109TH CONGRESS
2D SESSION

H. R. 3505

AN ACT

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

AUTHENTICATED
U.S. GOVERNMENT
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AN ACT

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

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

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 "Financial Services Regulatory Relief Act of 2005".

4 (b) TABLE OF CONTENTS.—The table of contents for
5 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 nondepository 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.
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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.
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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.
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TITLE VI—BANKING AGENCY PROVISIONS

Sec. 601. Waiver of examination schedule in order to allocate examiner resources.
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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.
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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.
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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 record-keeping 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.

TITLE I—NATIONAL BANK PROVISIONS

SEC. 101. NATIONAL BANK DIRECTORS.

(a) IN GENERAL.—Section 5146 of the Revised Statutes of the United States (12 U.S.C. 72) is amended—

(1) by striking ''SEC. 5146. Every director must during'' and inserting the following:

''SEC. 5146. REQUIREMENTS FOR BANK DIRECTORS.

''(a) RESIDENCY REQUIREMENTS.—Every director of a national bank shall, during'';

(2) by striking ''total number of directors. Every director must own in his or her own right'' and inserting ''total number of directors.

''(b) INVESTMENT REQUIREMENT.—

''(1) IN GENERAL.—Every director of a national bank shall own, in his or her own right,''; and

(3) by adding at the end the following new paragraph:

"(2) EXCEPTION FOR SUBORDINATED DEBT IN CERTAIN CASES.—In lieu of the requirements of paragraph (1) relating to the ownership of capital stock in the national bank, the Comptroller of the Currency may, by regulation or order, permit an individual to serve as a director of a national bank that has elected, or notifies the Comptroller of the bank's intention to elect, to operate as a S corporation pursuant to section 1362(a) of the Internal Revenue Code of 1986, if that individual holds debt of at least $1,000 issued by the national bank that is subordinated to the interests of depositors and other general creditors of the national bank.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by striking the item relating to section 5146 and inserting the following new item:

"5146. Requirements for bank directors.".

SEC. 102. VOTING IN SHAREHOLDER ELECTIONS.

Section 5144 of the Revised Statutes of the United States (12 U.S.C. 61) is amended—

(1) by striking ''or to cumulate'' and inserting ''or, if so provided by the articles of association of the national bank, to cumulate'';

(2) by striking the comma after ''his shares shall equal''; and

(3) by adding at the end the following new sentence: ''The Comptroller of the Currency may prescribe such regulations to carry out the purposes of this section as the Comptroller determines to be appropriate.''.

SEC. 103. SIMPLIFYING DIVIDEND CALCULATIONS FOR NATIONAL BANKS.

(a) IN GENERAL.—Section 5199 of the Revised Statutes of the United States (12 U.S.C. 60) is amended to read as follows:

''SEC. 5199. NATIONAL BANK DIVIDENDS.

''(a) IN GENERAL.—Subject to subsection (b), the directors of any national bank may declare a dividend of so much of the undivided profits of the bank as the directors judge to be expedient.

''(b) APPROVAL REQUIRED UNDER CERTAIN CIRCUMSTANCES.—A national bank may not declare and pay dividends in any year in excess of an amount equal to the sum of the total of the net income of the bank for that year and the retained net income of the bank in the pre-

ceding two years, minus any transfers required by the Comptroller of the Currency (including any transfers required to be made to a fund for the retirement of any preferred stock), unless the Comptroller of the Currency approves the declaration and payment of dividends in excess of such amount.''.

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

''5199. National bank dividends.''.

SEC. 104. REPEAL OF OBSOLETE LIMITATION ON REMOVAL AUTHORITY OF THE COMPTROLLER OF THE CURRENCY.

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

SEC. 105. REPEAL OF INTRASTATE BRANCH CAPITAL REQUIREMENTS.

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

(1) in the 2nd sentence, by striking '', without regard to the capital requirements of this section,''; and

(2) by striking the last sentence.

SEC. 106. CLARIFICATION OF WAIVER OF PUBLICATION REQUIREMENTS FOR BANK MERGER NOTICES.

The last sentence of sections 2(a) and 3(a)(2) of the National Bank Consolidation and Merger Act (12 U.S.C. 215(a) and 215a(a)(2), respectively) are each amended by striking ''Publication of notice may be waived, in cases where the Comptroller determines that an emergency exists justifying such waiver, by unanimous action of the shareholders of the association or State bank'' and inserting ''Publication of notice may be waived if the Comptroller determines that an emergency exists justifying such waiver or if the shareholders of the association or State bank agree by unanimous action to waive the publication requirement for their respective institutions''.

SEC. 107. EQUAL TREATMENT FOR FEDERAL AGENCIES OF FOREIGN BANKS.

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

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

Section 4(e) of the International Banking Act of 1978 (12 U.S.C. 3102(e)) is amended by inserting ''if the maintenance of both an agency and a branch in the State

is prohibited under the law of such State'' before the period at the end.

SEC. 109. BUSINESS ORGANIZATION FLEXIBILITY FOR NATIONAL BANKS.

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

''SEC. 5136C. ALTERNATIVE BUSINESS ORGANIZATION.

''(a) IN GENERAL.—The Comptroller of the Currency may prescribe regulations—

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

''(2) to provide requirements for the organizational characteristics of a national bank organized and operating other than as a body corporate, consistent with the safety and soundness of the national bank.

''(b) EQUAL TREATMENT.—Except as provided in regulations prescribed under subsection (a), a national bank that is operating other than as a body corporate shall have the same rights and privileges and shall be subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations as a national bank that is organized as a body corporate.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended, in the matter preceding the paragraph designated as the ''First'', by inserting ''or other form of business organization provided under regulations prescribed by the Comptroller of the Currency under section 5136C'' after ''a body corporate''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by inserting after the item relating to section 5136B the following new item:

''5136C. Alternative business organization.''.

SEC. 110. CLARIFICATION OF THE MAIN PLACE OF BUSINESS OF A NATIONAL BANK.

Title LXII of the Revised Statutes of the United States is amended—

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

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

SEC. 111. CAPITAL EQUIVALENCY DEPOSITS FOR FEDERAL BRANCHES AND AGENCIES OF FOREIGN BANKS.

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

"(g) CAPITAL EQUIVALENCY DEPOSIT.—

"(1) IN GENERAL.—Upon the opening of a Federal branch or agency of a foreign bank in any State and thereafter, the foreign bank, in addition to any deposit requirements imposed under section 6, shall keep on deposit, in accordance with such regulations as the Comptroller of the Currency may prescribe in accordance with paragraph (2), dollar deposits, investment securities, or other assets in such amounts as the Comptroller of the Currency determines to be necessary for the protection of depositors and other investors and to be consistent with the principles of safety and soundness.

"(2) LIMITATION.—Notwithstanding paragraph (1), regulations prescribed under such paragraph shall not permit a foreign bank to keep assets on deposit in an amount that is less than the amount required for a State licensed branch or agency of a foreign bank under the laws and regulations of the State in which the Federal agency or branch is located.".

SEC. 112. ENHANCING THE AUTHORITY FOR NATIONAL BANKS TO MAKE COMMUNITY DEVELOPMENT INVESTMENTS.

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

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.

(a) SECURITIES EXCHANGE ACT OF 1934.—

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

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

(B) in subparagraph (C)—

(i) by inserting ''or savings association as defined in section 2(4) of the Home

Owners' Loan Act,'' after ''banking institution,''; and

(ii) by inserting ''or savings associations'' after ''having supervision over banks''.

(2) INCLUDE OTS UNDER THE DEFINITION OF APPROPRIATE REGULATORY AGENCY FOR CERTAIN PURPOSES.—Section 3(a)(34) of such Act (15 U.S.C. 78c(a)(34)) is amended—

(A) in subparagraph (A)—

(i) in clause (ii), by striking ''(i) or (iii)'' and inserting ''(i), (iii), or (iv)'';

(ii) by striking ''and'' at the end of clause (iii);

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

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

''(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation, a subsidiary or a department

or division of any such savings association, or a savings and loan holding company; and''; (B) in subparagraph (B)—

(i) in clause (ii), by striking ''(i) or (iii)'' and inserting ''(i), (iii), or (iv)'';

(ii) by striking ''and'' at the end of clause (iii);

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

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

''(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation, or a subsidiary of any such savings association, or a savings and loan holding company; and'';

(C) in subparagraph (C)—

(i) in clause (ii), by striking ''(i) or (iii)'' and inserting ''(i), (iii), or (iv)'';

(ii) by striking ''and'' at the end of clause (iii);

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

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

''(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation, a savings and loan holding company, or a subsidiary of a savings and loan holding company when the appropriate regulatory agency for such clearing agency is not the Commission; and'';

(D) in subparagraph (D)—

(i) by striking ''and'' at the end of clause (ii);

(ii) by redesignating clause (iii) as clause (iv); and

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

"(iii) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation; and";

(E) in subparagraph (F)—

(i) by redesignating clauses (ii), (iii), and (iv) as clauses (iii), (iv), and (v), respectively; and

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

"(ii) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation; and";

(F) by moving subparagraph (H) and inserting such subparagraph after subparagraph (G); and

(G) by adding at the end the following new sentence: "As used in this paragraph, the term

'savings and loan holding company' has the meaning given it in section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)).''.

(b) INVESTMENT ADVISERS ACT OF 1940.—

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

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

(B) in subparagraph (C)—

(i) by inserting '', savings association as defined in section 2(4) of the Home Owners' Loan Act,'' after ''banking institution''; and

(ii) by inserting ''or savings associations'' after ''having supervision over banks''.

(2) CONFORMING AMENDMENTS.—Subsections (a)(1)(A)(i), (a)(1)(B), (a)(2), and (b) of section 210A of such Act (15 U.S.C. 80b–10a), as added by section 220 of the Gramm-Leach-Bliley Act, are each amended by striking ''bank holding company''

each place it occurs and inserting ''bank holding company or savings and loan holding company''.

(c) CONFORMING AMENDMENT TO THE INVESTMENT COMPANY ACT OF 1940.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)), as amended by section 213(c) of the Gramm-Leach-Bliley Act, is amended by inserting after ''1956)'' the following: ''or any one savings and loan holding company (together with its affiliates and subsidiaries) (as such terms are defined in section 10 of the Home Owners' Loan Act)''.

SEC. 202. INVESTMENTS BY FEDERAL SAVINGS ASSOCIATIONS AUTHORIZED TO PROMOTE THE PUBLIC WELFARE.

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

''(D) DIRECT INVESTMENTS TO PROMOTE THE PUBLIC WELFARE.—

''(i) IN GENERAL.—A Federal savings association may make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families through the provision of housing, services, and jobs.

"(ii) DIRECT INVESTMENTS OR ACQUISITION OF INTEREST IN OTHER COMPANIES.—Investments under clause (i) may be made directly or by purchasing interests in an entity primarily engaged in making such investments.

"(iii) PROHIBITION ON UNLIMITED LIABILITY.—No investment may be made under this subparagraph which would subject a Federal savings association to unlimited liability to any person.

"(iv) SINGLE INVESTMENT LIMITATION TO BE ESTABLISHED BY DIRECTOR.—Subject to clauses (v) and (vi), the Director shall establish, by order or regulation, limits on—

"(I) the amount any savings association may invest in any 1 project; and

"(II) the aggregate amount of investment of any savings association under this subparagraph.

"(v) FLEXIBLE AGGREGATE INVESTMENT LIMITATION.—The aggregate amount of investments of any savings asso-

ciation under this subparagraph may not exceed an amount equal to the sum of 5 percent of the savings association's capital stock actually paid in and unimpaired and 5 percent of the savings association's unimpaired surplus, unless—

"(I) the Director determines that the savings association is adequately capitalized; and

"(II) the Director determines, by order, that the aggregate amount of investments in a higher amount than the limit under this clause will pose no significant risk to the affected deposit insurance fund.

"(vi) MAXIMUM AGGREGATE INVESTMENT LIMITATION.—Notwithstanding clause (v), the aggregate amount of investments of any savings association under this subparagraph may not exceed an amount equal to the sum of 15 percent of the savings association's capital stock actually paid in and unimpaired and 15 percent of the savings association's unimpaired surplus.

"(vii) INVESTMENTS NOT SUBJECT TO OTHER LIMITATION ON QUALITY OF INVESTMENTS.—No obligation a Federal savings association acquires or retains under this subparagraph shall be taken into account for purposes of the limitation contained in section 28(d) of the Federal Deposit Insurance Act on the acquisition and retention of any corporate debt security not of investment grade.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5(c)(3)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(3)(A)) is amended to read as follows:

"(A) [Repealed].".

SEC. 203. MERGERS AND CONSOLIDATIONS OF FEDERAL SAVINGS ASSOCIATIONS WITH NONDEPOSITORY INSTITUTION AFFILIATES.

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

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

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) MERGERS AND CONSOLIDATIONS WITH NONDEPOSITORY INSTITUTION AFFILIATES.—

"(i) IN GENERAL.—Upon the approval of the Director, a Federal savings association may merge with any nondepository institution affiliate of the savings association.

"(ii) RULE OF CONSTRUCTION.—No provision of clause (i) shall be construed as—

"(I) affecting the applicability of section 18(c) of the Federal Deposit Insurance Act; or

"(II) granting a Federal savings association any power or any authority to engage in any activity that is not authorized for a Federal savings association under any other provision of this Act or any other provision of law.".

SEC. 204. REPEAL OF STATUTORY DIVIDEND NOTICE REQUIREMENT FOR SAVINGS ASSOCIATION SUBSIDIARIES OF SAVINGS AND LOAN HOLDING COMPANIES.

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

''(f) DECLARATION OF DIVIDEND.—The Director may—

''(1) require a savings association that is a subsidiary of a savings and loan holding company to give prior notice to the Director of the intent of the savings association to pay a dividend on its guaranty, permanent, or other nonwithdrawable stock; and

''(2) establish conditions on the payment of dividends by such a savings association.''.

SEC. 205. MODERNIZING STATUTORY AUTHORITY FOR TRUST OWNERSHIP OF SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 10(a)(1)(C) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(C)) is amended—

(1) by striking ''trust,'' and inserting ''business trust,''; and

(2) by inserting ''or any other trust unless by its terms it must terminate within 25 years or not

later than 21 years and 10 months after the death of individuals living on the effective date of the trust,'' after ''or similar organization,''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 10(a)(3) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(3)) is amended—

(1) by striking ''does not include—'' and all that follows through ''any company by virtue'' where such term appears in subparagraph (A) and inserting ''does not include any company by virtue'';

(2) by striking ''; and'' at the end of subparagraph (A) and inserting a period; and

(3) by striking subparagraph (B).

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

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

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

''(4) [Repealed].''; and

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

SEC. 207. RESTATEMENT OF AUTHORITY FOR FEDERAL SAVINGS ASSOCIATIONS TO INVEST IN SMALL BUSINESS INVESTMENT COMPANIES.

Subparagraph (D) of section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)) is amended to read as follows:

"(D) SMALL BUSINESS INVESTMENT COMPANIES.—Any Federal savings association may invest in 1 or more small business investment companies, or in any entity established to invest solely in small business investment companies formed under the Small Business Investment Act of 1958, except that the total amount of investments under this subparagraph may not at any time exceed the amount equal to 5 percent of capital and surplus of the savings association.".

SEC. 208. REMOVAL OF LIMITATION ON INVESTMENTS IN AUTO LOANS.

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

"(V) AUTO LOANS.—Loans and leases for motor vehicles acquired for personal, family, or household purposes.".

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

"(VIII) Loans and leases for motor vehicles acquired for personal, family, or household purposes.".

SEC. 209. SELLING AND OFFERING OF DEPOSIT PRODUCTS.

