

109TH CONGRESS
2^D SESSION

H. R. 3505

AN ACT

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

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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 for-
eign banks.

Sec. 112. Enhancing the authority for national banks to make community de-
velopment investments.

TITLE II—SAVINGS ASSOCIATION PROVISIONS

Sec. 201. Parity for savings associations under the Securities Exchange Act of
1934 and the Investment Advisers Act of 1940.

Sec. 202. Investments by Federal savings associations authorized to promote
the public welfare.

Sec. 203. Mergers and consolidations of Federal savings associations with non-
depository institution affiliates.

Sec. 204. Repeal of statutory dividend notice requirement for savings associa-
tion subsidiaries of savings and loan holding companies.

Sec. 205. Modernizing statutory authority for trust ownership of savings asso-
ciations.

Sec. 206. Repeal of overlapping rules governing purchased mortgage servicing
rights.

Sec. 207. Restatement of authority for Federal savings associations to invest in
small business investment companies.

Sec. 208. Removal of limitation on investments in auto loans.

Sec. 209. Selling and offering of deposit products.

Sec. 210. Funeral- and cemetery-related fiduciary services.

Sec. 211. Repeal of qualified thrift lender requirement with respect to out-of-
state branches.

Sec. 212. Small business and other commercial loans.

- Sec. 213. Clarifying citizenship of Federal savings associations for Federal court jurisdiction.
- Sec. 214. Increase in limits on commercial real estate loans.
- Sec. 215. Repeal of one limit on loans to one borrower.
- Sec. 216. Savings association credit card banks.
- Sec. 217. Interstate acquisitions by S&L holding companies.
- Sec. 218. Business organization flexibility for federal savings associations.

TITLE III—CREDIT UNION PROVISIONS

- Sec. 301. Privately insured credit unions authorized to become members of a Federal home loan bank.
- Sec. 302. Leases of land on Federal facilities for credit unions.
- Sec. 303. Investments in securities by Federal credit unions.
- Sec. 304. Increase in general 12-year limitation of term of Federal credit union loans to 15 years.
- Sec. 305. Increase in 1 percent investment limit in credit union service organizations.
- Sec. 306. Member business loan exclusion for loans to nonprofit religious organizations.
- Sec. 307. Check cashing and money transfer services offered within the field of membership.
- Sec. 308. Voluntary mergers involving multiple common-bond credit unions.
- Sec. 309. Conversions involving common-bond credit unions.
- Sec. 310. Credit union governance.
- Sec. 311. Providing the National Credit Union Administration with greater flexibility in responding to market conditions.
- Sec. 312. Exemption from pre-merger notification requirement of the Clayton Act.
- Sec. 313. Treatment of credit unions as depository institutions under securities laws.
- Sec. 314. Clarification of definition of net worth under certain circumstances for purposes of prompt corrective action.
- Sec. 315. Amendments relating to nonfederally insured credit unions.

TITLE IV—DEPOSITORY INSTITUTION PROVISIONS

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

TITLE V—DEPOSITORY INSTITUTION AFFILIATES PROVISIONS

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

TITLE VI—BANKING AGENCY PROVISIONS

- Sec. 601. Waiver of examination schedule in order to allocate examiner resources.
- Sec. 602. Interagency data sharing.
- Sec. 603. Penalty for unauthorized participation by convicted individual.
- Sec. 604. Amendment permitting the destruction of old records of a depository institution by the FDIC after the appointment of the FDIC as receiver.
- Sec. 605. Modernization of recordkeeping requirement.
- Sec. 606. Streamlining reports of condition.
- Sec. 607. Expansion of eligibility for 18-month examination schedule for community banks.
- Sec. 608. Short form reports of condition for certain community banks.
- Sec. 609. Clarification of extent of suspension, removal, and prohibition authority of Federal banking agencies in cases of certain crimes by institution-affiliated parties.
- Sec. 610. Streamlining depository institution merger application requirements.
- Sec. 611. Inclusion of Director of the Office of Thrift Supervision in list of banking agencies regarding insurance customer protection regulations.
- Sec. 612. Protection of confidential information received by Federal banking regulators from foreign banking supervisors.
- Sec. 613. Prohibition on participation by convicted individual.
- Sec. 614. Clarification that notice after separation from service may be made by an order.
- Sec. 615. Enforcement against misrepresentations regarding FDIC deposit insurance coverage.
- Sec. 616. Changes required to small bank holding company policy statement on assessment of financial and managerial factors.
- Sec. 617. Exception to annual privacy notice requirement under the Gramm-Leach-Bliley Act.
- Sec. 618. Biennial reports on the status of agency employment of minorities and women.
- Sec. 619. Coordination of State examination authority.
- Sec. 620. Nonwaiver of privileges.
- Sec. 621. Right to Financial Privacy Act of 1978 amendment.
- Sec. 622. Deputy director; succession authority for Director of the Office of Thrift Supervision.
- Sec. 623. Limitation on scope of new agency guidelines.

TITLE VII—“BSA” COMPLIANCE BURDEN REDUCTION

- Sec. 701. Exception from currency transaction reports for seasoned customers.
- Sec. 702. Reduction in inconsistencies in monetary transaction recordkeeping and reporting enforcement and examination requirements.

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

3 “(2) EXCEPTION FOR SUBORDINATED DEBT IN
4 CERTAIN CASES.—In lieu of the requirements of
5 paragraph (1) relating to the ownership of capital
6 stock in the national bank, the Comptroller of the
7 Currency may, by regulation or order, permit an in-
8 dividual to serve as a director of a national bank
9 that has elected, or notifies the Comptroller of the
10 bank’s intention to elect, to operate as a S corpora-
11 tion pursuant to section 1362(a) of the Internal
12 Revenue Code of 1986, if that individual holds debt
13 of at least \$1,000 issued by the national bank that
14 is subordinated to the interests of depositors and
15 other general creditors of the national bank.”.

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

“5146. Requirements for bank directors.”.

21 **SEC. 102. VOTING IN SHAREHOLDER ELECTIONS.**

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

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

4 (2) by striking the comma after “his shares
5 shall equal”; and

6 (3) by adding at the end the following new sen-
7 tence: “The Comptroller of the Currency may pre-
8 scribe such regulations to carry out the purposes of
9 this section as the Comptroller determines to be ap-
10 propriate.”.

11 **SEC. 103. SIMPLIFYING DIVIDEND CALCULATIONS FOR NA-**
12 **TIONAL BANKS.**

13 (a) IN GENERAL.—Section 5199 of the Revised Stat-
14 utes of the United States (12 U.S.C. 60) is amended to
15 read as follows:

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

17 “(a) IN GENERAL.—Subject to subsection (b), the di-
18 rectors of any national bank may declare a dividend of
19 so much of the undivided profits of the bank as the direc-
20 tors judge to be expedient.

21 “(b) APPROVAL REQUIRED UNDER CERTAIN CIR-
22 CUMSTANCES.—A national bank may not declare and pay
23 dividends in any year in excess of an amount equal to the
24 sum of the total of the net income of the bank for that
25 year and the retained net income of the bank in the pre-

1 ceding two years, minus any transfers required by the
2 Comptroller of the Currency (including any transfers re-
3 quired to be made to a fund for the retirement of any
4 preferred stock), unless the Comptroller of the Currency
5 approves the declaration and payment of dividends in ex-
6 cess of such amount.”.

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

“5199. National bank dividends.”.

11 **SEC. 104. REPEAL OF OBSOLETE LIMITATION ON REMOVAL**
12 **AUTHORITY OF THE COMPTROLLER OF THE**
13 **CURRENCY.**

14 Section 8(e)(4) of the Federal Deposit Insurance Act
15 (12 U.S.C. 1818(e)(4)) is amended by striking the 5th
16 sentence.

17 **SEC. 105. REPEAL OF INTRASTATE BRANCH CAPITAL RE-**
18 **QUIREMENTS.**

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

21 (1) in the 2nd sentence, by striking “, without
22 regard to the capital requirements of this section,”;
23 and

24 (2) by striking the last sentence.

1 **SEC. 106. CLARIFICATION OF WAIVER OF PUBLICATION RE-**
2 **QUIREMENTS FOR BANK MERGER NOTICES.**

3 The last sentence of sections 2(a) and 3(a)(2) of the
4 National Bank Consolidation and Merger Act (12 U.S.C.
5 215(a) and 215a(a)(2), respectively) are each amended by
6 striking “Publication of notice may be waived, in cases
7 where the Comptroller determines that an emergency ex-
8 ists justifying such waiver, by unanimous action of the
9 shareholders of the association or State bank” and insert-
10 ing “Publication of notice may be waived if the Comp-
11 troller determines that an emergency exists justifying such
12 waiver or if the shareholders of the association or State
13 bank agree by unanimous action to waive the publication
14 requirement for their respective institutions”.

15 **SEC. 107. EQUAL TREATMENT FOR FEDERAL AGENCIES OF**
16 **FOREIGN BANKS.**

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

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

23 Section 4(e) of the International Banking Act of
24 1978 (12 U.S.C. 3102(e)) is amended by inserting “if the
25 maintenance of both an agency and a branch in the State

1 is prohibited under the law of such State” before the pe-
2 riod at the end.

3 **SEC. 109. BUSINESS ORGANIZATION FLEXIBILITY FOR NA-**
4 **TIONAL BANKS.**

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

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

10 “(a) IN GENERAL.—The Comptroller of the Currency
11 may prescribe regulations—

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

14 “(2) to provide requirements for the organiza-
15 tional characteristics of a national bank organized
16 and operating other than as a body corporate, con-
17 sistent with the safety and soundness of the national
18 bank.

19 “(b) EQUAL TREATMENT.—Except as provided in
20 regulations prescribed under subsection (a), a national
21 bank that is operating other than as a body corporate shall
22 have the same rights and privileges and shall be subject
23 to the same duties, restrictions, penalties, liabilities, condi-
24 tions, and limitations as a national bank that is organized
25 as a body corporate.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
2 Section 5136 of the Revised Statutes of the United States
3 (12 U.S.C. 24) is amended, in the matter preceding the
4 paragraph designated as the “First”, by inserting “or
5 other form of business organization provided under regula-
6 tions prescribed by the Comptroller of the Currency under
7 section 5136C” after “a body corporate”.

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

“5136C. Alternative business organization.”.

13 **SEC. 110. CLARIFICATION OF THE MAIN PLACE OF BUSI-**
14 **NESS OF A NATIONAL BANK.**

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

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

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

1 **SEC. 111. CAPITAL EQUIVALENCY DEPOSITS FOR FEDERAL**
2 **BRANCHES AND AGENCIES OF FOREIGN**
3 **BANKS.**

4 Section 4(g) of the International Banking Act of
5 1978 (12 U.S.C. 3102(g)) is amended to read as follows:

6 “(g) CAPITAL EQUIVALENCY DEPOSIT.—

7 “(1) IN GENERAL.—Upon the opening of a
8 Federal branch or agency of a foreign bank in any
9 State and thereafter, the foreign bank, in addition to
10 any deposit requirements imposed under section 6,
11 shall keep on deposit, in accordance with such regu-
12 lations as the Comptroller of the Currency may pre-
13 scribe in accordance with paragraph (2), dollar de-
14 posits, investment securities, or other assets in such
15 amounts as the Comptroller of the Currency deter-
16 mines to be necessary for the protection of deposi-
17 tors and other investors and to be consistent with
18 the principles of safety and soundness.

19 “(2) LIMITATION.—Notwithstanding paragraph
20 (1), regulations prescribed under such paragraph
21 shall not permit a foreign bank to keep assets on de-
22 posit in an amount that is less than the amount re-
23 quired for a State licensed branch or agency of a
24 foreign bank under the laws and regulations of the
25 State in which the Federal agency or branch is lo-
26 cated.”.

1 **SEC. 112. ENHANCING THE AUTHORITY FOR NATIONAL**
 2 **BANKS TO MAKE COMMUNITY DEVELOPMENT**
 3 **INVESTMENTS.**

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

9 **TITLE II—SAVINGS ASSOCIATION**
 10 **PROVISIONS**

11 **SEC. 201. PARITY FOR SAVINGS ASSOCIATIONS UNDER THE**
 12 **SECURITIES EXCHANGE ACT OF 1934 AND**
 13 **THE INVESTMENT ADVISERS ACT OF 1940.**

14 (a) SECURITIES EXCHANGE ACT OF 1934.—

15 (1) DEFINITION OF BANK.—Section 3(a)(6) of
 16 the Securities Exchange Act of 1934 (15 U.S.C.
 17 78c(a)(6)) is amended—

18 (A) in subparagraph (A), by inserting “or
 19 a Federal savings association, as defined in sec-
 20 tion 2(5) of the Home Owners’ Loan Act” after
 21 “a banking institution organized under the laws
 22 of the United States”; and

23 (B) in subparagraph (C)—

24 (i) by inserting “or savings associa-
 25 tion as defined in section 2(4) of the Home

1 Owners' Loan Act," after "banking insti-
2 tution,"; and

3 (ii) by inserting "or savings associa-
4 tions" after "having supervision over
5 banks".

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

10 (A) in subparagraph (A)—

11 (i) in clause (ii), by striking "(i) or
12 (iii)" and inserting "(i), (iii), or (iv)";

13 (ii) by striking "and" at the end of
14 clause (iii);

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

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

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

1 or division of any such savings association,
2 or a savings and loan holding company;
3 and”;

4 (B) in subparagraph (B)—

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

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

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

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

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

22 (C) in subparagraph (C)—

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

1 (ii) by striking “and” at the end of
2 clause (iii);

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

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

7 “(iv) the Director of the Office of
8 Thrift Supervision, in the case of a savings
9 association (as defined in section 3(b) of
10 the Federal Deposit Insurance Act (12
11 U.S.C. 1813(b))) the deposits of which are
12 insured by the Federal Deposit Insurance
13 Corporation, a savings and loan holding
14 company, or a subsidiary of a savings and
15 loan holding company when the appro-
16 priate regulatory agency for such clearing
17 agency is not the Commission; and”;

18 (D) in subparagraph (D)—

19 (i) by striking “and” at the end of
20 clause (ii);

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

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

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

8 (E) in subparagraph (F)—

9 (i) by redesignating clauses (ii), (iii),
10 and (iv) as clauses (iii), (iv), and (v), re-
11 spectively; and

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

14 “(ii) the Director of the Office of
15 Thrift Supervision, in the case of a savings
16 association (as defined in section 3(b) of
17 the Federal Deposit Insurance Act (12
18 U.S.C. 1813(b))) the deposits of which are
19 insured by the Federal Deposit Insurance
20 Corporation; and”;

21 (F) by moving subparagraph (H) and in-
22 serting such subparagraph after subparagraph
23 (G); and

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

1 ‘savings and loan holding company’ has the
2 meaning given it in section 10(a) of the Home
3 Owners’ Loan Act (12 U.S.C. 1467a(a)).”.

4 (b) INVESTMENT ADVISERS ACT OF 1940.—

5 (1) DEFINITION OF BANK.—Section 202(a)(2)
6 of the Investment Advisers Act of 1940 (15 U.S.C.
7 80b–2(a)(2)) is amended—

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

13 (B) in subparagraph (C)—

14 (i) by inserting “, savings association
15 as defined in section 2(4) of the Home
16 Owners’ Loan Act,” after “banking insti-
17 tution”; and

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

21 (2) CONFORMING AMENDMENTS.—Subsections
22 (a)(1)(A)(i), (a)(1)(B), (a)(2), and (b) of section
23 210A of such Act (15 U.S.C. 80b–10a), as added by
24 section 220 of the Gramm-Leach-Bliley Act, are
25 each amended by striking “bank holding company”

1 each place it occurs and inserting “bank holding
2 company or savings and loan holding company”.

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

11 **SEC. 202. INVESTMENTS BY FEDERAL SAVINGS ASSOCIA-**
12 **TIONS AUTHORIZED TO PROMOTE THE PUB-**
13 **LIC WELFARE.**

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

17 “(D) DIRECT INVESTMENTS TO PROMOTE
18 THE PUBLIC WELFARE.—

19 “(i) IN GENERAL.—A Federal savings
20 association may make investments de-
21 signed primarily to promote the public wel-
22 fare, including the welfare of low- and
23 moderate-income communities or families
24 through the provision of housing, services,
25 and jobs.

1 “(ii) DIRECT INVESTMENTS OR ACQUI-
2 SITION OF INTEREST IN OTHER COMPA-
3 NIES.—Investments under clause (i) may
4 be made directly or by purchasing interests
5 in an entity primarily engaged in making
6 such investments.

7 “(iii) PROHIBITION ON UNLIMITED LI-
8 ABILITY.—No investment may be made
9 under this subparagraph which would sub-
10 ject a Federal savings association to unlim-
11 ited liability to any person.

12 “(iv) SINGLE INVESTMENT LIMITA-
13 TION TO BE ESTABLISHED BY DIREC-
14 TOR.—Subject to clauses (v) and (vi), the
15 Director shall establish, by order or regula-
16 tion, limits on—

17 “(I) the amount any savings as-
18 sociation may invest in any 1 project;
19 and

20 “(II) the aggregate amount of in-
21 vestment of any savings association
22 under this subparagraph.

