

Union Calendar No. 206

109TH CONGRESS
2^D SESSION

H. R. 3505

[Report No. 109–356, Parts I and II]

To provide regulatory relief and improve productivity for insured depository institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Mr. HENSARLING (for himself and Mr. MOORE of Kansas) introduced the following bill; which was referred to the Committee on Financial Services

DECEMBER 17, 2005

Reported from the Committee on Financial Services with an amendment

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

DECEMBER 17, 2005

Referred to the Committee on the Judiciary, for a period ending not later than December 31, 2005 for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(1), rule X

DECEMBER 31, 2005

Referral to the Committee on the Judiciary extended for a period ending not later than February 3, 2006

FEBRUARY 3, 2006

Referral to the Committee on the Judiciary extended for a period ending not later than February 24, 2006

FEBRUARY 16, 2006

Additional sponsors: Mr. HINOJOSA, Mr. ROSS, Mr. ROTHMAN, Mr. CROWLEY, Ms. WASSERMAN SCHULTZ, Mr. FEENEY, Mr. BACHUS, Mr. MARCHANT, Mr. GILLMOR, Mr. NEUGEBAUER, Mr. LEWIS of California, Mr. MEEKS of New York, Mr. PEARCE, Mr. RYUN of Kansas, Mr. ISRAEL, Mr. PAUL, Mr. SESSIONS, Mr. JONES of North Carolina, Ms. ROYBAL-ALLARD, Mr. GARRETT of New Jersey, Ms. HOOLEY, Mr. RENZI, Mr. CANTOR, Mr.

ADERHOLT, Mr. MILLER of Florida, Mr. AL GREEN of Texas, Mrs. MALONEY, Mr. PENCE, Mr. RUPPERSBERGER, Mr. MCCAUL of Texas, Mr. LEWIS of Kentucky, Mr. SOUDER, Mr. RYAN of Ohio, Mr. WELLER, Mr. SODREL, Ms. HARRIS, Mr. CARNAHAN, and Mr. CHABOT

FEBRUARY 16, 2006

Reported from the Committee on the Judiciary 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 *italic*]

[For text of introduced bill, see copy of bill as introduced on July 28, 2005]

A BILL

To provide regulatory relief and improve productivity for insured depository institutions, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the “Fi-*
 5 *nancial Services Regulatory Relief Act of 2005”.*

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

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL BANK PROVISIONS

Sec. 101. National bank directors.

Sec. 102. Voting in shareholder elections.

Sec. 103. Simplifying dividend calculations for national banks.

Sec. 104. Repeal of obsolete limitation on removal authority of the Comptroller of the Currency.

Sec. 105. Repeal of intrastate branch capital requirements.

Sec. 106. Clarification of waiver of publication requirements for bank merger notices.

Sec. 107. Equal treatment for Federal agencies of foreign banks.

Sec. 108. Maintenance of a Federal branch and a Federal agency in the same State.

Sec. 109. Business organization flexibility for national banks.

- Sec. 110. Clarification of the main place of business of a national bank.*
Sec. 111. Capital equivalency deposits for Federal branches and agencies of foreign banks.
Sec. 112. Enhancing the authority for national banks to make community development investments.

TITLE II—SAVINGS ASSOCIATION PROVISIONS

- Sec. 201. Parity for savings associations under the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940.*
Sec. 202. Investments by Federal savings associations authorized to promote the public welfare.
Sec. 203. Mergers and consolidations of Federal savings associations with non-depository institution affiliates.
Sec. 204. Repeal of statutory dividend notice requirement for savings association subsidiaries of savings and loan holding companies.
Sec. 205. Modernizing statutory authority for trust ownership of savings associations.
Sec. 206. Repeal of overlapping rules governing purchased mortgage servicing rights.
Sec. 207. Restatement of authority for Federal savings associations to invest in small business investment companies.
Sec. 208. Removal of limitation on investments in auto loans.
Sec. 209. Selling and offering of deposit products.
Sec. 210. Funeral- and cemetery-related fiduciary services.
Sec. 211. Repeal of qualified thrift lender requirement with respect to out-of-state branches.
Sec. 212. Small business and other commercial loans.
Sec. 213. Clarifying citizenship of Federal savings associations for Federal court jurisdiction.
Sec. 214. Increase in limits on commercial real estate loans.
Sec. 215. Repeal of one limit on loans to one borrower.
Sec. 216. Savings association credit card banks.
Sec. 217. Interstate acquisitions by S&L holding companies.
Sec. 218. Business organization flexibility for federal savings associations.

TITLE III—CREDIT UNION PROVISIONS

- Sec. 301. Privately insured credit unions authorized to become members of a Federal home loan bank.*
Sec. 302. Leases of land on Federal facilities for credit unions.
Sec. 303. Investments in securities by Federal credit unions.
Sec. 304. Increase in general 12-year limitation of term of Federal credit union loans to 15 years.
Sec. 305. Increase in 1 percent investment limit in credit union service organizations.
Sec. 306. Member business loan exclusion for loans to nonprofit religious organizations.
Sec. 307. Check cashing and money transfer services offered within the field of membership.
Sec. 308. Voluntary mergers involving multiple common-bond credit unions.
Sec. 309. Conversions involving common-bond credit unions.
Sec. 310. Credit union governance.
Sec. 311. Providing the National Credit Union Administration with greater flexibility in responding to market conditions.
Sec. 312. Exemption from pre-merger notification requirement of the Clayton Act.

- Sec. 313. Treatment of credit unions as depository institutions under securities laws.*
- Sec. 314. Clarification of definition of net worth under certain circumstances for purposes of prompt corrective action.*
- Sec. 315. Amendments relating to nonfederally insured credit unions.*

TITLE IV—DEPOSITORY INSTITUTION PROVISIONS

- Sec. 401. Easing restrictions on interstate branching and mergers.*
- Sec. 402. Statute of limitations for judicial review of appointment of a receiver for depository institutions.*
- Sec. 403. Reporting requirements relating to insider lending.*
- Sec. 404. Amendment to provide an inflation adjustment for the small depository institution exception under the Depository Institution Management Interlocks Act.*
- Sec. 405. Enhancing the safety and soundness of insured depository institutions.*
- Sec. 406. Investments by insured savings associations in bank service companies authorized.*
- Sec. 407. Cross guarantee authority.*
- Sec. 408. Golden parachute authority and nonbank holding companies.*
- Sec. 409. Amendments relating to change in bank control.*
- Sec. 410. Community reinvestment credit for esops and ewocs.*
- Sec. 411. Minority financial institutions.*

TITLE V—DEPOSITORY INSTITUTION AFFILIATES PROVISIONS

- Sec. 501. Clarification of cross marketing provision.*
- Sec. 502. Amendment to provide the Federal Reserve Board with discretion concerning the imputation of control of shares of a company by trustees.*
- Sec. 503. Eliminating geographic limits on thrift service companies.*
- Sec. 504. Clarification of scope of applicable rate provision.*
- Sec. 505. Savings associations acting as agents for affiliated depository institutions.*
- Sec. 506. Credit card bank investments for the public welfare.*

TITLE VI—BANKING AGENCY PROVISIONS

- Sec. 601. Waiver of examination schedule in order to allocate examiner resources.*
- Sec. 602. Interagency data sharing.*
- Sec. 603. Penalty for unauthorized participation by convicted individual.*
- Sec. 604. Amendment permitting the destruction of old records of a depository institution by the FDIC after the appointment of the FDIC as receiver.*
- Sec. 605. Modernization of recordkeeping requirement.*
- Sec. 606. Streamlining reports of condition.*
- Sec. 607. Expansion of eligibility for 18-month examination schedule for community banks.*
- Sec. 608. Short form reports of condition for certain community banks.*
- Sec. 609. Clarification of extent of suspension, removal, and prohibition authority of Federal banking agencies in cases of certain crimes by institution-affiliated parties.*
- Sec. 610. Streamlining depository institution merger application requirements.*
- Sec. 611. Inclusion of Director of the Office of Thrift Supervision in list of banking agencies regarding insurance customer protection regulations.*

- Sec. 612. Protection of confidential information received by Federal banking regulators from foreign banking supervisors.*
- Sec. 613. Prohibition on participation by convicted individual.*
- Sec. 614. Clarification that notice after separation from service may be made by an order.*
- Sec. 615. Enforcement against misrepresentations regarding FDIC deposit insurance coverage.*
- Sec. 616. Changes required to small bank holding company policy statement on assessment of financial and managerial factors.*
- Sec. 617. Exception to annual privacy notice requirement under the Gramm-Leach-Bliley Act.*
- Sec. 618. Biennial reports on the status of agency employment of minorities and women.*
- Sec. 619. Coordination of State examination authority.*
- Sec. 620. Nonwaiver of privileges.*
- Sec. 621. Right to Financial Privacy Act of 1978 amendment.*
- Sec. 622. Deputy director; succession authority for Director of the Office of Thrift Supervision.*
- Sec. 623. Limitation on scope of new agency guidelines.*

TITLE VII—"BSA" COMPLIANCE BURDEN REDUCTION

- Sec. 701. Exception from currency transaction reports for seasoned customers.*
- Sec. 702. Reduction in inconsistencies in monetary transaction recordkeeping and reporting enforcement and examination requirements.*
- Sec. 703. Additional reforms relating to monetary transaction and recordkeeping requirements applicable to financial institutions.*
- Sec. 704. Study by Comptroller General.*
- Sec. 705. Feasibility study required.*
- Sec. 706. Annual report by Secretary of the Treasury.*
- Sec. 707. Preservation of money services businesses.*

TITLE VIII—CLERICAL AND TECHNICAL AMENDMENTS

- Sec. 801. Clerical amendments to the Home Owners' Loan Act.*
- Sec. 802. Technical corrections to the Federal Credit Union Act.*
- Sec. 803. Other technical corrections.*
- Sec. 804. Repeal of obsolete provisions of the Bank Holding Company Act of 1956.*

TITLE IX—FAIR DEBT COLLECTION PRACTICES ACT AMENDMENTS

- Sec. 901. Exception for certain bad check enforcement programs.*
- Sec. 902. Other amendments.*

1 TITLE I—NATIONAL BANK

2 PROVISIONS

3 SEC. 101. NATIONAL BANK DIRECTORS.

- 4 (a) IN GENERAL.**—Section 5146 of the Revised Stat-
- 5 utes of the United States (12 U.S.C. 72) is amended—**

1 (1) by striking “*SEC. 5146. Every director must*
2 *during*” and inserting the following:

3 **“SEC. 5146. REQUIREMENTS FOR BANK DIRECTORS.**

4 “(a) *RESIDENCY REQUIREMENTS.*—*Every director of*
5 *a national bank shall, during*”;

6 (2) by striking “*total number of directors. Every*
7 *director must own in his or her own right*” and in-
8 *serting “total number of directors.*

9 “(b) *INVESTMENT REQUIREMENT.*—

10 “(1) *IN GENERAL.*—*Every director of a national*
11 *bank shall own, in his or her own right,*”;

12 (3) by adding at the end the following new para-
13 *graph:*

14 “(2) *EXCEPTION FOR SUBORDINATED DEBT IN*
15 *CERTAIN CASES.*—*In lieu of the requirements of para-*
16 *graph (1) relating to the ownership of capital stock*
17 *in the national bank, the Comptroller of the Currency*
18 *may, by regulation or order, permit an individual to*
19 *serve as a director of a national bank that has elected,*
20 *or notifies the Comptroller of the bank’s intention to*
21 *elect, to operate as a S corporation pursuant to sec-*
22 *tion 1362(a) of the Internal Revenue Code of 1986, if*
23 *that individual holds debt of at least \$1,000 issued by*
24 *the national bank that is subordinated to the interests*

1 **“SEC. 5199. NATIONAL BANK DIVIDENDS.**

2 “(a) *IN GENERAL.*—Subject to subsection (b), the di-
3 rectors of any national bank may declare a dividend of so
4 much of the undivided profits of the bank as the directors
5 judge to be expedient.

6 “(b) *APPROVAL REQUIRED UNDER CERTAIN CIR-*
7 *CUMSTANCES.*—A national bank may not declare and pay
8 dividends in any year in excess of an amount equal to the
9 sum of the total of the net income of the bank for that year
10 and the retained net income of the bank in the preceding
11 two years, minus any transfers required by the Comptroller
12 of the Currency (including any transfers required to be
13 made to a fund for the retirement of any preferred stock),
14 unless the Comptroller of the Currency approves the dec-
15 laration and payment of dividends in excess of such
16 amount.”.

17 “(b) *CLERICAL AMENDMENT.*—The table of sections for
18 chapter three of title LXII of the Revised Statutes of the
19 United States is amended by striking the item relating to
20 section 5199 and inserting the following new item:

“5199. *National bank dividends.*”.

1 **SEC. 104. REPEAL OF OBSOLETE LIMITATION ON REMOVAL**
2 **AUTHORITY OF THE COMPTROLLER OF THE**
3 **CURRENCY.**

4 *Section 8(e)(4) of the Federal Deposit Insurance Act*
5 *(12 U.S.C. 1818(e)(4)) is amended by striking the 5th sen-*
6 *tence.*

7 **SEC. 105. REPEAL OF INTRASTATE BRANCH CAPITAL RE-**
8 **QUIREMENTS.**

9 *Section 5155(c) of the Revised Statutes of the United*
10 *States (12 U.S.C. 36(c)) is amended—*

11 *(1) in the 2nd sentence, by striking “, without*
12 *regard to the capital requirements of this section,”;*
13 *and*

14 *(2) by striking the last sentence.*

15 **SEC. 106. CLARIFICATION OF WAIVER OF PUBLICATION RE-**
16 **QUIREMENTS FOR BANK MERGER NOTICES.**

17 *The last sentence of sections 2(a) and 3(a)(2) of the*
18 *National Bank Consolidation and Merger Act (12 U.S.C.*
19 *215(a) and 215a(a)(2), respectively) are each amended by*
20 *striking “Publication of notice may be waived, in cases*
21 *where the Comptroller determines that an emergency exists*
22 *justifying such waiver, by unanimous action of the share-*
23 *holders of the association or State bank” and inserting*
24 *“Publication of notice may be waived if the Comptroller*
25 *determines that an emergency exists justifying such waiver*
26 *or if the shareholders of the association or State bank agree*

1 *by unanimous action to waive the publication requirement*
2 *for their respective institutions”.*

3 **SEC. 107. EQUAL TREATMENT FOR FEDERAL AGENCIES OF**
4 **FOREIGN BANKS.**

5 *The 1st sentence of section 4(d) of the International*
6 *Banking Act of 1978 (12 U.S.C. 3102(d)) is amended by*
7 *inserting “from citizens or residents of the United States”*
8 *after “deposits”.*

9 **SEC. 108. MAINTENANCE OF A FEDERAL BRANCH AND A**
10 **FEDERAL AGENCY IN THE SAME STATE.**

11 *Section 4(e) of the International Banking Act of 1978*
12 *(12 U.S.C. 3102(e)) is amended by inserting “if the mainte-*
13 *nance of both an agency and a branch in the State is pro-*
14 *hibited under the law of such State” before the period at*
15 *the end.*

16 **SEC. 109. BUSINESS ORGANIZATION FLEXIBILITY FOR NA-**
17 **TIONAL BANKS.**

18 *(a) IN GENERAL.—Chapter one of title LXII of the Re-*
19 *vised Statutes of the United States (12 U.S.C. 21 et seq.)*
20 *is amended by inserting after section 5136B the following*
21 *new section:*

22 **“SEC. 5136C. ALTERNATIVE BUSINESS ORGANIZATION.**

23 *“(a) IN GENERAL.—The Comptroller of the Currency*
24 *may prescribe regulations—*

1 “(1) to permit a national bank to be organized
2 other than as a body corporate; and

3 “(2) to provide requirements for the organiza-
4 tional characteristics of a national bank organized
5 and operating other than as a body corporate, con-
6 sistent with the safety and soundness of the national
7 bank.

8 “(b) *EQUAL TREATMENT.*—*Except as provided in reg-*
9 *ulations prescribed under subsection (a), a national bank*
10 *that is operating other than as a body corporate shall have*
11 *the same rights and privileges and shall be subject to the*
12 *same duties, restrictions, penalties, liabilities, conditions,*
13 *and limitations as a national bank that is organized as*
14 *a body corporate.”.*

15 (b) *TECHNICAL AND CONFORMING AMENDMENT.*—*Sec-*
16 *tion 5136 of the Revised Statutes of the United States (12*
17 *U.S.C. 24) is amended, in the matter preceding the para-*
18 *graph designated as the “First”, by inserting “or other form*
19 *of business organization provided under regulations pre-*
20 *scribed by the Comptroller of the Currency under section*
21 *5136C” after “a body corporate”.*

22 (c) *CLERICAL AMENDMENT.*—*The table of sections for*
23 *chapter one of title LXII of the Revised Statutes of the*
24 *United States (12 U.S.C. 21 et seq.) is amended by insert-*

1 *ing after the item relating to section 5136B the following*
 2 *new item:*

“5136C. Alternative business organization.”.

3 **SEC. 110. CLARIFICATION OF THE MAIN PLACE OF BUSI-**
 4 **NESS OF A NATIONAL BANK.**

5 *Title LXII of the Revised Statutes of the United States*
 6 *is amended—*

7 *(1) in the paragraph designated the “Second” of*
 8 *section 5134 (12 U.S.C. 22), by striking “The place*
 9 *where its operations of discount and deposit are to be*
 10 *carried on” and inserting “The place where the main*
 11 *office of the national bank is, or is to be, located”;*
 12 *and*

13 *(2) in section 5190 (12 U.S.C. 81), by striking*
 14 *“the place specified in its organization certificate”*
 15 *and inserting “the main office of the national bank”.*

16 **SEC. 111. CAPITAL EQUIVALENCY DEPOSITS FOR FEDERAL**
 17 **BRANCHES AND AGENCIES OF FOREIGN**
 18 **BANKS.**

19 *Section 4(g) of the International Banking Act of 1978*
 20 *(12 U.S.C. 3102(g)) is amended to read as follows:*

21 *“(g) CAPITAL EQUIVALENCY DEPOSIT.—*

22 *“(1) IN GENERAL.—Upon the opening of a Fed-*
 23 *eral branch or agency of a foreign bank in any State*
 24 *and thereafter, the foreign bank, in addition to any*
 25 *deposit requirements imposed under section 6, shall*

1 *keep on deposit, in accordance with such regulations*
2 *as the Comptroller of the Currency may prescribe in*
3 *accordance with paragraph (2), dollar deposits, in-*
4 *vestment securities, or other assets in such amounts as*
5 *the Comptroller of the Currency determines to be nec-*
6 *essary for the protection of depositors and other inves-*
7 *tors and to be consistent with the principles of safety*
8 *and soundness.*

9 “(2) *LIMITATION.*—*Notwithstanding paragraph*
10 *(1), regulations prescribed under such paragraph*
11 *shall not permit a foreign bank to keep assets on de-*
12 *posit in an amount that is less than the amount re-*
13 *quired for a State licensed branch or agency of a for-*
14 *foreign bank under the laws and regulations of the State*
15 *in which the Federal agency or branch is located.”.*

16 **SEC. 112. ENHANCING THE AUTHORITY FOR NATIONAL**
17 **BANKS TO MAKE COMMUNITY DEVELOPMENT**
18 **INVESTMENTS.**

19 *The last sentence in the paragraph designated as the*
20 *“Eleventh.” of section 5136 of the Revised Statutes of the*
21 *United States (12 U.S.C. 24) is amended by striking “10*
22 *percent” each place such term appears and inserting “15*
23 *percent”.*

1 **TITLE II—SAVINGS ASSOCIATION**
2 **PROVISIONS**

3 **SEC. 201. PARITY FOR SAVINGS ASSOCIATIONS UNDER THE**
4 **SECURITIES EXCHANGE ACT OF 1934 AND THE**
5 **INVESTMENT ADVISERS ACT OF 1940.**

6 (a) *SECURITIES EXCHANGE ACT OF 1934.*—

7 (1) *DEFINITION OF BANK.*—Section 3(a)(6) of
8 the Securities Exchange Act of 1934 (15 U.S.C.
9 78c(a)(6)) is amended—

10 (A) in subparagraph (A), by inserting “or
11 a Federal savings association, as defined in sec-
12 tion 2(5) of the Home Owners’ Loan Act” after
13 “a banking institution organized under the laws
14 of the United States”; and

15 (B) in subparagraph (C)—

16 (i) by inserting “or savings association
17 as defined in section 2(4) of the Home Own-
18 ers’ Loan Act,” after “banking institution,”;
19 and

20 (ii) by inserting “or savings associa-
21 tions” after “having supervision over
22 banks”.

23 (2) *INCLUDE OTS UNDER THE DEFINITION OF*
24 *APPROPRIATE REGULATORY AGENCY FOR CERTAIN*

1 *PURPOSES.—Section 3(a)(34) of such Act (15 U.S.C.*
2 *78c(a)(34)) is amended—*

3 *(A) in subparagraph (A)—*

4 *(i) in clause (ii), by striking “(i) or*
5 *(iii)” and inserting “(i), (iii), or (iv)”;*

6 *(ii) by striking “and” at the end of*
7 *clause (iii);*

8 *(iii) by redesignating clause (iv) as*
9 *clause (v); and*

10 *(iv) by inserting the following new*
11 *clause after clause (iii):*

12 *“(iv) the Director of the Office of*
13 *Thrift Supervision, in the case of a savings*
14 *association (as defined in section 3(b) of the*
15 *Federal Deposit Insurance Act (12 U.S.C.*
16 *1813(b))) the deposits of which are insured*
17 *by the Federal Deposit Insurance Corpora-*
18 *tion, a subsidiary or a department or divi-*
19 *sion of any such savings association, or a*
20 *savings and loan holding company; and”;*

21 *(B) in subparagraph (B)—*

22 *(i) in clause (ii), by striking “(i) or*
23 *(iii)” and inserting “(i), (iii), or (iv)”;*

24 *(ii) by striking “and” at the end of*
25 *clause (iii);*

1 (iii) by redesignating clause (iv) as
2 clause (v); and

3 (iv) by inserting the following new
4 clause after clause (iii):

5 “(iv) the Director of the Office of
6 Thrift Supervision, in the case of a savings
7 association (as defined in section 3(b) of the
8 Federal Deposit Insurance Act (12 U.S.C.
9 1813(b))) the deposits of which are insured
10 by the Federal Deposit Insurance Corpora-
11 tion, or a subsidiary of any such savings
12 association, or a savings and loan holding
13 company; and”;

14 (C) in subparagraph (C)—

15 (i) in clause (ii), by striking “(i) or
16 (iii)” and inserting “(i), (iii), or (iv)”;

17 (ii) by striking “and” at the end of
18 clause (iii);

19 (iii) by redesignating clause (iv) as
20 clause (v); and

21 (iv) by inserting the following new
22 clause after clause (iii):

23 “(iv) the Director of the Office of
24 Thrift Supervision, in the case of a savings
25 association (as defined in section 3(b) of the

1 *Federal Deposit Insurance Act (12 U.S.C.*
2 *1813(b))) the deposits of which are insured*
3 *by the Federal Deposit Insurance Corpora-*
4 *tion, a savings and loan holding company,*
5 *or a subsidiary of a savings and loan hold-*
6 *ing company when the appropriate regu-*
7 *latory agency for such clearing agency is*
8 *not the Commission; and”;*

9 *(D) in subparagraph (D)—*

10 *(i) by striking “and” at the end of*
11 *clause (ii);*

12 *(ii) by redesignating clause (iii) as*
13 *clause (iv); and*

14 *(iii) by inserting the following new*
15 *clause after clause (ii):*

16 *“(iii) the Director of the Office of*
17 *Thrift Supervision, in the case of a savings*
18 *association (as defined in section 3(b) of the*
19 *Federal Deposit Insurance Act (12 U.S.C.*
20 *1813(b))) the deposits of which are insured*
21 *by the Federal Deposit Insurance Corpora-*
22 *tion; and”;*

23 *(E) in subparagraph (F)—*

1 (i) by redesignating clauses (ii), (iii),
2 and (iv) as clauses (iii), (iv), and (v), re-
3 spectively; and

4 (ii) by inserting the following new
5 clause after clause (i):

6 “(ii) the Director of the Office of Thrift
7 Supervision, in the case of a savings asso-
8 ciation (as defined in section 3(b) of the
9 Federal Deposit Insurance Act (12 U.S.C.
10 1813(b))) the deposits of which are insured
11 by the Federal Deposit Insurance Corpora-
12 tion; and”;

13 (F) by moving subparagraph (H) and in-
14 serting such subparagraph after subparagraph
15 (G); and

16 (G) by adding at the end the following new
17 sentence: “As used in this paragraph, the term
18 ‘savings and loan holding company’ has the
19 meaning given it in section 10(a) of the Home
20 Owners’ Loan Act (12 U.S.C. 1467a(a)).”.

21 (b) INVESTMENT ADVISERS ACT OF 1940.—

22 (1) DEFINITION OF BANK.—Section 202(a)(2) of
23 the Investment Advisers Act of 1940 (15 U.S.C. 80b-
24 2(a)(2)) is amended—

1 (A) in subparagraph (A) by inserting “or a
2 Federal savings association, as defined in section
3 2(5) of the Home Owners’ Loan Act” after “a
4 banking institution organized under the laws of
5 the United States”; and

6 (B) in subparagraph (C)—

7 (i) by inserting “, savings association
8 as defined in section 2(4) of the Home Own-
9 ers’ Loan Act,” after “banking institution”;
10 and

11 (ii) by inserting “or savings associa-
12 tions” after “having supervision over
13 banks”.