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

"(4) SELLING AND OFFERING OF DEPOSIT PRODUCTS.—No law, rule, regulation, or order, or other administrative action of any State or political subdivision thereof shall directly or indirectly require any individual who is an agent of 1 Federal savings association (as such term is defined in section 2(5) of the Home Owners' Loan Act (12 U.S.C. 1462(5)) in selling or offering deposit (as such term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(l)) products issued by such association to qualify or register as a broker, dealer, associated person of a broker, or associated person of a

dealer, or to qualify or register in any other similar status or capacity, if the individual does not—

"(A) accept deposits or make withdrawals on behalf of any customer of the association;

"(B) offer or sell a deposit product as an agent for another entity that is not subject to supervision and examination by a Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act (12 U.S.C. 1813(z)), the National Credit Union Administration, or any officer, agency, or other entity of any State which has primary regulatory authority over State banks, State savings associations, or State credit unions;

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

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

"(E) create a secondary market with respect to a deposit product or otherwise add enhancements or features to such product independent of those offered by the association.".

SEC. 210. FUNERAL- AND CEMETERY-RELATED FIDUCIARY SERVICES.

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

"(11) FUNERAL- AND CEMETERY-RELATED FIDUCIARY SERVICES.—

"(A) IN GENERAL.—A funeral director or cemetery operator, when acting in such capacity, (or any other person in connection with a contract or other agreement with a funeral director or cemetery operator) may engage any Federal savings association, regardless of where the association is located, to act in any fiduciary capacity in which the savings association has the right to act in accordance with this section, including holding funds deposited in trust or escrow by the funeral director or cemetery operator (or by such other party), and the savings association may act in such fiduciary capacity on behalf of the funeral director or cemetery operator (or such other person).

"(B) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

"(i) CEMETERY.—The term 'cemetery' means any land or structure used, or

intended to be used, for the interment of human remains in any form.

"(ii) CEMETERY OPERATOR.—The term 'cemetery operator' means any person who contracts or accepts payment for merchandise, endowment, or perpetual care services in connection with a cemetery.

"(iii) FUNERAL DIRECTOR.—The term 'funeral director' means any person who contracts or accepts payment to provide or arrange—

"(I) services for the final disposition of human remains; or

"(II) funeral services, property, or merchandise (including cemetery services, property, or merchandise).".

SEC. 211. REPEAL OF QUALIFIED THRIFT LENDER REQUIREMENT WITH RESPECT TO OUT-OF-STATE BRANCHES.

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

SEC. 212. SMALL BUSINESS AND OTHER COMMERCIAL LOANS.

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

"(W) SMALL BUSINESS LOANS.—Small business loans, as defined in regulations which the Director shall prescribe.".

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

SEC. 213. CLARIFYING CITIZENSHIP OF FEDERAL SAVINGS ASSOCIATIONS FOR FEDERAL COURT JURISDICTION.

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

"(x) HOME STATE CITIZENSHIP.—In determining whether a Federal court has diversity jurisdiction over a case in which a Federal savings association is a party, the Federal savings association shall be considered to be a citizen only of the States in which such savings association

has its home office and its principal place of business (if the principal place of business is in a different State than the home office).''.

SEC. 214. INCREASE IN LIMITS ON COMMERCIAL REAL ESTATE LOANS.

Section 5(c)(2)(B)(i) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(B)(i)) is amended by striking ''400 percent'' and inserting ''500 percent''.

SEC. 215. REPEAL OF ONE LIMIT ON LOANS TO ONE BORROWER.

Subparagraph (A) of section 5(u)(2) of the Home Owners' Loan Act (12 U.S.C. 1464(u)(2)(A)) is amended—

(1) by striking subclause (I) of clause (ii);

(2) by redesignating subclauses (II), (III), (IV), and (V) of clause (ii) as subclauses (I), (II), (III), and (IV), respectively;

(3) in clause (i)—

(A) by striking ''for any'' and inserting ''For any''; and

(B) by striking ''; or'' and inserting a period; and

(4) in clause (ii), by striking ''to develop domestic'' and inserting ''To develop domestic''.

SEC. 216. SAVINGS ASSOCIATION CREDIT CARD BANKS.

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

SEC. 217. INTERSTATE ACQUISITIONS BY S&L HOLDING COMPANIES.

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

(1) by redesignating subparagraphs (A), (B), and (C) as subparagraphs (B), (C), and (D), respectively; and

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

"(A) such acquisition would be permissible under section 3(d) of the Bank Holding Company Act of 1956 if the savings and loan holding company were a bank holding company and any savings association to be acquired were a bank;".

SEC. 218. BUSINESS ORGANIZATION FLEXIBILITY FOR FEDERAL SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by inserting after

subsection (x) (as added by section 213) following new subsection:

"(y) ALTERNATIVE BUSINESS ORGANIZATION.—

"(1) IN GENERAL.—The Director may prescribe regulations that—

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

"(B) provide requirements for the organizational characteristics of a Federal savings association organized and operating other than as a corporation, consistent with the safety and soundness of the Federal savings association.

"(2) EQUAL TREATMENT.—Except as otherwise provided in regulations prescribed under subsection (1), a Federal savings association that is operating other than as a corporation shall have the same rights and privileges and shall be subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations as a Federal savings association that is organized as a corporation.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 5(a)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(a)(1)) is amended by striking "organization, incorporation," and inserting "organi-

zation (as a corporation or other form of business organization provided under regulations prescribed by the Director under subsection (x)),''.

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

(3) Section 5(o)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(a)(1)) is amended by striking ''organization, incorporation,'' and inserting ''organization (as a corporation or other form of business organization provided under regulations prescribed by the Director under subsection (x)),''.

TITLE III—CREDIT UNION PROVISIONS

SEC. 301. PRIVATELY INSURED CREDIT UNIONS AUTHORIZED TO BECOME MEMBERS OF A FEDERAL HOME LOAN BANK.

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

''(5) CERTAIN PRIVATELY INSURED CREDIT UNIONS.—

''(A) IN GENERAL.—A credit union which has been determined, in accordance with section

43(e)(1) of the Federal Deposit Insurance Act and subject to the requirements of subparagraph (B), to meet all eligibility requirements for Federal deposit insurance shall be treated as an insured depository institution for purposes of determining the eligibility of such credit union for membership in a Federal home loan bank under paragraphs (1), (2), and (3).

"(B) CERTIFICATION BY APPROPRIATE SUPERVISOR.—

"(i) IN GENERAL.—For purposes of this paragraph and subject to clause (ii), a credit union which lacks Federal deposit insurance and which has applied for membership in a Federal home loan bank may be treated as meeting all the eligibility requirements for Federal deposit insurance only if the appropriate supervisor of the State in which the credit union is chartered has determined that the credit union meets all the eligibility requirements for Federal deposit insurance as of the date of the application for membership.

"(ii) CERTIFICATION DEEMED VALID.—If, in the case of any credit union

to which clause (i) applies, the appropriate supervisor of the State in which such credit union is chartered fails to make a determination pursuant to such clause by the end of the 6-month period beginning on the date of the application, the credit union shall be deemed to have met the requirements of clause (i).

"(C) SECURITY INTERESTS OF FEDERAL HOME LOAN BANK NOT AVOIDABLE.—Notwithstanding any provision of State law authorizing a conservator or liquidating agent of a credit union to repudiate contracts, no such provision shall apply with respect to—

"(i) any extension of credit from any Federal home loan bank to any credit union which is a member of any such bank pursuant to this paragraph; or

"(ii) any security interest in the assets of such credit union securing any such extension of credit.".

(b) COPIES OF AUDITS OF PRIVATE INSURERS OF CERTAIN DEPOSITORY INSTITUTIONS REQUIRED TO BE PROVIDED TO SUPERVISORY AGENCIES.—Section

43(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(a)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (A)(i);

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

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

''(iii) in the case of depository institutions described in subsection (f)(2)(A) the deposits of which are insured by the private insurer, the National Credit Union Administration, not later than 7 days after that audit is completed; and

''(iv) in the case of depository institutions described in subsection (f)(2)(A) the deposits of which are insured by the private insurer which are members of a Federal home loan bank, the Federal Housing Finance Board, not later than 7 days after that audit is completed.''; and

(4) by adding at the end the following new subparagraph:

''(C) CONSULTATION.—The appropriate supervisory agency of each State in which a pri-

vate deposit insurer insures deposits in an institution described in subsection (f)(2)(A) which—

"(i) lacks Federal deposit insurance; and

"(ii) has become a member of a Federal home loan bank,

shall provide the National Credit Union Administration, upon request, with the results of any examination and reports related thereto concerning the private deposit insurer to which such agency may have in its possession.".

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

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

(1) by striking "Upon application by any credit union" and inserting "Notwithstanding any other provision of law, upon application by any credit union";

(2) by inserting "on lands reserved for the use of, and under the exclusive or concurrent jurisdiction of, the United States or" after "officer or agency of the United States charged with the allotment of space";

(3) by inserting ''lease land or'' after ''such officer or agency may in his or its discretion''; and

(4) by inserting ''or the facility built on the lease land'' after ''credit union to be served by the allotment of space''.

(b) CLERICAL AMENDMENT.—The heading for section 124 is amended by inserting ''OR FEDERAL LAND'' after ''BUILDINGS''.

SEC. 303. INVESTMENTS IN SECURITIES BY FEDERAL CREDIT UNIONS.

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

(1) in the matter preceding paragraph (1) by striking ''A Federal credit union'' and inserting ''(a) IN GENERAL.—Any Federal credit union''; and

(2) by adding at the end the following new subsection:

''(b) ADDITIONAL INVESTMENT AUTHORITY.—

''(1) IN GENERAL.—In addition to any investments otherwise authorized, a Federal credit union may purchase and hold for its own account such investment securities of investment grade as the Board may authorize by regulation, subject to such limitations and restrictions as the Board may prescribe in the regulations.

"(2) PERCENTAGE LIMITATIONS.—

"(A) SINGLE OBLIGOR.—In no event may the total amount of investment securities of any single obligor or maker held by a Federal credit union for the credit union's own account exceed at any time an amount equal to 10 percent of the net worth of the credit union.

"(B) AGGREGATE INVESTMENTS.—In no event may the aggregate amount of investment securities held by a Federal credit union for the credit union's own account exceed at any time an amount equal to 10 percent of the assets of the credit union.

"(3) INVESTMENT SECURITY DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'investment security' means marketable obligations evidencing the indebtedness of any person in the form of bonds, notes, or debentures and other instruments commonly referred to as investment securities.

"(B) FURTHER DEFINITION BY BOARD.—The Board may further define the term 'investment security'.

"(4) INVESTMENT GRADE DEFINED.—The term 'investment grade' means with respect to an invest-

ment security purchased by a credit union for its own account, an investment security that at the time of such purchase is rated in one of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization.

"(5) CLARIFICATION OF PROHIBITION ON STOCK OWNERSHIP.—No provision of this subsection shall be construed as authorizing a Federal credit union to purchase shares of stock of any corporation for the credit union's own account, except as otherwise permitted by law.".

SEC. 304. INCREASE IN GENERAL 12-YEAR LIMITATION OF TERM OF FEDERAL CREDIT UNION LOANS TO 15 YEARS.

Section 107(a)(5) of the Federal Credit Union Act (12 U.S.C. 1757(5)) (as so designated by section 303 of this title) is amended—

(1) in the matter preceding subparagraph (A), by striking "to make loans, the maturities of which shall not exceed twelve years except as otherwise provided herein" and inserting "to make loans, the maturities of which shall not exceed 15 years or any longer maturity as the Board may allow, in regulations, except as otherwise provided in this Act";

(2) in subparagraph (A)—

(A) by striking clause (ii);

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

(C) by inserting ''and'' after the semicolon at the end of clause (viii) (as so redesignated).

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

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

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

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

SEC. 307. CHECK CASHING AND MONEY TRANSFER SERVICES OFFERED WITHIN THE FIELD OF MEMBERSHIP.

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

"(12) in accordance with regulations prescribed by the Board—

"(A) to sell, to persons in the field of membership, negotiable checks (including travelers checks), money orders, and other similar money transfer instruments (including international and domestic electronic fund transfers); and

"(B) to cash checks and money orders and receive international and domestic electronic fund transfers for persons in the field of membership for a fee;".

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

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

(1) by striking "or" at the end of clause (ii) of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) a merger involving any such Federal credit union approved by the Board on or after August 7, 1998.".

SEC. 309. CONVERSIONS INVOLVING COMMON-BOND CREDIT UNIONS.

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

"(3) CRITERIA FOR CONTINUED MEMBERSHIP OF CERTAIN MEMBER GROUPS IN COMMUNITY CHARTER CONVERSIONS.—In the case of a voluntary conversion of a common-bond credit union described in paragraph (1) or (2) of subsection (b) into a community credit union described in subsection (b)(3), the Board shall prescribe, by regulation, the criteria under which the Board may determine that a member group or other portion of a credit union's existing membership, that is located outside the well-defined local community, neighborhood, or rural district that shall constitute the community charter, can be satisfactorily served by the credit union and remain within the community credit union's field of membership.".

SEC. 310. CREDIT UNION GOVERNANCE.

(a) EXPULSION OF MEMBERS FOR JUST CAUSE.—Subsection (b) of section 118 of the Federal Credit Union Act (12 U.S.C. 1764(b)) is amended to read as follows:

"(b) POLICY AND ACTIONS OF BOARDS OF DIRECTORS OF FEDERAL CREDIT UNIONS.—

"(1) EXPULSION OF MEMBERS FOR NONPARTICIPATION OR FOR JUST CAUSE.—The board of directors of a Federal credit union may, by majority vote of a quorum of directors, adopt and enforce a policy with respect to expulsion from membership, by a majority vote of such board of directors, based on just cause, including disruption of credit union operations, or on nonparticipation by a member in the affairs of the credit union.

"(2) WRITTEN NOTICE OF POLICY TO MEMBERS.—If a policy described in paragraph (1) is adopted, written notice of the policy as adopted and the effective date of such policy shall be provided to—

"(A) each existing member of the credit union not less than 30 days prior to the effective date of such policy; and

"(B) each new member prior to or upon applying for membership.".

(b) TERM LIMITS AUTHORIZED FOR BOARD MEMBERS OF FEDERAL CREDIT UNIONS.—Section 111(a) of the Federal Credit Union Act (12 U.S.C. 1761(a)) is amended by adding at the end the following new sentence: "The bylaws of a Federal credit union may limit the num-

ber of consecutive terms any person may serve on the board of directors of such credit union.''.

(c) REIMBURSEMENT FOR LOST WAGES DUE TO SERVICE ON CREDIT UNION BOARD NOT TREATED AS COMPENSATION.—Section 111(c) of the Federal Credit Union Act (12 U.S.C. 1761(c)) is amended by inserting '', including lost wages,'' after ''the reimbursement of reasonable expenses''.

SEC. 311. PROVIDING THE NATIONAL CREDIT UNION ADMINISTRATION WITH GREATER FLEXIBILITY IN RESPONDING TO MARKET CONDITIONS.

Section 107(a)(5)(A)(v)(I) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(vi)(I)) (as so designated by section 303 and redesignated by section 304(2)(B) of this title) is amended by striking ''six-month period and that prevailing interest rate levels'' and inserting ''6-month period or that prevailing interest rate levels''.

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

Section 7A(c)(7) of the Clayton Act (15 U.S.C. 18a(c)(7)) is amended by inserting ''section 205(b)(3) of the Federal Credit Union Act (12 U.S.C. 1785(b)(3)),'' before ''or section 3''.

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

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

(1) by striking ''this title, and (D) a receiver'' and inserting ''this title, (D) an insured credit union (as defined in section 101(7) of the Federal Credit Union Act) but only for purposes of paragraphs (4) and (5) of this subsection and only for activities otherwise authorized by applicable laws to which such credit unions are subject, and (E) a receiver''; and

(2) in subparagraph (E) (as so redesignated by paragraph (1) of this subsection) by striking ''(A), (B), or (C)'' and inserting ''(A), (B), (C), or (D)''.

