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Rev

**AMENDMENT TO H.R. 4173**  
**OFFERED BY Mr. Frank**

Page 1, line 4, strike "The" before "Wall Street".

Page 13, line 6, insert "(hereafter in this title referred to as a 'foreign financial parent') after" after "United States".

Page 13, beginning on line 14, strike "of a company" and all that follows through "United States" on line 16.

Page 15, after line 11, insert the following new clause (and redesignate subsequent clauses appropriately):

- 1 (iv) after the date on which the func-
- 2 tions of the Office of Thrift Supervision
- 3 are transferred under subtitle C, any sav-
- 4 ings and loan holding company (as defined
- 5 in section 10(a)(1)(D) of the Home Own-
- 6 ers' Loan Act) and any subsidiary (as such
- 7 term is defined in the Bank Holding Com-
- 8 pany Act of 1956) of such company, other
- 9 than a subsidiary that is described in any
- 10 other subparagraph of this paragraph, to

1                   the extent that the subsidiary is engaged  
2                   in an activity described in such subpara-  
3                   graph;

Page 15, line 25, strike “a” and insert “any”.

Page 17, after line 6, insert the following new clause  
(and redesignate subsequent clauses appropriately):

4                   (v) a securities-based swap execution  
5                   facility that is registered with the Securi-  
6                   ties and Exchange Commission under the  
7                   Securities Exchange Act of 1934 (15  
8                   U.S.C. 78a et seq.);”

Page 21, line 11, strike “to pursuant” and insert  
“pursuant”.

Page 21, after line 21, insert the following new sub-  
paragraph:

9                   (J) The head of the Consumer Financial  
10                  Protection Agency.

Page 21, after line 23, insert the following (and re-  
designate succeeding paragraphs accordingly):

11                  (A) The Director of the Federal Insurance  
12                  Office.

Page 23, line 4, strike “plans” and insert “strategies”.

Page 23, line 5, strike “plans” and insert “strategies”.

Page 23, line 6, insert after the period the following new sentence: “In doing so, the Council shall collaborate with participants in the financial sector, financial sector coordinating councils, and any other parties the Council determines to be appropriate.”.

Page 24, beginning on line 23, strike “another dispute mechanism specifically has been provided under Federal law” and insert “a dispute mechanism specifically has been provided under section 4204 or title III”.

Page 28, line 24, strike “plans” and insert “strategies”.

Page 29, line 2, strike “plans” and insert “strategies”.

Page 32, strike line 22 and all that follows through page 33, line 7.

Page 34, after line 22, insert the following new paragraph:

1           (3) MITIGATION REQUIREMENTS IN CASE OF  
2 FOREIGN FINANCIAL PARENTS.—Before requiring  
3 the submission of reports from a company that is a  
4 foreign financial parent, the Council or the Board  
5 shall, to the extent appropriate, coordinate with any  
6 appropriate foreign regulator of such company and  
7 any appropriate multilateral organization and, when-  
8 ever possible, rely on information already being col-  
9 lected by such foreign regulator or multilateral orga-  
10 nizational with English translation.

Page 35, line 1, insert after “entities” the following:  
“(including the Federal Insurance Office)”.

Page 37, line 12, insert “; **AGENCY AUTHORITY**”  
before the period.

Page 37, strike lines 17 and 18, and insert the fol-  
lowing:

11           (b) AGENCY AUTHORITY TO IMPLEMENT STAND-  
12 ARDS.—

13           (1) IN GENERAL.—A Federal financial regu-  
14 latory agency specifically

Page 37, line 19, strike “is authorized to” and in-  
sert “may, in response to a Council recommendation  
under this section or otherwise,”.

Page 38, after line 4, insert the following new paragraph:

1           (2) APPLYING STANDARDS TO FOREIGN FINAN-  
2           CIAL PARENTS.—In applying standards under para-  
3           graph (1) to any foreign financial parent, or to any  
4           branch of, subsidiary of, or other operating entity  
5           related to such foreign financial parent that operates  
6           within the United States, the Federal financial regu-  
7           latory agency shall—

8                   (A) give due regard to the principles of na-  
9                   tional treatment and equality of competitive op-  
10                  portunity; and

11                  (B) take into account the extent to which  
12                  the foreign financial parent is subject to com-  
13                  parable standards on a consolidated basis in the  
14                  home country of such foreign financial parent  
15                  that are administered by a comparable foreign  
16                  supervisory authority.

Page 38, line 22, after “such company,” insert the following: “and, in the case of a financial holding company subject to stricter standards that is an insurance company, the Federal Insurance Office,”.

Page 39, strike line 11 and all that follows through line 15 (and redesignate subsequent paragraphs accordingly).

Page 39, after line 25, insert the following new paragraphs (and redesignate subsequent paragraphs accordingly):

1           (5) The company's importance as a source of  
2           credit for low-income, minority, or underserved com-  
3           munities and the impact the failure of such company  
4           would have on the availability of credit in such com-  
5           munities.

6           (6) The extent to which assets are simply man-  
7           aged and not owned by the financial company and  
8           the extent to which ownership of assets under man-  
9           agement is diffuse.

Page 40, line 5, insert before the period the following: "or, in the case of a foreign financial parent, the extent to which such foreign parent is subject to prudential standards on a consolidated basis in the home country of such financial parent that are administered and enforced by a comparable foreign supervisory authority".

Page 40, after line 5, insert the following new paragraphs (and redesignate the subsequent paragraph accordingly):

1           (8) The amount and nature of the company's fi-  
2           nancial assets.

3           (9) The amount and nature of the company's li-  
4           abilities, including the degree of reliance on short-  
5           term funding.

Page 41, strike line 10 and all that follows through  
line 19 (and redesignate subsequent subsections accord-  
ingly).

Page 42, strike line 9 and all that follows through  
page 44, line 10, and insert the following new para-  
graphs:

6           (1) APPLICATION OF FEDERAL LAWS.—

7           (A) APPLICATION OF BANK HOLDING COM-  
8           PANY ACT AND FEDERAL DEPOSIT INSURANCE  
9           ACT.—A financial company subject to stricter  
10          standards that does not own a bank (as defined  
11          in section 2 of the Bank Holding Company Act  
12          of 1956) and that is not a foreign bank or com-  
13          pany that is treated as a bank holding company  
14          under section 8 of the International Banking  
15          Act of 1978 shall be subject to section 4, sub-  
16          sections (b), (c), (d), (e), (f), and (g) of section  
17          5, and section 8 of the Bank Holding Company  
18          Act of 1956, and section 8 of the Federal De-

1           posit Insurance Act in the same manner and to  
2           the same extent as if such financial holding  
3           company subject to stricter standards were a  
4           bank holding company that has elected to be a  
5           financial holding company (as such terms are  
6           defined in the Bank Holding Company Act of  
7           1956), its subsidiaries were subsidiaries of a  
8           bank holding company, and the Board was its  
9           appropriate Federal banking agency (as such  
10          term is defined under the Federal Deposit In-  
11          surance Act).

12                   (B) BOARD AUTHORITY.—For purposes of  
13           administering and enforcing the provisions of  
14           this title, the Board may take any action with  
15           respect to a financial holding company subject  
16           to stricter standards described in subparagraph  
17           (A) or its subsidiaries under the authorities de-  
18           scribed in subparagraph (A) as if such financial  
19           holding company subject to stricter standards  
20           were a bank holding company that has elected  
21           to be a financial holding company (as such  
22           terms are defined in the Bank Holding Com-  
23           pany Act of 1956), its subsidiaries were subsidi-  
24           aries of a bank holding company, and the  
25           Board was its appropriate Federal banking

1           agency (as such term is defined under the Fed-  
2           eral Deposit Insurance Act).

3           (2) APPLICATION OF ACTIVITY RESTRICTIONS  
4           AND SECTION 6 HOLDING COMPANY REQUIRE-  
5           MENTS.—

6           (A) IN GENERAL.—Except as provided in  
7           subparagraphs (B) and (C)—

8           (i) a financial holding company sub-  
9           ject to stricter standards that conducts ac-  
10          tivities that do not comply with section 4  
11          of the Bank Holding Company Act shall be  
12          required to establish or designate a section  
13          6 holding company in accordance with sec-  
14          tion 6 of the Bank Holding Company Act  
15          of 1956 through which it conducts activi-  
16          ties of the company that are determined to  
17          be financial in nature or incidental thereto  
18          under section 4(k) of the such Act; and

19          (ii) such section 6 holding company  
20          shall be the financial holding company sub-  
21          ject to stricter standards for purposes of  
22          this title.