14 (2) CONFORMING AMENDMENTS.—Subsections
15 (a)(1)(A)(i), (a)(1)(B), (a)(2), and (b) of section 210A
16 of such Act (15 U.S.C. 80b–10a), as added by section
17 220 of the Gramm-Leach-Bliley Act, are each amend-
18 ed by striking “bank holding company” each place it
19 occurs and inserting “bank holding company or sav-
20 ings and loan holding company”.

21 (c) CONFORMING AMENDMENT TO THE INVESTMENT
22 COMPANY ACT OF 1940.—Section 10(c) of the Investment
23 Company Act of 1940 (15 U.S.C. 80a–10(c)), as amended
24 by section 213(c) of the Gramm-Leach-Bliley Act, is amend-
25 ed by inserting after “1956)” the following: “or any one

1 *savings and loan holding company (together with its affili-*
2 *ates and subsidiaries) (as such terms are defined in section*
3 *10 of the Home Owners' Loan Act)”.*

4 **SEC. 202. INVESTMENTS BY FEDERAL SAVINGS ASSOCIA-**
5 **TIONS AUTHORIZED TO PROMOTE THE PUB-**
6 **LIC WELFARE.**

7 *(a) IN GENERAL.—Section 5(c)(3) of the Home Own-*
8 *ers' Loan Act (12 U.S.C. 1464(c)) is amended by adding*
9 *at the end the following new subparagraph:*

10 *“(D) DIRECT INVESTMENTS TO PROMOTE*
11 *THE PUBLIC WELFARE.—*

12 *“(i) IN GENERAL.—A Federal savings*
13 *association may make investments designed*
14 *primarily to promote the public welfare, in-*
15 *cluding the welfare of low- and moderate-in-*
16 *come communities or families through the*
17 *provision of housing, services, and jobs.*

18 *“(ii) DIRECT INVESTMENTS OR ACQUI-*
19 *SITION OF INTEREST IN OTHER COMPA-*
20 *NIES.—Investments under clause (i) may be*
21 *made directly or by purchasing interests in*
22 *an entity primarily engaged in making*
23 *such investments.*

24 *“(iii) PROHIBITION ON UNLIMITED LI-*
25 *ABILITY.—No investment may be made*

1 *under this subparagraph which would sub-*
2 *ject a Federal savings association to unlim-*
3 *ited liability to any person.*

4 “(iv) *SINGLE INVESTMENT LIMITATION*
5 *TO BE ESTABLISHED BY DIRECTOR.*—*Sub-*
6 *ject to clauses (v) and (vi), the Director*
7 *shall establish, by order or regulation, lim-*
8 *its on—*

9 “(I) *the amount any savings asso-*
10 *ciation may invest in any 1 project;*
11 *and*

12 “(II) *the aggregate amount of in-*
13 *vestment of any savings association*
14 *under this subparagraph.*

15 “(v) *FLEXIBLE AGGREGATE INVEST-*
16 *MENT LIMITATION.*—*The aggregate amount*
17 *of investments of any savings association*
18 *under this subparagraph may not exceed an*
19 *amount equal to the sum of 5 percent of the*
20 *savings association’s capital stock actually*
21 *paid in and unimpaired and 5 percent of*
22 *the savings association’s unimpaired sur-*
23 *plus, unless—*

1 “(I) the Director determines that
2 the savings association is adequately
3 capitalized; and

4 “(II) the Director determines, by
5 order, that the aggregate amount of in-
6 vestments in a higher amount than the
7 limit under this clause will pose no
8 significant risk to the affected deposit
9 insurance fund.

10 “(vi) *MAXIMUM AGGREGATE INVEST-*
11 *MENT LIMITATION.*—Notwithstanding clause
12 (v), the aggregate amount of investments of
13 any savings association under this subpara-
14 graph may not exceed an amount equal to
15 the sum of 15 percent of the savings associa-
16 tion’s capital stock actually paid in and
17 unimpaired and 15 percent of the savings
18 association’s unimpaired surplus.

19 “(vii) *INVESTMENTS NOT SUBJECT TO*
20 *OTHER LIMITATION ON QUALITY OF INVEST-*
21 *MENTS.*—No obligation a Federal savings
22 association acquires or retains under this
23 subparagraph shall be taken into account
24 for purposes of the limitation contained in
25 section 28(d) of the Federal Deposit Insur-

1 *ance Act on the acquisition and retention of*
 2 *any corporate debt security not of invest-*
 3 *ment grade.”.*

4 *(b) TECHNICAL AND CONFORMING AMENDMENT.—Sec-*
 5 *tion 5(c)(3)(A) of the Home Owners’ Loan Act (12 U.S.C.*
 6 *1464(c)(3)(A)) is amended to read as follows:*

7 *“(A) [Repealed].”.*

8 **SEC. 203. MERGERS AND CONSOLIDATIONS OF FEDERAL**
 9 **SAVINGS ASSOCIATIONS WITH NONDEPOSI-**
 10 **TORY INSTITUTION AFFILIATES.**

11 *Section 5(d)(3) of the Home Owners’ Loan Act (12*
 12 *U.S.C. 1464(d)(3)) is amended—*

13 *(1) by redesignating subparagraph (B) as sub-*
 14 *paragraph (C); and*

15 *(2) by inserting after subparagraph (A) the fol-*
 16 *lowing new subparagraph:*

17 *“(B) MERGERS AND CONSOLIDATIONS WITH*
 18 *NONDEPOSITORY INSTITUTION AFFILIATES.—*

19 *“(i) IN GENERAL.—Upon the approval*
 20 *of the Director, a Federal savings associa-*
 21 *tion may merge with any nondepository in-*
 22 *stitution affiliate of the savings association.*

23 *“(ii) RULE OF CONSTRUCTION.—No*
 24 *provision of clause (i) shall be construed*
 25 *as—*

1 “(I) affecting the applicability of
2 section 18(c) of the Federal Deposit In-
3 surance Act; or

4 “(II) granting a Federal savings
5 association any power or any author-
6 ity to engage in any activity that is
7 not authorized for a Federal savings
8 association under any other provision
9 of this Act or any other provision of
10 law.”.

11 **SEC. 204. REPEAL OF STATUTORY DIVIDEND NOTICE RE-**
12 **QUIREMENT FOR SAVINGS ASSOCIATION SUB-**
13 **SIDIARIES OF SAVINGS AND LOAN HOLDING**
14 **COMPANIES.**

15 Section 10(f) of the Home Owners’ Loan Act (12
16 U.S.C. 1467a(f)) is amended to read as follows:

17 “(f) **DECLARATION OF DIVIDEND.**—The Director
18 may—

19 “(1) require a savings association that is a sub-
20 sidiary of a savings and loan holding company to
21 give prior notice to the Director of the intent of the
22 savings association to pay a dividend on its guar-
23 anty, permanent, or other nonwithdrawable stock;
24 and

1 “(2) establish conditions on the payment of divi-
2 dends by such a savings association.”.

3 **SEC. 205. MODERNIZING STATUTORY AUTHORITY FOR**
4 **TRUST OWNERSHIP OF SAVINGS ASSOCIA-**
5 **TIONS.**

6 (a) *IN GENERAL.*—Section 10(a)(1)(C) of the Home
7 Owners’ Loan Act (12 U.S.C. 1467a(a)(1)(C)) is amend-
8 ed—

9 (1) by striking “trust,” and inserting “business
10 trust,”; and

11 (2) by inserting “or any other trust unless by its
12 terms it must terminate within 25 years or not later
13 than 21 years and 10 months after the death of indi-
14 viduals living on the effective date of the trust,” after
15 “or similar organization,”.

16 (b) *TECHNICAL AND CONFORMING AMENDMENT.*—Sec-
17 tion 10(a)(3) of the Home Owners’ Loan Act (12 U.S.C.
18 1467a(a)(3)) is amended—

19 (1) by striking “does not include—” and all that
20 follows through “any company by virtue” where such
21 term appears in subparagraph (A) and inserting
22 “does not include any company by virtue”;

23 (2) by striking “; and” at the end of subpara-
24 graph (A) and inserting a period; and

25 (3) by striking subparagraph (B).

1 **SEC. 206. REPEAL OF OVERLAPPING RULES GOVERNING**
2 **PURCHASED MORTGAGE SERVICING RIGHTS.**

3 *Section 5(t) of the Home Owners' Loan Act (12 U.S.C.*
4 *1464(t)) is amended—*

5 *(1) by striking paragraph (4) and inserting the*
6 *following new paragraph:*

7 *“(4) [Repealed].”; and*

8 *(2) in paragraph (9)(A), by striking “intangible*
9 *assets, plus” and all that follows through the period*
10 *at the end and inserting “intangible assets.”.*

11 **SEC. 207. RESTATEMENT OF AUTHORITY FOR FEDERAL SAV-**
12 **INGS ASSOCIATIONS TO INVEST IN SMALL**
13 **BUSINESS INVESTMENT COMPANIES.**

14 *Subparagraph (D) of section 5(c)(4) of the Home Own-*
15 *ers' Loan Act (12 U.S.C. 1464(c)(4)) is amended to read*
16 *as follows:*

17 *“(D) SMALL BUSINESS INVESTMENT COMPA-*
18 *NIES.—Any Federal savings association may in-*
19 *vest in 1 or more small business investment com-*
20 *panies, or in any entity established to invest*
21 *solely in small business investment companies*
22 *formed under the Small Business Investment Act*
23 *of 1958, except that the total amount of invest-*
24 *ments under this subparagraph may not at any*
25 *time exceed the amount equal to 5 percent of*
26 *capital and surplus of the savings association.”.*

1 **SEC. 208. REMOVAL OF LIMITATION ON INVESTMENTS IN**
2 **AUTO LOANS.**

3 (a) *IN GENERAL.*—Section 5(c)(1) of the Home Own-
4 ers' Loan Act (12 U.S.C. 1464(c)(1)) is amended by adding
5 at the end the following new subparagraph:

6 “(V) *AUTO LOANS.*—Loans and leases for
7 motor vehicles acquired for personal, family, or
8 household purposes.”.

9 (b) *TECHNICAL AND CONFORMING AMENDMENT RE-*
10 *LATING TO QUALIFIED THRIFT INVESTMENTS.*—Section
11 10(m)(4)(C)(ii) of the Home Owners' Loan Act (12 U.S.C.
12 1467a(m)(4)(C)(ii)) is amended by adding at the end the
13 following new subclause:

14 “(VIII) *Loans and leases for*
15 *motor vehicles acquired for personal,*
16 *family, or household purposes.*”.

17 **SEC. 209. SELLING AND OFFERING OF DEPOSIT PRODUCTS.**

18 Section 15(h) of the Securities Exchange Act of 1934
19 (15 U.S.C. 78o(h)) is amended by adding at the end the
20 following new paragraph:

21 “(4) *SELLING AND OFFERING OF DEPOSIT PROD-*
22 *UCTS.*—No law, rule, regulation, or order, or other
23 administrative action of any State or political sub-
24 division thereof shall directly or indirectly require
25 any individual who is an agent of 1 Federal savings
26 association (as such term is defined in section 2(5) of

1 *the Home Owners' Loan Act (12 U.S.C. 1462(5)) in*
2 *selling or offering deposit (as such term is defined in*
3 *section 3 of the Federal Deposit Insurance Act (12*
4 *U.S.C. 1813(l)) products issued by such association to*
5 *qualify or register as a broker, dealer, associated per-*
6 *son of a broker, or associated person of a dealer, or*
7 *to qualify or register in any other similar status or*
8 *capacity, if the individual does not—*

9 *“(A) accept deposits or make withdrawals*
10 *on behalf of any customer of the association;*

11 *“(B) offer or sell a deposit product as an*
12 *agent for another entity that is not subject to su-*
13 *per vision and examination by a Federal banking*
14 *agency (as defined in section 3(z) of the Federal*
15 *Deposit Insurance Act (12 U.S.C. 1813(z)), the*
16 *National Credit Union Administration, or any*
17 *officer, agency, or other entity of any State*
18 *which has primary regulatory authority over*
19 *State banks, State savings associations, or State*
20 *credit unions;*

21 *“(C) offer or sell a deposit product that is*
22 *not an insured deposit (as defined in section*
23 *3(m) of the Federal Deposit Insurance Act (12*
24 *U.S.C. 1813(m))));*

1 “(D) offer or sell a deposit product which
2 contains a feature that makes it callable at the
3 option of such Federal savings association; or

4 “(E) create a secondary market with respect
5 to a deposit product or otherwise add enhance-
6 ments or features to such product independent of
7 those offered by the association.”.

8 **SEC. 210. FUNERAL- AND CEMETERY-RELATED FIDUCIARY**
9 **SERVICES.**

10 Section 5(n) of the Home Owners' Loan Act (12 U.S.C.
11 1464(n)) is amended by adding at the end the following
12 new paragraph:

13 “(11) *FUNERAL- AND CEMETERY-RELATED FIDU-*
14 *CIARY SERVICES.*—

15 “(A) *IN GENERAL.*—A funeral director or
16 cemetery operator, when acting in such capacity,
17 (or any other person in connection with a con-
18 tract or other agreement with a funeral director
19 or cemetery operator) may engage any Federal
20 savings association, regardless of where the asso-
21 ciation is located, to act in any fiduciary capac-
22 ity in which the savings association has the right
23 to act in accordance with this section, including
24 holding funds deposited in trust or escrow by the
25 funeral director or cemetery operator (or by such

1 *other party), and the savings association may*
2 *act in such fiduciary capacity on behalf of the*
3 *funeral director or cemetery operator (or such*
4 *other person).*

5 “(B) *DEFINITIONS.*—*For purposes of this*
6 *paragraph, the following definitions shall apply:*

7 “(i) *CEMETERY.*—*The term ‘cemetery’*
8 *means any land or structure used, or in-*
9 *tended to be used, for the interment of*
10 *human remains in any form.*

11 “(ii) *CEMETERY OPERATOR.*—*The term*
12 *‘cemetery operator’ means any person who*
13 *contracts or accepts payment for merchan-*
14 *dise, endowment, or perpetual care services*
15 *in connection with a cemetery.*

16 “(iii) *FUNERAL DIRECTOR.*—*The term*
17 *‘funeral director’ means any person who*
18 *contracts or accepts payment to provide or*
19 *arrange—*

20 “(I) *services for the final disposi-*
21 *tion of human remains; or*

22 “(II) *funeral services, property, or*
23 *merchandise (including cemetery serv-*
24 *ices, property, or merchandise).”.*

1 **SEC. 211. REPEAL OF QUALIFIED THRIFT LENDER REQUIRE-**
2 **MENT WITH RESPECT TO OUT-OF-STATE**
3 **BRANCHES.**

4 *Section 5(r)(1) of the Home Owners' Loan Act (12*
5 *U.S.C. 1464(r)(1)) is amended by striking the last sentence.*

6 **SEC. 212. SMALL BUSINESS AND OTHER COMMERCIAL**
7 **LOANS.**

8 *(a) ELIMINATION OF LENDING LIMIT ON SMALL BUSI-*
9 *NESS LOANS.—Section 5(c)(1) of the Home Owners' Loan*
10 *Act (12 U.S.C. 1464(c)(1)) is amended by inserting after*
11 *subparagraph (V) (as added by section 208 of this title)*
12 *the following new subparagraph:*

13 *“(W) SMALL BUSINESS LOANS.—Small*
14 *business loans, as defined in regulations which*
15 *the Director shall prescribe.”.*

16 *(b) INCREASE IN LENDING LIMIT ON OTHER BUSINESS*
17 *LOANS.—Section 5(c)(2)(A) of the Home Owners' Loan Act*
18 *(12 U.S.C. 1464(c)(2)(A)) is amended by striking “, and*
19 *amounts in excess of 10 percent” and all that follows*
20 *through “by the Director”.*

21 **SEC. 213. CLARIFYING CITIZENSHIP OF FEDERAL SAVINGS**
22 **ASSOCIATIONS FOR FEDERAL COURT JURIS-**
23 **DICTION.**

24 *Section 5 of the Home Owners' Loan Act (12 U.S.C.*
25 *1464) is amended by adding at the end the following new*
26 *subsection:*

1 (B) by striking “; or” and inserting a pe-
2 riod; and

3 (4) in clause (ii), by striking “to develop domes-
4 tic” and inserting “To develop domestic”.

5 **SEC. 216. SAVINGS ASSOCIATION CREDIT CARD BANKS.**

6 Section 10(a)(1)(A) of the Home Owners’ Loan Act (12
7 U.S.C. 1467a(a)(1)(A)) is amended by inserting “and such
8 term does not include an institution described in section
9 2(c)(2)(F) of the Bank Holding Company Act of 1956 for
10 purposes of subsections (a)(1)(E), (c)(3)(B)(i), (c)(9)(C)(i),
11 and (e)(3)” before the period at the end.

12 **SEC. 217. INTERSTATE ACQUISITIONS BY S&L HOLDING**
13 **COMPANIES.**

14 Section 10(e)(3) of the Home Owners’ Loan Act (12
15 U.S.C. 1467a(e)(3)) is amended—

16 (1) by redesignating subparagraphs (A), (B),
17 and (C) as subparagraphs (B), (C), and (D), respec-
18 tively; and

19 (2) by inserting before subparagraph (B) (as so
20 redesignated) the following new subparagraph:

21 “(A) such acquisition would be permissible
22 under section 3(d) of the Bank Holding Com-
23 pany Act of 1956 if the savings and loan holding
24 company were a bank holding company and any
25 savings association to be acquired were a bank;”.

1 **SEC. 218. BUSINESS ORGANIZATION FLEXIBILITY FOR FED-**
2 **ERAL SAVINGS ASSOCIATIONS.**

3 (a) *IN GENERAL.*—Section 5 of the Home Owners’
4 Loan Act (12 U.S.C. 1464) is amended by inserting after
5 subsection (x) (as added by section 213) following new sub-
6 section:

7 “(y) *ALTERNATIVE BUSINESS ORGANIZATION.*—

8 “(1) *IN GENERAL.*—The Director may prescribe
9 regulations that—

10 “(A) permit a Federal savings association
11 to be organized other than as a corporation; and

12 “(B) provide requirements for the organiza-
13 tional characteristics of a Federal savings asso-
14 ciation organized and operating other than as a
15 corporation, consistent with the safety and
16 soundness of the Federal savings association.

17 “(2) *EQUAL TREATMENT.*—Except as otherwise
18 provided in regulations prescribed under subsection
19 (1), a Federal savings association that is operating
20 other than as a corporation shall have the same rights
21 and privileges and shall be subject to the same duties,
22 restrictions, penalties, liabilities, conditions, and lim-
23 itations as a Federal savings association that is orga-
24 nized as a corporation.”.

25 (b) *TECHNICAL AND CONFORMING AMENDMENTS.*—

1 (1) *Section 5(a)(1) of the Home Owners' Loan*
 2 *Act (12 U.S.C. 1464(a)(1)) is amended by striking*
 3 *“organization, incorporation,” and inserting “organi-*
 4 *zation (as a corporation or other form of business or-*
 5 *ganization provided under regulations prescribed by*
 6 *the Director under subsection (x)),”.*

7 (2) *The last sentence of section 5(i)(1) of the*
 8 *Home Owners' Loan Act (12 U.S.C. 1464(i)(1)) is*
 9 *amended by striking “incorporated” and inserting*
 10 *“organized”.*

11 (3) *Section 5(o)(1) of the Home Owners' Loan*
 12 *Act (12 U.S.C. 1464(a)(1)) is amended by striking*
 13 *“organization, incorporation,” and inserting “organi-*
 14 *zation (as a corporation or other form of business or-*
 15 *ganization provided under regulations prescribed by*
 16 *the Director under subsection (x)),”.*

17 **TITLE III—CREDIT UNION**
 18 **PROVISIONS**

19 **SEC. 301. PRIVATELY INSURED CREDIT UNIONS AUTHOR-**
 20 **IZED TO BECOME MEMBERS OF A FEDERAL**
 21 **HOME LOAN BANK.**

22 (a) *IN GENERAL.*—*Section 4(a) of the Federal Home*
 23 *Loan Bank Act (12 U.S.C. 1424(a)) is amended by adding*
 24 *at the end the following new paragraph:*

1 “(5) *CERTAIN PRIVATELY INSURED CREDIT*
2 *UNIONS.—*

3 “(A) *IN GENERAL.—A credit union which*
4 *has been determined, in accordance with section*
5 *43(e)(1) of the Federal Deposit Insurance Act*
6 *and subject to the requirements of subparagraph*
7 *(B), to meet all eligibility requirements for Fed-*
8 *eral deposit insurance shall be treated as an in-*
9 *sured depository institution for purposes of de-*
10 *termining the eligibility of such credit union for*
11 *membership in a Federal home loan bank under*
12 *paragraphs (1), (2), and (3).*

13 “(B) *CERTIFICATION BY APPROPRIATE SU-*
14 *PERVISOR.—*

15 “(i) *IN GENERAL.—For purposes of*
16 *this paragraph and subject to clause (ii), a*
17 *credit union which lacks Federal deposit in-*
18 *surance and which has applied for member-*
19 *ship in a Federal home loan bank may be*
20 *treated as meeting all the eligibility require-*
21 *ments for Federal deposit insurance only if*
22 *the appropriate supervisor of the State in*
23 *which the credit union is chartered has de-*
24 *termined that the credit union meets all the*
25 *eligibility requirements for Federal deposit*

1 *insurance as of the date of the application*
2 *for membership.*

3 “(ii) *CERTIFICATION DEEMED*
4 *VALID.—If, in the case of any credit union*
5 *to which clause (i) applies, the appropriate*
6 *supervisor of the State in which such credit*
7 *union is chartered fails to make a deter-*
8 *mination pursuant to such clause by the*
9 *end of the 6-month period beginning on the*
10 *date of the application, the credit union*
11 *shall be deemed to have met the require-*
12 *ments of clause (i).*

13 “(C) *SECURITY INTERESTS OF FEDERAL*
14 *HOME LOAN BANK NOT AVOIDABLE.—Notwith-*
15 *standing any provision of State law authorizing*
16 *a conservator or liquidating agent of a credit*
17 *union to repudiate contracts, no such provision*
18 *shall apply with respect to—*

19 “(i) *any extension of credit from any*
20 *Federal home loan bank to any credit union*
21 *which is a member of any such bank pursu-*
22 *ant to this paragraph; or*

23 “(ii) *any security interest in the assets*
24 *of such credit union securing any such ex-*
25 *tension of credit.”.*

1 (b) *COPIES OF AUDITS OF PRIVATE INSURERS OF*
2 *CERTAIN DEPOSITORY INSTITUTIONS REQUIRED TO BE*
3 *PROVIDED TO SUPERVISORY AGENCIES.*—Section 43(a)(2)
4 *of the Federal Deposit Insurance Act (12 U.S.C.*
5 *1831t(a)(2)) is amended—*

6 (1) *by striking “and” at the end of subpara-*
7 *graph (A)(i);*

8 (2) *by striking the period at the end of clause*
9 *(ii) of subparagraph (A) and inserting a semicolon;*

10 (3) *by inserting the following new clauses at the*
11 *end of subparagraph (A):*

12 *“(iii) in the case of depository institu-*
13 *tions described in subsection (f)(2)(A) the*
14 *deposits of which are insured by the private*
15 *insurer, the National Credit Union Admin-*
16 *istration, not later than 7 days after that*
17 *audit is completed; and*

18 *“(iv) in the case of depository institu-*
19 *tions described in subsection (f)(2)(A) the*
20 *deposits of which are insured by the private*
21 *insurer which are members of a Federal*
22 *home loan bank, the Federal Housing Fi-*
23 *nance Board, not later than 7 days after*
24 *that audit is completed.”; and*

1 (4) by adding at the end the following new sub-
2 paragraph:

3 “(C) CONSULTATION.—The appropriate su-
4 pervisory agency of each State in which a pri-
5 vate deposit insurer insures deposits in an insti-
6 tution described in subsection (f)(2)(A) which—

7 “(i) lacks Federal deposit insurance;

8 and

9 “(ii) has become a member of a Fed-
10 eral home loan bank,

11 shall provide the National Credit Union Admin-
12 istration, upon request, with the results of any
13 examination and reports related thereto con-
14 cerning the private deposit insurer to which such
15 agency may have in its possession.”.