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

(1) by striking ''this title, and (D) a receiver'' and inserting ''this title, (D) an insured credit union (as defined in section 101(7) of the Federal Credit Union Act) but only for activities otherwise author-

ized by applicable laws to which such credit unions are subject, and (E) a receiver''; and

(2) in subparagraph (E) (as so redesignated by paragraph (1) of this subsection) by striking ''(A), (B), or (C)'' and inserting ''(A), (B), (C), or (D)''.

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

SEC. 314. CLARIFICATION OF DEFINITION OF NET WORTH UNDER CERTAIN CIRCUMSTANCES FOR PURPOSES OF PROMPT CORRECTIVE ACTION.

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

(1) by inserting ''the'' before ''retained earnings balance''; and

(2) by inserting '', together with any amounts that were previously retained earnings of any other credit union with which the credit union has combined'' before the semicolon at the end.

SEC. 315. AMENDMENTS RELATING TO NONFEDERALLY INSURED CREDIT UNIONS.

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

"(3) ENFORCEMENT BY APPROPRIATE STATE SUPERVISOR.—Any appropriate State supervisor of a private deposit insurer, and any appropriate State supervisor of a depository institution which receives deposits that are insured by a private deposit insurer, may examine and enforce compliance with this subsection under the applicable regulatory authority of such supervisor.".

(b) AMENDMENT RELATING TO DISCLOSURES REQUIRED, PERIODIC STATEMENTS AND ACCOUNT RECORDS.—Section 43(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(1)) is amended by striking "or similar instrument evidencing a deposit" and inserting "or share certificate".

(c) AMENDMENTS RELATING TO DISCLOSURES REQUIRED, ADVERTISING, PREMISES.— Section 43(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(2)) is amended to read as follows:

"(2) ADVERTISING; PREMISES.—

"(A) IN GENERAL.—Include clearly and conspicuously in all advertising, except as provided in subparagraph (B); and at each station or window where deposits are normally received, its principal place of business and all its branches where it accepts deposits or opens accounts (excluding automated teller machines or point of sale terminals), and on its main Internet page, a notice that the institution is not federally insured.

"(B) EXCEPTIONS.—The following need not include a notice that the institution is not federally insured:

"(i) Statements or reports of financial condition of the depository institution that are required to be published or posted by State or Federal law or regulation.

"(ii) Any sign, document, or other item that contains the name of the depository institution, its logo, or its contact information, but only if the sign, document, or item does not include any information about the institution's products or services or information otherwise promoting the institution.

"(iii) Small utilitarian items that do not mention deposit products or insurance if inclusion of the notice would be impractical.".

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

"(3) ACKNOWLEDGMENT OF DISCLOSURE.—

"(A) NEW DEPOSITORS OBTAINED OTHER THAN THROUGH A CONVERSION OR MERGER.—With respect to any depositor who was not a depositor at the depository institution before the effective date of the Financial Services Relief Act of 2005, and who is not a depositor as described in subparagraph (B), receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgement that—

"(i) the institution is not federally insured; and

"(ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

"(B) NEW DEPOSITORS OBTAINED THROUGH A CONVERSION OR MERGER.—With respect to a depositor at a federally insured depository institution that converts to, or merges into, a depository institution lacking federal insurance after the effective date of the Financial Services Regulatory Relief Act of 2005, receive any deposit for the account of such depositor only if—

"(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

"(ii) the institution makes an attempt, as described in subparagraph (D) and sent by mail no later than 45 days after the effective date of the conversion or merger, to obtain the acknowledgment.

"(C) CURRENT DEPOSITORS.—Receive any deposit after the effective date of the Financial Services Regulatory Relief Act of 2005 for the account of any depositor who was a depositor on that date only if—

"(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

"(ii) the institution makes an attempt, as described in subparagraph (D) and sent by mail no later than 45 days after the effective date of the Financial Services Regulatory Relief Act of 2005, to obtain the acknowledgment.

"(D) ALTERNATIVE PROVISION OF NOTICE TO CURRENT DEPOSITORS AND NEW DEPOSITORS OBTAINED THROUGH A CONVERSION OR MERGER.—

"(i) IN GENERAL.—Transmit to each depositor who has not signed a written acknowledgement described in subparagraph (A)—

"(I) a conspicuous card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

"(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.".

(e) REPEAL OF PROVISION PROHIBITING NONDEPOSITORY INSTITUTIONS FROM ACCEPTING DEPOS-

ITS.—Section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended—

(1) by striking subsection (e); and

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

(f) REPEAL OF PROVISION CONCERNING NON-DEPOSITORY INSTITUTIONS MASQUERADING AS DEPOSITORY INSTITUTIONS AND CLARIFICATION OF DEPOSITORY INSTITUTIONS COVERED BY THE STATUTE.—Subsection (e)(2) (as so redesignated by subsection (e) of this section) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended to read as follows:

''(2) DEPOSITORY INSTITUTION.—The term 'depository institution'—

''(A) includes any entity described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; and

''(B) does not include any national bank, State member bank, or Federal branch.''.

(g) REPEAL OF FTC AUTHORITY TO ENFORCE INDEPENDENT AUDIT REQUIREMENT; CONCURRENT STATE ENFORCEMENT.—Subsection (f) (as so redesignated by subsection (e) of this section) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended to read as follows:

"(f) ENFORCEMENT.—

"(1) LIMITED FTC ENFORCEMENT AUTHORITY.—Compliance with the requirements of subsections (b) and (c), and any regulation prescribed or order issued under any such subsection, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.

"(2) BROAD STATE ENFORCEMENT AUTHORITY.—

"(A) IN GENERAL.—Subject to subparagraph (C), an appropriate State supervisor of a depository institution lacking Federal deposit insurance may examine and enforce compliance with the requirements of this section, and any regulation prescribed under this section.

"(B) STATE POWERS.—For purposes of bringing any action to enforce compliance with this section, no provision of this section shall be construed as preventing an appropriate State supervisor of a depository institution lacking Federal deposit insurance from exercising any powers conferred on such official by the laws of such State.

"(C) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the

Federal Trade Commission has instituted an enforcement action for a violation of this section, no appropriate State supervisor may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission for any violation of this section that is alleged in that complaint.''.

TITLE IV—DEPOSITORY INSTITUTION PROVISIONS

SEC. 401. EASING RESTRICTIONS ON INTERSTATE BRANCHING AND MERGERS.

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

(1) IN GENERAL.—Section 5155(g)(1) of the Revised Statutes of the United States (12 U.S.C. 36(g)(1)) is amended by striking ''maintain a branch if—'' and all that follows through the end of subparagraph (B) and inserting ''maintain a branch.''.

(2) CLERICAL AMENDMENT.—The heading for subsection (g) of section 5155 of the Revised Statutes of the United States is amended by striking ''STATE 'OPT-IN' ELECTION TO PERMIT''.

(b) DE NOVO INTERSTATE BRANCHES OF STATE NONMEMBER BANKS.—

(1) IN GENERAL.—Section 18(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(4)(A)) is amended by striking ''maintain a branch if—'' and all that follows through the end of clause (ii) and inserting ''maintain a branch.''.

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

''(C) INTERSTATE BRANCHING BY SUBSIDIARIES OF COMMERCIAL FIRMS PROHIBITED.—

''(i) IN GENERAL.—If the appropriate State bank supervisor of the home State of any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956, or the appropriate State bank supervisor of any host State with respect to such company, bank, or institution, determines that such company, bank, or institution is controlled, directly or indirectly, by a commercial firm, such com-

pany, bank, or institution may not acquire, establish, or operate a branch in such host State.

"(ii) COMMERCIAL FIRM DEFINED.—For purposes of this subsection, the term 'commercial firm' means any entity at least 15 percent of the annual gross revenues of which on a consolidated basis, including all affiliates of the entity, were derived from engaging, on an on-going basis, in activities that are not financial in nature or incidental to a financial activity during at least 3 of the prior 4 calendar quarters.

"(iii) GRANDFATHERED INSTITUTIONS.—Clause (i) shall not apply with respect to any industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956—

"(I) which became an insured depository institution before October 1, 2003 or pursuant to an application for deposit insurance which was approved by the Corporation before such date; and

"(II) with respect to which there is no change in control, directly or indirectly, of the company, bank, or institution after September 30, 2003, that requires an application under subsection (c), section 7(j), section 3 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners' Loan Act.

"(iv) TRANSITION PROVISION.—Any divestiture required under this subparagraph of a branch in a host State shall be completed as quickly as is reasonably possible.

"(v) CORPORATE REORGANIZATIONS PERMITTED.—The acquisition of direct or indirect control of the company, bank, or institution referred to in clause (iii)(II) shall not be treated as a 'change in control' for purposes of such clause if the company acquiring control is itself directly or indirectly controlled by a company that was an affiliate of such company, bank, or institution on the date referred to in clause

(iii)(II), and remained an affiliate at all times after such date.''.

(3) TECHNICAL AND CONFORMING AMENDMENTS.—Section 18(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(4)) is amended—

(A) in subparagraph (A) by striking ''Subject to subparagraph (B)'' and inserting ''Subject to subparagraph (B) and paragraph (3)(C)''; and

(B) in subparagraphs (D) and (E), by striking ''The term'' and inserting ''For purposes of this subsection, the term''.

(4) CLERICAL AMENDMENT.—The heading for paragraph (4) of section 18(d) of the Federal Deposit Insurance Act is amended by striking ''STATE 'OPT-IN' ELECTION TO PERMIT INTERSTATE'' and inserting ''INTERSTATE''.

(c) DE NOVO INTERSTATE BRANCHES OF STATE MEMBER BANKS.—The 3rd undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 321) is amended by adding at the end the following new sentences: ''A State member bank may establish and operate a de novo branch in a host State (as such terms are defined in section 18(d) of the Federal Deposit Insurance Act) on the same terms and conditions and subject to the

same limitations and restrictions as are applicable to the establishment of a de novo branch of a national bank in a host State under section 5155(g) of the Revised Statutes of the United States or are applicable to an insured State nonmember bank under section 18(d)(3) of the Federal Deposit Insurance Act''. Such section 5155(g) shall be applied for purposes of the preceding sentence by substituting 'Board of Governors of the Federal Reserve System' for 'Comptroller of the Currency' and 'State member bank' for 'national bank'.''.

(d) INTERSTATE MERGER OF BANKS.—

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

(A) by striking ''Beginning on June 1, 1997, the'' and inserting ''The''; and

(B) by striking ''insured banks with different home States'' and inserting ''an insured bank and another insured depository institution or trust company with a different home State than the resulting insured bank''.

(2) NATIONAL BANK TRUST COMPANY MERGER WITH OTHER TRUST COMPANY.—Subsection (b) of section 4 of the National Bank Consolidation and

Merger Act (12 U.S.C. 215a–1(b)) is amended to read as follows:

"(b) MERGER OF NATIONAL BANK TRUST COMPANY WITH ANOTHER TRUST COMPANY.—A national bank that is a trust company may engage in a consolidation or merger under this Act with any trust company with a different home State, under the same terms and conditions that would apply if the trust companies were located within the same State.".

(e) INTERSTATE FIDUCIARY ACTIVITY.—Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended by adding at the end the following new paragraph:

"(5) INTERSTATE FIDUCIARY ACTIVITY.—

"(A) AUTHORITY OF STATE BANK SUPERVISOR.—The State bank supervisor of a State bank may approve an application by the State bank, when not in contravention of home State or host State law, to act as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity in a host State in which State banks or other corporations which come into

competition with national banks are permitted to act under the laws of such host State.

"(B) NONCONTRAVENTION OF HOST STATE LAW.—Whenever the laws of a host State authorize or permit the exercise of any or all of the foregoing powers by State banks or other corporations which compete with national banks, the granting to and the exercise of such powers by a State bank as provided in this paragraph shall not be deemed to be in contravention of host State law within the meaning of this paragraph.

"(C) STATE BANK INCLUDES TRUST COMPANIES.—For purposes of this paragraph, the term 'State bank' includes any State-chartered trust company (as defined in section 44(g)).

"(D) OTHER DEFINITIONS.—For purposes of this paragraph, the term 'home State' and 'host State' have the meanings given such terms in section 44.".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

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

(A) in subsection (a)—

(i) by striking paragraph (4) and inserting the following new paragraph:

"(4) TREATMENT OF BRANCHES IN CONNECTION WITH CERTAIN INTERSTATE MERGER TRANSACTIONS.—In the case of an interstate merger transaction which involves the acquisition of a branch of an insured depository institution or trust company without the acquisition of the insured depository institution or trust company, the branch shall be treated, for purposes of this section, as an insured depository institution or trust company the home State of which is the State in which the branch is located."; and

(ii) by striking paragraphs (5) and (6) and inserting the following new paragraph:

"(5) APPLICABILITY TO INDUSTRIAL LOAN COMPANIES.—No provision of this section shall be construed as authorizing the approval of any transaction involving a industrial loan company, industrial bank, or other institution described in section 2(c)(2)(H) of the Bank Holding Company Act of 1956, or the acquisition, establishment, or operation of a branch by any such company, bank, or institution, that is not allowed under section 18(d)(3).".

(B) in subsection (b)—

(i) by striking ''bank'' each place such term appears in paragraph (2)(B)(i) and inserting ''insured depository institution'';

(ii) by striking ''banks'' where such term appears in paragraph (2)(E) and inserting ''insured depository institutions or trust companies'';

(iii) by striking ''bank affiliate'' each place such term appears in that portion of paragraph (3) that precedes subparagraph (A) and inserting ''insured depository institution affiliate'';

(iv) by striking ''any bank'' where such term appears in paragraph (3)(B) and inserting ''any insured depository institution'';

(v) by striking ''bank'' where such term appears in paragraph (4)(A) and inserting ''insured depository institution and trust company''; and

(vi) by striking ''all banks'' where such term appears in paragraph (5) and inserting ''all insured depository institutions and trust companies'';

(C) in subsection (d)(1), by striking ''any bank'' and inserting ''any insured depository institution or trust company'';

(D) in subsection (e)—

(i) by striking ''1 or more banks'' and inserting ''1 or more insured depository institutions''; and

(ii) by striking ''paragraph (2), (4), or (5)'' and inserting ''paragraph (2)'';

(E) by striking clauses (i) and (ii) of subsection (g)(4)(A) and inserting the following new clauses:

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

''(ii) with respect to a State bank, State savings association, or State-chartered trust company, the State by which the bank, savings association, or trust company is chartered; and'';

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

''(5) HOST STATE.—The term 'host State' means—

"(A) with respect to a bank, a State, other than the home State of the bank, in which the bank maintains, or seeks to establish and maintain, a branch; and

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

(G) in subsection (g)(10), by striking "section 18(c)(2)" and inserting "paragraph (1) or (2) of section 18(c), as appropriate,"; and

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

"(12) TRUST COMPANY.—The term 'trust company' means—

"(A) any national bank;

"(B) any savings association; and

"(C) any bank, banking association, trust company, savings bank, or other banking institution which is incorporated under the laws of any State,

that is authorized to act in 1 or more fiduciary capacities but is not engaged in the business of receiv-

ing deposits other than trust funds (as defined in section 3(p)).''.

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

(A) in paragraph (1)—

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

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

(B) in paragraph (5), by striking ''subparagraph (B) or (D)'' and inserting ''subparagraph (B)''.

(3) Subsection (c) of section 4 of the National Bank Consolidation and Merger Act (12 U.S.C. 215a–1(c)) is amended to read as follows:

''(c) DEFINITIONS.—For purposes of this section, the terms 'home State', 'out-of-State bank', and 'trust company' each have the same meaning as in section 44(g) of the Federal Deposit Insurance Act.''.

(g) CLERICAL AMENDMENTS.—

(1) The heading for section 44(b)(2)(E) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(b)(2)(E)) is amended by striking ''BANKS'' and inserting ''INSURED DEPOSITORY INSTITUTIONS AND TRUST COMPANIES''.

(2) The heading for section 44(e) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(e)) is amended by striking ''BANKS'' and inserting ''INSURED DEPOSITORY INSTITUTIONS''.

