109TH CONGRESS
1ST SESSION

H. R. 4636

AN ACT

To enact the technical and conforming amendments necessary to implement the Federal Deposit Insurance Reform Act of 2005, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Deposit Insurance Reform Conforming Amendments Act of 2005''.

SEC. 2. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TECHNICAL AND CONFORMING AMENDMENTS RELATING TO GOVERNMENT DEPOSITS.—Section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by moving the margins of clauses (i) through (v) 4 ems to the right;

(B) by striking, in the matter following clause (v), ''such depositor shall'' and all that follows through the period; and

(C) by striking the semicolon at the end of clause (v) and inserting a period;

(2) by striking ''(2)(A) Notwithstanding'' and all that follows through ''a depositor who is—'' and inserting the following:

''(2) GOVERNMENT DEPOSITORS.—

''(A) IN GENERAL.—Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available to any 1 depositor—

''(i) a government depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed to be a depositor separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in subparagraph (B); and

"(ii) except as provided in subparagraph (C), the deposits of a government depositor shall be insured in an amount equal to the standard maximum deposit insurance amount (as determined under paragraph (1)).

"(B) GOVERNMENT DEPOSITOR.—In this paragraph, the term 'government depositor' means a depositor that is—";

(3) by striking "(B) The" and inserting the following:

"(C) AUTHORITY TO LIMIT DEPOSITS.—The"; and

(4) by striking "depositor referred to in subparagraph (A) of this paragraph" each place such term appears and inserting "government depositor".

(b) TECHNICAL AND CONFORMING AMENDMENT RELATING TO INSURANCE OF TRUST FUNDS.—Paragraphs (1) and (3) of section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) are each amended by striking "$100,000" and inserting "the standard maximum deposit insurance amount (as determined under section 11(a)(1))".

(c) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 11(m)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(m)(6)) is amended by striking "$100,000" and inserting "an amount equal to the standard maximum deposit insurance amount".

(2) Subsection (a) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended to read as follows:

"(a) INSURANCE LOGO.—

"(1) INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—Each insured depository institution shall display at each place of business maintained by that institution a sign or signs relating to the insurance of the deposits of the institution, in accordance with regulations to be prescribed by the Corporation.

"(B) STATEMENT TO BE INCLUDED.—Each sign required under subparagraph (A) shall include a statement that insured deposits are backed by the full faith and credit of the United States Government.

"(2) REGULATIONS.—The Corporation shall prescribe regulations to carry out this subsection, including regulations governing the substance of signs required by paragraph (1) and the manner of display or use of such signs.

"(3) PENALTIES.—For each day that an insured depository institution continues to violate this subsection or any regulation issued under this subsection, it shall be subject to a penalty of not more than $100, which the Corporation may recover for its use.".

(3) Section 43(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(d)) is amended by striking "$100,000" and inserting "an amount equal to the standard maximum deposit insurance amount".

(4) Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(A) by striking "$100,000" each place such term appears and inserting "an amount equal to the standard maximum deposit insurance amount"; and

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

"(e) STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT DEFINED.—For purposes of this section, the term 'standard maximum deposit insurance amount' means the amount of the maximum amount of deposit insurance as determined under section 11(a)(1) of the Federal Deposit Insurance Act.".

(d) CONFORMING CHANGE TO CREDIT UNION SHARE INSURANCE FUND.—

(1) IN GENERAL.—Section 207(k) of the Federal Credit Union Act (12 U.S.C. 1787(k)) is amended—

(A) by striking "(k)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(k) INSURED AMOUNTS PAYABLE.—

"(1) NET INSURED AMOUNT.—

"(A) IN GENERAL.—Subject to the provisions of paragraph (2), the net amount of share insurance payable to any member at an insured credit union shall not exceed the total amount of the shares or deposits in the name of the member (after deducting offsets), less any part thereof which is in excess of the standard maximum share insurance amount, as determined in accordance with this paragraph and paragraphs (5) and (6), and consistently with actions taken by the Federal Deposit Insurance Corporation under section 11(a) of the Federal Deposit Insurance Act.

"(B) AGGREGATION.—Determination of the net amount of share insurance under subparagraph (A), shall be in accordance with such regulations as the Board may prescribe, and, in determining the amount payable to any member, there shall be added together all accounts in the credit union maintained by that member for that member's own benefit, either in the member's own name or in the names of others.