16 **SEC. 302. LEASES OF LAND ON FEDERAL FACILITIES FOR**
17 **CREDIT UNIONS.**

18 (a) IN GENERAL.—Section 124 of the Federal Credit
19 Union Act (12 U.S.C. 1770) is amended—

20 (1) by striking “Upon application by any credit
21 union” and inserting “Notwithstanding any other
22 provision of law, upon application by any credit
23 union”;

24 (2) by inserting “on lands reserved for the use of,
25 and under the exclusive or concurrent jurisdiction of,

1 *the United States or” after “officer or agency of the*
 2 *United States charged with the allotment of space”;*

3 *(3) by inserting “lease land or” after “such offi-*
 4 *cer or agency may in his or its discretion”;* and

5 *(4) by inserting “or the facility built on the lease*
 6 *land” after “credit union to be served by the allot-*
 7 *ment of space”.*

8 *(b) CLERICAL AMENDMENT.—The heading for section*
 9 *124 is amended by inserting “OR FEDERAL LAND” after*
 10 *“BUILDINGS”.*

11 **SEC. 303. INVESTMENTS IN SECURITIES BY FEDERAL CRED-**
 12 **IT UNIONS.**

13 *Section 107 of the Federal Credit Union Act (12*
 14 *U.S.C. 1757) is amended—*

15 *(1) in the matter preceding paragraph (1) by*
 16 *striking “A Federal credit union” and inserting “(a)*
 17 *IN GENERAL.—Any Federal credit union”;* and

18 *(2) by adding at the end the following new sub-*
 19 *section:*

20 *“(b) ADDITIONAL INVESTMENT AUTHORITY.—*

21 *“(1) IN GENERAL.—In addition to any invest-*
 22 *ments otherwise authorized, a Federal credit union*
 23 *may purchase and hold for its own account such in-*
 24 *vestment securities of investment grade as the Board*
 25 *may authorize by regulation, subject to such limita-*

1 *tions and restrictions as the Board may prescribe in*
2 *the regulations.*

3 “(2) *PERCENTAGE LIMITATIONS.*—

4 “(A) *SINGLE OBLIGOR.*—*In no event may*
5 *the total amount of investment securities of any*
6 *single obligor or maker held by a Federal credit*
7 *union for the credit union’s own account exceed*
8 *at any time an amount equal to 10 percent of*
9 *the net worth of the credit union.*

10 “(B) *AGGREGATE INVESTMENTS.*—*In no*
11 *event may the aggregate amount of investment*
12 *securities held by a Federal credit union for the*
13 *credit union’s own account exceed at any time*
14 *an amount equal to 10 percent of the assets of*
15 *the credit union.*

16 “(3) *INVESTMENT SECURITY DEFINED.*—

17 “(A) *IN GENERAL.*—*For purposes of this*
18 *subsection, the term ‘investment security’ means*
19 *marketable obligations evidencing the indebted-*
20 *ness of any person in the form of bonds, notes,*
21 *or debentures and other instruments commonly*
22 *referred to as investment securities.*

23 “(B) *FURTHER DEFINITION BY BOARD.*—

24 *The Board may further define the term ‘invest-*
25 *ment security’.*

1 longer maturity as the Board may allow, in regula-
2 tions, except as otherwise provided in this Act”;

3 (2) in subparagraph (A)—

4 (A) by striking clause (ii);

5 (B) by redesignating clauses (iii) through
6 (x) as clauses (ii) through (ix), respectively; and

7 (C) by inserting “and” after the semicolon
8 at the end of clause (viii) (as so redesignated).

9 **SEC. 305. INCREASE IN 1 PERCENT INVESTMENT LIMIT IN**
10 **CREDIT UNION SERVICE ORGANIZATIONS.**

11 Section 107(a)(7)(I) of the Federal Credit Union Act
12 (12 U.S.C. 1757(7)(I)) (as so designated by section 303 of
13 this title) is amended by striking “up to 1 per centum of
14 the total paid” and inserting “up to 3 percent of the total
15 paid”.

16 **SEC. 306. MEMBER BUSINESS LOAN EXCLUSION FOR LOANS**
17 **TO NONPROFIT RELIGIOUS ORGANIZATIONS.**

18 Section 107A(a) of the Federal Credit Union Act (12
19 U.S.C. 1757a(a)) is amended by inserting “, excluding
20 loans made to nonprofit religious organizations,” after
21 “total amount of such loans”.

1 **SEC. 307. CHECK CASHING AND MONEY TRANSFER SERV-**
2 **ICES OFFERED WITHIN THE FIELD OF MEM-**
3 **BERSHIP.**

4 *Paragraph (12) of section 107(a) of the Federal Credit*
5 *Union Act (12 U.S.C. 1757(12)) (as so designated by sec-*
6 *tion 303 of this title) is amended to read as follows:*

7 *“(12) in accordance with regulations prescribed*
8 *by the Board—*

9 *“(A) to sell, to persons in the field of mem-*
10 *bership, negotiable checks (including travelers*
11 *checks), money orders, and other similar money*
12 *transfer instruments (including international*
13 *and domestic electronic fund transfers); and*

14 *“(B) to cash checks and money orders and*
15 *receive international and domestic electronic*
16 *fund transfers for persons in the field of member-*
17 *ship for a fee;”.*

18 **SEC. 308. VOLUNTARY MERGERS INVOLVING MULTIPLE**
19 **COMMON-BOND CREDIT UNIONS.**

20 *Section 109(d)(2) of the Federal Credit Union Act (12*
21 *U.S.C. 1759(d)(2)) is amended—*

22 *(1) by striking “or” at the end of clause (i) of*
23 *subparagraph (B);*

24 *(2) by striking the period at the end of subpara-*
25 *graph (C) and inserting “; or”; and*

1 (3) by adding at the end the following new sub-
2 paragraph:

3 “(D) a merger involving any such Federal
4 credit union approved by the Board on or after
5 August 7, 1998.”.

6 **SEC. 309. CONVERSIONS INVOLVING COMMON-BOND CRED-**
7 **IT UNIONS.**

8 Section 109(g) of the Federal Credit Union Act (12
9 U.S.C. 1759(g)) is amended by inserting after paragraph
10 (2) the following new paragraph:

11 “(3) **CRITERIA FOR CONTINUED MEMBERSHIP OF**
12 **CERTAIN MEMBER GROUPS IN COMMUNITY CHARTER**
13 **CONVERSIONS.**—In the case of a voluntary conversion
14 of a common-bond credit union described in para-
15 graph (1) or (2) of subsection (b) into a community
16 credit union described in subsection (b)(3), the Board
17 shall prescribe, by regulation, the criteria under
18 which the Board may determine that a member group
19 or other portion of a credit union’s existing member-
20 ship, that is located outside the well-defined local
21 community, neighborhood, or rural district that shall
22 constitute the community charter, can be satisfac-
23 torily served by the credit union and remain within
24 the community credit union’s field of membership.”.

1 **SEC. 310. CREDIT UNION GOVERNANCE.**

2 (a) *EXPULSION OF MEMBERS FOR JUST CAUSE.*—

3 *Subsection (b) of section 118 of the Federal Credit Union*
4 *Act (12 U.S.C. 1764(b)) is amended to read as follows:*

5 “(b) *POLICY AND ACTIONS OF BOARDS OF DIRECTORS*
6 *OF FEDERAL CREDIT UNIONS.*—

7 “(1) *EXPULSION OF MEMBERS FOR NONPARTICI-*
8 *PATION OR FOR JUST CAUSE.*—*The board of directors*
9 *of a Federal credit union may, by majority vote of a*
10 *quorum of directors, adopt and enforce a policy with*
11 *respect to expulsion from membership, by a majority*
12 *vote of such board of directors, based on just cause,*
13 *including disruption of credit union operations, or on*
14 *nonparticipation by a member in the affairs of the*
15 *credit union.*

16 “(2) *WRITTEN NOTICE OF POLICY TO MEM-*
17 *BERS.*—*If a policy described in paragraph (1) is*
18 *adopted, written notice of the policy as adopted and*
19 *the effective date of such policy shall be provided to—*

20 “(A) *each existing member of the credit*
21 *union not less than 30 days prior to the effective*
22 *date of such policy; and*

23 “(B) *each new member prior to or upon ap-*
24 *plying for membership.”*

25 (b) *TERM LIMITS AUTHORIZED FOR BOARD MEMBERS*
26 *OF FEDERAL CREDIT UNIONS.*—*Section 111(a) of the Fed-*

1 eral Credit Union Act (12 U.S.C. 1761(a)) is amended by
 2 adding at the end the following new sentence: “The bylaws
 3 of a Federal credit union may limit the number of consec-
 4 tive terms any person may serve on the board of directors
 5 of such credit union.”.

6 (c) *REIMBURSEMENT FOR LOST WAGES DUE TO SERV-*
 7 *ICE ON CREDIT UNION BOARD NOT TREATED AS COM-*
 8 *PENSATION.*—Section 111(c) of the Federal Credit Union
 9 Act (12 U.S.C. 1761(c)) is amended by inserting “, includ-
 10 ing lost wages,” after “the reimbursement of reasonable ex-
 11 penses”.

12 **SEC. 311. PROVIDING THE NATIONAL CREDIT UNION AD-**
 13 **MINISTRATION WITH GREATER FLEXIBILITY**
 14 **IN RESPONDING TO MARKET CONDITIONS.**

15 Section 107(a)(5)(A)(v)(I) of the Federal Credit Union
 16 Act (12 U.S.C. 1757(5)(A)(vi)(I)) (as so designated by sec-
 17 tion 303 and redesignated by section 304(2)(B) of this title)
 18 is amended by striking “six-month period and that pre-
 19 vailing interest rate levels” and inserting “6-month period
 20 or that prevailing interest rate levels”.

21 **SEC. 312. EXEMPTION FROM PRE-MERGER NOTIFICATION**
 22 **REQUIREMENT OF THE CLAYTON ACT.**

23 Section 7A(c)(7) of the Clayton Act (15 U.S.C.
 24 18a(c)(7)) is amended by inserting “section 205(b)(3) of the

1 *Federal Credit Union Act (12 U.S.C. 1785(b)(3)),*” before
2 “or section 3”.

3 **SEC. 313. TREATMENT OF CREDIT UNIONS AS DEPOSITORY**
4 **INSTITUTIONS UNDER SECURITIES LAWS.**

5 (a) *DEFINITION OF BANK UNDER THE SECURITIES*
6 *EXCHANGE ACT OF 1934.*—Section 3(a)(6) of the *Securities*
7 *Exchange Act of 1934 (15 U.S.C. 78c(a)(6)) (as amended*
8 *by section 201(a)(1) of this Act) is amended—*

9 (1) *by striking “this title, and (D) a receiver”*
10 *and inserting “this title, (D) an insured credit union*
11 *(as defined in section 101(7) of the Federal Credit*
12 *Union Act) but only for purposes of paragraphs (4)*
13 *and (5) of this subsection and only for activities oth-*
14 *erwise authorized by applicable laws to which such*
15 *credit unions are subject, and (E) a receiver”;* and

16 (2) *in subparagraph (E) (as so redesignated by*
17 *paragraph (1) of this subsection) by striking “(A),*
18 *(B), or (C)” and inserting “(A), (B), (C), or (D)”.*

19 (b) *DEFINITION OF BANK UNDER THE INVESTMENT*
20 *ADVISERS ACT OF 1940.*—Section 202(a)(2) of the *Invest-*
21 *ment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(2)) (as*
22 *amended by section 201(b)(1) of this Act) is amended—*

23 (1) *by striking “this title, and (D) a receiver”*
24 *and inserting “this title, (D) an insured credit union*
25 *(as defined in section 101(7) of the Federal Credit*

1 *Union Act) but only for activities otherwise author-*
 2 *ized by applicable laws to which such credit unions*
 3 *are subject, and (E) a receiver”;* and

4 (2) *in subparagraph (E) (as so redesignated by*
 5 *paragraph (1) of this subsection) by striking “(A),*
 6 *(B), or (C)” and inserting “(A), (B), (C), or (D)”.*

7 (c) *DEFINITION OF APPROPRIATE FEDERAL BANKING*
 8 *AGENCY.—Section 210A(c) of the Investment Advisers Act*
 9 *of 1940 (15 U.S.C. 80b–10a(c)) is amended by inserting*
 10 *“and includes the National Credit Union Administration*
 11 *Board, in the case of an insured credit union (as defined*
 12 *in section 101(7) of the Federal Credit Union Act)” before*
 13 *the period at the end.*

14 **SEC. 314. CLARIFICATION OF DEFINITION OF NET WORTH**
 15 **UNDER CERTAIN CIRCUMSTANCES FOR PUR-**
 16 **POSES OF PROMPT CORRECTIVE ACTION.**

17 *Subparagraph (A) of section 216(o)(2) of the Federal*
 18 *Credit Union Act (12 U.S.C. 1790d(o)(2)(A)) is amended—*

19 (1) *by inserting “the” before “retained earnings*
 20 *balance”;* and

21 (2) *by inserting “, together with any amounts*
 22 *that were previously retained earnings of any other*
 23 *credit union with which the credit union has com-*
 24 *bined” before the semicolon at the end.*

1 **SEC. 315. AMENDMENTS RELATING TO NONFEDERALLY IN-**
2 **SURED CREDIT UNIONS.**

3 (a) *IN GENERAL.*—Subsection (a) of section 43 of the
4 *Federal Deposit Insurance Act (12 U.S.C. 1831t(a))* is
5 amended by adding at the end the following new paragraph:

6 “(3) *ENFORCEMENT BY APPROPRIATE STATE SU-*
7 *PERVISOR.*—Any appropriate State supervisor of a
8 private deposit insurer, and any appropriate State
9 supervisor of a depository institution which receives
10 deposits that are insured by a private deposit insurer,
11 may examine and enforce compliance with this sub-
12 section under the applicable regulatory authority of
13 such supervisor.”.

14 (b) *AMENDMENT RELATING TO DISCLOSURES RE-*
15 *QUIRED, PERIODIC STATEMENTS AND ACCOUNT*
16 *RECORDS.*—Section 43(b)(1) of the *Federal Deposit Insur-*
17 *ance Act (12 U.S.C. 1831t(b)(1))* is amended by striking
18 “or similar instrument evidencing a deposit” and inserting
19 “or share certificate”.

20 (c) *AMENDMENTS RELATING TO DISCLOSURES RE-*
21 *QUIRED, ADVERTISING, PREMISES.*—Section 43(b)(2) of
22 the *Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(2))*
23 is amended to read as follows:

24 “(2) *ADVERTISING; PREMISES.*—

25 “(A) *IN GENERAL.*—Include clearly and
26 conspicuously in all advertising, except as pro-

1 *vided in subparagraph (B); and at each station*
2 *or window where deposits are normally received,*
3 *its principal place of business and all its*
4 *branches where it accepts deposits or opens ac-*
5 *counts (excluding automated teller machines or*
6 *point of sale terminals), and on its main Inter-*
7 *net page, a notice that the institution is not fed-*
8 *erally insured.*

9 *“(B) EXCEPTIONS.—The following need not*
10 *include a notice that the institution is not feder-*
11 *ally insured:*

12 *“(i) Statements or reports of financial*
13 *condition of the depository institution that*
14 *are required to be published or posted by*
15 *State or Federal law or regulation.*

16 *“(ii) Any sign, document, or other*
17 *item that contains the name of the deposi-*
18 *tory institution, its logo, or its contact in-*
19 *formation, but only if the sign, document,*
20 *or item does not include any information*
21 *about the institution’s products or services*
22 *or information otherwise promoting the in-*
23 *stitution.*

24 *“(iii) Small utilitarian items that do*
25 *not mention deposit products or insurance*

1 *if inclusion of the notice would be imprac-*
2 *tical.”.*

3 (d) *AMENDMENTS RELATING TO ACKNOWLEDGMENT*
4 *OF DISCLOSURE.—Section 43(b)(3) of the Federal Deposit*
5 *Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to read*
6 *as follows:*

7 “(3) *ACKNOWLEDGMENT OF DISCLOSURE.—*

8 “(A) *NEW DEPOSITORS OBTAINED OTHER*
9 *THAN THROUGH A CONVERSION OR MERGER.—*

10 *With respect to any depositor who was not a de-*
11 *positor at the depository institution before the ef-*
12 *fective date of the Financial Services Relief Act*
13 *of 2005, and who is not a depositor as described*
14 *in subparagraph (B), receive any deposit for the*
15 *account of such depositor only if the depositor*
16 *has signed a written acknowledgement that—*

17 “(i) *the institution is not federally in-*
18 *sured; and*

19 “(ii) *if the institution fails, the Fed-*
20 *eral Government does not guarantee that the*
21 *depositor will get back the depositor’s*
22 *money.*

23 “(B) *NEW DEPOSITORS OBTAINED*
24 *THROUGH A CONVERSION OR MERGER.—With re-*

25 *spect to a depositor at a federally insured deposi-*

1 *tory institution that converts to, or merges into,*
2 *a depository institution lacking federal insur-*
3 *ance after the effective date of the Financial*
4 *Services Regulatory Relief Act of 2005, receive*
5 *any deposit for the account of such depositor*
6 *only if—*

7 *“(i) the depositor has signed a written*
8 *acknowledgement described in subparagraph*
9 *(A); or*

10 *“(ii) the institution makes an attempt,*
11 *as described in subparagraph (D) and sent*
12 *by mail no later than 45 days after the ef-*
13 *fective date of the conversion or merger, to*
14 *obtain the acknowledgment.*

15 *“(C) CURRENT DEPOSITORS.—Receive any*
16 *deposit after the effective date of the Financial*
17 *Services Regulatory Relief Act of 2005 for the ac-*
18 *count of any depositor who was a depositor on*
19 *that date only if—*

20 *“(i) the depositor has signed a written*
21 *acknowledgement described in subparagraph*
22 *(A); or*

23 *“(ii) the institution makes an attempt,*
24 *as described in subparagraph (D) and sent*
25 *by mail no later than 45 days after the ef-*

1 *fective date of the Financial Services Regu-*
2 *latory Relief Act of 2005, to obtain the ac-*
3 *knowledgment.*

4 “(D) *ALTERNATIVE PROVISION OF NOTICE*
5 *TO CURRENT DEPOSITORS AND NEW DEPOSITORS*
6 *OBTAINED THROUGH A CONVERSION OR MERG-*
7 *ER.—*

8 “(i) *IN GENERAL.—Transmit to each*
9 *depositor who has not signed a written ac-*
10 *knowledgment described in subparagraph*
11 *(A)—*

12 “(I) *a conspicuous card con-*
13 *taining the information described in*
14 *clauses (i) and (ii) of subparagraph*
15 *(A), and a line for the signature of the*
16 *depositor; and*

17 “(II) *accompanying materials re-*
18 *questing the depositor to sign the card,*
19 *and return the signed card to the insti-*
20 *tution.”.*

21 (e) *REPEAL OF PROVISION PROHIBITING NONDEPOSI-*
22 *TORY INSTITUTIONS FROM ACCEPTING DEPOSITS.—Section*
23 *43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t)*
24 *is amended—*

25 (1) *by striking subsection (e); and*

1 (2) *by redesignating subsections (f) and (g) as*
 2 *subsections (e) and (f), respectively.*

3 (f) *REPEAL OF PROVISION CONCERNING NONDEPOSI-*
 4 *TORY INSTITUTIONS MASQUERADING AS DEPOSITORY IN-*
 5 *STITUTIONS AND CLARIFICATION OF DEPOSITORY INSTITU-*
 6 *TIONS COVERED BY THE STATUTE.—Subsection (e)(2) (as*
 7 *so redesignated by subsection (e) of this section) of section*
 8 *43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t)*
 9 *is amended to read as follows:*

10 “(2) *DEPOSITORY INSTITUTION.—The term ‘de-*
 11 *pository institution’—*

12 “(A) *includes any entity described in sec-*
 13 *tion 19(b)(1)(A)(iv) of the Federal Reserve Act;*
 14 *and*

15 “(B) *does not include any national bank,*
 16 *State member bank, or Federal branch.”.*

17 (g) *REPEAL OF FTC AUTHORITY TO ENFORCE INDE-*
 18 *PENDENT AUDIT REQUIREMENT; CONCURRENT STATE EN-*
 19 *FORCEMENT.—Subsection (f) (as so redesignated by sub-*
 20 *section (e) of this section) of section 43 of the Federal De-*
 21 *posit Insurance Act (12 U.S.C. 1831t) is amended to read*
 22 *as follows:*

23 “(f) *ENFORCEMENT.—*

24 “(1) *LIMITED FTC ENFORCEMENT AUTHORITY.—*
 25 *Compliance with the requirements of subsections (b)*

1 *and (c), and any regulation prescribed or order issued*
2 *under any such subsection, shall be enforced under the*
3 *Federal Trade Commission Act by the Federal Trade*
4 *Commission.*

5 “(2) *BROAD STATE ENFORCEMENT AUTHOR-*
6 *ITY.—*

7 “(A) *IN GENERAL.—Subject to subpara-*
8 *graph (C), an appropriate State supervisor of a*
9 *depository institution lacking Federal deposit in-*
10 *surance may examine and enforce compliance*
11 *with the requirements of this section, and any*
12 *regulation prescribed under this section.*

13 “(B) *STATE POWERS.—For purposes of*
14 *bringing any action to enforce compliance with*
15 *this section, no provision of this section shall be*
16 *construed as preventing an appropriate State su-*
17 *pervisor of a depository institution lacking Fed-*
18 *eral deposit insurance from exercising any pow-*
19 *ers conferred on such official by the laws of such*
20 *State.*

21 “(C) *LIMITATION ON STATE ACTION WHILE*
22 *FEDERAL ACTION PENDING.—If the Federal*
23 *Trade Commission has instituted an enforcement*
24 *action for a violation of this section, no appro-*
25 *priate State supervisor may, during the pend-*

1 *ency of such action, bring an action under this*
 2 *section against any defendant named in the com-*
 3 *plaint of the Commission for any violation of*
 4 *this section that is alleged in that complaint.”.*

5 ***TITLE IV—DEPOSITORY***
 6 ***INSTITUTION PROVISIONS***

7 ***SEC. 401. EASING RESTRICTIONS ON INTERSTATE BRANCH-***
 8 ***ING AND MERGERS.***

9 *(a) DE NOVO INTERSTATE BRANCHES OF NATIONAL*
 10 *BANKS.—*

11 *(1) IN GENERAL.—Section 5155(g)(1) of the Re-*
 12 *vised Statutes of the United States (12 U.S.C.*
 13 *36(g)(1)) is amended by striking “maintain a branch*
 14 *if—” and all that follows through the end of subpara-*
 15 *graph (B) and inserting “maintain a branch.”.*

16 *(2) CLERICAL AMENDMENT.—The heading for*
 17 *subsection (g) of section 5155 of the Revised Statutes*
 18 *of the United States is amended by striking “STATE*
 19 *‘OPT-IN’ ELECTION TO PERMIT”.*

20 *(b) DE NOVO INTERSTATE BRANCHES OF STATE NON-*
 21 *MEMBER BANKS.—*

22 *(1) IN GENERAL.—Section 18(d)(4)(A) of the*
 23 *Federal Deposit Insurance Act (12 U.S.C.*
 24 *1828(d)(4)(A)) is amended by striking “maintain a*

1 *branch if—” and all that follows through the end of*
 2 *clause (ii) and inserting “maintain a branch.”.*

3 (2) *INTERSTATE BRANCHING BY SUBSIDIARIES*
 4 *OF COMMERCIAL FIRMS PROHIBITED.—Section*
 5 *18(d)(3)) of the Federal Deposit Insurance Act (12*
 6 *U.S.C. 1828(d)(3)) is amended by adding at the end*
 7 *the following new subparagraph:*

8 “(C) *INTERSTATE BRANCHING BY SUBSIDI-*
 9 *ARIES OF COMMERCIAL FIRMS PROHIBITED.—*

10 “(i) *IN GENERAL.—If the appropriate*
 11 *State bank supervisor of the home State of*
 12 *any industrial loan company, industrial*
 13 *bank, or other institution described in sec-*
 14 *tion 2(c)(2)(H) of the Bank Holding Com-*
 15 *pany Act of 1956, or the appropriate State*
 16 *bank supervisor of any host State with re-*
 17 *spect to such company, bank, or institution,*
 18 *determines that such company, bank, or in-*
 19 *stitution is controlled, directly or indirectly,*
 20 *by a commercial firm, such company, bank,*
 21 *or institution may not acquire, establish, or*
 22 *operate a branch in such host State.*

23 “(ii) *COMMERCIAL FIRM DEFINED.—*
 24 *For purposes of this subsection, the term*
 25 *‘commercial firm’ means any entity at least*

1 15 percent of the annual gross revenues of
2 which on a consolidated basis, including all
3 affiliates of the entity, were derived from
4 engaging, on an on-going basis, in activities
5 that are not financial in nature or inci-
6 dental to a financial activity during at
7 least 3 of the prior 4 calendar quarters.

8 “(iii) GRANDFATHERED INSTITU-
9 TIONS.—Clause (i) shall not apply with re-
10 spect to any industrial loan company, in-
11 dustrial bank, or other institution described
12 in section 2(c)(2)(H) of the Bank Holding
13 Company Act of 1956—

14 “(I) which became an insured de-
15 pository institution before October 1,
16 2003 or pursuant to an application for
17 deposit insurance which was approved
18 by the Corporation before such date;
19 and

20 “(II) with respect to which there
21 is no change in control, directly or in-
22 directly, of the company, bank, or in-
23 stitution after September 30, 2003,
24 that requires an application under
25 subsection (c), section 7(j), section 3 of

1 *the Bank Holding Company Act of*
2 *1956, or section 10 of the Home Own-*
3 *ers' Loan Act.*

4 “(iv) *TRANSITION PROVISION.—Any*
5 *divestiture required under this subpara-*
6 *graph of a branch in a host State shall be*
7 *completed as quickly as is reasonably pos-*
8 *sible.*

9 “(v) *CORPORATE REORGANIZATIONS*
10 *PERMITTED.—The acquisition of direct or*
11 *indirect control of the company, bank, or*
12 *institution referred to in clause (iii)(II)*
13 *shall not be treated as a ‘change in control’*
14 *for purposes of such clause if the company*
15 *acquiring control is itself directly or indi-*
16 *rectly controlled by a company that was an*
17 *affiliate of such company, bank, or institu-*
18 *tion on the date referred to in clause*
19 *(iii)(II), and remained an affiliate at all*
20 *times after such date.”.*

21 (3) *TECHNICAL AND CONFORMING AMEND-*
22 *MENTS.—Section 18(d)(4) of the Federal Deposit In-*
23 *surance Act (12 U.S.C. 1828(d)(4)) is amended—*

24 (A) *in subparagraph (A) by striking “Sub-*
25 *ject to subparagraph (B)” and inserting “Subject*

1 to subparagraph (B) and paragraph (3)(C)”;
2 and

3 (B) in subparagraphs (D) and (E), by
4 striking “The term” and inserting “For purposes
5 of this subsection, the term”.

6 (4) *CLERICAL AMENDMENT.*—The heading for
7 paragraph (4) of section 18(d) of the Federal Deposit
8 Insurance Act is amended by striking “STATE ‘OPT-
9 IN’ ELECTION TO PERMIT INTERSTATE” and inserting
10 “INTERSTATE”.