SEC. 402. STATUTE OF LIMITATIONS FOR JUDICIAL REVIEW OF APPOINTMENT OF A RECEIVER FOR DEPOSITORY INSTITUTIONS.

(a) NATIONAL BANKS.—Section 2 of the National Bank Receivership Act (12 U.S.C. 191) is amended—

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

''SEC. 2. APPOINTMENT OF RECEIVER FOR A NATIONAL BANK.

''(a) IN GENERAL.—The Comptroller of the Currency''; and

(2) by adding at the end the following new subsection:

''(b) JUDICIAL REVIEW.—If the Comptroller of the Currency appoints a receiver under subsection (a), the national bank may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller of the Currency to remove the receiver, and the court shall, upon

the merits, dismiss such action or direct the Comptroller of the Currency to remove the receiver.''.

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

''(7) JUDICIAL REVIEW.—If the Corporation is appointed (including the appointment of the Corporation as receiver by the Board of Directors) as conservator or receiver of a depository institution under paragraph (4), (9), or (10), the depository institution may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such depository institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Corporation to be removed as the conservator or receiver (regardless of how such appointment was made), and the court shall, upon the merits, dismiss such action or direct the Corporation to be removed as the conservator or receiver.''.

(c) EXPANSION OF PERIOD FOR CHALLENGING THE APPOINTMENT OF A LIQUIDATING AGENT.—Subparagraph (B) of section 207(a)(1) of the Federal Credit

Union Act (12 U.S.C. 1787(a)(1)) is amended by striking "10 days" and inserting "30 days".

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to conservators, receivers, or liquidating agents appointed on or after the date of the enactment of this Act.

SEC. 403. REPORTING REQUIREMENTS RELATING TO INSIDER LENDING.

(a) REPORTING REQUIREMENTS REGARDING LOANS TO EXECUTIVE OFFICERS OF MEMBER BANKS.—Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended—

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

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

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

(1) by striking subparagraph (G); and

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

SEC. 404. AMENDMENT TO PROVIDE AN INFLATION ADJUSTMENT FOR THE SMALL DEPOSITORY INSTITUTION EXCEPTION UNDER THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.

Section 203(1) of the Depository Institution Management Interlocks Act (12 U.S.C. 3202(1)) is amended by striking ''$20,000,000'' and inserting ''$100,000,000''.

SEC. 405. ENHANCING THE SAFETY AND SOUNDNESS OF INSURED DEPOSITORY INSTITUTIONS.

(a) CLARIFICATION RELATING TO THE ENFORCEABILITY OF AGREEMENTS AND CONDITIONS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

''SEC. 49. ENFORCEMENT OF AGREEMENTS.

''(a) IN GENERAL.—Notwithstanding clause (i) or (ii) of section 8(b)(6)(A) or section 38(e)(2)(E)(i), an appropriate Federal banking agency may enforce, under section 8, the terms of—

''(1) any condition imposed in writing by the agency on a depository institution or an institution-affiliated party (including a bank holding company) in connection with any action on any application, notice, or other request concerning a depository institution; or

"(2) any written agreement entered into between the agency and an institution-affiliated party (including a bank holding company).

"(b) RECEIVERSHIPS AND CONSERVATORSHIPS.—After the appointment of the Corporation as the receiver or conservator for any insured depository institution, the Corporation may enforce any condition or agreement described in paragraph (1) or (2) of subsection (a) involving such institution or any institution-affiliated party (including a bank holding company), through an action brought in an appropriate United States district court.".

(b) PROTECTION OF CAPITAL OF INSURED DEPOSITORY INSTITUTIONS.—Paragraph (1) of section 18(u) of the Federal Deposit Insurance Act (12 U.S.C. 1828(u)) is amended by striking subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B).

SEC. 406. INVESTMENTS BY INSURED SAVINGS ASSOCIATIONS IN BANK SERVICE COMPANIES AUTHORIZED.

(a) IN GENERAL.—Sections 2 and 3 of the Bank Service Company Act (12 U.S.C. 1862, 1863) are each amended by striking "insured bank" each place such term appears and inserting "insured depository institution".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

(A) by inserting ", except when such term appears in connection with the term 'insured depository institution'," after "means"; and

(B) by striking "Federal Home Loan Bank Board" and inserting "Director of the Office of Thrift Supervision".

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

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

"(5) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the meaning given the term in section 3(c) of the Federal Deposit Insurance Act;";

(B) by striking "and" at the end of paragraph (7);

(C) by striking the period at the end of paragraph (8) and inserting "; and"; and

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

"(9) the terms 'State depository institution', 'Federal depository institution', 'State savings association' and 'Federal savings association' have the

meanings given the terms in section 3 of the Federal Deposit Insurance Act.''.

(3) The 1st sentence of section 5(c)(4)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)(B)) is amended by striking ''by savings associations of such State and by Federal associations'' and inserting ''by State and Federal depository institutions''.

(4) Subparagraph (A)(ii) and subparagraph (B)(ii) of section 1(b)(2) of the Bank Service Company Act (12 U.S.C. 1861(b)(2)) are each amended by striking ''insured banks'' and inserting ''insured depository institutions''.

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

(A) by striking ''insured bank'' and inserting ''insured depository institution'';

(B) by striking ''insured banks'' each place such term appears and inserting ''insured depository institutions''; and

(C) by striking ''the bank's'' and inserting ''the depository institution's''.

(6) Section 2 of the Bank Service Company Act (12 U.S.C. 1862) is amended by inserting ''or sav-

ings associations, other than the limitation on the amount of investment by a Federal savings association contained in section 5(c)(4)(B) of the Home Owners' Loan Act'' after ''relating to banks''.

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

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

(9) Section 4(d) of the Bank Service Company Act (12 U.S.C. 1864(d)) is amended by inserting ''or Federal savings association'' after ''national bank'' each place such term appears.

(10) Section 4(e) of the Bank Service Company Act (12 U.S.C. 1864(e)) is amended to read as follows:

''(e) A bank service company may perform—

''(1) only those services that each depository institution shareholder or member is otherwise authorized to perform under any applicable Federal or State law; and

"(2) such services only at locations in a State in which each such shareholder or member is authorized to perform such services.".

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

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

(A) in subsection (a)—

(i) by striking "insured bank" and inserting "insured depository institution"; and

(ii) by striking "bank's" and inserting "institution's";

(B) in subsection (b)—

(i) by striking "insured bank" and inserting "insured depository institution";

(ii) by inserting "authorized only" after "performs any service"; and

(iii) by inserting "authorized only" after "perform any activity"; and

(C) in subsection (c)—

(i) by striking "the bank or banks" and inserting "any depository institution"; and

(ii) by striking ''capability of the bank'' and inserting ''capability of the depository institution''.

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

(A) in subsection (b), by striking ''insured bank'' and inserting ''insured depository institution''; and

(B) in subsection (c)—

(i) by striking ''a bank'' each place such term appears and inserting ''a depository institution''; and

(ii) by striking ''the bank'' each place such term appears and inserting ''the depository institution''.

SEC. 407. CROSS GUARANTEE AUTHORITY.

Subparagraph (A) of section 5(e)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)(9)(A)) is amended to read as follows:

''(A) such institutions are controlled by the same company; or''.

SEC. 408. GOLDEN PARACHUTE AUTHORITY AND NONBANK HOLDING COMPANIES.

Subsection (k) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(k)) is amended—

(1) in paragraph (2)(A), by striking ''or depository institution holding company'' and inserting ''or covered company'';

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

''(B) Whether there is a reasonable basis to believe that the institution-affiliated party is substantially responsible for—

''(i) the insolvency of the depository institution or covered company;

''(ii) the appointment of a conservator or receiver for the depository institution; or

''(iii) the depository institution's troubled condition (as defined in the regulations prescribed pursuant to section 32(f)).'';

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

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

(5) in paragraph (3)(A), by striking ''holding company'' and inserting ''covered company'';

(6) in paragraph (4)(A)—

(A) by striking ''depository institution holding company'' each place such term appears and inserting ''covered company''; and

(B) by striking ''holding company'' each place such term appears (other than in connection with the term referred to in subparagraph (A)) and inserting ''covered company'';

(7) in paragraph (5)(A), by striking ''depository institution holding company'' and inserting ''covered company'';

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

''(D) COVERED COMPANY.—The term 'covered company' means any depository institution holding company (including any company required to file a report under section 4(f)(6) of the Bank Holding Company Act of 1956), or any other company that controls an insured depository institution.''; and

(9) in paragraph (6)—

(A) by striking ''depository institution holding company'' and inserting ''covered company,''; and

(B) by striking ''or holding company'' and inserting ''or covered company''.

SEC. 409. AMENDMENTS RELATING TO CHANGE IN BANK CONTROL.

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

(1) in paragraph (1)(D)—

(A) by striking ''is needed to investigate'' and inserting ''is needed—

''(i) to investigate'';

(B) by striking ''United States Code.'' and inserting ''United States Code; or''; and

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

''(ii) to analyze the safety and soundness of any plans or proposals described in paragraph (6)(E) or the future prospects of the institution.''; and

(2) in paragraph (7)(C), by striking ''the financial condition of any acquiring person'' and inserting ''either the financial condition of any acquiring person or the future prospects of the institution''.

SEC. 410. COMMUNITY REINVESTMENT CREDIT FOR ESOPS AND EWOCS.

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

"(d) ESTABLISHMENT OF ESOPS AND EWOCS.—

"(1) IN GENERAL.—In assessing and taking into account, under subsection (a), the record of a financial institution, the appropriate Federal financial supervisory agency shall consider as a factor activities that support or enable the establishment of employee stock ownership plans or eligible worker-owned cooperatives, so long as the employer sponsoring the plan or cooperative is at least 51 percent owned by employees, including low to moderate income employees.

"(2) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

"(A) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the same meaning as in section 4975(e)(7) of the Internal Revenue Code of 1986.

"(B) ELIGIBLE WORKER-OWNED COOPERATIVE.—The term 'eligible worker-owned cooperative' has the same meaning as in section

1042(c)(2) of the Internal Revenue Code of 1986.''.

SEC. 411. MINORITY FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—The Federal Deposit Insurance Corporation and the Office of Thrift Supervision shall provide such technical assistance to minority financial institutions affected by Hurricane Katrina, Hurricane Rita, and Hurricane Wilma as may be appropriate to preserve the present number of minority depository institutions and preserve the minority character in cases involving mergers or acquisitions of a minority depository institution consistent with section 308(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(b) MINORITY FINANCIAL INSTITUTION DEFINED.—For purposes of this subsection, the term ''minority financial institution'' has the same meaning as in section 308(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

TITLE V—DEPOSITORY INSTITUTION AFFILIATES PROVISIONS

SEC. 501. CLARIFICATION OF CROSS MARKETING PROVISION.

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

(1) in subparagraph (B), by striking ''subsection (k)(4)(I)'' and inserting ''subparagraph (H) or (I) of subsection (k)(4)''; and

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

''(C) THRESHOLD OF CONTROL.—Subparagraph (A) shall not apply with respect to a company described or referred to in clause (i) or (ii) of such subparagraph if the financial holding company does not own or control 25 percent or more of the total equity or any class of voting securities of such company.''.

SEC. 502. AMENDMENT TO PROVIDE THE FEDERAL RESERVE BOARD WITH DISCRETION CONCERNING THE IMPUTATION OF CONTROL OF SHARES OF A COMPANY BY TRUSTEES.

Section 2(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(2)) is amended by inserting '', unless the Board determines that such treatment is not appropriate in light of the facts and circumstances of the case and the purposes of this Act'' before the period at the end.

SEC. 503. ELIMINATING GEOGRAPHIC LIMITS ON THRIFT SERVICE COMPANIES.

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

(1) by striking ''corporation organized'' and all that follows through ''is available for purchase'' and inserting ''company, if the entire capital of the company is available for purchase''; and

(2) by striking ''having their home offices in such State''.

(b) TECHNICAL CORRECTIONS.—

(1) The heading for subparagraph (B) of section 5(c)(4) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(4)(B)) is amended by striking ''CORPORATIONS'' and inserting ''COMPANIES''.

(2) The 2nd sentence of section 5(n)(1) of the Home Owners' Loan Act (12 U.S.C. 1464(n)(1)) is amended by striking ''service corporations'' and inserting ''service companies''.

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

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

SEC. 504. CLARIFICATION OF SCOPE OF APPLICABLE RATE PROVISION.

Section 44(f) of the Federal Deposit Insurance Act (12 U.S.C. 1831u(f)) is amended by adding at the end the following new paragraphs:

''(3) OTHER LENDERS.—In the case of any other lender doing business in the State described in paragraph (1), the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved from time to time in any loan, discount, or credit sale made, or upon any note, bill of exchange, financing transaction, or other evidence of debt issued to or acquired by any other lender shall be equal to not more than the greater of the rates described in subparagraph (A) or (B) of paragraph (1).

''(4) OTHER LENDER DEFINED.—For purposes of paragraph (3), the term 'other lender' means any person engaged in the business of selling or financ-

ing the sale of personal property (and any services incidental to the sale of personal property) in such State, except that, with regard to any person or entity described in such paragraph, such term does not include—

"(A) an insured depository institution; or

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

"(i) a consumer's personal check or share draft, in the amount of the advance plus a fee, where presentment or negotiation of such check or share draft is deferred by agreement of the parties until a designated future date; or

"(ii) a consumer authorization to debit the consumer's transaction account, in the amount of the advance plus a fee, where such account will be debited on or after a designated future date.".

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

(a) IN GENERAL.—Section 18(r) of the Federal Deposit Insurance Act (12 U.S.C. 1828(r)) is amended—

(1) in paragraph (1)—

(A) by striking ''bank subsidiary'' and inserting ''depository institution subsidiary''; and

(B) by striking ''bank holding company'' and inserting ''depository institution holding company'';

(2) in paragraph (2), by striking ''a bank acting'' and inserting ''a depository institution acting'';

(3) in paragraphs (3) and (5), by striking ''or (6)'' each place such term appears in each such paragraph; and

(4) by striking paragraph (6).

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

SEC. 506. CREDIT CARD BANK INVESTMENTS FOR THE PUBLIC WELFARE.

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

(1) in clause (i), by striking ''engages only in credit card operations;'' and inserting ''engages only in—

''(I) credit card operations; and

''(II) making investments designed primarily to promote the public

welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs), in the manner and to the extent permitted for national banks under the paragraph designated the 'Eleventh' of section 5136 of the Revised Statutes of the United States and regulations prescribed under such paragraph, except that the last sentence of such paragraph shall be applied for purposes of this subclause by substituting '5 percent' for '15 percent' each place such term appears; ''; and

(2) in clause (v), by inserting '', other than making or purchasing loans for the purposes described in and to the extent permitted in clause (i)(II))'' before the period at the end.

TITLE VI—BANKING AGENCY PROVISIONS

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

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

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

(2) by inserting after paragraph (4), the following new paragraph:

''(5) WAIVER OF SCHEDULE WHEN NECESSARY TO ACHIEVE SAFE AND SOUND ALLOCATION OF EXAMINER RESOURCES.—Notwithstanding paragraphs (1), (2), (3), and (4), an appropriate Federal banking agency may make adjustments in the examination cycle for an insured depository institution if necessary to allocate available resources of examiners in a manner that provides for the safety and soundness of, and the effective examination and supervision of, insured depository institutions.''; and

(3) in paragraphs (8) and (9), as so redesignated, by striking ''paragraph (6)'' and inserting ''paragraph (7)''.

SEC. 602. INTERAGENCY DATA SHARING.

