provide a**

1 list by that date, or if any list that is
2 provided does not include at least 6
3 recommended candidates or comply
4 with the requirements of section
5 326(c), the President, with the advice
6 and consent of the Senate, shall make
7 the requisite appointments without
8 considering the views of the NAIC.

9 (C) PRESIDENTIAL OVERSIGHT.—

10 (i) REMOVAL.—If the President
11 determines that the Association is
12 not acting in the interests of the
13 public, the President may remove
14 the entire existing Board for the
15 remainder of the term to which
16 the members of the Board were
17 appointed and appoint, with the
18 advice and consent of the Senate,
19 new members to fill the vacancies
20 on the Board for the remainder of
21 such terms.

22 (ii) SUSPENSION OF RULES OR
23 ACTIONS.—The President, or a per-
24 son designated by the President
25 for such purpose, may suspend

1 the effectiveness of any rule, or
2 prohibit any action, of the Asso-
3 ciation which the President or
4 the designee determines is con-
5 trary to the public interest.

6 **(d) ANNUAL REPORT.**—As soon as prac-
7 ticable after the close of each fiscal year, the
8 Association shall submit to the President and
9 to Congress a written report relative to the
10 conduct of its business, and the exercise of
11 the other rights and powers granted by this
12 subtitle, during such fiscal year. Such report
13 shall include financial statements setting
14 forth the financial position of the Association
15 at the end of such fiscal year and the results
16 of its operations (including the source and ap-
17 plication of its funds) for such fiscal year.

18 **SEC. 333. RELATIONSHIP TO STATE LAW.**

19 **(a) PREEMPTION OF STATE LAWS.**—State
20 laws, regulations, provisions, or actions pur-
21 porting to regulate insurance producers shall
22 be preempted in the following instances:

23 **(1) No State shall impede the activi-**
24 **ties of, take any action against, or apply**
25 **any provision of law or regulation to, any**

1 insurance producer because that insur-
2 ance producer or any affiliate plans to
3 become, has applied to become, or is a
4 member of the Association.

5 (2) No State shall impose any require-
6 ment upon a member of the Association
7 that it pay different fees to be licensed or
8 otherwise qualified to do business in that
9 State, including bonding requirements,
10 based on its residency.

11 (3) No State shall impose any licens-
12 ing, appointment, integrity, personal or
13 corporate qualifications, education, train-
14 ing, experience, residency, or continuing
15 education requirement upon a member of
16 the Association that is different than the
17 criteria for membership in the Associa-
18 tion or renewal of such membership, ex-
19 cept that counter-signature requirements
20 imposed on nonresident producers shall
21 not be deemed to have the effect of limit-
22 ing or conditioning a producer's activi-
23 ties because of its residence or place of
24 operations under this section.

1 **(4) No State shall implement the pro-**
2 **cedures of such State's system of licens-**
3 **ing or renewing the licenses of insurance**
4 **producers in a manner different from the**
5 **authority of the Association under sec-**
6 **tion 325.**

7 **(b) SAVINGS PROVISION.—Except as pro-**
8 **vided in subsection (a), no provision of this**
9 **section shall be construed as altering or af-**
10 **fecting the continuing effectiveness of any**
11 **law, regulation, provision, or action of any**
12 **State which purports to regulate insurance**
13 **producers, including any such law, regula-**
14 **tion, provision, or action which purports to**
15 **regulate unfair trade practices or establish**
16 **consumer protections, including, but not lim-**
17 **ited to, countersignature laws.**

18 **SEC. 334. COORDINATION WITH OTHER REGULATORS.**

19 **(a) COORDINATION WITH STATE INSURANCE**
20 **REGULATORS.—The Association shall have the**
21 **authority to—**

22 **(1) issue uniform insurance producer**
23 **applications and renewal applications**
24 **that may be used to apply for the issu-**
25 **ance or removal of State licenses, while**

1 **preserving the ability of each State to im-**
2 **pose such conditions on the issuance or**
3 **renewal of a license as are consistent**
4 **with section 333;**

5 **(2) establish a central clearinghouse**
6 **through which members of the Associa-**
7 **tion may apply for the issuance or re-**
8 **newal of licenses in multiple States; and**

9 **(3) establish or utilize a national**
10 **database for the collection of regulatory**
11 **information concerning the activities of**
12 **insurance producers.**

13 **(b) COORDINATION WITH THE NATIONAL AS-**
14 **SOCIATION OF SECURITIES DEALERS.—The Asso-**
15 **ciation shall coordinate with the National As-**
16 **sociation of Securities Dealers in order to**
17 **ease any administrative burdens that fall on**
18 **persons that are members of both associa-**
19 **tions, consistent with the purposes of this**
20 **subtitle and the Federal securities laws.**

21 **SEC. 335. JUDICIAL REVIEW.**

22 **(a) JURISDICTION.—The appropriate Unit-**
23 **ed States district court shall have exclusive**
24 **jurisdiction over litigation involving the Asso-**
25 **ciation, including disputes between the Asso-**

1 ciation and its members that arise under this
2 subtitle. Suits brought in State court involv-
3 ing the Association shall be deemed to have
4 arisen under Federal law and therefore be
5 subject to jurisdiction in the appropriate
6 United States district court.

7 (b) EXHAUSTION OF REMEDIES.—An ag-
8 grieved person must exhaust all available ad-
9 ministrative remedies before the Association
10 and the NAIC before it may seek judicial re-
11 view of an Association decision.

12 (c) STANDARDS OF REVIEW.—The standards
13 set forth in section 553 of title 5, United States
14 Code, shall be applied whenever a rule or
15 bylaw of the Association is under judicial re-
16 view, and the standards set forth in section
17 554 of title 5, United States Code, shall be ap-
18 plied whenever a disciplinary action of the
19 Association is judicially reviewed.

20 SEC. 336. DEFINITIONS.

21 For purposes of this subtitle, the follow-
22 ing definitions shall apply:

23 (1) INSURANCE.—The term “insurance”
24 means any product defined or regulated

1 as insurance by the appropriate State in-
2 surance regulatory authority.

3 (2) **INSURANCE PRODUCER.**—The term
4 “insurance producer” means any insur-
5 ance agent or broker, surplus lines
6 broker, insurance consultant, limited in-
7 surance representative, and any other
8 person that solicits, negotiates, effects,
9 procures, delivers, renews, continues or
10 binds policies of insurance or offers ad-
11 vice, counsel, opinions or services related
12 to insurance.

13 (3) **STATE LAW.**—The term “State law”
14 includes all laws, decisions, rules, regula-
15 tions, or other State action having the ef-
16 fect of law, of any State. A law of the
17 United States applicable only to the Dis-
18 trict of Columbia shall be treated as a
19 State law rather than a law of the United
20 States.

21 (4) **STATE.**—The term “State” includes
22 any State, the District of Columbia, Amer-
23 ican Samoa, Guam, Puerto Rico, and the
24 United States Virgin Islands.

1 **(5) HOME STATE.**—The term “home
2 **State”** means the State in which the in-
3 **surance producer maintains its principal**
4 **place of residence and is licensed to act**
5 **as an insurance producer.**

6 **TITLE IV—MERGER OF BANK**
7 **AND THRIFT CHARTERS, REG-**
8 **ULATORS, AND INSURANCE**
9 **FUNDS**

10 **SEC. 401. SHORT TITLE; DEFINITIONS.**

11 **(a) SHORT TITLE.**—This title may be cited
12 **as the “Thrift Charter Transition Act of 1997”.**

13 **(b) DEFINITIONS.**—Unless otherwise de-
14 **finied in this title, the terms “bank holding**
15 **company”, “depository institution”, “Federal**
16 **savings association”, “insured depository in-**
17 **stitution”, “savings association”, “State bank”,**
18 **and “State savings association” have the same**
19 **meanings as in section 3 of the Federal De-**
20 **posit Insurance Act, as in effect on the day be-**
21 **fore the date of enactment of this Act.**

1 **Subtitle A—Facilitating Conversion**
2 **of Savings Associations to Banks**

3 **SEC. 411. CONVERSION TO STATE OR NATIONAL BANKS.**

4 **(a) AUTOMATIC CONVERSION OF FEDERAL**
5 **SAVINGS ASSOCIATIONS TO NATIONAL BANKS.—**

6 **(1) IN GENERAL.—Effective 2 years**
7 **after the date of enactment of this Act,**
8 **each Federal savings association then in**
9 **existence shall be converted to a national**
10 **bank by operation of law.**

11 **(2) PRESERVATION OF RIGHTS, POWERS,**
12 **AND PRIVILEGES.—Unless otherwise pro-**
13 **vided in this Act, a Federal savings asso-**
14 **ciation that is converted to a State bank**
15 **or a national bank under this section**
16 **shall continue to have all of the rights,**
17 **powers, privileges, and immunities that**
18 **such bank had as a Federal savings asso-**
19 **ciation on the day before the date of the**
20 **conversion to a bank.**

21 **(3) RETENTION OF “FEDERAL” IN NAME**
22 **OF CONVERTED FEDERAL SAVINGS ASSOCIA-**
23 **TION.—Section 2 of the Act entitled “An**
24 **Act to enable national banking associa-**
25 **tions to increase their capital stock and**

1 to change their names or locations.” and
2 approved May 1, 1886 (12 U.S.C. 30) is
3 amended by adding at the end the follow-
4 ing new subsection:

5 “(d) RETENTION OF ‘FEDERAL’ IN NAME OF
6 CONVERTED FEDERAL SAVINGS ASSOCIATION.—

7 “(1) IN GENERAL.—Notwithstanding
8 subsection (a) or any other provision of
9 law, any depository institution the char-
10 ter of which is converted from that of a
11 Federal savings association to a national
12 bank or a State bank after the date of the
13 enactment of the Financial Services Act
14 of 1997 may retain the term ‘Federal’ in
15 the name of such institution so long as
16 such depository institution remains an
17 insured depository institution.

18 “(2) DEFINITIONS.—For purposes of
19 this subsection, the terms ‘depository in-
20 stitution’, ‘insured depository institution’,
21 ‘national bank’, and ‘State bank’ have the
22 same meanings given to such terms in
23 section 3 of the Federal Deposit Insur-
24 ance Act.”.