11 (c) *DE NOVO INTERSTATE BRANCHES OF STATE MEM-*
12 *BER BANKS.*—The 3rd undesignated paragraph of section
13 9 of the Federal Reserve Act (12 U.S.C. 321) is amended
14 by adding at the end the following new sentences: “A State
15 member bank may establish and operate a de novo branch
16 in a host State (as such terms are defined in section 18(d)
17 of the Federal Deposit Insurance Act) on the same terms
18 and conditions and subject to the same limitations and re-
19 strictions as are applicable to the establishment of a de novo
20 branch of a national bank in a host State under section
21 5155(g) of the Revised Statutes of the United States or are
22 applicable to an insured State nonmember bank under sec-
23 tion 18(d)(3) of the Federal Deposit Insurance Act”. Such
24 section 5155(g) shall be applied for purposes of the pre-
25 ceding sentence by substituting ‘Board of Governors of the

1 *Federal Reserve System*’ for *‘Comptroller of the Currency’*
2 *and ‘State member bank’ for ‘national bank.’.*”.

3 *(d) INTERSTATE MERGER OF BANKS.—*

4 *(1) MERGER OF INSURED BANK WITH ANOTHER*
5 *DEPOSITORY INSTITUTION OR TRUST COMPANY.—Section*
6 *44(a)(1) of the Federal Deposit Insurance Act*
7 *(12 U.S.C. 1831u(a)(1)) is amended—*

8 *(A) by striking “Beginning on June 1,*
9 *1997, the” and inserting “The”; and*

10 *(B) by striking “insured banks with dif-*
11 *ferent home States” and inserting “an insured*
12 *bank and another insured depository institution*
13 *or trust company with a different home State*
14 *than the resulting insured bank”.*

15 *(2) NATIONAL BANK TRUST COMPANY MERGER*
16 *WITH OTHER TRUST COMPANY.—Subsection (b) of sec-*
17 *tion 4 of the National Bank Consolidation and Merg-*
18 *er Act (12 U.S.C. 215a–1(b)) is amended to read as*
19 *follows:*

20 *“(b) MERGER OF NATIONAL BANK TRUST COMPANY*
21 *WITH ANOTHER TRUST COMPANY.—A national bank that*
22 *is a trust company may engage in a consolidation or merg-*
23 *er under this Act with any trust company with a different*
24 *home State, under the same terms and conditions that*

1 *would apply if the trust companies were located within the*
2 *same State.”.*

3 (e) *INTERSTATE FIDUCIARY ACTIVITY.*—Section 18(d)
4 *of the Federal Deposit Insurance Act (12 U.S.C. 1828(d))*
5 *is amended by adding at the end the following new para-*
6 *graph:*

7 “(5) *INTERSTATE FIDUCIARY ACTIVITY.*—

8 “(A) *AUTHORITY OF STATE BANK SUPER-*
9 *VISOR.*—*The State bank supervisor of a State*
10 *bank may approve an application by the State*
11 *bank, when not in contravention of home State*
12 *or host State law, to act as trustee, executor, ad-*
13 *ministrator, registrar of stocks and bonds,*
14 *guardian of estates, assignee, receiver, committee*
15 *of estates of lunatics, or in any other fiduciary*
16 *capacity in a host State in which State banks or*
17 *other corporations which come into competition*
18 *with national banks are permitted to act under*
19 *the laws of such host State.*

20 “(B) *NONCONTRAVENTION OF HOST STATE*
21 *LAW.*—*Whenever the laws of a host State author-*
22 *ize or permit the exercise of any or all of the*
23 *foregoing powers by State banks or other cor-*
24 *porations which compete with national banks,*
25 *the granting to and the exercise of such powers*

1 *by a State bank as provided in this paragraph*
2 *shall not be deemed to be in contravention of host*
3 *State law within the meaning of this paragraph.*

4 “(C) *STATE BANK INCLUDES TRUST COMPANIES.*—*For purposes of this paragraph, the term*
5 *‘State bank’ includes any State-chartered trust*
6 *company (as defined in section 44(g)).*

8 “(D) *OTHER DEFINITIONS.*—*For purposes*
9 *of this paragraph, the term ‘home State’ and*
10 *‘host State’ have the meanings given such terms*
11 *in section 44.”.*

12 (f) *TECHNICAL AND CONFORMING AMENDMENTS.*—

13 (1) *Section 44 of the Federal Deposit Insurance*
14 *Act (12 U.S.C. 1831u) is amended—*

15 (A) *in subsection (a)—*

16 (i) *by striking paragraph (4) and in-*
17 *serting the following new paragraph:*

18 “(4) *TREATMENT OF BRANCHES IN CONNECTION*
19 *WITH CERTAIN INTERSTATE MERGER TRANS-*
20 *ACTIONS.*—*In the case of an interstate merger trans-*
21 *action which involves the acquisition of a branch of*
22 *an insured depository institution or trust company*
23 *without the acquisition of the insured depository in-*
24 *stitution or trust company, the branch shall be treat-*
25 *ed, for purposes of this section, as an insured depository*

1 *tory institution or trust company the home State of*
2 *which is the State in which the branch is located.”;*
3 *and*

4 *(ii) by striking paragraphs (5) and (6)*

5 *and inserting the following new paragraph:*

6 *“(5) APPLICABILITY TO INDUSTRIAL LOAN COM-*
7 *PANIES.—No provision of this section shall be con-*
8 *strued as authorizing the approval of any transaction*
9 *involving a industrial loan company, industrial*
10 *bank, or other institution described in section*
11 *2(c)(2)(H) of the Bank Holding Company Act of*
12 *1956, or the acquisition, establishment, or operation*
13 *of a branch by any such company, bank, or institu-*
14 *tion, that is not allowed under section 18(d)(3).”.*

15 *(B) in subsection (b)—*

16 *(i) by striking “bank” each place such*
17 *term appears in paragraph (2)(B)(i) and*
18 *inserting “insured depository institution”;*

19 *(ii) by striking “banks” where such*
20 *term appears in paragraph (2)(E) and in-*
21 *serting “insured depository institutions or*
22 *trust companies”;*

23 *(iii) by striking “bank affiliate” each*
24 *place such term appears in that portion of*
25 *paragraph (3) that precedes subparagraph*

1 (A) and inserting “insured depository insti-
2 tution affiliate”;

3 (iv) by striking “any bank” where such
4 term appears in paragraph (3)(B) and in-
5 serting “any insured depository institu-
6 tion”;

7 (v) by striking “bank” where such term
8 appears in paragraph (4)(A) and inserting
9 “insured depository institution and trust
10 company”; and

11 (vi) by striking “all banks” where such
12 term appears in paragraph (5) and insert-
13 ing “all insured depository institutions and
14 trust companies”;

15 (C) in subsection (d)(1), by striking “any
16 bank” and inserting “any insured depository in-
17 stitution or trust company”;

18 (D) in subsection (e)—

19 (i) by striking “1 or more banks” and
20 inserting “1 or more insured depository in-
21 stitutions”; and

22 (ii) by striking “paragraph (2), (4), or
23 (5)” and inserting “paragraph (2)”;

1 (E) by striking clauses (i) and (ii) of sub-
2 section (g)(4)(A) and inserting the following new
3 clauses:

4 “(i) with respect to a national bank or
5 Federal savings association, the State in
6 which the main office of the bank or savings
7 association is located; and

8 “(ii) with respect to a State bank,
9 State savings association, or State-chartered
10 trust company, the State by which the bank,
11 savings association, or trust company is
12 chartered; and”;

13 (F) by striking paragraph (5) of subsection
14 (g) and inserting the following new paragraph:

15 “(5) *HOST STATE*.—The term ‘host State’
16 means—

17 “(A) with respect to a bank, a State, other
18 than the home State of the bank, in which the
19 bank maintains, or seeks to establish and main-
20 tain, a branch; and

21 “(B) with respect to a trust company and
22 solely for purposes of section 18(d)(5), a State,
23 other than the home State of the trust company,
24 in which the trust company acts, or seeks to act,
25 in 1 or more fiduciary capacities.”;

1 (G) in subsection (g)(10), by striking “sec-
2 tion 18(c)(2)” and inserting “paragraph (1) or
3 (2) of section 18(c), as appropriate,”; and

4 (H) in subsection (g), by adding at the end
5 the following new paragraph:

6 “(12) TRUST COMPANY.—The term ‘trust com-
7 pany’ means—

8 “(A) any national bank;

9 “(B) any savings association; and

10 “(C) any bank, banking association, trust
11 company, savings bank, or other banking institu-
12 tion which is incorporated under the laws of any
13 State,

14 that is authorized to act in 1 or more fiduciary ca-
15 pacities but is not engaged in the business of receiving
16 deposits other than trust funds (as defined in section
17 3(p)).”.

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

20 (A) in paragraph (1)—

21 (i) by striking subparagraphs (B) and
22 (C); and

23 (ii) by redesignating subparagraph (D)
24 as subparagraph (B); and

1 (1) by striking “SECTION 2. The Comptroller of
2 the Currency” and inserting the following:

3 **“SEC. 2. APPOINTMENT OF RECEIVER FOR A NATIONAL**
4 **BANK.**

5 “(a) *IN GENERAL.*—The Comptroller of the Currency”;
6 and

7 (2) by adding at the end the following new sub-
8 section:

9 “(b) *JUDICIAL REVIEW.*—If the Comptroller of the
10 Currency appoints a receiver under subsection (a), the na-
11 tional bank may, within 30 days thereafter, bring an action
12 in the United States district court for the judicial district
13 in which the home office of such bank is located, or in the
14 United States District Court for the District of Columbia,
15 for an order requiring the Comptroller of the Currency to
16 remove the receiver, and the court shall, upon the merits,
17 dismiss such action or direct the Comptroller of the Cur-
18 rency to remove the receiver.”.

19 (b) *INSURED DEPOSITORY INSTITUTIONS.*—Section
20 11(c)(7) of the Federal Deposit Insurance Act (12 U.S.C.
21 1821(c)(7)) is amended to read as follows:

22 “(7) *JUDICIAL REVIEW.*—If the Corporation is
23 appointed (including the appointment of the Corpora-
24 tion as receiver by the Board of Directors) as conser-
25 vator or receiver of a depository institution under

1 paragraph (4), (9), or (10), the depository institution
2 may, within 30 days thereafter, bring an action in
3 the United States district court for the judicial dis-
4 trict in which the home office of such depository insti-
5 tution is located, or in the United States District
6 Court for the District of Columbia, for an order re-
7 quiring the Corporation to be removed as the conser-
8 vator or receiver (regardless of how such appointment
9 was made), and the court shall, upon the merits, dis-
10 miss such action or direct the Corporation to be re-
11 moved as the conservator or receiver.”.

12 (c) *EXPANSION OF PERIOD FOR CHALLENGING THE*
13 *APPOINTMENT OF A LIQUIDATING AGENT.*—Subparagraph
14 (B) of section 207(a)(1) of the Federal Credit Union Act
15 (12 U.S.C. 1787(a)(1)) is amended by striking “10 days”
16 and inserting “30 days”.

17 (d) *EFFECTIVE DATE.*—The amendments made by
18 subsections (a), (b), and (c) shall apply with respect to con-
19 servators, receivers, or liquidating agents appointed on or
20 after the date of the enactment of this Act.

21 **SEC. 403. REPORTING REQUIREMENTS RELATING TO IN-**
22 **SIDER LENDING.**

23 (a) *REPORTING REQUIREMENTS REGARDING LOANS*
24 *TO EXECUTIVE OFFICERS OF MEMBER BANKS.*—Section

1 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amend-
2 ed—

3 (1) by striking paragraphs (6) and (9); and

4 (2) by redesignating paragraphs (7), (8), and
5 (10) as paragraphs (6), (7), and (8), respectively.

6 (b) **REPORTING REQUIREMENTS REGARDING LOANS**
7 **FROM CORRESPONDENT BANKS TO EXECUTIVE OFFICERS**
8 **AND SHAREHOLDERS OF INSURED BANKS.**—Section
9 106(b)(2) of the Bank Holding Company Act Amendments
10 of 1970 (12 U.S.C. 1972(2)) is amended—

11 (1) by striking subparagraph (G); and

12 (2) by redesignating subparagraphs (H) and (I)
13 as subparagraphs (G) and (H), respectively.

14 **SEC. 404. AMENDMENT TO PROVIDE AN INFLATION ADJUST-**
15 **MENT FOR THE SMALL DEPOSITORY INSTITU-**
16 **TION EXCEPTION UNDER THE DEPOSITORY**
17 **INSTITUTION MANAGEMENT INTERLOCKS**
18 **ACT.**

19 Section 203(1) of the Depository Institution Manage-
20 ment Interlocks Act (12 U.S.C. 3202(1)) is amended by
21 striking “\$20,000,000” and inserting “\$100,000,000”.

22 **SEC. 405. ENHANCING THE SAFETY AND SOUNDNESS OF IN-**
23 **SURED DEPOSITORY INSTITUTIONS.**

24 (a) **CLARIFICATION RELATING TO THE ENFORCE-**
25 **ABILITY OF AGREEMENTS AND CONDITIONS.**—The Federal

1 *Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended*
2 *by adding at the end the following new section:*

3 **“SEC. 49. ENFORCEMENT OF AGREEMENTS.**

4 “(a) *IN GENERAL.*—*Notwithstanding clause (i) or (ii)*
5 *of section 8(b)(6)(A) or section 38(e)(2)(E)(i), an appro-*
6 *priate Federal banking agency may enforce, under section*
7 *8, the terms of—*

8 “(1) *any condition imposed in writing by the*
9 *agency on a depository institution or an institution-*
10 *affiliated party (including a bank holding company)*
11 *in connection with any action on any application,*
12 *notice, or other request concerning a depository insti-*
13 *tution; or*

14 “(2) *any written agreement entered into between*
15 *the agency and an institution-affiliated party (in-*
16 *cluding a bank holding company).*

17 “(b) *RECEIVERSHIPS AND CONSERVATORSHIPS.*—*After*
18 *the appointment of the Corporation as the receiver or con-*
19 *servator for any insured depository institution, the Cor-*
20 *poration may enforce any condition or agreement described*
21 *in paragraph (1) or (2) of subsection (a) involving such*
22 *institution or any institution-affiliated party (including a*
23 *bank holding company), through an action brought in an*
24 *appropriate United States district court.”.*

1 (b) *PROTECTION OF CAPITAL OF INSURED DEPOSI-*
2 *TORY INSTITUTIONS.*—Paragraph (1) of section 18(u) of the
3 *Federal Deposit Insurance Act (12 U.S.C. 1828(u))* is
4 *amended by striking subparagraph (B) and by redesignig-*
5 *nating subparagraph (C) as subparagraph (B).*

6 **SEC. 406. INVESTMENTS BY INSURED SAVINGS ASSOCIA-**
7 **TIONS IN BANK SERVICE COMPANIES AU-**
8 **THORIZED.**

9 (a) *IN GENERAL.*—Sections 2 and 3 of the *Bank Serv-*
10 *ice Company Act (12 U.S.C. 1862, 1863)* are each amended
11 *by striking “insured bank” each place such term appears*
12 *and inserting “insured depository institution”.*

13 (b) *TECHNICAL AND CONFORMING AMENDMENTS.*—

14 (1) *Section 1(b)(4) of the Bank Service Company*
15 *Act (12 U.S.C. 1861(b)(4))* is amended—

16 (A) *by inserting “, except when such term*
17 *appears in connection with the term ‘insured de-*
18 *pository institution’,” after “means”; and*

19 (B) *by striking “Federal Home Loan Bank*
20 *Board” and inserting “Director of the Office of*
21 *Thrift Supervision”.*

22 (2) *Section 1(b) of the Bank Service Company*
23 *Act (12 U.S.C. 1861(b))* is amended—

24 (A) *by striking paragraph (5) and inserting*
25 *the following new paragraph:*

1 “(5) *INSURED DEPOSITORY INSTITUTION*.—The
2 term ‘insured depository institution’ has the meaning
3 given the term in section 3(c) of the *Federal Deposit*
4 *Insurance Act*;”;

5 (B) by striking “and” at the end of para-
6 graph (7);

7 (C) by striking the period at the end of
8 paragraph (8) and inserting “; and”; and

9 (D) by adding at the end the following new
10 paragraph:

11 “(9) the terms ‘State depository institution’,
12 ‘Federal depository institution’, ‘State savings asso-
13 ciation’ and ‘Federal savings association’ have the
14 meanings given the terms in section 3 of the *Federal*
15 *Deposit Insurance Act*.”.

16 (3) The 1st sentence of section 5(c)(4)(B) of the
17 *Home Owners’ Loan Act* (12 U.S.C. 1464(c)(4)(B)) is
18 amended by striking “by savings associations of such
19 State and by Federal associations” and inserting “by
20 State and Federal depository institutions”.

21 (4) Subparagraph (A)(ii) and subparagraph
22 (B)(ii) of section 1(b)(2) of the *Bank Service Com-*
23 *pany Act* (12 U.S.C. 1861(b)(2)) are each amended
24 by striking “insured banks” and inserting “insured
25 depository institutions”.

1 (5) *Section 1(b)(8) of the Bank Service Company*
2 *Act (12 U.S.C. 1861(b)(8)) is further amended—*

3 (A) *by striking “insured bank” and insert-*
4 *ing “insured depository institution”;*

5 (B) *by striking “insured banks” each place*
6 *such term appears and inserting “insured depos-*
7 *itory institutions”; and*

8 (C) *by striking “the bank’s” and inserting*
9 *“the depository institution’s”.*

10 (6) *Section 2 of the Bank Service Company Act*
11 *(12 U.S.C. 1862) is amended by inserting “or savings*
12 *associations, other than the limitation on the amount*
13 *of investment by a Federal savings association con-*
14 *tained in section 5(c)(4)(B) of the Home Owners’*
15 *Loan Act” after “relating to banks”.*

16 (7) *Section 4(b) of the Bank Service Company*
17 *Act (12 U.S.C. 1864(b)) is amended by inserting “as*
18 *permissible under subsection (c), (d), or (e) or” after*
19 *“Except”.*

20 (8) *Section 4(c) of the Bank Service Company*
21 *Act (12 U.S.C. 1864(c)) is amended by inserting “or*
22 *State savings association” after “State bank” each*
23 *place such term appears.*

24 (9) *Section 4(d) of the Bank Service Company*
25 *Act (12 U.S.C. 1864(d)) is amended by inserting “or*

1 *Federal savings association” after “national bank”*
2 *each place such term appears.*

3 (10) *Section 4(e) of the Bank Service Company*
4 *Act (12 U.S.C. 1864(e)) is amended to read as fol-*
5 *lows:*

6 “(e) *A bank service company may perform—*

7 “(1) *only those services that each depository in-*
8 *stitution shareholder or member is otherwise author-*
9 *ized to perform under any applicable Federal or State*
10 *law; and*

11 “(2) *such services only at locations in a State in*
12 *which each such shareholder or member is authorized*
13 *to perform such services.”.*

14 (11) *Section 4(f) of the Bank Service Company*
15 *Act (12 U.S.C. 1864(f)) is amended by inserting “or*
16 *savings associations” after “location of banks”.*

17 (12) *Section 5 of the Bank Service Company Act*
18 *(12 U.S.C. 1865) is amended—*

19 (A) *in subsection (a)—*

20 (i) *by striking “insured bank” and in-*
21 *serting “insured depository institution”;*
22 *and*

23 (ii) *by striking “bank’s” and inserting*
24 *“institution’s”;*

25 (B) *in subsection (b)—*

1 (i) by striking “insured bank” and in-
2 serting “insured depository institution”;

3 (ii) by inserting “authorized only”
4 after “performs any service”; and

5 (iii) by inserting “authorized only”
6 after “perform any activity”; and

7 (C) in subsection (c)—

8 (i) by striking “the bank or banks”
9 and inserting “any depository institution”;
10 and

11 (ii) by striking “capability of the
12 bank” and inserting “capability of the de-
13 pository institution”.

14 (13) Section 7 of the Bank Service Company Act
15 (12 U.S.C. 1867) is amended—

16 (A) in subsection (b), by striking “insured
17 bank” and inserting “insured depository institu-
18 tion”; and

19 (B) in subsection (c)—

20 (i) by striking “a bank” each place
21 such term appears and inserting “a depository
22 institution”; and

23 (ii) by striking “the bank” each place
24 such term appears and inserting “the depository
25 institution”.

1 **SEC. 407. CROSS GUARANTEE AUTHORITY.**

2 *Subparagraph (A) of section 5(e)(9) of the Federal De-*
3 *posit Insurance Act (12 U.S.C. 1815(e)(9)(A)) is amended*
4 *to read as follows:*

5 *“(A) such institutions are controlled by the*
6 *same company; or”.*

7 **SEC. 408. GOLDEN PARACHUTE AUTHORITY AND NONBANK**
8 **HOLDING COMPANIES.**

9 *Subsection (k) of section 18 of the Federal Deposit In-*
10 *surance Act (12 U.S.C. 1828(k)) is amended—*

11 *(1) in paragraph (2)(A), by striking “or deposi-*
12 *tory institution holding company” and inserting “or*
13 *covered company”;*

14 *(2) by striking subparagraph (B) of paragraph*
15 *(2) and inserting the following new subparagraph:*

16 *“(B) Whether there is a reasonable basis to*
17 *believe that the institution-affiliated party is*
18 *substantially responsible for—*

19 *“(i) the insolvency of the depository in-*
20 *stitution or covered company;*

21 *“(ii) the appointment of a conservator*
22 *or receiver for the depository institution; or*

23 *“(iii) the depository institution’s trou-*
24 *bled condition (as defined in the regulations*
25 *prescribed pursuant to section 32(f)).”;*

1 (3) in paragraph (2)(F), by striking “depository
2 institution holding company” and inserting “covered
3 company,”;

4 (4) in paragraph (3) in the matter preceding
5 subparagraph (A), by striking “depository institution
6 holding company” and inserting “covered company”;

7 (5) in paragraph (3)(A), by striking “holding
8 company” and inserting “covered company”;

9 (6) in paragraph (4)(A)—

10 (A) by striking “depository institution hold-
11 ing company” each place such term appears and
12 inserting “covered company”; and

13 (B) by striking “holding company” each
14 place such term appears (other than in connec-
15 tion with the term referred to in subparagraph
16 (A)) and inserting “covered company”;

17 (7) in paragraph (5)(A), by striking “depository
18 institution holding company” and inserting “covered
19 company”;

20 (8) in paragraph (5), by adding at the end the
21 following new subparagraph:

22 “(D) COVERED COMPANY.—The term ‘cov-
23 ered company’ means any depository institution
24 holding company (including any company re-
25 quired to file a report under section 4(f)(6) of the

1 *Bank Holding Company Act of 1956), or any*
2 *other company that controls an insured deposi-*
3 *tory institution.”; and*

4 *(9) in paragraph (6)—*

5 *(A) by striking “depository institution hold-*
6 *ing company” and inserting “covered com-*
7 *pany,”; and*

8 *(B) by striking “or holding company” and*
9 *inserting “or covered company”.*

10 **SEC. 409. AMENDMENTS RELATING TO CHANGE IN BANK**
11 **CONTROL.**

12 *Section 7(j) of the Federal Deposit Insurance Act (12*
13 *U.S.C. 1817(j)) is amended—*

14 *(1) in paragraph (1)(D)—*

15 *(A) by striking “is needed to investigate”*
16 *and inserting “is needed—*

17 *“(i) to investigate”;*

18 *(B) by striking “United States Code.” and*
19 *inserting “United States Code; or”; and*

20 *(C) by adding at the end the following new*
21 *clause:*

22 *“(ii) to analyze the safety and sound-*
23 *ness of any plans or proposals described in*
24 *paragraph (6)(E) or the future prospects of*
25 *the institution.”; and*

1 (2) *in paragraph (7)(C), by striking “the finan-*
2 *cial condition of any acquiring person” and inserting*
3 *“either the financial condition of any acquiring per-*
4 *son or the future prospects of the institution”.*

5 **SEC. 410. COMMUNITY REINVESTMENT CREDIT FOR ESOPS**
6 **AND EWOCS.**

7 *Section 804 of the Community Reinvestment Act of*
8 *1977 (12 U.S.C. 2903) is amended by adding at the end*
9 *the following new subsection—*

10 “(d) *ESTABLISHMENT OF ESOPS AND EWOCS.—*

11 “(1) *IN GENERAL.—In assessing and taking into*
12 *account, under subsection (a), the record of a finan-*
13 *cial institution, the appropriate Federal financial su-*
14 *pervisory agency shall consider as a factor activities*
15 *that support or enable the establishment of employee*
16 *stock ownership plans or eligible worker-owned co-*
17 *operatives, so long as the employer sponsoring the*
18 *plan or cooperative is at least 51 percent owned by*
19 *employees, including low to moderate income employ-*
20 *ees.*

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

23 “(A) *EMPLOYEE STOCK OWNERSHIP*
24 *PLAN.—The term ‘employee stock ownership*

1 *plan’ has the same meaning as in section*
2 *4975(e)(7) of the Internal Revenue Code of 1986.*

3 *“(B) ELIGIBLE WORKER-OWNED COOPERA-*
4 *TIVE.—The term ‘eligible worker-owned coopera-*
5 *tive’ has the same meaning as in section*
6 *1042(c)(2) of the Internal Revenue Code of*
7 *1986.”.*

8 **SEC. 411. MINORITY FINANCIAL INSTITUTIONS.**

9 *(a) IN GENERAL.—The Federal Deposit Insurance*
10 *Corporation and the Office of Thrift Supervision shall pro-*
11 *vide such technical assistance to minority financial institu-*
12 *tions affected by Hurricane Katrina, Hurricane Rita, and*
13 *Hurricane Wilma as may be appropriate to preserve the*
14 *present number of minority depository institutions and*
15 *preserve the minority character in cases involving mergers*
16 *or acquisitions of a minority depository institution con-*
17 *sistent with section 308(a) of the Financial Institutions Re-*
18 *form, Recovery, and Enforcement Act of 1989.*

19 *(b) MINORITY FINANCIAL INSTITUTION DEFINED.—*
20 *For purposes of this subsection, the term “minority finan-*
21 *cial institution” has the same meaning as in section 308(b)*
22 *of the Financial Institutions Reform, Recovery, and En-*
23 *forcement Act of 1989.*

1 **TITLE V—DEPOSITORY INSTITU-**
2 **TION AFFILIATES PROVI-**
3 **SIONS**

4 **SEC. 501. CLARIFICATION OF CROSS MARKETING PROVI-**
5 **SION.**

6 *Section 4(n)(5) of the Bank Holding Company Act of*
7 *1956 (12 U.S.C. 1843(n)(5)) is amended—*

8 *(1) in subparagraph (B), by striking “subsection*
9 *(k)(4)(I)” and inserting “subparagraph (H) or (I) of*
10 *subsection (k)(4)”;* and

11 *(2) by adding at the end the following new sub-*
12 *paragraph:*

13 *“(C) THRESHOLD OF CONTROL.—Subpara-*
14 *graph (A) shall not apply with respect to a com-*
15 *pany described or referred to in clause (i) or (ii)*
16 *of such subparagraph if the financial holding*
17 *company does not own or control 25 percent or*
18 *more of the total equity or any class of voting se-*
19 *curities of such company.”.*

20 **SEC. 502. AMENDMENT TO PROVIDE THE FEDERAL RE-**
21 **SERVE BOARD WITH DISCRETION CON-**
22 **CERNING THE IMPUTATION OF CONTROL OF**
23 **SHARES OF A COMPANY BY TRUSTEES.**

24 *Section 2(g)(2) of the Bank Holding Company Act of*
25 *1956 (12 U.S.C. 1841(g)(2)) is amended by inserting “, un-*

1 *less the Board determines that such treatment is not appro-*
2 *priate in light of the facts and circumstances of the case*
3 *and the purposes of this Act” before the period at the end.*

4 **SEC. 503. ELIMINATING GEOGRAPHIC LIMITS ON THRIFT**
5 **SERVICE COMPANIES.**

6 (a) *IN GENERAL.*—*The 1st sentence of section*
7 *5(c)(4)(B) of the Home Owners’ Loan Act (12 U.S.C.*
8 *1464(c)(4)(B)) (as amended by section 406(b)(3) of this*
9 *Act) is amended—*

10 (1) *by striking “corporation organized” and all*
11 *that follows through “is available for purchase” and*
12 *inserting “company, if the entire capital of the com-*
13 *pany is available for purchase”; and*

14 (2) *by striking “having their home offices in*
15 *such State”.*

16 (b) *TECHNICAL CORRECTIONS.*—

17 (1) *The heading for subparagraph (B) of section*
18 *5(c)(4) of the Home Owners’ Loan Act (12 U.S.C.*
19 *1464(c)(4)(B)) is amended by striking “CORPORA-*
20 *TIONS” and inserting “COMPANIES”.*

21 (2) *The 2nd sentence of section 5(n)(1) of the*
22 *Home Owners’ Loan Act (12 U.S.C. 1464(n)(1)) is*
23 *amended by striking “service corporations” and in-*
24 *serting “service companies”.*

1 (3) Section 5(q)(1) of the Home Owners' Loan
2 Act (12 U.S.C. 1464(q)(1)) is amended by striking
3 "service corporation" each place such term appears in
4 subparagraphs (A), (B), and (C) and inserting "serv-
5 ice company".