(a) FEDERAL BANKING AGENCIES.—Section 7(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)) is amended by adding at the end the following new subparagraph:

''(C) DATA SHARING WITH OTHER AGENCIES AND PERSONS.—In addition to reports of

examination, reports of condition, and other reports required to be regularly provided to the Corporation (with respect to all insured depository institutions, including a depository institution for which the Corporation has been appointed conservator or receiver) or an appropriate State bank supervisor (with respect to a State depository institution) under subparagraph (A) or (B), a Federal banking agency may, in the agency's discretion, furnish any report of examination or other confidential supervisory information concerning any depository institution or other entity examined by such agency under authority of any Federal law, to—

"(i) any other Federal or State agency or authority with supervisory or regulatory authority over the depository institution or other entity;

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

"(iii) any other person the Federal banking agency determines to be appropriate.".

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

"(8) DATA SHARING WITH OTHER AGENCIES AND PERSONS.—In addition to reports of examination, reports of condition, and other reports required to be regularly provided to the Board (with respect to all insured credit unions, including a credit union for which the Corporation has been appointed conservator or liquidating agent) or an appropriate State commission, board, or authority having supervision of a State-chartered credit union, the Board may, in the Board's discretion, furnish any report of examination or other confidential supervisory information concerning any credit union or other entity examined by the Board under authority of any Federal law, to—

"(A) any other Federal or State agency or authority with supervisory or regulatory authority over the credit union or other entity;

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

"(C) any other institution-affiliated party of such credit union or entity the Board determines to be appropriate.".

SEC. 603. PENALTY FOR UNAUTHORIZED PARTICIPATION BY CONVICTED INDIVIDUAL.

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

"(e) NONINSURED BANKS.—Subsections (a) and (b) shall apply to a noninsured national bank and a noninsured State member bank, and any agency or noninsured branch (as such terms are defined in section 1(b) of the International Banking Act of 1978) of a foreign bank as if such bank, branch, or agency were an insured depository institution, except such subsections shall be applied for purposes of this subsection by substituting the agency determined under the following paragraphs for 'Corporation' each place such term appears in such subsections:

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

"(2) The Board of Governors of the Federal Reserve System, in the case of a noninsured State

member bank or any State agency or noninsured State branch of a foreign bank.''.

SEC. 604. AMENDMENT PERMITTING THE DESTRUCTION OF OLD RECORDS OF A DEPOSITORY INSTITUTION BY THE FDIC AFTER THE APPOINTMENT OF THE FDIC AS RECEIVER.

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

(1) by striking ''RECORDKEEPING REQUIREMENT.—After the end of the 6-year period'' and inserting ''RECORDKEEPING REQUIREMENT.—

''(i) IN GENERAL.—Except as provided in clause (ii), after the end of the 6-year period'';

(2) by striking ''to be unnecessary'' and inserting ''are unnecessary and not relevant to any pending or reasonably probable future litigation''; and

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

''(ii) OLD RECORDS.—In the case of records of an insured depository institution which—

''(I) are at least 10 years old, as of the date the Corporation is ap-

pointed as the receiver of such depository institution; and

"(II) are unnecessary and not relevant to any pending or reasonably probable future litigation, as provided in clause (i),

the Corporation may destroy such records in accordance with clause (i) any time after such appointment is final without regard to the 6-year period of limitation contained in such clause.".

SEC. 605. MODERNIZATION OF RECORDKEEPING REQUIREMENT.

Subsection (f) of section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820(f)) is amended to read as follows:

"(f) PRESERVATION OF AGENCY RECORDS.—

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

"(A) photographed or microphotographed or otherwise reproduced upon film; or

"(B) preserved in any electronic medium or format which is capable of—

"(i) being read or scanned by computer; and

"(ii) being reproduced from such electronic medium or format by printing or any other form of reproduction of electronically stored data.

"(2) TREATMENT AS ORIGINAL RECORDS.—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

"(3) AUTHORITY OF THE FEDERAL BANKING AGENCIES.—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be preserved in such manner as the Federal banking agency shall prescribe and the original records, papers, or documents may be destroyed or otherwise

disposed of as the Federal banking agency may direct.''.

SEC. 606. STREAMLINING REPORTS OF CONDITION.

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

''(11) STREAMLINING REPORTS OF CONDITION.—

''(A) REVIEW OF INFORMATION AND SCHEDULES.—Before the end of the 1-year period beginning on the date of the enactment of the Financial Services Regulatory Relief Act of 2005 and before the end of each 5-year period thereafter, each Federal banking agency shall, in consultation with the other relevant Federal banking agencies, review the information and schedules that are required to be filed by an insured depository institution in a report of condition required under paragraph (3).

''(B) REDUCTION OR ELIMINATION OF INFORMATION FOUND TO BE UNNECESSARY.—After completing the review required by subparagraph (A), a Federal banking agency, in consultation with the other relevant Federal banking agencies, shall reduce or eliminate any

requirement to file information or schedules under paragraph (3) (other than information or schedules that are otherwise required by law) if the agency determines that the continued collection of such information or schedules is no longer necessary or appropriate.''.

SEC. 607. EXPANSION OF ELIGIBILITY FOR 18-MONTH EXAMINATION SCHEDULE FOR COMMUNITY BANKS.

Paragraph (4)(A) of section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) is amended by striking ''$250,000,000'' and inserting ''$1,000,000,000''.

SEC. 608. SHORT FORM REPORTS OF CONDITION FOR CERTAIN COMMUNITY BANKS.

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

''(12) SHORT FORM REPORTS OF CONDITION FOR COMMUNITY BANKS.—

''(A) IN GENERAL.—With respect to reports of condition required under paragraph (3) for each calendar quarter, an insured depository institution described in subparagraphs (A), (B), (C), and (D) of section 10(d)(4) may submit a

short form of any such report of condition in 2 nonsequential quarters of any calendar year.

"(B) SHORT FORM DEFINED.—The term 'short form', when used in connection with any report of condition required under paragraph (3), means a report of condition in a format established by the appropriate Federal banking agency, after notice and opportunity for comment, that—

"(i) is significantly and materially less burdensome for the insured depository institution to prepare than the format of the report of condition required under paragraph (3); and

"(ii) provides sufficient material information for the appropriate Federal banking agency to assure the maintenance of the safe and sound condition of the depository institution and safe and sound practices.".

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

SEC. 609. CLARIFICATION OF EXTENT OF SUSPENSION, REMOVAL, AND PROHIBITION AUTHORITY OF FEDERAL BANKING AGENCIES IN CASES OF CERTAIN CRIMES BY INSTITUTION-AFFILIATED PARTIES.

(a) INSURED DEPOSITORY INSTITUTIONS.—

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

(A) in subparagraph (A)—

(i) by striking ''is charged in any information, indictment, or complaint, with the commission of or participation in'' and inserting ''is the subject of any information, indictment, or complaint, involving the commission of or participation in'';

(ii) by striking ''may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution,'' and insert ''posed, poses, or may pose a threat to the interests of the depositors of, or threatened, threatens, or may threaten to impair public confidence in, any relevant depository institution (as defined in subparagraph (E)),''; and

(iii) by striking ''affairs of the depository institution'' and inserting ''affairs of any depository institution'';

(B) in subparagraph (B)(i), by striking ''the depository institution'' and inserting ''any depository institution that the subject of the notice is affiliated with at the time the notice is issued'';

(C) in subparagraph (C)(i)—

(i) by striking ''may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution,'' and insert ''posed, poses, or may pose a threat to the interests of the depositors of, or threatened, threatens, or may threaten to impair public confidence in, and relevant depository institution (as defined in subparagraph (E)),''; and

(ii) by striking ''affairs of the depository institution'' and inserting ''affairs of any depository institution'';

(D) in subparagraph (C)(ii), by striking ''affairs of the depository institution'' and inserting ''affairs of any depository institution'';

(E) in subparagraph (D)(i), by striking ''the depository institution'' and inserting ''any depository institution that the subject of the order is affiliated with at the time the order is issued''; and

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

''(E) RELEVANT DEPOSITORY INSTITUTION.—For purposes of this subsection, the term 'relevant depository institution' means any depository institution of which the party is or was an institution-affiliated party at the time—

''(i) the information, indictment or complaint described in subparagraph (A) was issued; or

''(ii) the notice is issued under subparagraph (A) or the order is issued under subparagraph (C)(i).''.

(2) CLERICAL AMENDMENT.—The heading for section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended to read as follows: ''(g) SUSPENSION, REMOVAL, AND PROHIBITION FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMINAL OFFENSES.—''.

(b) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended—

(A) in subparagraph (A), by striking ''the credit union'' each place such term appears and inserting ''any credit union'';

(B) in subparagraph (B)(i), by inserting ''of which the subject of the order is, or most recently was, an institution-affiliated party'' before the period at the end;

(C) in subparagraph (C)—

(i) by striking ''the credit union'' each place such term appears and inserting ''any credit union''; and

(ii) by striking ''the credit union's'' and inserting ''any credit union's'';

(D) in subparagraph (D)(i), by striking ''upon such credit union'' and inserting ''upon the credit union of which the subject of the order is, or most recently was, an institution-affiliated party''; and

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

''(E) CONTINUATION OF AUTHORITY.—The Board may issue an order under this paragraph

with respect to an individual who is an institution-affiliated party at a credit union at the time of an offense described in subparagraph (A) without regard to—

"(i) whether such individual is an institution-affiliated party at any credit union at the time the order is considered or issued by the Board; or

"(ii) whether the credit union at which the individual was an institution-affiliated party at the time of the offense remains in existence at the time the order is considered or issued by the Board.".

(2) CLERICAL AMENDMENT.—Section 206(i) of the Federal Credit Union Act (12 U.S.C. 1786(i)) is amended by striking "(i)" at the beginning and inserting the following new subsection heading:

"(i) SUSPENSION, REMOVAL, AND PROHIBITION FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMINAL OFFENSES.—".

SEC. 610. STREAMLINING DEPOSITORY INSTITUTION MERGER APPLICATION REQUIREMENTS.

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

"(4) REPORTS ON COMPETITIVE FACTORS.—

"(A) REQUEST FOR REPORT.—In the interests of uniform standards and subject to subparagraph (B), the responsible agency shall, before acting on any application for approval of a merger transaction—

"(i) request a report on the competitive factors involved from the Attorney General; and

"(ii) provide a copy of the request to the Corporation (when the Corporation is not the responsible agency).

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

"(i) the agency finds that it must act immediately in order to prevent the probable failure of a depository institution involved in the transaction; or

"(ii) the transaction consists of a merger between an insured depository institution and 1 or more affiliates of the depository institution.

"(C) FURNISHING OF REPORT.—The report requested under subparagraph (A) shall be furnished by the Attorney General to the responsible agency—

"(i) not more than 30 calendar days after the date on which the Attorney General received the request; or

"(ii) not more than 10 calendar days after such date, if the requesting agency advises the Attorney General that an emergency exists requiring expeditious action.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended—

(1) in the second sentence by striking "banks or savings associations involved" and inserting the following: "insured depository institutions involved, or if the proposed merger transaction is solely between an insured depository institution and 1 or more of affiliates of the depository institution," and

(2) by striking the penultimate sentence and inserting the following: "If the agency has advised the Attorney General under paragraph (4)(C)(ii) of the existence of an emergency requiring expeditious action and has requested a report on the competitive

factors within 10 days, the transaction may not be consummated before the fifth calendar day after the date of approval by the agency.''.

SEC. 611. INCLUSION OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION IN LIST OF BANKING AGENCIES REGARDING INSURANCE CUSTOMER PROTECTION REGULATIONS.

Section 47(g)(2)(B)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1831x(g)(2)(B)(i)) is amended by inserting ''the Director of the Office of Thrift Supervision,'' after ''Comptroller of the Currency,''.

SEC. 612. PROTECTION OF CONFIDENTIAL INFORMATION RECEIVED BY FEDERAL BANKING REGULATORS FROM FOREIGN BANKING SUPERVISORS.

Section 15 of the International Banking Act of 1978 (12 U.S.C. 3109) is amended by adding at the end the following new subsection:

''(c) CONFIDENTIAL INFORMATION RECEIVED FROM FOREIGN SUPERVISORS.—

''(1) IN GENERAL.—Except as provided in paragraph (3), a Federal banking agency shall not be compelled to disclose information received from a foreign regulatory or supervisory authority if—

"(A) the Federal banking agency determines that the foreign regulatory or supervisory authority has, in good faith, determined and represented to such Federal banking agency that public disclosure of the information would violate the laws applicable to that foreign regulatory or supervisory authority; and

"(B) the relevant Federal banking agency obtained such information pursuant to—

"(i) such procedures as the Federal banking agency may establish for use in connection with the administration and enforcement of Federal banking laws; or

"(ii) a memorandum of understanding or other similar arrangement between the Federal banking agency and the foreign regulatory or supervisory authority.

"(2) TREATMENT UNDER TITLE 5, UNITED STATES CODE.—For purposes of section 552 of title 5, United States Code, this subsection shall be treated as a statute described in subsection (b)(3)(B) of such section.

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

"(A) authorizing any Federal banking agency to withhold any information from any duly authorized committee of the House of Representatives or the Senate; or

"(B) preventing any Federal banking agency from complying with an order of a court of the United States in an action commenced by the United States or such agency.

"(4) FEDERAL BANKING AGENCY DEFINED.—For purposes of this subsection, the term 'Federal banking agency' means the Board, the Comptroller, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision.".

SEC. 613. PROHIBITION ON PARTICIPATION BY CONVICTED INDIVIDUAL.

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

"(d) BANK HOLDING COMPANIES.—Subsections (a) and (b) shall apply to any company (other than a foreign bank) that is a bank holding company and any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Fed-

1 eral Reserve Act as if such bank holding company or orga-
2 nization were an insured depository institution, except
3 such subsections shall be applied for purposes of this sub-
4 section by substituting 'Board of Governors of the Federal
5 Reserve System' for 'Corporation' each place such term
6 appears in such subsections.

7 ''(e) SAVINGS AND LOAN HOLDING COMPANIES.—
8 Subsections (a) and (b) shall apply to any savings and
9 loan holding company and any subsidiary (other than a
10 savings association) of a savings and loan holding com-
11 pany as if such savings and loan holding company or sub-
12 sidiary were an insured depository institution, except such
13 subsections shall be applied for purposes of this subsection
14 by substituting 'Director of the Office of Thrift Super-
15 vision' for 'Corporation' each place such term appears in
16 such subsections.''.

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

20 (1) by striking ''or'' at the end of clause (ii);

21 (2) by striking the comma at the end of clause
22 (iii) and inserting ''; or''; and

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

"(iv) an institution-affiliated party of a subsidiary (other than a bank) of a bank holding company has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense,".

SEC. 614. CLARIFICATION THAT NOTICE AFTER SEPARATION FROM SERVICE MAY BE MADE BY AN ORDER.

(a) IN GENERAL.—Section 8(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(3)) is amended by inserting "or order" after "notice" each place such term appears.

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

SEC. 615. ENFORCEMENT AGAINST MISREPRESENTATIONS REGARDING FDIC DEPOSIT INSURANCE COVERAGE.

(a) IN GENERAL.—Section 18(a) of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended by adding at the end the following new paragraph:

"(4) FALSE ADVERTISING, MISUSE OF FDIC NAMES, AND MISREPRESENTATION TO INDICATE INSURED STATUS.—

"(A) PROHIBITION ON FALSE ADVERTISING AND MISUSE OF FDIC NAMES.—No person may—

"(i) use the terms 'Federal Deposit', 'Federal Deposit Insurance', 'Federal Deposit Insurance Corporation', any combination of such terms, or the abbreviation 'FDIC' as part of the business name or firm name of any person, including any corporation, partnership, business trust, association, or other business entity; or

"(ii) use such terms or any other sign or symbol as part of an advertisement, solicitation, or other document,

to represent, suggest or imply that any deposit liability, obligation, certificate or share is insured or guaranteed by the Federal Deposit Insurance Corporation, if such deposit liability, obligation, certificate, or share is not insured or guaranteed by the Corporation.