23 “(v) FLEXIBLE AGGREGATE INVEST-
24 MENT LIMITATION.—The aggregate
25 amount of investments of any savings asso-

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

7 “(I) the Director determines that
8 the savings association is adequately
9 capitalized; and

10 “(II) the Director determines, by
11 order, that the aggregate amount of
12 investments in a higher amount than
13 the limit under this clause will pose
14 no significant risk to the affected de-
15 posit insurance fund.

16 “(vi) MAXIMUM AGGREGATE INVEST-
17 MENT LIMITATION.—Notwithstanding
18 clause (v), the aggregate amount of invest-
19 ments of any savings association under
20 this subparagraph may not exceed an
21 amount equal to the sum of 15 percent of
22 the savings association’s capital stock actu-
23 ally paid in and unimpaired and 15 per-
24 cent of the savings association’s
25 unimpaired surplus.

1 “(vii) INVESTMENTS NOT SUBJECT TO
2 OTHER LIMITATION ON QUALITY OF IN-
3 VESTMENTS.—No obligation a Federal sav-
4 ings association acquires or retains under
5 this subparagraph shall be taken into ac-
6 count for purposes of the limitation con-
7 tained in section 28(d) of the Federal De-
8 posit Insurance Act on the acquisition and
9 retention of any corporate debt security
10 not of investment grade.”.

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

14 “(A) [Repealed].”.

15 **SEC. 203. MERGERS AND CONSOLIDATIONS OF FEDERAL**
16 **SAVINGS ASSOCIATIONS WITH NONDEPOSI-**
17 **TORY INSTITUTION AFFILIATES.**

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

20 (1) by redesignating subparagraph (B) as sub-
21 paragraph (C); and

22 (2) by inserting after subparagraph (A) the fol-
23 lowing new subparagraph:

1 “(B) MERGERS AND CONSOLIDATIONS
2 WITH NONDEPOSITORY INSTITUTION AFFILI-
3 ATES.—

4 “(i) IN GENERAL.—Upon the approval
5 of the Director, a Federal savings associa-
6 tion may merge with any nondepository in-
7 stitution affiliate of the savings associa-
8 tion.

9 “(ii) RULE OF CONSTRUCTION.—No
10 provision of clause (i) shall be construed
11 as—

12 “(I) affecting the applicability of
13 section 18(c) of the Federal Deposit
14 Insurance Act; or

15 “(II) granting a Federal savings
16 association any power or any author-
17 ity to engage in any activity that is
18 not authorized for a Federal savings
19 association under any other provision
20 of this Act or any other provision of
21 law.”.

1 **SEC. 204. REPEAL OF STATUTORY DIVIDEND NOTICE RE-**
2 **QUIREMENT FOR SAVINGS ASSOCIATION SUB-**
3 **SIDIARIES OF SAVINGS AND LOAN HOLDING**
4 **COMPANIES.**

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

7 “(f) DECLARATION OF DIVIDEND.—The Director
8 may—

9 “(1) require a savings association that is a sub-
10 sidiary of a savings and loan holding company to
11 give prior notice to the Director of the intent of the
12 savings association to pay a dividend on its guar-
13 anty, permanent, or other nonwithdrawable stock;
14 and

15 “(2) establish conditions on the payment of
16 dividends by such a savings association.”.

17 **SEC. 205. MODERNIZING STATUTORY AUTHORITY FOR**
18 **TRUST OWNERSHIP OF SAVINGS ASSOCIA-**
19 **TIONS.**

20 (a) IN GENERAL.—Section 10(a)(1)(C) of the Home
21 Owners' Loan Act (12 U.S.C. 1467a(a)(1)(C)) is amend-
22 ed—

23 (1) by striking “trust,” and inserting “business
24 trust,”; and

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

1 later than 21 years and 10 months after the death
2 of individuals living on the effective date of the
3 trust,” after “or similar organization,”.

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

7 (1) by striking “does not include—” and all
8 that follows through “any company by virtue” where
9 such term appears in subparagraph (A) and insert-
10 ing “does not include any company by virtue”;

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

13 (3) by striking subparagraph (B).

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

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

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

20 “(4) [Repealed].”; and

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

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

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

7 “(D) SMALL BUSINESS INVESTMENT COM-
8 PANIES.—Any Federal savings association may
9 invest in 1 or more small business investment
10 companies, or in any entity established to invest
11 solely in small business investment companies
12 formed under the Small Business Investment
13 Act of 1958, except that the total amount of in-
14 vestments under this subparagraph may not at
15 any time exceed the amount equal to 5 percent
16 of capital and surplus of the savings associa-
17 tion.”.

18 **SEC. 208. REMOVAL OF LIMITATION ON INVESTMENTS IN**
19 **AUTO LOANS.**

20 (a) IN GENERAL.—Section 5(c)(1) of the Home Own-
21 ers' Loan Act (12 U.S.C. 1464(c)(1)) is amended by add-
22 ing at the end the following new subparagraph:

23 “(V) AUTO LOANS.—Loans and leases for
24 motor vehicles acquired for personal, family, or
25 household purposes.”.

1 (b) TECHNICAL AND CONFORMING AMENDMENT RE-
2 LATING TO QUALIFIED THRIFT INVESTMENTS.—Section
3 10(m)(4)(C)(ii) of the Home Owners’ Loan Act (12
4 U.S.C. 1467a(m)(4)(C)(ii)) is amended by adding at the
5 end the following new subclause:

6 “(VIII) Loans and leases for
7 motor vehicles acquired for personal,
8 family, or household purposes.”.

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

10 Section 15(h) of the Securities Exchange Act of 1934
11 (15 U.S.C. 78o(h)) is amended by adding at the end the
12 following new paragraph:

13 “(4) SELLING AND OFFERING OF DEPOSIT
14 PRODUCTS.—No law, rule, regulation, or order, or
15 other administrative action of any State or political
16 subdivision thereof shall directly or indirectly require
17 any individual who is an agent of 1 Federal savings
18 association (as such term is defined in section 2(5)
19 of the Home Owners’ Loan Act (12 U.S.C. 1462(5))
20 in selling or offering deposit (as such term is defined
21 in section 3 of the Federal Deposit Insurance Act
22 (12 U.S.C. 1813(l)) products issued by such associa-
23 tion to qualify or register as a broker, dealer, associ-
24 ated person of a broker, or associated person of a

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

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

5 “(B) offer or sell a deposit product as an
6 agent for another entity that is not subject to
7 supervision and examination by a Federal bank-
8 ing agency (as defined in section 3(z) of the
9 Federal Deposit Insurance Act (12 U.S.C.
10 1813(z)), the National Credit Union Adminis-
11 tration, or any officer, agency, or other entity
12 of any State which has primary regulatory au-
13 thority over State banks, State savings associa-
14 tions, or State credit unions;

15 “(C) offer or sell a deposit product that is
16 not an insured deposit (as defined in section
17 3(m) of the Federal Deposit Insurance Act (12
18 U.S.C. 1813(m)));

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

22 “(E) create a secondary market with re-
23 spect to a deposit product or otherwise add en-
24 hancements or features to such product inde-
25 pendent of those offered by the association.”.

1 **SEC. 210. FUNERAL- AND CEMETERY-RELATED FIDUCIARY**
2 **SERVICES.**

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

6 “(11) FUNERAL- AND CEMETERY-RELATED FI-
7 DUCIARY SERVICES.—

8 “(A) IN GENERAL.—A funeral director or
9 cemetery operator, when acting in such capac-
10 ity, (or any other person in connection with a
11 contract or other agreement with a funeral di-
12 rector or cemetery operator) may engage any
13 Federal savings association, regardless of where
14 the association is located, to act in any fidu-
15 ciary capacity in which the savings association
16 has the right to act in accordance with this sec-
17 tion, including holding funds deposited in trust
18 or escrow by the funeral director or cemetery
19 operator (or by such other party), and the sav-
20 ings association may act in such fiduciary ca-
21 pacity on behalf of the funeral director or ceme-
22 tery operator (or such other person).

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

25 “(i) CEMETERY.—The term ‘ceme-
26 tery’ means any land or structure used, or

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

3 “(ii) CEMETERY OPERATOR.—The
4 term ‘cemetery operator’ means any person
5 who contracts or accepts payment for mer-
6 chandise, endowment, or perpetual care
7 services in connection with a cemetery.

8 “(iii) FUNERAL DIRECTOR.—The term
9 ‘funeral director’ means any person who
10 contracts or accepts payment to provide or
11 arrange—

12 “(I) services for the final disposi-
13 tion of human remains; or

14 “(II) funeral services, property,
15 or merchandise (including cemetery
16 services, property, or merchandise).”.

17 **SEC. 211. REPEAL OF QUALIFIED THRIFT LENDER RE-**
18 **QUIREMENT WITH RESPECT TO OUT-OF-**
19 **STATE BRANCHES.**

20 Section 5(r)(1) of the Home Owners’ Loan Act (12
21 U.S.C. 1464(r)(1)) is amended by striking the last sen-
22 tence.

1 **SEC. 212. SMALL BUSINESS AND OTHER COMMERCIAL**
2 **LOANS.**

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

8 “(W) SMALL BUSINESS LOANS.—Small
9 business loans, as defined in regulations which
10 the Director shall prescribe.”.

11 (b) INCREASE IN LENDING LIMIT ON OTHER BUSI-
12 NESS LOANS.—Section 5(c)(2)(A) of the Home Owners’
13 Loan Act (12 U.S.C. 1464(c)(2)(A)) is amended by strik-
14 ing “, and amounts in excess of 10 percent” and all that
15 follows through “by the Director”.

16 **SEC. 213. CLARIFYING CITIZENSHIP OF FEDERAL SAVINGS**
17 **ASSOCIATIONS FOR FEDERAL COURT JURIS-**
18 **DICTION.**

19 Section 5 of the Home Owners’ Loan Act (12 U.S.C.
20 1464) is amended by adding at the end the following new
21 subsection:

22 “(x) HOME STATE CITIZENSHIP.—In determining
23 whether a Federal court has diversity jurisdiction over a
24 case in which a Federal savings association is a party, the
25 Federal savings association shall be considered to be a cit-
26 izen only of the States in which such savings association

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

4 **SEC. 214. INCREASE IN LIMITS ON COMMERCIAL REAL ES-**
5 **TATE LOANS.**

6 Section 5(c)(2)(B)(i) of the Home Owners’ Loan Act
7 (12 U.S.C. 1464(c)(2)(B)(i)) is amended by striking “400
8 percent” and inserting “500 percent”.

9 **SEC. 215. REPEAL OF ONE LIMIT ON LOANS TO ONE BOR-**
10 **ROWER.**

11 Subparagraph (A) of section 5(u)(2) of the Home
12 Owners’ Loan Act (12 U.S.C. 1464(u)(2)(A)) is amend-
13 ed—

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

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

18 (3) in clause (i)—

19 (A) by striking “for any” and inserting
20 “For any”; and

21 (B) by striking “; or” and inserting a pe-
22 riod; and

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

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

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

8 **SEC. 217. INTERSTATE ACQUISITIONS BY S&L HOLDING**
 9 **COMPANIES.**

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

12 (1) by redesignating subparagraphs (A), (B),
 13 and (C) as subparagraphs (B), (C), and (D), respec-
 14 tively; and

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

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

23 **SEC. 218. BUSINESS ORGANIZATION FLEXIBILITY FOR FED-**
 24 **ERAL SAVINGS ASSOCIATIONS.**

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

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

3 “(y) ALTERNATIVE BUSINESS ORGANIZATION.—

4 “(1) IN GENERAL.—The Director may prescribe
5 regulations that—

6 “(A) permit a Federal savings association
7 to be organized other than as a corporation;
8 and

9 “(B) provide requirements for the organi-
10 zational characteristics of a Federal savings as-
11 sociation organized and operating other than as
12 a corporation, consistent with the safety and
13 soundness of the Federal savings association.

14 “(2) EQUAL TREATMENT.—Except as otherwise
15 provided in regulations prescribed under subsection
16 (1), a Federal savings association that is operating
17 other than as a corporation shall have the same
18 rights and privileges and shall be subject to the
19 same duties, restrictions, penalties, liabilities, condi-
20 tions, and limitations as a Federal savings associa-
21 tion that is organized as a corporation.”.

22 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

23 (1) Section 5(a)(1) of the Home Owners’ Loan
24 Act (12 U.S.C. 1464(a)(1)) is amended by striking
25 “organization, incorporation,” and inserting “organi-

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

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

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

14 **TITLE III—CREDIT UNION** 15 **PROVISIONS**

16 **SEC. 301. PRIVATELY INSURED CREDIT UNIONS AUTHOR-** 17 **IZED TO BECOME MEMBERS OF A FEDERAL** 18 **HOME LOAN BANK.**

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

22 “(5) CERTAIN PRIVATELY INSURED CREDIT
 23 UNIONS.—

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

1 43(e)(1) of the Federal Deposit Insurance Act
2 and subject to the requirements of subpara-
3 graph (B), to meet all eligibility requirements
4 for Federal deposit insurance shall be treated
5 as an insured depository institution for pur-
6 poses of determining the eligibility of such cred-
7 it union for membership in a Federal home loan
8 bank under paragraphs (1), (2), and (3).

9 “(B) CERTIFICATION BY APPROPRIATE SU-
10 PERVISOR.—

11 “(i) IN GENERAL.—For purposes of
12 this paragraph and subject to clause (ii), a
13 credit union which lacks Federal deposit
14 insurance and which has applied for mem-
15 bership in a Federal home loan bank may
16 be treated as meeting all the eligibility re-
17 quirements for Federal deposit insurance
18 only if the appropriate supervisor of the
19 State in which the credit union is char-
20 tered has determined that the credit union
21 meets all the eligibility requirements for
22 Federal deposit insurance as of the date of
23 the application for membership.

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

1 to which clause (i) applies, the appropriate
2 supervisor of the State in which such cred-
3 it union is chartered fails to make a deter-
4 mination pursuant to such clause by the
5 end of the 6-month period beginning on
6 the date of the application, the credit
7 union shall be deemed to have met the re-
8 quirements of clause (i).

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

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

19 “(ii) any security interest in the as-
20 sets of such credit union securing any such
21 extension of credit.”.

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

1 43(a)(2) of the Federal Deposit Insurance Act (12 U.S.C.
2 1831t(a)(2)) is amended—

3 (1) by striking “and” at the end of subpara-
4 graph (A)(i);

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

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

9 “(iii) in the case of depository institu-
10 tions described in subsection (f)(2)(A) the
11 deposits of which are insured by the pri-
12 vate insurer, the National Credit Union
13 Administration, not later than 7 days after
14 that audit is completed; and

15 “(iv) in the case of depository institu-
16 tions described in subsection (f)(2)(A) the
17 deposits of which are insured by the pri-
18 vate insurer which are members of a Fed-
19 eral home loan bank, the Federal Housing
20 Finance Board, not later than 7 days after
21 that audit is completed.”; and

22 (4) by adding at the end the following new sub-
23 paragraph:

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

1 vate deposit insurer insures deposits in an insti-
2 tution described in subsection (f)(2)(A) which—
3 “(i) lacks Federal deposit insurance;
4 and
5 “(ii) has become a member of a Fed-
6 eral home loan bank,
7 shall provide the National Credit Union Admin-
8 istration, upon request, with the results of any
9 examination and reports related thereto con-
10 cerning the private deposit insurer to which
11 such agency may have in its possession.”.

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

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

16 (1) by striking “Upon application by any credit
17 union” and inserting “Notwithstanding any other
18 provision of law, upon application by any credit
19 union”;

20 (2) by inserting “on lands reserved for the use
21 of, and under the exclusive or concurrent jurisdiction
22 of, the United States or” after “officer or agency of
23 the United States charged with the allotment of
24 space”;

1 “(2) PERCENTAGE LIMITATIONS.—

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

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

14 “(3) INVESTMENT SECURITY DEFINED.—

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

21 “(B) FURTHER DEFINITION BY BOARD.—
22 The Board may further define the term ‘invest-
23 ment security’.

24 “(4) INVESTMENT GRADE DEFINED.—The term
25 ‘investment grade’ means with respect to an invest-

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

6 “(5) CLARIFICATION OF PROHIBITION ON
7 STOCK OWNERSHIP.—No provision of this subsection
8 shall be construed as authorizing a Federal credit
9 union to purchase shares of stock of any corporation
10 for the credit union’s own account, except as other-
11 wise permitted by law.”.

12 **SEC. 304. INCREASE IN GENERAL 12-YEAR LIMITATION OF**
13 **TERM OF FEDERAL CREDIT UNION LOANS TO**
14 **15 YEARS.**

15 Section 107(a)(5) of the Federal Credit Union Act
16 (12 U.S.C. 1757(5)) (as so designated by section 303 of
17 this title) is amended—

18 (1) in the matter preceding subparagraph (A),
19 by striking “to make loans, the maturities of which
20 shall not exceed twelve years except as otherwise
21 provided herein” and inserting “to make loans, the
22 maturities of which shall not exceed 15 years or any
23 longer maturity as the Board may allow, in regula-
24 tions, except as otherwise provided in this Act”;

25 (2) in subparagraph (A)—

1 (A) by striking clause (ii);

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

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

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

8 Section 107(a)(7)(I) of the Federal Credit Union Act
9 (12 U.S.C. 1757(7)(I)) (as so designated by section 303
10 of this title) is amended by striking “up to 1 per centum
11 of the total paid” and inserting “up to 3 percent of the
12 total paid”.