"(C) AUTHORITY TO DEFINE THE EXTENT OF COVERAGE.—The Board may define, with such classifications and exceptions as it may prescribe, the extent of the share insurance coverage provided for member accounts, including member accounts in the name of a minor, in trust, or in joint tenancy.";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clauses (i) through (v), by moving the margins 4 ems to the right;

(II) in the matter following clause (v), by striking “his account” and all that follows through the period; and

(III) by striking the semicolon at the end of clause (v) and inserting a period;

(ii) by striking “(2)(A) Notwithstanding” and all that follows through “a depositor or member who is—” and inserting the following:

“(2) GOVERNMENT DEPOSITORS OR MEMBERS.—

“(A) IN GENERAL.—Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of insurance available to any 1 depositor or member, deposits or shares of a government depositor or member shall be insured in an amount equal to the standard maximum share insurance amount (as determined under paragraph (5)), subject to subparagraph (C).

“(B) GOVERNMENT DEPOSITOR.—In this paragraph, the term ‘government depositor’ means a depositor that is—”;

(iii) by striking ''(B) The'' and inserting the following:

''(C) AUTHORITY TO LIMIT DEPOSITS.—The''; and

(iv) by striking ''depositor or member referred to in subparagraph (A)'' and inserting ''government depositor or member''; and

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

''(4) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—

''(A) PASS-THROUGH INSURANCE.—The Administration shall provide pass-through share insurance for the deposits or shares of any employee benefit plan.

''(B) PROHIBITION ON ACCEPTANCE OF DEPOSITS.—An insured credit union that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

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

''(i) CAPITAL STANDARDS.—The terms 'well capitalized' and 'adequately capitalized' have the same meanings as in section 216(c).

"(ii) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan'—

"(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974;

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986; and

"(III) includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(iii) PASS-THROUGH SHARE INSURANCE.—The term 'pass-through share insurance' means, with respect to an employee benefit plan, insurance coverage based on the interest of each participant, in accordance with regulations issued by the Administration.

"(D) RULE OF CONSTRUCTION.—No provision of this paragraph shall be construed as authorizing an insured credit union to accept the deposits of an employee benefit plan in an amount greater than such credit union is authorized to accept under any other provision of Federal or State law.

"(5) STANDARD MAXIMUM SHARE INSURANCE AMOUNT DEFINED.—For purposes of this Act, the term 'standard maximum share insurance amount' means $100,000, adjusted as provided under section 11(a)(1)(F) of the Federal Deposit Insurance Act.".

(2) INCREASE IN SHARE INSURANCE FOR CERTAIN RETIREMENT ACCOUNTS.—Section 207(k)(3) of the Federal Credit Union Act (12 U.S.C. 1787(k)(3)) is amended by striking "$100,000" and inserting " '$250,000 (which amount shall be subject to inflation adjustments as provided under section 11(a)(1)(F) of the Federal Deposit Insurance Act, except that $250,000 shall be substituted for $100,000 wherever such term appears in such section)' ".

(3) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—Section 205(a) of the Federal Credit Union Act (12 U.S.C. 1785(a)) is amended to read as follows:

"(a) INSURANCE LOGO.—

"(1) INSURED CREDIT UNIONS.—

"(A) IN GENERAL.—Each insured credit union shall display at each place of business maintained by that credit union a sign or signs relating to the insurance of the share accounts of the institution, in accordance with regulations to be prescribed by the Board.

"(B) STATEMENT TO BE INCLUDED.—Each sign required under subparagraph (A) shall include a statement that insured share accounts are backed by the full faith and credit of the United States Government.

"(2) REGULATIONS.—The Board shall prescribe regulations to carry out this subsection, including regulations governing the substance of signs required by paragraph (1) and the manner of display or use of such signs.

"(3) PENALTIES.—For each day that an insured credit union continues to violate this subsection or any regulation issued under this subsection, it shall be subject to a penalty of not more than $100, which the Board may recover for its use.".

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date on which the final regulations required under section

2109(a)(2) of the Federal Deposit Insurance Reform Act of 2005 take effect.

SEC. 3. CONFORMING AMENDMENTS RELATING TO ASSESSMENTS AND REPEAL OF SPECIAL RULES RELATING TO MINIMUM ASSESSMENTS AND FREE DEPOSIT INSURANCE.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended as follows:

(1) Paragraph (3) of section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by striking the 3d sentence and inserting the following: ''Such reports of condition shall be the basis for the certified statements to be filed pursuant to subsection (c).''.

(2) Subparagraphs (B)(ii) and (C) of section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) are each amended by striking ''semiannual'' where such term appears in each such subparagraph.

(3) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(A) by striking subparagraphs (E), (F), and (G);

(B) in subparagraph (C), by striking ''semiannual''; and

(C) by redesignating subparagraph (H) (as amended by subsection (e)(2) of this section) as subparagraph (E).

(4) Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by striking paragraph (4) and redesignating paragraphs (5) (as amended by subsection (b) of this section), (6), and (7) as paragraphs (4), (5), and (6) respectively.

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

(A) in paragraph (1)(A), by striking "semiannual";

(B) in paragraph (2)(A), by striking "semiannual"; and

(C) in paragraph (3), by striking "semiannual period" and inserting "initial assessment period".

