

109TH CONGRESS
1ST SESSION

H. R. 3505

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

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

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

A BILL

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

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

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL BANK PROVISIONS

Sec. 101. National bank directors.

Sec. 102. Voting in shareholder elections.

Sec. 103. Simplifying dividend calculations for national banks.

- Sec. 104. Repeal of obsolete limitation on removal authority of the Comptroller of the Currency.
- Sec. 105. Repeal of intrastate branch capital requirements.
- Sec. 106. Clarification of waiver of publication requirements for bank merger notices.
- Sec. 107. Equal treatment for Federal agencies of foreign banks.
- Sec. 108. Maintenance of a Federal branch and a Federal agency in the same State.
- Sec. 109. Business organization flexibility for national banks.
- Sec. 110. Clarification of the main place of business of a national bank.
- Sec. 111. Capital equivalency deposits for Federal branches and agencies of foreign banks.

TITLE II—SAVINGS ASSOCIATION PROVISIONS

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

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.

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.

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.

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

2 “(a) RESIDENCY REQUIREMENTS.—Every director of
3 a national bank shall, during”;

4 (2) by striking “total number of directors.
5 Every director must own in his or her own right”
6 and inserting “total number of directors.

7 “(b) INVESTMENT REQUIREMENT.—

8 “(1) IN GENERAL.—Every director of a na-
9 tional bank shall own, in his or her own right,”; and

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

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

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

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

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

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

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

14 **SEC. 103. SIMPLIFYING DIVIDEND CALCULATIONS FOR NA-**
15 **TIONAL BANKS.**

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

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

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

24 “(b) APPROVAL REQUIRED UNDER CERTAIN CIR-
25 CUMSTANCES.—A national bank may not declare and pay
26 dividends in any year in excess of an amount equal to the

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

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

“5199.National bank dividends.”.

13 **SEC. 104. REPEAL OF OBSOLETE LIMITATION ON REMOVAL**
 14 **AUTHORITY OF THE COMPTROLLER OF THE**
 15 **CURRENCY.**

16 Section 8(e)(4) of the Federal Deposit Insurance Act
 17 (12 U.S.C. 1818(e)(4)) is amended by striking the 5th
 18 sentence.

19 **SEC. 105. REPEAL OF INTRASTATE BRANCH CAPITAL RE-**
 20 **QUIREMENTS.**

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

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

1 (2) by striking the last sentence.

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

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

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

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

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

24 Section 4(e) of the International Banking Act of
25 1978 (12 U.S.C. 3102(e)) is amended by inserting “if the

1 maintenance of both an agency and a branch in the State
2 is prohibited under the law of such State” before the pe-
3 riod at the end.

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

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

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

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

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

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

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

1 tions, and limitations as a national bank that is organized
2 as a body corporate.”.

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

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

“5136C. Alternative business organization.”.

15 **SEC. 110. CLARIFICATION OF THE MAIN PLACE OF BUSI-**
16 **NESS OF A NATIONAL BANK.**

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

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

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

4 **SEC. 111. CAPITAL EQUIVALENCY DEPOSITS FOR FEDERAL**
5 **BRANCHES AND AGENCIES OF FOREIGN**
6 **BANKS.**

7 Section 4(g) of the International Banking Act of
8 1978 (12 U.S.C. 3102(g)) is amended to read as follows:

9 “(g) CAPITAL EQUIVALENCY DEPOSIT.—

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

22 “(2) LIMITATION.—Notwithstanding paragraph
23 (1), regulations prescribed under such paragraph
24 shall not permit a foreign bank to keep assets on de-
25 posit in an amount that is less than the amount re-

1 quired for a State licensed branch or agency of a
2 foreign bank under the laws and regulations of the
3 State in which the Federal agency or branch is lo-
4 cated.”.

5 **TITLE II—SAVINGS ASSOCIATION** 6 **PROVISIONS**

7 **SEC. 201. PARITY FOR SAVINGS ASSOCIATIONS UNDER THE** 8 **SECURITIES EXCHANGE ACT OF 1934 AND** 9 **THE INVESTMENT ADVISERS ACT OF 1940.**

10 (a) SECURITIES EXCHANGE ACT OF 1934.—

11 (1) DEFINITION OF BANK.—Section 3(a)(6) of
12 the Securities Exchange Act of 1934 (15 U.S.C.
13 78c(a)(6)) is amended—

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

19 (B) in subparagraph (C)—

20 (i) by inserting “or savings associa-
21 tion as defined in section 2(4) of the Home
22 Owners’ Loan Act,” after “banking insti-
23 tution,”; and

1 (ii) by inserting “or savings associa-
2 tions” after “having supervision over
3 banks”.

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

8 (A) in subparagraph (A)—

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

11 (ii) by striking “and” at the end of
12 clause (iii);

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

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

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

1 or a savings and loan holding company;
2 and”;

3 (B) in subparagraph (B)—

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

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

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

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

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

21 (C) in subparagraph (C)—

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

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

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

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

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

16 (D) in subparagraph (D)—

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

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

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

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

1 the Federal Deposit Insurance Act (12
2 U.S.C. 1813(b)) the deposits of which are
3 insured by the Federal Deposit Insurance
4 Corporation; and”;

5 (E) in subparagraph (F)—

6 (i) by redesignating clauses (ii), (iii),
7 and (iv) as clauses (iii), (iv), and (v), re-
8 spectively; and

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

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

18 (F) by moving subparagraph (H) and in-
19 serting such subparagraph after subparagraph
20 (G); and

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

1 (b) INVESTMENT ADVISERS ACT OF 1940.—

2 (1) DEFINITION OF BANK.—Section 202(a)(2)
3 of the Investment Advisers Act of 1940 (15 U.S.C.
4 80b–2(a)(2)) is amended—

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

10 (B) in subparagraph (C)—

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

15 (ii) by inserting “or savings associa-
16 tions” after “having supervision over
17 banks”.

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

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

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

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

15 “(D) DIRECT INVESTMENTS TO PROMOTE
 16 THE PUBLIC WELFARE.—

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

24 “(ii) DIRECT INVESTMENTS OR ACQUI-
 25 SITION OF INTEREST IN OTHER COMPA-

1 NIES.—Investments under clause (i) may
2 be made directly or by purchasing interests
3 in an entity primarily engaged in making
4 such investments.

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

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

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

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

21 “(v) FLEXIBLE AGGREGATE INVEST-
22 MENT LIMITATION.—The aggregate
23 amount of investments of any savings asso-
24 ciation under this subparagraph may not
25 exceed an amount equal to the sum of 5

1 percent of the savings association’s capital
2 stock actually paid in and unimpaired and
3 5 percent of the savings association’s
4 unimpaired surplus, unless—

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

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

14 “(vi) MAXIMUM AGGREGATE INVEST-
15 MENT LIMITATION.—Notwithstanding
16 clause (v), the aggregate amount of invest-
17 ments of any savings association under
18 this subparagraph may not exceed an
19 amount equal to the sum of 10 percent of
20 the savings association’s capital stock actu-
21 ally paid in and unimpaired and 10 per-
22 cent of the savings association’s
23 unimpaired surplus.

24 “(vii) INVESTMENTS NOT SUBJECT TO
25 OTHER LIMITATION ON QUALITY OF IN-

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

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

12 “(A) [Repealed.]”.