1 **(b) EARLIER CONVERSIONS TO NATIONAL**
2 **BANK.—The following paragraphs shall apply**
3 **during the 22-month period beginning 60 days**
4 **after the date of enactment of this Act:**

5 **(1) ACCELERATED CONVERSION OF FED-**
6 **ERAL SAVINGS ASSOCIATIONS.—Any Federal**
7 **savings association may file with the**
8 **Comptroller of the Currency a notice of**
9 **its election to accelerate its conversion to**
10 **a national bank to a specified date that is**
11 **not earlier than 30 days after the date on**
12 **which the notice is filed, and the associa-**
13 **tion shall be converted to a national bank**
14 **on the date specified in the notice.**

15 **(2) STREAMLINED CONVERSION OF STATE**
16 **SAVINGS ASSOCIATIONS.—Any State savings**
17 **association may (to the extent consistent**
18 **with State law) convert to a national**
19 **bank by filing with the Comptroller of**
20 **the Currency a notice of its election to**
21 **convert on a specified date that is not**
22 **earlier than 30 days after the date on**
23 **which the notice is filed, and the associa-**
24 **tion shall be converted to a national bank**
25 **on the date specified in the notice.**

1 **(c) CONVERSION TO MUTUAL NATIONAL**
2 **BANK.—A savings association that is operating**
3 **in mutual form on the date it is converted to**
4 **a national bank under this section shall be**
5 **converted to a mutual national bank as de-**
6 **fined in section 5133A of the Revised Statutes**
7 **of the United States.**

8 **(d) OTHER AUTHORITY NOT AFFECTED.—The**
9 **authority to convert to a national bank under**
10 **this section shall be in addition to any other**
11 **authority of a savings association to convert**
12 **to a national bank, State bank, or State sav-**
13 **ings association.**

14 **(e) EFFECTIVE DATE.—This section shall**
15 **take effect 60 days after the date of enactment**
16 **of this Act.**

17 **SEC. 412. MUTUAL NATIONAL BANKS AND FEDERAL MU-**
18 **TUAL BANK HOLDING COMPANIES AUTHOR-**
19 **IZED.**

20 **(a) IN GENERAL.—Chapter one of title LXII**
21 **of the Revised Statutes of the United States**
22 **(12 U.S.C. 21 et seq.) is amended by inserting**
23 **after section 5133 the following new sections:**

1 **“SEC. 5133A. MUTUAL NATIONAL BANKS.**

2 **“(a) IN GENERAL.—The Comptroller of the**
3 **Currency may charter national banking asso-**
4 **ciations as mutual national banks, either de**
5 **novo or through the conversion of an insured**
6 **depository institution, in accordance with**
7 **this section and such regulations as the**
8 **Comptroller may prescribe.**

9 **“(b) APPLICABLE LAW.—Unless otherwise**
10 **provided by this section or by the Comptrol-**
11 **ler of the Currency because of the mutual**
12 **form of the institution, a mutual national**
13 **bank—**

14 **“(1) shall be subject to the same laws,**
15 **requirements, duties, and obligations**
16 **that apply to a national banking associa-**
17 **tion operating in stock form;**

18 **“(2) shall have the same powers and**
19 **privileges as, and may engage in the**
20 **same activities subject to the same re-**
21 **strictions and limitations that apply to, a**
22 **national banking association operating in**
23 **stock form; and**

24 **“(3) shall be supervised and examined**
25 **by the Comptroller in the same manner**
26 **and to the same extent as a national**

1 **banking association operating in stock**
2 **form.**

3 **“(c) CONVERSIONS.—Subject to any require-**
4 **ments imposed by the Comptroller—**

5 **“(1) a mutual national bank may con-**
6 **vert to, or acquire and retain all or sub-**
7 **stantially all of the assets and liabilities**
8 **of, a national banking association operat-**
9 **ing in stock form; and**

10 **“(2) a national banking association**
11 **operating in stock form may convert to a**
12 **mutual national bank.**

13 **“(d) DEFINITIONS.—For purposes of this**
14 **section, the following definitions shall apply:**

15 **“(1) INSURED DEPOSITORY INSTITU-**
16 **TION.—The term ‘insured depository insti-**
17 **tution’ has the same meaning as in sec-**
18 **tion 3 of the Federal Deposit Insurance**
19 **Act.**

20 **“(2) MUTUAL NATIONAL BANK.—The**
21 **term ‘mutual national bank’ means a na-**
22 **tional banking association that operates**
23 **in mutual form and is chartered by the**
24 **Comptroller under this section.**

1 “(e) **CONFORMING REFERENCES.—Unless**
2 **otherwise provided by the Comptroller—**

3 “(1) any reference in any Federal law
4 to a national bank, including a reference
5 to the term ‘national banking associa-
6 tion’, ‘member bank’, ‘national bank’, ‘na-
7 tional association’, ‘bank’, ‘insured bank’,
8 ‘insured depository institution’, or ‘depos-
9 itory institution’, shall be deemed to refer
10 also to a ‘mutual national bank’;

11 “(2) any reference in any Federal law
12 to the term ‘shareholder’, ‘shareholders’,
13 ‘stockholder’, or ‘stockholders’ of a na-
14 tional bank shall be deemed to refer also
15 to any member or members of a mutual
16 national bank;

17 “(3) any reference in any Federal law
18 to the term ‘board of directors’, ‘director’,
19 or ‘directors’ of a national bank shall be
20 deemed to refer also to the board of
21 trustees, trustee, or trustees, respec-
22 tively, of a mutual national bank; and

23 “(4) any terms in Federal law that
24 may apply only to a national bank oper-
25 ating in stock form, including the terms

1 **“(2) PLAN APPROVAL.—Upon the ap-**
2 **proval of the reorganization plan by the**
3 **Comptroller of the Currency and the issu-**
4 **ance of the appropriate charters—**

5 **“(A) the substantial part of the**
6 **mutual national bank’s assets and li-**
7 **abilities, including all of the bank’s**
8 **insured liabilities, shall be trans-**
9 **ferred to a national banking associa-**
10 **tion, the stock of which is owned (ex-**
11 **cept as otherwise provided by this**
12 **section) by the mutual national bank;**
13 **and**

14 **“(B) the mutual national bank**
15 **shall become a Federal mutual bank**
16 **holding company.**

17 **“(b) DIRECTORS AND CERTAIN ACCOUNT**
18 **HOLDERS’ APPROVAL OF PLAN REQUIRED.—This**
19 **subsection does not authorize a reorganiza-**
20 **tion unless—**

21 **“(1) a majority of the mutual national**
22 **bank’s board of directors has approved**
23 **the plan providing for such reorganiza-**
24 **tion; and**

1 **“(2) in the case of a mutual national**
2 **bank in which holders of accounts and**
3 **obligors exercise voting rights, a majority**
4 **of such individuals has approved the**
5 **plan at a meeting held at the call of the**
6 **directors under the procedures pre-**
7 **scribed by the bank’s charter and bylaws.**

8 **“(c) RETENTION OF CAPITAL.—In connection**
9 **with a transaction described in subsection (a),**
10 **a mutual national bank may, subject to the**
11 **Comptroller’s approval, retain capital at the**
12 **holding company level to the extent that the**
13 **capital retained at the holding company level**
14 **exceeds the amount of capital required for the**
15 **national banking association chartered as a**
16 **part of a transaction described in subsection**
17 **(a) to meet all relevant capital standards es-**
18 **tablished by the Comptroller for national**
19 **banking associations.**

20 **“(d) OWNERSHIP.—**

21 **“(1) IN GENERAL.—Persons having**
22 **ownership rights in the mutual national**
23 **bank under Federal or State law shall**
24 **have the same ownership rights with re-**

1 **spect to the Federal mutual bank holding**
2 **company.**

3 **“(2) HOLDERS OF CERTAIN ACCOUNTS.—**
4 **Holders of savings, demand, or other ac-**
5 **counts in the following institutions shall**
6 **have the same ownership rights with re-**
7 **spect to the Federal mutual bank holding**
8 **company as persons described in para-**
9 **graph (1):**

10 **“(A) A national bank chartered as**
11 **part of a transaction described in**
12 **subsection (a).**

13 **“(B) A mutual bank acquired**
14 **through the merger of the mutual**
15 **bank into a national bank subsidiary**
16 **of the holding company or an interim**
17 **national bank subsidiary of the hold-**
18 **ing company.**

19 **“(e) REGULATION.—A Federal mutual bank**
20 **holding company shall be—**

21 **“(1) chartered by the Comptroller of**
22 **the Currency and shall be subject to such**
23 **regulations as the Comptroller shall pre-**
24 **scribe; and**

1 **“(2) regulated under the Bank Hold-**
2 **ing Company Act of 1956 on the same**
3 **terms and subject to the same limitations**
4 **as any other company that controls a**
5 **bank.**

6 **“(f) CAPITAL IMPROVEMENT.—**

7 **“(1) PLEDGE OF STOCK OF NATIONAL**
8 **BANK SUBSIDIARY.—This section shall not**
9 **prohibit a Federal mutual bank holding**
10 **company from pledging all or a portion of**
11 **the stock of a national banking associa-**
12 **tion chartered as part of a transaction**
13 **described in subsection (a) to raise cap-**
14 **ital for such bank.**

15 **“(2) ISSUANCE OF NONVOTING SHARES.—**
16 **This section shall not prohibit a national**
17 **banking association chartered as part of**
18 **a transaction described in subsection (a)**
19 **from issuing any nonvoting shares, or**
20 **less than 50 percent of the voting shares**
21 **of such bank, to any person other than**
22 **the Federal mutual bank holding com-**
23 **pany.**

24 **“(g) INSOLVENCY AND LIQUIDATION.—**

1 **“(1) IN GENERAL.—Notwithstanding**
2 **any other provision of law, the Comptrol-**
3 **ler of the Currency may file a petition**
4 **under chapter 7 of title 11, United States**
5 **Code, with respect to a Federal mutual**
6 **bank holding company upon—**

7 **“(A) the default of any national**
8 **bank—**

9 **“(i) the stock of which is**
10 **owned by the Federal mutual**
11 **bank holding company; and**

12 **“(ii) that was chartered in a**
13 **transaction described in sub-**
14 **section (a); or**

15 **“(B) a foreclosure on a pledge by**
16 **the Federal mutual bank holding**
17 **company described in subsection**
18 **(f)(1).**

19 **“(2) DISTRIBUTION OF NET PROCEEDS.—**
20 **Except as provided in paragraph (3), the**
21 **net proceeds of any liquidation of any**
22 **Federal mutual bank holding company**
23 **under paragraph (1) shall be transferred**
24 **to persons who hold ownership interests**

1 in such Federal mutual bank holding
2 company.

3 “(3) RECOVERY BY FDIC.—If the Federal
4 Deposit Insurance Corporation incurs a
5 loss as a result of the default of any in-
6 sured bank subsidiary of a Federal mu-
7 tual bank holding company that is liq-
8 uidated under paragraph (1), the Federal
9 Deposit Insurance Corporation shall suc-
10 ceed to the ownership interests of the de-
11 positors of the bank in the Federal mu-
12 tual bank holding company, to the extent
13 of the Federal Deposit Insurance Cor-
14 poration’s loss.

15 “(h) DEFINITIONS.—

16 “(1) FEDERAL MUTUAL BANK HOLDING
17 COMPANY.—The term ‘Federal mutual
18 bank holding company’ means a corpora-
19 tion chartered under this section.

20 “(2) DEFAULT.—With respect to a na-
21 tional bank, the term ‘default’ means an
22 adjudication or other official determina-
23 tion by any court of competent jurisdic-
24 tion, the Comptroller, or other public au-
25 thority pursuant to which a conservator,

1 receiver, or other legal custodian is ap-
2 pointed for the national bank.”.

3 (b) **TECHNICAL AMENDMENT.**—The table of
4 sections for chapter one of title LXII of the Re-
5 vised Statutes of the United States (12 U.S.C.
6 21 et seq) is amended by inserting after the
7 item relating to section 5133 the following
8 new items:

“5133A. Mutual national banks.

“5133B. Federal mutual bank holding companies.”.

9 (c) **APPROPRIATE FEDERAL BANKING AGENCY**
10 **FOR FEDERAL MUTUAL BANK HOLDING COMPA-**
11 **NIES.**—Section 3(q)(1) of the Federal Deposit
12 Insurance Act (12 U.S.C. 1813(q)(1)) is amend-
13 ed to read as follows:

14 “(1) The Comptroller of the Currency
15 in the case of—

16 “(A) any national banking associa-
17 tion, any District bank, or any Fed-
18 eral branch or agency of a foreign
19 bank; and

20 “(B) supervisory or regulatory
21 proceedings arising from the author-
22 ity given to the Comptroller under
23 section 5133B of the Revised Statutes
24 of the United States.”.