6 (4) Section 10(m)(4)(C)(iii)(II) of the Home
7 Owners' Loan Act (12 U.S.C.
8 1467a(m)(4)(C)(iii)(II)) is amended by striking
9 "service corporation" each place such term appears
10 and inserting "service company".

11 **SEC. 504. CLARIFICATION OF SCOPE OF APPLICABLE RATE**

12 **PROVISION.**

13 Section 44(f) of the Federal Deposit Insurance Act (12
14 U.S.C. 1831u(f)) is amended by adding at the end the fol-
15 lowing new paragraphs:

16 “(3) OTHER LENDERS.—In the case of any other
17 lender doing business in the State described in para-
18 graph (1), the maximum interest rate or amount of
19 interest, discount points, finance charges, or other
20 similar charges that may be charged, taken, received,
21 or reserved from time to time in any loan, discount,
22 or credit sale made, or upon any note, bill of ex-
23 change, financing transaction, or other evidence of
24 debt issued to or acquired by any other lender shall

1 *be equal to not more than the greater of the rates de-*
2 *scribed in subparagraph (A) or (B) of paragraph (1).*

3 “(4) *OTHER LENDER DEFINED.*—*For purposes of*
4 *paragraph (3), the term ‘other lender’ means any per-*
5 *son engaged in the business of selling or financing the*
6 *sale of personal property (and any services incidental*
7 *to the sale of personal property) in such State, except*
8 *that, with regard to any person or entity described in*
9 *such paragraph, such term does not include—*

10 “(A) *an insured depository institution; or*

11 “(B) *any person or entity engaged in the*
12 *business of providing a short-term cash advance*
13 *to any consumer in exchange for—*

14 “(i) *a consumer’s personal check or*
15 *share draft, in the amount of the advance*
16 *plus a fee, where presentment or negotiation*
17 *of such check or share draft is deferred by*
18 *agreement of the parties until a designated*
19 *future date; or*

20 “(ii) *a consumer authorization to debit*
21 *the consumer’s transaction account, in the*
22 *amount of the advance plus a fee, where*
23 *such account will be debited on or after a*
24 *designated future date.”.*

1 **SEC. 505. SAVINGS ASSOCIATIONS ACTING AS AGENTS FOR**
2 **AFFILIATED DEPOSITORY INSTITUTIONS.**

3 (a) *IN GENERAL.*—Section 18(r) of the Federal De-
4 posit Insurance Act (12 U.S.C. 1828(r)) is amended—

5 (1) in paragraph (1)—

6 (A) by striking “bank subsidiary” and in-
7 serting “depository institution subsidiary”; and

8 (B) by striking “bank holding company”
9 and inserting “depository institution holding
10 company”;

11 (2) in paragraph (2), by striking “a bank act-
12 ing” and inserting “a depository institution acting”;

13 (3) in paragraphs (3) and (5), by striking “or
14 (6)” each place such term appears in each such para-
15 graph; and

16 (4) by striking paragraph (6).

17 (b) *CLERICAL AMENDMENT.*—The heading for section
18 18(r)(2) of the Federal Deposit Insurance Act (12 U.S.C.
19 1828(r)) is amended by striking “BANK” and inserting
20 “DEPOSITORY INSTITUTION”.

21 **SEC. 506. CREDIT CARD BANK INVESTMENTS FOR THE PUB-**
22 **LIC WELFARE.**

23 Section 2(c)(2)(F) of the Bank Holding Company Act
24 of 1956 (12 U.S.C. 1841(c)(2)(F)) is amended—

1 (1) *in clause (i), by striking “engages only in*
2 *credit card operations;” and inserting “engages only*
3 *in—*

4 *“(I) credit card operations; and*

5 *“(II) making investments de-*
6 *signed primarily to promote the public*
7 *welfare, including the welfare of low-*
8 *and moderate-income communities or*
9 *families (such as by providing housing,*
10 *services, or jobs), in the manner and to*
11 *the extent permitted for national banks*
12 *under the paragraph designated the*
13 *‘Eleventh’ of section 5136 of the Re-*
14 *vised Statutes of the United States and*
15 *regulations prescribed under such*
16 *paragraph, except that the last sentence*
17 *of such paragraph shall be applied for*
18 *purposes of this subclause by sub-*
19 *stituting ‘5 percent’ for ‘15 percent’*
20 *each place such term appears; ”; and*

21 (2) *in clause (v), by inserting “, other than mak-*
22 *ing or purchasing loans for the purposes described in*
23 *and to the extent permitted in clause (i)(II))” before*
24 *the period at the end.*

1 **TITLE VI—BANKING AGENCY**
2 **PROVISIONS**

3 **SEC. 601. WAIVER OF EXAMINATION SCHEDULE IN ORDER**
4 **TO ALLOCATE EXAMINER RESOURCES.**

5 *Section 10(d) of the Federal Deposit Insurance Act (12*
6 *U.S.C. 1820(d)) is amended—*

7 (1) *by redesignating paragraphs (5), (6), (7),*
8 (8), (9), and (10) as paragraphs (6), (7), (8), (9),
9 (10), and (11), respectively;

10 (2) *by inserting after paragraph (4), the fol-*
11 *lowing new paragraph:*

12 “(5) *WAIVER OF SCHEDULE WHEN NECESSARY*
13 *TO ACHIEVE SAFE AND SOUND ALLOCATION OF EXAM-*
14 *INER RESOURCES.—Notwithstanding paragraphs (1),*
15 (2), (3), and (4), an appropriate Federal banking
16 agency may make adjustments in the examination
17 cycle for an insured depository institution if nec-
18 essary to allocate available resources of examiners in
19 a manner that provides for the safety and soundness
20 of, and the effective examination and supervision of,
21 insured depository institutions.”; and

22 (3) *in paragraphs (8) and (9), as so redesign-*
23 *ated, by striking “paragraph (6)” and inserting*
24 “paragraph (7)”.

1 **SEC. 602. INTERAGENCY DATA SHARING.**

2 (a) *FEDERAL BANKING AGENCIES.*—Section 7(a)(2) of
3 *the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2))*
4 *is amended by adding at the end the following new subpara-*
5 *graph:*

6 “(C) *DATA SHARING WITH OTHER AGEN-*
7 *CIES AND PERSONS.*—*In addition to reports of*
8 *examination, reports of condition, and other re-*
9 *ports required to be regularly provided to the*
10 *Corporation (with respect to all insured deposi-*
11 *tory institutions, including a depository institu-*
12 *tion for which the Corporation has been ap-*
13 *pointed conservator or receiver) or an appro-*
14 *priate State bank supervisor (with respect to a*
15 *State depository institution) under subpara-*
16 *graph (A) or (B), a Federal banking agency*
17 *may, in the agency’s discretion, furnish any re-*
18 *port of examination or other confidential super-*
19 *visory information concerning any depository*
20 *institution or other entity examined by such*
21 *agency under authority of any Federal law, to—*

22 “(i) *any other Federal or State agency*
23 *or authority with supervisory or regulatory*
24 *authority over the depository institution or*
25 *other entity;*

1 “(ii) any officer, director, or receiver of
2 such depository institution or entity; and

3 “(iii) any other person the Federal
4 banking agency determines to be appro-
5 priate.”.

6 (b) NATIONAL CREDIT UNION ADMINISTRATION.—Sec-
7 tion 202(a) of the Federal Credit Union Act (12 U.S.C.
8 1782(a)) is amended by adding at the end the following
9 new paragraph:

10 “(8) DATA SHARING WITH OTHER AGENCIES AND
11 PERSONS.—In addition to reports of examination, re-
12 ports of condition, and other reports required to be
13 regularly provided to the Board (with respect to all
14 insured credit unions, including a credit union for
15 which the Corporation has been appointed conservator
16 or liquidating agent) or an appropriate State com-
17 mission, board, or authority having supervision of a
18 State-chartered credit union, the Board may, in the
19 Board’s discretion, furnish any report of examination
20 or other confidential supervisory information con-
21 cerning any credit union or other entity examined by
22 the Board under authority of any Federal law, to—

23 “(A) any other Federal or State agency or
24 authority with supervisory or regulatory author-
25 ity over the credit union or other entity;

1 “(B) any officer, director, or receiver of
2 such credit union or entity; and

3 “(C) any other institution-affiliated party
4 of such credit union or entity the Board deter-
5 mines to be appropriate.”.

6 **SEC. 603. PENALTY FOR UNAUTHORIZED PARTICIPATION**
7 **BY CONVICTED INDIVIDUAL.**

8 Section 19 of the Federal Deposit Insurance Act (12
9 U.S.C. 1829) is amended by adding at the end the following
10 new subsection:

11 “(c) *NONINSURED BANKS.*—Subsections (a) and (b)
12 shall apply to a noninsured national bank and a non-
13 insured State member bank, and any agency or noninsured
14 branch (as such terms are defined in section 1(b) of the
15 International Banking Act of 1978) of a foreign bank as
16 if such bank, branch, or agency were an insured depository
17 institution, except such subsections shall be applied for pur-
18 poses of this subsection by substituting the agency deter-
19 mined under the following paragraphs for ‘Corporation’
20 each place such term appears in such subsections:

21 “(1) The Comptroller of the Currency, in the case
22 of a noninsured national bank or any Federal agency
23 or noninsured Federal branch of a foreign bank.

24 “(2) The Board of Governors of the Federal Re-
25 serve System, in the case of a noninsured State mem-

1 *ber bank or any State agency or noninsured State*
 2 *branch of a foreign bank.”.*

3 **SEC. 604. AMENDMENT PERMITTING THE DESTRUCTION OF**
 4 **OLD RECORDS OF A DEPOSITORY INSTITU-**
 5 **TION BY THE FDIC AFTER THE APPOINTMENT**
 6 **OF THE FDIC AS RECEIVER.**

7 *Section 11(d)(15)(D) of the Federal Deposit Insurance*
 8 *Act (12 U.S.C. 1821(d)(15)(D)) is amended—*

9 (1) *by striking “RECORDKEEPING REQUIRE-*
 10 *MENT.—After the end of the 6-year period” and in-*
 11 *serting “RECORDKEEPING REQUIREMENT.—*

12 *“(i) IN GENERAL.—Except as provided*
 13 *in clause (ii), after the end of the 6-year pe-*
 14 *riod”;*

15 (2) *by striking “to be unnecessary” and inserting*
 16 *“are unnecessary and not relevant to any pending or*
 17 *reasonably probable future litigation”;* and

18 (3) *by adding at the end the following new*
 19 *clause:*

20 *“(ii) OLD RECORDS.—In the case of*
 21 *records of an insured depository institution*
 22 *which—*

23 *“(I) are at least 10 years old, as*
 24 *of the date the Corporation is ap-*

1 pointed as the receiver of such deposi-
2 tory institution; and

3 “*(II) are unnecessary and not rel-*
4 *evant to any pending or reasonably*
5 *probable future litigation, as provided*
6 *in clause (i),*

7 *the Corporation may destroy such records*
8 *in accordance with clause (i) any time after*
9 *such appointment is final without regard to*
10 *the 6-year period of limitation contained in*
11 *such clause.”.*

12 **SEC. 605. MODERNIZATION OF RECORDKEEPING REQUIRE-**
13 **MENT.**

14 *Subsection (f) of section 10 of the Federal Deposit In-*
15 *surance Act (12 U.S.C. 1820(f)) is amended to read as fol-*
16 *lows:*

17 “*(f) PRESERVATION OF AGENCY RECORDS.—*

18 “*(1) IN GENERAL.—A Federal banking agency*
19 *may cause any and all records, papers, or documents*
20 *kept by the agency or in the possession or custody of*
21 *the agency to be—*

22 “*(A) photographed or microphotographed or*
23 *otherwise reproduced upon film; or*

24 “*(B) preserved in any electronic medium or*
25 *format which is capable of—*

1 “(i) being read or scanned by com-
2 puter; and

3 “(ii) being reproduced from such elec-
4 tronic medium or format by printing or
5 any other form of reproduction of electroni-
6 cally stored data.

7 “(2) *TREATMENT AS ORIGINAL RECORDS.*—Any
8 photographs, microphotographs, or photographic film
9 or copies thereof described in paragraph (1)(A) or re-
10 production of electronically stored data described in
11 paragraph (1)(B) shall be deemed to be an original
12 record for all purposes, including introduction in evi-
13 dence in all State and Federal courts or administra-
14 tive agencies and shall be admissible to prove any act,
15 transaction, occurrence, or event therein recorded.

16 “(3) *AUTHORITY OF THE FEDERAL BANKING*
17 *AGENCIES.*—Any photographs, microphotographs, or
18 photographic film or copies thereof described in para-
19 graph (1)(A) or reproduction of electronically stored
20 data described in paragraph (1)(B) shall be preserved
21 in such manner as the Federal banking agency shall
22 prescribe and the original records, papers, or docu-
23 ments may be destroyed or otherwise disposed of as
24 the Federal banking agency may direct.”.

1 **SEC. 606. STREAMLINING REPORTS OF CONDITION.**

2 *Section 7(a) of the Federal Deposit Insurance Act (12*
3 *U.S.C. 1817(a)) is amended by adding the following new*
4 *paragraph:*

5 *“(11) STREAMLINING REPORTS OF CONDITION.—*

6 *“(A) REVIEW OF INFORMATION AND SCHED-*
7 *ULES.—Before the end of the 1-year period be-*
8 *ginning on the date of the enactment of the Fi-*
9 *nancial Services Regulatory Relief Act of 2005*
10 *and before the end of each 5-year period there-*
11 *after, each Federal banking agency shall, in con-*
12 *sultation with the other relevant Federal banking*
13 *agencies, review the information and schedules*
14 *that are required to be filed by an insured depos-*
15 *itory institution in a report of condition re-*
16 *quired under paragraph (3).*

17 *“(B) REDUCTION OR ELIMINATION OF IN-*
18 *FORMATION FOUND TO BE UNNECESSARY.—After*
19 *completing the review required by subparagraph*
20 *(A), a Federal banking agency, in consultation*
21 *with the other relevant Federal banking agencies,*
22 *shall reduce or eliminate any requirement to file*
23 *information or schedules under paragraph (3)*
24 *(other than information or schedules that are*
25 *otherwise required by law) if the agency deter-*
26 *mines that the continued collection of such infor-*

1 *mation or schedules is no longer necessary or ap-*
 2 *propriate.”.*

3 **SEC. 607. EXPANSION OF ELIGIBILITY FOR 18-MONTH EXAM-**
 4 **INATION SCHEDULE FOR COMMUNITY BANKS.**

5 *Paragraph (4)(A) of section 10(d) of the Federal De-*
 6 *posit Insurance Act (12 U.S.C. 1820(d)) is amended by*
 7 *striking “\$250,000,000” and inserting “\$1,000,000,000”.*

8 **SEC. 608. SHORT FORM REPORTS OF CONDITION FOR CER-**
 9 **TAIN COMMUNITY BANKS.**

10 *(a) IN GENERAL.—Section 7(a) of the Federal Deposit*
 11 *Insurance Act (12 U.S.C. 1817(a)) is amended by inserting*
 12 *after paragraph (11) (as added by section 606 of this title)*
 13 *the following new paragraph:*

14 *“(12) SHORT FORM REPORTS OF CONDITION FOR*
 15 *COMMUNITY BANKS.—*

16 *“(A) IN GENERAL.—With respect to reports*
 17 *of condition required under paragraph (3) for*
 18 *each calendar quarter, an insured depository in-*
 19 *stitution described in subparagraphs (A), (B),*
 20 *(C), and (D) of section 10(d)(4) may submit a*
 21 *short form of any such report of condition in 2*
 22 *nonsequential quarters of any calendar year.*

23 *“(B) SHORT FORM DEFINED.—The term*
 24 *‘short form’, when used in connection with any*
 25 *report of condition required under paragraph*

1 (3), means a report of condition in a format es-
2 tablished by the appropriate Federal banking
3 agency, after notice and opportunity for com-
4 ment, that—

5 “(i) is significantly and materially less
6 burdensome for the insured depository insti-
7 tution to prepare than the format of the re-
8 port of condition required under paragraph
9 (3); and

10 “(ii) provides sufficient material infor-
11 mation for the appropriate Federal banking
12 agency to assure the maintenance of the safe
13 and sound condition of the depository insti-
14 tution and safe and sound practices.”.

15 (b) *REGULATIONS.*—Any regulation required to carry
16 out the amendment made by subsection (a) shall be pub-
17 lished in final form before the end of the 6-month period
18 beginning on the date of the enactment of this Act.

19 **SEC. 609. CLARIFICATION OF EXTENT OF SUSPENSION, RE-**
20 **MOVAL, AND PROHIBITION AUTHORITY OF**
21 **FEDERAL BANKING AGENCIES IN CASES OF**
22 **CERTAIN CRIMES BY INSTITUTION-AFFILI-**
23 **ATED PARTIES.**

24 (a) *INSURED DEPOSITORY INSTITUTIONS.*—

1 (1) *IN GENERAL.*—Section 8(g)(1) of the Federal
2 *Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is*
3 *amended—*

4 (A) *in subparagraph (A)—*

5 (i) *by striking “is charged in any in-*
6 *formation, indictment, or complaint, with*
7 *the commission of or participation in” and*
8 *inserting “is the subject of any information,*
9 *indictment, or complaint, involving the*
10 *commission of or participation in”;*

11 (ii) *by striking “may pose a threat to*
12 *the interests of the depository institution’s*
13 *depositors or may threaten to impair public*
14 *confidence in the depository institution,”*
15 *and insert “posed, poses, or may pose a*
16 *threat to the interests of the depositors of, or*
17 *threatened, threatens, or may threaten to*
18 *impair public confidence in, any relevant*
19 *depository institution (as defined in sub-*
20 *paragraph (E)),”;* and

21 (iii) *by striking “affairs of the deposi-*
22 *tory institution” and inserting “affairs of*
23 *any depository institution”;*

24 (B) *in subparagraph (B)(i), by striking*
25 *“the depository institution” and inserting “any*

1 *depository institution that the subject of the no-*
2 *tice is affiliated with at the time the notice is*
3 *issued”;*

4 *(C) in subparagraph (C)(i)—*

5 *(i) by striking “may pose a threat to*
6 *the interests of the depository institution’s*
7 *depositors or may threaten to impair public*
8 *confidence in the depository institution,”*
9 *and insert “posed, poses, or may pose a*
10 *threat to the interests of the depositors of, or*
11 *threatened, threatens, or may threaten to*
12 *impair public confidence in, and relevant*
13 *depository institution (as defined in sub-*
14 *paragraph (E)),”;* and

15 *(ii) by striking “affairs of the deposi-*
16 *tory institution” and inserting “affairs of*
17 *any depository institution”;*

18 *(D) in subparagraph (C)(ii), by striking*
19 *“affairs of the depository institution” and insert-*
20 *ing “affairs of any depository institution”;*

21 *(E) in subparagraph (D)(i), by striking*
22 *“the depository institution” and inserting “any*
23 *depository institution that the subject of the*
24 *order is affiliated with at the time the order is*
25 *issued”;* and

1 (F) by adding at the end the following new
2 subparagraph:

3 “(E) *RELEVANT DEPOSITORY INSTITU-*
4 *TION.—For purposes of this subsection, the term*
5 *‘relevant depository institution’ means any de-*
6 *pository institution of which the party is or was*
7 *an institution-affiliated party at the time—*

8 “(i) *the information, indictment or*
9 *complaint described in subparagraph (A)*
10 *was issued; or*

11 “(ii) *the notice is issued under sub-*
12 *paragraph (A) or the order is issued under*
13 *subparagraph (C)(i).”.*

14 (2) *CLERICAL AMENDMENT.—The heading for*
15 *section 8(g) of the Federal Deposit Insurance Act (12*
16 *U.S.C. 1818(g)) is amended to read as follows:*

17 “(g) *SUSPENSION, REMOVAL, AND PROHIBITION FROM*
18 *PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMI-*
19 *NAL OFFENSES.—”.*

20 (b) *INSURED CREDIT UNIONS.—*

21 (1) *IN GENERAL.—Section 206(i)(1) of the Fed-*
22 *eral Credit Union Act (12 U.S.C. 1786(i)(1)) is*
23 *amended—*

1 (A) in subparagraph (A), by striking “the
2 credit union” each place such term appears and
3 inserting “any credit union”;

4 (B) in subparagraph (B)(i), by inserting
5 “of which the subject of the order is, or most re-
6 cently was, an institution-affiliated party” be-
7 fore the period at the end;

8 (C) in subparagraph (C)—

9 (i) by striking “the credit union” each
10 place such term appears and inserting “any
11 credit union”; and

12 (ii) by striking “the credit union’s”
13 and inserting “any credit union’s”;

14 (D) in subparagraph (D)(i), by striking
15 “upon such credit union” and inserting “upon
16 the credit union of which the subject of the order
17 is, or most recently was, an institution-affiliated
18 party”; and

19 (E) by adding at the end the following new
20 subparagraph:

21 “(E) CONTINUATION OF AUTHORITY.—The
22 Board may issue an order under this paragraph
23 with respect to an individual who is an institu-
24 tion-affiliated party at a credit union at the

1 *time of an offense described in subparagraph (A)*
2 *without regard to—*

3 “(i) *whether such individual is an in-*
4 *stitution-affiliated party at any credit*
5 *union at the time the order is considered or*
6 *issued by the Board; or*

7 “(ii) *whether the credit union at which*
8 *the individual was an institution-affiliated*
9 *party at the time of the offense remains in*
10 *existence at the time the order is considered*
11 *or issued by the Board.”.*

12 (2) *CLERICAL AMENDMENT.—Section 206(i) of*
13 *the Federal Credit Union Act (12 U.S.C. 1786(i)) is*
14 *amended by striking “(i)” at the beginning and in-*
15 *serting the following new subsection heading:*

16 “(i) *SUSPENSION, REMOVAL, AND PROHIBITION FROM*
17 *PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMI-*
18 *NAL OFFENSES.—”.*

19 **SEC. 610. STREAMLINING DEPOSITORY INSTITUTION MERG-**
20 **ER APPLICATION REQUIREMENTS.**

21 (a) *IN GENERAL.—Paragraph (4) of section 18(c) of*
22 *the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is*
23 *amended to read as follows:*

24 “(4) *REPORTS ON COMPETITIVE FACTORS.—*

1 “(A) *REQUEST FOR REPORT.*—*In the inter-*
2 *ests of uniform standards and subject to sub-*
3 *paragraph (B), the responsible agency shall, be-*
4 *fore acting on any application for approval of a*
5 *merger transaction—*

6 “(i) *request a report on the competitive*
7 *factors involved from the Attorney General;*
8 *and*

9 “(ii) *provide a copy of the request to*
10 *the Corporation (when the Corporation is*
11 *not the responsible agency).*

12 “(B) *CONCURRENT CONSIDERATION.*—*The*
13 *responsible agency shall not be required to make*
14 *a request under subparagraph (A) before acting*
15 *on an application for approval of a merger*
16 *transaction if—*

17 “(i) *the agency finds that it must act*
18 *immediately in order to prevent the prob-*
19 *able failure of a depository institution in-*
20 *volved in the transaction; or*

21 “(ii) *the transaction consists of a*
22 *merger between an insured depository insti-*
23 *tution and 1 or more affiliates of the depos-*
24 *itory institution.*

1 “(C) *FURNISHING OF REPORT.*—*The report*
2 *requested under subparagraph (A) shall be fur-*
3 *nished by the Attorney General to the responsible*
4 *agency—*

5 “(i) *not more than 30 calendar days*
6 *after the date on which the Attorney Gen-*
7 *eral received the request; or*

8 “(ii) *not more than 10 calendar days*
9 *after such date, if the requesting agency ad-*
10 *vises the Attorney General that an emer-*
11 *gency exists requiring expeditious action.”.*

12 (b) *TECHNICAL AND CONFORMING AMENDMENT.*—*Sec-*
13 *tion 18(c)(6) of the Federal Deposit Insurance Act (12*
14 *U.S.C. 1828(c)(6)) is amended—*

15 (1) *in the second sentence by striking “banks or*
16 *savings associations involved” and inserting the fol-*
17 *lowing: “insured depository institutions involved, or*
18 *if the proposed merger transaction is solely between*
19 *an insured depository institution and 1 or more of af-*
20 *filiates of the depository institution,” and*

21 (2) *by striking the penultimate sentence and in-*
22 *serting the following: “If the agency has advised the*
23 *Attorney General under paragraph (4)(C)(ii) of the*
24 *existence of an emergency requiring expeditious ac-*
25 *tion and has requested a report on the competitive*

1 “(A) the Federal banking agency determines
2 that the foreign regulatory or supervisory au-
3 thority has, in good faith, determined and rep-
4 resented to such Federal banking agency that
5 public disclosure of the information would vio-
6 late the laws applicable to that foreign regu-
7 latory or supervisory authority; and

8 “(B) the relevant Federal banking agency
9 obtained such information pursuant to—

10 “(i) such procedures as the Federal
11 banking agency may establish for use in
12 connection with the administration and en-
13 forcement of Federal banking laws; or

14 “(ii) a memorandum of understanding
15 or other similar arrangement between the
16 Federal banking agency and the foreign reg-
17 ulatory or supervisory authority.