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

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

18 (1) by redesignating subparagraph (B) as sub-
19 paragraph (C); and

20 (2) by inserting after subparagraph (A) the fol-
21 lowing new subparagraph:

22 “(B) MERGERS AND CONSOLIDATIONS
23 WITH NONDEPOSITORY INSTITUTION AFFILI-
24 ATES.—

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

6 “(ii) RULE OF CONSTRUCTION.—No
7 provision of clause (i) shall be construed
8 as—

9 “(I) affecting the applicability of
10 section 18(c) of the Federal Deposit
11 Insurance Act; or

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

19 **SEC. 204. REPEAL OF STATUTORY DIVIDEND NOTICE RE-**
20 **QUIREMENT FOR SAVINGS ASSOCIATION SUB-**
21 **SIDIARIES OF SAVINGS AND LOAN HOLDING**
22 **COMPANIES.**

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

1 “(f) DECLARATION OF DIVIDEND.—The Director
2 may—

3 “(1) require a savings association that is a sub-
4 sidiary of a savings and loan holding company to
5 give prior notice to the Director of the intent of the
6 savings association to pay a dividend on its guar-
7 anty, permanent, or other nonwithdrawable stock;
8 and

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

11 **SEC. 205. MODERNIZING STATUTORY AUTHORITY FOR**
12 **TRUST OWNERSHIP OF SAVINGS ASSOCIA-**
13 **TIONS.**

14 (a) IN GENERAL.—Section 10(a)(1)(C) of the Home
15 Owners’ Loan Act (12 U.S.C. 1467a(a)(1)(C)) is amend-
16 ed—

17 (1) by striking “trust,” and inserting “business
18 trust,”; and

19 (2) by inserting “or any other trust unless by
20 its terms it must terminate within 25 years or not
21 later than 21 years and 10 months after the death
22 of individuals living on the effective date of the
23 trust,” after “or similar organization,”.

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

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

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

10 (3) by striking subparagraph (B).

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

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

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

17 “(4) [Repealed.]”; and

18 (2) in paragraph (9)(A), by striking “intangible
19 assets, plus” and all that follows through the period
20 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(e)(2)(F) of the Bank Holding Company Act of 1956
6 for purposes of subsections (a)(1)(E), (c)(3)(B)(ii),
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;”.

1 **TITLE III—CREDIT UNION**
2 **PROVISIONS**

3 **SEC. 301. PRIVATELY INSURED CREDIT UNIONS AUTHOR-**
4 **IZED TO BECOME MEMBERS OF A FEDERAL**
5 **HOME LOAN BANK.**

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

9 “(5) CERTAIN PRIVATELY INSURED CREDIT
10 UNIONS.—

11 “(A) IN GENERAL.—A credit union which
12 has been determined, in accordance with section
13 43(e)(1) of the Federal Deposit Insurance Act
14 and subject to the requirements of subpara-
15 graph (B), to meet all eligibility requirements
16 for Federal deposit insurance shall be treated
17 as an insured depository institution for pur-
18 poses of determining the eligibility of such cred-
19 it union for membership in a Federal home loan
20 bank under paragraphs (1), (2), and (3).

21 “(B) CERTIFICATION BY APPROPRIATE SU-
22 PERVISOR.—

23 “(i) IN GENERAL.—For purposes of
24 this paragraph and subject to clause (ii), a
25 credit union which lacks Federal deposit

1 insurance and which has applied for mem-
2 bership in a Federal home loan bank may
3 be treated as meeting all the eligibility re-
4 quirements for Federal deposit insurance
5 only if the appropriate supervisor of the
6 State in which the credit union is char-
7 tered has determined that the credit union
8 meets all the eligibility requirements for
9 Federal deposit insurance as of the date of
10 the application for membership.

11 “(ii) CERTIFICATION DEEMED
12 VALID.—If, in the case of any credit union
13 to which clause (i) applies, the appropriate
14 supervisor of the State in which such cred-
15 it union is chartered fails to make a deter-
16 mination pursuant to such clause by the
17 end of the 6-month period beginning on
18 the date of the application, the credit
19 union shall be deemed to have met the re-
20 quirements of clause (i).

21 “(C) SECURITY INTERESTS OF FEDERAL
22 HOME LOAN BANK NOT AVOIDABLE.—Notwith-
23 standing any provision of State law authorizing
24 a conservator or liquidating agent of a credit

1 union to repudiate contracts, no such provision
2 shall apply with respect to—

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

7 “(ii) any security interest in the as-
8 sets of such credit union securing any such
9 extension of credit.”.

10 (b) COPIES OF AUDITS OF PRIVATE INSURERS OF
11 CERTAIN DEPOSITORY INSTITUTIONS REQUIRED TO BE
12 PROVIDED TO SUPERVISORY AGENCIES.—Section
13 43(a)(2) of the Federal Deposit Insurance Act (12 U.S.C.
14 1831t(a)(2)) is amended—

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

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

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

21 “(iii) in the case of depository institu-
22 tions described in subsection (f)(2)(A) the
23 deposits of which are insured by the pri-
24 vate insurer, the National Credit Union

1 Administration, not later than 7 days after
2 that audit is completed; and

3 “(iv) in the case of depository institu-
4 tions described in subsection (f)(2)(A) the
5 deposits of which are insured by the pri-
6 vate insurer which are members of a Fed-
7 eral home loan bank, the Federal Housing
8 Finance Board, not later than 7 days after
9 that audit is completed.”; and

10 (4) by adding at the end the following new sub-
11 paragraph:

12 “(C) CONSULTATION.—The appropriate
13 supervisory agency of each State in which a pri-
14 vate deposit insurer insures deposits in an insti-
15 tution described in subsection (f)(2)(A) which—

16 “(i) lacks Federal deposit insurance;
17 and

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

20 shall provide the National Credit Union Admin-
21 istration, upon request, with the results of any
22 examination and reports related thereto con-
23 cerning the private deposit insurer to which
24 such agency may have in its possession.”.

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

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

5 (1) by striking “Upon application by any credit
6 union” and inserting “Notwithstanding any other
7 provision of law, upon application by any credit
8 union”;

9 (2) by inserting “on lands reserved for the use
10 of, and under the exclusive or concurrent jurisdiction
11 of, the United States or” after “officer or agency of
12 the United States charged with the allotment of
13 space”;

14 (3) by inserting “lease land or” after “such of-
15 ficer or agency may in his or its discretion”; and

16 (4) by inserting “or the facility built on the
17 lease land” after “credit union to be served by the
18 allotment of space”.

19 (b) CLERICAL AMENDMENT.—The heading for sec-
20 tion 124 is amended by inserting “**OR FEDERAL LAND**”
21 after “**BUILDINGS**”.

22 **SEC. 303. INVESTMENTS IN SECURITIES BY FEDERAL CRED-**
23 **IT UNIONS.**

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

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

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

6 “(b) ADDITIONAL INVESTMENT AUTHORITY.—

7 “(1) IN GENERAL.—In addition to any invest-
8 ments otherwise authorized, a Federal credit union
9 may purchase and hold for its own account such in-
10 vestment securities of investment grade as the
11 Board may authorize by regulation, subject to such
12 limitations and restrictions as the Board may pre-
13 scribe in the regulations.

14 “(2) PERCENTAGE LIMITATIONS.—

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

21 “(B) AGGREGATE INVESTMENTS.—In no
22 event may the aggregate amount of investment
23 securities held by a Federal credit union for the
24 credit union’s own account exceed at any time

1 an amount equal to 10 percent of the assets of
2 the credit union.

3 “(3) INVESTMENT SECURITY DEFINED.—

4 “(A) IN GENERAL.—For purposes of this
5 subsection, the term ‘investment security’
6 means marketable obligations evidencing the in-
7 debtedness of any person in the form of bonds,
8 notes, or debentures and other instruments
9 commonly referred to as investment securities.