"(B) PROHIBITION ON MISREPRESENTATIONS OF INSURED STATUS.—No person may knowingly misrepresent—

"(i) that any deposit liability, obligation, certificate, or share is federally insured, if such deposit liability, obligation, certificate, or share is not insured by the Corporation; or

"(ii) the extent to which or the manner in which any deposit liability, obligation, certificate, or share is insured by the Federal Deposit Insurance Corporation, if such deposit liability, obligation, certificate, or share is not insured by the Corporation to the extent or in the manner represented.

"(C) AUTHORITY OF FDIC.—The Corporation shall have—

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

"(ii) for purposes of enforcing the requirements of this paragraph with regard to any person—

"(I) the authority of the Corporation under section 10(c) to conduct investigations; and

"(II) the enforcement authority of the Corporation under subsections (b), (c), (d) and (i) of section 8,

as if such person were a state nonmember insured bank.

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

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

"(4) FALSE ADVERTISING OR MISUSE OF NAMES TO INDICATE INSURED STATUS.—

"(A) TEMPORARY ORDER.—

"(i) IN GENERAL.—If a notice of charges served under subsection (b)(1) of this section specifies on the basis of particular facts that any person is engaged in

conduct described in section 18(a)(4), the Corporation may issue a temporary order requiring—

"(I) the immediate cessation of any activity or practice described, which gave rise to the notice of charges; and

"(II) affirmative action to prevent any further, or to remedy any existing, violation.

"(ii) EFFECT OF ORDER.—Any temporary order issued under this subparagraph shall take effect upon service.

"(B) EFFECTIVE PERIOD OF TEMPORARY ORDER.—A temporary order issued under subparagraph (A) shall remain effective and enforceable, pending the completion of an administrative proceeding pursuant to subsection (b)(1) in connection with the notice of charges—

"(i) until such time as the Corporation shall dismiss the charges specified in such notice; or

"(ii) if a cease-and-desist order is issued against such person, until the effective date of such order.

"(C) CIVIL MONEY PENALTIES.—Violations of section 18(a)(4) shall be subject to civil money penalties as set forth in subsection (i) in an amount not to exceed $1,000,000 for each day during which the violation occurs or continues.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 18(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended—

(A) in the 1st sentence by striking "of this subsection" and inserting "of paragraphs (1) and (2)";

(B) by striking the 2nd sentence; and

(C) in the 3rd sentence, by striking "of this subsection" and inserting "of paragraphs (1) and (2)".

(2) The heading for subsection (a) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended by striking "INSURANCE LOGO.—" and inserting "REPRESENTATIONS OF DEPOSIT INSURANCE.—".

SEC. 616. CHANGES REQUIRED TO SMALL BANK HOLDING COMPANY POLICY STATEMENT ON ASSESSMENT OF FINANCIAL AND MANAGERIAL FACTORS.

(a) SMALL BANK HOLDING COMPANY POLICY STATEMENT ON ASSESSMENT OF FINANCIAL AND MANAGERIAL FACTORS.—

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

(A) is not engaged in any nonbanking activities involving significant leverage; and

(B) does not have a significant amount of outstanding debt that is held by the general public.

(2) ADJUSTMENT OF AMOUNT.—The Board of Governors of the Federal Reserve System shall annually adjust the dollar amount referred to in para-

graph (1) in the Small Bank Holding Company Policy Statement on Assessment of Financial and Managerial Factors by an amount equal to the percentage increase, for the most recent year, in total assets held by all insured depository institutions, as determined by the Board.

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

SEC. 617. EXCEPTION TO ANNUAL PRIVACY NOTICE REQUIREMENT UNDER THE GRAMM-LEACH-BLILEY ACT.

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

1 "(c) EXCEPTION TO ANNUAL NOTICE REQUIRE-
2 MENT.—A financial institution that—
3 "(1) provides nonpublic personal information
4 only in accordance with the provisions of subsection
5 (b)(2) or (e) of section 502 or regulations prescribed
6 under section 504(b);
7 "(2) does not share information with affiliates
8 under section 603(d)(2)(A) of the Fair Credit Re-
9 porting Act; and
10 "(3) has not changed its policies and practices
11 with regard to disclosing nonpublic personal infor-
12 mation from the policies and practices that were dis-
13 closed in the most recent disclosure sent to con-
14 sumers in accordance with this subsection,
15 shall not be required to provide an annual disclosure under
16 this subsection until such time as the financial institution
17 fails to comply with any criteria described in paragraph
18 (1), (2), or (3).
19 "(d) EXCEPTION TO NOTICE REQUIREMENT.—A fi-
20 nancial institution shall not be required to provide any dis-
21 closure under this section if—
22 "(1) the financial institution is licensed by a
23 State and is subject to existing regulation of con-
24 sumer confidentiality that prohibits disclosure of
25 nonpublic personal information without knowing and

expressed consent of the consumer in the form of laws, rules, or regulation of professional conduct or ethics promulgated either by the court of highest appellate authority or by the principal legislative body or regulatory agency or body of any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Northern Mariana Islands; or

''(2) the financial institution is licensed by a State and becomes subject to future regulation of consumer confidentiality that prohibits disclosure of nonpublic personal information without knowing and expressed consent of the consumer in the form of laws, rules, or regulation of professional conduct or ethics promulgated either by the court of highest appellate authority or by the principal legislative body or regulatory agency or body of any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Northern Mariana Islands.''.

SEC. 618. BIENNIAL REPORTS ON THE STATUS OF AGENCY EMPLOYMENT OF MINORITIES AND WOMEN.

(a) IN GENERAL.—Before December 31, 2005, and the end of each 2-year period beginning after such date, each Federal banking agency shall submit a report to the Congress on the status of the employment by the agency of minority individuals and women.

(b) FACTORS TO BE INCLUDED.—The report shall include a detailed assessment of each of the following:

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

(2) The successes achieved and challenges faced by the agency in operating minority and women outreach programs.

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

(4) Such other information, findings, and conclusions, and recommendations for legislative or agency action, as the agency may determine to be appropriate to include in the report.

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

(1) FEDERAL BANKING AGENCY.—The term ''Federal banking agency''—

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

(B) includes the National Credit Union Administration.

(2) MINORITY.—The term ''minority'' has the same meaning as in section 1204(c)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

SEC. 619. COORDINATION OF STATE EXAMINATION AUTHORITY.

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

''(h) COORDINATION OF EXAMINATION AUTHORITY.—

''(1) STATE BANK SUPERVISORS OF HOME AND HOST STATES.—

''(A) HOME STATE OF BANK.—The appropriate State bank supervisor of the home State of an insured State bank has authority to examine and supervise the bank.

''(B) HOST STATE BRANCHES.—The State bank supervisor of the home State of an insured State bank and any State bank supervisor of an appropriate host State shall exercise their respective authority to supervise and ex-

amine the branches of the bank in a host State in accordance with the terms of any applicable cooperative agreement between the home State bank supervisor and the State bank supervisor of the relevant host State.

"(C) SUPERVISORY FEES.—Except as expressly provided in a cooperative agreement between the State bank supervisors of the home State and any host State of an insured State bank, only the State bank supervisor of the home State of an insured State bank may levy or charge State supervisory fees on the bank.

"(2) HOST STATE EXAMINATION.—

"(A) IN GENERAL.—With respect to a branch operated in a host State by an out-of-State insured State bank that resulted from an interstate merger transaction approved under section 44 or that was established in such State pursuant to section 5155(g) of the Revised Statutes, the third undesignated paragraph of section 9 of the Federal Reserve Act or section 18(d)(4) of this Act, the appropriate State bank supervisor of such host State may—

"(i) with written notice to the State bank supervisor of the bank's home State

and subject to the terms of any applicable cooperative agreement with the State bank supervisor of such home State, examine such branch for the purpose of determining compliance with host State laws that are applicable pursuant to section 24(j) of this Act, including those that govern community reinvestment, fair lending, and consumer protection; and

"(ii) if expressly permitted under and subject to the terms of a cooperative agreement with the State bank supervisor of the bank's home State or if such out-of-State insured State bank has been determined to be in a troubled condition by either the State bank supervisor of the bank's home State or the bank's appropriate Federal banking agency, participate in the examination of the bank by the State bank supervisor of the bank's home State to ascertain that the activities of the branch in such host State are not conducted in an unsafe or unsound manner.

"(B) NOTICE OF DETERMINATION.—

"(i) IN GENERAL.—The State bank supervisor of the home State of an insured State bank should notify the State bank supervisor of each host State of the bank if there has been a final determination that the bank is in a troubled condition.

"(ii) TIMING OF NOTICE.—The State bank supervisor of the home State of an insured State bank should provide notice under clause (i) as soon as reasonably possible but in all cases within 15 business days after the State bank supervisor has made such final determination or has received written notification of such final determination.

"(3) HOST STATE ENFORCEMENT.—If the State bank supervisor of a host State determines that a branch of an out-of-State State insured State bank is violating any law of the host State that is applicable to such branch pursuant to section 24(j) of this Act, including a law that governs community reinvestment, fair lending, or consumer protection, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a host State law enforcement officer may, with written no-

tice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of the bank's home State, undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

"(4) COOPERATIVE AGREEMENT.—

"(A) IN GENERAL.—The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations. For purposes of this subsection (h), the term 'cooperative agreement' means a written agreement that is signed by the home State bank supervisor and host State bank supervisor to facilitate State regulatory supervision of State banks and includes nationwide or multi-state cooperative agreements and cooperative agreements solely between the home State and host State.

"(B) RULE OF CONSTRUCTION.—Except for State bank supervisors, no provision of this

subsection relating to such cooperative agreements shall be construed as limiting in any way the authority of home and host State law enforcement officers, regulatory supervisors, or other officials that have not signed such cooperative agreements to enforce host State laws that are applicable to a branch of an out-of-State insured State bank located in the host State pursuant to section 24(j) of this Act.

"(5) FEDERAL REGULATORY AUTHORITY.—No provision of this subsection shall be construed as limiting in any way the authority of any Federal banking agency.

"(6) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this subsection (h) shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

"(7) DEFINITIONS.—For purpose of this section, the following definition shall apply:

"(A) HOST STATE, HOME STATE, OUT-OF-STATE BANK.—The terms 'host State', 'home State', and 'out-of-State bank' have the same meanings as in section 44(g).

"(B) STATE SUPERVISORY FEES.—The term 'State supervisory fees' means assessments, examination fees, branch fees, license fees, and all other fees that are levied or charged by a State bank supervisor directly upon an insured State bank or upon branches of an insured State bank.

"(C) TROUBLED CONDITION.—Solely for purposes of subparagraph (2)(B) of this subsection (h), an insured State bank has been determined to be in 'troubled condition' if the bank—

"(i) has a composite rating, as determined in its most recent report of examination, of 4 or 5 under the Uniform Financial Institutions Ratings System (UFIRS); or

"(ii) is subject to a proceeding initiated by the Corporation for termination or suspension of deposit insurance; or

"(iii) is subject to a proceeding initiated by the State bank supervisor of the bank's home State to vacate, revoke, or terminate the charter of the bank, or to liquidate the bank, or to appoint a receiver for the bank.

"(D) FINAL DETERMINATION.—For the purposes of paragraph (2)(B), the term 'final determination' means the transmittal of a report of examination to the bank or transmittal of official notice of proceedings to the bank.".

SEC. 620. NONWAIVER OF PRIVILEGES.

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

"(x) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO BANKING AGENCY OR SUPERVISOR.—

"(1) IN GENERAL.—The submission by any person of any information to any Federal banking agency, State bank supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such agency, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such

person may claim with respect to such information under Federal or State law as to any person or entity other than such agency, supervisor, or authority.

"(2) RULE OF CONSTRUCTION.—No provision of paragraph (1) may be construed as implying or establishing that—

"(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

"(B) any person would waive any privilege applicable to any information by submitting the information to any Federal banking agency, State bank supervisor, or foreign banking authority, but for this subsection.".

(b) INSURED CREDIT UNIONS.—Section 205 of the Federal Credit Union Act (12 U.S.C.1785) is amended by adding at the end the following new subsection:

"(j) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO BANKING AGENCY OR SUPERVISOR.—

"(1) IN GENERAL.—The submission by any person of any information to the Administration, any State credit union supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such Board, super-

visor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such Board, supervisor, or authority.

"(2) RULE OF CONSTRUCTION.—No provision of paragraph (1) may be construed as implying or establishing that—

"(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

"(B) any person would waive any privilege applicable to any information by submitting the information to the Administration, any State credit union supervisor, or foreign banking authority, but for this subsection.".

SEC. 621. RIGHT TO FINANCIAL PRIVACY ACT OF 1978 AMENDMENT.

Paragraph (1) of section 1101 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401) is amended by inserting "(including any lender who advances funds on pledges of personal property)" after "consumer finance institution".

SEC. 622. DEPUTY DIRECTOR; SUCCESSION AUTHORITY FOR DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.

(a) ESTABLISHMENT OF POSITION OF DEPUTY DIRECTOR.—Section 3(c)(5) of the Home Owners' Loan Act (12 U.S.C. 1462a(c)(5)) is amended to read as follows:

"(5) DEPUTY DIRECTOR.—

"(A) IN GENERAL.—The Secretary of the Treasury shall appoint a Deputy Director and may appoint up to 3 additional Deputy Directors.

"(B) FIRST DEPUTY DIRECTOR.—If the Secretary of the Treasury appoints more than 1 Deputy Director of the Office, the Secretary shall designate one such appointee as the First Deputy Director.

"(C) DUTIES.—Each Deputy Director appointed under this paragraph shall take an oath of office and perform such duties as the Director shall direct.

"(D) COMPENSATION AND BENEFITS.—The Director shall fix the compensation and benefits for each Deputy Director in accordance with this Act.".

(b) SERVICE OF DEPUTY DIRECTOR AS ACTING DIRECTOR.—Section 3(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1462a(c)(3)) is amended—

(1) by striking "VACANCY.—A vacancy in the position of Director" and inserting "VACANCY.—

"(A) IN GENERAL.—A vacancy in the position of Director"; and

(2) by adding at the end the following new subparagraphs:

"(B) ACTING DIRECTOR.—

"(i) IN GENERAL.—In the event of a vacancy in the position of Director or during the absence or disability of the Director, the Deputy Director shall serve as Acting Director.

"(ii) SUCCESSION IN CASE OF 2 OR MORE DEPUTY DIRECTORS.—If there are 2 or more Deputy Directors serving at the time a vacancy in the position of Director occurs or the absence or disability of the Director commences, the First Deputy Director shall serve as Acting Director under clause (i) followed by such other Deputy Directors under any order of succession the Director may establish.

"(iii) AUTHORITY OF ACTING DIRECTOR.—Any Deputy Director, while serving as Acting Director under this subparagraph, shall be vested with all authority, duties, and privileges of the Director under this Act and any other provision of Federal law.".

SEC. 623. LIMITATION ON SCOPE OF NEW AGENCY GUIDELINES.

(a) IN GENERAL.—The provisions of the multi-agency guidance Numbered 2003–1 issued by the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision that relate to minimum credit card payments and negative amortization—

(1) shall only apply to new credit card accounts established by a creditor for a consumer after the date of the enactment of this Act under an open end consumer credit plan; and

(2) shall not apply to any outstanding balance on any credit card account under an open end consumer credit plan as of such date of enactment.

(b) DEFINITIONS.—For purposes of this section, the terms "credit", "credit card", "creditor", "consumer" and

"open end credit plan" have the same meanings as in section 103 of the Truth in Lending Act.

(c) SUNSET PROVISION.—This section shall not apply after the end of the 3-year period beginning on the date of the enactment of this Act .

TITLE VII—"BSA" COMPLIANCE BURDEN REDUCTION

SEC. 701. EXCEPTION FROM CURRENCY TRANSACTION REPORTS FOR SEASONED CUSTOMERS.

(a) FINDINGS.—The Congress finds as follows:

(1) The completion of and filing of currency transaction reports under section 5313 of title 31, United States Code, poses a compliance burden on the financial industry.