(6) Section 8(p) of the Federal Deposit Insurance Act (12 U.S.C. 1818(p)) is amended by striking "semiannual".

(7) Section 8(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended by striking "semiannual period" and inserting "assessment period".

(8) Section 13(c)(4)(G)(ii)(II) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)(II)) is amended by striking ''semiannual period'' and inserting ''assessment period''.

(9) Section 232(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834(a)) is amended—

(A) in the matter preceding subparagraph (A) of paragraph (2), by striking ''the Board and'';

(B) in subparagraph (J) of paragraph (2), by striking ''the Board'' and inserting ''the Corporation'';

(C) by striking subparagraph (A) of paragraph (3) and inserting the following new subparagraph:

''(A) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation.''; and

(D) in subparagraph (C) of paragraph (3), by striking ''Board'' and inserting ''Corporation''.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that the final regulations required under section

2109(a)(5) of the Federal Deposit Insurance Reform Act of 2005 take effect.

SEC. 4. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO REPLACEMENT OF FIXED DESIGNATED RESERVE RATIO WITH RESERVE RANGE.

(a) IN GENERAL.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) is amended—

(1) by striking ''(y) The term'' and inserting ''(y) DEFINITIONS RELATING TO DEPOSIT INSURANCE FUND.—

''(1) DEPOSIT INSURANCE FUND.—The term''; and

(2) by inserting after paragraph (1) (as so designated by paragraph (1) of this subsection) the following new paragraph:

''(2) DESIGNATED RESERVE RATIO.—The term 'designated reserve ratio' means the reserve ratio designated by the Board of Directors in accordance with section 7(b)(3).''.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that the final regulations required under section 2109(a)(1) of the Federal Deposit Insurance Reform Act of 2005 take effect.

SEC. 5. REPORT TO CONGRESS ON REFUNDS, DIVIDENDS, AND CREDITS FROM DEPOSIT INSURANCE FUND.

(a) SUBMISSION.—Any determination under section 7(e)(2)(E) of the Federal Deposit Insurance Act, as added by section 2107(a) of the Federal Deposit Insurance Reform Act of 2005, shall be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 270 days after making such determination.

(b) CONTENT.—The report submitted under subsection (a) shall include—

(1) a detailed explanation for the determination; and

(2) a discussion of the factors required to be considered under section 7(e)(2)(F) of the Federal Deposit Insurance Act, as added by section 2107(a) of the Federal Deposit Insurance Reform Act of 2005.

SEC. 6. STUDIES OF FDIC STRUCTURE AND EXPENSES AND CERTAIN ACTIVITIES AND FURTHER POSSIBLE CHANGES TO DEPOSIT INSURANCE SYSTEM.

(a) STUDY BY COMPTROLLER GENERAL.—

(1) STUDY REQUIRED.—The Comptroller General shall conduct a study of the following issues:

(A) The efficiency and effectiveness of the administration of the prompt corrective action program under section 38 of the Federal Deposit Insurance Act by the Federal banking agencies (as defined in section 3 of such Act), including the degree of effectiveness of such agencies in identifying troubled depository institutions and taking effective action with respect to such institutions, and the degree of accuracy of the risk assessments made by the Corporation.

(B) The appropriateness of the organizational structure of the Federal Deposit Insurance Corporation for the mission of the Corporation taking into account—

(i) the current size and complexity of the business of insured depository institutions (as such term is defined in section 3 of the Federal Deposit Insurance Act);

(ii) the extent to which the organizational structure contributes to or reduces operational inefficiencies that increase operational costs; and

(iii) the effectiveness of internal controls.

(2) REPORT TO THE CONGRESS.—The Comptroller General shall submit a report to the Congress before the end of the 1-year period beginning on the date of the enactment of this Act containing the findings and conclusions of the Comptroller General with respect to the study required under paragraph (1) together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

(b) STUDY OF FURTHER POSSIBLE CHANGES TO DEPOSIT INSURANCE SYSTEM.—

(1) STUDY REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation and the National Credit Union Administration Board shall each conduct a study of the following:

(A) The feasibility of establishing a voluntary deposit insurance system for deposits in excess of the maximum amount of deposit insurance for any depositor and the potential benefits and the potential adverse consequences that may result from the establishment of any such system.

(B) The feasibility of increasing the limit on deposit insurance for deposits of municipalities and other units of general local government, and the potential benefits and the potential adverse consequences that may result from any such increase.

(C) The feasibility of privatizing all deposit insurance at insured depository institutions and insured credit unions.

(2) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation and the National Credit Union Administration Board shall each submit a report to the Congress on the study required under paragraph (1) containing the findings and conclusions of the reporting agency together with such recommendations for legislative or administrative changes as the agency may determine to be appropriate.