10 “(B) FURTHER DEFINITION BY BOARD.—

11 The Board may further define the term ‘invest-
12 ment security’.

13 “(4) INVESTMENT GRADE DEFINED.—The term
14 ‘investment grade’ means with respect to an invest-
15 ment security purchased by a credit union for its
16 own account, an investment security that at the time
17 of such purchase is rated in one of the 4 highest rat-
18 ing categories by at least 1 nationally recognized
19 statistical rating organization.

20 “(5) CLARIFICATION OF PROHIBITION ON
21 STOCK OWNERSHIP.—No provision of this subsection
22 shall be construed as authorizing a Federal credit
23 union to purchase shares of stock of any corporation
24 for the credit union’s own account, except as other-
25 wise permitted by law.”.

1 **SEC. 304. INCREASE IN GENERAL 12-YEAR LIMITATION OF**
2 **TERM OF FEDERAL CREDIT UNION LOANS TO**
3 **15 YEARS.**

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

7 (1) in the matter preceding subparagraph (A),
8 by striking “to make loans, the maturities of which
9 shall not exceed twelve years except as otherwise
10 provided herein” and inserting “to make loans, the
11 maturities of which shall not exceed 15 years or any
12 longer maturity as the Board may allow, in regula-
13 tions, except as otherwise provided in this Act”;

14 (2) in subparagraph (A)—

15 (A) by striking clause (ii);

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

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

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

22 Section 107(a)(7)(I) of the Federal Credit Union Act
23 (12 U.S.C. 1757(7)(I)) (as so designated by section 303
24 of this title) is amended by striking “up to 1 per centum
25 of the total paid” and inserting “up to 3 percent of the
26 total paid”.

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

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

7 **SEC. 307. CHECK CASHING AND MONEY TRANSFER SERV-**
8 **ICES OFFERED WITHIN THE FIELD OF MEM-**
9 **BERSHIP.**

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

13 “(12) in accordance with regulations prescribed
14 by the Board—

15 “(A) to sell, to persons in the field of
16 membership, negotiable checks (including trav-
17 elers checks), money orders, and other similar
18 money transfer instruments (including inter-
19 national and domestic electronic fund trans-
20 fers); and

21 “(B) to cash checks and money orders and
22 receive international and domestic electronic
23 fund transfers for persons in the field of mem-
24 bership for a fee;”.

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

3 Section 109(d)(2) of the Federal Credit Union Act
4 (12 U.S.C. 1759(d)(2)) is amended—

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

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

9 (3) by adding at the end the following new sub-
10 paragraph:

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

14 **SEC. 309. CONVERSIONS INVOLVING COMMON-BOND CRED-**
15 **IT UNIONS.**

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

19 “(3) CRITERIA FOR CONTINUED MEMBERSHIP
20 OF CERTAIN MEMBER GROUPS IN COMMUNITY CHAR-
21 TER CONVERSIONS.—In the case of a voluntary con-
22 version of a common-bond credit union described in
23 paragraph (1) or (2) of subsection (b) into a com-
24 munity credit union described in subsection (b)(3),
25 the Board shall prescribe, by regulation, the criteria
26 under which the Board may determine that a mem-

1 ber group or other portion of a credit union’s exist-
2 ing membership, that is located outside the well-de-
3 fined local community, neighborhood, or rural dis-
4 trict that shall constitute the community charter,
5 can be satisfactorily served by the credit union and
6 remain within the community credit union’s field of
7 membership.”.

8 **SEC. 310. CREDIT UNION GOVERNANCE.**

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

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

14 “(1) EXPULSION OF MEMBERS FOR NON-
15 PARTICIPATION OR FOR JUST CAUSE.—The board of
16 directors of a Federal credit union may, by majority
17 vote of a quorum of directors, adopt and enforce a
18 policy with respect to expulsion from membership,
19 by a majority vote of such board of directors, based
20 on just cause, including disruption of credit union
21 operations, or on nonparticipation by a member in
22 the affairs of the credit union.

23 “(2) WRITTEN NOTICE OF POLICY TO MEM-
24 BERS.—If a policy described in paragraph (1) is
25 adopted, written notice of the policy as adopted and

1 the effective date of such policy shall be provided
2 to—

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

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

8 (b) **TERM LIMITS AUTHORIZED FOR BOARD MEM-**
9 **BERS OF FEDERAL CREDIT UNIONS.**—Section 111(a) of
10 the Federal Credit Union Act (12 U.S.C. 1761(a)) is
11 amended by adding at the end the following new sentence:
12 “The bylaws of a Federal credit union may limit the num-
13 ber of consecutive terms any person may serve on the
14 board of directors of such credit union.”.

15 (c) **REIMBURSEMENT FOR LOST WAGES DUE TO**
16 **SERVICE ON CREDIT UNION BOARD NOT TREATED AS**
17 **COMPENSATION.**—Section 111(c) of the Federal Credit
18 Union Act (12 U.S.C. 1761(c)) is amended by inserting
19 “, including lost wages,” after “the reimbursement of rea-
20 sonable expenses”.

21 **SEC. 311. PROVIDING THE NATIONAL CREDIT UNION AD-**
22 **MINISTRATION WITH GREATER FLEXIBILITY**
23 **IN RESPONDING TO MARKET CONDITIONS.**

24 Section 107(a)(5)(A)(vi)(I) of the Federal Credit
25 Union Act (12 U.S.C. 1757(5)(A)(vi)(I)) (as so designated

1 by section 303 of this title) is amended by striking “six-
2 month period and that prevailing interest rate levels” and
3 inserting “6-month period or that prevailing interest rate
4 levels”.

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

7 Section 7A(c)(7) of the Clayton Act (15 U.S.C.
8 18a(e)(7)) is amended by inserting “section 205(b)(3) of
9 the Federal Credit Union Act (12 U.S.C. 1785(b)(3)),”
10 before “or section 3”.

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

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

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

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

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

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

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

18 (c) DEFINITION OF APPROPRIATE FEDERAL BANK-
19 ING AGENCY.—Section 210A(c) of the Investment Advis-
20 ers Act of 1940 (15 U.S.C. 80b–10a(c)) is amended by
21 inserting “and includes the National Credit Union Admin-
22 istration Board, in the case of an insured credit union (as
23 defined in section 101(7) of the Federal Credit Union
24 Act)” before the period at the end.

1 **SEC. 314. CLARIFICATION OF DEFINITION OF NET WORTH**
2 **UNDER CERTAIN CIRCUMSTANCES FOR PUR-**
3 **POSES OF PROMPT CORRECTIVE ACTION.**

4 Subparagraph (A) of section 216(o)(2) of the Federal
5 Credit Union Act (12 U.S.C. 1790d(o)(2)(A)) is amend-
6 ed—

7 (1) by inserting “the” before “retained earnings
8 balance”; and

9 (2) by inserting “, together with any amounts
10 that were previously retained earnings of any other
11 credit union with which the credit union has com-
12 bined” before the semicolon at the end.

13 **SEC. 315. AMENDMENTS RELATING TO NONFEDERALLY IN-**
14 **SURED CREDIT UNIONS.**

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

19 “(3) ENFORCEMENT BY APPROPRIATE STATE
20 SUPERVISOR.—Any appropriate State supervisor of a
21 private deposit insurer, and any appropriate State
22 supervisor of a depository institution which receives
23 deposits that are insured by a private deposit in-
24 surer, may examine and enforce compliance with this
25 subsection under the applicable regulatory authority
26 of such supervisor.”.