(2) Due to the nature of the transactions or the persons and entities conducting such transactions, certain such reports as currently filed do not appear to be relevant to the detection, deterrence, or investigation of financial crimes, including money laundering and the financing of terrorism.

(3) However, the data contained in such reports can provide valuable context for the analysis of other data derived pursuant to subchapter II of chapter 53 of title 31, United States Code, as well as investigative data, which provides invaluable and indis-

pensable information supporting efforts to combat money laundering and other financial crimes.

(4) An exemption from the reporting requirements for certain currency transactions that are of little or no value to ongoing efforts of law enforcement agencies, financial regulatory agencies, and the financial services industry to investigate, detect, or deter financial crimes would serve to balance the burden placed on members of the financial services industry with the compelling need to produce and provide meaningful information to policy-makers, financial regulators, law enforcement, and intelligence agencies.

(5) The Secretary of the Treasury has by regulation, and in accordance with section 5313 of title 31, United States Code, implemented a process by which institutions may seek exemptions from filing certain currency transaction reports based on appropriate circumstances; however, the existing exemption process has not adequately balanced the burden on the financial industry with the Government's need for data to support its efforts in combating financial crime.

(6) The act of providing notice to the Secretary of the Treasury of designations of exemption pro-

vides meaningful information to law enforcement officials on exempt customers and enables law enforcement to obtain account information through appropriate legal process; the act of providing notice of designations of exemption complements other sections of title 31, United States Code, whereby law enforcement can locate financial institutions with relevant records relating to a person of investigative interest, such as information requests made pursuant to regulations implementing section 314(a) of the USA PATRIOT Act of 2001.

(7) A designation of exemption has no effect on requirements for depository institutions to apply the full range of anti-money laundering controls as set forth in subchapter II of chapter 53 of title 31, United States Code, including the requirement to apply the customer identification program pursuant to Section 5326 of subchapter II of chapter 53 of title 31, United States Code, and the requirement to identify, monitor, and, if appropriate, report suspicious activity in accordance with section 5318(g) of title 31, United States Code.

(8) The Federal banking agencies and the Financial Crimes Enforcement Network have recently provided guidance through the Federal Financial In-

1 stitutions Examination Council Bank Secrecy Act/
2 Anti-Money Laundering Examination Manual on ap-
3 plying appropriate levels of due diligence and identi-
4 fying suspicious activity by the types of cash-inten-
5 sive businesses that generally will be subject to ex-
6 emption.

7 (b) SEASONED CUSTOMER EXEMPTION.—

8 (1) IN GENERAL.—Section 5313(e) of title 31,
9 United States Code, is amended to read as follows:
10 ''(e) QUALIFIED CUSTOMER EXEMPTION.—

11 ''(1) IN GENERAL.—The Secretary of the
12 Treasury shall prescribe regulations within 270 days
13 of the enactment of the Financial Services Regu-
14 latory Relief Act of 2005 that exempt any depository
15 institution from filing a report pursuant to this sec-
16 tion in a transaction for the payment, receipt, or
17 transfer of United States coins or currency (or other
18 monetary instruments the Secretary of the Treasury
19 prescribes) with a qualified customer of the deposi-
20 tory institution.

21 ''(2) QUALIFIED CUSTOMER DEFINED.—For
22 purposes of this section, the term 'qualified cus-
23 tomer', with respect to a depository institution, has
24 such meaning as the Secretary of the Treasury shall
25 prescribe, which shall include any person that—

"(A) is incorporated or organized under the laws of the United States or any State, including a sole proprietorship, or is registered as and eligible to do business within the United States or a State;

"(B) has maintained a deposit account with the depository institution for at least 12 months; and

"(C) has engaged, using such account, in multiple currency transactions that are subject to the reporting requirements of subsection (a).

"(3) REGULATIONS.—

"(A) IN GENERAL.—The Secretary of the Treasury shall prescribe regulations requiring a depository institution to file a 1-time notice of designation of exemption for each qualified customer of the depository institution.

"(B) FORM AND CONTENT OF EXEMPTION NOTICE.—The Secretary shall by regulation prescribe the form, manner, content, and timing of the qualified customer exemption notice; such notice shall include information sufficient to identify the qualified customer and its accounts.

"(C) AUTHORITY OF SECRETARY.—

"(i) IN GENERAL.—The Secretary may suspend, reject or revoke any qualified customer exemption notice, in accordance with criteria prescribed by the Secretary by regulation.

"(ii) CONDITIONS.—The Secretary may establish conditions, in accordance with criteria prescribed by regulation, under which exempt qualified customers of an insured depository institution that is merged with or acquired by another insured depository institution will continue to be treated as designated exempt qualified customers of the surviving or acquiring institution.".

(c) 3-YEAR REVIEW AND REPORT.—Before the end of the 3-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Attorney General, the Secretary of the Department of Homeland Security, the Federal banking agencies, the banking industry, and such other persons as the Secretary deems appropriate, shall evaluate the operations and effect of this provision and make recommendations to Congress as to any legislative action with respect

to this provision as the Secretary may determine to be appropriate.

SEC. 702. REDUCTION IN INCONSISTENCIES IN MONETARY TRANSACTION RECORDKEEPING AND REPORTING ENFORCEMENT AND EXAMINATION REQUIREMENTS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that inconsistencies and redundancies among regulations implementing monetary transaction recordkeeping and reporting enforcement programs under section 8 of the Federal Deposit Insurance Act, section 206(q) of the Federal Credit Union Act, and chapter II of chapter 53 of title 31, United States Code by the Secretary of the Treasury and the Federal banking agencies—

(1) increase the difficulty depository institutions have in complying with congressional intent in creating such enforcement programs,

(2) reduce the transparency and clarity of the regulatory regime;

(3) increase the potential for conflict among the various regulations in the future; and

(4) contribute to the perception that various agencies involved in the enforcement of the monetary

transaction recordkeeping and reporting requirements apply such requirements inconsistently.

(b) AGENCY COORDINATION OF MONETARY TRANSACTION RECORDKEEPING AND REPORTING REQUIREMENTS.—

(1) ENFORCEMENT PROGRAMS.—

(A) FEDERAL DEPOSIT INSURANCE ACT.—Section 8(s) of the Federal Deposit Insurance Act (12 U.S.C. 1818(s)) is amended by adding at the end the following new paragraph:

''(4) COORDINATION ON UNIFORM REQUIREMENTS.—In prescribing regulations under paragraph (1), the Federal banking agencies, acting through the Financial Institutions Examination Council, shall—

''(A) consult with each other, the National Credit Union Administration Board, and the Secretary of the Treasury; and

''(B) take such action as may be necessary to ensure that the requirements for procedures established pursuant to such regulations, and the examination standards for reviewing such procedures, are congruent and reasonably uniform (taking into account differences in the

form and function of the institutions subject to such requirements).''.

(B) FEDERAL CREDIT UNION ACT.—Section 206(q) of the Federal Credit Union Act (12 U.S.C. 1786(q)) is amended by adding at the end the following new paragraph:

''(4) COORDINATION ON UNIFORM REQUIREMENTS.—In prescribing regulations under paragraph (1), the Board, acting through the Financial Institutions Examination Council, shall—

''(A) consult with the Federal banking agencies and the Secretary of the Treasury; and

''(B) take such action as may be necessary to ensure that the requirements for procedures established pursuant to such regulations, and the examination standards for reviewing such procedures, are congruent and reasonably uniform (taking into account differences in the form and function of the institutions subject to such requirements).''.

(2) EXAMINATION STANDARDS AND DISPUTES.—Section 1006 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305) is amended by adding at the end the following new subsection:

1 "(h) MONETARY TRANSACTION RECORDKEEPING
2 AND REPORTING REQUIREMENTS.—The Council and the
3 Secretary of the Treasury shall jointly establish—
4 "(1) uniform standards and principles applica-
5 ble to the examination of financial institutions to en-
6 sure compliance with the requirements of subchapter
7 II of chapter 53, United States Code, sections 8(s)
8 and 21 of the Federal Deposit Insurance Act, and
9 section 206(q) of the Federal Credit Union Act; and
10 "(2) a clear policy statement on appropriate
11 processes for resolving examiner-institution disagree-
12 ments concerning the application of subchapter II of
13 chapter 53, United States Code, sections 8(s) and
14 21 of the Federal Deposit Insurance Act, and sec-
15 tion 206(q) of the Federal Credit Union Act to fi-
16 nancial institutions.".
17 (3) EFFECTIVE DATE.—The Federal banking
18 agencies, the National Credit Union Administration
19 Board, the Financial Institutions Examination
20 Council, and the Secretary of the Treasury shall
21 commence the discussions and consultations required
22 under the amendments made by this subsection as
23 soon as practicable after the date of the enactment
24 of this Act.

(c) REVIEW OF AND REPORT ON ADDITIONAL REGULATORY OR LEGISLATIVE CHANGES.—

(1) REVIEW REQUIRED.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall conduct a review of the potential inconsistencies in, or redundancies among, the regulations pertaining to the application of the requirements of subchapter II of chapter 53, United States Code, sections 8(s) and 21 of the Federal Deposit Insurance Act, and section 206(q) of the Federal Credit Union Act to financial institutions.

(2) REPORT TO CONGRESS AND THE FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.—Upon completion of the review under paragraph (1), the Secretary of the Treasury shall promptly submit a report on the findings and conclusions of the Secretary with respect to the review to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for legislative and administrative actions as the Secretary may determine to be appropriate, and shall transmit a copy of such report to the members of the Financial Institutions Examination Council.

(d) REFORM OF APPLICATION OF MONETARY TRANSACTION RECORDKEEPING AND REPORTING REQUIREMENTS TO FINANCIAL INSTITUTIONS.—Before the end of the 9-month period beginning on the date of the submission of the report to Congress under subsection (c)(2), the Secretary of the Treasury shall prescribe regulations implementing appropriate changes to regulations within the jurisdiction of the Secretary to remedy redundancies or inconsistencies identified in the review by, and included in the recommendations of, the Secretary under subsection (c).

SEC. 703. ADDITIONAL REFORMS RELATING TO MONETARY TRANSACTION AND RECORDKEEPING REQUIREMENTS APPLICABLE TO FINANCIAL INSTITUTIONS.

(a) NOTIFICATION OF OFFICERS AND DIRECTORS OF FINANCIAL INSTITUTIONS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall—

(1) review any regulation, guideline, or guidance of the Secretary, any Federal banking agency, or the National Credit Union Administration Board that serves as the basis for any requirement to provide notice to any officer or director of a depository institution of any suspicious activity report sub-

1 mitted by the depository institution to the Secretary
2 and any such agency or Board;
3 (2) modify or eliminate any such requirement of
4 the Secretary that the Secretary determines is not
5 necessary to achieve the purposes of section 5318(g)
6 of title 31, United States Code; and
7 (3) make a recommendation to any Federal
8 banking agency or the National Credit Union Ad-
9 ministration Board to modify or eliminate any such
10 requirement of such agency or Board that the Sec-
11 retary determines is not necessary to achieve the
12 purposes of section 5318(g) of title 31, United
13 States Code.
14 (b) ELIMINATION OF UNNECESSARY VERIFICATION
15 REQUIREMENTS APPLICABLE TO THE PURCHASE OF FI-
16 NANCIAL INSTRUMENTS.—Before the end of the 9-month
17 period beginning on the date of the enactment of this Act,
18 the Secretary of the Treasury shall—
19 (1) review all verification of customer identity
20 requirements as they relate to the purchases of mon-
21 etary instruments by customers of depository institu-
22 tions, including the regulations codified in section
23 103.29(a)(ii) of title 31, Code of Federal Regula-
24 tions; and

(2) modify or eliminate any customer identity requirement related to the purchases of monetary instruments by customers of depository institutions codified in section 103.29(a)(ii) of title 31, Code of Federal Regulations, that the Secretary determines is unnecessary.

(c) ELIMINATION OF RECURRING FILINGS OF SUSPICIOUS ACTIVITY REPORTS ON A SINGLE TRANSACTION.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Secretary of the Treasury, as appropriate, shall prescribe regulations, or issue other forms of guidance, that eliminate the need for depository institutions to file recurring suspicious activity reports on the same transaction unless there has been a subsequent change in any pattern of activity involving any person who was connected with the transaction.

(d) ELECTRONIC ACKNOWLEDGEMENT OF CERTAIN ELECTRONIC FILINGS.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Director of the Financial Crimes Enforcement Network shall put into effect a system for promptly furnishing an electronic acknowledgement of receipt to any institution that files a form with FinCEN under subchapter II of chapter 53 of title 31, United States Code, through the Network's electronic filing system.

SEC. 704. STUDY BY COMPTROLLER GENERAL.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study on methods and practices which would—

(1) reduce the overall number of currency transaction reports filed with the Secretary of the Treasury under section 5313(a) of title 31, United States Code, while ensuring that the needs of the Secretary, the Financial Crimes Enforcement Network, law enforcement agencies, and financial institution regulatory agencies continue to be met;

(2) improve financial institution utilization of the current exemption provisions; and

(3) mitigate the difficulties in the current implementation of such exemption provisions that limit the utility of the exemption process for financial institutions.

(b) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the findings and conclusions of the Comptroller General with respect to the study conducted under subsection (a) and such recommendations

for legislative and administrative action as the Comptroller General may determine to be appropriate.

SEC. 705. FEASIBILITY STUDY REQUIRED.

(a) IN GENERAL.—For the purpose of simplifying, and increasing compliance with, the various recordkeeping and reporting requirements under subchapter II of chapter 53 of title 31, United States Code, chapter 2 of title I of Public Law 91—508, and section 21 of the Federal Deposit Insurance Act, and regulations prescribed under such provisions of law, the Secretary of the Treasury (hereafter in this section referred to as the ''Secretary'') shall conduct a study on the feasibility of developing and implementing interfaces and templates for use in electronic communications between financial institutions (as defined in section 5312 of title 31, United States Code) and the Secretary, the Financial Crimes Enforcement Network, and other Federal financial institution regulatory agencies.

(b) FACTORS TO BE CONSIDERED.—In conducting the study required under subsection (a), the Secretary shall take into account—

(1) any procedures required to be maintained by financial institutions under regulations prescribed pursuant to section 5318(a)(2) of title 31 of the United States Code and the manner in which the

use of interfaces and templates which might be developed could lessen the burden of complying with such procedures; and

(2) any exemptions prescribed by the Secretary under paragraph (5) or (6) of such section 5318(a) and the manner in which interfaces and templates which might be developed could be programmed to reflect any such exemption for a financial institution, transaction, or class of transactions.

(c) PROTOTYPE AND REPORT REQUIRED.—

(1) IN GENERAL.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Congress containing a detailed description of the findings and conclusions of the Secretary in connection with the study required under subsection (a), together with such recommendations for legislative or administrative action as the Secretary may determine to be appropriate.

(2) PROTOTYPE.—Any recommendation on the feasibility of developing and implementing interfaces and templates for use in electronic communications shall be accompanied by prototypes of such interfaces and templates that demonstrate such feasibility.

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

(1) INTERFACE.—The term ''interface'' means the point and method of interaction between any 2 or more electronic data storage and communication systems that permits and facilitates active electronic communication between or among the systems, including any procedures, codes, and protocols that enable the systems to interact.

(2) TEMPLATE.—The term ''template'' means a preestablished layout model using word processing or other authoring software that ensures that data entered into it will adhere to a consistent format and content scheme when used by all parties engaged in electronic communications among each other.

SEC. 706. ANNUAL REPORT BY SECRETARY OF THE TREASURY.

(a) FINDINGS.—The Congress finds as follows:

(1) Financial institutions have too little information about money laundering and terrorist financing compliance in other markets.

(2) The current Financial Action Task Force designation system does not adequately represent the progress countries are making in combatting money laundering.

(3) Lack of information about the compliance of countries with anti-money laundering standards exposes United States financial markets to excessive risk.