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

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

19 **SEC. 307. CHECK CASHING AND MONEY TRANSFER SERV-**
20 **ICES OFFERED WITHIN THE FIELD OF MEM-**
21 **BERSHIP.**

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

1 “(12) in accordance with regulations prescribed
2 by the Board—

3 “(A) to sell, to persons in the field of
4 membership, negotiable checks (including trav-
5 elers checks), money orders, and other similar
6 money transfer instruments (including inter-
7 national and domestic electronic fund trans-
8 fers); and

9 “(B) to cash checks and money orders and
10 receive international and domestic electronic
11 fund transfers for persons in the field of mem-
12 bership for a fee;”.

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

15 Section 109(d)(2) of the Federal Credit Union Act
16 (12 U.S.C. 1759(d)(2)) is amended—

17 (1) by striking “or” at the end of clause (ii) of
18 subparagraph (B);

19 (2) by striking the period at the end of sub-
20 paragraph (C) and inserting “; or”; and

21 (3) by adding at the end the following new sub-
22 paragraph:

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

1 **SEC. 309. CONVERSIONS INVOLVING COMMON-BOND CRED-**
2 **IT UNIONS.**

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

6 “(3) CRITERIA FOR CONTINUED MEMBERSHIP
7 OF CERTAIN MEMBER GROUPS IN COMMUNITY CHAR-
8 TER CONVERSIONS.—In the case of a voluntary con-
9 version of a common-bond credit union described in
10 paragraph (1) or (2) of subsection (b) into a com-
11 munity credit union described in subsection (b)(3),
12 the Board shall prescribe, by regulation, the criteria
13 under which the Board may determine that a mem-
14 ber group or other portion of a credit union’s exist-
15 ing membership, that is located outside the well-de-
16 fined local community, neighborhood, or rural dis-
17 trict that shall constitute the community charter,
18 can be satisfactorily served by the credit union and
19 remain within the community credit union’s field of
20 membership.”.

21 **SEC. 310. CREDIT UNION GOVERNANCE.**

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

25 “(b) POLICY AND ACTIONS OF BOARDS OF DIREC-
26 TORS OF FEDERAL CREDIT UNIONS.—

1 “(1) EXPULSION OF MEMBERS FOR NON-
2 PARTICIPATION OR FOR JUST CAUSE.—The board of
3 directors of a Federal credit union may, by majority
4 vote of a quorum of directors, adopt and enforce a
5 policy with respect to expulsion from membership,
6 by a majority vote of such board of directors, based
7 on just cause, including disruption of credit union
8 operations, or on nonparticipation by a member in
9 the affairs of the credit union.

10 “(2) WRITTEN NOTICE OF POLICY TO MEM-
11 BERS.—If a policy described in paragraph (1) is
12 adopted, written notice of the policy as adopted and
13 the effective date of such policy shall be provided
14 to—

15 “(A) each existing member of the credit
16 union not less than 30 days prior to the effec-
17 tive date of such policy; and

18 “(B) each new member prior to or upon
19 applying for membership.”.

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

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

3 (c) REIMBURSEMENT FOR LOST WAGES DUE TO
4 SERVICE ON CREDIT UNION BOARD NOT TREATED AS
5 COMPENSATION.—Section 111(c) of the Federal Credit
6 Union Act (12 U.S.C. 1761(c)) is amended by inserting
7 “, including lost wages,” after “the reimbursement of rea-
8 sonable expenses”.

9 **SEC. 311. PROVIDING THE NATIONAL CREDIT UNION AD-**
10 **MINISTRATION WITH GREATER FLEXIBILITY**
11 **IN RESPONDING TO MARKET CONDITIONS.**

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

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

20 Section 7A(c)(7) of the Clayton Act (15 U.S.C.
21 18a(c)(7)) is amended by inserting “section 205(b)(3) of
22 the Federal Credit Union Act (12 U.S.C. 1785(b)(3)),”
23 before “or section 3”.

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

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

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

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

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

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

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

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

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

15 (b) AMENDMENT RELATING TO DISCLOSURES RE-
16 QUIRED, PERIODIC STATEMENTS AND ACCOUNT
17 RECORDS.—Section 43(b)(1) of the Federal Deposit In-
18 surance Act (12 U.S.C. 1831t(b)(1)) is amended by strik-
19 ing “or similar instrument evidencing a deposit” and in-
20 serting “or share certificate”.

21 (c) AMENDMENTS RELATING TO DISCLOSURES RE-
22 QUIRED, ADVERTISING, PREMISES.— Section 43(b)(2) of
23 the Federal Deposit Insurance Act (12 U.S.C.
24 1831t(b)(2)) is amended to read as follows:

25 “(2) ADVERTISING; PREMISES.—

1 “(A) IN GENERAL.—Include clearly and
2 conspicuously in all advertising, except as pro-
3 vided in subparagraph (B); and at each station
4 or window where deposits are normally received,
5 its principal place of business and all its
6 branches where it accepts deposits or opens ac-
7 counts (excluding automated teller machines or
8 point of sale terminals), and on its main Inter-
9 net page, a notice that the institution is not
10 federally insured.

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

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

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

1 “(iii) Small utilitarian items that do
2 not mention deposit products or insurance
3 if inclusion of the notice would be imprac-
4 tical.”.

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

9 “(3) ACKNOWLEDGMENT OF DISCLOSURE.—

10 “(A) NEW DEPOSITORS OBTAINED OTHER
11 THAN THROUGH A CONVERSION OR MERGER.—

12 With respect to any depositor who was not a
13 depositor at the depository institution before
14 the effective date of the Financial Services Re-
15 lief Act of 2005, and who is not a depositor as
16 described in subparagraph (B), receive any de-
17 posit for the account of such depositor only if
18 the depositor has signed a written acknowledge-
19 ment that—

20 “(i) the institution is not federally in-
21 sured; and

22 “(ii) if the institution fails, the Fed-
23 eral Government does not guarantee that
24 the depositor will get back the depositor’s
25 money.

1 “(B) NEW DEPOSITORS OBTAINED
2 THROUGH A CONVERSION OR MERGER.—With
3 respect to a depositor at a federally insured de-
4 pository institution that converts to, or merges
5 into, a depository institution lacking federal in-
6 surance after the effective date of the Financial
7 Services Regulatory Relief Act of 2005, receive
8 any deposit for the account of such depositor
9 only if—

10 “(i) the depositor has signed a written
11 acknowledgement described in subpara-
12 graph (A); or

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

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

23 “(i) the depositor has signed a written
24 acknowledgement described in subpara-
25 graph (A); or

1 “(ii) the institution makes an attempt,
2 as described in subparagraph (D) and sent
3 by mail no later than 45 days after the ef-
4 fective date of the Financial Services Reg-
5 ulatory Relief Act of 2005, to obtain the
6 acknowledgment.

7 “(D) ALTERNATIVE PROVISION OF NOTICE
8 TO CURRENT DEPOSITORS AND NEW DEPOSI-
9 TORS OBTAINED THROUGH A CONVERSION OR
10 MERGER.—

11 “(i) IN GENERAL.—Transmit to each
12 depositor who has not signed a written ac-
13 knowledgement described in subparagraph
14 (A)—

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

20 “(II) accompanying materials re-
21 questing the depositor to sign the
22 card, and return the signed card to
23 the institution.”.

24 (e) REPEAL OF PROVISION PROHIBITING NON-
25 DEPOSITORY INSTITUTIONS FROM ACCEPTING DEPOS-

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

3 (1) by striking subsection (e); and

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

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

13 “(2) DEPOSITORY INSTITUTION.—The term ‘de-
14 pository institution’—

15 “(A) includes any entity described in sec-
16 tion 19(b)(1)(A)(iv) of the Federal Reserve Act;
17 and

18 “(B) does not include any national bank,
19 State member bank, or Federal branch.”.

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

1 “(f) ENFORCEMENT.—

2 “(1) LIMITED FTC ENFORCEMENT AUTHOR-
3 ITY.—Compliance with the requirements of sub-
4 sections (b) and (c), and any regulation prescribed
5 or order issued under any such subsection, shall be
6 enforced under the Federal Trade Commission Act
7 by the Federal Trade Commission.

8 “(2) BROAD STATE ENFORCEMENT AUTHOR-
9 ITY.—

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

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

24 “(C) LIMITATION ON STATE ACTION
25 WHILE FEDERAL ACTION PENDING.—If the

1 Federal Trade Commission has instituted an
2 enforcement action for a violation of this sec-
3 tion, no appropriate State supervisor may, dur-
4 ing the pendency of such action, bring an action
5 under this section against any defendant named
6 in the complaint of the Commission for any vio-
7 lation of this section that is alleged in that com-
8 plaint.”.

9 **TITLE IV—DEPOSITORY**
10 **INSTITUTION PROVISIONS**

11 **SEC. 401. EASING RESTRICTIONS ON INTERSTATE BRANCH-**
12 **ING AND MERGERS.**

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

15 (1) IN GENERAL.—Section 5155(g)(1) of the
16 Revised Statutes of the United States (12 U.S.C.
17 36(g)(1)) is amended by striking “maintain a
18 branch if—” and all that follows through the end of
19 subparagraph (B) and inserting “maintain a
20 branch.”.

21 (2) CLERICAL AMENDMENT.—The heading for
22 subsection (g) of section 5155 of the Revised Stat-
23 utes of the United States is amended by striking
24 “STATE ‘OPT-IN’ ELECTION TO PERMIT”.

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

3 (1) IN GENERAL.—Section 18(d)(4)(A) of the
4 Federal Deposit Insurance Act (12 U.S.C.
5 1828(d)(4)(A)) is amended by striking “maintain a
6 branch if—” and all that follows through the end of
7 clause (ii) and inserting “maintain a branch.”.

8 (2) INTERSTATE BRANCHING BY SUBSIDIARIES
9 OF COMMERCIAL FIRMS PROHIBITED.—Section
10 18(d)(3)) of the Federal Deposit Insurance Act (12
11 U.S.C. 1828(d)(3)) is amended by adding at the end
12 the following new subparagraph:

13 “(C) INTERSTATE BRANCHING BY SUBSIDI-
14 ARIES OF COMMERCIAL FIRMS PROHIBITED.—

15 “(i) IN GENERAL.—If the appropriate
16 State bank supervisor of the home State of
17 any industrial loan company, industrial
18 bank, or other institution described in sec-
19 tion 2(c)(2)(H) of the Bank Holding Com-
20 pany Act of 1956, or the appropriate State
21 bank supervisor of any host State with re-
22 spect to such company, bank, or institu-
23 tion, determines that such company, bank,
24 or institution is controlled, directly or indi-
25 rectly, by a commercial firm, such com-

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

4 “(ii) COMMERCIAL FIRM DEFINED.—
5 For purposes of this subsection, the term
6 ‘commercial firm’ means any entity at least
7 15 percent of the annual gross revenues of
8 which on a consolidated basis, including all
9 affiliates of the entity, were derived from
10 engaging, on an on-going basis, in activi-
11 ties that are not financial in nature or inci-
12 dental to a financial activity during at
13 least 3 of the prior 4 calendar quarters.

14 “(iii) GRANDFATHERED INSTITU-
15 TIONS.—Clause (i) shall not apply with re-
16 spect to any industrial loan company, in-
17 dustrial bank, or other institution de-
18 scribed in section 2(c)(2)(H) of the Bank
19 Holding Company Act of 1956—

20 “(I) which became an insured de-
21 pository institution before October 1,
22 2003 or pursuant to an application
23 for deposit insurance which was ap-
24 proved by the Corporation before such
25 date; and

1 “(II) with respect to which there
2 is no change in control, directly or in-
3 directly, of the company, bank, or in-
4 stitution after September 30, 2003,
5 that requires an application under
6 subsection (c), section 7(j), section 3
7 of the Bank Holding Company Act of
8 1956, or section 10 of the Home
9 Owners’ Loan Act.

10 “(iv) TRANSITION PROVISION.—Any
11 divestiture required under this subpara-
12 graph of a branch in a host State shall be
13 completed as quickly as is reasonably pos-
14 sible.

15 “(v) CORPORATE REORGANIZATIONS
16 PERMITTED.—The acquisition of direct or
17 indirect control of the company, bank, or
18 institution referred to in clause (iii)(II)
19 shall not be treated as a ‘change in con-
20 trol’ for purposes of such clause if the
21 company acquiring control is itself directly
22 or indirectly controlled by a company that
23 was an affiliate of such company, bank, or
24 institution on the date referred to in clause

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

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

6 (A) in subparagraph (A) by striking “Sub-
7 ject to subparagraph (B)” and inserting “Sub-
8 ject to subparagraph (B) and paragraph
9 (3)(C)”;

10 (B) in subparagraphs (D) and (E), by
11 striking “The term” and inserting “For pur-
12 poses of this subsection, the term”.

13 (4) CLERICAL AMENDMENT.—The heading for
14 paragraph (4) of section 18(d) of the Federal De-
15 posit Insurance Act is amended by striking “STATE
16 ‘OPT-IN’ ELECTION TO PERMIT INTERSTATE” and in-
17 serting “INTERSTATE”.

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

1 same limitations and restrictions as are applicable to the
2 establishment of a de novo branch of a national bank in
3 a host State under section 5155(g) of the Revised Statutes
4 of the United States or are applicable to an insured State
5 nonmember bank under section 18(d)(3) of the Federal
6 Deposit Insurance Act”. Such section 5155(g) shall be ap-
7 plied for purposes of the preceding sentence by sub-
8 stituting ‘Board of Governors of the Federal Reserve Sys-
9 tem’ for ‘Comptroller of the Currency’ and ‘State member
10 bank’ for ‘national bank’.”.

11 (d) INTERSTATE MERGER OF BANKS.—

12 (1) MERGER OF INSURED BANK WITH ANOTHER
13 DEPOSITORY INSTITUTION OR TRUST COMPANY.—

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

16 (A) by striking “Beginning on June 1,
17 1997, the” and inserting “The”; and

18 (B) by striking “insured banks with dif-
19 ferent home States” and inserting “an insured
20 bank and another insured depository institution
21 or trust company with a different home State
22 than the resulting insured bank”.

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

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

3 “(b) MERGER OF NATIONAL BANK TRUST COMPANY
4 WITH ANOTHER TRUST COMPANY.—A national bank that
5 is a trust company may engage in a consolidation or merg-
6 er under this Act with any trust company with a different
7 home State, under the same terms and conditions that
8 would apply if the trust companies were located within the
9 same State.”.

10 (e) INTERSTATE FIDUCIARY ACTIVITY.—Section
11 18(d) of the Federal Deposit Insurance Act (12 U.S.C.
12 1828(d)) is amended by adding at the end the following
13 new paragraph:

14 “(5) INTERSTATE FIDUCIARY ACTIVITY.—

15 “(A) AUTHORITY OF STATE BANK SUPER-
16 VISOR.—The State bank supervisor of a State
17 bank may approve an application by the State
18 bank, when not in contravention of home State
19 or host State law, to act as trustee, executor,
20 administrator, registrar of stocks and bonds,
21 guardian of estates, assignee, receiver, com-
22 mittee of estates of lunatics, or in any other fi-
23 duciary capacity in a host State in which State
24 banks or other corporations which come into

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

3 “(B) NONCONTRAVENTION OF HOST STATE
4 LAW.—Whenever the laws of a host State au-
5 thorize or permit the exercise of any or all of
6 the foregoing powers by State banks or other
7 corporations which compete with national
8 banks, the granting to and the exercise of such
9 powers by a State bank as provided in this
10 paragraph shall not be deemed to be in con-
11 travention of host State law within the meaning
12 of this paragraph.

13 “(C) STATE BANK INCLUDES TRUST COM-
14 PANIES.—For purposes of this paragraph, the
15 term ‘State bank’ includes any State-chartered
16 trust company (as defined in section 44(g)).

17 “(D) OTHER DEFINITIONS.—For purposes
18 of this paragraph, the term ‘home State’ and
19 ‘host State’ have the meanings given such
20 terms in section 44.”.

21 (f) TECHNICAL AND CONFORMING AMENDMENTS.—

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

24 (A) in subsection (a)—

1 (i) by striking paragraph (4) and in-
2 serting the following new paragraph:

3 “(4) TREATMENT OF BRANCHES IN CONNEC-
4 TION WITH CERTAIN INTERSTATE MERGER TRANS-
5 ACTIONS.—In the case of an interstate merger
6 transaction which involves the acquisition of a
7 branch of an insured depository institution or trust
8 company without the acquisition of the insured de-
9 pository institution or trust company, the branch
10 shall be treated, for purposes of this section, as an
11 insured depository institution or trust company the
12 home State of which is the State in which the
13 branch is located.”; and

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

16 “(5) APPLICABILITY TO INDUSTRIAL LOAN
17 COMPANIES.—No provision of this section shall be
18 construed as authorizing the approval of any trans-
19 action involving a industrial loan company, indus-
20 trial bank, or other institution described in section
21 2(c)(2)(H) of the Bank Holding Company Act of
22 1956, or the acquisition, establishment, or operation
23 of a branch by any such company, bank, or institu-
24 tion, that is not allowed under section 18(d)(3).”.