23          (B) EXCEPTIONS FROM SECTION 6 HOLD-  
24          ING COMPANY REQUIREMENTS.—

1 (i) GENERAL REQUIREMENT FOR  
2 BOARD TO CONSIDER EXCEPTIONS.—Be-  
3 fore such time as a financial holding com-  
4 pany subject to stricter standards is re-  
5 quired to establish or designate a section 6  
6 holding company under section 6 of the  
7 Bank Holding Company Act, and in con-  
8 sultation with the financial holding com-  
9 pany subject to stricter standards and any  
10 appropriate Federal or State financial reg-  
11 ulators (and, in the case of a financial  
12 holding company subject to stricter stand-  
13 ards that is an insurance company, the  
14 Federal Insurance Office)—

15 (I) the Board shall consider  
16 whether to grant any of the exemp-  
17 tions from the requirements applicable  
18 to section 6 holding companies under  
19 section 6(a)(6)(A) of the Bank Hold-  
20 ing Company Act of 1956, in accord-  
21 ance with that provision; and

22 (II) the Board, at the request of  
23 a financial holding company subject to  
24 stricter standards that is predomi-  
25 nantly engaged in activities that are

1 determined to be financial in nature  
2 or incidental thereto under section  
3 4(k) of the Bank Holding Company  
4 Act, shall consider whether to exempt  
5 the financial holding company subject  
6 to stricter standards from the require-  
7 ment to establish a section 6 holding  
8 company, taking into consideration  
9 paragraph (2)(D), and the extent to  
10 which the exemption would: facilitate  
11 the extension of credit to individuals,  
12 households and businesses; improve  
13 efficiency or customer service or result  
14 in other public benefits; potentially  
15 threaten the safety and soundness of  
16 the financial holding company or any  
17 of its subsidiaries; potentially increase  
18 systemic risk or threaten the stability  
19 of the overall financial system; poten-  
20 tially result in unfair competition; and  
21 potentially have anticompetitive ef-  
22 fects that would not be outweighed by  
23 public benefits.

24 (ii) BOARD DETERMINATION NOT TO  
25 EXEMPT.—

1 (I) IN GENERAL.—If the Board  
2 determines not to exempt the financial  
3 holding company subject to stricter  
4 standards from the requirement to es-  
5 tablish a section 6 holding company,  
6 the financial holding company subject  
7 to stricter standards shall establish a  
8 section 6 holding company within 90  
9 days after the Board’s determination.

10 (II) EXTENSION OF PERIOD.—  
11 The Board may extend the time by  
12 which the financial holding company  
13 subject to stricter standards is re-  
14 quired to establish a section 6 holding  
15 company for an additional reasonable  
16 period of time, not to exceed 180  
17 days.

18 (iii) BOARD DETERMINATION TO EX-  
19 EMPT.—

20 (I) IN GENERAL.—If the Board  
21 grants the requested exemption from  
22 the requirement to establish a section  
23 6 holding company, the financial hold-  
24 ing company subject to stricter stand-  
25 ards shall at all times remain pre-

1 dominantly engaged in activities that  
2 are determined to be financial in na-  
3 ture or incidental thereto under sec-  
4 tion 4(k) of the Bank Holding Com-  
5 pany Act of 1956, and shall be the fi-  
6 nancial holding company subject to  
7 stricter standards for purposes of this  
8 title.

9 (II) SUBSEQUENT LOSS OF EX-  
10 EMPTION.—Upon a determination by  
11 the Board, in consultation with any  
12 relevant Federal or State regulators  
13 of the financial holding company sub-  
14 ject to stricter standards, and, in the  
15 case of a financial holding company  
16 subject to stricter standards that is an  
17 insurance company, the Federal In-  
18 surance Office, that the financial  
19 holding company subject to stricter  
20 standards fails to comply with this  
21 subsection, the financial holding com-  
22 pany subject to stricter standards  
23 shall lose the exemption from the sec-  
24 tion 6 holding company requirement  
25 and shall establish a section 6 holding

1                    company within the time periods de-  
2                    scribed in clause (ii)(I).

3                    (C) ACTIVITIES CONDUCTED ABROAD.—

4                    Section 4 of the Bank Holding Company Act of  
5                    1956 shall not apply to any activities that a for-  
6                    eign financial holding company subject to strict-  
7                    er standards conducts solely outside the United  
8                    States if such activities are conducted solely by  
9                    a company or other entity that is located out-  
10                   side the United States.

11                   (D) FLEXIBLE APPLICATION.—In applying  
12                   the activity restrictions and ownership limita-  
13                   tions of section 4 of the Bank Holding Com-  
14                   pany Act of 1956 to financial holding compa-  
15                   nies subject to stricter standards described in  
16                   paragraph (1)(A), the Board shall flexibly  
17                   adapt such requirements taking into account  
18                   the usual and customary practices in the busi-  
19                   ness sector of the financial company subject to  
20                   stricter standards so as to avoid unnecessary  
21                   burden and expense.

Page 45, line 5, insert “, as agent of the Council,”  
after “Board”.

Page 45, beginning on line 18, strike “heightened”  
and insert “stricter”.

Page 45, strike lines 21 and 22 and insert the following new clause (and redesignate subsequent clauses accordingly):

1                   (i) risk-based capital requirements  
2                   and leverage limits, unless the Board de-  
3                   termines that such requirements are not  
4                   appropriate for a financial holding com-  
5                   pany subject to stricter standards because  
6                   of such company's activities (such as in-  
7                   vestment company activities or assets  
8                   under management) or structure, in which  
9                   case the Board shall apply other standards  
10                  that result in appropriately stringent con-  
11                  trols.

Page 46, line 4, insert “and” after the semicolon.

Page 46, line 6, strike “; and” and insert a period.

Page 46, strike line 7 and all that follows through line 9.

Page 46, line 12, insert “short-term debt limits prescribed in accordance with subsection (d) and” after “include”.

Page 46, line 17, after “AGENCIES” insert the following: “AND THE FEDERAL INSURANCE OFFICE”.

Page 47, line 2, after the period insert the following:  
“With respect to a financial holding company subject to stricter standards that is an insurance company or any insurance company subsidiary of such a financial holding company subject to stricter standards, the Board shall also consult with the Federal Insurance Office.”.

Page 47, strike line 3 and all that follows through line 5 and insert the following:

- 1           (3) APPLICATION OF REQUIRED STANDARDS.—  
2           In imposing prudential standards under this section,  
3           the Board—  
4           (A) may differentiate among financial

Page 47, line 11, strike the period and insert “; and”.

Page 47, after line 11, insert the following new subparagraph:

- 5           (B) shall take into consideration whether  
6           and to what extent a financial holding company  
7           subject to stricter standards that is not a bank  
8           holding company or treated as a bank holding  
9           company owns or controls a depository institu-  
10          tion and shall adapt the prudential standards  
11          applied to such company as appropriate in light  
12          of any predominant line of business of such

1           company, including assets under management  
2           or other activities for which capital require-  
3           ments are not appropriate.

Page 47, beginning on line 20, strike “financial companies” and all that follows through “own or control” on line 22, and insert “a foreign financial parent and to”.

Page 47, beginning on line 23, strike “that is a” and all that follows through “principle” on line 25 and insert “that is owned or controlled by a foreign financial parent, giving due regard to principles”.

Page 48, beginning on line 2, strike “such companies are subject” and insert “the foreign financial parent is subject on a consolidated basis”.

Page 50, line 22, strike “, as such entities are” and insert “as”.

Page 51, line 13, before the period insert the following: “and, with respect to an insurance company, the Federal Insurance Office”.

Page 54, line 14, insert before the period the following: “except as specifically provided in this title”.

Page 54, line 19, insert before the period the following: “except as specifically provided in this title”.

Page 55, line 14, strike “shall” and insert “may.”

Page 55, line 19, strike “The” and insert “Any”.

Page 56, strike line 20 and all that follows through line 25.

Page 68, line 17, insert “The Board, in determining whether to impose any requirement under this subparagraph that is likely to have a significant effect on a functionally regulated subsidiary, subsidiary depository institution, or insurance company subsidiary of a financial holding company subject to stricter standards, shall consult with the primary financial regulatory agency for such subsidiary. In the case of an insurance company subsidiary of a financial holding company subject to stricter standards, the Board shall consult with the Federal Insurance Office.” after the period.

Page 76, line 9, insert “, after consultation with the primary financial regulatory agency for any functionally regulated subsidiary, subsidiary depository institution, or insurance company subsidiary that is likely to be significantly affected by such actions. In the case of an insurance company subsidiary of a financial holding company subject to stricter standards, the Board shall consult with the Federal Insurance Office” before the period.

Page 86, line 1, after “standards” insert the following: “(and, if the financial holding company subject to stricter standards is an insurance company, the Federal Insurance Office)”.

Page 87, after line 5, insert the following new subsections:

1           (j) RULE OF CONSTRUCTION REGARDING CONSUMER  
2 PROTECTION STANDARDS.—The prudential standards im-  
3 posed or recommended by the Board or the Council under  
4 this section shall not be construed as superseding—

5           (1) any consumer protection standards promul-  
6 gated under a State or Federal consumer protection  
7 law, including the Consumer Financial Protection  
8 Agency Act and the Federal Trade Commission Act;  
9 or

10           (2) any investor protection standard that pro-  
11 tects consumers (including public reporting require-  
12 ments) imposed under State or Federal securities  
13 laws, including the Securities Act of 1933, the Secu-  
14 rities Exchange Act of 1934, the Investment Com-  
15 pany Act of 1944, and the Investment Advisors Act  
16 of 1944.

17           (k) RULEMAKING AUTHORITY.—The Board may pre-  
18 scribe such regulations and issue such orders as the

1 Board, in consultation with the Council, determines to be  
2 necessary to carry out the provisions of this subtitle.

Page 87, line 24, strike “financial company sub-  
jected to stricter prudential” and insert “financial hold-  
ing company subject to stricter”.