18 “(2) TREATMENT UNDER TITLE 5, UNITED
19 STATES CODE.—For purposes of section 552 of title 5,
20 United States Code, this subsection shall be treated as
21 a statute described in subsection (b)(3)(B) of such sec-
22 tion.

23 “(3) SAVINGS PROVISION.—No provision of this
24 section shall be construed as—

1 “(A) authorizing any Federal banking
2 agency to withhold any information from any
3 duly authorized committee of the House of Rep-
4 resentatives or the Senate; or

5 “(B) preventing any Federal banking agen-
6 cy from complying with an order of a court of
7 the United States in an action commenced by the
8 United States or such agency.

9 “(4) FEDERAL BANKING AGENCY DEFINED.—For
10 purposes of this subsection, the term ‘Federal banking
11 agency’ means the Board, the Comptroller, the Fed-
12 eral Deposit Insurance Corporation, and the Director
13 of the Office of Thrift Supervision.”.

14 **SEC. 613. PROHIBITION ON PARTICIPATION BY CONVICTED**
15 **INDIVIDUAL.**

16 (a) EXTENSION OF AUTOMATIC PROHIBITION.—Sec-
17 tion 19 of the Federal Deposit Insurance Act (12 U.S.C.
18 1829) is amended by inserting after subsection (c) (as added
19 by section 603 of this title) the following new subsections:

20 “(d) BANK HOLDING COMPANIES.—Subsections (a)
21 and (b) shall apply to any company (other than a foreign
22 bank) that is a bank holding company and any organiza-
23 tion organized and operated under section 25A of the Fed-
24 eral Reserve Act or operating under section 25 of the Fed-
25 eral Reserve Act as if such bank holding company or orga-

1 nization were an insured depository institution, except such
2 subsections shall be applied for purposes of this subsection
3 by substituting ‘Board of Governors of the Federal Reserve
4 System’ for ‘Corporation’ each place such term appears in
5 such subsections.

6 “(e) SAVINGS AND LOAN HOLDING COMPANIES.—Sub-
7 sections (a) and (b) shall apply to any savings and loan
8 holding company and any subsidiary (other than a savings
9 association) of a savings and loan holding company as if
10 such savings and loan holding company or subsidiary were
11 an insured depository institution, except such subsections
12 shall be applied for purposes of this subsection by sub-
13 stituting ‘Director of the Office of Thrift Supervision’ for
14 ‘Corporation’ each place such term appears in such sub-
15 sections.”.

16 (b) ENHANCED DISCRETION TO REMOVE CONVICTED
17 INDIVIDUALS.—Section 8(e)(2)(A) of the Federal Deposit
18 Insurance Act (12 U.S.C. 1818(e)(2)(A)) is amended—

19 (1) by striking “or” at the end of clause (ii);

20 (2) by striking the comma at the end of clause
21 (iii) and inserting “; or”; and

22 (3) by adding at the end the following new
23 clause:

24 “(iv) an institution-affiliated party of
25 a subsidiary (other than a bank) of a bank

1 *holding company has been convicted of any*
2 *criminal offense involving dishonesty or a*
3 *breach of trust, or has agreed to enter into*
4 *a pretrial diversion or similar program in*
5 *connection with a prosecution for such an*
6 *offense,”.*

7 **SEC. 614. CLARIFICATION THAT NOTICE AFTER SEPARA-**
8 **TION FROM SERVICE MAY BE MADE BY AN**
9 **ORDER.**

10 (a) *IN GENERAL.*—Section 8(i)(3) of the Federal De-
11 *posit Insurance Act (12 U.S.C. 1818(i)(3)) is amended by*
12 *inserting “or order” after “notice” each place such term ap-*
13 *pears.*

14 (b) *TECHNICAL AND CONFORMING AMENDMENT.*—The
15 *heading for section 8(i)(3) of the Federal Deposit Insurance*
16 *Act (12 U.S.C. 1818(i)(3)) is amended by inserting “OR*
17 *ORDER” after “NOTICE”.*

18 **SEC. 615. ENFORCEMENT AGAINST MISREPRESENTATIONS**
19 **REGARDING FDIC DEPOSIT INSURANCE COV-**
20 **ERAGE.**

21 (a) *IN GENERAL.*—Section 18(a) of the Federal De-
22 *posit Insurance Act (12 U.S.C. 1828(a)) is amended by*
23 *adding at the end the following new paragraph:*

1 “(4) *FALSE ADVERTISING, MISUSE OF FDIC*
2 *NAMES, AND MISREPRESENTATION TO INDICATE IN-*
3 *SURED STATUS.*—

4 “(A) *PROHIBITION ON FALSE ADVERTISING*
5 *AND MISUSE OF FDIC NAMES.*—*No person may—*

6 “(i) *use the terms ‘Federal Deposit’,*
7 *‘Federal Deposit Insurance’, ‘Federal De-*
8 *posit Insurance Corporation’, any combina-*
9 *tion of such terms, or the abbreviation*
10 *‘FDIC’ as part of the business name or firm*
11 *name of any person, including any corpora-*
12 *tion, partnership, business trust, associa-*
13 *tion, or other business entity; or*

14 “(ii) *use such terms or any other sign*
15 *or symbol as part of an advertisement, so-*
16 *licitation, or other document,*

17 *to represent, suggest or imply that any deposit*
18 *liability, obligation, certificate or share is in-*
19 *sured or guaranteed by the Federal Deposit In-*
20 *surance Corporation, if such deposit liability, ob-*
21 *ligation, certificate, or share is not insured or*
22 *guaranteed by the Corporation.*

23 “(B) *PROHIBITION ON MISREPRESENTA-*
24 *TIONS OF INSURED STATUS.*—*No person may*
25 *knowingly misrepresent—*

1 “(i) that any deposit liability, obliga-
2 tion, certificate, or share is federally in-
3 sured, if such deposit liability, obligation,
4 certificate, or share is not insured by the
5 Corporation; or

6 “(ii) the extent to which or the manner
7 in which any deposit liability, obligation,
8 certificate, or share is insured by the Fed-
9 eral Deposit Insurance Corporation, if such
10 deposit liability, obligation, certificate, or
11 share is not insured by the Corporation to
12 the extent or in the manner represented.

13 “(C) *AUTHORITY OF FDIC.*—The Corpora-
14 tion shall have—

15 “(i) jurisdiction over any person that
16 violates this paragraph, or aids or abets the
17 violation of this paragraph; and

18 “(ii) for purposes of enforcing the re-
19 quirements of this paragraph with regard to
20 any person—

21 “(I) the authority of the Corpora-
22 tion under section 10(c) to conduct in-
23 vestigations; and

1 “(II) the enforcement authority of
2 the Corporation under subsections (b),
3 (c), (d) and (i) of section 8,
4 as if such person were a state nonmember in-
5 sured bank.

6 “(D) OTHER ACTIONS PRESERVED.—No
7 provision of this paragraph shall be construed as
8 barring any action otherwise available, under
9 the laws of the United States or any State, to
10 any Federal or State law enforcement agency or
11 individual.”.

12 (b) ENFORCEMENT ORDERS.—Section 8(c) of the Fed-
13 eral Deposit Insurance Act (12 U.S.C. 1818(c)) is amended
14 by adding at the end the following new paragraph:

15 “(4) FALSE ADVERTISING OR MISUSE OF NAMES
16 TO INDICATE INSURED STATUS.—

17 “(A) TEMPORARY ORDER.—

18 “(i) IN GENERAL.—If a notice of
19 charges served under subsection (b)(1) of
20 this section specifies on the basis of par-
21 ticular facts that any person is engaged in
22 conduct described in section 18(a)(4), the
23 Corporation may issue a temporary order
24 requiring—

1 “(I) *the immediate cessation of*
2 *any activity or practice described,*
3 *which gave rise to the notice of charges;*
4 *and*

5 “(II) *affirmative action to prevent*
6 *any further, or to remedy any existing,*
7 *violation.*

8 “(ii) *EFFECT OF ORDER.—Any tem-*
9 *porary order issued under this subpara-*
10 *graph shall take effect upon service.*

11 “(B) *EFFECTIVE PERIOD OF TEMPORARY*
12 *ORDER.—A temporary order issued under sub-*
13 *paragraph (A) shall remain effective and en-*
14 *forceable, pending the completion of an adminis-*
15 *trative proceeding pursuant to subsection (b)(1)*
16 *in connection with the notice of charges—*

17 “(i) *until such time as the Corporation*
18 *shall dismiss the charges specified in such*
19 *notice; or*

20 “(ii) *if a cease-and-desist order is*
21 *issued against such person, until the effec-*
22 *tive date of such order.*

23 “(C) *CIVIL MONEY PENALTIES.—Violations*
24 *of section 18(a)(4) shall be subject to civil money*
25 *penalties as set forth in subsection (i) in an*

1 *amount not to exceed \$1,000,000 for each day*
2 *during which the violation occurs or continues.”.*

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

4 (1) *Section 18(a)(3) of the Federal Deposit In-*
5 *surance Act (12 U.S.C. 1828(a)) is amended—*

6 (A) *in the 1st sentence by striking “of this*
7 *subsection” and inserting “of paragraphs (1)*
8 *and (2)”;*

9 (B) *by striking the 2nd sentence; and*

10 (C) *in the 3rd sentence, by striking “of this*
11 *subsection” and inserting “of paragraphs (1)*
12 *and (2)”.*

13 (2) *The heading for subsection (a) of section 18*
14 *of the Federal Deposit Insurance Act (12 U.S.C.*
15 *1828(a)) is amended by striking “INSURANCE*
16 *LOGO.—” and inserting “REPRESENTATIONS OF DE-*
17 *POSIT INSURANCE.—”.*

18 **SEC. 616. CHANGES REQUIRED TO SMALL BANK HOLDING**
19 **COMPANY POLICY STATEMENT ON ASSESS-**
20 **MENT OF FINANCIAL AND MANAGERIAL FAC-**
21 **TORS.**

22 (a) *SMALL BANK HOLDING COMPANY POLICY STATE-*
23 *MENT ON ASSESSMENT OF FINANCIAL AND MANAGERIAL*
24 *FACTORS.—*

1 (1) *IN GENERAL.*—*Before the end of the 6-month*
2 *period beginning on the date of the enactment of this*
3 *Act, the Board of Governors of the Federal Reserve*
4 *System shall publish in the Federal Register proposed*
5 *revisions to the Small Bank Holding Company Policy*
6 *Statement on Assessment of Financial and Manage-*
7 *rial Factors (12 C.F.R. part 225—appendix C) that*
8 *provide that the policy shall apply to a bank holding*
9 *company which has pro forma consolidated assets of*
10 *less than \$1,000,000,000 and that—*

11 (A) *is not engaged in any nonbanking ac-*
12 *tivities involving significant leverage; and*

13 (B) *does not have a significant amount of*
14 *outstanding debt that is held by the general pub-*
15 *lic.*

16 (2) *ADJUSTMENT OF AMOUNT.*—*The Board of*
17 *Governors of the Federal Reserve System shall annu-*
18 *ally adjust the dollar amount referred to in para-*
19 *graph (1) in the Small Bank Holding Company Pol-*
20 *icy Statement on Assessment of Financial and Mana-*
21 *gerial Factors by an amount equal to the percentage*
22 *increase, for the most recent year, in total assets held*
23 *by all insured depository institutions, as determined*
24 *by the Board.*

1 (b) *INCREASE IN DEBT-TO-EQUITY RATIO OF SMALL*
2 *BANK HOLDING COMPANY.*—*Before the end of the 6-month*
3 *period beginning on the date of the enactment of this Act,*
4 *the Board of Governors of the Federal Reserve System shall*
5 *publish in the Federal Register proposed revisions to the*
6 *Small Bank Holding Company Policy Statement on Assess-*
7 *ment of Financial and Managerial Factors (12 C.F.R. part*
8 *225—appendix C) such that the debt-to-equity ratio allow-*
9 *able for a small bank holding company in order to remain*
10 *eligible to pay a corporate dividend and to remain eligible*
11 *for expedited processing procedures under Regulation Y of*
12 *the Board of Governors of the Federal Reserve System would*
13 *increase from 1:1 to 3:1.*

14 **SEC. 617. EXCEPTION TO ANNUAL PRIVACY NOTICE RE-**
15 **QUIREMENT UNDER THE GRAMM-LEACH-BLI-**
16 **LEY ACT.**

17 *Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C.*
18 *6803) is amended by adding the following new subsections:*

19 “(c) *EXCEPTION TO ANNUAL NOTICE REQUIRE-*
20 *MENT.*—*A financial institution that—*

21 “(1) *provides nonpublic personal information*
22 *only in accordance with the provisions of subsection*
23 *(b)(2) or (e) of section 502 or regulations prescribed*
24 *under section 504(b);*

1 “(2) does not share information with affiliates
2 under section 603(d)(2)(A) of the Fair Credit Report-
3 ing Act; and

4 “(3) has not changed its policies and practices
5 with regard to disclosing nonpublic personal informa-
6 tion from the policies and practices that were dis-
7 closed in the most recent disclosure sent to consumers
8 in accordance with this subsection,
9 shall not be required to provide an annual disclosure under
10 this subsection until such time as the financial institution
11 fails to comply with any criteria described in paragraph
12 (1), (2), or (3).

13 “(d) *EXCEPTION TO NOTICE REQUIREMENT.*—A fi-
14 nancial institution shall not be required to provide any dis-
15 closure under this section if—

16 “(1) the financial institution is licensed by a
17 State and is subject to existing regulation of consumer
18 confidentiality that prohibits disclosure of nonpublic
19 personal information without knowing and expressed
20 consent of the consumer in the form of laws, rules, or
21 regulation of professional conduct or ethics promul-
22 gated either by the court of highest appellate author-
23 ity or by the principal legislative body or regulatory
24 agency or body of any State of the United States, the
25 District of Columbia, any territory of the United

1 *States, Puerto Rico, Guam, American Samoa, the*
2 *Trust Territory of the Pacific Islands, the Virgin Is-*
3 *lands, or the Northern Mariana Islands; or*

4 *“(2) the financial institution is licensed by a*
5 *State and becomes subject to future regulation of con-*
6 *sumer confidentiality that prohibits disclosure of non-*
7 *public personal information without knowing and ex-*
8 *pressed consent of the consumer in the form of laws,*
9 *rules, or regulation of professional conduct or ethics*
10 *promulgated either by the court of highest appellate*
11 *authority or by the principal legislative body or regu-*
12 *latory agency or body of any State of the United*
13 *States, the District of Columbia, any territory of the*
14 *United States, Puerto Rico, Guam, American Samoa,*
15 *the Trust Territory of the Pacific Islands, the Virgin*
16 *Islands, or the Northern Mariana Islands.”.*

17 **SEC. 618. BIENNIAL REPORTS ON THE STATUS OF AGENCY**

18 **EMPLOYMENT OF MINORITIES AND WOMEN.**

19 *(a) IN GENERAL.—Before December 31, 2005, and the*
20 *end of each 2-year period beginning after such date, each*
21 *Federal banking agency shall submit a report to the Con-*
22 *gress on the status of the employment by the agency of mi-*
23 *nority individuals and women.*

24 *(b) FACTORS TO BE INCLUDED.—The report shall in-*
25 *clude a detailed assessment of each of the following:*

1 (1) *The extent of hiring of minority individuals*
2 *and women by the agency as of the time the report*
3 *is prepared.*

4 (2) *The successes achieved and challenges faced*
5 *by the agency in operating minority and women out-*
6 *reach programs.*

7 (3) *Challenges the agency may face in finding*
8 *qualified minority individual and women applicants.*

9 (4) *Such other information, findings, and con-*
10 *clusions, and recommendations for legislative or agen-*
11 *cy action, as the agency may determine to be appro-*
12 *priate to include in the report.*

13 (c) *DEFINITIONS.—For purposes of this section, the fol-*
14 *lowing definitions shall apply:*

15 (1) *FEDERAL BANKING AGENCY.—The term*
16 *“Federal banking agency”—*

17 (A) *has the same meaning as in section 3(z)*
18 *of the Federal Deposit Insurance Act; and*

19 (B) *includes the National Credit Union Ad-*
20 *ministration.*

21 (2) *MINORITY.—The term “minority” has the*
22 *same meaning as in section 1204(c)(3) of the Finan-*
23 *cial Institutions Reform, Recovery, and Enforcement*
24 *Act of 1989.*

1 **SEC. 619. COORDINATION OF STATE EXAMINATION AU-**
2 **THORITY.**

3 *Section 10(h) of the Federal Deposit Insurance Act (12*
4 *U.S.C. 1820(h)) is amended to read as follows:*

5 *“(h) COORDINATION OF EXAMINATION AUTHORITY.—*

6 *“(1) STATE BANK SUPERVISORS OF HOME AND*
7 *HOST STATES.—*

8 *“(A) HOME STATE OF BANK.—The appro-*
9 *priate State bank supervisor of the home State of*
10 *an insured State bank has authority to examine*
11 *and supervise the bank.*

12 *“(B) HOST STATE BRANCHES.—The State*
13 *bank supervisor of the home State of an insured*
14 *State bank and any State bank supervisor of an*
15 *appropriate host State shall exercise their respec-*
16 *tive authority to supervise and examine the*
17 *branches of the bank in a host State in accord-*
18 *ance with the terms of any applicable coopera-*
19 *tive agreement between the home State bank su-*
20 *pervisor and the State bank supervisor of the rel-*
21 *evant host State.*

22 *“(C) SUPERVISORY FEES.—Except as ex-*
23 *pressly provided in a cooperative agreement be-*
24 *tween the State bank supervisors of the home*
25 *State and any host State of an insured State*
26 *bank, only the State bank supervisor of the home*

1 *State of an insured State bank may levy or*
2 *charge State supervisory fees on the bank.*

3 “(2) *HOST STATE EXAMINATION.*—

4 “(A) *IN GENERAL.*—*With respect to a*
5 *branch operated in a host State by an out-of-*
6 *State insured State bank that resulted from an*
7 *interstate merger transaction approved under*
8 *section 44 or that was established in such State*
9 *pursuant to section 5155(g) of the Revised Stat-*
10 *utes, the third undesignated paragraph of section*
11 *9 of the Federal Reserve Act or section 18(d)(4)*
12 *of this Act, the appropriate State bank super-*
13 *visor of such host State may—*

14 “(i) *with written notice to the State*
15 *bank supervisor of the bank’s home State*
16 *and subject to the terms of any applicable*
17 *cooperative agreement with the State bank*
18 *supervisor of such home State, examine such*
19 *branch for the purpose of determining com-*
20 *pliance with host State laws that are appli-*
21 *cable pursuant to section 24(j) of this Act,*
22 *including those that govern community re-*
23 *investment, fair lending, and consumer pro-*
24 *tection; and*

1 “(i) if expressly permitted under and
2 subject to the terms of a cooperative agree-
3 ment with the State bank supervisor of the
4 bank’s home State or if such out-of-State in-
5 sured State bank has been determined to be
6 in a troubled condition by either the State
7 bank supervisor of the bank’s home State or
8 the bank’s appropriate Federal banking
9 agency, participate in the examination of
10 the bank by the State bank supervisor of the
11 bank’s home State to ascertain that the ac-
12 tivities of the branch in such host State are
13 not conducted in an unsafe or unsound
14 manner.

15 “(B) NOTICE OF DETERMINATION.—

16 “(i) IN GENERAL.—The State bank su-
17 pervisor of the home State of an insured
18 State bank should notify the State bank su-
19 pervisor of each host State of the bank if
20 there has been a final determination that
21 the bank is in a troubled condition.

22 “(ii) TIMING OF NOTICE.—The State
23 bank supervisor of the home State of an in-
24 sured State bank should provide notice
25 under clause (i) as soon as reasonably pos-

1 sible but in all cases within 15 business
2 days after the State bank supervisor has
3 made such final determination or has re-
4 ceived written notification of such final de-
5 termination.

6 “(3) *HOST STATE ENFORCEMENT.*—If the State
7 bank supervisor of a host State determines that a
8 branch of an out-of-State State insured State bank is
9 violating any law of the host State that is applicable
10 to such branch pursuant to section 24(j) of this Act,
11 including a law that governs community reinvest-
12 ment, fair lending, or consumer protection, the State
13 bank supervisor of the host State or, to the extent au-
14 thorized by the law of the host State, a host State law
15 enforcement officer may, with written notice to the
16 State bank supervisor of the bank’s home State and
17 subject to the terms of any applicable cooperative
18 agreement with the State bank supervisor of the
19 bank’s home State, undertake such enforcement ac-
20 tions and proceedings as would be permitted under
21 the law of the host State as if the branch were a bank
22 chartered by that host State.