25 (B) in subsection (b)—

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

4 (ii) by striking “banks” where such
5 term appears in paragraph (2)(E) and in-
6 serting “insured depository institutions or
7 trust companies”;

8 (iii) by striking “bank affiliate” each
9 place such term appears in that portion of
10 paragraph (3) that precedes subparagraph
11 (A) and inserting “insured depository insti-
12 tution affiliate”;

13 (iv) by striking “any bank” where
14 such term appears in paragraph (3)(B)
15 and inserting “any insured depository in-
16 stitution”;

17 (v) by striking “bank” where such
18 term appears in paragraph (4)(A) and in-
19 serting “insured depository institution and
20 trust company”; and

21 (vi) by striking “all banks” where
22 such term appears in paragraph (5) and
23 inserting “all insured depository institu-
24 tions and trust companies”;

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

4 (D) in subsection (e)—

5 (i) by striking “1 or more banks” and
6 inserting “1 or more insured depository in-
7 stitutions”; and

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

10 (E) by striking clauses (i) and (ii) of sub-
11 section (g)(4)(A) and inserting the following
12 new clauses:

13 “(i) with respect to a national bank or
14 Federal savings association, the State in
15 which the main office of the bank or sav-
16 ings association is located; and

17 “(ii) with respect to a State bank,
18 State savings association, or State-char-
19 tered trust company, the State by which
20 the bank, savings association, or trust
21 company is chartered; and”;

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

24 “(5) HOST STATE.—The term ‘host State’
25 means—

1 “(A) with respect to a bank, a State, other
2 than the home State of the bank, in which the
3 bank maintains, or seeks to establish and main-
4 tain, a branch; and

5 “(B) with respect to a trust company and
6 solely for purposes of section 18(d)(5), a State,
7 other than the home State of the trust com-
8 pany, in which the trust company acts, or seeks
9 to act, in 1 or more fiduciary capacities.”;

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

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

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

17 “(A) any national bank;

18 “(B) any savings association; and

19 “(C) any bank, banking association, trust
20 company, savings bank, or other banking insti-
21 tution which is incorporated under the laws of
22 any State,

23 that is authorized to act in 1 or more fiduciary ca-
24 pacities but is not engaged in the business of receiv-

1 ing deposits other than trust funds (as defined in
2 section 3(p)).”.

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

5 (A) in paragraph (1)—

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

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

10 (B) in paragraph (5), by striking “sub-
11 paragraph (B) or (D)” and inserting “subpara-
12 graph (B)”.

13 (3) Subsection (c) of section 4 of the National
14 Bank Consolidation and Merger Act (12 U.S.C.
15 215a–1(c)) is amended to read as follows:

16 “(c) DEFINITIONS.—For purposes of this section, the
17 terms ‘home State’, ‘out-of-State bank’, and ‘trust com-
18 pany’ each have the same meaning as in section 44(g) of
19 the Federal Deposit Insurance Act.”.

20 (g) CLERICAL AMENDMENTS.—

21 (1) The heading for section 44(b)(2)(E) of the
22 Federal Deposit Insurance Act (12 U.S.C.
23 1831u(b)(2)(E)) is amended by striking “BANKS”
24 and inserting “INSURED DEPOSITORY INSTITUTIONS
25 AND TRUST COMPANIES”.

1 (2) The heading for section 44(e) of the Fed-
2 eral Deposit Insurance Act (12 U.S.C. 1831u(e)) is
3 amended by striking “BANKS” and inserting “IN-
4 SURED DEPOSITORY INSTITUTIONS”.

5 **SEC. 402. STATUTE OF LIMITATIONS FOR JUDICIAL REVIEW**
6 **OF APPOINTMENT OF A RECEIVER FOR DE-**
7 **POSITORY INSTITUTIONS.**

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

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

12 **“SEC. 2. APPOINTMENT OF RECEIVER FOR A NATIONAL**
13 **BANK.**

14 “(a) IN GENERAL.—The Comptroller of the Cur-
15 rency”; and

16 (2) by adding at the end the following new sub-
17 section:

18 “(b) JUDICIAL REVIEW.—If the Comptroller of the
19 Currency appoints a receiver under subsection (a), the na-
20 tional bank may, within 30 days thereafter, bring an ac-
21 tion in the United States district court for the judicial dis-
22 trict in which the home office of such bank is located, or
23 in the United States District Court for the District of Co-
24 lumbia, for an order requiring the Comptroller of the Cur-
25 rency to remove the receiver, and the court shall, upon

1 the merits, dismiss such action or direct the Comptroller
2 of the Currency to remove the receiver.”.

3 (b) INSURED DEPOSITORY INSTITUTIONS.—Section
4 11(c)(7) of the Federal Deposit Insurance Act (12 U.S.C.
5 1821(c)(7)) is amended to read as follows:

6 “(7) JUDICIAL REVIEW.—If the Corporation is
7 appointed (including the appointment of the Cor-
8 poration as receiver by the Board of Directors) as
9 conservator or receiver of a depository institution
10 under paragraph (4), (9), or (10), the depository in-
11 stitution may, within 30 days thereafter, bring an
12 action in the United States district court for the ju-
13 dicial district in which the home office of such de-
14 pository institution is located, or in the United
15 States District Court for the District of Columbia,
16 for an order requiring the Corporation to be re-
17 moved as the conservator or receiver (regardless of
18 how such appointment was made), and the court
19 shall, upon the merits, dismiss such action or direct
20 the Corporation to be removed as the conservator or
21 receiver.”.

22 (c) EXPANSION OF PERIOD FOR CHALLENGING THE
23 APPOINTMENT OF A LIQUIDATING AGENT.—Subpara-
24 graph (B) of section 207(a)(1) of the Federal Credit

1 Union Act (12 U.S.C. 1787(a)(1)) is amended by striking
2 “10 days” and inserting “30 days”.

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

7 **SEC. 403. REPORTING REQUIREMENTS RELATING TO IN-**
8 **SIDER LENDING.**

9 (a) REPORTING REQUIREMENTS REGARDING LOANS
10 TO EXECUTIVE OFFICERS OF MEMBER BANKS.—Section
11 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is
12 amended—

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

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

16 (b) REPORTING REQUIREMENTS REGARDING LOANS
17 FROM CORRESPONDENT BANKS TO EXECUTIVE OFFI-
18 CERS AND SHAREHOLDERS OF INSURED BANKS.—Section
19 106(b)(2) of the Bank Holding Company Act Amend-
20 ments of 1970 (12 U.S.C. 1972(2)) is amended—

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

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

1 **SEC. 404. AMENDMENT TO PROVIDE AN INFLATION AD-**
2 **JUSTMENT FOR THE SMALL DEPOSITORY IN-**
3 **STITUTION EXCEPTION UNDER THE DEPOSI-**
4 **TORY INSTITUTION MANAGEMENT INTER-**
5 **LOCKS ACT.**

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

9 **SEC. 405. ENHANCING THE SAFETY AND SOUNDNESS OF IN-**
10 **SURED DEPOSITORY INSTITUTIONS.**

11 (a) **CLARIFICATION RELATING TO THE ENFORCE-**
12 **ABILITY OF AGREEMENTS AND CONDITIONS.**—The Fed-
13 eral Deposit Insurance Act (12 U.S.C. 1811 et seq.) is
14 amended by adding at the end the following new section:
15 **“SEC. 49. ENFORCEMENT OF AGREEMENTS.**

16 “(a) **IN GENERAL.**—Notwithstanding clause (i) or
17 (ii) of section 8(b)(6)(A) or section 38(e)(2)(E)(i), an ap-
18 propriate Federal banking agency may enforce, under sec-
19 tion 8, the terms of—

20 “(1) any condition imposed in writing by the
21 agency on a depository institution or an institution-
22 affiliated party (including a bank holding company)
23 in connection with any action on any application, no-
24 tice, or other request concerning a depository insti-
25 tution; or

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

3 (A) by inserting “, except when such term
4 appears in connection with the term ‘insured
5 depository institution’,” after “means”; and

6 (B) by striking “Federal Home Loan Bank
7 Board” and inserting “Director of the Office of
8 Thrift Supervision”.

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

11 (A) by striking paragraph (5) and insert-
12 ing the following new paragraph:

13 “(5) INSURED DEPOSITORY INSTITUTION.—The
14 term ‘insured depository institution’ has the mean-
15 ing given the term in section 3(c) of the Federal De-
16 posit Insurance Act;”;

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

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

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

23 “(9) the terms ‘State depository institution’,
24 ‘Federal depository institution’, ‘State savings asso-
25 ciation’ and ‘Federal savings association’ have the

1 meanings given the terms in section 3 of the Federal
2 Deposit Insurance Act.”.

3 (3) The 1st sentence of section 5(c)(4)(B) of
4 the Home Owners’ Loan Act (12 U.S.C.
5 1464(c)(4)(B)) is amended by striking “by savings
6 associations of such State and by Federal associa-
7 tions” and inserting “by State and Federal depository
8 institutions”.

9 (4) Subparagraph (A)(ii) and subparagraph
10 (B)(ii) of section 1(b)(2) of the Bank Service Com-
11 pany Act (12 U.S.C. 1861(b)(2)) are each amended
12 by striking “insured banks” and inserting “insured
13 depository institutions”.

14 (5) Section 1(b)(8) of the Bank Service Com-
15 pany Act (12 U.S.C. 1861(b)(8)) is further amend-
16 ed—

17 (A) by striking “insured bank” and insert-
18 ing “insured depository institution”;

19 (B) by striking “insured banks” each place
20 such term appears and inserting “insured de-
21 pository institutions”; and

22 (C) by striking “the bank’s” and inserting
23 “the depository institution’s”.

24 (6) Section 2 of the Bank Service Company Act
25 (12 U.S.C. 1862) is amended by inserting “or sav-

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

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

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

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

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

20 "(e) A bank service company may perform—

21 "(1) only those services that each depository in-
22 stitution shareholder or member is otherwise author-
23 ized to perform under any applicable Federal or
24 State law; and

1 “(2) such services only at locations in a State
2 in which each such shareholder or member is author-
3 ized to perform such services.”.

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

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

9 (A) in subsection (a)—

10 (i) by striking “insured bank” and in-
11 serting “insured depository institution”;
12 and

13 (ii) by striking “bank’s” and inserting
14 “institution’s”;

15 (B) in subsection (b)—

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

18 (ii) by inserting “authorized only”
19 after “performs any service”; and

20 (iii) by inserting “authorized only”
21 after “perform any activity”; and

22 (C) in subsection (c)—

23 (i) by striking “the bank or banks”
24 and inserting “any depository institution”;
25 and

1 (ii) by striking “capability of the
2 bank” and inserting “capability of the de-
3 pository institution”.

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

6 (A) in subsection (b), by striking “insured
7 bank” and inserting “insured depository insti-
8 tution”; and

9 (B) in subsection (c)—

10 (i) by striking “a bank” each place
11 such term appears and inserting “a depository
12 institution”; and

13 (ii) by striking “the bank” each place
14 such term appears and inserting “the de-
15 pository institution”.

16 **SEC. 407. CROSS GUARANTEE AUTHORITY.**

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

20 “(A) such institutions are controlled by the
21 same company; or”.

22 **SEC. 408. GOLDEN PARACHUTE AUTHORITY AND NONBANK**
23 **HOLDING COMPANIES.**

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

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

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

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

9 “(i) the insolvency of the depository
10 institution or covered company;

11 “(ii) the appointment of a conservator
12 or receiver for the depository institution; or

13 “(iii) the depository institution’s trou-
14 bled condition (as defined in the regula-
15 tions prescribed pursuant to section
16 32(f)).”;

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

20 (4) in paragraph (3) in the matter preceding
21 subparagraph (A), by striking “depository institu-
22 tion holding company” and inserting “covered com-
23 pany”;

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

1 (6) in paragraph (4)(A)—

2 (A) by striking “depository institution
3 holding company” each place such term appears
4 and inserting “covered company”; and

5 (B) by striking “holding company” each
6 place such term appears (other than in connec-
7 tion with the term referred to in subparagraph
8 (A)) and inserting “covered company”;

9 (7) in paragraph (5)(A), by striking “depository
10 institution holding company” and inserting “covered
11 company”;

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

14 “(D) COVERED COMPANY.—The term ‘cov-
15 ered company’ means any depository institution
16 holding company (including any company re-
17 quired to file a report under section 4(f)(6) of
18 the Bank Holding Company Act of 1956), or
19 any other company that controls an insured de-
20 pository institution.”; and

21 (9) in paragraph (6)—

22 (A) by striking “depository institution
23 holding company” and inserting “covered com-
24 pany,”; and

1 (B) by striking “or holding company” and
2 inserting “or covered company”.

3 **SEC. 409. AMENDMENTS RELATING TO CHANGE IN BANK**
4 **CONTROL.**

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

7 (1) in paragraph (1)(D)—

8 (A) by striking “is needed to investigate”
9 and inserting “is needed—

10 “(i) to investigate”;

11 (B) by striking “United States Code.” and
12 inserting “United States Code; or”; and

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

15 “(ii) to analyze the safety and sound-
16 ness of any plans or proposals described in
17 paragraph (6)(E) or the future prospects
18 of the institution.”; and

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

1 **SEC. 410. COMMUNITY REINVESTMENT CREDIT FOR ESOPS**
2 **AND EWOCS.**

3 Section 804 of the Community Reinvestment Act of
4 1977 (12 U.S.C. 2903) is amended by adding at the end
5 the following new subsection—

6 “(d) ESTABLISHMENT OF ESOPS AND EWOCS.—

7 “(1) IN GENERAL.—In assessing and taking
8 into account, under subsection (a), the record of a
9 financial institution, the appropriate Federal finan-
10 cial supervisory agency shall consider as a factor ac-
11 tivities that support or enable the establishment of
12 employee stock ownership plans or eligible worker-
13 owned cooperatives, so long as the employer spon-
14 soring the plan or cooperative is at least 51 percent
15 owned by employees, including low to moderate in-
16 come employees.

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

19 “(A) EMPLOYEE STOCK OWNERSHIP
20 PLAN.—The term ‘employee stock ownership
21 plan’ has the same meaning as in section
22 4975(e)(7) of the Internal Revenue Code of
23 1986.

24 “(B) ELIGIBLE WORKER-OWNED COOPERA-
25 TIVE.—The term ‘eligible worker-owned cooper-
26 ative’ has the same meaning as in section

1 1042(c)(2) of the Internal Revenue Code of
2 1986.”.

3 **SEC. 411. MINORITY FINANCIAL INSTITUTIONS.**

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

14 (b) MINORITY FINANCIAL INSTITUTION DEFINED.—
15 For purposes of this subsection, the term “minority finan-
16 cial institution” has the same meaning as in section
17 308(b) of the Financial Institutions Reform, Recovery,
18 and Enforcement Act of 1989.

19 **TITLE V—DEPOSITORY INSTITU-**
20 **TION AFFILIATES PROVI-**
21 **SIONS**

22 **SEC. 501. CLARIFICATION OF CROSS MARKETING PROVI-**
23 **SION.**

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

1 (1) in subparagraph (B), by striking “sub-
2 section (k)(4)(I)” and inserting “subparagraph (H)
3 or (I) of subsection (k)(4)”; and

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

6 “(C) THRESHOLD OF CONTROL.—Subpara-
7 graph (A) shall not apply with respect to a
8 company described or referred to in clause (i)
9 or (ii) of such subparagraph if the financial
10 holding company does not own or control 25
11 percent or more of the total equity or any class
12 of voting securities of such company.”.

13 **SEC. 502. AMENDMENT TO PROVIDE THE FEDERAL RE-**
14 **SERVE BOARD WITH DISCRETION CON-**
15 **CERNING THE IMPUTATION OF CONTROL OF**
16 **SHARES OF A COMPANY BY TRUSTEES.**

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

1 **SEC. 503. ELIMINATING GEOGRAPHIC LIMITS ON THRIFT**
2 **SERVICE COMPANIES.**

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

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

11 (2) by striking “having their home offices in
12 such State”.

13 (b) TECHNICAL CORRECTIONS.—

14 (1) The heading for subparagraph (B) of sec-
15 tion 5(c)(4) of the Home Owners’ Loan Act (12
16 U.S.C. 1464(c)(4)(B)) is amended by striking “COR-
17 PORATIONS” and inserting “COMPANIES”.

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

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

1 (4) Section 10(m)(4)(C)(iii)(II) of the Home
2 Owners’ Loan Act (12 U.S.C.
3 1467a(m)(4)(C)(iii)(II)) is amended by striking
4 “service corporation” each place such term appears
5 and inserting “service company”.