1 (b) AMENDMENTS RELATING TO EFFECTIVE
2 DATES.—

3 (1) NEW DATE DESIGNATING NEW AND CUR-
4 RENT DEPOSITORS.—Section 43(b)(3) of the Federal
5 Deposit Insurance Act (12 U.S.C. 1831t(b)(3)) is
6 amended by striking “June 19, 1994” each place
7 such term appears in subparagraph (A), (B), and
8 (C) and inserting “May 15, 2004 (or, in the case of
9 a depository institution that terminates Federal de-
10 posit or share insurance after such date, the date
11 the termination becomes effective)”.

12 (2) CHANGE IN CERTAIN EFFECTIVE DATE.—
13 Section 43(b)(3)(B) of the Federal Deposit Insur-
14 ance Act (12 U.S.C. 1831t(b)(3)(B)) is amended by
15 striking “the effective date of this paragraph” and
16 inserting “the effective date of the Financial Serv-
17 ices Regulatory Relief Act of 2005”.

18 (3) CHANGE IN TIMING OF FIRST NOTICE.—
19 Section 43(b)(3)(C)(ii)(I) of the Federal Deposit In-
20 surance Act (12 U.S.C. 1831t(b)(3)(C)(ii)(I)) is
21 amended by striking “September 12, 1994” and in-
22 serting “the end of the 45-day period beginning on
23 the effective date of the Financial Services Regu-
24 latory Relief Act of 2005 (or, in the case of a deposi-
25 tory institution that terminates Federal deposit or

1 share insurance after May 15, 2004, the later of the
2 end of such 45-day period or the end of the 45-day
3 period beginning on the date the termination of such
4 Federal deposit or share insurance becomes effec-
5 tive)”.
6

7 (c) REPEAL OF PROVISION PROHIBITING NON-
8 DEPOSITORY INSTITUTIONS FROM ACCEPTING DEPOS-
9 ITS.—Section 43 of the Federal Deposit Insurance Act (12
10 U.S.C. 1831t) is amended—

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

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

14 (d) REPEAL OF PROVISION CONCERNING NON-
15 DEPOSITORY INSTITUTIONS MASQUERADING AS DEPOSI-
16 TORY INSTITUTIONS.—Subsection (e)(2) (as so redesi-
17 gnated by subsection (c) of this section) of section 43 of
18 the Federal Deposit Insurance Act (12 U.S.C. 1831t) is
19 amended by striking “includes—” and all that follows
20 through the end of subparagraph (B) and inserting “in-
21 cludes any entity described in section 19(b)(1)(A)(iv) of
22 the Federal Reserve Act.”.

23 (e) REPEAL OF FTC AUTHORITY TO ENFORCE INDE-
24 PENDENT AUDIT REQUIREMENT; CONCURRENT STATE
25 ENFORCEMENT.—Subsection (f) (as so redesignated by
subsection (c) of this section) of section 43 of the Federal

1 Deposit Insurance Act (12 U.S.C. 1831t) is amended to
2 read as follows:

3 “(f) ENFORCEMENT.—

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

10 “(2) BROAD STATE ENFORCEMENT AUTHOR-
11 ITY.—

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

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

1 “(C) LIMITATION ON STATE ACTION
2 WHILE FEDERAL ACTION PENDING.—If the
3 Federal Trade Commission has instituted an
4 enforcement action for a violation of this sec-
5 tion, no appropriate State supervisor may, dur-
6 ing the pendency of such action, bring an action
7 under this section against any defendant named
8 in the complaint of the Commission for any vio-
9 lation of this section that is alleged in that com-
10 plaint.”.

11 **TITLE IV—DEPOSITORY**
12 **INSTITUTION PROVISIONS**

13 **SEC. 401. EASING RESTRICTIONS ON INTERSTATE BRANCH-**
14 **ING AND MERGERS.**

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

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

23 (2) CLERICAL AMENDMENT.—The heading for
24 subsection (g) of section 5155 of the Revised Stat-

1 utes of the United States is amended by striking
2 “STATE ‘OPT-IN’ ELECTION TO PERMIT”.

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

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

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

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

17 “(i) IN GENERAL.—If the appropriate
18 State bank supervisor of the home State of
19 any industrial loan company, industrial
20 bank, or other institution described in sec-
21 tion 2(e)(2)(H) of the Bank Holding Com-
22 pany Act of 1956, or the appropriate State
23 bank supervisor of any host State with re-
24 spect to such company, bank, or institu-
25 tion, determines that such company, bank,

1 or institution is controlled, directly or indi-
2 rectly, by a commercial firm, such com-
3 pany, bank, or institution may not acquire,
4 establish, or operate a branch in such host
5 State.

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

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

22 “(I) which became an insured de-
23 pository institution before October 1,
24 2003 or pursuant to an application
25 for deposit insurance which was ap-

1 proved by the Corporation before such
2 date; and

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

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

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

1 institution on the date referred to in clause
2 (iii)(II), and remained an affiliate at all
3 times after such date.”.

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

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

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

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

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

1 Act) on the same terms and conditions and subject to the
2 same limitations and restrictions as are applicable to the
3 establishment of a de novo branch of a national bank in
4 a host State under section 5155(g) of the Revised Statutes
5 of the United States or are applicable to an insured State
6 nonmember bank under section 18(d)(3) of the Federal
7 Deposit Insurance Act” after “Revised Statutes of the
8 United States”. Such section 5155(g) shall be applied for
9 purposes of the preceding sentence by substituting ‘Board
10 of Governors of the Federal Reserve System’ for ‘Comp-
11 troller of the Currency’ and ‘State member bank’ for ‘na-
12 tional bank’.”.

13 (d) INTERSTATE MERGER OF BANKS.—

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

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

18 (A) by striking “Beginning on June 1,
19 1997, the” and inserting “The”; and

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

1 (2) NATIONAL BANK TRUST COMPANY MERGER
2 WITH OTHER TRUST COMPANY.—Subsection (b) of
3 section 4 of the National Bank Consolidation and
4 Merger Act (12 U.S.C. 215a–1(b)) is amended to
5 read as follows:

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

13 (e) INTERSTATE FIDUCIARY ACTIVITY.—Section
14 18(d) of the Federal Deposit Insurance Act (12 U.S.C.
15 1828(d)) is amended by adding at the end the following
16 new paragraph:

17 “(5) INTERSTATE FIDUCIARY ACTIVITY.—

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

1 duciary capacity in a host State in which State
2 banks or other corporations which come into
3 competition with national banks are permitted
4 to act under the laws of such host State.

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

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

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

23 (f) TECHNICAL AND CONFORMING AMENDMENTS.—

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

1 (A) in subsection (a)—

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

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

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

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

1 (B) in subsection (b)—

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

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

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

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

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

22 (vi) by striking “all banks” where
23 such term appears in paragraph (5) and
24 inserting “all insured depository institu-
25 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(e) of the Bank Service Company
6 Act (12 U.S.C. 1864(e)) is amended by inserting "or
7 State savings association" after "State bank" each
8 place such term appears.

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

13 (9) Section 4(e) of the Bank Service Company
14 Act (12 U.S.C. 1864(e)) is amended to read as fol-
15 lows:

16 “(e) A bank service company may perform—

17 “(1) only those services that each depository in-
18 stitution shareholder or member is otherwise author-
19 ized to perform under any applicable Federal or
20 State law; and

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

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

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

6 (A) in subsection (a)—

7 (i) by striking “insured bank” and in-
8 sserting “insured depository institution”;
9 and

10 (ii) by striking “bank’s” and inserting
11 “institution’s”.