1 **(d) MUTUAL HOLDING COMPANY CONVER-**
2 **SION.—**

3 **(1) IN GENERAL.—Any mutual holding**
4 **company may convert to a Federal mu-**
5 **tual bank holding company by filing with**
6 **the Comptroller of the Currency a notice**
7 **of its election to convert on a specified**
8 **date that is not earlier than 30 days after**
9 **the date on which the notice is filed, and**
10 **the mutual holding company shall be con-**
11 **verted to a Federal mutual holding com-**
12 **pany charter on the date specified in the**
13 **notice.**

14 **(2) AUTOMATIC CONVERSION.—On the**
15 **date 2 years after the date of enactment**
16 **of this Act, each mutual holding company**
17 **shall become a Federal mutual bank**
18 **holding company by operation of law.**

19 **(3) DEFINITIONS.—For purposes of this**
20 **subsection, the following definitions shall**
21 **apply:**

22 **(A) FEDERAL MUTUAL BANK HOLD-**
23 **ING COMPANY.—The term “Federal mu-**
24 **tual bank holding company” has the**
25 **same meaning as in section 5133B of**

1 **the Revised Statutes of the United**
2 **States (as added by this section).**

3 **(B) MUTUAL HOLDING COMPANY.—**

4 **The term “mutual holding company”**
5 **has the same meaning as in section**
6 **10(o)(10)(A) of the Home Owners’**
7 **Loan Act as in effect on the day be-**
8 **fore the date of enactment of this Act.**

9 **(e) LIMITATION ON FEDERAL REGULATION OF**
10 **MUTUAL STATE BANKS.—Except as otherwise**
11 **provided in Federal law, the Comptroller of**
12 **the Currency, Board of Governors of the Fed-**
13 **eral Reserve System, and Federal Deposit In-**
14 **surance Corporation may not adopt or en-**
15 **force any regulation which contravenes the**
16 **corporation governance rules prescribed by**
17 **State law or regulation for mutual State**
18 **banks unless the Comptroller, Board, or Cor-**
19 **poration finds that such Federal regulation is**
20 **necessary to assure the safety and soundness**
21 **of such State banks.**

22 **(f) EFFECTIVE DATE.—This section shall**
23 **take effect 60 days after the date of enactment**
24 **of this Act.**

1 **SEC. 413. GRANDFATHERED ACTIVITIES OF SAVINGS ASSO-**
2 **CIATIONS.**

3 **(a) SAVINGS ASSOCIATIONS THAT CONVERT**
4 **TO NATIONAL BANKS.—**

5 **(1) POWERS OF CONVERTED SAVINGS AS-**
6 **SOCIATIONS.—A national bank that re-**
7 **sulted from the conversion of a savings**
8 **association under section 411 may not en-**
9 **gage in any activity, including the hold-**
10 **ing of any asset, except as provided in**
11 **this section, or as otherwise permitted**
12 **for a national bank that does not result**
13 **from the conversion of a savings associa-**
14 **tion.**

15 **(2) GRANDFATHERED ACTIVITIES.—Ex-**
16 **cept as provided in subsection (b), any**
17 **Federal savings association that con-**
18 **verted to a national bank under section**
19 **411 may continue to engage in any activ-**
20 **ity, including the holding of any asset, in**
21 **which it was lawfully engaged prior to**
22 **conversion pursuant to section 411.**

23 **(b) INVESTMENTS NOT AUTHORIZED FOR NA-**
24 **TIONAL BANKS TO HOLD DIRECTLY.—**

25 **(1) IN GENERAL.—Notwithstanding sec-**
26 **tion 5136 of the Revised Statutes of the**

1 **United States or any other provision of**
2 **law, a national bank resulting from the**
3 **conversion of a savings association to a**
4 **national bank under section 411 may re-**
5 **tain an equity investment that is not per-**
6 **missible for a national bank to hold di-**
7 **rectly only if the bank complies with sec-**
8 **tion 5(t)(5) of the Home Owners' Loan Act**
9 **(as in effect on the day before the date of**
10 **the enactment of the Thrift Charter Tran-**
11 **sition Act of 1997) to the same extent as**
12 **if the institution were a savings associa-**
13 **tion subject to the Home Owners' Loan**
14 **Act.**

15 **(2) REGULATIONS OF EXISTING ACTIVI-**
16 **TIES.—Investments held by a national**
17 **bank resulting from the conversion of a**
18 **savings association referred to in para-**
19 **graph (1) held on the date of the enact-**
20 **ment of the Thrift Charter Transition Act**
21 **of 1997 shall be subject to the same regu-**
22 **lations and supervision as if the institu-**
23 **tion were a savings association subject to**
24 **the Home Owners' Loan Act as in effect**
25 **on the day before the date of the enact-**

1 **ment of the Thrift Charter Transition Act**
2 **of 1997.**

3 **(3) INVESTMENTS ACQUIRED AFTER EN-**
4 **ACTMENT.—For investments acquired**
5 **after the date of enactment of the Thrift**
6 **Charter Transition Act of 1997 but before**
7 **the conversion of a savings association to**
8 **a national bank under section 411, such**
9 **national bank—**

10 **(A) may, if a subsidiary of the**
11 **bank is engaged in an activity that is**
12 **not permissible for a national bank to**
13 **engage in directly, retain an equity**
14 **investment in the subsidiary only if**
15 **the bank and the subsidiary comply**
16 **with section 5136A of the Revised**
17 **Statutes of the United States; and**

18 **(B) shall, in determining compli-**
19 **ance with applicable capital stand-**
20 **ards, deduct from the bank's assets**
21 **and tangible equity capital the**
22 **amount of any equity investment**
23 **(other than investment subject to**
24 **subparagraph (A)) that is not a per-**

1 **missible investment for a national**
2 **bank to hold directly.**

3 **(c) PERMISSIBLE ACTIVITIES OF STATE SAV-**
4 **INGS ASSOCIATIONS THAT CONVERT TO STATE**
5 **BANKS.—For purposes of section 24 of the Fed-**
6 **eral Deposit Insurance Act, a State savings as-**
7 **sociation that converts to a State bank may,**
8 **to the extent permitted by applicable State**
9 **law, continue to engage (in the same manner)**
10 **in any activity, including the holding of any**
11 **asset, permitted under section 28 of the Fed-**
12 **eral Deposit Insurance Act (as in effect on the**
13 **day before the date of enactment of this Act)**
14 **in which the savings association was lawfully**
15 **engaged on the day before the date of enact-**
16 **ment of this Act.**

17 **(d) TRANSITION PROVISION.—Notwithstand-**
18 **ing any other provision of this Act, in the case**
19 **of any insured savings association described**
20 **in this section securities offerings and other**
21 **financing transactions completed by such an**
22 **institution on or before the date of its conver-**
23 **sion pursuant to section 411 shall continue to**
24 **be governed by the capital and accounting**
25 **rules of the Office of Thrift Supervision as in**

1 effect on the date that such institution con-
2 verts to a bank or becomes treated as a State
3 bank.

4 SEC. 414. BRANCHES OF FORMER SAVINGS ASSOCIATIONS.

5 (a) BRANCHES.—

6 (1) EXISTING BRANCHES RETAINED.—

7 Notwithstanding any other provision of
8 law, any depository institution that quali-
9 fies under paragraph (2), and any succes-
10 sor to such an institution, may continue,
11 after the depository institution becomes a
12 bank, to operate any branch or agency
13 that the institution operated as a branch
14 or agency, or was in the process of estab-
15 lishing as a branch or agency, respec-
16 tively, as of the date of enactment of the
17 Thrift Charter Transition Act of 1997.

18 (2) DEPOSITORY INSTITUTION DEFINED.—

19 A depository institution qualifies under
20 this paragraph for purposes of paragraph
21 (1) if it—

22 (A)(i) is a savings association on
23 the date of enactment of the Thrift
24 Charter Transition Act of 1997; or

1 (ii) has filed an application to be-
2 come a savings association by the
3 date of enactment of the Thrift Char-
4 ter Transition Act of 1997; and

5 (B) on or before the date 2 years
6 after the date of enactment of this
7 Act, becomes a State or national
8 bank.

9 **(b) BRANCHING RIGHTS OBTAINED IN AS-**
10 **SISTED ACQUISITIONS.—**Notwithstanding any
11 other provision of law, if a depository institu-
12 tion has branching rights under a contract
13 entered into with the Federal Home Loan
14 Bank Board or the Federal Savings and Loan
15 Insurance Corporation or pursuant to a reso-
16 lution of the Federal Home Loan Bank Board
17 or action of the Office of Thrift Supervision
18 or Resolution Trust Corporation as part of a
19 transaction in which the depository institu-
20 tion acquired or merged with a failed or fail-
21 ing savings association (prior to 1992), the de-
22 pository institution may continue to branch
23 in a manner consistent with that contract,
24 resolution, or action.

1 **(c) BRANCHING RIGHTS OF STATE CHAR-**
2 **TERED INSTITUTIONS NOT AFFECTED.—Except as**
3 **provided in subsection (b), applicable State**
4 **law and Federal law shall govern the author-**
5 **ity of a savings association that converts to a**
6 **State savings association charter or a State**
7 **bank charter to continue to operate any**
8 **branch or agency that the institution oper-**
9 **ated prior to conversion and the future**
10 **branching rights of the converted institution.**

11 **(d) INTRASTATE BRANCHES.—Any branch**
12 **operated under subsection (a)(1) in a State**
13 **other than the depository institution’s home**
14 **State may acquire, establish or operate addi-**
15 **tional branches in the host State to the same**
16 **extent as permitted for a national bank with**
17 **its main office located in the host State.**

18 **SEC. 415. PROGRAMS FOR PROMOTING HOUSING FINANCE.**

19 **Section 22 of the Federal Deposit Insur-**
20 **ance Act (12 U.S.C. 1830) is amended by—**

- 21 **(1) striking “It is not” and inserting**
22 **“(a) IN GENERAL.—It is not”; and**
23 **(2) adding at the end the following**
24 **new subsection:**

1 **“(b) PROGRAMS FOR PROMOTING HOUSING**
2 **FINANCE.—**

3 **“(1) FINDINGS.—The Congress finds**
4 **that it is in the national interest to pro-**
5 **tect and promote housing finance in the**
6 **process of converting savings associa-**
7 **tions to banks and eliminating the sepa-**
8 **rate Federal regulation of savings asso-**
9 **ciations.**

10 **“(2) PROGRAMS REQUIRED.—In further-**
11 **ance of paragraph (1), each appropriate**
12 **Federal banking agency shall—**

13 **“(A) develop and implement a pro-**
14 **gram designed to—**

15 **“(i) facilitate the conversion**
16 **of savings associations to banks**
17 **and the treatment of State sav-**
18 **ings associations as State banks;**
19 **and**

20 **“(ii) promote housing finance**
21 **by assuring that insured deposi-**
22 **tory institutions may, at their**
23 **own election, specialize in acqui-**
24 **sition, development, residential**
25 **mortgage finance, and residential**

1 mortgage and housing production
2 lending; and

3 “(B) develop guidelines and pro-
4 cedures for assuring that insured de-
5 pository institutions are not subject
6 to supervisory criticism or sanction
7 for prudently concentrating in acqui-
8 sition, development, residential mort-
9 gage finance, and residential mort-
10 gage and housing production lend-
11 ing.”.

12 SEC. 416. SAVINGS AND LOAN HOLDING COMPANIES.

13 Section 3 of the Bank Holding Company
14 Act of 1956 (12 U.S.C. 1842) is amended by in-
15 serting after subsection (g) the following new
16 subsection:

17 “(h) SAVINGS AND LOAN HOLDING COMPANY
18 POWERS GRANDFATHERED.—

19 “(1) IN GENERAL.—A company that
20 qualifies under paragraph (2) may—

21 “(A) maintain or enter into any
22 nonbank affiliation that the company
23 was permitted pursuant to section 10
24 of the Home Owners’ Loan Act to
25 maintain or enter into prior to be-

1 coming a bank holding company pur-
2 suant to paragraph (2)(C); and

3 “(B) engage in any activity, in-
4 cluding holding any asset, in which
5 the company or any affiliate de-
6 scribed in subparagraph (A) was per-
7 mitted pursuant to section 10 of the
8 Home Owners’ Loan Act to engage be-
9 fore becoming a bank holding com-
10 pany in a manner described in para-
11 graph (2)(C).