(4) Failure to designate countries that fail to make progress in combatting terrorist financing and money laundering eliminates incentives for internal reform.

(5) The Secretary of the Treasury has an affirmative duty to provide to financial institutions and examiners the best possible information on compliance with anti-money laundering and terrorist financing initiatives in other markets.

(b) REPORT.—Not later than March 1 of each year, the Secretary of the Treasury shall submit to the Congress a report that identifies the applicable standards of each country against money laundering and states whether that country is a country of primary money laundering concern under section 5318A of title 31, United States Code. The report shall include—

(1) information on the effectiveness of each country in meeting its standards against money laundering;

(2) a determination of whether that the efforts of that country to combat money laundering and ter-

rorist financing are adequate, improving, or inadequate; and

(3) the efforts made by the Secretary to provide to the government of each such country of concern technical assistance to cease the activities that were the basis for the determination that the country was of primary money laundering concern.

(c) DISSEMINATION OF INFORMATION IN REPORT.—The Secretary of the Treasury shall make available to the Federal Financial Institutions Examination Council for incorporation into the examination process, in consultation with Federal banking agencies, and to financial institutions the information contained in the report submitted under subsection (a). Such information shall be made available to financial institutions without cost.

(d) DEFINITION.—For purposes of this section, the term ''financial institution'' has the meaning given that term in section 5312(a)(2) of title 31, United States Code.

SEC. 707. PRESERVATION OF MONEY SERVICES BUSINESSES.

(a) FINDINGS.—The Congress finds as follows:

(1) Title III of the USA PATRIOT ACT provided United States law enforcement agencies with new tools to combat terrorist financing and money laundering.

(2) The Financial Crimes Enforcement Network in the Department of the Treasury (hereafter in this section referred to as ''FinCEN'') has defined money services businesses to include the following 5 distinct types of financial services providers as well as the United States Postal Service:

(A) Currency dealers or exchanges.

(B) Check cashing services.

(C) Issuers of travelers' checks, money orders, or stored value cards.

(D) Sellers or redeemers of travelers' checks, money orders, or stored value cards.

(E) Money transmitters.

(3) Money services businesses have had more difficulty in obtaining and maintaining banking services since the passage of the USA PATRIOT ACT.

(4) On March 30, 2005, FinCEN and the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) issued a joint statement recognizing the importance of ensuring that money services businesses that comply with the law have reasonable access to banking services.

(5) On April 26, 2005, FinCEN offered guidance to money service businesses on obtaining and maintaining banking services by identifying and ex-

plaining to money services businesses the types of information and documentation they are expected to have, and to provide to, depository institutions when conducting banking business.

(6) At the same time, FinCEN and the Federal banking agencies have issued joint guidance to depository institutions to—

(A) clarify the requirements of subchapter II of chapter 53 of title 31, United States Code, and related provisions of law; and

(B) set forth the minimum steps that depository institutions should take when providing banking services to money services businesses.

(7) It is in the interest of the United States and its allies in the wars against terrorism and drugs to make certain that the international transfer of funds is done in a rules-based, formal, and transparent manner and that individuals are not forced into utilizing informal underground methods due to a lack of services.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that depository institutions and money services businesses should follow the guidance offered by FinCEN for the purpose of giving money services businesses full access to banking services and ensuring that

money services businesses remain in the mainstream financial system and can be full players in providing important financial services to their customers and be fully cooperative in the fight against terrorist financing and money laundering.

TITLE VIII—CLERICAL AND TECHNICAL AMENDMENTS

SEC. 801. CLERICAL AMENDMENTS TO THE HOME OWNERS' LOAN ACT.

(a) AMENDMENT TO TABLE OF CONTENTS.—The table of contents in section 1 of the Home Owners' Loan Act (12 U.S.C. 1461) is amended by striking the items relating to sections 5 and 6 and inserting the following new items:

"Sec. 5. Savings associations.
"Sec. 6. [Repealed.].".

(b) CLERICAL AMENDMENTS TO HEADINGS.—

(1) The heading for section 4(a) of the Home Owners' Loan Act (12 U.S.C. 1463(a)) is amended by striking "(a) FEDERAL SAVINGS ASSOCIATIONS.—" and inserting "(a) GENERAL RESPONSIBILITIES OF THE DIRECTOR.—".

(2) The section heading for section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended to read as follows:

"SEC. 5. SAVINGS ASSOCIATIONS.".

SEC. 802. TECHNICAL CORRECTIONS TO THE FEDERAL CREDIT UNION ACT.

The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended as follows:

(1) In section 101(3), strike ''and'' after the semicolon.

(2) In section 101(5), strike the terms ''account account'' and ''account accounts'' each place any such term appears and insert ''account''.

(3) In section 107(a)(5)(E) (as so designated by section 303 of this Act), strike the period at the end and insert a semicolon.

(4) In paragraphs (6) and (7) of section 107(a) (as so designated by section 303 of this Act), strike the period at the end and insert a semicolon.

(5) In section 107(a)(7)(D) (as so designated by section 303 of this Act), strike ''the Federal Savings and Loan Insurance Corporation or''.

(6) In section 107(a)(7)(E) (as so designated by section 303 of this Act), strike ''the Federal Home Loan Bank Board,'' and insert ''the Federal Housing Finance Board,''.

(7) In section 107(a)(9) (as so designated by section 303 of this Act), strike ''subchapter III'' and insert ''title III''.

(8) In section 107(a)(13) (as so designated by section 303 of this Act), strike the ''and'' after the semicolon at the end.

(9) In section 109(c)(2)(A)(i), strike ''(12 U.S.C. 4703(16))''.

(10) In section 120(h), strike ''the Act approved July 30, 1947 (6 U.S.C., secs. 6–13),'' and insert ''chapter 93 of title 31, United States Code,''.

(11) In section 201(b)(5), strike ''section 116 of''.

(12) In section 202(h)(3), strike ''section 207(c)(1)'' and insert ''section 207(k)(1)''.

(13) In section 204(b), strike ''such others powers'' and insert ''such other powers''.

(14) In section 206(e)(3)(D), strike ''and'' after the semicolon at the end.

(15) In section 206(f)(1), strike ''subsection (e)(3)(B)'' and insert ''subsection (e)(3)''.

(16) In section 206(g)(7)(D), strike ''and subsection (1)''.

(17) In section 206(t)(2)(B), insert ''regulations'' after ''as defined in''.

(18) In section 206(t)(2)(C), strike ''material affect'' and insert ''material effect''.

(19) In section 206(t)(4)(A)(ii)(II), strike ''or'' after the semicolon at the end.

(20) In section 206A(a)(2)(A), strike ''regulator agency'' and insert ''regulatory agency''.

(21) In section 207(c)(5)(B)(i)(I), insert ''and'' after the semicolon at the end.

(22) In the heading for subparagraph (A) of section 207(d)(3), strike ''TO'' and insert ''WITH''.

(23) In section 207(f)(3)(A), strike ''category or claimants'' and insert ''category of claimants''.

(24) In section 209(a)(8), strike the period at the end and insert a semicolon.

(25) In section 216(n), insert ''any action'' before ''that is required''.

(26) In section 304(b)(3), strike ''the affairs or such credit union'' and insert ''the affairs of such credit union''.

(27) In section 310, strike ''section 102(e)'' and insert ''section 102(d)''.

SEC. 803. OTHER TECHNICAL CORRECTIONS.

(a) Section 1306 of title 18, United States Code, is amended by striking ''5136A'' and inserting ''5136B''.

(b) Section 5239 of the Revised Statutes of the United States (12 U.S.C. 93) is amended by redesignating the second of the 2 subsections designated as subsection

(d) (as added by section 331(b)(3) of the Riegle Community Development and Regulatory Improvement Act of 1994) as subsection (e).

SEC. 804. REPEAL OF OBSOLETE PROVISIONS OF THE BANK HOLDING COMPANY ACT OF 1956.

(a) IN GENERAL.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) in subsection (c)(2), by striking subparagraphs (I) and (J); and

(2) by striking subsection (m) and inserting the following new subsection:

''(m) [Repealed]''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 4(h) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(h)) are each amended by striking ''(G), (H), (I), or (J) of section 2(c)(2)'' and inserting ''(G), or (H) of section 2(c)(2)''.

TITLE IX—FAIR DEBT COLLECTION PRACTICES ACT AMENDMENTS

SEC. 901. EXCEPTION FOR CERTAIN BAD CHECK ENFORCEMENT PROGRAMS.

(a) IN GENERAL.—The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended—

(1) by redesignating section 818 as section 819; and

(2) by inserting after section 817 the following new section:

"§ 818. Exception for certain bad check enforcement programs operated by private entities

''(a) IN GENERAL.—If—

''(1) a State or district attorney establishes, within the jurisdiction of such State or district attorney and with respect to alleged bad check violations that do not involve a check described in subsection (c), a pretrial diversion program for alleged bad check offenders who agree to participate voluntarily in such program to avoid criminal prosecution and are not described in subsection (b);

''(2) a private entity, that is subject to an administrative support services contract with a State or district attorney and operates under the direction, supervision and control of such State or district attorney, operates the pretrial diversion program described in paragraph (1); and

''(3) in the course of performing duties delegated to it by a State or district attorney under the contract, the private entity referred to in paragraph (2)—

"(A) complies with the penal laws of the State;

"(B) conforms with the terms of the contract and directives of the State or district attorney;

"(C) does not exercise independent prosecutorial discretion;

"(D) contacts any alleged offender referred to in paragraph (1) for purposes of participating in a program referred to in such paragraph only—

"(i) as a result of any determination by the State or district attorney that sufficient evidence of a bad check violation under State law exists and that contact with the alleged offender for purposes of participation in the program is appropriate; or

"(ii) as otherwise permitted in response to evidence of a bad check;

"(E) includes as part of an initial written communication with an alleged offender a clear and conspicuous statement that—

"(i) the alleged offender may dispute the validity of any alleged bad check viola-

1 tion through a procedure established and
2 supervised by the State or district attor-
3 ney, together with an explanation of how
4 such a dispute may be initiated; and
5 ''(ii) where the alleged offender
6 knows, or has reasonable cause to believe,
7 that the alleged bad check violation is the
8 result of theft or forgery of the check,
9 identity theft, or other fraud that is not
10 the result of the alleged offender's conduct,
11 the alleged offender may file a crime report
12 with the appropriate law enforcement
13 agency and have further contacts or res-
14 titution efforts suspended until the ques-
15 tion of the theft or forgery of the check,
16 identity theft, or other fraud has been re-
17 solved, together with clear instructions on
18 how to file such crime report; and
19 ''(F) charges only fees in connection with
20 services under the contract that—
21 ''(i) have been authorized by the con-
22 tract with the State or district attorney;
23 and
24 ''(ii) conform with the schedule of rea-
25 sonable charges for such services which

shall be established by the National District Attorney's Association, after consultation with the Commission and representatives of interested business and consumer organizations,

the private entity shall be treated as an officer of the State and excluded from the definition of debt collector, pursuant to the exception provided in section 803(6)(C), with respect to the entity's operation of the program described in paragraph (1) under the contract described in paragraph (2).

''(b) CERTAIN OFFENDERS EXCLUDED.—An alleged bad check offender is described in this subsection if a private entity described in subsection (a)(2) can determine from available records that such offender—

''(1) was convicted of a bad check offense in the 3 years prior to issuing the bad check under consideration; or

''(2) participated in a pretrial diversion program in the 18 months prior to issuing the bad check under consideration.

''(c) CERTAIN CHECKS EXCLUDED.—A check is described in this subsection if the check involves, or is subsequently found to involve—

"(1) a postdated check presented in connection with a payday loan, or other similar transaction, where the holder of the check knew that the issuer had insufficient funds at the time the check was made, drawn or delivered;

"(2) a stop payment order where the issuer acted in good faith and with reasonable cause in stopping payment on the check;

"(3) a check dishonored because of an adjustment to the issuer's account by the financial institution holding such account without providing notice to the person at the time the check was made, drawn or delivered;

"(4) a check for partial payment of a debt where the holder had previously accepted partial payment for such debt;

"(5) a check issued by a person who was not competent, or was not of legal age, to enter into a legal contractual obligation at the time the check was made, drawn or delivered; or

"(6) a check issued to pay an obligation arising from a transaction that was illegal in the jurisdiction of the State or district attorney at the time the check was made, drawn or delivered.

1 "(d) DEFINITIONS.—For purposes of this section, the
2 following definitions shall apply:
3 "(1) STATE OR DISTRICT ATTORNEY.—The
4 term 'State or district attorney' means the chief
5 elected or appointed prosecuting attorney in a dis-
6 trict, county (as defined in section 2 of title 1,
7 United States Code), municipality, or comparable ju-
8 risdiction, including State attorneys general who act
9 as chief elected or appointed prosecuting attorneys
10 in a district, county (as so defined), municipality or
11 comparable jurisdiction, who may be referred to by
12 a variety of titles such as district attorneys, pros-
13 ecuting attorneys, commonwealth's attorneys, solici-
14 tors, county attorneys, and state's attorneys, and
15 who are responsible for the prosecution of State
16 crimes and violations of jurisdiction-specific local or-
17 dinances.
18 "(2) CHECK.—The term 'check' has the same
19 meaning as in section 3(6) of the Check Clearing for
20 the 21st Century Act.
21 "(3) BAD CHECK.—The term 'bad check' means
22 any check that—
23 "(A) the issuer knew, or should have
24 known, would not be paid upon presentment be-
25 cause the issuer—

"(i) had no account with the drawee financial institution at the time the check was made, drawn, or delivered;

"(ii) had closed the account upon with the check was made or drawn prior to the time the check was made, drawn, or delivered; or

"(iii) used a false or altered check, or false or altered check account number; or

"(B) was refused payment by the financial institution or other drawee for lack of sufficient funds and the issuer failed to pay the full amount of the check, together with reasonable costs as permitted by State law—

"(i) after receiving written notice from the holder of the check that payment was refused by the drawee financial institution to the extent that the timing and mode of delivery of such written notice is in compliance with the applicable State law for determining criminal liability for bad check offenses; or

"(ii) in a case in which there are no applicable State law requirements as described in clause (i), within 30 days of re-

ceiving written notice, mailed to the issuer by certified mail to the address printed on the check, or given at the time the check was made, drawn or delivered or, otherwise, at the address where the alleged offender resides or is found, from the holder of the check that payment of 1 or more checks was refused by the drawee financial institution.''.

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Debt Collection Practices Act is amended—

(1) by redesignating the item relating to section 818 as section 819; and

(2) by inserting after the item relating to section 817 the following new item:

''818. Exception for certain bad check enforcement programs operated by private entities.''.

SEC. 902. OTHER AMENDMENTS.

(a) LEGAL PLEADINGS.—Section 809 of the Fair Debt Collection Practices Act (15 U.S.C. 1692g) is amended by adding at the end the following new subsection:

''(d) LEGAL PLEADINGS.—A communication in the form of a formal pleading in a civil action shall not be treated as an initial communication for purposes of subsection (a).''.

(b) NOTICE PROVISIONS.—Section 809 of the Fair Debt Collection Practices Act (15 U.S.C. 1692g) is amended by adding after subsection (d) (as added by subsection (a) of this section) the following new subsection:

''(e) NOTICE PROVISIONS.—The sending or delivery of any form or notice which does not request the payment of a debt and is expressly required by any other Federal or State law or regulation, including the Internal Revenue Code of 1986, title V of Gramm-Leach-Bliley Act, and any data security breach notice and privacy law shall not be treated as a communication in connection with debt collection. ''.

(c) ESTABLISHMENT OF RIGHT TO COLLECT WITHIN THE FIRST 30 DAYS.—Section 809(b) of the Fair Debt Collection Practices Act (15 U.S.C. 1692g(b)) is amended by striking ''If the consumer'' and inserting ''Collection activities and communications may continue during any 30-day period referred to in subsection (a). However, if the consumer''.

Passed the House of Representatives March 8, 2006.

Attest:

Clerk.