(c) STUDY REGARDING APPROPRIATE DEPOSIT BASE IN DESIGNATING RESERVE RATIO.—

(1) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall conduct a study of the feasibility of using alternatives to estimated insured

deposits in calculating the reserve ratio of the Deposit Insurance Fund and designating a reserve ratio for such Fund.

(2) REPORT.—The Federal Deposit Insurance Corporation shall submit a report to the Congress before the end of the 1-year period beginning on the date of the enactment of this Act containing the findings and conclusions of the Corporation with respect to the study required under paragraph (1) together with such recommendations for legislative or administrative action as the Board of Directors of the Corporation may determine to be appropriate.

(d) STUDY OF RESERVE METHODOLOGY AND ACCOUNTING FOR LOSS.—

(1) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall conduct a study of the reserve methodology and loss accounting used by the Corporation during the period beginning on January 1, 1992, and ending December 31, 2004, with respect to insured depository institutions in a troubled condition (as defined in the regulations prescribed pursuant to section 32(f) of the Federal Deposit Insurance Act). The Corporation shall obtain comments on the design of the study from the Comptroller General.

(2) FACTORS TO BE INCLUDED.—In conducting the study pursuant to paragraph (1), the Federal Deposit Insurance Corporation shall—

(A) consider the overall effectiveness and accuracy of the methodology used by the Corporation for establishing and maintaining reserves and estimating and accounting for losses at insured depository institutions, during the period described in such paragraph;

(B) consider the appropriateness and reliability of information and criteria used by the Corporation in determining—

(i) whether an insured depository institution was in a troubled condition; and

(ii) the amount of any loss anticipated at such institution;

(C) analyze the actual historical loss experience over the period described in paragraph (1) and the causes of the exceptionally high rate of losses experienced by the Corporation in the final 3 years of that period; and

(D) rate the efforts of the Corporation to reduce losses in such 3-year period to minimally acceptable levels and to historical levels.

(3) REPORT REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation shall submit a report to the Congress before the end of the 1-year period beginning on the date of the enactment of this Act, containing the findings and conclusions of the Corporation with respect to the study required under paragraph (1), together with such recommendations for legislative or administrative action as the Board of Directors may determine to be appropriate. Before submitting the report to Congress, the Board of Directors shall provide a draft of the report to the Comptroller General for comment.

(e) BASEL II STUDY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the potential impact on the financial system of the United States of the implementation of the new Basel Capital Accord (Basel II) and the proposed revisions to current reserve requirement regulations for non-Basel II banks.

(2) FACTORS TO BE INCLUDED.—The report required under paragraph (1) shall address the following:

(A) The potential impact of Basel II on capital requirements in the United States, including—

(i) whether there would be a reduction in capital requirements;

(ii) whether Basel II could hinder enforcement of prompt corrective action laws and regulations; and

(iii) the potential implications any changes in capital requirements may have on the safety and soundness of the financial system in the United States.

(B) By gathering available information, the ability of United States banks and bank regulators to implement and comply with the provisions of Basel II, including—

(i) the costs of Basel II for financial institutions and regulators

(ii) the feasibility and appropriateness of Basel II's statistical models; and

(iii) the ability of regulators to oversee capital requirement operations of financial institutions.

(C) The ability of the United States financial institution regulatory agencies—

(i) to attract and retain sufficient expertise, both among specialists and examiners; and

(ii) to conduct the necessary oversight of capital and risk modeling by regulated financial institutions subject to Basel II.

SEC. 7. BI-ANNUAL FDIC SURVEY AND REPORT ON INCREASING THE DEPOSIT BASE BY ENCOURAGING USE OF DEPOSITORY INSTITUTIONS BY THE UNBANKED.

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

"SEC. 49. BI-ANNUAL FDIC SURVEY AND REPORT ON ENCOURAGING USE OF DEPOSITORY INSTITUTIONS BY THE UNBANKED.

"(a) SURVEY REQUIRED.—

"(1) IN GENERAL.—The Corporation shall conduct a bi-annual survey on efforts by insured depository institutions to bring those individuals and families who have rarely, if ever, held a checking account, a savings account or other type of transaction or check cashing account at an insured depository institution (hereafter in this section referred to as the 'unbanked') into the conventional finance system.

"(2) FACTORS AND QUESTIONS TO CONSIDER.—In conducting the survey, the Corporation shall take the following factors and questions into account:

"(A) To what extent do insured depository institutions promote financial education and financial literacy outreach?

"(B) Which financial education efforts appear to be the most effective in bringing 'unbanked' individuals and families into the conventional finance system?

"(C) What efforts are insured institutions making at converting 'unbanked' money order, wire transfer, and international remittance customers into conventional account holders?