Page 88, line 2, insert after the period the following:  
“With respect to any requirements under this section  
that is likely to have a significant effect on an insurance  
company, the Council shall consult with the Federal In-  
surance Office.”.

Page 89, line 8, insert “stricter” after “modifying  
the”.

Page 90, line 14, insert “holding” after “financial”.

Page 90, line 15, strike “prudential”.

Page 90 line 16, strike “financial company” and in-  
sert “financial holding company subject to stricter stand-  
ards”.

Page 90, line 22, strike “company subject to stricter  
prudential” and insert “holding company subject to  
stricter”.

Page 92, line 20, strike “subsection (e)(5)” and in-  
sert “this section”.

Page 93, line 1, strike “(e)(5)” and insert “(e)(2)”.

Page 96, line 18, insert “, as agent of the Council,” after “Board”.

Page 97, line 4, insert after the period the following:  
“With respect to any standard that is likely to have a significant effect on insurance companies, the Board also shall consult with the Federal Insurance Office.”.

Page 97, after line 16, insert the following new paragraph:

1           (3) EXCEPTION.—The standards recommended  
2           by the Board and adopted by a primary financial  
3           regulatory agency pursuant to this section shall not  
4           apply to activities that a foreign financial parent  
5           conducts solely outside the United States if such ac-  
6           tivities are conducted solely by a company or other  
7           operating entity that is located outside the United  
8           States.

Page 119, line 7, insert “, after notice and opportunity for comment,” after “may”.

Page 119, line 13, strike “agency” and insert “Board”.

Page 119, line 14, strike “agency” and insert “Board”.

Page 122, line 18, strike “The authorities” and insert the following:

1           (a) CONSTRUCTION.—The authorities

Page 123, after line 2, insert the following new subsection:

2           (b) AGENT RESPONSIBILITIES.—For purposes of this  
3 subtitle, the term “agent” means the Board acting under  
4 section 1103(c) and coordinating with the Council in exer-  
5 cising authority under sections 1104 and 1107.

Page 129, line 17, insert “, and who shall coordinate with the Office of Thrift Supervision pursuant to section 1211” before the period at the end.

Page 131, after line 5, insert the following new subsection:

6           (f) EFFECTIVE DATE.—Subsection (b) shall take ef-  
7 fect on the date of the enactment of this Act .

Page 132, after line 15, insert the following new paragraph:

8           (4) FUNCTIONS RELATING TO SUPERVISION OF  
9 SAVINGS AND LOAN HOLDING COMPANIES.—

10           (A) TRANSFER OF FUNCTIONS.—All func-  
11 tions of the Director of the Office of Thrift Su-

1           pervision relating to the supervision and regula-  
2           tion of Savings and Loan Holding Companies  
3           are transferred to the Board.

4           (B) BOARD AUTHORITY.—The Board shall  
5           succeed to all powers, authorities, rights, and  
6           duties that were vested in the Director of the  
7           Office of Thrift Supervision under Federal law,  
8           including the Home Owners’ Loan Act, on the  
9           day before the transfer date, relating to the su-  
10          pervision and regulation of Savings and Loan  
11          Holding Companies.

Page 132, after line 24, insert the following new paragraph (and redesignate succeeding paragraphs accordingly):

12           (2) in paragraph (2)(E), by striking “and” at  
13          the end;

Page 133, after line 2, insert the following new paragraph (and redesignate succeeding paragraphs accordingly):

14           (4) after paragraph (2)(F), by inserting the fol-  
15          lowing new subparagraph:  
16           “(G) any savings and loan holding com-  
17          pany and any subsidiary of a savings and loan

1 holding company (other than a savings associa-  
2 tion); and”;

Page 147, line 21, insert “and” after the semicolon.

Page 147, line 25, strike “; and” and insert a pe-  
riod.

Page 148, strike line 1 and all that follows through  
line 3.

Page 162, after line 6, insert the following new  
paragraphs (and redesignate succeeding paragraphs ac-  
cordingly):

3 (1) In subsection (a)—

4 (A) in paragraph (1)(A), by striking “Di-  
5 rector” and inserting “Board”;

6 (B) in paragraph (1)(D), by striking clause  
7 (i) and inserting: “(i) In general.—

8 “(i) IN GENERAL.—Except as pro-  
9 vided in clause (ii), the term ‘savings and  
10 loan holding company’ means any company  
11 that directly or indirectly controls a sav-  
12 ings association or that controls any com-  
13 pany that is a savings and loan holding  
14 company, and that is either—

1                   “(I) a fraternal beneficiary soci-  
2                   ety, as defined in section 501(c)(8) of  
3                   the Internal Revenue Code of 1986; or

4                   “(II) a company that is, together  
5                   with all of its affiliates on a consoli-  
6                   dated basis, predominantly engaged in  
7                   the business of insurance.”;

8                   (C) in paragraph (1)(F), by striking “Di-  
9                   rector” and inserting “Board”;

10                  (D) in paragraph (1), by inserting at the  
11                  end the following new subparagraph:

12                  “(K) BOARD.—The term ‘Board’ means  
13                  the Board of Governors of the Federal Reserve  
14                  System.”.

15                  (E) in paragraph (2)(D), by striking “Di-  
16                  rector” and inserting “Board”;

17                  (F) in paragraph (3)(A), by striking “Di-  
18                  rector” and inserting “Board”; and

19                  (G) in paragraph (4), by striking “Direc-  
20                  tor” and inserting “Board”.

21                  (2) In subsection (b), by striking “Director”  
22                  each place it appears and inserting “Board”.

23                  (3) In subsection (c)—

24                  (A) in paragraph, (2)(F)(i)—

1 (i) by striking “of Governors of the  
2 Federal Reserve System”; and

3 (ii) by striking “Director” and insert-  
4 ing “Board”;

5 (B) in paragraph (2)(G), by striking “Di-  
6 rector” and inserting “Board”;

7 (C) in paragraph (4)(A), by striking “Di-  
8 rector” and inserting “Board”;

9 (D) in paragraph (4)(B)—

10 (i) in the heading, by striking “direc-  
11 tor” and inserting “Board”; and

12 (ii) by striking “the Director shall”  
13 and inserting “the Board shall”;

14 (E) in paragraph (4)(C)—

15 (i) in the heading, by striking “direc-  
16 tor” and inserting “Board”; and

17 (ii) by striking “the Director may”  
18 and inserting “the Board may”;

19 (F) in paragraph (5), by striking “Direc-  
20 tor” and inserting “Board”;

21 (G) in paragraph (6)(D)—

22 (i) in the heading, by striking “direc-  
23 tor” and inserting “Board”; and

24 (ii) by striking “Director” each place  
25 it appears and inserting “Board”;

1 (H) in paragraph (9)(A)(ii), by inserting “,  
2 but only if the conditions for engaging in ex-  
3 panded financial activities set forth in section  
4 4(l) of the Bank Holding Company Act of 1956  
5 have been met” after “1956”; and

6 (I) in paragraph (9)(E), by striking “Di-  
7 rector” each place it appears and inserting  
8 “Board”.

9 (4) In subsection (e)—

10 (A) in paragraph (1)(A)—

11 (i) in clause (i), by striking “Direc-  
12 tor” and inserting “Board”;

13 (ii) in clause (ii), by striking “Direc-  
14 tor” and inserting “Board”;

15 (iii) in clause (iii), by striking “Direc-  
16 tor” each place it appears and inserting  
17 “Board”; and

18 (iv) in clause (iv), by striking “Direc-  
19 tor” each place it appears and inserting  
20 “Board”;

21 (B) in paragraph (1)(B), by striking “Di-  
22 rector” each place it appears and inserting  
23 “Board”;

1 (C) in paragraph (2), by striking “Direc-  
2 tor” each place it appears and inserting  
3 “Board”;

4 (D) in paragraph (3), by striking “Direc-  
5 tor” and inserting “Board”;

6 (E) in paragraph (4)(A), by striking “Di-  
7 rector” and inserting “Board”; and

8 (F) in paragraph (5), by striking “Direc-  
9 tor” each place it appears and inserting  
10 “Board”.

11 (5) In subsection (f), by striking “Director”  
12 each place it appears and inserting “Board”.

13 (6) In subsection (g), by striking “Director”  
14 each place it appears and inserting “Board”.

15 (7) In subsection (h)—

16 (A) in paragraph (2), by striking “Direc-  
17 tor” and inserting “Board”; and

18 (B) in paragraph (3), by striking “Direc-  
19 tor” and inserting “Board”.

20 (8) In subsection (i)—

21 (A) in paragraph (1)(A), by striking “Di-  
22 rector” and inserting “Board”;

23 (B) in paragraph (2)(B), by striking “Di-  
24 rector” and inserting “Board”;

1 (C) in paragraph (2)(F), by striking “Di-  
2 rector” and inserting “Board”;

3 (D) in paragraph (3)(B), by striking “Di-  
4 rector” and inserting “Board”;

5 (E) in paragraph (3)(F), by striking “Di-  
6 rector” and inserting “Board”;

7 (F) in paragraph (4), by striking “Direc-  
8 tor” and inserting “Board”; and

9 (G) in paragraph (5), by striking “Direc-  
10 tor” and inserting “Board”.