6 **SEC. 504. CLARIFICATION OF SCOPE OF APPLICABLE RATE**
7 **PROVISION.**

8 Section 44(f) of the Federal Deposit Insurance Act
9 (12 U.S.C. 1831u(f)) is amended by adding at the end
10 the following new paragraphs:

11 “(3) OTHER LENDERS.—In the case of any
12 other lender doing business in the State described in
13 paragraph (1), the maximum interest rate or
14 amount of interest, discount points, finance charges,
15 or other similar charges that may be charged, taken,
16 received, or reserved from time to time in any loan,
17 discount, or credit sale made, or upon any note, bill
18 of exchange, financing transaction, or other evidence
19 of debt issued to or acquired by any other lender
20 shall be equal to not more than the greater of the
21 rates described in subparagraph (A) or (B) of para-
22 graph (1).

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

1 ing the sale of personal property (and any services
2 incidental to the sale of personal property) in such
3 State, except that, with regard to any person or en-
4 tity described in such paragraph, such term does not
5 include—

6 “(A) an insured depository institution; or

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

10 “(i) a consumer’s personal check or
11 share draft, in the amount of the advance
12 plus a fee, where presentment or negotia-
13 tion of such check or share draft is de-
14 ferred by agreement of the parties until a
15 designated future date; or

16 “(ii) a consumer authorization to
17 debit the consumer’s transaction account,
18 in the amount of the advance plus a fee,
19 where such account will be debited on or
20 after a designated future date.”.

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

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

25 (1) in paragraph (1)—

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

3 (B) by striking “bank holding company”
4 and inserting “depository institution holding
5 company”;

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

8 (3) in paragraphs (3) and (5), by striking “or
9 (6)” each place such term appears in each such
10 paragraph; and

11 (4) by striking paragraph (6).

12 (b) CLERICAL AMENDMENT.—The heading for sec-
13 tion 18(r)(2) of the Federal Deposit Insurance Act (12
14 U.S.C. 1828(r)) is amended by striking “BANK” and in-
15 serting “DEPOSITORY INSTITUTION”.

16 **SEC. 506. CREDIT CARD BANK INVESTMENTS FOR THE PUB-
17 LIC WELFARE.**

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

20 (1) in clause (i), by striking “engages only in
21 credit card operations;” and inserting “engages only
22 in—

23 “(I) credit card operations; and

24 “(II) making investments de-
25 signed primarily to promote the public

1 welfare, including the welfare of low-
2 and moderate-income communities or
3 families (such as by providing hous-
4 ing, services, or jobs), in the manner
5 and to the extent permitted for na-
6 tional banks under the paragraph des-
7 ignated the ‘Eleventh’ of section 5136
8 of the Revised Statutes of the United
9 States and regulations prescribed
10 under such paragraph, except that the
11 last sentence of such paragraph shall
12 be applied for purposes of this sub-
13 clause by substituting ‘5 percent’ for
14 ‘15 percent’ each place such term ap-
15 pears; ”; and

16 (2) in clause (v), by inserting “, other than
17 making or purchasing loans for the purposes de-
18 scribed in and to the extent permitted in clause
19 (i)(II))” before the period at the end.

20 **TITLE VI—BANKING AGENCY**
21 **PROVISIONS**

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

24 Section 10(d) of the Federal Deposit Insurance Act
25 (12 U.S.C. 1820(d)) is amended—

1 (1) by redesignating paragraphs (5), (6), (7),
2 (8), (9), and (10) as paragraphs (6), (7), (8), (9),
3 (10), and (11), respectively;

4 (2) by inserting after paragraph (4), the fol-
5 lowing new paragraph:

6 “(5) WAIVER OF SCHEDULE WHEN NECESSARY
7 TO ACHIEVE SAFE AND SOUND ALLOCATION OF EX-
8 AMINER RESOURCES.—Notwithstanding paragraphs
9 (1), (2), (3), and (4), an appropriate Federal bank-
10 ing agency may make adjustments in the examina-
11 tion cycle for an insured depository institution if
12 necessary to allocate available resources of exam-
13 iners in a manner that provides for the safety and
14 soundness of, and the effective examination and su-
15 pervision of, insured depository institutions.”; and

16 (3) in paragraphs (8) and (9), as so redesign-
17 ated, by striking “paragraph (6)” and inserting
18 “paragraph (7)”.

19 **SEC. 602. INTERAGENCY DATA SHARING.**

20 (a) FEDERAL BANKING AGENCIES.—Section 7(a)(2)
21 of the Federal Deposit Insurance Act (12 U.S.C.
22 1817(a)(2)) is amended by adding at the end the following
23 new subparagraph:

24 “(C) DATA SHARING WITH OTHER AGEN-
25 CIES AND PERSONS.—In addition to reports of

1 examination, reports of condition, and other re-
2 ports required to be regularly provided to the
3 Corporation (with respect to all insured deposi-
4 tory institutions, including a depository institu-
5 tion for which the Corporation has been ap-
6 pointed conservator or receiver) or an appro-
7 priate State bank supervisor (with respect to a
8 State depository institution) under subpara-
9 graph (A) or (B), a Federal banking agency
10 may, in the agency's discretion, furnish any re-
11 port of examination or other confidential super-
12 visory information concerning any depository
13 institution or other entity examined by such
14 agency under authority of any Federal law,
15 to—

16 “(i) any other Federal or State agen-
17 cy or authority with supervisory or regu-
18 latory authority over the depository institu-
19 tion or other entity;

20 “(ii) any officer, director, or receiver
21 of such depository institution or entity;
22 and

23 “(iii) any other person the Federal
24 banking agency determines to be appro-
25 priate.”.

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

5 “(8) DATA SHARING WITH OTHER AGENCIES
6 AND PERSONS.—In addition to reports of examina-
7 tion, reports of condition, and other reports required
8 to be regularly provided to the Board (with respect
9 to all insured credit unions, including a credit union
10 for which the Corporation has been appointed con-
11 servator or liquidating agent) or an appropriate
12 State commission, board, or authority having super-
13 vision of a State-chartered credit union, the Board
14 may, in the Board’s discretion, furnish any report of
15 examination or other confidential supervisory infor-
16 mation concerning any credit union or other entity
17 examined by the Board under authority of any Fed-
18 eral law, to—

19 “(A) any other Federal or State agency or
20 authority with supervisory or regulatory author-
21 ity over the credit union or other entity;

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

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

4 **SEC. 603. PENALTY FOR UNAUTHORIZED PARTICIPATION**
5 **BY CONVICTED INDIVIDUAL.**

6 Section 19 of the Federal Deposit Insurance Act (12
7 U.S.C. 1829) is amended by adding at the end the fol-
8 lowing new subsection:

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

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

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

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

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

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

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

12 “(i) IN GENERAL.—Except as pro-
13 vided in clause (ii), after the end of the 6-
14 year period”;

15 (2) by striking “to be unnecessary” and insert-
16 ing “are unnecessary and not relevant to any pend-
17 ing or reasonably probable future litigation”; and

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

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

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

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

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

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

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

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

17 “(f) PRESERVATION OF AGENCY RECORDS.—

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

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

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

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

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

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

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

1 disposed of as the Federal banking agency may di-
2 rect.”.

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

4 Section 7(a) of the Federal Deposit Insurance Act
5 (12 U.S.C. 1817(a)) is amended by adding the following
6 new paragraph:

7 “(11) STREAMLINING REPORTS OF CONDI-
8 TION.—

9 “(A) REVIEW OF INFORMATION AND
10 SCHEDULES.—Before the end of the 1-year pe-
11 riod beginning on the date of the enactment of
12 the Financial Services Regulatory Relief Act of
13 2005 and before the end of each 5-year period
14 thereafter, each Federal banking agency shall,
15 in consultation with the other relevant Federal
16 banking agencies, review the information and
17 schedules that are required to be filed by an in-
18 sured depository institution in a report of con-
19 dition required under paragraph (3).

20 “(B) REDUCTION OR ELIMINATION OF IN-
21 FORMATION FOUND TO BE UNNECESSARY.—
22 After completing the review required by sub-
23 paragraph (A), a Federal banking agency, in
24 consultation with the other relevant Federal
25 banking agencies, shall reduce or eliminate any

1 requirement to file information or schedules
2 under paragraph (3) (other than information or
3 schedules that are otherwise required by law) if
4 the agency determines that the continued collec-
5 tion of such information or schedules is no
6 longer necessary or appropriate.”.

7 **SEC. 607. EXPANSION OF ELIGIBILITY FOR 18-MONTH EX-**
8 **AMINATION SCHEDULE FOR COMMUNITY**
9 **BANKS.**

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

13 **SEC. 608. SHORT FORM REPORTS OF CONDITION FOR CER-**
14 **TAIN COMMUNITY BANKS.**

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

19 “(12) SHORT FORM REPORTS OF CONDITION
20 FOR COMMUNITY BANKS.—

21 “(A) IN GENERAL.—With respect to re-
22 ports of condition required under paragraph (3)
23 for each calendar quarter, an insured depository
24 institution described in subparagraphs (A), (B),
25 (C), and (D) of section 10(d)(4) may submit a

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

3 “(B) SHORT FORM DEFINED.—The term
4 ‘short form’, when used in connection with any
5 report of condition required under paragraph
6 (3), means a report of condition in a format es-
7 tablished by the appropriate Federal banking
8 agency, after notice and opportunity for com-
9 ment, that—

10 “(i) is significantly and materially less
11 burdensome for the insured depository in-
12 stitution to prepare than the format of the
13 report of condition required under para-
14 graph (3); and

15 “(ii) provides sufficient material infor-
16 mation for the appropriate Federal bank-
17 ing agency to assure the maintenance of
18 the safe and sound condition of the deposi-
19 tory institution and safe and sound prac-
20 tices.”.

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

1 **SEC. 609. CLARIFICATION OF EXTENT OF SUSPENSION, RE-**
2 **MOVAL, AND PROHIBITION AUTHORITY OF**
3 **FEDERAL BANKING AGENCIES IN CASES OF**
4 **CERTAIN CRIMES BY INSTITUTION-AFFILI-**
5 **ATED PARTIES.**

6 (a) INSURED DEPOSITORY INSTITUTIONS.—

7 (1) IN GENERAL.—Section 8(g)(1) of the Fed-
8 eral Deposit Insurance Act (12 U.S.C. 1818(g)(1))
9 is amended—

10 (A) in subparagraph (A)—

11 (i) by striking “is charged in any in-
12 formation, indictment, or complaint, with
13 the commission of or participation in” and
14 inserting “is the subject of any informa-
15 tion, indictment, or complaint, involving
16 the commission of or participation in”;

17 (ii) by striking “may pose a threat to
18 the interests of the depository institution’s
19 depositors or may threaten to impair pub-
20 lic confidence in the depository institu-
21 tion,” and insert “posed, poses, or may
22 pose a threat to the interests of the deposi-
23 tors of, or threatened, threatens, or may
24 threaten to impair public confidence in,
25 any relevant depository institution (as de-
26 fined in subparagraph (E)),”; and

1 (iii) by striking “affairs of the deposi-
2 tory institution” and inserting “affairs of
3 any depository institution”;

4 (B) in subparagraph (B)(i), by striking
5 “the depository institution” and inserting “any
6 depository institution that the subject of the no-
7 tice is affiliated with at the time the notice is
8 issued”;

9 (C) in subparagraph (C)(i)—

10 (i) by striking “may pose a threat to
11 the interests of the depository institution’s
12 depositors or may threaten to impair pub-
13 lic confidence in the depository institu-
14 tion,” and insert “posed, poses, or may
15 pose a threat to the interests of the deposi-
16 tors of, or threatened, threatens, or may
17 threaten to impair public confidence in,
18 and relevant depository institution (as de-
19 fined in subparagraph (E)),”;

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

23 (D) in subparagraph (C)(ii), by striking
24 “affairs of the depository institution” and in-
25 serting “affairs of any depository institution”;

1 (E) in subparagraph (D)(i), by striking
2 “the depository institution” and inserting “any
3 depository institution that the subject of the
4 order is affiliated with at the time the order is
5 issued”; and

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

8 “(E) RELEVANT DEPOSITORY INSTITU-
9 TION.—For purposes of this subsection, the
10 term ‘relevant depository institution’ means any
11 depository institution of which the party is or
12 was an institution-affiliated party at the time—

13 “(i) the information, indictment or
14 complaint described in subparagraph (A)
15 was issued; or

16 “(ii) the notice is issued under sub-
17 paragraph (A) or the order is issued under
18 subparagraph (C)(i).”.

19 (2) CLERICAL AMENDMENT.—The heading for
20 section 8(g) of the Federal Deposit Insurance Act
21 (12 U.S.C. 1818(g)) is amended to read as follows:

22 “(g) SUSPENSION, REMOVAL, AND PROHIBITION
23 FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN
24 CRIMINAL OFFENSES.—”.

25 (b) INSURED CREDIT UNIONS.—

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

4 (A) in subparagraph (A), by striking “the
5 credit union” each place such term appears and
6 inserting “any credit union”;

7 (B) in subparagraph (B)(i), by inserting
8 “of which the subject of the order is, or most
9 recently was, an institution-affiliated party” be-
10 fore the period at the end;

11 (C) in subparagraph (C)—

12 (i) by striking “the credit union” each
13 place such term appears and inserting
14 “any credit union”; and

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

17 (D) in subparagraph (D)(i), by striking
18 “upon such credit union” and inserting “upon
19 the credit union of which the subject of the
20 order is, or most recently was, an institution-af-
21 filiated party”; and

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

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

1 with respect to an individual who is an institu-
2 tion-affiliated party at a credit union at the
3 time of an offense described in subparagraph
4 (A) without regard to—

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

9 “(ii) whether the credit union at
10 which the individual was an institution-af-
11 filiated party at the time of the offense re-
12 mains in existence at the time the order is
13 considered or issued by the Board.”.

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

18 “(i) SUSPENSION, REMOVAL, AND PROHIBITION
19 FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN
20 CRIMINAL OFFENSES.—”.

21 **SEC. 610. STREAMLINING DEPOSITORY INSTITUTION MERG-
22 ER APPLICATION REQUIREMENTS.**

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

1 “(4) REPORTS ON COMPETITIVE FACTORS.—

2 “(A) REQUEST FOR REPORT.—In the in-
3 terests of uniform standards and subject to
4 subparagraph (B), the responsible agency shall,
5 before acting on any application for approval of
6 a merger transaction—

7 “(i) request a report on the competi-
8 tive factors involved from the Attorney
9 General; and

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

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

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

22 “(ii) the transaction consists of a
23 merger between an insured depository in-
24 stitution and 1 or more affiliates of the de-
25 pository institution.

1 “(C) FURNISHING OF REPORT.—The re-
2 port requested under subparagraph (A) shall be
3 furnished by the Attorney General to the re-
4 sponsible agency—

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

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

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

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

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

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

4 **SEC. 611. INCLUSION OF DIRECTOR OF THE OFFICE OF**
5 **THRIFT SUPERVISION IN LIST OF BANKING**
6 **AGENCIES REGARDING INSURANCE CUS-**
7 **TOMER PROTECTION REGULATIONS.**

8 Section 47(g)(2)(B)(i) of the Federal Deposit Insur-
9 ance Act (12 U.S.C. 1831x(g)(2)(B)(i)) is amended by in-
10 sserting “the Director of the Office of Thrift Supervision,”
11 after “Comptroller of the Currency,”.

12 **SEC. 612. PROTECTION OF CONFIDENTIAL INFORMATION**
13 **RECEIVED BY FEDERAL BANKING REGU-**
14 **LATORS FROM FOREIGN BANKING SUPER-**
15 **VISORS.**

16 Section 15 of the International Banking Act of 1978
17 (12 U.S.C. 3109) is amended by adding at the end the
18 following new subsection:

19 “(c) CONFIDENTIAL INFORMATION RECEIVED FROM
20 FOREIGN SUPERVISORS.—

21 “(1) IN GENERAL.—Except as provided in para-
22 graph (3), a Federal banking agency shall not be
23 compelled to disclose information received from a
24 foreign regulatory or supervisory authority if—

1 “(A) the Federal banking agency deter-
2 mines that the foreign regulatory or supervisory
3 authority has, in good faith, determined and
4 represented to such Federal banking agency
5 that public disclosure of the information would
6 violate the laws applicable to that foreign regu-
7 latory or supervisory authority; and

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

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

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

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

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

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

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

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

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

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

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

1 “(iv) an institution-affiliated party of
2 a subsidiary (other than a bank) of a bank
3 holding company has been convicted of any
4 criminal offense involving dishonesty or a
5 breach of trust, or has agreed to enter into
6 a pretrial diversion or similar program in
7 connection with a prosecution for such an
8 offense.”.

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

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

16 (b) TECHNICAL AND CONFORMING AMENDMENT.—
17 The heading for section 8(i)(3) of the Federal Deposit In-
18 surance Act (12 U.S.C. 1818(i)(3)) is amended by insert-
19 ing “OR ORDER” after “NOTICE”.

20 **SEC. 615. ENFORCEMENT AGAINST MISREPRESENTATIONS**
21 **REGARDING FDIC DEPOSIT INSURANCE COV-**
22 **ERAGE.**

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

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

4 “(A) PROHIBITION ON FALSE ADVER-
5 TISING AND MISUSE OF FDIC NAMES.—No per-
6 son may—

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

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

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

1 “(B) PROHIBITION ON MISREPRESENTA-
2 TIONS OF INSURED STATUS.—No person may
3 knowingly misrepresent—

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

9 “(ii) the extent to which or the man-
10 ner in which any deposit liability, obliga-
11 tion, certificate, or share is insured by the
12 Federal Deposit Insurance Corporation, if
13 such deposit liability, obligation, certificate,
14 or share is not insured by the Corporation
15 to the extent or in the manner represented.