12 “(2) QUALIFIED GRANDFATHERED COMPA-
13 NIES.—

14 “(A) GRANDFATHERED COMPANIES
15 DEFINED.—A company qualifies under
16 this paragraph for purposes of para-
17 graph (1) if—

18 “(i) as of September 16, 1997,
19 the company (or any affiliated
20 company)—

21 “(I) was a savings and
22 loan holding company (as de-
23 fined in section 10 of the
24 Home Owners’ Loan Act, as in
25 effect on that date); or

1 **“(II) had filed an applica-**
2 **tion to become a savings and**
3 **loan holding company; and**

4 **“(ii) the company—**

5 **“(I) becomes a bank hold-**
6 **ing company by operation of**
7 **law; or**

8 **“(II) was exempt from sec-**
9 **tion 4 (as in effect on the date**
10 **of enactment of the Thrift**
11 **Charter Transition Act of**
12 **1997) under an order issued**
13 **by the Board under section**
14 **4(d) (as in effect on the date**
15 **of enactment of the Thrift**
16 **Charter Transition Act of**
17 **1997).**

18 **“(B) HOLDING COMPANIES WITH**
19 **IDENTICAL SHAREHOLDERS.—A company**
20 **also qualifies under this paragraph**
21 **for purposes of paragraph (1) if the**
22 **company—**

23 **“(i) is formed by a company**
24 **qualified under subparagraph (A);**
25 **and**

1 “(ii) the shareholders of such
2 company are identical to the
3 shareholders of the company re-
4 ferred to in (i).

5 “(C) OPERATION OF LAW DEFINED.—
6 For purposes of this subsection, a
7 savings and loan holding company be-
8 comes a bank holding company by op-
9 eration of law if a savings association
10 controlled by the company is con-
11 verted to a bank or is treated as a
12 bank under an amendment made by
13 the Thrift Charter Transition Act of
14 1997.

15 “(3) REQUIREMENTS TO RETAIN GRAND-
16 FATHERED POWERS.—

17 “(A) IN GENERAL.—Paragraph (1)
18 shall cease to apply to a company if
19 the company does not comply with
20 this paragraph.

21 “(B) ACQUISITION OF BANKS.—

22 “(i) IN GENERAL.—The com-
23 pany may not acquire (by any
24 form of business combination)
25 control of a bank after the date of

1 enactment of the Thrift Charter
2 Transition Act of 1997.

3 “(ii) EXCEPTIONS TO PROHIBI-
4 TION.—Clause (i) shall not apply
5 to the acquisition of—

6 “(I) a bank, during the pe-
7 riod ending on the date 2
8 years after the date of enact-
9 ment of the Thrift Charter
10 Transition Act of 1997, if the
11 acquisition results from the
12 conversion of a savings asso-
13 ciation or the treatment of a
14 savings association as a bank
15 under amendments made by
16 the Thrift Charter Transition
17 Act of 1997;

18 “(II) shares held as a bona
19 fide fiduciary (whether with
20 or without the sole discretion
21 to vote such shares);

22 “(III) shares held by any
23 person as a bona fide fidu-
24 ciary solely for the benefit of
25 employees of either the com-

1 pany or any subsidiary of the
2 company and the bene-
3 ficiaries of those employees;

4 “(IV) an entity described
5 in section 2(c)(2);

6 “(V) shares held tempo-
7 rarily pursuant to an under-
8 writing commitment in the
9 normal course of an under-
10 writing business;

11 “(VI) shares held in an ac-
12 count solely for trading pur-
13 poses;

14 “(VII) shares over which
15 no control is held other than
16 control of voting rights ac-
17 quired in the normal course
18 of a proxy solicitation;

19 “(VIII) shares or assets ac-
20 quired in securing or collect-
21 ing a debt previously con-
22 tracted in good faith, during
23 the 2-year period beginning
24 on the date of such acquisi-
25 tion or for such additional

1 **time (not exceeding 3 years)**
2 **as the Board may permit if**
3 **the Board determines that**
4 **such an extension will not be**
5 **detrimental to the public in-**
6 **terest;**

7 **“(X) a bank from the Fed-**
8 **eral Deposit Insurance Cor-**
9 **poration, in any capacity; and**

10 **“(XI) a bank in an acquisi-**
11 **tion in which the bank has**
12 **been found to be in danger of**
13 **default by the appropriate**
14 **Federal or State authority.**

15 **“(C) The company may not con-**
16 **trol a savings association or a na-**
17 **tional bank resulting from the con-**
18 **version of a savings association to a**
19 **national bank pursuant to section 411**
20 **if such savings association or na-**
21 **tional bank fails to comply with the**
22 **requirements of section 5(c)(2) and**
23 **section 10(m) of the Home Owners’**
24 **Loan Act as in effect on the day be-**

1 fore the date of the enactment of the
2 Thrift Charter Transition Act of 1997.

3 “(4) GRANDFATHERED POWERS NON-
4 TRANSFERABLE.—

5 “(A) IN GENERAL.—Paragraph (1)
6 shall not apply with respect to any
7 company if after the date of the en-
8 actment of the Thrift Charter Transi-
9 tion Act of 1997—

10 “(i) any company (other than
11 a company qualified under para-
12 graph (2)) not under common con-
13 trol with such company as of that
14 date acquires, directly, or indi-
15 rectly, control of the company; or

16 “(ii) the company is the sub-
17 ject of any merger, consolidation,
18 or other type of business com-
19 bination as a result of which a
20 company (other than a company
21 qualified under paragraph (2))
22 not under common control with
23 such company acquires, directly
24 or indirectly, control of such com-
25 pany.

1 **“(B) ANTI-EVASION.—**The appropriate Federal banking agency may
2 **issue interpretations, regulations, or**
3 **orders that it deems necessary to ad-**
4 **minister and carry out the purpose,**
5 **and prevent evasions, of this para-**
6 **graph, including determining that**
7 **(notwithstanding the form of a trans-**
8 **action) the transaction would in sub-**
9 **stance effect a change in control.**

11 **“(5) TRANSACTIONS WITH NONFINANCIAL**
12 **AFFILIATES.—**An insured depository insti-
13 **tution controlled by a company that**
14 **qualifies under paragraph (2) may not en-**
15 **gage in a covered transaction (as defined**
16 **by section 23A(b)(7) of the Federal Re-**
17 **serve Act) with—**

18 **“(A) any affiliate unless the affili-**
19 **ate is engaged only in activities au-**
20 **thorized for a financial holding com-**
21 **pany pursuant to section 6 (other**
22 **than subsection (f) or (g) of such sec-**
23 **tion); or**

24 **“(B) any company controlled by**
25 **an affiliate pursuant to subpara-**

1 **graphs (H) or (I) of subsection (c)(3)**
2 **of such section.**

3 **“(6) SAVINGS AND LOAN HOLDING COMPA-**
4 **NIES THAT BECOME BANK HOLDING COMPA-**
5 **NIES.—**

6 **“(A) EXCLUSION FROM APPLICATION**
7 **REQUIREMENT.—A company that quali-**
8 **fies under subparagraph (B) shall not**
9 **be required to obtain the approval of**
10 **the Board under subsection (a) to be-**
11 **come a bank holding company if such**
12 **company becomes a bank holding**
13 **company after the date of enactment**
14 **of the Thrift Charter Transition Act**
15 **of 1997 as a result of the conversion**
16 **of a savings association subsidiary to**
17 **a bank or by virtue of the treatment**
18 **of a savings association subsidiary as**
19 **a bank under an amendment made by**
20 **this Act.**

21 **“(B) COMPANIES EXCLUDED FROM**
22 **APPLICATION REQUIREMENT.—A com-**
23 **pany qualifies for purposes of sub-**
24 **paragraph (A) if the company, as of**
25 **the date of the enactment of the**

1 **Thrift Charter Transition Act of 1997,**
2 **was a savings and loan holding com-**
3 **pany (as defined in section 10(a) of**
4 **the Home Owners' Loan Act as in ef-**
5 **fect on that date) or has filed an ap-**
6 **plication to become a savings and**
7 **loan holding company.**

8 **“(C) SUPERVISION AND REGULATION**
9 **OF COMPANIES THAT WERE PREVIOUSLY**
10 **SAVINGS AND LOAN HOLDING COMPA-**
11 **NIES.—**

12 **“(i) IN GENERAL.—Any com-**
13 **pany that qualifies under para-**
14 **graph (2) and complies with para-**
15 **graph (3) and was registered and**
16 **regulated under section 10 of the**
17 **Home Owners' Loan Act on the**
18 **day before becoming a bank hold-**
19 **ing company described in para-**
20 **graphs (2) and (3) shall continue**
21 **to be regulated, for a period of 3**
22 **years after becoming such hold-**
23 **ing company, under the terms of**
24 **section 10 of the Home Owners'**
25 **Loan Act in the same manner and**

1 to the same extent and subject to
2 the same requirements as by the
3 Office of Thrift Supervision be-
4 fore the date of the enactment of
5 the Thrift Charter Transition Act
6 of 1997.

7 “(ii) HOLDING COMPANY CAPITAL
8 EXCEPTION.—With regard to hold-
9 ing company capital, any com-
10 pany that qualifies under para-
11 graph (2) and complies with para-
12 graph (3) and was registered and
13 regulated under section 10 of the
14 Home Owners’ Loan Act before
15 June 19, 1997, or had an applica-
16 tion pending to do so on such
17 date, shall continue to be regu-
18 lated under the terms of section
19 10 of the Home Owners’ Loan Act
20 in the same manner and to the
21 same extent and subject to the
22 same requirements as by the Of-
23 fice of Thrift Supervision before
24 the date of the enactment of the

1 **Thrift Charter Transition Act of**
2 **1997.**

3 **“(iii) SUBMISSIONS TO REGU-**
4 **LATORS.—A company shall provide**
5 **for a period of 3 years after be-**
6 **coming a bank holding company**
7 **described in paragraphs (2) and**
8 **(3) the appropriate Federal bank-**
9 **ing agency with—**

10 **“(I) notice of acquisition**
11 **of any company not con-**
12 **trolled or affiliated on the**
13 **date of enactment of the**
14 **Thrift Charter Transition Act**
15 **of 1997 that is engaged in non-**
16 **banking activities within 15**
17 **days after completion of any**
18 **such transaction; and**

19 **“(II) copies of such quar-**
20 **terly and annual reports as it**
21 **is otherwise required to file**
22 **with any other governmental**
23 **agency.**

24 **“(iv) REPORTING REQUIRE-**
25 **MENTS.—The appropriate Federal**

1 **banking agency may adopt, for a**
2 **period of 3 years after a company**
3 **becomes a bank holding company**
4 **described in paragraphs (2) and**
5 **(3), reporting requirements sub-**
6 **stantially similar to and no more**
7 **burdensome than required by the**
8 **Office of Thrift Supervision as of**
9 **January 1, 1997.**

10 **“(v) REGULATORY AUTHORITY.—**
11 **The appropriate Federal banking**
12 **agency shall, for a period of 3**
13 **years after a company becomes a**
14 **bank holding company described**
15 **in paragraphs (2) and (3)—**

16 **“(I) have the same author-**
17 **ity to examine a company or**
18 **any subsidiary or affiliate**
19 **thereof only to the same ex-**
20 **tent as the Office of Thrift Su-**
21 **per vision had as of January 1,**
22 **1997; and**

23 **“(II) conduct only the**
24 **same type of examination and**
25 **with the same frequency as**

1 the Office of Thrift Super-
2 vision prior to January 1,
3 1997, unless required to pre-
4 vent an unsafe or unsound ac-
5 tivity or course of conduct of
6 the savings institution con-
7 verted to a bank pursuant to
8 the Thrift Charter Transition
9 Act of 1997.