11 (9) In subsection (j), by striking “Director”  
12 each place it appears and inserting “Board”.

13 (10) In subsection (l)—

14 (A) in paragraph (1), by striking “Direc-  
15 tor” and inserting “Board, in consultation with  
16 the Comptroller of the Currency,”; and

17 (B) in paragraph (2), by striking “Direc-  
18 tor” and inserting “Board, in consultation with  
19 the Comptroller of the Currency,”.

Page 166, after line 18 insert the following:

20 (13) In subsections (p), (q), (r), and (s), by  
21 striking “Director” each place it appears and insert-  
22 ing “Board”.

Page 169, strike lines 1 through 4 and insert the following:

1           “(7) VALUATION.—

2                   “(A) IN GENERAL.—The Board shall con-  
3           sider waived dividends in determining an appro-  
4           priate exchange ratio in the event of a full con-  
5           version to stock form.

6                   “(B) EXCEPTION.—In the case of a sav-  
7           ings association which has reorganized into a  
8           mutual thrift holding company under section  
9           10(b) of the Home Owners’ Loan Act and has  
10          issued minority stock either from its mid-tier  
11          stock holding company or its subsidiary stock  
12          savings association prior to December 1, 2009,  
13          the Board shall not consider waived dividends  
14          in determining an appropriate exchange ratio in  
15          the event of a full conversion to stock form.”.

Page 204, line 14, strike “may decrease” and insert  
“decreases”.

Page 204, beginning on line 23, strike “, on a con-  
solidated basis,” and insert “a fraternal beneficiary soci-  
ety, as defined in section 501(c)(8) of the Internal Rev-  
enue Code of 1986, or a company that is, together with  
all of its affiliates on a consolidated basis,”.

Page 205, beginning on line 4, strike “, on a consolidated basis,” and insert “a fraternal beneficiary society, as defined in section 501(c)(8) of the Internal Revenue Code of 1986, or a company that is, together with all of its affiliates on a consolidated basis,”.

Page 205, after line 13, insert the following new section:

**1 SEC. 1257. EFFECTIVE DATE.**

2 Except as otherwise provided in this subtitle, the  
3 amendments made by sections 1221 through section 1253  
4 and 1256 and subsections (a), (b), and (c)(1) of section  
5 1254 shall take effect on the transfer date.

Page 207, line 6, strike “, on a consolidated basis,” and insert “a fraternal beneficiary society, as defined in section 501(c)(8) of the Internal Revenue Code of 1986, or a company that is, together with all of its affiliates on a consolidated basis,”.

Page 207, strike line 9, and insert the following:

6 (B) in subparagraph (F)(i), by inserting  
7 before the semicolon the following: “, including  
8 issuing credit cards and other credit devices (in-  
9 cluding virtual or intangible devices) that func-  
10 tion as credit cards”;

1 (C) in subparagraph (F)(v), by inserting  
2 before the semicolon the following: “, other  
3 than loans that otherwise meet the require-  
4 ments of this subparagraph and are made to  
5 businesses that meet the criteria for a small  
6 business concern to be eligible for business  
7 loans under regulations established by the  
8 Small Business Administration under part 121  
9 of title 13, Code of Federal Regulations”; and

10 (D) by striking subparagraph (H) and in-  
11 serting the following:

12 “(H) An industrial loan company, indus-  
13 trial bank, or other similar institution which—

14 “(i) is an institution organized under  
15 the laws of a State which, on March 5,  
16 1987, had in effect or had under consider-  
17 ation in such State’s legislature a statute  
18 which required or would require such insti-  
19 tution to obtain insurance under the Fed-  
20 eral Deposit Insurance Act;

21 “(ii) either—

22 “(I) does not accept demand de-  
23 posits that the depositor may with-  
24 draw by check or similar means for  
25 payment to third parties;

1                   “(II) has total assets of less than  
2                   \$100,000,000; or

3                   “(III) the control of which is not  
4                   acquired by any company after Au-  
5                   gust 10, 1987;

6                   “(iii) predominantly provides financial  
7                   products and services to current and  
8                   former members of the military and their  
9                   families; and

10                  “(iv) is controlled by a savings and  
11                  loan holding company, as defined in sec-  
12                  tion 10(a) of the Home Owners’ Loan Act.

13                  This subparagraph shall cease to apply to any  
14                  institution which permits any overdraft (includ-  
15                  ing any intraday overdraft), or which incurs  
16                  any such overdraft in such institution’s account  
17                  at a Federal Reserve bank, on behalf of an af-  
18                  filiate, if such overdraft is not the result of an  
19                  inadvertent computer or accounting error that  
20                  is beyond the control of both the institution and  
21                  the affiliate, or that is otherwise permissible for  
22                  a bank controlled by a company described in  
23                  section 1843(f)(1) of this title.”; and

Page 208, strike line 10 and all that follows through  
page 209, line 7, and insert the following:

1           “(ii) conduct all such activities which  
2           are permissible for a financial holding com-  
3           pany, as determined under section 4(k),  
4           through such section 6 holding company,  
5           other than—

6                   “(I) internal financial activities  
7                   conducted for such company or any  
8                   affiliate, including, but not limited to  
9                   internal treasury, investment, and em-  
10                  ployee benefit functions, provided that  
11                  with respect to any internal financial  
12                  activity engaged in for the company or  
13                  an affiliate and a nonaffiliate during  
14                  the year prior to date of enactment,  
15                  the company (or an affiliate not a  
16                  subsidiary of the section 6 company)  
17                  may continue to engage in that activ-  
18                  ity so long as the at least two-thirds  
19                  of the assets or two-thirds of the reve-  
20                  nues generated from the activity are  
21                  from or attributable to the company  
22                  or an affiliate, subject to review by  
23                  the Board to determine whether en-  
24                  gaging in such activity presents undue

1 risk to the section 6 company or  
2 undue systemic risk; and

3 “(II) financial activities involving  
4 the provision of credit for the pur-  
5 chase or lease of products or services  
6 from an affiliate or for the purchase  
7 or lease of products produced by an  
8 affiliate of such section 6 holding  
9 company that is not a subsidiary of  
10 such section six holding company, in  
11 accordance with regulations prescribed  
12 by or orders issued by the Board, pur-  
13 suant to section 6 of this Act.”; and

Page 209, strike line 15 and all that follows through  
page 210, line 14 and insert the following:

14 “(i) on the date of enactment of the  
15 Financial Stability Improvement Act of  
16 2009, a unitary savings and loan holding  
17 company that continues to control not  
18 fewer than one savings association that it  
19 controlled on May 4, 1999, or that it ac-  
20 quired pursuant to an application pending  
21 before the Office of Thrift Supervision on  
22 or before that date, and that became a  
23 bank for purposes of the Bank Holding

1 Company Act as a result of the enactment  
2 of section 1301(a)(3) of the Financial Sta-  
3 bility Improvement Act 2009; or”.

Page 210, line 19, strike “1301(a)(3)(B)” and in-  
sert “1301(a)(4)(B)”.

Page 220, after line 25, insert the following:

4 “(8) UNITARY SAVINGS AND LOAN HOLDING  
5 COMPANY DEFINED.—For purposes of this sub-  
6 section, the term ‘unitary savings and loan holding  
7 company’ means a company that was a savings and  
8 loan holding company on May 4, 1999 (as then de-  
9 fined), or that became a savings and loan holding  
10 company pursuant to an application pending before  
11 the Office of Thrift Supervision on or before that  
12 date, and—

13 “(A) that controls—

14 “(i) only 1 savings association; or

15 “(ii) more than 1 savings association,  
16 if all, or all but 1, of the savings associa-  
17 tion subsidiaries of such company were ini-  
18 tially acquired by the company pursuant to  
19 a supervisory transaction under section  
20 1823(c), 1823(i), or 1823(k) of this title,

1 or section 408(m) of the National Housing  
2 Act (12 U.S.C. 1730a(m));

3 “(B) all of the savings association subsidi-  
4 aries of such company are qualified thrift lend-  
5 ers (as determined under section 10 of the  
6 Home Owners’ Loan Act); and

7 “(C) that continues to control not fewer  
8 than 1 savings association that it controlled on  
9 May 4, 1999, or that it acquired pursuant to an  
10 application pending before the Office of Thrift  
11 Supervision on or before that date.”.

Page 220, after line 25, insert the following:

12 (8) UNITARY SAVINGS AND LOAN HOLDING  
13 COMPANY DEFINED.—Solely for purposes of this  
14 subsection, the term “unitary savings and loan hold-  
15 ing company” means a company that was a savings  
16 and loan holding company on May 4, 1999 (as then  
17 defined), or that became a savings and loan holding  
18 company pursuant to an application pending before  
19 the Office of Thrift Supervision on or before that  
20 date, and—

21 (A) that controls —

22 (i) only 1 savings association; or

23 (ii) more than 1 savings association, if  
24 all, or all but 1, of the savings association

1 subsidiaries of such company were initially  
2 acquired by the company pursuant to a su-  
3 pervisory transaction under section  
4 1823(c), 1823(i), or 1823(k) of this title,  
5 or section 408(m) of the National Housing  
6 Act (12 U.S.C. 1730a(m));

7 (B) all of the savings association subsidi-  
8 aries of such company are qualified thrift lend-  
9 ers (as determined under section 10 of the  
10 Home Owners' Loan Act); and

11 (C) that continues to control not fewer  
12 than 1 savings association that it controlled on  
13 May 4, 1999, or that it acquired pursuant to an  
14 application pending before the Office of Thrift  
15 Supervision on or before that date.