"(D) What cultural, language and identification issues as well as transaction costs appear to most prevent 'unbanked' individuals from establishing conventional accounts?

"(E) What is a fair estimate of the size and worth of the 'unbanked' market in the United States?

"(b) REPORTS.—The Chairperson of the Board of Directors shall submit a bi-annual report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the Corporation's findings and conclusions with respect to the survey conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Chairperson may determine to be appropriate.".

SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT RELATING TO THE MERGER OF THE BIF AND SAIF.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3 (12 U.S.C. 1813)—

(A) by striking subparagraph (B) of subsection (a)(1) and inserting the following new subparagraph:

"(B) includes any former savings association."; and

(B) by striking paragraph (1) of subsection (y) (as so designated by section 4(b) of this title) and inserting the following new paragraph:

"(1) DEPOSIT INSURANCE FUND.—The term 'Deposit Insurance Fund' means the Deposit Insurance Fund established under section 11(a)(4).";

(2) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund,";

(3) in section 5(c)(4), by striking "deposit insurance fund" and inserting "Deposit Insurance Fund";

(4) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3) (and any funds resulting from the application of such paragraph (2) prior to its repeal shall be deposited into the general fund of the Deposit Insurance Fund);

(5) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(A) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund as required by section 7" and inserting "the reserve ratio of the Deposit Insurance Fund";

(B) by striking subparagraph (B) and inserting the following:

"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

(C) by striking "(1) **UNINSURED INSTITUTIONS**.—"; and

(D) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively, and moving the left margins 2 ems to the left;

(6) in section 5(e) (12 U.S.C. 1815(e))—

(A) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(B) by striking paragraph (6); and

(C) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(7) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(8) in section 7(b) (12 U.S.C. 1817(b))—

(A) in paragraph (1)(C), by striking ''deposit insurance fund'' each place that term appears and inserting ''Deposit Insurance Fund'';

(B) in paragraph (1)(D), by striking ''each deposit insurance fund'' and inserting ''the Deposit Insurance Fund''; and

(C) in paragraph (5) (as so redesignated by section 3(d)(4))—

(i) by striking ''any such assessment'' and inserting ''any such assessment is necessary'';

(ii) by striking subparagraph (B);

(iii) in subparagraph (A)—

(I) by striking ''(A) is necessary—'';

(II) by striking ''Bank Insurance Fund members'' and inserting ''insured depository institutions''; and

(III) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and

(iv) in subparagraph (C) (as so redesignated)—

(I) by inserting ‘‘that’’ before ‘‘the Corporation’’; and

(II) by striking ‘‘; and’’ and inserting a period;

(9) in section 7(j)(7)(F) (12 U.S.C. 1817(j)(7)(F)), by striking ‘‘Bank Insurance Fund or the Savings Association Insurance Fund’’ and inserting ‘‘Deposit Insurance Fund’’;

(10) in section 8(t)(2)(C) (12 U.S.C. 1818(t)(2)(C)), by striking ‘‘deposit insurance fund’’ and inserting ‘‘Deposit Insurance Fund’’;

(11) in section 11 (12 U.S.C. 1821)—

(A) by striking ‘‘deposit insurance fund’’ each place that term appears and inserting ‘‘Deposit Insurance Fund’’;

(B) by striking paragraph (4) of subsection (a) and inserting the following new paragraph:

‘‘(4) DEPOSIT INSURANCE FUND.—

‘‘(A) ESTABLISHMENT.—There is established the Deposit Insurance Fund, which the Corporation shall—

‘‘(i) maintain and administer;

"(ii) use to carry out its insurance purposes, in the manner provided by this subsection; and

"(iii) invest in accordance with section 13(a).

"(B) USES.—The Deposit Insurance Fund shall be available to the Corporation for use with respect to insured depository institutions the deposits of which are insured by the Deposit Insurance Fund.

"(C) LIMITATION ON USE.—Notwithstanding any provision of law other than section 13(c)(4)(G), the Deposit Insurance Fund shall not be used in any manner to benefit any shareholder or affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act) of—

"(i) any insured depository institution for which the Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation;

"(ii) any other insured depository institution in default or in danger of default, in connection with any type of resolution by the Corporation; or

"(iii) any insured depository institution, in connection with the provision of assistance under this section or section 13 with respect to such institution, except that this clause shall not prohibit any assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 13(f)(8)(B)) another insured depository institution.