10 “(7) OVERDRAFTS PROHIBITED.—A de-
11 pository institution controlled by a com-
12 pany described in paragraph (2) may not
13 permit any overdraft (including any
14 intraday overdraft) on behalf of any affil-
15 iate (as defined in section 2 of the Bank
16 Holding Company Act of 1956), or incur
17 any such overdraft in such institution’s
18 account at a Federal reserve bank or
19 Federal home loan bank on behalf of any
20 affiliate.”.

21 SEC. 417. TREATMENT OF REFERENCES IN ADJUSTABLE
22 RATE MORTGAGES.

23 (a) TREATMENT OF REFERENCES IN ADJUST-
24 ABLE RATE MORTGAGES ISSUED BEFORE
25 FIRREA.—For purposes of section 402(e) of

1 **Financial Institutions Reform, Recovery, and**
2 **Enactment Act of 1989 (12 U.S.C. 1437 note),**
3 **any reference in such section to—**

4 **(1) the Director of the Office of Thrift**
5 **Supervision shall be deemed to be a ref-**
6 **erence to the Secretary of the Treasury;**
7 **and**

8 **(2) a Savings Association Insurance**
9 **Fund member shall be deemed to be a**
10 **reference to an insured depository insti-**
11 **tution (as defined in section 3 of the Fed-**
12 **eral Deposit Insurance Act).**

13 **(b) TREATMENT OF REFERENCES IN ADJUST-**
14 **ABLE RATE MORTGAGES INSTRUMENTS ISSUED**
15 **AFTER FIRREA.—**

16 **(1) IN GENERAL.—For purposes of ad-**
17 **justable rate mortgage instruments that**
18 **are in effect as of the date of enactment**
19 **of this Act, any reference in the instru-**
20 **ment to the Director of the Office of**
21 **Thrift Supervision or Savings Association**
22 **Insurance Fund members shall be treated**
23 **as a reference to the Secretary of the**
24 **Treasury or insured depository institu-**
25 **tions (as defined in section 3 of the Fed-**

1 eral Deposit Insurance Act), as appro-
2 priate.

3 (2) **SUBSTITUTION FOR INDEXES.—**If any
4 index used to calculate the applicable in-
5 terest rate on any adjustable rate mort-
6 gage instrument is no longer calculated
7 and made available as a direct or indirect
8 result of the enactment of this title, any
9 index—

10 (A) made available by the Sec-
11 retary of the Treasury; or

12 (B) determined by the Secretary
13 of the Treasury, pursuant to para-
14 graph (4), to be substantially similar
15 to the index which is no longer cal-
16 culated or made available,

17 may be substituted by the holder of any
18 such adjustable rate mortgage instru-
19 ment upon notice to the borrower.

20 (3) **AGENCY ACTION REQUIRED TO PRO-**
21 **VIDE CONTINUED AVAILABILITY OF IN-**
22 **DEXES.—**Promptly after the enactment of
23 this subsection, the Secretary of the
24 Treasury, the Chairperson of the Federal
25 Deposit Insurance Corporation, and the

1 **Comptroller of the Currency shall take**
2 **such action as may be necessary to as-**
3 **sure that the indexes prepared by the Di-**
4 **rector of the Office of Thrift Supervision**
5 **immediately before the enactment of this**
6 **subsection and used to calculate the in-**
7 **terest rate on adjustable rate mortgage**
8 **instruments continue to be available.**

9 **(4) REQUIREMENTS RELATING TO SUB-**
10 **STITUTE INDEXES.—If any agency can no**
11 **longer make available an index pursuant**
12 **to paragraph (3), an index that is sub-**
13 **stantially similar to such index may be**
14 **substituted for such index for purposes of**
15 **paragraph (2) if the Secretary of the**
16 **Treasury determines, after notice and op-**
17 **portunity for comment, that—**

18 **(A) the new index is based upon**
19 **data substantially similar to that of**
20 **the original index; and**

21 **(B) the substitution of the new**
22 **index will result in an interest rate**
23 **substantially similar to the rate in ef-**
24 **fect at the time the original index be-**
25 **came unavailable.**

1 SEC. 418. COST OF FUNDS INDEXES.

2 (a) **COST OF FUNDS INDEX DEFINED.**—The
3 term “cost of funds indexed” means any index
4 that is published by a Federal home loan bank
5 and is based, in whole or in part, upon the
6 cost of funds of such bank’s members.

7 (b) **CALCULATIONS BASED ON TYPE OF CHAR-**
8 **TER AND INSURANCE FUND MEMBERSHIP OF MEM-**
9 **BERS.**—If any cost of funds index includes data
10 based on charter type, insurance fund mem-
11 bership, or other similar characteristics of
12 members of a Federal home loan bank, such
13 index shall be calculated after the date of the
14 enactment of this Act using data only from in-
15 sured depository institutions which were
16 bank members and whose data was included
17 in such index on or before such date of enact-
18 ment.

19 (c) **ACQUISITION OF DATA.**—

20 (1) **IN GENERAL.**—Each insured depository
21 institution the data from which is re-
22 quired to compile a cost of funds index in
23 accordance with subsection (b) shall pro-
24 vide to the Federal home loan bank
25 which maintains the index such informa-
26 tion as may be necessary, and in such

1 form as may be appropriate, for the bank
2 to calculate and publish the index.

3 (2) ENFORCEMENT BY BANKING AGEN-
4 CIES.—Each appropriate Federal banking
5 agency shall take such action as may be
6 necessary to ensure that insured deposi-
7 tory institutions which are required to
8 provide information to any Federal home
9 loan bank under paragraph (1) furnish
10 such information on a timely basis and in
11 the form required by the bank.

12 (3) TREATMENT OF INSTITUTIONS.—Not-
13 withstanding any other provision of law,
14 an insured depository institution which
15 furnishes information to a Federal home
16 loan bank pursuant to this section for use
17 in compiling a cost of funds index shall
18 not be deemed to control, directly, or in-
19 directly, such index.

20 (d) CERTAIN DATA EXCLUDED.—Notwith-
21 standing subsections (b) and (c), no cost of
22 funds index shall include any data from any
23 insured depository institution which results
24 from the merger, consolidation, or other com-

1 **ination of a member of a Federal home loan**
2 **bank with a nonmember of any such bank if—**

3 **(1) the total assets of the nonmember**
4 **exceed the total assets of the bank mem-**
5 **ber at the time of such merger, consolida-**
6 **tion, or other combination; or**

7 **(2) in the case of a merger, consolida-**
8 **tion, or other merger in which a member**
9 **of a Federal home loan bank is the result-**
10 **ing insured depository institution, com-**
11 **bined ratio of the average amount of**
12 **single-family loan balances to average**
13 **total assets of all insured depository in-**
14 **stitutions involved in such merger, con-**
15 **solidation, or other combination for the**
16 **12-months period ending on the date of**
17 **such transaction is less than 70 percent.**

18 **(e) OTHER DEFINITIONS.—For purposes of**
19 **this section, the terms “appropriate Federal**
20 **banking agency” and “insured depository in-**
21 **stitution” shall have the same meanings as in**
22 **section 3 of the Federal Deposit Insurance**
23 **Act.**

1 **Subtitle B—Ending Separate Fed-**
2 **eral Regulation of Savings Asso-**
3 **ciations and Savings and Loan**
4 **Holding Companies**

5 SEC. 421. STATE SAVINGS ASSOCIATIONS TREATED AS
6 STATE BANKS UNDER FEDERAL BANKING
7 LAW.

8 (a) AMENDMENTS TO THE FEDERAL DEPOSIT
9 INSURANCE ACT.—Section 3 of the Federal De-
10 posit Insurance Act (12 U.S.C. 1813) is amend-
11 ed—

12 (1) by striking paragraph (2) of sub-
13 section (a) and inserting the following
14 new paragraph:

15 “(2) STATE BANK.—

16 “(A) IN GENERAL.—The term ‘State
17 bank’ means any bank, banking asso-
18 ciation, trust company, savings bank,
19 industrial bank (or similar depository
20 institution which the Board of Direc-
21 tors finds to be operating in substan-
22 tially the same manner as an indus-
23 trial bank), building and loan associa-
24 tion, savings and loan association,

1 **homestead association, cooperative**
2 **bank, or other banking institution—**

3 **“(i) which is engaged in the**
4 **business of receiving deposits,**
5 **other than trust funds (as defined**
6 **in this section); and**

7 **“(ii) which—**

8 **“(I) is incorporated under**
9 **the laws of any State;**

10 **“(II) is organized and op-**
11 **erating according to the laws**
12 **of the State in which such in-**
13 **stitution is chartered or orga-**
14 **nized; or**

15 **“(III) is operating under**
16 **the Code of Law for the Dis-**
17 **trict of Columbia (except a na-**
18 **tional bank).**

19 **“(B) CERTAIN INSURED BANKS IN-**
20 **CLUDED.—The term ‘State bank’ in-**
21 **cludes any cooperative bank or other**
22 **unincorporated bank the deposits of**
23 **which were insured by the Corpora-**
24 **tion on the day before the date of en-**
25 **actment of the Financial Institutions**

1 **Reform, Recovery, and Enforcement**
2 **Act of 1989.**

3 **“(C) CERTAIN UNINSURED BANKS EX-**
4 **CLUDED.—The term ‘State bank’ shall**
5 **not include any cooperative bank or**
6 **other unincorporated bank the depos-**
7 **its of which were not insured by the**
8 **Corporation on the day before the**
9 **date of enactment of the Financial In-**
10 **stitutions Reform, Recovery, and En-**
11 **forcement Act of 1989.”; and**

12 **(2) in subsection (q), by—**

13 **(A) inserting “and” after the semi-**
14 **colon at the end of paragraph (2);**

15 **(B) striking “; and” at the end of**
16 **paragraph (3) and inserting a period;**
17 **and**

18 **(C) striking paragraph (4).**

19 **(b) AMENDMENT TO THE BANK HOLDING**
20 **COMPANY ACT OF 1956.—Section 2(a)(5) of the**
21 **Bank Holding Company Act of 1956 (12 U.S.C.**
22 **1841(a)(5)) is amended by striking subpara-**
23 **graph (E).**

1 **(c) EFFECTIVE DATE.—This section shall**
2 **take effect 2 years after the date of the enact-**
3 **ment of this Act.**

4 **SEC. 422. HOME OWNERS' LOAN ACT REPEALED.**

5 **Effective 2 years after the date of enact-**
6 **ment of this Act, the Home Owners' Loan Act**
7 **(12 U.S.C. 1461 et seq.) is repealed.**

8 **SEC. 423. CONFORMING AMENDMENT REFLECTING ELIMI-**
9 **NATION OF THE FEDERAL THRIFT CHARTER**
10 **AND THE SEPARATE SYSTEM OF THRIFT REG-**
11 **ULATION.**

12 **Section 2704(c) of the Economic Growth**
13 **and Regulatory Paperwork Reduction Act of**
14 **1996 is amended to read as follows:**

15 **“(c) EFFECTIVE DATE.—This section and**
16 **the amendments made by this section shall**
17 **take effect on the earlier of—**

18 **“(1) January 1, 2000; or**

19 **“(2) the end of the 2-year period be-**
20 **ginning on the date of the enactment of**
21 **the Thrift Charter Transition Act of**
22 **1997.”.**

1 SEC. 424. CONFORMING AMENDMENTS TO THE FEDERAL
2 HOME LOAN BANK ACT.

3 (a) AMENDMENT TO SECTION 2.—Section 2 of
4 the Federal Home Loan Bank Act (12 U.S.C.
5 1422) is amended by striking paragraph (9)
6 and redesignating paragraphs (10), (11), and
7 (12) as paragraphs (9), (10), and (11), respec-
8 tively.