12 (B) in subsection (b), by striking “insured
13 bank” and inserting “insured depository insti-
14 tution”; and

15 (C) in subsection (c)—

16 (i) by striking “the bank or banks”
17 and inserting “any depository institution”;
18 and

19 (ii) by striking “capability of the
20 bank” and inserting “capability of the de-
21 pository institution”.

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

1 (A) in subsection (b), by striking “insured
2 bank” and inserting “insured depository insti-
3 tution”; and

4 (B) in subsection (c)—

5 (i) by striking “a bank” each place
6 such term appears and inserting “a deposi-
7 tory institution”; and

8 (ii) by striking “the bank” each place
9 such term appears and inserting “the de-
10 pository institution”.

11 **SEC. 407. CROSS GUARANTEE AUTHORITY.**

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

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

17 **SEC. 408. GOLDEN PARACHUTE AUTHORITY AND NONBANK**
18 **HOLDING COMPANIES.**

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

21 (1) in paragraph (2)(A), by striking “or deposi-
22 tory institution holding company” and inserting “or
23 covered company”;

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

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

4 “(i) the insolvency of the depository
5 institution or covered company;

6 “(ii) the appointment of a conservator
7 or receiver for the depository institution; or

8 “(iii) the depository institution’s trou-
9 bled condition (as defined in the regula-
10 tions prescribed pursuant to section
11 32(f)).”;

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

15 (4) in paragraph (3) in the matter preceding
16 subparagraph (A), by striking “depository institu-
17 tion holding company” and inserting “covered com-
18 pany”;

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

21 (6) in paragraph (4)(A)—

22 (A) by striking “depository institution
23 holding company” each place such term appears
24 and inserting “covered company”; and

1 (B) by striking “holding company” each
2 place such term appears (other than in connec-
3 tion with the term referred to in subparagraph
4 (A)) and inserting “covered company”;

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

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

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

17 (9) in paragraph (6)—

18 (A) by striking “depository institution
19 holding company” and inserting “covered com-
20 pany,”; and

21 (B) by striking “or holding company” and
22 inserting “or covered company”.

1 **SEC. 409. AMENDMENTS RELATING TO CHANGE IN BANK**
2 **CONTROL.**

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

5 (1) in paragraph (1)(D)—

6 (A) by striking “is needed to investigate”
7 and inserting “is needed—

8 “(i) to investigate”;

9 (B) by striking “United States Code.” and
10 inserting “United States Code; or”; and

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

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

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

21 **SEC. 410. COMMUNITY REINVESTMENT CREDIT FOR ESOPS**
22 **AND EWOCS.**

23 Section 804 of the Community Reinvestment Act of
24 1977 (12 U.S.C. 2903) is amended by adding at the end
25 the following new subsection—

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

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

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

13 “(A) EMPLOYEE STOCK OWNERSHIP
14 PLAN.—The term ‘employee stock ownership
15 plan’ has the same meaning as in section
16 4975(e)(7) of the Internal Revenue Code of
17 1986.

18 “(B) ELIGIBLE WORKER-OWNED COOPERA-
19 TIVE.—The term ‘eligible worker-owned cooper-
20 ative’ has the same meaning as in section
21 1042(c)(2) of the Internal Revenue Code of
22 1986.”.

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

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

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

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

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

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

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

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

1 “, unless the Board determines that such treatment is not
2 appropriate in light of the facts and circumstances of the
3 case and the purposes of this Act” before the period at
4 the end.

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

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

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

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

17 (b) TECHNICAL CORRECTIONS.—

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

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

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

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

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

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

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

1 rates described in subparagraph (A) or (B) of para-
2 graph (1).

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

11 “(A) an insured depository institution; or

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

15 “(i) a consumer’s personal check or
16 share draft, in the amount of the advance
17 plus a fee, where presentment or negotia-
18 tion of such check or share draft is de-
19 ferred by agreement of the parties until a
20 designated future date; or

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

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

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

5 (1) in paragraph (1)—

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

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

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

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

16 (4) by striking paragraph (6).

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

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

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

25 Section 10(d) of the Federal Deposit Insurance Act
26 (12 U.S.C. 1820(d)) is amended—

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)),”; and

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 and 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 serting “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 Section 19 of the Federal Deposit Insurance Act (12
17 U.S.C. 1829) is amended by inserting after subsection (c)
18 (as added by section 603 of this title) the following new
19 subsections:

20 “(d) BANK HOLDING COMPANIES.—Subsections (a)
21 and (b) shall apply to any bank holding company, any sub-
22 sidiary (other than a bank) of a bank holding company,
23 and any organization organized and operated under sec-
24 tion 25A of the Federal Reserve Act or operating under
25 section 25 of the Federal Reserve Act as if such bank

1 holding company, subsidiary, or organization were an in-
2 sured depository institution, except such subsections shall
3 be applied for purposes of this subsection by substituting
4 ‘Board of Governors of the Federal Reserve System’ for
5 ‘Corporation’ each place such term appears in such sub-
6 sections.

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 **SEC. 614. CLARIFICATION THAT NOTICE AFTER SEPARA-**
18 **TION FROM SERVICE MAY BE MADE BY AN**
19 **ORDER.**

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

24 (b) TECHNICAL AND CONFORMING AMENDMENT.—
25 The heading for section 8(i)(3) of the Federal Deposit In-

1 insurance Act (12 U.S.C. 1818(i)(3)) is amended by insert-
2 ing “OR ORDER” after “NOTICE”.

3 **SEC. 615. ENFORCEMENT AGAINST MISREPRESENTATIONS**
4 **REGARDING FDIC DEPOSIT INSURANCE COV-**
5 **ERAGE.**

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

9 “(4) FALSE ADVERTISING, MISUSE OF FDIC
10 NAMES, AND MISREPRESENTATION TO INDICATE IN-
11 SURED STATUS.—

12 “(A) PROHIBITION ON FALSE ADVER-
13 TISING AND MISUSE OF FDIC NAMES.—No per-
14 son may—

15 “(i) use the terms ‘Federal Deposit’,
16 ‘Federal Deposit Insurance’, ‘Federal De-
17 posit Insurance Corporation’, any combina-
18 tion of such terms, or the abbreviation
19 ‘FDIC’ as part of the business name or
20 firm name of any person, including any
21 corporation, partnership, business trust,
22 association, or other business entity; or

23 “(ii) use such terms or any other sign
24 or symbol as part of an advertisement, so-
25 licitation, or other document,

1 to represent, suggest or imply that any deposit
2 liability, obligation, certificate or share is in-
3 sured or guaranteed by the Federal Deposit In-
4 surance Corporation, if such deposit liability,
5 obligation, certificate, or share is not insured or
6 guaranteed by the Corporation.

7 “(B) PROHIBITION ON MISREPRESENTA-
8 TIONS OF INSURED STATUS.—No person may
9 knowingly misrepresent—

10 “(i) that any deposit liability, obliga-
11 tion, certificate, or share is federally in-
12 sured, if such deposit liability, obligation,
13 certificate, or share is not insured by the
14 Corporation; or

15 “(ii) the extent to which or the man-
16 ner in which any deposit liability, obliga-
17 tion, certificate, or share is insured by the
18 Federal Deposit Insurance Corporation, if
19 such deposit liability, obligation, certificate,
20 or share is not insured by the Corporation
21 to the extent or in the manner represented.

22 “(C) AUTHORITY OF FDIC.—The Corpora-
23 tion shall have—

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

4 “(ii) for purposes of enforcing the re-
5 quirements of this paragraph with regard
6 to any person—

7 “(I) the authority of the Cor-
8 poration under section 10(c) to con-
9 duct investigations; and

10 “(II) the enforcement authority
11 of the Corporation under subsections
12 (b), (c), (d) and (i) of section 8,

13 as if such person were a state nonmember in-
14 sured bank.