23 “(4) *COOPERATIVE AGREEMENT.*—

24 “(A) *IN GENERAL.*—The State bank super-
25 visors from 2 or more States may enter into co-

1 *operative agreements to facilitate State regu-*
2 *latory supervision of State banks, including co-*
3 *operative agreements relating to the coordination*
4 *of examinations and joint participation in ex-*
5 *aminations. For purposes of this subsection (h),*
6 *the term ‘cooperative agreement’ means a written*
7 *agreement that is signed by the home State bank*
8 *supervisor and host State bank supervisor to fa-*
9 *facilitate State regulatory supervision of State*
10 *banks and includes nationwide or multi-state co-*
11 *operative agreements and cooperative agreements*
12 *solely between the home State and host State.*

13 “(B) *RULE OF CONSTRUCTION.—Except for*
14 *State bank supervisors, no provision of this sub-*
15 *section relating to such cooperative agreements*
16 *shall be construed as limiting in any way the*
17 *authority of home and host State law enforce-*
18 *ment officers, regulatory supervisors, or other of-*
19 *ficials that have not signed such cooperative*
20 *agreements to enforce host State laws that are*
21 *applicable to a branch of an out-of-State insured*
22 *State bank located in the host State pursuant to*
23 *section 24(j) of this Act.*

24 “(5) *FEDERAL REGULATORY AUTHORITY.—No*
25 *provision of this subsection shall be construed as lim-*

1 *iting in any way the authority of any Federal bank-*
2 *ing agency.*

3 “(6) *STATE TAXATION AUTHORITY NOT AF-*
4 *FECTED.*—*No provision of this subsection (h) shall be*
5 *construed as affecting the authority of any State or*
6 *political subdivision of any State to adopt, apply, or*
7 *administer any tax or method of taxation to any*
8 *bank, bank holding company, or foreign bank, or any*
9 *affiliate of any bank, bank holding company, or for-*
10 *ign bank, to the extent such tax or tax method is oth-*
11 *erwise permissible by or under the Constitution of the*
12 *United States or other Federal law.*

13 “(7) *DEFINITIONS.*—*For purpose of this section,*
14 *the following definition shall apply:*

15 “(A) *HOST STATE, HOME STATE, OUT-OF-*
16 *STATE BANK.*—*The terms ‘host State’, ‘home*
17 *State’, and ‘out-of-State bank’ have the same*
18 *meanings as in section 44(g).*

19 “(B) *STATE SUPERVISORY FEES.*—*The term*
20 *‘State supervisory fees’ means assessments, exam-*
21 *ination fees, branch fees, license fees, and all*
22 *other fees that are levied or charged by a State*
23 *bank supervisor directly upon an insured State*
24 *bank or upon branches of an insured State bank.*

1 “(C) *TROUBLED CONDITION.*—*Solely for*
2 *purposes of subparagraph (2)(B) of this sub-*
3 *section (h), an insured State bank has been de-*
4 *termined to be in ‘troubled condition’ if the*
5 *bank—*

6 “(i) *has a composite rating, as deter-*
7 *mined in its most recent report of examina-*
8 *tion, of 4 or 5 under the Uniform Financial*
9 *Institutions Ratings System (UFIRS); or*

10 “(ii) *is subject to a proceeding initi-*
11 *ated by the Corporation for termination or*
12 *suspension of deposit insurance; or*

13 “(iii) *is subject to a proceeding initi-*
14 *ated by the State bank supervisor of the*
15 *bank’s home State to vacate, revoke, or ter-*
16 *minate the charter of the bank, or to liq-*
17 *uidate the bank, or to appoint a receiver for*
18 *the bank.*

19 “(D) *FINAL DETERMINATION.*—*For the pur-*
20 *poses of paragraph (2)(B), the term ‘final deter-*
21 *mination’ means the transmittal of a report of*
22 *examination to the bank or transmittal of offi-*
23 *cial notice of proceedings to the bank.’”.*

1 **SEC. 620. NONWAIVER OF PRIVILEGES.**

2 (a) *INSURED DEPOSITORY INSTITUTIONS.*—Section 18
3 *of the Federal Deposit Insurance Act (12 U.S.C. 1828) is*
4 *amended by adding at the end the following new subsection:*

5 “(x) *PRIVILEGES NOT AFFECTED BY DISCLOSURE TO*
6 *BANKING AGENCY OR SUPERVISOR.*—

7 “(1) *IN GENERAL.*—*The submission by any per-*
8 *son of any information to any Federal banking agen-*
9 *cy, State bank supervisor, or foreign banking author-*
10 *ity for any purpose in the course of any supervisory*
11 *or regulatory process of such agency, supervisor, or*
12 *authority shall not be construed as waiving, destroy-*
13 *ing, or otherwise affecting any privilege such person*
14 *may claim with respect to such information under*
15 *Federal or State law as to any person or entity other*
16 *than such agency, supervisor, or authority.*

17 “(2) *RULE OF CONSTRUCTION.*—*No provision of*
18 *paragraph (1) may be construed as implying or es-*
19 *tablishing that—*

20 “(A) *any person waives any privilege ap-*
21 *plicable to information that is submitted or*
22 *transferred under any circumstance to which*
23 *paragraph (1) does not apply; or*

24 “(B) *any person would waive any privilege*
25 *applicable to any information by submitting the*
26 *information to any Federal banking agency,*

1 *State bank supervisor, or foreign banking au-*
2 *thority, but for this subsection.”.*

3 **(b) INSURED CREDIT UNIONS.**—Section 205 of the
4 *Federal Credit Union Act (12 U.S.C.1785) is amended by*
5 *adding at the end the following new subsection:*

6 **“(j) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO**
7 **BANKING AGENCY OR SUPERVISOR.**—

8 **“(1) IN GENERAL.**—*The submission by any per-*
9 *son of any information to the Administration, any*
10 *State credit union supervisor, or foreign banking au-*
11 *thority for any purpose in the course of any super-*
12 *visory or regulatory process of such Board, supervisor,*
13 *or authority shall not be construed as waiving, de-*
14 *stroying, or otherwise affecting any privilege such*
15 *person may claim with respect to such information*
16 *under Federal or State law as to any person or entity*
17 *other than such Board, supervisor, or authority.*

18 **“(2) RULE OF CONSTRUCTION.**—*No provision of*
19 *paragraph (1) may be construed as implying or es-*
20 *tablishing that—*

21 **“(A) any person waives any privilege ap-**
22 *plicable to information that is submitted or*
23 *transferred under any circumstance to which*
24 *paragraph (1) does not apply; or*

1 “(B) any person would waive any privilege
2 applicable to any information by submitting the
3 information to the Administration, any State
4 credit union supervisor, or foreign banking au-
5 thority, but for this subsection.”.

6 **SEC. 621. RIGHT TO FINANCIAL PRIVACY ACT OF 1978**

7 **AMENDMENT.**

8 Paragraph (1) of section 1101 of the Right to Finan-
9 cial Privacy Act of 1978 (12 U.S.C. 3401) is amended by
10 inserting “(including any lender who advances funds on
11 pledges of personal property)” after “consumer finance in-
12 stitution”.

13 **SEC. 622. DEPUTY DIRECTOR; SUCCESSION AUTHORITY FOR**

14 **DIRECTOR OF THE OFFICE OF THRIFT SUPER-**

15 **VISION.**

16 (a) *ESTABLISHMENT OF POSITION OF DEPUTY DIREC-*
17 *TOR.*—Section 3(c)(5) of the Home Owners’ Loan Act (12
18 *U.S.C. 1462a(c)(5)) is amended to read as follows:*

19 “(5) *DEPUTY DIRECTOR.*—

20 “(A) *IN GENERAL.*—The Secretary of the
21 Treasury shall appoint a Deputy Director and
22 may appoint up to 3 additional Deputy Direc-
23 tors.

24 “(B) *FIRST DEPUTY DIRECTOR.*—If the Sec-
25 retary of the Treasury appoints more than 1

1 *Deputy Director of the Office, the Secretary shall*
2 *designate one such appointee as the First Deputy*
3 *Director.*

4 “(C) *DUTIES.*—*Each Deputy Director ap-*
5 *pointed under this paragraph shall take an oath*
6 *of office and perform such duties as the Director*
7 *shall direct.*

8 “(D) *COMPENSATION AND BENEFITS.*—*The*
9 *Director shall fix the compensation and benefits*
10 *for each Deputy Director in accordance with this*
11 *Act.”.*

12 ***(b) SERVICE OF DEPUTY DIRECTOR AS ACTING DIREC-***
13 ***TOR.***—*Section 3(c)(3) of the Home Owners’ Loan Act (12*
14 *U.S.C. 1462a(c)(3)) is amended—*

15 (1) *by striking “VACANCY.—A vacancy in the*
16 *position of Director” and inserting “VACANCY.—*

17 “(A) *IN GENERAL.*—*A vacancy in the posi-*
18 *tion of Director”; and*

19 (2) *by adding at the end the following new sub-*
20 *paragraphs:*

21 “(B) *ACTING DIRECTOR.*—

22 “(i) *IN GENERAL.*—*In the event of a*
23 *vacancy in the position of Director or dur-*
24 *ing the absence or disability of the Director,*

1 *the Deputy Director shall serve as Acting*
2 *Director.*

3 “(ii) *SUCCESSION IN CASE OF 2 OR*
4 *MORE DEPUTY DIRECTORS.—If there are 2*
5 *or more Deputy Directors serving at the*
6 *time a vacancy in the position of Director*
7 *occurs or the absence or disability of the Di-*
8 *rector commences, the First Deputy Director*
9 *shall serve as Acting Director under clause*
10 *(i) followed by such other Deputy Directors*
11 *under any order of succession the Director*
12 *may establish.*

13 “(iii) *AUTHORITY OF ACTING DIREC-*
14 *TOR.—Any Deputy Director, while serving*
15 *as Acting Director under this subpara-*
16 *graph, shall be vested with all authority,*
17 *duties, and privileges of the Director under*
18 *this Act and any other provision of Federal*
19 *law.”.*

20 **SEC. 623. LIMITATION ON SCOPE OF NEW AGENCY GUIDE-**
21 **LINES.**

22 “(a) *IN GENERAL.—The provisions of the multi-agency*
23 *guidance Numbered 2003–1 issued by the Comptroller of the*
24 *Currency, the Board of Governors of the Federal Reserve*
25 *System, the Federal Deposit Insurance Corporation, and*

1 *the Director of the Office of Thrift Supervision that relate*
 2 *to minimum credit card payments and negative amortiza-*
 3 *tion—*

4 *(1) shall only apply to new credit card accounts*
 5 *established by a creditor for a consumer after the date*
 6 *of the enactment of this Act under an open end con-*
 7 *sumer credit plan; and*

8 *(2) shall not apply to any outstanding balance*
 9 *on any credit card account under an open end con-*
 10 *sumer credit plan as of such date of enactment.*

11 *(b) DEFINITIONS.—For purposes of this section, the*
 12 *terms “credit”, “credit card”, “creditor”, “consumer” and*
 13 *“open end credit plan” have the same meanings as in sec-*
 14 *tion 103 of the Truth in Lending Act.*

15 *(c) SUNSET PROVISION.—This section shall not apply*
 16 *after the end of the 3-year period beginning on the date*
 17 *of the enactment of this Act .*

18 **TITLE VII—“BSA” COMPLIANCE**

19 **BURDEN REDUCTION**

20 **SEC. 701. EXCEPTION FROM CURRENCY TRANSACTION RE-** 21 **PORTS FOR SEASONED CUSTOMERS.**

22 *(a) FINDINGS.—The Congress finds as follows:*

23 *(1) The completion of and filing of currency*
 24 *transaction reports under section 5313 of title 31,*

1 *United States Code, poses a compliance burden on the*
2 *financial industry.*

3 (2) *Due to the nature of the transactions or the*
4 *persons and entities conducting such transactions,*
5 *certain such reports as currently filed do not appear*
6 *to be relevant to the detection, deterrence, or inves-*
7 *tigation of financial crimes, including money laun-*
8 *dering and the financing of terrorism.*

9 (3) *However, the data contained in such reports*
10 *can provide valuable context for the analysis of other*
11 *data derived pursuant to subchapter II of chapter 53*
12 *of title 31, United States Code, as well as investiga-*
13 *tive data, which provides invaluable and indispen-*
14 *sable information supporting efforts to combat money*
15 *laundering and other financial crimes.*

16 (4) *An exemption from the reporting require-*
17 *ments for certain currency transactions that are of*
18 *little or no value to ongoing efforts of law enforcement*
19 *agencies, financial regulatory agencies, and the finan-*
20 *cial services industry to investigate, detect, or deter fi-*
21 *nancial crimes would serve to balance the burden*
22 *placed on members of the financial services industry*
23 *with the compelling need to produce and provide*
24 *meaningful information to policy-makers, financial*
25 *regulators, law enforcement, and intelligence agencies.*

1 (5) *The Secretary of the Treasury has by regula-*
2 *tion, and in accordance with section 5313 of title 31,*
3 *United States Code, implemented a process by which*
4 *institutions may seek exemptions from filing certain*
5 *currency transaction reports based on appropriate*
6 *circumstances; however, the existing exemption proc-*
7 *ess has not adequately balanced the burden on the fi-*
8 *nancial industry with the Government's need for data*
9 *to support its efforts in combating financial crime.*

10 (6) *The act of providing notice to the Secretary*
11 *of the Treasury of designations of exemption provides*
12 *meaningful information to law enforcement officials*
13 *on exempt customers and enables law enforcement to*
14 *obtain account information through appropriate legal*
15 *process; the act of providing notice of designations of*
16 *exemption complements other sections of title 31,*
17 *United States Code, whereby law enforcement can lo-*
18 *cate financial institutions with relevant records relat-*
19 *ing to a person of investigative interest, such as infor-*
20 *mation requests made pursuant to regulations imple-*
21 *menting section 314(a) of the USA PATRIOT Act of*
22 *2001.*

23 (7) *A designation of exemption has no effect on*
24 *requirements for depository institutions to apply the*
25 *full range of anti-money laundering controls as set*

1 *forth in subchapter II of chapter 53 of title 31,*
2 *United States Code, including the requirement to*
3 *apply the customer identification program pursuant*
4 *to Section 5326 of subchapter II of chapter 53 of title*
5 *31, United States Code, and the requirement to iden-*
6 *tify, monitor, and, if appropriate, report suspicious*
7 *activity in accordance with section 5318(g) of title*
8 *31, United States Code.*

9 *(8) The Federal banking agencies and the Finan-*
10 *cial Crimes Enforcement Network have recently pro-*
11 *vided guidance through the Federal Financial Institu-*
12 *tions Examination Council Bank Secrecy Act/Anti-*
13 *Money Laundering Examination Manual on apply-*
14 *ing appropriate levels of due diligence and identi-*
15 *fying suspicious activity by the types of cash-inten-*
16 *sive businesses that generally will be subject to exemp-*
17 *tion.*

18 ***(b) SEASONED CUSTOMER EXEMPTION.—***

19 ***(1) IN GENERAL.—****Section 5313(e) of title 31,*
20 *United States Code, is amended to read as follows:*

21 ***“(e) QUALIFIED CUSTOMER EXEMPTION.—***

22 ***(1) IN GENERAL.—****The Secretary of the Treas-*
23 *ury shall prescribe regulations within 270 days of the*
24 *enactment of the Financial Services Regulatory Relief*
25 *Act of 2005 that exempt any depository institution*

1 *from filing a report pursuant to this section in a*
2 *transaction for the payment, receipt, or transfer of*
3 *United States coins or currency (or other monetary*
4 *instruments the Secretary of the Treasury prescribes)*
5 *with a qualified customer of the depository institu-*
6 *tion.*

7 “(2) *QUALIFIED CUSTOMER DEFINED.*—*For pur-*
8 *poses of this section, the term ‘qualified customer’,*
9 *with respect to a depository institution, has such*
10 *meaning as the Secretary of the Treasury shall pre-*
11 *scribe, which shall include any person that—*

12 “(A) *is incorporated or organized under the*
13 *laws of the United States or any State, includ-*
14 *ing a sole proprietorship, or is registered as and*
15 *eligible to do business within the United States*
16 *or a State;*

17 “(B) *has maintained a deposit account with*
18 *the depository institution for at least 12 months;*
19 *and*

20 “(C) *has engaged, using such account, in*
21 *multiple currency transactions that are subject*
22 *to the reporting requirements of subsection (a).*

23 “(3) *REGULATIONS.*—

24 “(A) *IN GENERAL.*—*The Secretary of the*
25 *Treasury shall prescribe regulations requiring a*

1 *depository institution to file a 1-time notice of*
2 *designation of exemption for each qualified cus-*
3 *tomers of the depository institution.*

4 “(B) *FORM AND CONTENT OF EXEMPTION*
5 *NOTICE.—The Secretary shall by regulation pre-*
6 *scribe the form, manner, content, and timing of*
7 *the qualified customer exemption notice; such no-*
8 *tice shall include information sufficient to iden-*
9 *tify the qualified customer and its accounts.*

10 “(C) *AUTHORITY OF SECRETARY.—*

11 “(i) *IN GENERAL.—The Secretary may*
12 *suspend, reject or revoke any qualified cus-*
13 *tomers exemption notice, in accordance with*
14 *criteria prescribed by the Secretary by regu-*
15 *lation.*

16 “(ii) *CONDITIONS.—The Secretary*
17 *may establish conditions, in accordance*
18 *with criteria prescribed by regulation,*
19 *under which exempt qualified customers of*
20 *an insured depository institution that is*
21 *merged with or acquired by another insured*
22 *depository institution will continue to be*
23 *treated as designated exempt qualified cus-*
24 *tomers of the surviving or acquiring institu-*
25 *tion.”.*

1 (c) *3-YEAR REVIEW AND REPORT.*—*Before the end of*
2 *the 3-year period beginning on the date of the enactment*
3 *of this Act, the Secretary of the Treasury, in consultation*
4 *with the Attorney General, the Secretary of the Department*
5 *of Homeland Security, the Federal banking agencies, the*
6 *banking industry, and such other persons as the Secretary*
7 *deems appropriate, shall evaluate the operations and effect*
8 *of this provision and make recommendations to Congress*
9 *as to any legislative action with respect to this provision*
10 *as the Secretary may determine to be appropriate.*

11 **SEC. 702. REDUCTION IN INCONSISTENCIES IN MONETARY**
12 **TRANSACTION RECORDKEEPING AND RE-**
13 **PORTING ENFORCEMENT AND EXAMINATION**
14 **REQUIREMENTS.**

15 (a) *SENSE OF THE CONGRESS.*—*It is the sense of the*
16 *Congress that inconsistencies and redundancies among reg-*
17 *ulations implementing monetary transaction recordkeeping*
18 *and reporting enforcement programs under section 8 of the*
19 *Federal Deposit Insurance Act, section 206(q) of the Federal*
20 *Credit Union Act, and chapter II of chapter 53 of title 31,*
21 *United States Code by the Secretary of the Treasury and*
22 *the Federal banking agencies—*

23 (1) *increase the difficulty depository institutions*
24 *have in complying with congressional intent in cre-*
25 *ating such enforcement programs,*

1 (2) *reduce the transparency and clarity of the*
2 *regulatory regime;*

3 (3) *increase the potential for conflict among the*
4 *various regulations in the future; and*

5 (4) *contribute to the perception that various*
6 *agencies involved in the enforcement of the monetary*
7 *transaction recordkeeping and reporting requirements*
8 *apply such requirements inconsistently.*

9 (b) *AGENCY COORDINATION OF MONETARY TRANS-*
10 *ACTION RECORDKEEPING AND REPORTING REQUIRE-*
11 *MENTS.—*

12 (1) *ENFORCEMENT PROGRAMS.—*

13 (A) *FEDERAL DEPOSIT INSURANCE ACT.—*
14 *Section 8(s) of the Federal Deposit Insurance Act*
15 *(12 U.S.C. 1818(s)) is amended by adding at the*
16 *end the following new paragraph:*

17 “(4) *COORDINATION ON UNIFORM REQUIRE-*
18 *MENTS.—In prescribing regulations under paragraph*
19 *(1), the Federal banking agencies, acting through the*
20 *Financial Institutions Examination Council, shall—*

21 “(A) *consult with each other, the National*
22 *Credit Union Administration Board, and the*
23 *Secretary of the Treasury; and*

24 “(B) *take such action as may be necessary*
25 *to ensure that the requirements for procedures es-*

1 *tablished pursuant to such regulations, and the*
2 *examination standards for reviewing such proce-*
3 *dures, are congruent and reasonably uniform*
4 *(taking into account differences in the form and*
5 *function of the institutions subject to such re-*
6 *quirements).”.*

7 *(B) FEDERAL CREDIT UNION ACT.—Section*
8 *206(q) of the Federal Credit Union Act (12*
9 *U.S.C. 1786(q)) is amended by adding at the end*
10 *the following new paragraph:*

11 *“(4) COORDINATION ON UNIFORM REQUIRE-*
12 *MENTS.—In prescribing regulations under paragraph*
13 *(1), the Board, acting through the Financial Institu-*
14 *tions Examination Council, shall—*

15 *“(A) consult with the Federal banking agen-*
16 *cies and the Secretary of the Treasury; and*

17 *“(B) take such action as may be necessary*
18 *to ensure that the requirements for procedures es-*
19 *tablished pursuant to such regulations, and the*
20 *examination standards for reviewing such proce-*
21 *dures, are congruent and reasonably uniform*
22 *(taking into account differences in the form and*
23 *function of the institutions subject to such re-*
24 *quirements).”.*

1 (2) *EXAMINATION STANDARDS AND DISPUTES.*—
2 *Section 1006 of the Federal Financial Institutions*
3 *Examination Council Act of 1978 (12 U.S.C. 3305)*
4 *is amended by adding at the end the following new*
5 *subsection:*

6 “(h) *MONETARY TRANSACTION RECORDKEEPING AND*
7 *REPORTING REQUIREMENTS.*—*The Council and the Sec-*
8 *retary of the Treasury shall jointly establish—*

9 “(1) *uniform standards and principles applica-*
10 *ble to the examination of financial institutions to en-*
11 *sure compliance with the requirements of subchapter*
12 *II of chapter 53, United States Code, sections 8(s)*
13 *and 21 of the Federal Deposit Insurance Act, and sec-*
14 *tion 206(q) of the Federal Credit Union Act; and*

15 “(2) *a clear policy statement on appropriate*
16 *processes for resolving examiner-institution disagree-*
17 *ments concerning the application of subchapter II of*
18 *chapter 53, United States Code, sections 8(s) and 21*
19 *of the Federal Deposit Insurance Act, and section*
20 *206(q) of the Federal Credit Union Act to financial*
21 *institutions.”.*

22 (3) *EFFECTIVE DATE.*—*The Federal banking*
23 *agencies, the National Credit Union Administration*
24 *Board, the Financial Institutions Examination*
25 *Council, and the Secretary of the Treasury shall com-*

1 *mence the discussions and consultations required*
2 *under the amendments made by this subsection as*
3 *soon as practicable after the date of the enactment of*
4 *this Act.*

5 *(c) REVIEW OF AND REPORT ON ADDITIONAL REGU-*
6 *LATORY OR LEGISLATIVE CHANGES.—*

7 *(1) REVIEW REQUIRED.—Before the end of the 6-*
8 *month period beginning on the date of the enactment*
9 *of this Act, the Secretary of the Treasury shall con-*
10 *duct a review of the potential inconsistencies in, or*
11 *redundancies among, the regulations pertaining to the*
12 *application of the requirements of subchapter II of*
13 *chapter 53, United States Code, sections 8(s) and 21*
14 *of the Federal Deposit Insurance Act, and section*
15 *206(q) of the Federal Credit Union Act to financial*
16 *institutions.*

17 *(2) REPORT TO CONGRESS AND THE FINANCIAL*
18 *INSTITUTIONS EXAMINATION COUNCIL.—Upon comple-*
19 *tion of the review under paragraph (1), the Secretary*
20 *of the Treasury shall promptly submit a report on the*
21 *findings and conclusions of the Secretary with respect*
22 *to the review to the Committee on Financial Services*
23 *of the House of Representatives and the Committee on*
24 *Banking, Housing, and Urban Affairs of the Senate,*
25 *together with such recommendations for legislative*

1 *serves as the basis for any requirement to provide no-*
2 *tice to any officer or director of a depository institu-*
3 *tion of any suspicious activity report submitted by*
4 *the depository institution to the Secretary and any*
5 *such agency or Board;*

6 (2) *modify or eliminate any such requirement of*
7 *the Secretary that the Secretary determines is not*
8 *necessary to achieve the purposes of section 5318(g) of*
9 *title 31, United States Code; and*

10 (3) *make a recommendation to any Federal*
11 *banking agency or the National Credit Union Admin-*
12 *istration Board to modify or eliminate any such re-*
13 *quirement of such agency or Board that the Secretary*
14 *determines is not necessary to achieve the purposes of*
15 *section 5318(g) of title 31, United States Code.*

16 (b) *ELIMINATION OF UNNECESSARY VERIFICATION RE-*
17 *QUIREMENTS APPLICABLE TO THE PURCHASE OF FINAN-*
18 *CIAL INSTRUMENTS.*—*Before the end of the 9-month period*
19 *beginning on the date of the enactment of this Act, the Sec-*
20 *retary of the Treasury shall—*

21 (1) *review all verification of customer identity*
22 *requirements as they relate to the purchases of mone-*
23 *tary instruments by customers of depository institu-*
24 *tions, including the regulations codified in section*

1 103.29(a)(ii) of title 31, Code of Federal Regulations;
2 and

3 (2) modify or eliminate any customer identity
4 requirement related to the purchases of monetary in-
5 struments by customers of depository institutions
6 codified in section 103.29(a)(ii) of title 31, Code of
7 Federal Regulations, that the Secretary determines is
8 unnecessary.

9 (c) *ELIMINATION OF RECURRING FILINGS OF SUS-*
10 *PICIOUS ACTIVITY REPORTS ON A SINGLE TRANSACTION.*—
11 *Before the end of the 9-month period beginning on the date*
12 *of the enactment of this Act, the Secretary of the Treasury,*
13 *as appropriate, shall prescribe regulations, or issue other*
14 *forms of guidance, that eliminate the need for depository*
15 *institutions to file recurring suspicious activity reports on*
16 *the same transaction unless there has been a subsequent*
17 *change in any pattern of activity involving any person who*
18 *was connected with the transaction.*

19 (d) *ELECTRONIC ACKNOWLEDGEMENT OF CERTAIN*
20 *ELECTRONIC FILINGS.*—*Before the end of the 1-year period*
21 *beginning on the date of the enactment of this Act, the Di-*
22 *rector of the Financial Crimes Enforcement Network shall*
23 *put into effect a system for promptly furnishing an elec-*
24 *tronic acknowledgement of receipt to any institution that*
25 *files a form with FinCEN under subchapter II of chapter*

1 53 of title 31, United States Code, through the Network's
2 electronic filing system.

3 **SEC. 704. STUDY BY COMPTROLLER GENERAL.**

4 (a) *STUDY REQUIRED.*—The Comptroller General of
5 the United States shall conduct a study on methods and
6 practices which would—

7 (1) reduce the overall number of currency trans-
8 action reports filed with the Secretary of the Treasury
9 under section 5313(a) of title 31, United States Code,
10 while ensuring that the needs of the Secretary, the Fi-
11 nancial Crimes Enforcement Network, law enforce-
12 ment agencies, and financial institution regulatory
13 agencies continue to be met;

14 (2) improve financial institution utilization of
15 the current exemption provisions; and

16 (3) mitigate the difficulties in the current imple-
17 mentation of such exemption provisions that limit the
18 utility of the exemption process for financial institu-
19 tions.