9 (b) AMENDMENTS TO SECTION 10.—Sub-
10 section (h) of section 10 of the Federal Home
11 Loan Bank Act (12 U.S.C. 1430) is amended to
12 read as follows:

13 “(h) [Repealed]”.

14 (c) AMENDMENTS TO SECTION 11.—Section
15 11(e)(2)(C) of the Federal Home Loan Bank
16 Act (12 U.S.C. 1431(e)(2)(C)) is amended by—

17 (1) striking “, and with respect to the
18 collection and settlement (including pay-
19 ment by the payor institution) of items
20 payable by Federal savings and loan asso-
21 ciations and Federal mutual savings
22 banks,”; and

23 (2) striking “, associations, or banks”.

24 (d) AMENDMENT TO SECTION 18.—Section
25 18(c) of the Federal Home Loan Bank Act (12
26 U.S.C. 1438(c)) is repealed.

1 **(e) AMENDMENT TO SECTION 22.—Section**
2 **22(a) of the Federal Home Loan Bank Act (12**
3 **U.S.C. 1442(a)) is amended by striking “, and**
4 **the Director of the Office of Thrift Super-**
5 **vision” each place such appears and inserting**
6 **“and” before “the Chairperson of the National**
7 **Credit Union Administration”.**

8 **(f) AMENDMENT TO SECTION 24.—Section 24**
9 **of the Federal Home Loan Bank Act (12 U.S.C.**
10 **1444) is repealed.**

11 **(g) EFFECTIVE DATE.—This section shall**
12 **become effective 2 years after the date of en-**
13 **actment of this Act.**

14 **SEC. 425. AMENDMENTS TO TITLE 11, UNITED STATES**
15 **CODE.**

16 **(a) DEFINITION OF FEDERAL MUTUAL BANK**
17 **HOLDING COMPANY.—Section 101 of title 11,**
18 **United States Code, is amended by inserting**
19 **after paragraph (21B) the following new para-**
20 **graph:**

21 **“(21C) ‘Federal mutual bank holding**
22 **company’ has the same meaning as in**
23 **section 5133B(h)(1) of the Revised Stat-**
24 **utes of the United States.”.**

1 **(b) CONSERVATOR OR RECEIVER MAY PETI-**
2 **TION.—Section 303(b) of title 11, United States**
3 **Code, is amended—**

4 **(1) in paragraph (3)(B) by striking**
5 **“or” at the end;**

6 **(2) in paragraph (4) by striking the**
7 **period at the end and inserting “; or”;**
8 **and**

9 **(3) by adding at the end the follow-**
10 **ing:**

11 **“(5) in a proceeding concerning a**
12 **Federal mutual bank holding company,**
13 **the Comptroller of the Currency.”**

14 **(c) EFFECT OF INVOLUNTARY PETITION BY**
15 **COMPTROLLER.—**

16 **(1) EXEMPTION FROM INDEMNIFICA-**
17 **TION.—Section 303(e) of title 11, United**
18 **States Code, is amended by inserting “,**
19 **other than a petitioner specified in sub-**
20 **section (b)(5),” after “petitioners under**
21 **this section”.**

22 **(2) RESTRICTION ON OPERATION PEND-**
23 **ING COURT ORDER OF RELIEF.—Section**
24 **303(f) of title 11, United States Code, is**
25 **amended by inserting “or a petition was**

1 filed by a petitioner specified in sub-
2 section (b)(5)” after “otherwise”.

3 (3) INTERIM TRUSTEE TO BE AP-
4 POINTED.—Section 303(g) of title 11, Unit-
5 ed States Code, is amended by inserting
6 after the 1st sentence the following new
7 sentence: “Upon the filing of a petition by
8 a petitioner specified in subsection (b)(5),
9 and without requiring notice or hearing,
10 the United States Trustee shall appoint
11 an interim trustee from a list submitted
12 by the Comptroller of the Currency of 5
13 disinterested persons that are qualified
14 and willing to serve.”

15 **Subtitle C—Combining OTS and**
16 **OCC**

17 **SEC. 431. PROHIBITION OF MERGER OR CONSOLIDATION**
18 **REPEALED.**

19 **Section 321 of title 31, United States Code,**
20 **is amended by striking subsection (e).**

1 SEC. 432. SECRETARY OF THE TREASURY REQUIRED TO
2 FORMULATE PLANS FOR COMBINING OFFICE
3 OF THRIFT SUPERVISION WITH OFFICE OF
4 THE COMPTROLLER OF THE CURRENCY.

5 Not later than 9 months after the date of
6 the enactment of this Act, the Secretary of the
7 Treasury, in consultation with the Director of
8 the Office of Thrift Supervision and the
9 Comptroller of the Currency, shall formulate
10 a plan for consolidating the Office of Thrift
11 Supervision with the Office of the Comptrol-
12 ler of the Currency by the end of the 2-year
13 period beginning on the date of enactment of
14 this Act. The Director of the Office of Thrift
15 Supervision and the Comptroller of the Cur-
16 rency shall implement that plan, notwith-
17 standing any other provision of Federal bank-
18 ing laws.

19 SEC. 433. OFFICE OF THRIFT SUPERVISION AND POSITION
20 OF DIRECTOR OF THE OFFICE OF THRIFT SU-
21 PERVISION ABOLISHED.

22 Effective 2 years after the date of enact-
23 ment of this Act, the Office of Thrift Super-
24 vision and the position of Director of the Of-
25 fice of Thrift Supervision are abolished.

1 SEC. 434. RECONFIGURATION OF BOARD OF DIRECTORS OF
2 FDIC AS A RESULT OF REMOVAL OF DIREC-
3 TOR OF THE OFFICE OF THRIFT SUPER-
4 VISION.

5 (a) IN GENERAL.—Section 2(a)(1) of the
6 Federal Deposit Insurance Act (12 U.S.C.
7 1812(a)(1)) is amended to read as follows:

8 “(1) IN GENERAL.—The management of
9 the Corporation shall be vested in a
10 Board of Directors consisting of 5 mem-
11 bers—

12 “(A) 1 of whom shall be the Comp-
13 troller of the Currency; and

14 “(B) 4 of whom shall be appointed
15 by the President, and with the advice
16 and consent of the Senate, from
17 among individuals who are citizens of
18 the United States, 1 of whom shall
19 have State bank supervisory experi-
20 ence.”.

21 (b) TECHNICAL AND CONFORMING AMEND-
22 MENTS.—

23 (1) Section 2(d)(2) of the Federal De-
24 posit Insurance Act (12 U.S.C. 1812(d)(2))
25 is amended—

1 **(A) by striking “or the office of Di-**
2 **rector of the Office of Thrift Super-**
3 **vision”;**

4 **(B) by striking “or such Director”;**

5 **(C) by striking “or the acting Di-**
6 **rector of the Office of Thrift Super-**
7 **vision, as the case may be”; and**

8 **(D) by striking “or Director”.**

9 **(2) Section 2(f)(2) of the Federal De-**
10 **posit Insurance Act (12 U.S.C. 1812(f)(2))**
11 **is amended by striking “or of the Office**
12 **of Thrift Supervision”.**

13 **(c) EFFECTIVE DATE.—The amendments**
14 **made by subsections (a) and (b) shall take ef-**
15 **fect at the end of the 2-year period beginning**
16 **on the date of the enactment of this Act.**

17 **SEC. 435. CONTINUATION PROVISIONS.**

18 **(a) CONTINUATION OF ORDERS, RESOLU-**
19 **TIONS, DETERMINATIONS AND REGULATIONS.—All**
20 **orders, resolutions, determinations and regu-**
21 **lations of the Office of Thrift Supervision that**
22 **have been issued, made, prescribed or al-**
23 **lowed to become effective by the Office of**
24 **Thrift Supervision (including orders, resolu-**
25 **tions, determinations and regulations that re-**

1 late to the conduct of conservatorship and re-
2 ceiverships), or by a court of competent juris-
3 diction, and are in effect on the day before the
4 date of enactment, shall continue in effect ac-
5 cording to the terms of such orders, resolu-
6 tions, determinations, and regulations and
7 shall be enforceable by or against the appro-
8 priate successor agency until modified, termi-
9 nated, set aside or superseded in accordance
10 with applicable law by the appropriate suc-
11 cessor agency or by a court of competent ju-
12 risdiction or by operation of law.

13 (b) CONTINUATION OF SUITS.—No action or
14 other proceeding commenced by or against
15 the Office of Thrift Supervision shall abate
16 because of the enactment of this Act, except
17 that the appropriate successor agency to the
18 Office of Thrift Supervision shall be sub-
19 stituted for the Office of Thrift Supervision as
20 a party to any such action or proceeding.

21 (c) CONTINUATION OF AGENCY SERVICES.—
22 Any agency, department, or other instrumen-
23 tality of the United States, and any successor
24 to such agency, department, or instrumental-

1 ity, that was providing supporting services to
2 the Office of Thrift Supervision shall—

3 (1) continue to provide such services,
4 on a reimbursable basis or as otherwise
5 agreed before the date of enactment, to
6 the Office of Thrift Supervision; and

7 (2) consult with the Office of Thrift
8 Supervision to coordinate and facilitate a
9 prompt and reasonable completion or ter-
10 mination of such services.

11 (d) **TRANSFER OF PROPERTY.**—Not later
12 than two years of the date of enactment, all
13 property of the Office of Thrift Supervision
14 shall be transferred to the Office of the Comp-
15 troller of the Currency, or another appro-
16 priate successor agency, in accordance with
17 the division of responsibilities and activities
18 effected by this Act. For purposes of this sub-
19 section, the term “property” includes, but is
20 not limited to, all interests in real property
21 and all personal property, including financial
22 assets, computer hardware and software, fur-
23 niture, fixtures, books, accounts, records, re-
24 ports of examination, work papers and cor-
25 respondence related to such reports of exam-

1 ination, and any information, materials, prop-
2 erty, and assets not specifically listed. The
3 Secretary of the Treasury shall resolve any
4 disagreement between successor agencies.

5 **Subtitle D—Technical and Con-**
6 **forming Amendments to the De-**
7 **pository Institution Statutes**

8 SEC. 441. AMENDMENTS TO THE FEDERAL DEPOSIT INSUR-
9 ANCE ACT.

10 (a) AMENDMENT TO SECTION 1.—Section 1(a)
11 of the Federal Deposit Insurance Act (12
12 U.S.C. 1811(a)) is amended by striking “and
13 savings associations”.

14 (b) AMENDMENTS TO SECTION 3.—Section 3
15 of the Federal Deposit Insurance Act (12
16 U.S.C. 1813) is amended—

17 (1) in subsection (b)—

18 (A) by striking subparagraph (A)
19 of paragraph (1);

20 (B) by striking “and the Director
21 of the Office of Thrift Supervision
22 jointly determine” in paragraph
23 (1)(C) and inserting “determines”;

24 (C) by redesignating subpara-
25 graphs (B) and (C) of paragraph (1)

1 (as amended by subparagraph (B) of
2 this paragraph) as subparagraphs (A)
3 and (B), respectively;

4 (D) by striking paragraph (2); and

5 (E) by redesignating paragraph
6 (3) as paragraph (2);

7 (2) in subsection (l)(5)—

8 (A) by striking “or savings asso-
9 ciation” each place such term ap-
10 pears; and

11 (B) by striking “Director of the
12 Office of Thrift Supervision”; and

13 (3) in subsection (z), by striking “the
14 Director of the Office of Thrift Super-
15 vision,”.