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

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

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

3 “(A) TEMPORARY ORDER.—

4 “(i) IN GENERAL.—If a notice of
5 charges served under subsection (b)(1) of
6 this section specifies on the basis of par-
7 ticular facts that any person is engaged in
8 conduct described in section 18(a)(4), the
9 Corporation may issue a temporary order
10 requiring—

11 “(I) the immediate cessation of
12 any activity or practice described,
13 which gave rise to the notice of
14 charges; and

15 “(II) affirmative action to pre-
16 vent any further, or to remedy any ex-
17 isting, violation.

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

21 “(B) EFFECTIVE PERIOD OF TEMPORARY
22 ORDER.—A temporary order issued under sub-
23 paragraph (A) shall remain effective and en-
24 forceable, pending the completion of an admin-
25 istrative proceeding pursuant to subsection

1 (b)(1) in connection with the notice of
2 charges—

3 “(i) until such time as the Corpora-
4 tion shall dismiss the charges specified in
5 such notice; or

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

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

15 (c) TECHNICAL AND CONFORMING AMENDMENTS.—

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

18 (A) in the 1st sentence by striking “of this
19 subsection” and inserting “of paragraphs (1)
20 and (2)”;

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

22 (C) in the 3rd sentence, by striking “of
23 this subsection” and inserting “of paragraphs
24 (1) and (2)”.

1 (2) The heading for subsection (a) of section 18
 2 of the Federal Deposit Insurance Act (12 U.S.C.
 3 1828(a)) is amended by striking “INSURANCE
 4 LOGO.—” and inserting “REPRESENTATIONS OF
 5 DEPOSIT INSURANCE.—”.

6 **SEC. 616. CHANGES REQUIRED TO SMALL BANK HOLDING**
 7 **COMPANY POLICY STATEMENT ON ASSESS-**
 8 **MENT OF FINANCIAL AND MANAGERIAL FAC-**
 9 **TORS.**

10 (a) SMALL BANK HOLDING COMPANY POLICY
 11 STATEMENT ON ASSESSMENT OF FINANCIAL AND MANA-
 12 GERIAL FACTORS.—

13 (1) IN GENERAL.—Before the end of the 6-
 14 month period beginning on the date of the enact-
 15 ment of this Act, the Board of Governors of the
 16 Federal Reserve System shall publish in the Federal
 17 Register proposed revisions to the Small Bank Hold-
 18 ing Company Policy Statement on Assessment of Fi-
 19 nancial and Managerial Factors (12 C.F.R. part
 20 225—appendix C) that provide that the policy shall
 21 apply to a bank holding company which has pro
 22 forma consolidated assets of less than
 23 \$1,000,000,000 and that—

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

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

4 (2) ADJUSTMENT OF AMOUNT.—The Board of
5 Governors of the Federal Reserve System shall an-
6 nually adjust the dollar amount referred to in para-
7 graph (1) in the Small Bank Holding Company Pol-
8 icy Statement on Assessment of Financial and Man-
9 agerial Factors by an amount equal to the percent-
10 age increase, for the most recent year, in total assets
11 held by all insured depository institutions, as deter-
12 mined by the Board.

13 (b) INCREASE IN DEBT-TO-EQUITY RATIO OF SMALL
14 BANK HOLDING COMPANY.—Before the end of the 6-
15 month period beginning on the date of the enactment of
16 this Act, the Board of Governors of the Federal Reserve
17 System shall publish in the Federal Register proposed re-
18 visions to the Small Bank Holding Company Policy State-
19 ment on Assessment of Financial and Managerial Factors
20 (12 C.F.R. part 225—appendix C) such that the debt-to-
21 equity ratio allowable for a small bank holding company
22 in order to remain eligible to pay a corporate dividend and
23 to remain eligible for expedited processing procedures
24 under Regulation Y of the Board of Governors of the Fed-
25 eral Reserve System would increase from 1:1 to 3:1.

1 **SEC. 617. EXCEPTION TO ANNUAL PRIVACY NOTICE RE-**
2 **QUIREMENT UNDER THE GRAMM-LEACH-BLI-**
3 **LEY ACT.**

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

7 “(c) EXCEPTION TO ANNUAL NOTICE REQUIRE-
8 MENT.—A financial institution that—

9 “(1) provides nonpublic personal information
10 only in accordance with the provisions of subsection
11 (b)(2) or (e) of section 502 or regulations prescribed
12 under section 504(b);

13 “(2) does not share information with affiliates
14 under section 603(d)(2)(A) of the Fair Credit Re-
15 porting Act; and

16 “(3) has not changed its policies and practices
17 with regard to disclosing nonpublic personal infor-
18 mation from the policies and practices that were dis-
19 closed in the most recent disclosure sent to con-
20 sumers in accordance with this subsection,

21 shall not be required to provide an annual disclosure under
22 this subsection until such time as the financial institution
23 fails to comply with any criteria described in paragraph
24 (1), (2), or (3).”.

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 person to the Administration, any State
23 credit union supervisor, or foreign banking authority
24 for any purpose in the course of any supervisory or
25 regulatory process of such Board, supervisor, or au-

1 thority shall not be construed as waiving, destroying,
2 or otherwise affecting any privilege such person may
3 claim with respect to such information under Fed-
4 eral or State law as to any person or entity other
5 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 **TITLE VII—“BSA” COMPLIANCE**
2 **BURDEN REDUCTION**

3 **SEC. 701. REFORM OF THE CURRENCY TRANSACTION RE-**
4 **PORT EXEMPTION SYSTEM.**

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

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

10 (2) Due to the nature of the transactions or the
11 persons and entities conducting such transactions,
12 certain such reports as currently filed do not appear
13 to be relevant to the detection, deterrence, or inves-
14 tigation of financial crimes, including money laun-
15 dering and the financing of terrorism.

16 (3) However, the data contained in such reports
17 can provide valuable context for the analysis of other
18 data derived pursuant to subchapter II of chapter
19 53 of title 31, United States Code, as well as inves-
20 tigative data, which provides invaluable and indis-
21 pensable information supporting efforts to combat
22 money laundering and other financial crimes.

23 (4) An exemption from the reporting require-
24 ments for certain currency transactions that are of
25 little or no value to ongoing efforts of law enforce-

1 ment agencies, financial regulatory agencies, and the
2 financial services industry to investigate, detect, or
3 deter financial crimes would serve to balance the
4 burden placed on members of the financial services
5 industry with the compelling need to produce and
6 provide meaningful information to policy-makers, fi-
7 nancial regulators, law enforcement and intelligence
8 agencies.

9 (5) The Secretary of the Treasury has by regu-
10 lation, and in accordance with section 5313 of title
11 31, United States Code, implemented a process by
12 which institutions may seek exemptions from filing
13 certain currency transaction reports based on appro-
14 priate circumstances; however, the existing exemp-
15 tion process has not adequately balanced the burden
16 on the financial industry with the government's need
17 for data to support its efforts in combating financial
18 crime.

19 (b) ADDITIONAL FLEXIBILITY FOR CURRENCY
20 TRANSACTION REPORT EXEMPTION REVIEW PROCESS.—

21 (1) REVIEW OF EXISTING DISCRETIONARY EX-
22 EMPTION.—

23 (A) IN GENERAL.—Section 5313(e)(5)(A)
24 of title 31, United States Code, is amended by
25 striking “, at least once each year, the qualified

1 business customers” and inserting “, at such
2 time and in such manner as the Secretary may
3 prescribe, any qualified business customer”.