20 (b) *REPORT.*—Before the end of the 6-month period be-
21 ginning on the date of the enactment of this Act, the Comp-
22 troller General shall submit a report to the Committee on
23 Financial Services of the House of Representatives and the
24 Committee on Banking, Housing, and Urban Affairs of the
25 Senate on the findings and conclusions of the Comptroller

1 *General with respect to the study conducted under sub-*
2 *section (a) and such recommendations for legislative and*
3 *administrative action as the Comptroller General may de-*
4 *termine to be appropriate.*

5 **SEC. 705. FEASIBILITY STUDY REQUIRED.**

6 (a) *IN GENERAL.*—*For the purpose of simplifying, and*
7 *increasing compliance with, the various recordkeeping and*
8 *reporting requirements under subchapter II of chapter 53*
9 *of title 31, United States Code, chapter 2 of title I of Public*
10 *Law 91—508, and section 21 of the Federal Deposit Insur-*
11 *ance Act, and regulations prescribed under such provisions*
12 *of law, the Secretary of the Treasury (hereafter in this sec-*
13 *tion referred to as the “Secretary”) shall conduct a study*
14 *on the feasibility of developing and implementing interfaces*
15 *and templates for use in electronic communications between*
16 *financial institutions (as defined in section 5312 of title*
17 *31, United States Code) and the Secretary, the Financial*
18 *Crimes Enforcement Network, and other Federal financial*
19 *institution regulatory agencies.*

20 (b) *FACTORS TO BE CONSIDERED.*—*In conducting the*
21 *study required under subsection (a), the Secretary shall take*
22 *into account—*

23 (1) *any procedures required to be maintained by*
24 *financial institutions under regulations prescribed*
25 *pursuant to section 5318(a)(2) of title 31 of the*

1 *United States Code and the manner in which the use*
2 *of interfaces and templates which might be developed*
3 *could lessen the burden of complying with such proce-*
4 *dures; and*

5 *(2) any exemptions prescribed by the Secretary*
6 *under paragraph (5) or (6) of such section 5318(a)*
7 *and the manner in which interfaces and templates*
8 *which might be developed could be programmed to re-*
9 *fect any such exemption for a financial institution,*
10 *transaction, or class of transactions.*

11 *(c) PROTOTYPE AND REPORT REQUIRED.—*

12 *(1) IN GENERAL.—Before the end of the 1-year*
13 *period beginning on the date of the enactment of this*
14 *Act, the Secretary shall submit a report to the Con-*
15 *gress containing a detailed description of the findings*
16 *and conclusions of the Secretary in connection with*
17 *the study required under subsection (a), together with*
18 *such recommendations for legislative or administra-*
19 *tive action as the Secretary may determine to be ap-*
20 *propriate.*

21 *(2) PROTOTYPE.—Any recommendation on the*
22 *feasibility of developing and implementing interfaces*
23 *and templates for use in electronic communications*
24 *shall be accompanied by prototypes of such interfaces*
25 *and templates that demonstrate such feasibility.*

1 (d) *DEFINITIONS.*—For purposes of this section, the
2 following definitions shall apply:

3 (1) *INTERFACE.*—The term “interface” means
4 the point and method of interaction between any 2 or
5 more electronic data storage and communication sys-
6 tems that permits and facilitates active electronic
7 communication between or among the systems, includ-
8 ing any procedures, codes, and protocols that enable
9 the systems to interact.

10 (2) *TEMPLATE.*—The term “template” means a
11 preestablished layout model using word processing or
12 other authoring software that ensures that data en-
13 tered into it will adhere to a consistent format and
14 content scheme when used by all parties engaged in
15 electronic communications among each other.

16 **SEC. 706. ANNUAL REPORT BY SECRETARY OF THE TREAS-**
17 **URY.**

18 (a) *FINDINGS.*—The Congress finds as follows:

19 (1) *Financial institutions have too little infor-*
20 *mation about money laundering and terrorist financ-*
21 *ing compliance in other markets.*

22 (2) *The current Financial Action Task Force*
23 *designation system does not adequately represent the*
24 *progress countries are making in combatting money*
25 *laundering.*

1 (3) *Lack of information about the compliance of*
2 *countries with anti-money laundering standards ex-*
3 *poses United States financial markets to excessive*
4 *risk.*

5 (4) *Failure to designate countries that fail to*
6 *make progress in combatting terrorist financing and*
7 *money laundering eliminates incentives for internal*
8 *reform.*

9 (5) *The Secretary of the Treasury has an affirm-*
10 *ative duty to provide to financial institutions and ex-*
11 *aminers the best possible information on compliance*
12 *with anti-money laundering and terrorist financing*
13 *initiatives in other markets.*

14 (b) *REPORT.*—*Not later than March 1 of each year,*
15 *the Secretary of the Treasury shall submit to the Congress*
16 *a report that identifies the applicable standards of each*
17 *country against money laundering and states whether that*
18 *country is a country of primary money laundering concern*
19 *under section 5318A of title 31, United States Code. The*
20 *report shall include—*

21 (1) *information on the effectiveness of each coun-*
22 *try in meeting its standards against money laun-*
23 *dering;*

24 (2) *a determination of whether that the efforts of*
25 *that country to combat money laundering and ter-*

1 *rorist financing are adequate, improving, or inad-*
2 *equately; and*

3 *(3) the efforts made by the Secretary to provide*
4 *to the government of each such country of concern*
5 *technical assistance to cease the activities that were*
6 *the basis for the determination that the country was*
7 *of primary money laundering concern.*

8 *(c) DISSEMINATION OF INFORMATION IN REPORT.—*
9 *The Secretary of the Treasury shall make available to the*
10 *Federal Financial Institutions Examination Council for*
11 *incorporation into the examination process, in consultation*
12 *with Federal banking agencies, and to financial institu-*
13 *tions the information contained in the report submitted*
14 *under subsection (a). Such information shall be made avail-*
15 *able to financial institutions without cost.*

16 *(d) DEFINITION.—For purposes of this section, the*
17 *term “financial institution” has the meaning given that*
18 *term in section 5312(a)(2) of title 31, United States Code.*

19 **SEC. 707. PRESERVATION OF MONEY SERVICES BUSI-**
20 **NESSES.**

21 *(a) FINDINGS.—The Congress finds as follows:*

22 *(1) Title III of the USA PATRIOT ACT pro-*
23 *vided United States law enforcement agencies with*
24 *new tools to combat terrorist financing and money*
25 *laundering.*

1 (2) *The Financial Crimes Enforcement Network*
2 *in the Department of the Treasury (hereafter in this*
3 *section referred to as “FinCEN”) has defined money*
4 *services businesses to include the following 5 distinct*
5 *types of financial services providers as well as the*
6 *United States Postal Service:*

7 (A) *Currency dealers or exchanges.*

8 (B) *Check cashing services.*

9 (C) *Issuers of travelers’ checks, money or-*
10 *ders, or stored value cards.*

11 (D) *Sellers or redeemers of travelers’ checks,*
12 *money orders, or stored value cards.*

13 (E) *Money transmitters.*

14 (3) *Money services businesses have had more dif-*
15 *ficulty in obtaining and maintaining banking serv-*
16 *ices since the passage of the USA PATRIOT ACT.*

17 (4) *On March 30, 2005, FinCEN and the Fed-*
18 *eral banking agencies (as defined in section 3 of the*
19 *Federal Deposit Insurance Act) issued a joint state-*
20 *ment recognizing the importance of ensuring that*
21 *money services businesses that comply with the law*
22 *have reasonable access to banking services.*

23 (5) *On April 26, 2005, FinCEN offered guidance*
24 *to money service businesses on obtaining and main-*
25 *taining banking services by identifying and explain-*

1 *ing to money services businesses the types of informa-*
2 *tion and documentation they are expected to have,*
3 *and to provide to, depository institutions when con-*
4 *ducting banking business.*

5 *(6) At the same time, FinCEN and the Federal*
6 *banking agencies have issued joint guidance to depository*
7 *institutions to—*

8 *(A) clarify the requirements of subchapter*
9 *II of chapter 53 of title 31, United States Code,*
10 *and related provisions of law; and*

11 *(B) set forth the minimum steps that depository*
12 *institutions should take when providing*
13 *banking services to money services businesses.*

14 *(7) It is in the interest of the United States and*
15 *its allies in the wars against terrorism and drugs to*
16 *make certain that the international transfer of funds*
17 *is done in a rules-based, formal, and transparent*
18 *manner and that individuals are not forced into uti-*
19 *lizing informal underground methods due to a lack of*
20 *services.*

21 *(b) SENSE OF THE CONGRESS.—It is the sense of the*
22 *Congress that depository institutions and money services*
23 *businesses should follow the guidance offered by FinCEN*
24 *for the purpose of giving money services businesses full ac-*
25 *cess to banking services and ensuring that money services*

1 *businesses remain in the mainstream financial system and*
2 *can be full players in providing important financial serv-*
3 *ices to their customers and be fully cooperative in the fight*
4 *against terrorist financing and money laundering.*

5 **TITLE VIII—CLERICAL AND**
6 **TECHNICAL AMENDMENTS**

7 **SEC. 801. CLERICAL AMENDMENTS TO THE HOME OWNERS’**
8 **LOAN ACT.**

9 (a) *AMENDMENT TO TABLE OF CONTENTS.—The table*
10 *of contents in section 1 of the Home Owners’ Loan Act (12*
11 *U.S.C. 1461) is amended by striking the items relating to*
12 *sections 5 and 6 and inserting the following new items:*

 “Sec. 5. *Savings associations.*
 “Sec. 6. *[Repealed.]*”.

13 (b) *CLERICAL AMENDMENTS TO HEADINGS.—*

14 (1) *The heading for section 4(a) of the Home*
15 *Owners’ Loan Act (12 U.S.C. 1463(a)) is amended by*
16 *striking “(a) FEDERAL SAVINGS ASSOCIATIONS.—”*
17 *and inserting “(a) GENERAL RESPONSIBILITIES OF*
18 *THE DIRECTOR.—”.*

19 (2) *The section heading for section 5 of the Home*
20 *Owners’ Loan Act (12 U.S.C. 1464) is amended to*
21 *read as follows:*

1 **“SEC. 5. SAVINGS ASSOCIATIONS.”**

2 **SEC. 802. TECHNICAL CORRECTIONS TO THE FEDERAL**
3 **CREDIT UNION ACT.**

4 *The Federal Credit Union Act (12 U.S.C. 1751 et seq.)*
5 *is amended as follows:*

6 (1) *In section 101(3), strike “and” after the*
7 *semicolon.*

8 (2) *In section 101(5), strike the terms “account*
9 *account” and “account accounts” each place any such*
10 *term appears and insert “account”.*

11 (3) *In section 107(a)(5)(E) (as so designated by*
12 *section 303 of this Act), strike the period at the end*
13 *and insert a semicolon.*

14 (4) *In paragraphs (6) and (7) of section 107(a)*
15 *(as so designated by section 303 of this Act), strike the*
16 *period at the end and insert a semicolon.*

17 (5) *In section 107(a)(7)(D) (as so designated by*
18 *section 303 of this Act), strike “the Federal Savings*
19 *and Loan Insurance Corporation or”.*

20 (6) *In section 107(a)(7)(E) (as so designated by*
21 *section 303 of this Act), strike “the Federal Home*
22 *Loan Bank Board,” and insert “the Federal Housing*
23 *Finance Board,”.*

24 (7) *In section 107(a)(9) (as so designated by sec-*
25 *tion 303 of this Act), strike “subchapter III” and in-*
26 *sert “title III”.*

1 (8) *In section 107(a)(13) (as so designated by*
2 *section 303 of this Act), strike the “and” after the*
3 *semicolon at the end.*

4 (9) *In section 109(c)(2)(A)(i), strike “(12 U.S.C.*
5 *4703(16))”.*

6 (10) *In section 120(h), strike “the Act approved*
7 *July 30, 1947 (6 U.S.C., secs. 6–13),” and insert*
8 *“chapter 93 of title 31, United States Code,”.*

9 (11) *In section 201(b)(5), strike “section 116 of”.*

10 (12) *In section 202(h)(3), strike “section*
11 *207(c)(1)” and insert “section 207(k)(1)”.*

12 (13) *In section 204(b), strike “such others pow-*
13 *ers” and insert “such other powers”.*

14 (14) *In section 206(e)(3)(D), strike “and” after*
15 *the semicolon at the end.*

16 (15) *In section 206(f)(1), strike “subsection*
17 *(e)(3)(B)” and insert “subsection (e)(3)”.*

18 (16) *In section 206(g)(7)(D), strike “and sub-*
19 *section (1)”.*

20 (17) *In section 206(t)(2)(B), insert “regulations”*
21 *after “as defined in”.*

22 (18) *In section 206(t)(2)(C), strike “material af-*
23 *fect” and insert “material effect”.*

24 (19) *In section 206(t)(4)(A)(ii)(II), strike “or”*
25 *after the semicolon at the end.*

1 (20) *In section 206A(a)(2)(A), strike “regulator*
2 *agency” and insert “regulatory agency”.*

3 (21) *In section 207(c)(5)(B)(i)(I), insert “and”*
4 *after the semicolon at the end.*

5 (22) *In the heading for subparagraph (A) of sec-*
6 *tion 207(d)(3), strike “TO” and insert “WITH”.*

7 (23) *In section 207(f)(3)(A), strike “category or*
8 *claimants” and insert “category of claimants”.*

9 (24) *In section 209(a)(8), strike the period at the*
10 *end and insert a semicolon.*

11 (25) *In section 216(n), insert “any action” be-*
12 *fore “that is required”.*

13 (26) *In section 304(b)(3), strike “the affairs or*
14 *such credit union” and insert “the affairs of such*
15 *credit union”.*

16 (27) *In section 310, strike “section 102(e)” and*
17 *insert “section 102(d)”.*

18 **SEC. 803. OTHER TECHNICAL CORRECTIONS.**

19 (a) *Section 1306 of title 18, United States Code, is*
20 *amended by striking “5136A” and inserting “5136B”.*

21 (b) *Section 5239 of the Revised Statutes of the United*
22 *States (12 U.S.C. 93) is amended by redesignating the sec-*
23 *ond of the 2 subsections designated as subsection (d) (as*
24 *added by section 331(b)(3) of the Riegle Community Devel-*

1 *opment and Regulatory Improvement Act of 1994) as sub-*
 2 *section (e).*

3 **SEC. 804. REPEAL OF OBSOLETE PROVISIONS OF THE BANK**

4 **HOLDING COMPANY ACT OF 1956.**

5 *(a) IN GENERAL.—Section 2 of the Bank Holding*
 6 *Company Act of 1956 (12 U.S.C. 1841) is amended—*

7 *(1) in subsection (c)(2), by striking subpara-*
 8 *graphs (I) and (J); and*

9 *(2) by striking subsection (m) and inserting the*
 10 *following new subsection:*

11 *“(m) [Repealed]”.*

12 *(b) TECHNICAL AND CONFORMING AMENDMENTS.—*

13 *Paragraphs (1) and (2) of section 4(h) of the Bank Holding*

14 *Company Act of 1956 (12 U.S.C. 1843(h)) are each amend-*

15 *ed by striking “(G), (H), (I), or (J) of section 2(c)(2)” and*

16 *inserting “(G), or (H) of section 2(c)(2)”.*

17 **TITLE IX—FAIR DEBT COLLEC-**

18 **TION PRACTICES ACT AMEND-**

19 **MENTS**

20 **SEC. 901. EXCEPTION FOR CERTAIN BAD CHECK ENFORCE-**

21 **MENT PROGRAMS.**

22 *(a) IN GENERAL.—The Fair Debt Collection Practices*
 23 *Act (15 U.S.C. 1692 et seq.) is amended—*

24 *(1) by redesignating section 818 as section 819;*

25 *and*

1 (2) *by inserting after section 817 the following*
2 *new section:*

3 **“§818. Exception for certain bad check enforcement**
4 **programs operated by private entities**

5 “(a) *IN GENERAL.—If—*

6 “(1) *a State or district attorney establishes,*
7 *within the jurisdiction of such State or district attor-*
8 *ney and with respect to alleged bad check violations*
9 *that do not involve a check described in subsection (c),*
10 *a pretrial diversion program for alleged bad check of-*
11 *fenders who agree to participate voluntarily in such*
12 *program to avoid criminal prosecution and are not*
13 *described in subsection (b);*

14 “(2) *a private entity, that is subject to an ad-*
15 *ministrative support services contract with a State or*
16 *district attorney and operates under the direction, su-*
17 *pervision and control of such State or district attor-*
18 *ney, operates the pretrial diversion program described*
19 *in paragraph (1); and*

20 “(3) *in the course of performing duties delegated*
21 *to it by a State or district attorney under the con-*
22 *tract, the private entity referred to in paragraph*
23 *(2)—*

24 “(A) *complies with the penal laws of the*
25 *State;*

1 “(B) conforms with the terms of the contract
2 and directives of the State or district attorney;

3 “(C) does not exercise independent prosecu-
4 torial discretion;

5 “(D) contacts any alleged offender referred
6 to in paragraph (1) for purposes of participating
7 in a program referred to in such paragraph
8 only—

9 “(i) as a result of any determination
10 by the State or district attorney that suffi-
11 cient evidence of a bad check violation
12 under State law exists and that contact
13 with the alleged offender for purposes of
14 participation in the program is appro-
15 priate; or

16 “(ii) as otherwise permitted in re-
17 sponse to evidence of a bad check;

18 “(E) includes as part of an initial written
19 communication with an alleged offender a clear
20 and conspicuous statement that—

21 “(i) the alleged offender may dispute
22 the validity of any alleged bad check viola-
23 tion through a procedure established and su-
24 pervised by the State or district attorney,

1 *together with an explanation of how such a*
2 *dispute may be initiated; and*

3 “(ii) *where the alleged offender knows,*
4 *or has reasonable cause to believe, that the*
5 *alleged bad check violation is the result of*
6 *theft or forgery of the check, identity theft,*
7 *or other fraud that is not the result of the*
8 *alleged offender’s conduct, the alleged of-*
9 *fender may file a crime report with the ap-*
10 *propriate law enforcement agency and have*
11 *further contacts or restitution efforts sus-*
12 *pending until the question of the theft or for-*
13 *gery of the check, identity theft, or other*
14 *fraud has been resolved, together with clear*
15 *instructions on how to file such crime re-*
16 *port; and*

17 “(F) *charges only fees in connection with*
18 *services under the contract that—*

19 “(i) *have been authorized by the con-*
20 *tract with the State or district attorney;*
21 *and*

22 “(ii) *conform with the schedule of rea-*
23 *sonable charges for such services which shall*
24 *be established by the National District At-*
25 *torney’s Association, after consultation with*

1 *the Commission and representatives of in-*
2 *terested business and consumer organiza-*
3 *tions,*

4 *the private entity shall be treated as an officer of the State*
5 *and excluded from the definition of debt collector, pursuant*
6 *to the exception provided in section 803(6)(C), with respect*
7 *to the entity's operation of the program described in para-*
8 *graph (1) under the contract described in paragraph (2).*

9 “(b) *CERTAIN OFFENDERS EXCLUDED.—An alleged*
10 *bad check offender is described in this subsection if a private*
11 *entity described in subsection (a)(2) can determine from*
12 *available records that such offender—*

13 *“(1) was convicted of a bad check offense in the*
14 *3 years prior to issuing the bad check under consider-*
15 *ation; or*

16 *“(2) participated in a pretrial diversion pro-*
17 *gram in the 18 months prior to issuing the bad check*
18 *under consideration.*

19 “(c) *CERTAIN CHECKS EXCLUDED.—A check is de-*
20 *scribed in this subsection if the check involves, or is subse-*
21 *quently found to involve—*

22 *“(1) a postdated check presented in connection*
23 *with a payday loan, or other similar transaction,*
24 *where the holder of the check knew that the issuer had*

1 *insufficient funds at the time the check was made,*
2 *drawn or delivered;*

3 *“(2) a stop payment order where the issuer acted*
4 *in good faith and with reasonable cause in stopping*
5 *payment on the check;*

6 *“(3) a check dishonored because of an adjustment*
7 *to the issuer’s account by the financial institution*
8 *holding such account without providing notice to the*
9 *person at the time the check was made, drawn or de-*
10 *livered;*

11 *“(4) a check for partial payment of a debt where*
12 *the holder had previously accepted partial payment*
13 *for such debt;*

14 *“(5) a check issued by a person who was not*
15 *competent, or was not of legal age, to enter into a*
16 *legal contractual obligation at the time the check was*
17 *made, drawn or delivered; or*

18 *“(6) a check issued to pay an obligation arising*
19 *from a transaction that was illegal in the jurisdiction*
20 *of the State or district attorney at the time the check*
21 *was made, drawn or delivered.*

22 *“(d) DEFINITIONS.—For purposes of this section, the*
23 *following definitions shall apply:*

24 *“(1) STATE OR DISTRICT ATTORNEY.—The term*
25 *‘State or district attorney’ means the chief elected or*

1 *appointed prosecuting attorney in a district, county*
2 *(as defined in section 2 of title 1, United States*
3 *Code), municipality, or comparable jurisdiction, in-*
4 *cluding State attorneys general who act as chief elect-*
5 *ed or appointed prosecuting attorneys in a district,*
6 *county (as so defined), municipality or comparable*
7 *jurisdiction, who may be referred to by a variety of*
8 *titles such as district attorneys, prosecuting attorneys,*
9 *commonwealth’s attorneys, solicitors, county attor-*
10 *neys, and state’s attorneys, and who are responsible*
11 *for the prosecution of State crimes and violations of*
12 *jurisdiction-specific local ordinances.*

13 *“(2) CHECK.—The term ‘check’ has the same*
14 *meaning as in section 3(6) of the Check Clearing for*
15 *the 21st Century Act.*

16 *“(3) BAD CHECK.—The term ‘bad check’ means*
17 *any check that—*

18 *“(A) the issuer knew, or should have known,*
19 *would not be paid upon presentment because the*
20 *issuer—*

21 *“(i) had no account with the drawee fi-*
22 *nancial institution at the time the check*
23 *was made, drawn, or delivered;*

24 *“(ii) had closed the account upon with*
25 *the check was made or drawn prior to the*

1 *time the check was made, drawn, or deliv-*
2 *ered; or*

3 *“(iii) used a false or altered check, or*
4 *false or altered check account number; or*

5 *“(B) was refused payment by the financial*
6 *institution or other drawee for lack of sufficient*
7 *funds and the issuer failed to pay the full*
8 *amount of the check, together with reasonable*
9 *costs as permitted by State law—*

10 *“(i) after receiving written notice from*
11 *the holder of the check that payment was re-*
12 *fused by the drawee financial institution to*
13 *the extent that the timing and mode of de-*
14 *livery of such written notice is in compli-*
15 *ance with the applicable State law for de-*
16 *termining criminal liability for bad check*
17 *offenses; or*

18 *“(ii) in a case in which there are no*
19 *applicable State law requirements as de-*
20 *scribed in clause (i), within 30 days of re-*
21 *ceiving written notice, mailed to the issuer*
22 *by certified mail to the address printed on*
23 *the check, or given at the time the check was*
24 *made, drawn or delivered or, otherwise, at*
25 *the address where the alleged offender re-*

1 *sides or is found, from the holder of the*
2 *check that payment of 1 or more checks was*
3 *refused by the drawee financial institu-*
4 *tion.”.*

5 **(b) CLERICAL AMENDMENT.**—*The table of sections for*
6 *the Fair Debt Collection Practices Act is amended—*

7 *(1) by redesignating the item relating to section*
8 *818 as section 819; and*

9 *(2) by inserting after the item relating to section*
10 *817 the following new item:*

“818. Exception for certain bad check enforcement programs operated by private
 entities.”.

11 **SEC. 902. OTHER AMENDMENTS.**

12 **(a) LEGAL PLEADINGS.**—*Section 809 of the Fair Debt*
13 *Collection Practices Act (15 U.S.C. 1692g) is amended by*
14 *adding at the end the following new subsection:*

15 **“(d) LEGAL PLEADINGS.**—*A communication in the*
16 *form of a formal pleading in a civil action shall not be*
17 *treated as an initial communication for purposes of sub-*
18 *section (a).”.*

19 **(b) NOTICE PROVISIONS.**—*Section 809 of the Fair*
20 *Debt Collection Practices Act (15 U.S.C. 1692g) is amended*
21 *by adding after subsection (d) (as added by subsection (a)*
22 *of this section) the following new subsection:*

23 **“(e) NOTICE PROVISIONS.**—*The sending or delivery of*
24 *any form or notice which does not request the payment of*

1 a debt and is expressly required by any other Federal or
2 State law or regulation, including the Internal Revenue
3 Code of 1986, title V of Gramm-Leach-Bliley Act, and any
4 data security breach notice and privacy law shall not be
5 treated as a communication in connection with debt collec-
6 tion. ”.

7 (c) *ESTABLISHMENT OF RIGHT TO COLLECT WITHIN*
8 *THE FIRST 30 DAYS.*—Section 809(b) of the Fair Debt Col-
9 lection Practices Act (15 U.S.C. 1692g(b)) is amended by
10 striking “If the consumer” and inserting “Collection activi-
11 ties and communications may continue during any 30-day
12 period referred to in subsection (a). However, if the con-
13 sumer”.

Union Calendar No. 206

109TH CONGRESS
2^D SESSION

H. R. 3505

[Report No. 109-356, Parts I and II]

A BILL

To provide regulatory relief and improve productivity for insured depository institutions, and for other purposes.

FEBRUARY 16, 2006

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