Page 222, line 18, strike “subtitle B” and insert  
“section 1103”.

Page 223, strike line 15 and all that follows through  
page 224, line 11 and insert the following:

16 (B) A company that is required to form a  
17 section a section 6 holding company shall con-  
18 duct all such activities which are permissible for  
19 a financial holding company, as determined

1 under section 4(k), through such section 6 hold-  
2 ing company, other than—

3 (i) internal financial activities con-  
4 ducted for such company or any affiliate,  
5 including, but not limited to internal treas-  
6 ury, investment, and employee benefit  
7 functions, provided that with respect to  
8 any internal financial activity engaged in  
9 for the company or an affiliate and a non-  
10 affiliate during the year prior to date of  
11 enactment, the company (or an affiliate  
12 not a subsidiary of the section 6 company)  
13 may continue to engage in that activity so  
14 long as the at least  $\frac{2}{3}$  of the assets or  $\frac{2}{3}$   
15 of the revenues generated from the activity  
16 are from or attributable to the company or  
17 an affiliate, subject to review by the Board  
18 to determine whether engaging in such ac-  
19 tivity presents undue risk to the section 6  
20 company or undue systemic risk; and

21 (ii) financial activities involving the  
22 provision of credit for the purchase or  
23 lease of products or services from an affil-  
24 iate or for the purchase or lease of prod-  
25 ucts produced by an affiliate of such sec-

1                   tion 6 holding company that is not a sub-  
2                   sidiary of such section 6 holding company,  
3                   in accordance with regulations prescribed  
4                   by or orders issued by the Board, pursuant  
5                   to section 6 of this Act.

Page 225, beginning on line 22, strike “, as a bank holding company”.

Page 226, line 2, strike “subtitle B” and insert “section 1103”.

Page 226, strike lines 7 and 8 and insert the following:

6                   “(ii) subject to the provisions of this  
7                   Act and other Federal law as provided in  
8                   section 1103(g) of the Financial Stability  
9                   Improvement Act of 2009; and”.

Page 227, line 5, strike “subtitle A” and insert “section 1103”.

Page 228, line 6, after “section 6(a)(2)(B)” insert the following: “and financial activities involving the provision of credit for the purchase or lease of products or services from an affiliate or for the purchase or lease of products produced by an affiliate of such section 6 hold-

ing company that is not a subsidiary of such section six holding company”.

Page 236, strike lines 17-25.

Page 237, line 12, strike “sections 4(p) and 6” and insert “section 1301 of the Financial Stability Improvement Act of 2009”.

Page 237, line 13, insert “, other than a section 6 holding company,” after “company”.

Page 250, beginning on line 19, strike “after subsection (y) (as added by section 1408)” and insert “at the end”.

Page 250, line 21, strike “(z)” and insert “(y)”.

Page 252, line 16, insert “holding” after “financial”.

Page 252, beginning on line 16, strike “prudential”.

Page 252, line 19, strike “greater” and insert “great”.

Page 253, line 23, strike “8(c)(5)” and insert “18(c)(5)”.

Page 255, after line 2, insert the following new section (and conform the table of contents accordingly):

1 **SEC. 1316. NATIONWIDE DEPOSIT CAP FOR INTERSTATE AC-**  
2 **QUISITIONS.**

3 (a) AMENDMENTS TO BANK HOLDING COMPANY ACT  
4 OF 1956.—

5 (1) CONCENTRATION LIMIT FOR BANK HOLDING  
6 COMPANIES.—Section 3(d)(2)(A) of the Bank Hold-  
7 ing Company Act (12 U.S.C. 1842(d)(2)(A)) is  
8 amended by striking “paragraph (1)(A)” and insert-  
9 ing “subsection (a)”.

10 (2) TECHNICAL CORRECTION RELATING TO  
11 CERTAIN SAVINGS BANKS.—Section 4 of the Bank  
12 Holding Company Act is amended by striking sub-  
13 section (i) and inserting the following new sub-  
14 section:

15 “(i) [Repealed]”.

16 (b) AMENDMENTS TO FEDERAL DEPOSIT INSUR-  
17 ANCE ACT.—

18 (1) IN GENERAL.—Section 18(c) of the Federal  
19 Deposit Insurance Act (12 U.S.C. 1828(c)) is  
20 amended—

21 (A) by redesignating paragraph (12) as  
22 paragraph (13); and

23 (B) by inserting after paragraph (11) the  
24 following new paragraph:

25 “(12) NATIONWIDE DEPOSIT CAP.—The respon-  
26 sible agency may not approve an application for an

1 interstate merger transaction if the resulting insured  
2 depository institution (including all insured depository  
3 institutions which are affiliates of the resulting  
4 insured depository institution), upon consummation  
5 of the transaction, would control more than 10 per-  
6 cent of the total amount of deposits of insured de-  
7 pository institutions in the United States.”.

8 (2) PARALLEL REQUIREMENT.—Subparagraph  
9 (A) of section 44(b)(2) of the Federal Deposit Insur-  
10 ance Act 1831u(b)(2)(A)) is amended to read as fol-  
11 lows:

12 “(A) NATIONWIDE CONCENTRATION LIM-  
13 ITS.—The responsible agency may not approve  
14 an application for an interstate merger trans-  
15 action involving 2 or more insured depository  
16 institutions if the resulting insured depository  
17 institution (including all insured depository in-  
18 stitutions which are affiliates of such institu-  
19 tion), upon consummation of the transaction  
20 would control more than 10 percent of the total  
21 amount of deposits of insured depository insti-  
22 tutions in the United States”.

23 (c) AMENDMENTS TO HOME OWNERS’ LOAN ACT.—  
24 Section 10(e)(2) of the Home Owners’ Loan Act  
25 1467a(e)(2)) is amended—

1 (1) by striking “or at the end of subparagraph  
2 (C)”;

3 (2) by striking the period at the end of sub-  
4 paragraph (D) and inserting “; or”; and

5 (3) by inserting after subparagraph (D), the  
6 following new subparagraph:

7 “(E) in the case of an application involving  
8 an interstate acquisition, if the applicant (in-  
9 cluding all insured depository institutions which  
10 are affiliates of the applicant) controls, or upon  
11 consummation of the acquisition for which such  
12 application is filed would control, more than 10  
13 percent of the total amount of deposits of in-  
14 sured depository institutions in the United  
15 States.”.

Page 257, line 10, strike “assessment period” and insert “assessment period, minus additional deductions or adjustments necessary to establish assessments consistent with the definition under section 7(b)(1)(C) of the Federal Deposit Insurance Act for custodial banks (as defined by the Corporation based on factors including percentage of total revenues generated by custodial businesses and the level of assets under custody) or a bankers’ bank (as referred to in section 5136 of the Revised Statutes of the United States)”.

Page 275, line 15, insert “if the financial company is an insurance company or” after “section 1603”.

Page 277, line 11, insert “activities” after “or”.

Page 277, line 22, strike the period and insert “; and”.

Page 277, after line 22, insert the following new subparagraph:

- 1 (C) that is not a Federal home loan bank,
- 2 the Federal National Mortgage Association, or
- 3 the Federal Home Loan Mortgage Corporation.

Page 278, beginning on line 2, strike “includes” and all that follows through line 3 and insert “means any entity covered by a State law designed specifically to deal with the rehabilitation, liquidation, or insolvency of an insurance company.”.

Page 278, strike line 22 and all that follows through page 279, line 13, and insert the following new paragraph:

- 4 (1) VOTE REQUIRED.—
- 5 (A) IN GENERAL.—At the request of the
- 6 Secretary, the Chairman of the Federal Reserve
- 7 Board, or the appropriate regulatory agency,
- 8 the Board and the appropriate regulatory agen-

1           cy shall, or on their own initiative the Board  
2           and the appropriate regulatory agency may,  
3           consider whether to make the written rec-  
4           ommendation provided for in paragraph (2)  
5           with respect to a financial company.

6           (B) 2/3 AGREEMENT.—Any recommenda-  
7           tion under subparagraph (A) shall be made  
8           upon a vote of not less than two-thirds of the  
9           members of the Federal Reserve Board then  
10          serving and not less than two thirds of any  
11          members of the board or commission then serv-  
12          ing of the appropriate regulatory agency, as ap-  
13          plicable.

Page 280, beginning on line 7, strike “financial holding company subject to stricter standards” and insert “financial company”.

Page 280, beginning on line 12, strike “the board of directors or commission of”.

Page 280, line 19, strike “resolution” and insert “dissolution”.

Page 282, beginning on line 8, strike “financial holding company subject to stricter standards” and insert “financial company”.

Page 282, beginning on line 20, strike “financial holding company subject to stricter standards” and insert “financial company”.

Page 283, beginning on line 2, strike “financial holding company subject to stricter standards” and insert “financial company”.

Page 283, beginning on line 5, strike “financial holding company subject to stricter standards” and insert “financial company”.