4 (B) TECHNICAL AND CONFORMING AMEND-
5 MENT.—The heading for section 5313(e)(5)(A)
6 of title 31, United States Code, is amended by
7 striking “ANNUAL REVIEW” and inserting
8 “PERIODIC REVIEW AUTHORIZED”.

9 (2) PORTABILITY OF EXISTING DISCRETIONARY
10 EXEMPTION.—Section 5313(e)(6) of title 31, United
11 States Code, is amended to read as follows:

12 “(6) CONTINUITY OF EXEMPTION.—If any de-
13 pository institution has been granted an exemption
14 under this subsection with respect to any qualified
15 business customer for more than such minimum pe-
16 riod of time as the Secretary determines to be ap-
17 propriate, no provision of this subsection shall be
18 construed as denying the eligibility of any other de-
19 pository institution to be granted an exemption for
20 the same business customer immediately upon the
21 transfer of the business relationship (that formed
22 the basis of the exemption) by such customer from
23 the former depository institution to the latter deposi-
24 tory institution, if the latter depository institution

1 submits reports to the Secretary under this section
2 electronically.”.

3 (c) REVIEW OF AND REPORT ON ADDITIONAL REGU-
4 LATORY OR LEGISLATIVE CHANGES.—

5 (1) REVIEW REQUIRED.—Before the end of the
6 3-month period beginning on the date of the enact-
7 ment of this Act, the Secretary of the Treasury shall
8 conduct a review of the currency transaction report
9 exemption process to determine what regulatory or
10 legislative changes are appropriate to balance the
11 burden of the currency transaction reporting re-
12 quirements under subchapter II of chapter 53 of
13 title 31, United States Code, on depository institu-
14 tions with the compelling analytical and investigative
15 needs of the Federal Government.

16 (2) ISSUES TO BE CONSIDERED.—The review
17 conducted under paragraph (1) shall include consid-
18 eration of the following issues:

19 (A) SEASONED CUSTOMERS.—The estab-
20 lishment of new criteria for exempting trans-
21 actions of seasoned customers of domestic fi-
22 nancial institutions that do not have a high de-
23 gree of usefulness for law enforcement purposes
24 (and are not already exempt under section

1 5313(d) of title 31, United States Code, and
2 regulations prescribed under such section).

3 (B) AUTHORIZED REVIEW OF DISCRE-
4 TIONARY EXEMPTIONS.—The modification or
5 elimination of regulations relating to reviews of
6 discretionary exemptions that are affected by
7 the amendments made by subsection (b)(1) and
8 the consideration of the conditions or cir-
9 cumstances under which any review under sec-
10 tion 5313(e)(5)(A) of title 31, United States
11 Code, of an existing discretionary exemption
12 should take place.

13 (C) RISK-BASED ASSESSMENT OF NEW
14 CUSTOMERS.—The feasibility of establishing a
15 risk-based assessment system for determining
16 when to allow any exemption under section
17 5313(e) of title 31, United States Code, with
18 respect to new business customers.

19 (D) RECERTIFICATION OF DISCRETIONARY
20 EXEMPTIONS.—The modification or elimination
21 of any requirement for any mandatory refiling,
22 on a fixed schedule, for the continuation of any
23 discretionary exemption of a qualified business
24 customer under section 5313(e) of title 31,
25 United States Code, unless a change occurs in

1 the conditions or circumstances surrounding the
2 transactions or the business covered by the
3 original exemption.

4 (E) CHANGES IN CONDITIONS AND CIR-
5 CUMSTANCES.—The modification of the criteria
6 for determining when a new exemption is re-
7 quired due to changes in the conditions or cir-
8 cumstances surrounding the transactions or the
9 business covered by the original exemption.

10 (F) NOTICE AND DISAPPROVAL.—The es-
11 tablishment of a notice and disapproval system
12 under which a request for an exemption from
13 the currency transaction reporting requirement
14 under section 5313(e) would be deemed to have
15 been approved, subject to the Secretary's au-
16 thority to revoke any exemption, by the end of
17 a specified time period unless disapproved by
18 the Secretary or a designee of the Secretary be-
19 fore the end of such period, subject to such con-
20 ditions and limitations as may be appropriate.

21 (G) REVOCATION PROCESS.—The estab-
22 lishment of a clear process for—

23 (i) the acquisition of additional infor-
24 mation by the Secretary from depository

1 institutions relating to exemptions granted
2 under such section 5313(e); and

3 (ii) the revocation of any such exemp-
4 tion.

5 (3) REPORT TO CONGRESS.—Upon completion
6 of the review under paragraph (1), the Secretary of
7 the Treasury shall promptly submit a report on the
8 findings and conclusions of the Secretary with re-
9 spect to the review to the Committee on Financial
10 Services of the House of Representatives and the
11 Committee on Banking, Housing, and Urban Affairs
12 of the Senate, together with such recommendations
13 for legislative and administrative actions as the Sec-
14 retary may determine to be appropriate.

15 (d) REFORM OF CTR EXEMPTION PROCESS.—Before
16 the end of the 9-month period beginning on the date of
17 the submission of the report to Congress under subsection
18 (c)(3), the Secretary of the Treasury shall prescribe regu-
19 lations implementing appropriate changes to the currency
20 transaction report exemption process consistent with the
21 review and recommendations of the Secretary under sub-
22 section (c).

1 **SEC. 702. REDUCTION IN INCONSISTENCIES IN MONETARY**
2 **TRANSACTION RECORDKEEPING AND RE-**
3 **PORTING ENFORCEMENT AND EXAMINATION**
4 **REQUIREMENTS.**

5 (a) SENSE OF THE CONGRESS.—It is the sense of the
6 Congress that inconsistencies and redundancies among
7 regulations implementing monetary transaction record-
8 keeping and reporting enforcement programs under sec-
9 tion 8 of the Federal Deposit Insurance Act, section
10 206(q) of the Federal Credit Union Act, and chapter II
11 of chapter 53 of title 31, United States Code by the Sec-
12 retary of the Treasury and the Federal banking agen-
13 cies—

14 (1) increase the difficulty depository institutions
15 have in complying with congressional intent in cre-
16 ating such enforcement programs,

17 (2) reduce the transparency and clarity of the
18 regulatory regime;

19 (3) increase the potential for conflict among the
20 various regulations in the future; and

21 (4) contribute to the perception that various
22 agencies involved in the enforcement of the monetary
23 transaction recordkeeping and reporting require-
24 ments apply such requirements inconsistently.

1 (b) AGENCY COORDINATION OF MONETARY TRANS-
2 ACTION RECORDKEEPING AND REPORTING REQUIRE-
3 MENTS.—

4 (1) ENFORCEMENT PROGRAMS.—

5 (A) FEDERAL DEPOSIT INSURANCE ACT.—

6 Section 8(s) of the Federal Deposit Insurance
7 Act (12 U.S.C. 1818(s)) is amended by adding
8 at the end the following new paragraph:

9 “(4) COORDINATION ON UNIFORM REQUIRE-
10 MENTS.—In prescribing regulations under paragraph
11 (1), the Federal banking agencies, acting through
12 the Financial Institutions Examination Council,
13 shall—

14 “(A) consult with each other, the National
15 Credit Union Administration Board, and the
16 Secretary of the Treasury; and

17 “(B) take such action as may be necessary
18 to ensure that the requirements for procedures
19 established pursuant to such regulations, and
20 the examination standards for reviewing such
21 procedures, are congruent and reasonably uni-
22 form (taking into account differences in the
23 form and function of the institutions subject to
24 such requirements).”.