"(D) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited into the Deposit Insurance Fund.";

(C) by striking paragraphs (5), (6), and (7) of subsection (a); and

(D) by redesignating paragraph (8) of subsection (a) as paragraph (5);

(12) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking ", except that—" and all that follows through the end of the paragraph and inserting a period;

(13) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

(A) by striking subparagraph (B);

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

(C) in subparagraph (B) (as so redesignated), by striking ''subparagraphs (A) and (B)'' and inserting ''subparagraph (A)'';

(14) in section 11(p)(2)(B) (12 U.S.C. 1821(p)(2)(B)), by striking ''institution, any'' and inserting ''institution, the'';

(15) in section 11A(a) (12 U.S.C. 1821a(a))—

(A) in paragraph (2), by striking ''**LIABILITIES**.—'' and all that follows through ''Except'' and inserting ''**LIABILITIES**.—Except'';

(B) by striking paragraph (2)(B); and

(C) in paragraph (3), by striking ''the Bank Insurance Fund, the Savings Association Insurance Fund,'' and inserting ''the Deposit Insurance Fund'';

(16) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(17) in section 11A(f) (12 U.S.C. 1821a(f)), by striking ''Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(18) in section 12(f)(4)(E)(iv) (12 U.S.C. 1822(f)(4)(E)(iv)), by striking ‘‘Federal deposit insurance funds’’ and inserting ‘‘the Deposit Insurance Fund (or any predecessor deposit insurance fund)’’;

(19) in section 13 (12 U.S.C. 1823)—

(A) by striking ‘‘deposit insurance fund’’ each place that term appears and inserting ‘‘Deposit Insurance Fund’’;

(B) in subsection (a)(1), by striking ‘‘Bank Insurance Fund, the Savings Association Insurance Fund,’’ and inserting ‘‘Deposit Insurance Fund’’;

(C) in subsection (c)(4)(E)—

(i) in the subparagraph heading, by striking ‘‘funds’’ and inserting ‘‘fund’’; and

(ii) in clause (i), by striking ‘‘any insurance fund’’ and inserting ‘‘the Deposit Insurance Fund’’;

(D) in subsection (c)(4)(G)(ii)—

(i) by striking ‘‘appropriate insurance fund’’ and inserting ‘‘Deposit Insurance Fund’’;

(ii) by striking ‘‘the members of the insurance fund (of which such institution is a member)'' and inserting ''insured depository institutions'';

(iii) by striking ''each member's'' and inserting ''each insured depository institution's''; and

(iv) by striking ''the member's'' each place that term appears and inserting ''the institution's'';

(E) in subsection (c), by striking paragraph (11);

(F) in subsection (h), by striking ''Bank Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(G) in subsection (k)(4)(B)(i), by striking ''Savings Association Insurance Fund member'' and inserting ''savings association''; and

(H) in subsection (k)(5)(A), by striking ''Savings Association Insurance Fund members'' and inserting ''savings associations'';

(20) in section 14(a) (12 U.S.C. 1824(a)), in the 5th sentence—

(A) by striking ''Bank Insurance Fund or the Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund''; and

(B) by striking ''each such fund'' and inserting ''the Deposit Insurance Fund'';

(21) in section 14(b) (12 U.S.C. 1824(b)), by striking ''Bank Insurance Fund or Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(22) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(23) in section 14(d) (12 U.S.C. 1824(d))—

(A) by striking ''Bank Insurance Fund member'' each place that term appears and inserting ''insured depository institution'';

(B) by striking ''Bank Insurance Fund members'' each place that term appears and inserting ''insured depository institutions'';

(C) by striking ''Bank Insurance Fund'' each place that term appears (other than in connection with a reference to a term amended by subparagraph (A) or (B) of this paragraph) and inserting ''Deposit Insurance Fund'';

(D) by striking the subsection heading and inserting the following:

''(d) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM INSURED DEPOSITORY INSTITUTIONS.—'';

(E) in paragraph (3), in the paragraph heading, by striking ''BIF'' and inserting ''THE DEPOSIT INSURANCE FUND''; and

(F) in paragraph (5), in the paragraph heading, by striking ''BIF MEMBERS'' and inserting ''INSURED DEPOSITORY INSTITUTIONS'';

(24) in section 14 (12 U.S.C. 1824), by adding at the end the following new subsection:

''(e) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM FEDERAL HOME LOAN BANKS.—

''(1) IN GENERAL.—The Corporation may borrow from the Federal home loan banks, with the concurrence of the Federal Housing Finance Board, such funds as the Corporation considers necessary for the use of the Deposit Insurance Fund.