16 (c) AMENDMENT TO SECTION 4.—Section 4(a)
17 of the Federal Deposit Insurance Act (12
18 U.S.C. 1814(a)) is amended—

19 (1) by striking “(1) BANKS.—”; and

20 (2) by striking paragraph (2).

21 (d) AMENDMENTS TO SECTION 7.—Section 7
22 of the Federal Deposit Insurance Act (12
23 U.S.C. 1817) is amended—

1 (1) in subsection (a)(2)(A), by striking
2 “the Director of the Office of Thrift Su-
3 pervision,”;

4 (2) in subsection (a)(2)(B)—

5 (A) by inserting “and” after
6 “Comptroller of the Currency,”; and

7 (B) by striking “and the Director
8 of the Office of Thrift Supervision,”;

9 (3) in subsection (a)(3)—

10 (A) by inserting “and” after
11 “Comptroller of the Currency,”; and

12 (B) by striking “, and the Director
13 of the Office of Thrift Supervision”;

14 (4) in subsection (a)(7), by striking
15 “the Director of the Office of Thrift Su-
16 pervision,” ; and

17 (5) by striking subsection (n).

18 (e) AMENDMENTS TO SECTION 8.—Section 8
19 of the Federal Deposit Insurance Act (12
20 U.S.C. 1818) is amended—

21 (1) in paragraph (7) (as so redesign-
22 nated by section 136(c)(1)(B) of this Act)
23 of subsection (a)—

24 (A) by striking subparagraph (B);

25 and

1 **(B) by redesignating subpara-**
2 **graphs (C) through (H) as subpara-**
3 **graphs (B) through (G), respectively;**

4 **(2) in subsection (b)—**

5 **(A) by striking paragraph (9); and**

6 **(B) by redesignating paragraph**
7 **(10) as paragraph (9);**

8 **(3) in subsection (o), by striking the**
9 **last sentence; and**

10 **(4) in subsection (w)(3)(A), by striking**
11 **“and the Office of Thrift Supervision,**
12 **where appropriate”.**

13 **(f) AMENDMENT TO SECTION 10.—Section**
14 **10(c) of the Federal Deposit Insurance Act (12**
15 **U.S.C. 1820(c)) is amended by striking “sav-**
16 **ings association,”.**

17 **(g) AMENDMENTS TO SECTION 11.—Section**
18 **11 of the Federal Deposit Insurance Act (12**
19 **U.S.C. 1821) is amended—**

20 **(1) in subsection (c)—**

21 **(A) by striking paragraph (6); and**

22 **(B) by redesignating paragraphs**
23 **(7) through (13) as paragraphs (6)**
24 **through (12), respectively;**

1 (2) in subsection (d)(2)(F), by striking
2 “receiver—” and all that follows through
3 “(ii) with” and inserting “receiver with”;

4 (3) in subsection (d)(17)(A), by strik-
5 ing “or the Director of the Office of Thrift
6 Supervision”; and

7 (4) in subsection (d)(18)(B), by strik-
8 ing “or the Director of the Office of Thrift
9 Supervision”.

10 (h) AMENDMENT TO SECTION 13.—Section 13
11 of the Federal Deposit Insurance Act (12
12 U.S.C. 1823) is amended by striking sub-
13 section (k).

14 (i) AMENDMENTS TO SECTION 18.—Section
15 18 of the Federal Deposit Insurance Act (12
16 U.S.C. 1828) is amended—

17 (1) in subsection (c)(2)—

18 (A) by inserting “and” after the
19 semicolon at the end of subparagraph
20 (B);

21 (B) in subparagraph (C), by strik-
22 ing “(except a District bank or a sav-
23 ings bank supervised by the Director
24 of the Office of Thrift Supervision);

1 **and” and inserting “(except a District**
2 **bank).”; and**

3 **(C) by striking subparagraph (D);**

4 **(2) in subsection (g)(1), by striking**
5 **“and the Director of the Office of Thrift**
6 **Supervision”;**

7 **(3) in subsection (i)(2)—**

8 **(A) by inserting “and” after the**
9 **semicolon at the end of subparagraph**
10 **(B);**

11 **(B) by striking “; and” in subpara-**
12 **graph (C) and inserting a period; and**

13 **(C) by striking subparagraph (D);**
14 **and**

15 **(4) by striking subsection (m).**

16 **(j) AMENDMENTS TO SECTION 22.—Section**
17 **22 of the Federal Deposit Insurance Act (12**
18 **U.S.C. 1830) is amended—**

19 **(1) by striking “or State savings asso-**
20 **ciations and in favor of national or mem-**
21 **ber banks or Federal savings associa-**
22 **tions, respectively” and inserting “and in**
23 **favor of national or member banks”; and**

24 **(2) by striking “and savings associa-**
25 **tions”.**

1 **(k) AMENDMENT TO SECTION 28.—Section 28**
2 **of the Federal Deposit Insurance Act (12**
3 **U.S.C. 1831e) is repealed.**

4 **(l) AMENDMENT TO SECTION 33.—Section**
5 **33(e) of the Federal Deposit Insurance Act (12**
6 **U.S.C. 1831j(e)) is amended by striking “, and**
7 **the Director of the Office of Thrift Super-**
8 **vision” and inserting “and” before “the Comp-**
9 **troller of the Currency”.**

10 **(m) AMENDMENT TO SECTION 38.—Section**
11 **38(o) of the Federal Deposit Insurance Act (12**
12 **U.S.C. 1831o(o)) is repealed.**

13 **SEC. 442. AMENDMENT TO THE BANK HOLDING COMPANY**
14 **ACT OF 1956.**

15 **Section 2 of the Bank Holding Company**
16 **Act of 1956 (12 U.S.C. 1841) is amended by**
17 **striking subsections (i) and (j) and inserting**
18 **the following new subsections:**

19 **“(i) [Repealed]**

20 **“(j) [Repealed]”.**

21 **SEC. 443. AMENDMENTS TO THE FEDERAL RESERVE ACT.**

22 **(a) AMENDMENTS TO SECTION 11.—Section**
23 **11(a)(2)(B) of the Federal Reserve Act (12**
24 **U.S.C. 248(a)(2)(B)) is amended—**

1 (1) by inserting “and” after the
2 comma at the end of clause (ii);

3 (2) by striking clause (iii); and

4 (3) by redesignating clause (iv) as
5 clause (iii).

6 **(b) AMENDMENTS TO SECTION 19.—Section**
7 **19(b) of the Federal Reserve Act (12 U.S.C.**
8 **461(b)) is amended—**

9 (1) in paragraph (1)(A)—

10 (A) by inserting “and” after the
11 semicolon at the end of clause (v);

12 (B) by striking clause (vi); and

13 (C) by redesignating clause (vii)
14 as clause (vi); and

15 (2) by striking “the Director of the Of-
16 fice of Thrift Supervision,” each place it
17 appears.

18 **SEC. 444. AMENDMENTS TO ALTERNATIVE MORTGAGE**

19 **TRANSACTION PARITY ACT OF 1982.**

20 **Section 804(a) of the Alternative Mortgage**
21 **Transaction Parity Act of 1982 (12 U.S.C. 3803)**

22 **is amended—**

23 (1) in paragraph (1)—

24 (A) by inserting “(as such term is
25 defined in section 3 of the Federal

1 **Deposit Insurance Act) and all other**
2 **housing creditors” after “with respect**
3 **to banks”; and**

4 **(B) by inserting “and” after the**
5 **semicolon at the end of the para-**
6 **graph;**

7 **(2) by deleting “; and” at the end of**
8 **paragraph (2) and inserting a period; and**

9 **(3) by striking paragraph (3).**

10 **SEC. 445. AMENDMENTS TO THE BANK PROTECTION ACT**
11 **OF 1968.**

12 **Section 2 of the Bank Protection Act of**
13 **1968 (12 U.S.C. 1881) is amended—**

14 **(1) by striking the comma at the end**
15 **of paragraph (2) and inserting “; and”;**

16 **(2) by striking “, and” at the end of**
17 **paragraph (3) and inserting a period; and**

18 **(3) by striking paragraph (4).**

19 **SEC. 446. AMENDMENTS TO THE COMMUNITY REINVEST-**
20 **MENT ACT OF 1977.**

21 **Section 803 of the Community Reinvest-**
22 **ment Act of 1977 (12 U.S.C. 2902) is amended—**

23 **(1) in paragraph (1)—**

1 (A) by inserting “and” after the
2 semicolon at the end of subparagraph
3 (B); and

4 (B) by striking “and” after the
5 semicolon at the end of subparagraph
6 (C);

7 (2) by striking the first paragraph (2);
8 and

9 (3) in paragraph (3)(A), by striking
10 “or Federal savings and loan association”.

11 SEC. 447. AMENDMENTS TO THE DEPOSITORY INSTITU-
12 TIONS DEREGULATION AND MONETARY CON-
13 TROL ACT OF 1980.

14 Section 208(a) of the Depository Institu-
15 tions Deregulation and Monetary Control Act
16 of 1980 (12 U.S.C. 3507(a)) is amended—

17 (1) by striking “; and” at the end of
18 paragraph (1)(C) and inserting a period;
19 and

20 (2) by striking paragraph (2).

21 SEC. 448. AMENDMENTS TO THE DEPOSITORY INSTITUTION
22 MANAGEMENT INTERLOCKS ACT.

23 (a) AMENDMENT TO SECTION 202.—Section
24 202(2) of the Depository Institution Manage-
25 ment Interlocks Act (12 U.S.C. 3201(2)) is

1 amended by inserting “or” before “a company
2 which would be” and striking “, or a savings
3 and loan holding company” and all that fol-
4 lows through “Housing Act”.

5 (b) AMENDMENT TO SECTION 205.—Section
6 205 of the Depository Institution Management
7 Interlocks Act (12 U.S.C. 3204) is amended—

8 (1) in the portion of paragraph (8)(A)
9 which precedes clause (i), by striking “di-
10 versified savings” and all that follows
11 through “with respect to” and inserting
12 “company which is, or has filed an appli-
13 cation to become, a depository institution
14 holding company and which satisfies the
15 consolidated net worth and consolidated
16 net earnings requirements for a diversi-
17 fied savings and loan holding company
18 (as set forth in section 10(1)(F) of the
19 Home Owners’ Loan Act, as such section
20 is in effect and interpreted on such date,
21 which shall be applicable for purposes of
22 this paragraph without regard to the fact
23 that a depository institution subsidiary of
24 such holding company has ceased to be a

1 **savings association after January 1, 1997)**
2 **with respect to”; and**

3 **(2) by striking paragraph (9).**

4 **(c) AMENDMENTS TO SECTION 207.—Section**
5 **207 of the Depository Institution Management**
6 **Interlocks Act (12 U.S.C. 3206) is amended—**

7 **(1) by striking paragraph (4); and**

8 **(2) by redesignating paragraphs (5)**
9 **and (6) as paragraphs (4) and (5), respec-**
10 **tively.**

11 **(d) AMENDMENT TO SECTION 209.—Section**
12 **209 of the Depository Institution Management**
13 **Interlocks Act (12 U.S.C. 3207) is amended—**

14 **(1) by inserting “and” after the**
15 **comma at the end of paragraph (3);**

16 **(2) by striking paragraph (4); and**

17 **(3) by redesignating paragraph (5) as**
18 **paragraph (4).**

19 **SEC. 449. AMENDMENT TO THE ECONOMIC GROWTH AND**
20 **REGULATORY PAPERWORK REDUCTION ACT**
21 **OF 1996.**

22 **Section 2227 of the Economic Growth and**
23 **Regulatory Paperwork Reduction Act of 1996**
24 **(Public Law 104–208) is amended by striking**