Page 283, beginning on line 9, strike “financial holding company subject to stricter standards” and insert “financial company”.

Page 283, beginning on line 15, strike “financial holding company subject to stricter standards” and insert “financial company”.

Page 283 beginning on line 18, strike “financial holding company subject to stricter standards” and insert “financial company”.

Page 283, line 22, strike “**RESOLUTION**” and insert “**DISSOLUTION**” (and conform the table of contents accordingly).

Page 284, after line 7, insert the following new paragraphs:

1           (3) EXTENSION OF TIME LIMIT.—The time  
2           limit established in paragraph (2) may be extended  
3           by the Secretary for up to 1 additional year if—

4                   (A) the Corporation has not completed the  
5           dissolution of the company within the time pro-  
6           vided in paragraph (2); and

7                   (B) the Secretary certifies in writing that  
8           continuation of the receivership is necessary—

9                           (i) to protect the best interests of the  
10           taxpayers of the United States; and

11                           (ii) to protect the stability of the fi-  
12           nancial system and the economy of the  
13           United States.

14           (4) FURTHER EXTENSION.—The time limit, as  
15           extended in paragraph (3), may be extended for up  
16           to 1 additional year if—

17                   (A) the conditions of paragraph (3) are  
18           met; and

19                   (B) the Corporation submits a report to  
20           the Congress, no later than 60 days before the  
21           receivership will expire under the extended limit  
22           under paragraph (3), that describes in detail—

23                           (i) the basis for the determination by  
24           the Corporation that a second extension is  
25           necessary; and

1 (ii) the specific plan of the Corpora-  
2 tion for concluding the receivership before  
3 the end of the proposed additional year.

Page 284, line 8, strike “RESOLUTION” and insert “DISSOLUTION”.

Page 284, line 10, strike “resolved” and insert “dissolved”.

Page 284, line 11, strike “resolution” and insert “dissolution”.

Page 284, line 18, strike “resolution” and insert “dissolution”.

Page 285, line 6, strike “resolution” and insert “dissolution”.

Page 285, line 11, strike “resolution” and insert “dissolution”.

Page 285, line 16, strike “1602(9)(B)(iv)” and insert “1602(9)(B)(v)”.

Page 285, line 18, strike “resolution” and insert “dissolution”.

Page 287, beginning on line 1, strike “CERTAIN INSURANCE SUBSIDIARIES” and insert “INSURANCE COMPANIES AND INSURANCE COMPANY SUBSIDIARIES”.

Page 287, strike line 4 and all that follows through line 9, and insert “(a), if an insurance company covered by a State law designed specifically to deal with the rehabilitation, liquidation or insolvency of an insurance company is a covered financial company or a subsidiary of a covered financial company, resolution of such insurance company, and any subsidiary of such company, will be conducted as provided under such State law.”.

Page 287, line 13, insert before the period the following: “, that is not itself an insurance company”.

Page 287, line 22, strike “resolution” and insert “dissolution”.

Page 288, line 2, strike “resolution” and insert “dissolution”.

Page 289, line 11, strike “RESOLUTION” and insert “DISSOLUTION”.

Page 289, line 21, insert “in accordance with section 1604” before the comma after “is appointed”.

Page 299, line 11, strike “resolution” and insert “dissolution”.

Page 305, line 19, strike “resolution” and insert “dissolution”.

Page 327, line 2, strike “resolving” and insert “dissolving”.

Page 327, line 8, strike “resolution” and insert “dissolution”.

Page 370, line 15, strike “resolution” and insert “dissolution”.

Page 401, line 10, strike “\$10,000,000,000” and insert “\$50,000,000,000”.

Page 401, line 11, insert a comma after “inflation”.

Page 411, line 10, insert “,subject to the requirements of section 1604(g),” after “Fund”.

Page 413, line 11, strike “resolution” and insert “dissolution”.

Page 413, line 12, strike “resolution” and insert “dissolution”.

Page 425, line 8, strike “Resolution” and insert “Dissolution”.

Page 425, line 14, strike “**RESOLUTION**” and insert “**DISSOLUTION**” (and conform the table of contents accordingly).

Page 425, line 21, strike “Resolution” and insert “Dissolution”.

Page 426, line 2, strike “Resolution” and insert “Dissolution”.

Page 426, line 7, strike “Resolution” and insert “Dissolution”.

Page 426, line 8, strike “Resolution” and insert “Dissolution”.

Page 432, line 1, strike “Resolution” and insert “Dissolution”.

Page 433, line 4, strike “Resolution” and insert “Dissolution”.

Page 455, line 5, before the comma insert “(as such terms are defined in subsection (c) (1))”.

Page 461, strike lines 8 through 15 and insert the following:

- 1 (J) the Consumer Financial Protection
- 2 Agency,
- 3 (K) the Federal Insurance Office,

Page 461, after line 19, insert the following new section:

1 **SEC. 1802. FEDERAL HOUSING FINANCE AGENCY ADVISORY**

2 **ROLE IN FIEC.**

3 After section 1007 of the Federal Financial Institu-  
4 tions Examination Council Act of 1987 (12 U.S.C. 3306)  
5 insert the following new section:

6 **“SEC. 1007A. FEDERAL HOUSING FINANCE AGENCY ADVI-  
7 SORY ROLE.**

8 “Whenever the Council takes any actions with respect  
9 to issues that relate to the Federal National Mortgage As-  
10 sociation, the Federal Home Loan Mortgage Corporation,  
11 or the Federal home loan banks, the Federal Housing Fi-  
12 nance Agency shall participate in the Council’s pro-  
13 ceedings in an advisory role.”.

Page 462, beginning on line 20, strike “(as” and all  
that follows through line 22 and insert a comma.

Page 463, beginning on line 15, strike “(as” and all  
that follows through line 17 and insert a comma.

Page 464, strike lines 11 and 12 and insert “States,  
the”.

Page 465, after line 2, insert the following new sub-  
title:

1           **Subtitle L—Securities Holding**  
2                           **Companies**

3   **SEC. 1961. SECURITIES HOLDING COMPANIES.**

4           (a) SUPERVISION OF A SECURITIES HOLDING COM-  
5 PANY NOT HAVING A BANK OR SAVINGS ASSOCIATION  
6 AFFILIATE.—

7                   (1) IN GENERAL.—A securities holding com-  
8 pany that is required by a foreign regulator or for-  
9 eign law to be subject to comprehensive consolidated  
10 supervision and that is not—

11                           (A) a financial holding company subject to  
12 stricter standards,

13                           (B) an affiliate of an insured bank (other  
14 than an institution described in subparagraphs  
15 (D) or (G) of section 2(c)(2) of the Bank Hold-  
16 ing Company Act of 1956) or a savings associa-  
17 tion,

18                           (C) a foreign bank, foreign company, or  
19 company that is described in section 8(a) of the  
20 International Banking Act of 1978,

21                           (D) a foreign bank that controls, directly  
22 or indirectly, a corporation chartered under sec-  
23 tion 25A of the Federal Reserve Act (12 U.S.C.  
24 611 et seq.), or

1           (E) subject to comprehensive consolidated  
2           supervision by a foreign regulator,  
3           may register with the Board to become supervised,  
4           pursuant to paragraph (2). Any securities holding  
5           company filing such a registration shall be super-  
6           vised in accordance with this section and comply  
7           with the rules and orders prescribed by the Board  
8           applicable to supervised securities holding compa-  
9           nies.

10           (2) REGISTRATION AS A SUPERVISED SECURI-  
11           TIES HOLDING COMPANY.—A securities holding com-  
12           pany described in paragraph (1) shall register by fil-  
13           ing with the Board such information and documents  
14           concerning such securities holding company as the  
15           Board, by regulation, may prescribe as necessary or  
16           appropriate in furtherance of the purposes of this  
17           section. Such supervision shall become effective 45  
18           days after the date of receipt of such registration by  
19           the Board or within such shorter time period as the  
20           Board, by rule or order, may determine.

21           (b) SUPERVISION OF SECURITIES HOLDING COMPA-  
22           NIES.—

23           (1) RECORDKEEPING AND REPORTING.—

24           (A) IN GENERAL.—Every supervised secu-  
25           rities holding company and each affiliate of

1           such company shall make and keep for pre-  
2           scribed periods such records, furnish copies of  
3           records, and make such reports, as the Board  
4           determines to be necessary or appropriate for  
5           the Board to carry out the purposes of this sec-  
6           tion, prevent evasions, and monitor compliance  
7           by the company or affiliate with applicable pro-  
8           visions of law.

9                   (B) FORM AND CONTENTS.—Such records  
10           and reports shall be prepared in such form and  
11           according to such specifications (including cer-  
12           tification by a registered public accounting  
13           firm), as the Board may require and shall be  
14           provided promptly at any time upon request by  
15           the Board. Such records and reports may in-  
16           clude—

17                   (i) a balance sheet and income state-  
18           ment;

19                   (ii) an assessment of the consolidated  
20           capital of the supervised securities holding  
21           company;

22                   (iii) an independent auditor's report  
23           attesting to the supervised securities hold-  
24           ing company's compliance with its internal

1 risk management and internal control ob-  
2 jectives; and

3 (iv) reports concerning the extent to  
4 which the company or affiliate has com-  
5 plied with the provisions of this section  
6 and any regulations prescribed and orders  
7 issued under this section.