''(2) TERMS AND CONDITIONS.—Any loan from any Federal home loan bank under paragraph (1) to the Deposit Insurance Fund shall—

''(A) bear a rate of interest of not less than the current marginal cost of funds to that bank, taking into account the maturities involved;

''(B) be adequately secured, as determined by the Federal Housing Finance Board;

''(C) be a direct liability of the Deposit Insurance Fund; and

''(D) be subject to the limitations of section 15(c).'';

(25) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(A) by striking ''the Bank Insurance Fund or Savings Association Insurance Fund, respectively'' each place that term appears and inserting ''the Deposit Insurance Fund''; and

(B) in subparagraph (B), by striking ''the Bank Insurance Fund or the Savings Association Insurance Fund, respectively'' and inserting ''the Deposit Insurance Fund'';

(26) in section 17(a) (12 U.S.C. 1827(a))—

(A) in the subsection heading, by striking ''BIF, SAIF,'' and inserting ''THE DEPOSIT INSURANCE FUND''; and

(B) in paragraph (1)—

(i) by striking ''the Bank Insurance Fund, the Savings Association Insurance Fund,'' each place that term appears and inserting ''the Deposit Insurance Fund''; and

(ii) in subparagraph (D), by striking ‘‘each insurance fund’’ and inserting ‘‘the Deposit Insurance Fund’’;

(27) in section 17(d) (12 U.S.C. 1827(d)), by striking ‘‘, the Bank Insurance Fund, the Savings Association Insurance Fund,’’ each place that term appears and inserting ‘‘the Deposit Insurance Fund’’;

(28) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(A) by striking ‘‘Savings Association Insurance Fund’’ in the 1st sentence of subparagraph (A) and inserting ‘‘Deposit Insurance Fund’’;

(B) by striking ‘‘Savings Association Insurance Fund member’’ in the last sentence of subparagraph (A) and inserting ‘‘savings association’’; and

(C) by striking ‘‘Savings Association Insurance Fund or the Bank Insurance Fund’’ in subparagraph (C) and inserting ‘‘Deposit Insurance Fund’’;

(29) in section 18(o) (12 U.S.C. 1828(o)), by striking ‘‘deposit insurance funds’’ and ‘‘deposit in-

surance fund'' each place those terms appear and inserting ''Deposit Insurance Fund'';

(30) in section 18(p) (12 U.S.C. 1828(p)), by striking ''deposit insurance funds'' and inserting ''Deposit Insurance Fund'';

(31) in section 24 (12 U.S.C. 1831a)—

(A) in subsections (a)(1) and (d)(1)(A), by striking ''appropriate deposit insurance fund'' each place that term appears and inserting ''Deposit Insurance Fund'';

(B) in subsection (e)(2)(A), by striking ''risk to'' and all that follows through the period and inserting ''risk to the Deposit Insurance Fund.''; and

(C) in subsections (e)(2)(B)(ii) and (f)(6)(B), by striking ''the insurance fund of which such bank is a member'' each place that term appears and inserting ''the Deposit Insurance Fund'';

(32) in section 28 (12 U.S.C. 1831e), by striking ''affected deposit insurance fund'' each place that term appears and inserting ''Deposit Insurance Fund'';

(33) by striking section 31 (12 U.S.C. 1831h);

(34) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)), by striking ‘‘affected deposit insurance fund’’ and inserting ‘‘Deposit Insurance Fund’’;

(35) in section 37(a)(1)(C) (12 U.S.C. 1831n(a)(1)(C)), by striking ‘‘insurance funds’’ and inserting ‘‘Deposit Insurance Fund’’;

(36) in section 38 (12 U.S.C. 1831o), by striking ‘‘the deposit insurance fund’’ each place that term appears and inserting ‘‘the Deposit Insurance Fund’’;

(37) in section 38(a) (12 U.S.C. 1831o(a)), in the subsection heading, by striking ‘‘FUNDS’’ and inserting ‘‘FUND’’;

(38) in section 38(k) (12 U.S.C. 1831o(k))—

(A) in paragraph (1), by striking ‘‘a deposit insurance fund’’ and inserting ‘‘the Deposit Insurance Fund’’;

(B) in paragraph (2), by striking ‘‘A deposit insurance fund’’ and inserting ‘‘The Deposit Insurance Fund’’; and

(C) in paragraphs (2)(A) and (3)(B), by striking ‘‘the deposit insurance fund’s outlays’’ each place that term appears and inserting ‘‘the outlays of the Deposit Insurance Fund’’; and

(39) in section 38(o) (12 U.S.C. 1831o(o))—

(A) by striking "**ASSOCIATIONS**.—" and all that follows through "Subsections (e)(2)" and inserting "**ASSOCIATIONS**.—Subsections (e)(2)";

(B) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and moving the margins 2 ems to the left; and

(C) in paragraph (1) (as so redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the left.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the day of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant to the Federal Deposit Insurance Reform Act of 2005.

SEC. 9. OTHER TECHNICAL AND CONFORMING AMENDMENTS RELATING TO THE MERGER OF THE BIF AND SAIF.

(a) SECTION 5136 OF THE REVISED STATUTES.—The paragraph designated the "Eleventh" of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended in the 5th sentence, by striking "affected deposit insurance fund'' and inserting ''Deposit Insurance Fund''.