16 “(C) AUTHORITY OF FDIC.—The Corpora-
17 tion shall have—

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

21 “(ii) for purposes of enforcing the re-
22 quirements of this paragraph with regard
23 to any person—

1 “(I) the authority of the Cor-
2 poration under section 10(c) to con-
3 duct investigations; and

4 “(II) the enforcement authority
5 of the Corporation under subsections
6 (b), (c), (d) and (i) of section 8,

7 as if such person were a state nonmember in-
8 sured bank.

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

15 (b) ENFORCEMENT ORDERS.—Section 8(c) of the
16 Federal Deposit Insurance Act (12 U.S.C. 1818(c)) is
17 amended by adding at the end the following new para-
18 graph:

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

21 “(A) TEMPORARY ORDER.—

22 “(i) IN GENERAL.—If a notice of
23 charges served under subsection (b)(1) of
24 this section specifies on the basis of par-
25 ticular facts that any person is engaged in

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

4 “(I) the immediate cessation of
5 any activity or practice described,
6 which gave rise to the notice of
7 charges; and

8 “(II) affirmative action to pre-
9 vent any further, or to remedy any ex-
10 isting, violation.

11 “(ii) EFFECT OF ORDER.—Any tem-
12 porary order issued under this subpara-
13 graph shall take effect upon service.

14 “(B) EFFECTIVE PERIOD OF TEMPORARY
15 ORDER.—A temporary order issued under sub-
16 paragraph (A) shall remain effective and en-
17 forceable, pending the completion of an admin-
18 istrative proceeding pursuant to subsection
19 (b)(1) in connection with the notice of
20 charges—

21 “(i) until such time as the Corpora-
22 tion shall dismiss the charges specified in
23 such notice; or

1 “(ii) if a cease-and-desist order is
2 issued against such person, until the effec-
3 tive date of such order.

4 “(C) CIVIL MONEY PENALTIES.—Violations
5 of section 18(a)(4) shall be subject to civil
6 money penalties as set forth in subsection (i) in
7 an amount not to exceed \$1,000,000 for each
8 day during which the violation occurs or con-
9 tinues.”.

10 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

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

13 (A) in the 1st sentence by striking “of this
14 subsection” and inserting “of paragraphs (1)
15 and (2)”;

16 (B) by striking the 2nd sentence; and

17 (C) in the 3rd sentence, by striking “of
18 this subsection” and inserting “of paragraphs
19 (1) and (2)”.

20 (2) The heading for subsection (a) of section 18
21 of the Federal Deposit Insurance Act (12 U.S.C.
22 1828(a)) is amended by striking “INSURANCE
23 LOGO.—” and inserting “REPRESENTATIONS OF
24 DEPOSIT INSURANCE.—”.

1 **SEC. 616. CHANGES REQUIRED TO SMALL BANK HOLDING**
2 **COMPANY POLICY STATEMENT ON ASSESS-**
3 **MENT OF FINANCIAL AND MANAGERIAL FAC-**
4 **TORS.**

5 (a) SMALL BANK HOLDING COMPANY POLICY
6 STATEMENT ON ASSESSMENT OF FINANCIAL AND MANA-
7 GERAL FACTORS.—

8 (1) IN GENERAL.—Before the end of the 6-
9 month period beginning on the date of the enact-
10 ment of this Act, the Board of Governors of the
11 Federal Reserve System shall publish in the Federal
12 Register proposed revisions to the Small Bank Hold-
13 ing Company Policy Statement on Assessment of Fi-
14 nancial and Managerial Factors (12 C.F.R. part
15 225—appendix C) that provide that the policy shall
16 apply to a bank holding company which has pro
17 forma consolidated assets of less than
18 \$1,000,000,000 and that—

19 (A) is not engaged in any nonbanking ac-
20 tivities involving significant leverage; and

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

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

1 graph (1) in the Small Bank Holding Company Pol-
2 icy Statement on Assessment of Financial and Man-
3 agerial Factors by an amount equal to the percent-
4 age increase, for the most recent year, in total assets
5 held by all insured depository institutions, as deter-
6 mined by the Board.

7 (b) INCREASE IN DEBT-TO-EQUITY RATIO OF SMALL
8 BANK HOLDING COMPANY.—Before the end of the 6-
9 month period beginning on the date of the enactment of
10 this Act, the Board of Governors of the Federal Reserve
11 System shall publish in the Federal Register proposed re-
12 visions to the Small Bank Holding Company Policy State-
13 ment on Assessment of Financial and Managerial Factors
14 (12 C.F.R. part 225—appendix C) such that the debt-to-
15 equity ratio allowable for a small bank holding company
16 in order to remain eligible to pay a corporate dividend and
17 to remain eligible for expedited processing procedures
18 under Regulation Y of the Board of Governors of the Fed-
19 eral Reserve System would increase from 1:1 to 3:1.

20 **SEC. 617. EXCEPTION TO ANNUAL PRIVACY NOTICE RE-**
21 **QUIREMENT UNDER THE GRAMM-LEACH-BLI-**
22 **LEY ACT.**

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

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

1 expressed consent of the consumer in the form of
2 laws, rules, or regulation of professional conduct or
3 ethics promulgated either by the court of highest ap-
4 pellate authority or by the principal legislative body
5 or regulatory agency or body of any State of the
6 United States, the District of Columbia, any terri-
7 tory of the United States, Puerto Rico, Guam,
8 American Samoa, the Trust Territory of the Pacific
9 Islands, the Virgin Islands, or the Northern Mariana
10 Islands; or

11 “(2) the financial institution is licensed by a
12 State and becomes subject to future regulation of
13 consumer confidentiality that prohibits disclosure of
14 nonpublic personal information without knowing and
15 expressed consent of the consumer in the form of
16 laws, rules, or regulation of professional conduct or
17 ethics promulgated either by the court of highest ap-
18 pellate authority or by the principal legislative body
19 or regulatory agency or body of any State of the
20 United States, the District of Columbia, any terri-
21 tory of the United States, Puerto Rico, Guam,
22 American Samoa, the Trust Territory of the Pacific
23 Islands, the Virgin Islands, or the Northern Mariana
24 Islands.”.

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

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

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

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

13 (2) The successes achieved and challenges faced
14 by the agency in operating minority and women out-
15 reach programs.

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

18 (4) Such other information, findings, and con-
19 clusions, and recommendations for legislative or
20 agency action, as the agency may determine to be
21 appropriate to include in the report.

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

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

1 (A) has the same meaning as in section
2 3(z) of the Federal Deposit Insurance Act; and

3 (B) includes the National Credit Union
4 Administration.

5 (2) MINORITY.—The term “minority” has the
6 same meaning as in section 1204(c)(3) of the Finan-
7 cial Institutions Reform, Recovery, and Enforcement
8 Act of 1989.

9 **SEC. 619. COORDINATION OF STATE EXAMINATION AU-**
10 **THORITY.**

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

13 “(h) COORDINATION OF EXAMINATION AUTHOR-
14 ITY.—

15 “(1) STATE BANK SUPERVISORS OF HOME AND
16 HOST STATES.—

17 “(A) HOME STATE OF BANK.—The appro-
18 priate State bank supervisor of the home State
19 of an insured State bank has authority to ex-
20 amine and supervise the bank.

21 “(B) HOST STATE BRANCHES.—The State
22 bank supervisor of the home State of an in-
23 sured State bank and any State bank super-
24 visor of an appropriate host State shall exercise
25 their respective authority to supervise and ex-

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

6 “(C) SUPERVISORY FEES.—Except as ex-
7 pressly provided in a cooperative agreement be-
8 tween the State bank supervisors of the home
9 State and any host State of an insured State
10 bank, only the State bank supervisor of the
11 home State of an insured State bank may levy
12 or charge State supervisory fees on the bank.

13 “(2) HOST STATE EXAMINATION.—

14 “(A) IN GENERAL.—With respect to a
15 branch operated in a host State by an out-of-
16 State insured State bank that resulted from an
17 interstate merger transaction approved under
18 section 44 or that was established in such State
19 pursuant to section 5155(g) of the Revised
20 Statutes, the third undesignated paragraph of
21 section 9 of the Federal Reserve Act or section
22 18(d)(4) of this Act, the appropriate State bank
23 supervisor of such host State may—

24 “(i) with written notice to the State
25 bank supervisor of the bank’s home State

1 and subject to the terms of any applicable
2 cooperative agreement with the State bank
3 supervisor of such home State, examine
4 such branch for the purpose of determining
5 compliance with host State laws that are
6 applicable pursuant to section 24(j) of this
7 Act, including those that govern commu-
8 nity reinvestment, fair lending, and con-
9 sumer protection; and

10 “(ii) if expressly permitted under and
11 subject to the terms of a cooperative agree-
12 ment with the State bank supervisor of the
13 bank’s home State or if such out-of-State
14 insured State bank has been determined to
15 be in a troubled condition by either the
16 State bank supervisor of the bank’s home
17 State or the bank’s appropriate Federal
18 banking agency, participate in the exam-
19 ination of the bank by the State bank su-
20 pervisor of the bank’s home State to ascer-
21 tain that the activities of the branch in
22 such host State are not conducted in an
23 unsafe or unsound manner.

24 “(B) NOTICE OF DETERMINATION.—

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

7 “(ii) TIMING OF NOTICE.—The State
8 bank supervisor of the home State of an
9 insured State bank should provide notice
10 under clause (i) as soon as reasonably pos-
11 sible but in all cases within 15 business
12 days after the State bank supervisor has
13 made such final determination or has re-
14 ceived written notification of such final de-
15 termination.

16 “(3) HOST STATE ENFORCEMENT.—If the State
17 bank supervisor of a host State determines that a
18 branch of an out-of-State State insured State bank
19 is violating any law of the host State that is applica-
20 ble to such branch pursuant to section 24(j) of this
21 Act, including a law that governs community rein-
22 vestment, fair lending, or consumer protection, the
23 State bank supervisor of the host State or, to the ex-
24 tent authorized by the law of the host State, a host
25 State law enforcement officer may, with written no-

1 tice to the State bank supervisor of the bank’s home
2 State and subject to the terms of any applicable co-
3 operative agreement with the State bank supervisor
4 of the bank’s home State, undertake such enforce-
5 ment actions and proceedings as would be permitted
6 under the law of the host State as if the branch
7 were a bank chartered by that host State.

8 “(4) COOPERATIVE AGREEMENT.—

9 “(A) IN GENERAL.—The State bank super-
10 visors from 2 or more States may enter into co-
11 operative agreements to facilitate State regu-
12 latory supervision of State banks, including co-
13 operative agreements relating to the coordina-
14 tion of examinations and joint participation in
15 examinations. For purposes of this subsection
16 (h), the term ‘cooperative agreement’ means a
17 written agreement that is signed by the home
18 State bank supervisor and host State bank su-
19 pervisor to facilitate State regulatory super-
20 vision of State banks and includes nationwide
21 or multi-state cooperative agreements and coop-
22 erative agreements solely between the home
23 State and host State.

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

1 subsection relating to such cooperative agree-
2 ments shall be construed as limiting in any way
3 the authority of home and host State law en-
4 forcement officers, regulatory supervisors, or
5 other officials that have not signed such cooper-
6 ative agreements to enforce host State laws that
7 are applicable to a branch of an out-of-State in-
8 sured State bank located in the host State pur-
9 suant to section 24(j) of this Act.

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

14 “(6) STATE TAXATION AUTHORITY NOT AF-
15 FECTED.—No provision of this subsection (h) shall
16 be construed as affecting the authority of any State
17 or political subdivision of any State to adopt, apply,
18 or administer any tax or method of taxation to any
19 bank, bank holding company, or foreign bank, or
20 any affiliate of any bank, bank holding company, or
21 foreign bank, to the extent such tax or tax method
22 is otherwise permissible by or under the Constitution
23 of the United States or other Federal law.

24 “(7) DEFINITIONS.—For purpose of this sec-
25 tion, the following definition shall apply:

1 “(A) HOST STATE, HOME STATE, OUT-OF-
2 STATE BANK.—The terms ‘host State’, ‘home
3 State’, and ‘out-of-State bank’ have the same
4 meanings as in section 44(g).

5 “(B) STATE SUPERVISORY FEES.—The
6 term ‘State supervisory fees’ means assess-
7 ments, examination fees, branch fees, license
8 fees, and all other fees that are levied or
9 charged by a State bank supervisor directly
10 upon an insured State bank or upon branches
11 of an insured State bank.

12 “(C) TROUBLED CONDITION.—Solely for
13 purposes of subparagraph (2)(B) of this sub-
14 section (h), an insured State bank has been de-
15 termined to be in ‘troubled condition’ if the
16 bank—

17 “(i) has a composite rating, as deter-
18 mined in its most recent report of exam-
19 ination, of 4 or 5 under the Uniform Fi-
20 nancial Institutions Ratings System
21 (UFIRS); or

22 “(ii) is subject to a proceeding initi-
23 ated by the Corporation for termination or
24 suspension of deposit insurance; or

1 “(iii) is subject to a proceeding initi-
2 ated by the State bank supervisor of the
3 bank’s home State to vacate, revoke, or
4 terminate the charter of the bank, or to
5 liquidate the bank, or to appoint a receiver
6 for the bank.

7 “(D) FINAL DETERMINATION.—For the
8 purposes of paragraph (2)(B), the term ‘final
9 determination’ means the transmittal of a re-
10 port of examination to the bank or transmittal
11 of official notice of proceedings to the bank.”.

12 **SEC. 620. NONWAIVER OF PRIVILEGES.**

13 (a) INSURED DEPOSITORY INSTITUTIONS.—Section
14 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828)
15 is amended by adding at the end the following new sub-
16 section:

17 “(x) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO
18 BANKING AGENCY OR SUPERVISOR.—

19 “(1) IN GENERAL.—The submission by any per-
20 son of any information to any Federal banking agen-
21 cy, State bank supervisor, or foreign banking au-
22 thority for any purpose in the course of any super-
23 visory or regulatory process of such agency, super-
24 visor, or authority shall not be construed as waiving,
25 destroying, or otherwise affecting any privilege such

1 person may claim with respect to such information
2 under Federal or State law as to any person or enti-
3 ty other than such agency, supervisor, or authority.

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

7 “(A) any person waives any privilege appli-
8 cable to information that is submitted or trans-
9 ferred under any circumstance to which para-
10 graph (1) does not apply; or

11 “(B) any person would waive any privilege
12 applicable to any information by submitting the
13 information to any Federal banking agency,
14 State bank supervisor, or foreign banking au-
15 thority, but for this subsection.”.

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

19 “(j) PRIVILEGES NOT AFFECTED BY DISCLOSURE TO
20 BANKING AGENCY OR SUPERVISOR.—

21 “(1) IN GENERAL.—The submission by any per-
22 son of any information to the Administration, any
23 State credit union supervisor, or foreign banking au-
24 thority for any purpose in the course of any super-
25 visory or regulatory process of such Board, super-

1 visor, or authority shall not be construed as waiving,
2 destroying, or otherwise affecting any privilege such
3 person may claim with respect to such information
4 under Federal or State law as to any person or enti-
5 ty other than such Board, supervisor, or authority.

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

9 “(A) any person waives any privilege appli-
10 cable to information that is submitted or trans-
11 ferred under any circumstance to which para-
12 graph (1) does not apply; or

13 “(B) any person would waive any privilege
14 applicable to any information by submitting the
15 information to the Administration, any State
16 credit union supervisor, or foreign banking au-
17 thority, but for this subsection.”.

18 **SEC. 621. RIGHT TO FINANCIAL PRIVACY ACT OF 1978**

19 **AMENDMENT.**

20 Paragraph (1) of section 1101 of the Right to Finan-
21 cial Privacy Act of 1978 (12 U.S.C. 3401) is amended
22 by inserting “(including any lender who advances funds
23 on pledges of personal property)” after “consumer finance
24 institution”.

1 **SEC. 622. DEPUTY DIRECTOR; SUCCESSION AUTHORITY**
2 **FOR DIRECTOR OF THE OFFICE OF THRIFT**
3 **SUPERVISION.**

4 (a) ESTABLISHMENT OF POSITION OF DEPUTY DI-
5 RECTOR.—Section 3(c)(5) of the Home Owners' Loan Act
6 (12 U.S.C. 1462a(c)(5)) is amended to read as follows:

7 “(5) DEPUTY DIRECTOR.—

8 “(A) IN GENERAL.—The Secretary of the
9 Treasury shall appoint a Deputy Director and
10 may appoint up to 3 additional Deputy Direc-
11 tors.

12 “(B) FIRST DEPUTY DIRECTOR.—If the
13 Secretary of the Treasury appoints more than
14 1 Deputy Director of the Office, the Secretary
15 shall designate one such appointee as the First
16 Deputy Director.