8 (2) USE OF EXISTING REPORTS.—

9 (A) IN GENERAL.—The Board shall, to the  
10 fullest extent possible, accept reports in fulfill-  
11 ment of the requirements under this paragraph  
12 that the supervised securities holding company  
13 or its affiliates have been required to provide to  
14 another appropriate regulatory agency or self-  
15 regulatory organization.

16 (B) AVAILABILITY.—A supervised securi-  
17 ties holding company or an affiliate of such  
18 company shall provide to the Board, at the re-  
19 quest of the Board, any report referred to in  
20 subparagraph (A), as permitted by law.

21 (3) EXAMINATION AUTHORITY.—

22 (A) FOCUS OF EXAMINATION AUTHOR-  
23 ITY.—The Board may make examinations of  
24 any supervised securities holding company and  
25 any affiliate of such company to carry out the

1 purposes of this subsection, prevent evasions  
2 thereof, and monitor compliance by the com-  
3 pany or affiliate with applicable provisions of  
4 law.

5 (B) DEFERENCE TO OTHER EXAMINA-  
6 TIONS.—For purposes of this subparagraph, the  
7 Board shall, to the fullest extent possible, use  
8 the reports of examination made by other ap-  
9 propriate Federal or State regulatory authori-  
10 ties with respect to any functionally regulated  
11 subsidiary, as defined under section 5(e)(1) of  
12 the Bank Holding Company Act of 1956 (12  
13 U.S.C. 1844(c)(1)), or an institution described  
14 in subparagraphs (D) or (G) of section  
15 1841(c)(2).

16 (c) CAPITAL AND RISK MANAGEMENT.—

17 (1) The Board shall, by regulation or order,  
18 prescribe capital adequacy and other risk manage-  
19 ment standards for a supervised securities holding  
20 company appropriate to protect the safety and  
21 soundness of the company and address the risks  
22 posed to financial stability by a supervised securities  
23 holding company. Standards imposed under this sub-  
24 paragraph shall take account of differences among  
25 types of business activities and—

1 (A) the amount and nature of the com-  
2 pany's financial assets;

3 (B) the amount and nature of the com-  
4 pany's liabilities, including the degree of reli-  
5 ance on short-term funding;

6 (C) the extent and nature of the company's  
7 off-balance sheet exposures;

8 (D) the extent and nature of the com-  
9 pany's transactions and relationships with other  
10 financial companies;

11 (E) the company's importance as a source  
12 of credit for households, businesses, and State  
13 and local governments and as a source of li-  
14 quidity for the financial system; and

15 (F) the nature, scope, and mix of the com-  
16 pany's activities.

17 (2) In imposing standards under this sub-  
18 section, the Board may differentiate among super-  
19 vised securities holding companies on an individual  
20 basis or by category, taking into consideration the  
21 criteria specified above.

22 (3) Any capital requirements imposed under  
23 this subsection shall not take effect until the expira-  
24 tion of 180 days after a supervised securities holding  
25 company is provided notice of such requirement.

1 (d) OTHER PROVISIONS.—

2 (1) Subsections (b), (c) through (s), and (u) of  
3 section 8 of the Federal Deposit Insurance Act shall  
4 apply to any supervised securities holding company,  
5 and to any subsidiary (other than a bank) of a su-  
6 pervised securities holding company, in the same  
7 manner as they apply to a bank holding company.  
8 For purposes of applying such subsections to a su-  
9 pervised securities holding company or a subsidiary  
10 (other than a bank) of a supervised securities hold-  
11 ing company, the Board shall be considered the ap-  
12 propriate Federal banking agency for the supervised  
13 securities holding company or subsidiary.

14 (2) Except as the Board may otherwise provide  
15 by regulation or order, a supervised securities hold-  
16 ing company shall be subject to the provisions of the  
17 Bank Holding Company Act of 1956 (12 U.S.C.  
18 1841 et seq.) in the same manner and to the same  
19 extent that bank holding companies are subject to  
20 such provisions, except that any such supervised se-  
21 curities holding company shall not by reason of this  
22 subparagraph be deemed a bank holding company  
23 for purposes of section 4 of the Bank Holding Com-  
24 pany Act of 1956.

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

3 (1) SECURITIES HOLDING COMPANY.—The term  
4 “securities holding company” means—

5 (A) any person other than a natural per-  
6 son that owns or controls one or more brokers  
7 or dealers as defined in section 3 of the Securi-  
8 ties Exchange Act; and

9 (B) the associated persons of the securities  
10 holding company.

11 (2) SUPERVISED SECURITIES HOLDING COM-  
12 PANY.—The term “supervised securities holding  
13 company” means any securities holding company  
14 that is supervised by the Board pursuant to this sec-  
15 tion.

16 (3) OTHER BANKING TERMS.—The terms “af-  
17 filiate”, “bank”, “bank holding company”, “com-  
18 pany”, “control”, “savings association”, and “sub-  
19 sidiary” have the same meanings as in section 2 of  
20 the Bank Holding Company Act of 1956.

21 (4) INSURED BANK.—The term “insured bank”  
22 has the same meaning as in section 13 of the Fed-  
23 eral Deposit Insurance Act.

1           (5) FOREIGN BANK.—The term “foreign bank”  
2           has the same meaning as in section 1(b)(7) of the  
3           International Banking Act of 1978.

4           (6) ASSOCIATED PERSONS.—The terms “person  
5           associated with a securities holding company” and  
6           “associated person of a securities holding company”  
7           mean any person directly or indirectly controlling,  
8           controlled by, or under common control with, a secu-  
9           rities holding company.

Page 480, line 12, strike “2009” and insert “2008”.

Page 668, strike lines 4 and 5 and insert the fol-  
lowing:

10           (13) DEPOSIT-TAKING, MONEY ACCEPTANCE,  
11           OR MONEY MOVEMENT ACTIVITY.—The term “de-  
12           posit-taking, money acceptance, or money movement  
13           activities” means—

Page 669, line 15, insert “(b),” after “Subsections”.

Page 669, line 20, insert “except for section 505 as  
it applies to section 501(b)” before the period.

Page 670, after line 9, insert the following:

14           (N) Section 626 of the Omnibus Appro-  
15           priations Act, 2009 (Public Law 111–8).

1 (O) The Unlawful Internet Gambling En-  
2 forcement Act of 2006.

Page 670, line 23, after “taking” insert “, money acceptance, or money movement”.

Page 672, line 3, insert “, except that furnishing a consumer report to another person that it has reason to believe intends to use the information for employment purposes, including for security investigations, government licensing and evaluating a consumer’s residential or tenant history shall not be considered a financial activity” before the period at the end.

Page 673, line 2, insert “a person regulated as an investment adviser by” after “or” the 1st place such term appears.

Page 675, strike line 10 and all that follows through page 676, line 9, and insert the following:

3 (ix) Financial data processing by any  
4 technological means, including providing  
5 data processing, access to or use of data-  
6 bases or facilities, or advice regarding  
7 processing or archiving, if the data to be  
8 processed, furnished, stored, or archived  
9 are financial, banking, or economic, except  
10 that it shall not be considered a “financial

1 activity” with respect to financial data  
2 processing—

3 (I) to the extent the person is  
4 providing interactive computer service,  
5 as defined in section 230 of the Com-  
6 munications Act of 1934 (47 U.S.C.  
7 230); or

8 (II) if the person—

9 (aa) unknowingly or inciden-  
10 tally transmits, processes, or  
11 stores financial data in a manner  
12 that such data is undifferentiated  
13 from other types of data that the  
14 person transmits, processes, or  
15 stores;

16 (bb) does not provide to any  
17 consumer a consumer financial  
18 product or service in connection  
19 with or relating to in any manner  
20 financial data processing; and

21 (cc) does not provide a ma-  
22 terial service to any covered per-  
23 son in connection with the provi-  
24 sion of a consumer financial  
25 product or service.

Page 678, line 10, as modified by the amendment MWB\_\_05, before “data is undifferentiated” insert “financial”.

Page 679, line 2, insert “and shall include any uninsured branch or agency of a foreign bank or a commercial lending company owned or controlled by a foreign bank” before the period at the end.

Page 679, beginning on line 17, strike “covered”.

Page 681, strike line 18 and all that follows through line 20 and insert the following new subparagraph:

- 1           (C) an investment company that—
- 2                 (i) is required to be registered under
- 3                 the Investment Company Act of 1940; or
- 4                 (ii) is excepted from the definition of
- 5                 investment company under section 3(c) of
- 6                 such Act, or any successor provision.

Page 682, line 21, strike “the person” and insert “any person described in any subparagraph of this paragraph”.

Page 682, line 23, insert “, or, with respect to a person described in subparagraph (C)(ii), any employee, agent, or contractor acting on behalf of, or providing services to any such person, but only to the extent that

such person, or the employee, agent, or contractor of such person acts in such exempt capacity” before the period at the end.

Page 686, line 19, insert “ or any federally recognized Indian tribe as defined by the Secretary of Interior under section 104(a) of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a-1(a))” before the period.