1 **“the Director of the Office of Thrift Super-**
2 **vision,”.**

3 **SEC. 450. AMENDMENT TO THE EMERGENCY HOME FI-**
4 **NANCE ACT OF 1970.**

5 **Section 305(b) of the Emergency Home Fi-**
6 **nance Act of 1970 (12 U.S.C. 1454(b)) is amend-**
7 **ed by striking “any Federal savings and loan**
8 **association,”.**

9 **SEC. 451. AMENDMENTS TO THE EXPEDITED FUNDS AVAIL-**
10 **ABILITY ACT.**

11 **Section 610(a) of the Expedited Funds**
12 **Availability Act (12 U.S.C. 4009(a)) is amend-**
13 **ed—**

14 **(1) by inserting “and” after the semi-**
15 **colon at the end of paragraph (1)(C);**

16 **(2) by striking paragraph (2); and**

17 **(3) by redesignating paragraph (3) as**
18 **paragraph (2).**

19 **SEC. 452. AMENDMENTS TO THE FEDERAL CREDIT UNION**
20 **ACT.**

21 **(a) AMENDMENT TO SECTION 107.—Section**
22 **107(7)(D) of the Federal Credit Union Act (12**
23 **U.S.C. 1757(7)(D)) is amended by striking “the**
24 **Federal Savings and Loan Insurance Corpora-**
25 **tion or”.**

1 **(b) AMENDMENT TO SECTION 206.—Section**
2 **206(g)(7)(A)(ii) of the Federal Credit Union**
3 **Act (12 U.S.C. 1786(g)(7)(A)(ii)) is amended by**
4 **striking “, or as a savings association under**
5 **section 8(b)(8) of such Act”.**

6 **SEC. 453. AMENDMENTS TO THE FEDERAL FINANCIAL IN-**
7 **STITUTIONS EXAMINATION COUNCIL ACT OF**
8 **1978.**

9 **(a) AMENDMENT TO SECTION 1003(1).—Sec-**
10 **tion 1003(1) of the Federal Financial Institu-**
11 **tions Examination Council Act of 1978 (12**
12 **U.S.C. 3302(1)) is amended by striking “the Of-**
13 **fice of Thrift Supervision,”.**

14 **(b) AMENDMENT TO SECTION 1004.—Section**
15 **1004(a) of the Federal Financial Institutions**
16 **Examination Council Act of 1978 (12 U.S.C.**
17 **3303(a)) is amended—**

18 **(1) by inserting “and” after the**
19 **comma at the end of paragraph (3);**

20 **(2) by striking paragraph (4); and**

21 **(3) by redesignating paragraph (5) as**
22 **paragraph (4).**

1 SEC. 454. AMENDMENTS TO THE FINANCIAL INSTITUTIONS
2 REFORM, RECOVERY, AND ENFORCEMENT
3 ACT OF 1989.

4 (a) AMENDMENT TO SECTION 1121.—Section
5 1121(6) of the Financial Institutions Reform,
6 Recovery, and Enforcement Act of 1989 (12
7 U.S.C. 3350(6)) is amended by striking “the Of-
8 fice of Thrift Supervision,”.

9 (b) AMENDMENT TO SECTION 1206.—Section
10 1206 of the Financial Institutions Reform, Re-
11 covery, and Enforcement Act of 1989 (12
12 U.S.C. 1833b) is amended by striking “and the
13 Office of Thrift Supervision,” and inserting
14 “and” before “the Farm Credit Administra-
15 tion”.

16 (c) AMENDMENT TO SECTION 1216.—Section
17 1216 of the Financial Institutions Reform, Re-
18 covery, and Enforcement Act of 1989 (12
19 U.S.C. 1833e) is amended—

20 (1) in subsection (a), by striking para-
21 graph (2) and redesignating paragraphs
22 (3) through (6) as paragraphs (2) through
23 (5), respectively; and

24 (2) in subsection (c), by striking “the
25 Director of the Office of Thrift Super-
26 vision,”.

1 SEC. 455. AMENDMENTS TO THE HOME MORTGAGE DISCLO-
2 SURE ACT OF 1975.

3 (a) AMENDMENTS TO SECTION 304.—Section
4 304(h) of the Home Mortgage Disclosure Act
5 of 1975 (12 U.S.C. 2803(h)) is amended—

6 (1) by striking paragraph (2);

7 (2) in paragraph (5), by striking “(4)”
8 and inserting “(3)”; and

9 (3) by redesignating paragraphs (3)
10 through (5) as paragraphs (2) through (4),
11 respectively.

12 (b) AMENDMENTS TO SECTION 305.—Section
13 305(b) of the Home Mortgage Disclosure Act of
14 1975 (12 U.S.C. 2804(b)) is amended—

15 (1) by striking paragraph (2); and

16 (2) by redesignating paragraphs (3)
17 and (4) as paragraphs (2) and (3), respec-
18 tively.

19 (c) AMENDMENTS TO SECTION 306.—Section
20 306(b) of the Home Mortgage Disclosure Act of
21 1975 (12 U.S.C. 2805(b)) is amended by striking
22 “shall be enforced under—” and all that fol-
23 lows through “Federal Deposit Insurance Cor-
24 poration” and inserting “under section 8 of
25 the Federal Deposit Insurance Act (12 U.S.C.

1 1818) in the case of national banks, by the
2 Comptroller of the Currency”.

3 SEC. 456. AMENDMENTS TO THE HOUSING AND COMMU-
4 NITY DEVELOPMENT ACT OF 1992.

5 (a) AMENDMENT TO SECTION 1315.—Section
6 1315(b) of the Housing and Community Devel-
7 opment Act of 1992 (12 U.S.C. 4515(b)) is
8 amended by striking “, and the Office of Thrift
9 Supervision” and inserting “and” before “the
10 Federal Deposit Insurance Corporation”.

11 (b) AMENDMENT TO SECTION 1317(c).—Sec-
12 tion 1317(c) of the Housing and Community
13 Development Act of 1992 (12 U.S.C. 4517(c)) is
14 amended by striking “, or the Director of the
15 Office of Thrift Supervision” and inserting
16 “or” before “the Federal Deposit Insurance
17 Corporation”.

18 SEC. 457. AMENDMENT TO THE INTERNATIONAL BANKING
19 ACT OF 1978.

20 Section 15 of the International Banking
21 Act of 1978 (12 U.S.C. 3109) is amended by
22 striking “Federal Deposit Insurance Corpora-
23 tion, and Director of the Office of Thrift Su-
24 pervision” each place that it appears and in-

1 **serting “and Federal Deposit Insurance Cor-**
2 **poration”.**

3 **SEC. 458. AMENDMENTS TO THE NATIONAL HOUSING ACT.**

4 **(a) AMENDMENTS TO SECTION 203.—The 1st**
5 **of the 2 subsections designated as subsection**
6 **(s) of section 203 of the National Housing Act**
7 **(12 U.S.C. 1709(s)) is amended—**

8 **(1) by inserting “and” after the semi-**
9 **colon at the end of paragraph (6);**

10 **(2) in paragraph (7)—**

11 **(A) by inserting “(as defined in**
12 **section 3 of the Federal Deposit In-**
13 **surance Act)” after “State bank”; and**

14 **(B) striking “; and” and inserting**
15 **a period; and**

16 **(3) by striking paragraph (8).**

17 **(b) AMENDMENT TO SECTION 502.—Section**
18 **502 of the National Housing Act (12 U.S.C.**
19 **1701c(c)) is amended by striking “and the Di-**
20 **rector of the Office of Thrift Supervision, re-**
21 **spectively”.**

22 **SEC. 459. AMENDMENT TO PUBLIC LAW 93–495.**

23 **Section 202(a)(12) of Public Law 93–495**
24 **(12 U.S.C. 2402(a)(12)) is amended by striking**
25 **“thrift, or other business entities, including**

1 **one representative each of commercial banks,**
2 **mutual savings banks, savings and loan asso-**
3 **ciations,” and inserting “or other business en-**
4 **tities, including 3 representatives from dif-**
5 **ferent types of insured depository institutions**
6 **(as defined in section 3 of the Federal Deposit**
7 **Insurance Act) and 1 representative each of”.**

8 **SEC. 460. AMENDMENT TO THE REAL ESTATE SETTLEMENT**
9 **PROCEDURES ACT OF 1974.**

10 **The 1st sentence of section 4(a) of the Real**
11 **Estate Settlement Procedures Act of 1974 (12**
12 **U.S.C. 2603(a)) is amended—**

13 **(1) by striking the comma after “Af-**
14 **fairs”;**

15 **(2) by inserting “and” before “the**
16 **Federal Deposit Insurance Corporation”;**
17 **and**

18 **(3) by striking “, and the Director of**
19 **the Office of Thrift Supervision”.**

20 **SEC. 461. AMENDMENT TO THE REVISED STATUTES OF THE**
21 **UNITED STATES.**

22 **Section 324 of the Revised Statutes of the**
23 **United States (12 U.S.C. 1) is amended by**
24 **striking “The Comptroller of the Currency**
25 **shall have the same authority over matters**

1 within the jurisdiction of the Comptroller as
2 the Director of the Office of Thrift Super-
3 vision has over matters within the Director's
4 jurisdiction under section 3(b)(3) of the Home
5 Owners' Loan Act" and inserting "The Sec-
6 retary of the Treasury may not intervene in
7 any matter or proceeding before the Comp-
8 troller of the Currency (including agency en-
9 forcement actions) unless otherwise specifi-
10 cally provided by law".

11 SEC. 462. AMENDMENTS TO THE RIEGLE COMMUNITY DE-
12 VELOPMENT AND REGULATORY IMPROVE-
13 MENT ACT OF 1994.

14 (a) AMENDMENT TO SECTION 307.—Section
15 307(a) of the Riegle Community Development
16 and Regulatory Improvement Act of 1994 (12
17 U.S.C. 4805(a)) is amended by striking "sav-
18 ings association financial reports,".

19 (b) AMENDMENT TO SECTION 117.—Section
20 117(e) of the Riegle Community Development
21 and Regulatory Improvement Act of 1994 (12
22 U.S.C. 4716(e)) is amended by striking "the Di-
23 rector of the Office of Thrift Supervision,".

1 SEC. 463. AMENDMENTS TO THE RIGHT TO FINANCIAL PRI-
2 VACY ACT OF 1978.

3 Section 1101 of the Right to Financial Pri-
4 vacy Act of 1978 (12 U.S.C. 3401) is amended—

5 (1) in paragraph (6)—

6 (A) by inserting “and” after the
7 semicolon at the end of subparagraph
8 (A), ;

9 (B) by striking “; and” at the end
10 of subparagraph (B) and inserting a
11 period; and

12 (C) by striking subparagraph (C);
13 and

14 (2) in paragraph (7)—

15 (A) by striking subparagraph (B);
16 and

17 (B) by redesignating subpara-
18 graphs (C) through (H) as subpara-
19 graphs (B) through (G), respectively.

20 SEC. 464. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.

21 Section 270(a)(1) of the Truth in Savings
22 Act (12 U.S.C. 4309(a)(1)) is amended—

23 (1) by inserting “and” after the semi-
24 colon at the end of subparagraph (A);

25 (2) in subparagraph (B)—

1 **(A) by striking “or (iii)” and in-**
2 **serting “(iii), or (v)”;** and

3 **(B) by striking “; and” and insert-**
4 **ing a period; and**

5 **(3) by striking subparagraph (C).**

6 **SEC. 465. EFFECTIVE DATE.**

7 **This subtitle shall take effect at the end**
8 **of the 2-year period beginning on the date of**
9 **the enactment of this Act.**