17 “(C) DUTIES.—Each Deputy Director ap-
18 pointed under this paragraph shall take an oath
19 of office and perform such duties as the Direc-
20 tor shall direct.

21 “(D) COMPENSATION AND BENEFITS.—
22 The Director shall fix the compensation and
23 benefits for each Deputy Director in accordance
24 with this Act.”.

1 (b) SERVICE OF DEPUTY DIRECTOR AS ACTING DI-
2 RECTOR.—Section 3(e)(3) of the Home Owners’ Loan Act
3 (12 U.S.C. 1462a(e)(3)) is amended—

4 (1) by striking “VACANCY.—A vacancy in the
5 position of Director” and inserting “VACANCY.—

6 “(A) IN GENERAL.—A vacancy in the posi-
7 tion of Director”; and

8 (2) by adding at the end the following new sub-
9 paragraphs:

10 “(B) ACTING DIRECTOR.—

11 “(i) IN GENERAL.—In the event of a
12 vacancy in the position of Director or dur-
13 ing the absence or disability of the Direc-
14 tor, the Deputy Director shall serve as
15 Acting Director.

16 “(ii) SUCCESSION IN CASE OF 2 OR
17 MORE DEPUTY DIRECTORS.—If there are 2
18 or more Deputy Directors serving at the
19 time a vacancy in the position of Director
20 occurs or the absence or disability of the
21 Director commences, the First Deputy Di-
22 rector shall serve as Acting Director under
23 clause (i) followed by such other Deputy
24 Directors under any order of succession
25 the Director may establish.

1 “(iii) AUTHORITY OF ACTING DIREC-
2 TOR.—Any Deputy Director, while serving
3 as Acting Director under this subpara-
4 graph, shall be vested with all authority,
5 duties, and privileges of the Director under
6 this Act and any other provision of Federal
7 law.”.

8 **SEC. 623. LIMITATION ON SCOPE OF NEW AGENCY GUIDE-**
9 **LINES.**

10 (a) IN GENERAL.—The provisions of the multi-agen-
11 cy guidance Numbered 2003–1 issued by the Comptroller
12 of the Currency, the Board of Governors of the Federal
13 Reserve System, the Federal Deposit Insurance Corpora-
14 tion, and the Director of the Office of Thrift Supervision
15 that relate to minimum credit card payments and negative
16 amortization—

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

21 (2) shall not apply to any outstanding balance
22 on any credit card account under an open end con-
23 sumer credit plan as of such date of enactment.

24 (b) DEFINITIONS.—For purposes of this section, the
25 terms “credit”, “credit card”, “creditor”, “consumer” and

1 “open end credit plan” have the same meanings as in sec-
2 tion 103 of the Truth in Lending Act.

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

6 **TITLE VII—“BSA” COMPLIANCE** 7 **BURDEN REDUCTION**

8 **SEC. 701. EXCEPTION FROM CURRENCY TRANSACTION RE-** 9 **PORTS FOR SEASONED CUSTOMERS.**

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

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

15 (2) Due to the nature of the transactions or the
16 persons and entities conducting such transactions,
17 certain such reports as currently filed do not appear
18 to be relevant to the detection, deterrence, or inves-
19 tigation of financial crimes, including money laun-
20 dering and the financing of terrorism.

21 (3) However, the data contained in such reports
22 can provide valuable context for the analysis of other
23 data derived pursuant to subchapter II of chapter
24 53 of title 31, United States Code, as well as inves-
25 tigative data, which provides invaluable and indis-

1 pensible information supporting efforts to combat
2 money laundering and other financial crimes.

3 (4) An exemption from the reporting require-
4 ments for certain currency transactions that are of
5 little or no value to ongoing efforts of law enforce-
6 ment agencies, financial regulatory agencies, and the
7 financial services industry to investigate, detect, or
8 deter financial crimes would serve to balance the
9 burden placed on members of the financial services
10 industry with the compelling need to produce and
11 provide meaningful information to policy-makers, fi-
12 nancial regulators, law enforcement, and intelligence
13 agencies.

14 (5) The Secretary of the Treasury has by regu-
15 lation, and in accordance with section 5313 of title
16 31, United States Code, implemented a process by
17 which institutions may seek exemptions from filing
18 certain currency transaction reports based on appro-
19 priate circumstances; however, the existing exemp-
20 tion process has not adequately balanced the burden
21 on the financial industry with the Government's
22 need for data to support its efforts in combating fi-
23 nancial crime.

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

1 vides meaningful information to law enforcement of-
2 ficials on exempt customers and enables law enforce-
3 ment to obtain account information through appro-
4 priate legal process; the act of providing notice of
5 designations of exemption complements other sec-
6 tions of title 31, United States Code, whereby law
7 enforcement can locate financial institutions with
8 relevant records relating to a person of investigative
9 interest, such as information requests made pursu-
10 ant to regulations implementing section 314(a) of
11 the USA PATRIOT Act of 2001.

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

23 (8) The Federal banking agencies and the Fi-
24 nancial Crimes Enforcement Network have recently
25 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—

1 “(A) is incorporated or organized under
2 the laws of the United States or any State, in-
3 cluding a sole proprietorship, or is registered as
4 and eligible to do business within the United
5 States or a State;

6 “(B) has maintained a deposit account
7 with the depository institution for at least 12
8 months; and

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

12 “(3) REGULATIONS.—

13 “(A) IN GENERAL.—The Secretary of the
14 Treasury shall prescribe regulations requiring a
15 depository institution to file a 1-time notice of
16 designation of exemption for each qualified cus-
17 tomer of the depository institution.

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

24 “(C) AUTHORITY OF SECRETARY.—

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

6 “(ii) CONDITIONS.—The Secretary
7 may establish conditions, in accordance
8 with criteria prescribed by regulation,
9 under which exempt qualified customers of
10 an insured depository institution that is
11 merged with or acquired by another in-
12 sured depository institution will continue
13 to be treated as designated exempt quali-
14 fied customers of the surviving or acquir-
15 ing institution.”.

16 (c) 3-YEAR REVIEW AND REPORT.—Before the end
17 of the 3-year period beginning on the date of the enact-
18 ment of this Act, the Secretary of the Treasury, in con-
19 sultation with the Attorney General, the Secretary of the
20 Department of Homeland Security, the Federal banking
21 agencies, the banking industry, and such other persons as
22 the Secretary deems appropriate, shall evaluate the oper-
23 ations and effect of this provision and make recommenda-
24 tions to Congress as to any legislative action with respect

1 to this provision as the Secretary may determine to be ap-
2 propriate.

3 **SEC. 702. REDUCTION IN INCONSISTENCIES IN MONETARY**
4 **TRANSACTION RECORDKEEPING AND RE-**
5 **PORTING ENFORCEMENT AND EXAMINATION**
6 **REQUIREMENTS.**

7 (a) SENSE OF THE CONGRESS.—It is the sense of the
8 Congress that inconsistencies and redundancies among
9 regulations implementing monetary transaction record-
10 keeping and reporting enforcement programs under sec-
11 tion 8 of the Federal Deposit Insurance Act, section
12 206(q) of the Federal Credit Union Act, and chapter II
13 of chapter 53 of title 31, United States Code by the Sec-
14 retary of the Treasury and the Federal banking agen-
15 cies—

16 (1) increase the difficulty depository institutions
17 have in complying with congressional intent in cre-
18 ating such enforcement programs,

19 (2) reduce the transparency and clarity of the
20 regulatory regime;

21 (3) increase the potential for conflict among the
22 various regulations in the future; and

23 (4) contribute to the perception that various
24 agencies involved in the enforcement of the monetary

1 transaction recordkeeping and reporting require-
2 ments apply such requirements inconsistently.

3 (b) AGENCY COORDINATION OF MONETARY TRANS-
4 ACTION RECORDKEEPING AND REPORTING REQUIRE-
5 MENTS.—

6 (1) ENFORCEMENT PROGRAMS.—

7 (A) FEDERAL DEPOSIT INSURANCE ACT.—

8 Section 8(s) of the Federal Deposit Insurance
9 Act (12 U.S.C. 1818(s)) is amended by adding
10 at the end the following new paragraph:

11 “(4) COORDINATION ON UNIFORM REQUIRE-
12 MENTS.—In prescribing regulations under paragraph
13 (1), the Federal banking agencies, acting through
14 the Financial Institutions Examination Council,
15 shall—

16 “(A) consult with each other, the National
17 Credit Union Administration Board, and the
18 Secretary of the Treasury; and

19 “(B) take such action as may be necessary
20 to ensure that the requirements for procedures
21 established pursuant to such regulations, and
22 the examination standards for reviewing such
23 procedures, are congruent and reasonably uni-
24 form (taking into account differences in the

1 form and function of the institutions subject to
2 such requirements).”.

3 (B) FEDERAL CREDIT UNION ACT.—Sec-
4 tion 206(q) of the Federal Credit Union Act
5 (12 U.S.C. 1786(q)) is amended by adding at
6 the end the following new paragraph:

7 “(4) COORDINATION ON UNIFORM REQUIRE-
8 MENTS.—In prescribing regulations under paragraph
9 (1), the Board, acting through the Financial Institu-
10 tions Examination Council, shall—

11 “(A) consult with the Federal banking
12 agencies and the Secretary of the Treasury; and

13 “(B) take such action as may be necessary
14 to ensure that the requirements for procedures
15 established pursuant to such regulations, and
16 the examination standards for reviewing such
17 procedures, are congruent and reasonably uni-
18 form (taking into account differences in the
19 form and function of the institutions subject to
20 such requirements).”.

21 (2) EXAMINATION STANDARDS AND DIS-
22 PUTES.—Section 1006 of the Federal Financial In-
23 stitutions Examination Council Act of 1978 (12
24 U.S.C. 3305) is amended by adding at the end the
25 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.

1 (c) REVIEW OF AND REPORT ON ADDITIONAL REGU-
2 LATORY OR LEGISLATIVE CHANGES.—

3 (1) REVIEW REQUIRED.—Before the end of the
4 6-month period beginning on the date of the enact-
5 ment of this Act, the Secretary of the Treasury shall
6 conduct a review of the potential inconsistencies in,
7 or redundancies among, the regulations pertaining to
8 the application of the requirements of subchapter II
9 of chapter 53, United States Code, sections 8(s) and
10 21 of the Federal Deposit Insurance Act, and sec-
11 tion 206(q) of the Federal Credit Union Act to fi-
12 nancial institutions.

13 (2) REPORT TO CONGRESS AND THE FINANCIAL
14 INSTITUTIONS EXAMINATION COUNCIL.—Upon com-
15 pletion of the review under paragraph (1), the Sec-
16 retary of the Treasury shall promptly submit a re-
17 port on the findings and conclusions of the Secretary
18 with respect to the review to the Committee on Fi-
19 nancial Services of the House of Representatives and
20 the Committee on Banking, Housing, and Urban Af-
21 fairs of the Senate, together with such recommenda-
22 tions for legislative and administrative actions as the
23 Secretary may determine to be appropriate, and
24 shall transmit a copy of such report to the members
25 of the Financial Institutions Examination Council.

1 (d) REFORM OF APPLICATION OF MONETARY TRANS-
2 ACTION RECORDKEEPING AND REPORTING REQUIRE-
3 MENTS TO FINANCIAL INSTITUTIONS.—Before the end of
4 the 9-month period beginning on the date of the submis-
5 sion of the report to Congress under subsection (c)(2), the
6 Secretary of the Treasury shall prescribe regulations im-
7 plementing appropriate changes to regulations within the
8 jurisdiction of the Secretary to remedy redundancies or
9 inconsistencies identified in the review by, and included
10 in the recommendations of, the Secretary under subsection
11 (c).

12 **SEC. 703. ADDITIONAL REFORMS RELATING TO MONETARY**
13 **TRANSACTION AND RECORDKEEPING RE-**
14 **QUIREMENTS APPLICABLE TO FINANCIAL IN-**
15 **STITUTIONS.**

16 (a) NOTIFICATION OF OFFICERS AND DIRECTORS OF
17 FINANCIAL INSTITUTIONS.—Before the end of the 6-
18 month period beginning on the date of the enactment of
19 this Act, the Secretary of the Treasury shall—

20 (1) review any regulation, guideline, or guid-
21 ance of the Secretary, any Federal banking agency,
22 or the National Credit Union Administration Board
23 that serves as the basis for any requirement to pro-
24 vide notice to any officer or director of a depository
25 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

1 (2) modify or eliminate any customer identity
2 requirement related to the purchases of monetary in-
3 struments by customers of depository institutions
4 codified in section 103.29(a)(ii) of title 31, Code of
5 Federal Regulations, that the Secretary determines
6 is unnecessary.

7 (c) ELIMINATION OF RECURRING FILINGS OF SUS-
8 PICIOUS ACTIVITY REPORTS ON A SINGLE TRANS-
9 ACTION.—Before the end of the 9-month period beginning
10 on the date of the enactment of this Act, the Secretary
11 of the Treasury, as appropriate, shall prescribe regula-
12 tions, or issue other forms of guidance, that eliminate the
13 need for depository institutions to file recurring suspicious
14 activity reports on the same transaction unless there has
15 been a subsequent change in any pattern of activity involv-
16 ing any person who was connected with the transaction.

17 (d) ELECTRONIC ACKNOWLEDGEMENT OF CERTAIN
18 ELECTRONIC FILINGS.—Before the end of the 1-year pe-
19 riod beginning on the date of the enactment of this Act,
20 the Director of the Financial Crimes Enforcement Net-
21 work shall put into effect a system for promptly furnishing
22 an electronic acknowledgement of receipt to any institu-
23 tion that files a form with FinCEN under subchapter II
24 of chapter 53 of title 31, United States Code, through the
25 Network’s electronic filing system.

1 **SEC. 704. STUDY BY COMPTROLLER GENERAL.**

2 (a) **STUDY REQUIRED.**—The Comptroller General of
3 the United States shall conduct a study on methods and
4 practices which would—

5 (1) reduce the overall number of currency
6 transaction reports filed with the Secretary of the
7 Treasury under section 5313(a) of title 31, United
8 States Code, while ensuring that the needs of the
9 Secretary, the Financial Crimes Enforcement Net-
10 work, law enforcement agencies, and financial insti-
11 tution regulatory agencies continue to be met;

12 (2) improve financial institution utilization of
13 the current exemption provisions; and

14 (3) mitigate the difficulties in the current im-
15 plementation of such exemption provisions that limit
16 the utility of the exemption process for financial in-
17 stitutions.

18 (b) **REPORT.**—Before the end of the 6-month period
19 beginning on the date of the enactment of this Act, the
20 Comptroller General shall submit a report to the Com-
21 mittee on Financial Services of the House of Representa-
22 tives and the Committee on Banking, Housing, and Urban
23 Affairs of the Senate on the findings and conclusions of
24 the Comptroller General with respect to the study con-
25 ducted under subsection (a) and such recommendations

1 for legislative and administrative action as the Comp-
2 troller General may determine to be appropriate.

3 **SEC. 705. FEASIBILITY STUDY REQUIRED.**

4 (a) IN GENERAL.—For the purpose of simplifying,
5 and increasing compliance with, the various recordkeeping
6 and reporting requirements under subchapter II of chap-
7 ter 53 of title 31, United States Code, chapter 2 of title
8 I of Public Law 91—508, and section 21 of the Federal
9 Deposit Insurance Act, and regulations prescribed under
10 such provisions of law, the Secretary of the Treasury
11 (hereafter in this section referred to as the “Secretary”)
12 shall conduct a study on the feasibility of developing and
13 implementing interfaces and templates for use in elec-
14 tronic communications between financial institutions (as
15 defined in section 5312 of title 31, United States Code)
16 and the Secretary, the Financial Crimes Enforcement
17 Network, and other Federal financial institution regu-
18 latory agencies.

19 (b) FACTORS TO BE CONSIDERED.—In conducting
20 the study required under subsection (a), the Secretary
21 shall take into account—

22 (1) any procedures required to be maintained
23 by financial institutions under regulations prescribed
24 pursuant to section 5318(a)(2) of title 31 of the
25 United States Code and the manner in which the

1 use of interfaces and templates which might be de-
2 veloped could lessen the burden of complying with
3 such procedures; and

4 (2) any exemptions prescribed by the Secretary
5 under paragraph (5) or (6) of such section 5318(a)
6 and the manner in which interfaces and templates
7 which might be developed could be programmed to
8 reflect any such exemption for a financial institu-
9 tion, transaction, or class of transactions.

10 (c) PROTOTYPE AND REPORT REQUIRED.—

11 (1) IN GENERAL.—Before the end of the 1-year
12 period beginning on the date of the enactment of
13 this Act, the Secretary shall submit a report to the
14 Congress containing a detailed description of the
15 findings and conclusions of the Secretary in connec-
16 tion with the study required under subsection (a),
17 together with such recommendations for legislative
18 or administrative action as the Secretary may deter-
19 mine to be appropriate.

20 (2) PROTOTYPE.—Any recommendation on the
21 feasibility of developing and implementing interfaces
22 and templates for use in electronic communications
23 shall be accompanied by prototypes of such inter-
24 faces and templates that demonstrate such feasi-
25 bility.