(b) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the 4th sentence, by striking ''affected deposit insurance fund'' and inserting ''Deposit Insurance Fund''.

(c) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking ''any deposit insurance fund in'' and inserting ''the Deposit Insurance Fund of''.

(d) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(1) in section 11(k) (12 U.S.C. 1431(k))—

(A) in the subsection heading, by striking ''SAIF'' and inserting ''THE DEPOSIT INSURANCE FUND''; and

(B) by striking ''Savings Association Insurance Fund'' each place such term appears and inserting ''Deposit Insurance Fund'';

(2) in section 21 (12 U.S.C. 1441)—

(A) in subsection (f)(2), by striking ", except that" and all that follows through the end of the paragraph and inserting a period; and

(B) in subsection (k), by striking paragraph (4);

(3) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(4) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(A) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

(B) by striking "Savings Association Insurance Fund member" and inserting "savings association";

(5) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(6) in section 21A(n)(6)(E)(iv) (12 U.S.C. 1441(n)(6)(E)(iv)), by striking "Federal deposit insurance funds" and inserting "the Deposit Insurance Fund";

(7) in section 21B(e) (12 U.S.C. 1441b(e))—

(A) in paragraph (5), by inserting ‘‘as of the date of funding’’ after ‘‘Savings Association Insurance Fund members’’ each place that term appears; and

(B) by striking paragraphs (7) and (8); and

(8) in section 21B(k) (12 U.S.C. 1441b(k))—

(A) by inserting before the colon ‘‘, the following definitions shall apply’’;

(B) by striking paragraph (8); and

(C) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(e) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(1) in section 5 (12 U.S.C. 1464)—

(A) in subsection (c)(5)(A), by striking ‘‘that is a member of the Bank Insurance Fund’’;

(B) in subsection (c)(6), by striking ‘‘As used in this subsection—’’ and inserting ‘‘For purposes of this subsection, the following definitions shall apply:’’;

(C) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

(D) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

(E) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(F) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

(G) in subsection (v)(2)(A)(i), by striking "the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

(2) in section 10 (12 U.S.C. 1467a)—

(A) in subsection (c)(6)(D), by striking "this title" and inserting "this Act";

(B) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(C) in subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank

Insurance Fund'' and inserting ''Deposit Insurance Fund'';

(D) in subsection (e)(4)(B), by striking ''subsection (1)'' and inserting ''subsection (l)'';

(E) in subsection (g)(3)(A), by striking ''(5) of this section'' and inserting ''(5) of this subsection'';

(F) in subsection (i), by redesignating paragraph (5) as paragraph (4);

(G) in subsection (m)(3), by striking subparagraph (E) and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively;

(H) in subsection (m)(7)(A), by striking ''during period'' and inserting ''during the period''; and

(I) in subsection (o)(3)(D), by striking ''sections 5(s) and (t) of this Act'' and inserting ''subsections (s) and (t) of section 5''.

(f) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(1) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking ''Bank Insurance Fund for banks or through the Savings Association Insur-

ance Fund for savings associations'' and inserting ''Deposit Insurance Fund''; and

(2) in section 536(b)(1)(B)(ii) (12 U.S.C. 1735f–14(b)(1)(B)(ii)), by striking ''Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations'' and inserting ''Deposit Insurance Fund''.

(g) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended—

(1) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by inserting ''and after the merger of such funds, the Deposit Insurance Fund,'' after ''the Savings Association Insurance Fund,''; and

(2) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking ''Bank Insurance Fund, the Savings Association Insurance Fund,'' and inserting ''Deposit Insurance Fund''.

(h) AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956.—The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended—

(1) in section 2(j)(2) (12 U.S.C. 1841(j)(2)), by striking ''Savings Association Insurance Fund'' and inserting ''Deposit Insurance Fund''; and

(2) in section 3(d)(1)(D)(iii) (12 U.S.C. 1842(d)(1)(D)(iii)), by striking ''appropriate deposit insurance fund'' and inserting ''Deposit Insurance Fund''.

(i) AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT.—Section 114 of the Gramm-Leach-Bliley Act (12 U.S.C. 1828a) is amended by striking ''any Federal deposit insurance fund'' in subsection (a)(1)(B), paragraphs (2)(B) and (4)(B) of subsection (b), and subsection (c)(1)(B), each place that term appears and inserting ''the Deposit Insurance Fund''.

(j) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the day of the merger of the Bank Insurance Fund and the Savings Association Insurance Fund pursuant to the Federal Deposit Insurance Reform Act of 2005.

Passed the House of Representatives December 19 (legislative day, December 18), 2005.

Attest:

Clerk.

109TH CONGRESS
1ST SESSION

H. R. 4636

AN ACT

To enact the technical and conforming amendments necessary to implement the Federal Deposit Insurance Reform Act of 2005, and for other purposes.