1 (B) FEDERAL CREDIT UNION ACT.—Sec-
2 tion 206(q) of the Federal Credit Union Act
3 (12 U.S.C. 1786(q)) is amended by adding at
4 the end the following new paragraph:

5 “(4) COORDINATION ON UNIFORM REQUIRE-
6 MENTS.—In prescribing regulations under paragraph
7 (1), the Board, acting through the Financial Institu-
8 tions Examination Council, shall—

9 “(A) consult with the Federal banking
10 agencies and the Secretary of the Treasury; and

11 “(B) take such action as may be necessary
12 to ensure that the requirements for procedures
13 established pursuant to such regulations, and
14 the examination standards for reviewing such
15 procedures, are congruent and reasonably uni-
16 form (taking into account differences in the
17 form and function of the institutions subject to
18 such requirements).”.

19 (2) EXAMINATION STANDARDS AND DIS-
20 PUTES.—Section 1006 of the Federal Financial In-
21 stitutions Examination Council Act (12 U.S.C.
22 3305) is amended by adding at the end the following
23 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 3-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 shall prescribe regulations, or issue other
12 forms of guidance, that eliminate the need for depository
13 institutions to file recurring suspicious activity reports on
14 the same transaction unless there has been a subsequent
15 change in any pattern of activity involving any person who
16 was connected with the transaction.

17 (d) ELECTRONIC ACKNOWLEDGEMENT OF CERTAIN
18 ELECTRONIC FILINGS.—Before the end of the 6-month
19 period 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 **TITLE VIII—CLERICAL AND**
17 **TECHNICAL AMENDMENTS**

18 **SEC. 801. CLERICAL AMENDMENTS TO THE HOME OWNERS’**

19 **LOAN ACT.**

20 (a) AMENDMENT TO TABLE OF CONTENTS.—The
21 table of contents in section 1 of the Home Owners’ Loan
22 Act (12 U.S.C. 1461) is amended by striking the items
23 relating to sections 5 and 6 and inserting the following
24 new items:

“Sec. 5. Savings associations.

“Sec. 6. [Repealed.]”.

1 (b) CLERICAL AMENDMENTS TO HEADINGS.—

2 (1) The heading for section 4(a) of the Home
3 Owners' Loan Act (12 U.S.C. 1463(a)) is amended
4 by striking “(a) FEDERAL SAVINGS ASSOCIA-
5 TIONS.—” and inserting “(a) GENERAL RESPON-
6 SIBILITIES OF THE DIRECTOR.—”.

7 (2) The section heading for section 5 of the
8 Home Owners' Loan Act (12 U.S.C. 1464) is
9 amended to read as follows:

10 **“SEC. 5. SAVINGS ASSOCIATIONS.”**

11 **SEC. 802. TECHNICAL CORRECTIONS TO THE FEDERAL**
12 **CREDIT UNION ACT.**

13 The Federal Credit Union Act (12 U.S.C. 1751 et
14 seq.) is amended as follows:

15 (1) In section 101(3), strike “and” after the
16 semicolon.

17 (2) In section 101(5), strike the terms “account
18 account” and “account accounts” each place any
19 such term appears and insert “account”.

20 (3) In section 107(a)(5)(E) (as so designated
21 by section 303 of this Act), strike the period at the
22 end and insert a semicolon.

23 (4) In paragraphs (6) and (7) of section 107(a)
24 (as so designated by section 303 of this Act), strike
25 the period at the end and insert a semicolon.

1 (5) In section 107(a)(7)(D) (as so designated
2 by section 303 of this Act), strike “the Federal Sav-
3 ings and Loan Insurance Corporation or”.

4 (6) In section 107(a)(7)(E) (as so designated
5 by section 303 of this Act), strike “the Federal
6 Home Loan Bank Board,” and insert “the Federal
7 Housing Finance Board,”.

8 (7) In section 107(a)(9) (as so designated by
9 section 303 of this Act), strike “subchapter III” and
10 insert “title III”.

11 (8) In section 107(a)(13) (as so designated by
12 section 303 of this Act), strike the “and” after the
13 semicolon at the end.

14 (9) In section 109(e)(2)(A)(i), strike “(12
15 U.S.C. 4703(16))”.

16 (10) In section 120(h), strike “under the Act
17 approved July 30, 1947 (6 U.S.C., secs. 6–13),” and
18 insert “chapter 93 of title 31, United States Code,”.

19 (11) In section 201(b)(5), strike “section 116
20 of”.

21 (12) In section 202(h)(3), strike “section
22 207(c)(1)” and insert “section 207(k)(1)”.

23 (13) In section 204(b), strike “such others pow-
24 ers” and insert “such other powers”.

1 (14) In section 206(e)(3)(D), strike “and” after
2 the semicolon at the end.

3 (15) In section 206(f)(1), strike “subsection
4 (e)(3)(B)” and insert “subsection (e)(3)”.

5 (16) In section 206(g)(7)(D), strike “and sub-
6 section (1)”.

7 (17) In section 206(t)(2)(B), insert “regula-
8 tions” after “as defined in”.

9 (18) In section 206(t)(2)(C), strike “material
10 affect” and insert “material effect”.

11 (19) In section 206(t)(4)(A)(ii)(II), strike “or”
12 after the semicolon at the end.

13 (20) In section 206A(a)(2)(A), strike “regulator
14 agency” and insert “regulatory agency”.

15 (21) In section 207(c)(5)(B)(i)(I), insert “and”
16 after the semicolon at the end.

17 (22) In section 207(c)(8)(D)(ii)(I), insert a
18 closing parenthesis after “Act of 1934”.

19 (23) In the heading for subparagraph (A) of
20 section 207(d)(3), strike “TO” and insert “WITH”.

21 (24) In section 207(f)(3)(A), strike “category
22 or claimants” and insert “category of claimants”.

23 (25) In section 209(a)(8), strike the period at
24 the end and insert a semicolon.

1 (26) In section 216(n), insert “any action” be-
2 fore “that is required”.

3 (27) In section 304(b)(3), strike “the affairs or
4 such credit union” and insert “the affairs of such
5 credit union”.

6 (28) In section 310, strike “section 102(e)” and
7 insert “section 102(d)”.

8 **SEC. 803. OTHER TECHNICAL CORRECTIONS.**

9 (a) Section 1306 of title 18, United States Code, is
10 amended by striking “5136A” and inserting “5136B”.

11 (b) Section 5239 of the Revised Statutes of the
12 United States (12 U.S.C. 93) is amended by redesignating
13 the second of the 2 subsections designated as subsection
14 (d) (as added by section 331(b)(3) of the Riegle Commu-
15 nity Development and Regulatory Improvement Act of
16 1994) as subsection (e).

17 **SEC. 804. REPEAL OF OBSOLETE PROVISIONS OF THE BANK**
18 **HOLDING COMPANY ACT OF 1956.**

19 (a) IN GENERAL.—Section 2 of the Bank Holding
20 Company Act of 1956 (12 U.S.C. 1841) is amended—

21 (1) in subsection (c)(2), by striking subpara-
22 graphs (I) and (J); and

23 (2) by striking subsection (m) and inserting the
24 following new subsection:

25 “(m) [Repealed]”.

1 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
2 Paragraphs (1) and (2) of section 4(h) of the Bank Hold-
3 ing Company Act of 1956 (12 U.S.C. 1843(h)) are each
4 amended by striking “(G), (H), (I), or (J) of section
5 2(c)(2)” and inserting “(G), or (H) of section 2(c)(2)”.

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