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

3 (1) INTERFACE.—The term “interface” means
4 the point and method of interaction between any 2
5 or more electronic data storage and communication
6 systems that permits and facilitates active electronic
7 communication between or among the systems, in-
8 cluding any procedures, codes, and protocols that en-
9 able the systems to interact.

10 (2) TEMPLATE.—The term “template” means a
11 preestablished layout model using word processing or
12 other authoring software that ensures that data en-
13 tered into it will adhere to a consistent format and
14 content scheme when used by all parties engaged in
15 electronic communications among each other.

16 **SEC. 706. ANNUAL REPORT BY SECRETARY OF THE TREAS-**
17 **URY.**

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

19 (1) Financial institutions have too little infor-
20 mation about money laundering and terrorist financ-
21 ing compliance in other markets.

22 (2) The current Financial Action Task Force
23 designation system does not adequately represent
24 the progress countries are making in combatting
25 money laundering.

1 (3) Lack of information about the compliance
2 of countries with anti-money laundering standards
3 exposes United States financial markets to excessive
4 risk.

5 (4) Failure to designate countries that fail to
6 make progress in combatting terrorist financing and
7 money laundering eliminates incentives for internal
8 reform.

9 (5) The Secretary of the Treasury has an af-
10 firmative duty to provide to financial institutions
11 and examiners the best possible information on com-
12 pliance with anti-money laundering and terrorist fi-
13 nancing initiatives in other markets.

14 (b) REPORT.—Not later than March 1 of each year,
15 the Secretary of the Treasury shall submit to the Congress
16 a report that identifies the applicable standards of each
17 country against money laundering and states whether that
18 country is a country of primary money laundering concern
19 under section 5318A of title 31, United States Code. The
20 report shall include—

21 (1) information on the effectiveness of each
22 country in meeting its standards against money
23 laundering;

24 (2) a determination of whether that the efforts
25 of that country to combat money laundering and ter-

1 (2) The Financial Crimes Enforcement Net-
2 work in the Department of the Treasury (hereafter
3 in this section referred to as “FinCEN”) has de-
4 fined money services businesses to include the fol-
5 lowing 5 distinct types of financial services providers
6 as well as the United States Postal Service:

7 (A) Currency dealers or exchanges.

8 (B) Check cashing services.

9 (C) Issuers of travelers’ checks, money or-
10 ders, or stored value cards.

11 (D) Sellers or redeemers of travelers’
12 checks, money orders, or stored value cards.

13 (E) Money transmitters.

14 (3) Money services businesses have had more
15 difficulty in obtaining and maintaining banking serv-
16 ices since the passage of the USA PATRIOT ACT.

17 (4) On March 30, 2005, FinCEN and the Fed-
18 eral banking agencies (as defined in section 3 of the
19 Federal Deposit Insurance Act) issued a joint state-
20 ment recognizing the importance of ensuring that
21 money services businesses that comply with the law
22 have reasonable access to banking services.

23 (5) On April 26, 2005, FinCEN offered guid-
24 ance to money service businesses on obtaining and
25 maintaining banking services by identifying and ex-

1 plaining to money services businesses the types of
2 information and documentation they are expected to
3 have, and to provide to, depository institutions when
4 conducting banking business.

5 (6) At the same time, FinCEN and the Federal
6 banking agencies have issued joint guidance to de-
7 pository institutions to—

8 (A) clarify the requirements of subchapter
9 II of chapter 53 of title 31, United States Code,
10 and related provisions of law; and

11 (B) set forth the minimum steps that de-
12 pository institutions should take when providing
13 banking services to money services businesses.

14 (7) It is in the interest of the United States
15 and its allies in the wars against terrorism and
16 drugs to make certain that the international transfer
17 of funds is done in a rules-based, formal, and trans-
18 parent manner and that individuals are not forced
19 into utilizing informal underground methods due to
20 a lack of services.

21 (b) SENSE OF THE CONGRESS.—It is the sense of
22 the Congress that depository institutions and money serv-
23 ices businesses should follow the guidance offered by
24 FinCEN for the purpose of giving money services busi-
25 nesses full access to banking services and ensuring that

1 money services businesses remain in the mainstream fi-
 2 nancial system and can be full players in providing impor-
 3 tant financial services to their customers and be fully co-
 4 operative in the fight against terrorist financing and
 5 money laundering.

6 **TITLE VIII—CLERICAL AND**
 7 **TECHNICAL AMENDMENTS**

8 **SEC. 801. CLERICAL AMENDMENTS TO THE HOME OWNERS’**
 9 **LOAN ACT.**

10 (a) AMENDMENT TO TABLE OF CONTENTS.—The
 11 table of contents in section 1 of the Home Owners’ Loan
 12 Act (12 U.S.C. 1461) is amended by striking the items
 13 relating to sections 5 and 6 and inserting the following
 14 new items:

“Sec. 5. Savings associations.

“Sec. 6. [Repealed.]”.

15 (b) CLERICAL AMENDMENTS TO HEADINGS.—

16 (1) The heading for section 4(a) of the Home
 17 Owners’ Loan Act (12 U.S.C. 1463(a)) is amended
 18 by striking “(a) FEDERAL SAVINGS ASSOCIA-
 19 TIONS.—” and inserting “(a) GENERAL RESPON-
 20 SIBILITIES OF THE DIRECTOR.—”.

21 (2) The section heading for section 5 of the
 22 Home Owners’ Loan Act (12 U.S.C. 1464) is
 23 amended to read as follows:

1 **“SEC. 5. SAVINGS ASSOCIATIONS.”.**

2 **SEC. 802. TECHNICAL CORRECTIONS TO THE FEDERAL**
3 **CREDIT UNION ACT.**

4 The Federal Credit Union Act (12 U.S.C. 1751 et
5 seq.) is amended as follows:

6 (1) In section 101(3), strike “and” after the
7 semicolon.

8 (2) In section 101(5), strike the terms “account
9 account” and “account accounts” each place any
10 such term appears and insert “account”.

11 (3) In section 107(a)(5)(E) (as so designated
12 by section 303 of this Act), strike the period at the
13 end and insert a semicolon.

14 (4) In paragraphs (6) and (7) of section 107(a)
15 (as so designated by section 303 of this Act), strike
16 the period at the end and insert a semicolon.

17 (5) In section 107(a)(7)(D) (as so designated
18 by section 303 of this Act), strike “the Federal Sav-
19 ings and Loan Insurance Corporation or”.

20 (6) In section 107(a)(7)(E) (as so designated
21 by section 303 of this Act), strike “the Federal
22 Home Loan Bank Board,” and insert “the Federal
23 Housing Finance Board,”.

24 (7) In section 107(a)(9) (as so designated by
25 section 303 of this Act), strike “subchapter III” and
26 insert “title III”.

1 (8) In section 107(a)(13) (as so designated by
2 section 303 of this Act), strike the “and” after the
3 semicolon at the end.

4 (9) In section 109(e)(2)(A)(i), strike “(12
5 U.S.C. 4703(16))”.

6 (10) In section 120(h), strike “the Act ap-
7 proved July 30, 1947 (6 U.S.C., secs. 6–13),” and
8 insert “chapter 93 of title 31, United States Code,”.

9 (11) In section 201(b)(5), strike “section 116
10 of”.

11 (12) In section 202(h)(3), strike “section
12 207(c)(1)” and insert “section 207(k)(1)”.

13 (13) In section 204(b), strike “such others pow-
14 ers” and insert “such other powers”.

15 (14) In section 206(e)(3)(D), strike “and” after
16 the semicolon at the end.

17 (15) In section 206(f)(1), strike “subsection
18 (e)(3)(B)” and insert “subsection (e)(3)”.

19 (16) In section 206(g)(7)(D), strike “and sub-
20 section (1)”.

21 (17) In section 206(t)(2)(B), insert “regula-
22 tions” after “as defined in”.

23 (18) In section 206(t)(2)(C), strike “material
24 affect” and insert “material effect”.

1 (19) In section 206(t)(4)(A)(ii)(II), strike “or”
2 after the semicolon at the end.

3 (20) In section 206A(a)(2)(A), strike “regulator
4 agency” and insert “regulatory agency”.

5 (21) In section 207(e)(5)(B)(i)(I), insert “and”
6 after the semicolon at the end.

7 (22) In the heading for subparagraph (A) of
8 section 207(d)(3), strike “TO” and insert “WITH”.

9 (23) In section 207(f)(3)(A), strike “category
10 or claimants” and insert “category of claimants”.

11 (24) In section 209(a)(8), strike the period at
12 the end and insert a semicolon.

13 (25) In section 216(n), insert “any action” be-
14 fore “that is required”.

15 (26) In section 304(b)(3), strike “the affairs or
16 such credit union” and insert “the affairs of such
17 credit union”.

18 (27) In section 310, strike “section 102(e)” and
19 insert “section 102(d)”.

20 **SEC. 803. OTHER TECHNICAL CORRECTIONS.**

21 (a) Section 1306 of title 18, United States Code, is
22 amended by striking “5136A” and inserting “5136B”.

23 (b) Section 5239 of the Revised Statutes of the
24 United States (12 U.S.C. 93) is amended by redesignating
25 the second of the 2 subsections designated as subsection

1 (d) (as added by section 331(b)(3) of the Riegle Commu-
2 nity Development and Regulatory Improvement Act of
3 1994) as subsection (e).

4 **SEC. 804. REPEAL OF OBSOLETE PROVISIONS OF THE BANK**
5 **HOLDING COMPANY ACT OF 1956.**

6 (a) IN GENERAL.—Section 2 of the Bank Holding
7 Company Act of 1956 (12 U.S.C. 1841) is amended—

8 (1) in subsection (c)(2), by striking subpara-
9 graphs (I) and (J); and

10 (2) by striking subsection (m) and inserting the
11 following new subsection:

12 “(m) [Repealed]”.

13 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
14 Paragraphs (1) and (2) of section 4(h) of the Bank Hold-
15 ing Company Act of 1956 (12 U.S.C. 1843(h)) are each
16 amended by striking “(G), (H), (I), or (J) of section
17 2(c)(2)” and inserting “(G), or (H) of section 2(c)(2)”.

18 **TITLE IX—FAIR DEBT COLLEC-**
19 **TION PRACTICES ACT AMEND-**
20 **MENTS**

21 **SEC. 901. EXCEPTION FOR CERTAIN BAD CHECK ENFORCE-**
22 **MENT PROGRAMS.**

23 (a) IN GENERAL.—The Fair Debt Collection Prac-
24 tices Act (15 U.S.C. 1692 et seq.) is amended—

1 (1) by redesignating section 818 as section 819;

2 and

3 (2) by inserting after section 817 the following

4 new section:

5 **“§ 818. Exception for certain bad check enforcement**
6 **programs operated by private entities**

7 “(a) IN GENERAL.—If—

8 “(1) a State or district attorney establishes,
9 within the jurisdiction of such State or district attor-
10 ney and with respect to alleged bad check violations
11 that do not involve a check described in subsection
12 (c), a pretrial diversion program for alleged bad
13 check offenders who agree to participate voluntarily
14 in such program to avoid criminal prosecution and
15 are not described in subsection (b);

16 “(2) a private entity, that is subject to an ad-
17 ministrative support services contract with a State
18 or district attorney and operates under the direction,
19 supervision and control of such State or district at-
20 torney, operates the pretrial diversion program de-
21 scribed in paragraph (1); and

22 “(3) in the course of performing duties dele-
23 gated to it by a State or district attorney under the
24 contract, the private entity referred to in paragraph
25 (2)—

1 “(A) complies with the penal laws of the
2 State;

3 “(B) conforms with the terms of the con-
4 tract and directives of the State or district at-
5 torney;

6 “(C) does not exercise independent pros-
7 ecutorial discretion;

8 “(D) contacts any alleged offender referred
9 to in paragraph (1) for purposes of partici-
10 pating in a program referred to in such para-
11 graph only—

12 “(i) as a result of any determination
13 by the State or district attorney that suffi-
14 cient evidence of a bad check violation
15 under State law exists and that contact
16 with the alleged offender for purposes of
17 participation in the program is appro-
18 priate; or

19 “(ii) as otherwise permitted in re-
20 sponse to evidence of a bad check;

21 “(E) includes as part of an initial written
22 communication with an alleged offender a clear
23 and conspicuous statement that—

24 “(i) the alleged offender may dispute
25 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

1 shall be established by the National Dis-
2 trict Attorney’s Association, after consulta-
3 tion with the Commission and representa-
4 tives of interested business and consumer
5 organizations,

6 the private entity shall be treated as an officer of the State
7 and excluded from the definition of debt collector, pursu-
8 ant to the exception provided in section 803(6)(C), with
9 respect to the entity’s operation of the program described
10 in paragraph (1) under the contract described in para-
11 graph (2).

12 “(b) CERTAIN OFFENDERS EXCLUDED.—An alleged
13 bad check offender is described in this subsection if a pri-
14 vate entity described in subsection (a)(2) can determine
15 from available records that such offender—

16 “(1) was convicted of a bad check offense in the
17 3 years prior to issuing the bad check under consid-
18 eration; or

19 “(2) participated in a pretrial diversion pro-
20 gram in the 18 months prior to issuing the bad
21 check under consideration.

22 “(c) CERTAIN CHECKS EXCLUDED.—A check is de-
23 scribed in this subsection if the check involves, or is subse-
24 quently found to involve—

1 “(1) a postdated check presented in connection
2 with a payday loan, or other similar transaction,
3 where the holder of the check knew that the issuer
4 had insufficient funds at the time the check was
5 made, drawn or delivered;

6 “(2) a stop payment order where the issuer
7 acted in good faith and with reasonable cause in
8 stopping payment on the check;

9 “(3) a check dishonored because of an adjust-
10 ment to the issuer’s account by the financial institu-
11 tion holding such account without providing notice
12 to the person at the time the check was made,
13 drawn or delivered;

14 “(4) a check for partial payment of a debt
15 where the holder had previously accepted partial
16 payment for such debt;

17 “(5) a check issued by a person who was not
18 competent, or was not of legal age, to enter into a
19 legal contractual obligation at the time the check
20 was made, drawn or delivered; or

21 “(6) a check issued to pay an obligation arising
22 from a transaction that was illegal in the jurisdiction
23 of the State or district attorney at the time the
24 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—

1 “(i) had no account with the drawee
2 financial institution at the time the check
3 was made, drawn, or delivered;

4 “(ii) had closed the account upon with
5 the check was made or drawn prior to the
6 time the check was made, drawn, or deliv-
7 ered; or

8 “(iii) used a false or altered check, or
9 false or altered check account number; or

10 “(B) was refused payment by the financial
11 institution or other drawee for lack of sufficient
12 funds and the issuer failed to pay the full
13 amount of the check, together with reasonable
14 costs as permitted by State law—

15 “(i) after receiving written notice
16 from the holder of the check that payment
17 was refused by the drawee financial insti-
18 tution to the extent that the timing and
19 mode of delivery of such written notice is
20 in compliance with the applicable State law
21 for determining criminal liability for bad
22 check offenses; or

23 “(ii) in a case in which there are no
24 applicable State law requirements as de-
25 scribed in clause (i), within 30 days of re-

1 ceiving written notice, mailed to the issuer
2 by certified mail to the address printed on
3 the check, or given at the time the check
4 was made, drawn or delivered or, other-
5 wise, at the address where the alleged of-
6 fender resides or is found, from the holder
7 of the check that payment of 1 or more
8 checks was refused by the drawee financial
9 institution.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 for the Fair Debt Collection Practices Act is amended—

12 (1) by redesignating the item relating to section
13 818 as section 819; and

14 (2) by inserting after the item relating to sec-
15 tion 817 the following new item:

“818. Exception for certain bad check enforcement programs operated by pri-
vate entities.”.

16 **SEC. 902. OTHER AMENDMENTS.**

17 (a) LEGAL PLEADINGS.—Section 809 of the Fair
18 Debt Collection Practices Act (15 U.S.C. 1692g) is
19 amended by adding at the end the following new sub-
20 section:

21 “(d) LEGAL PLEADINGS.—A communication in the
22 form of a formal pleading in a civil action shall not be
23 treated as an initial communication for purposes of sub-
24 section (a).”.

1 (b) NOTICE PROVISIONS.—Section 809 of the Fair
2 Debt Collection Practices Act (15 U.S.C. 1692g) is
3 amended by adding after subsection (d) (as added by sub-
4 section (a) of this section) the following new subsection:

5 “(e) NOTICE PROVISIONS.—The sending or delivery
6 of any form or notice which does not request the payment
7 of a debt and is expressly required by any other Federal
8 or State law or regulation, including the Internal Revenue
9 Code of 1986, title V of Gramm-Leach-Bliley Act, and any
10 data security breach notice and privacy law shall not be
11 treated as a communication in connection with debt collec-
12 tion. ”.

13 (c) ESTABLISHMENT OF RIGHT TO COLLECT WITHIN
14 THE FIRST 30 DAYS.—Section 809(b) of the Fair Debt
15 Collection Practices Act (15 U.S.C. 1692g(b)) is amended
16 by striking “If the consumer” and inserting “Collection
17 activities and communications may continue during any
18 30-day period referred to in subsection (a). However, if
19 the consumer”.

Passed the House of Representatives March 8,
2006.

Attest:

Clerk.