Page 693, line 13, before the semicolon insert the following: “, except that the Director shall not exercise any authorities that are granted to State insurance authorities under section 505(a)(6) of the Gramm-Leach-Bliley Act”.

Page 693, line 14, insert “, except that Director shall not exercise any authorities that are granted to State insurance authorities under Section 505(a)(6) of the Gramm-Leach-Bliley Act” before the semicolon.

Page 696, strike line 14 and all that follows through page 697, line 9, and insert the following:

- 1           (1) APPOINTMENT.—The Director may fix the
- 2           number of, and appoint and direct, all employees of
- 3           the Agency.

Page 701, line 1, insert “the Federal Trade Commission,” after “banking agencies,”.

Page 714, strike lines 11 through 14, and insert the following:

1           (2) an analysis of the major problems con-  
2           sumers of financial products and services were con-  
3           fronted with during the preceding year, including a  
4           description of the nature of such problems, and rec-  
5           ommendations for such administrative and legislative  
6           action as may be appropriate to resolve such prob-  
7           lems;

Page 715, after line 7, insert the following new paragraph (and redesignate succeeding paragraphs accordingly):

8           (6) an analysis of the Agency’s efforts to in-  
9           crease workforce and contracting diversity consistent  
10          with subtitle I of title I of this Act;

Page 717, beginning on line 17, strike “and complexity of the covered person,” and insert “, complexity of, risk posed by,”.

Page 719, beginning on line 10, strike “and complexity of the covered person,” and insert “, complexity of, risk posed by,”.

Page 720, line 16, insert “in the each of the first 3 years following the date of enactment of this Act” after “persons”.

Page 720, beginning on line 18, strike “the 12-month period ending on December 31, 2009” and insert “the calendar year immediately preceding the designated transfer date”.

Page 720, line 24, insert “, on a risk-adjusted basis,” after “that”.

Page 721, line 11, insert “or to set assessments that would result in higher marginal assessments on the depository institution covered persons with assets of less than \$25,000,000,000 if based on the compliance record of or higher risks posed by such covered persons” before the period.

Page 721, line 18, strike “enforcement or regulation” and insert “or enforcement activities”.

Page 722, line 1, insert “so that levels of assessments under this subparagraph combined with levels of assessments by an agency responsible for chartering and or supervising the depository institution covered person shall be no more” before “than it paid”.

Page 725, line 6, insert “or the CFPA Nondepository Fund, at the discretion of the Agency” before the period at the end.

Page 728, beginning on line 12, strike “as a result of the” and insert “that are reasonably related as a general matter to”.

Page 743, line 3, insert “a provision of” after “reports under”.

Page 743, line 4, insert “a provision of” after “title,”.

Page 743, line 5, insert “any provision of” after “law,”.

Page 743, line 8, insert “under that provision of law” after “exclusive authority”.

Page 748, line 6, strike “\$1,500,000,000” and insert “\$10,000,000,000”.

Page 760, strike line 19 and all that follows through page 762, line 22, and insert the following:

1           (a) EXCLUSION FOR MERCHANTS, RETAILERS, AND  
2 SELLERS OF NONFINANCIAL SERVICES.—

3           (1) IN GENERAL.—Notwithstanding any provi-  
4 sion of this title (other than paragraph (4)) and sub-

1       ject to paragraph (2), the Director and the Agency  
2       may not exercise any rulemaking, supervisory, en-  
3       forcement or other authority, including authority to  
4       order assessments, under this title with respect to—

5               (A) credit extended directly by a merchant,  
6               retailer, or seller of nonfinancial goods or serv-  
7               ices to a consumer, in a case in which the good  
8               or service being provided is not itself a con-  
9               sumer financial product or service, exclusively  
10              for the purpose of enabling that consumer to  
11              purchase such goods or services directly from  
12              the merchant, retailer, or seller of nonfinancial  
13              services; or

14             (B) collection of debt, directly by the mer-  
15             chant, retailer, or seller of nonfinancial services,  
16             arising from such credit extended.

17       In the application of this paragraph, the extension  
18       of credit and the collection of debt described in sub-  
19       paragraphs (A) and (B), respectively, shall not be  
20       considered a consumer financial product or service.

21             (2) EXCEPTION FOR EXISTING AUTHORITY.—

22       The Director may exercise any rulemaking authority  
23       regarding an extension of credit described in para-  
24       graph (1)(A) or the collection of debt arising from  
25       such extension, as may be authorized by the enumer-

1       ated consumer laws or any law or authority trans-  
2       ferred under subtitle F or H.

3           (3) RULE OF CONSTRUCTION.—No provision of  
4       this title shall be construed as modifying, limiting,  
5       or superseding the authority of the Federal Trade  
6       Commission or any agency other than the Agency  
7       with respect to credit extended, or the collection of  
8       debt arising from such extension, directly by a mer-  
9       chant or retailer to a consumer exclusively for the  
10      purpose of enabling that consumer to purchase  
11      goods or services directly from the merchant or re-  
12      tailer.

13          (4) EXCLUSION NOT APPLICABLE TO CERTAIN  
14      CREDIT TRANSACTIONS.—Paragraph (1) shall not  
15      apply to—

16           (A) any credit transaction, including the  
17      collection of the debt arising from such exten-  
18      sion, in which the merchant, retailer, or seller  
19      of nonfinancial services assigns, sells, or other-  
20      wise conveys such debt owed by the consumer  
21      to another person; or

22           (B) any credit transaction—

23           (i) in which the credit provided sig-  
24      nificantly exceeds the market value of the  
25      product or service provided; and

1                   (ii) with respect to which the Director  
2                   finds that the sale of the product or service  
3                   is done as a subterfuge so as to evade or  
4                   circumvent the provisions of this title.

Page 762, line 14, strike “or”.

Page 762, line 22, strike the period and insert “;  
or”.

Page 762, after line 22, insert the following new  
subparagraph:

5                   (C) any credit transaction involving a per-  
6                   son who operates a line of business that in-  
7                   volves the extension of retail credit or retail  
8                   leases involving motor vehicles, if—  
9                   (i) the extension of retail credit or re-  
10                  tail leases is provided directly to con-  
11                  sumers; and  
12                  (ii) the contracts governing such ex-  
13                  tension of retail credit or retail leases are  
14                  not assigned to a third party finance or  
15                  leasing source, except on a de minimis  
16                  basis.

Page 764, after line 24, insert the following new  
subsection and redesignate subsequent subsections ac-  
cordingly):

1 (d) PERSONS REGULATED BY A STATE SECURITIES  
2 COMMISSION.—

3 (1) IN GENERAL.—No provision of this title  
4 shall be construed as altering, amending, or affect-  
5 ing the authority of any securities commission (or  
6 any agency or office performing like functions) of  
7 any State to adopt rules, initiate enforcement pro-  
8 ceedings, or take any other action with respect to a  
9 person regulated by any securities commission (or  
10 any agency or office performing like functions) of  
11 any State. Except as permitted in paragraph (2) and  
12 subsection (m), the Director and the Agency shall  
13 have no authority to exercise any power to enforce  
14 this title with respect to a person regulated by any  
15 securities commission (or any agency or office per-  
16 forming like functions) of any State, but only to the  
17 extent that the person acts in such regulated capac-  
18 ity.

19 (2) DESCRIPTION OF ACTIVITIES.—Paragraph  
20 (1) shall not apply to any person to the extent such  
21 person is engaged in any financial activity described  
22 in any subparagraph of section 101(19) or is other-  
23 wise subject to any enumerated consumer law or any  
24 law or authority transferred under subtitle F or H.

Page 765, strike line 20 and all that follows through page 766, line 3, and insert the following new paragraph:

1           (3) PRESERVATION OF CERTAIN AUTHORI-  
2           TIES.—No provision of this title shall be construed  
3           as limiting the authority of the Director and the  
4           Agency from exercising powers under this Act with  
5           respect to a person, other than a person regulated  
6           by a State insurance regulator, who provides a prod-  
7           uct or service for or on behalf of a person regulated  
8           by a State insurance regulator in connection with a  
9           financial activity.

Page 766, line 13, insert “Finance” after “Housing”.

Page 770, after line 4, insert the following new paragraph (and redesignate succeeding paragraphs accordingly):

10           (3) CERTAIN ACTIVITIES NOT EXCLUDED.—  
11           (A) IN GENERAL.—In no event shall para-  
12           graph (1) apply to any activity which involves  
13           the sale of securities or extension of credit  
14           which is provided by a person described in para-  
15           graph (1)(A).

1 (B) DEFINITION.—For purposes of sub-  
2 paragraph (A), the term “extension of credit”  
3 shall not include an ordinary account receivable.

Page 772, beginning on line 15, strike “order assessments, over” and all that follows through page 773, line 7, and insert “order assessments, over a motor vehicle dealer that is primarily engaged in the sale and servicing of motor vehicles, the leasing and servicing of motor vehicles, or both.”.

Page 776, after line 19, insert the following new subsections:

4 (I) EXCLUSION FOR PAWNBROKERS.—

5 (1) IN GENERAL.—The Director and the Agen-  
6 cy may not exercise any rulemaking, supervisory, en-  
7 forcement, or other authority, including authority to  
8 order assessments, under this title with respect to  
9 any pawnbroker licensed by a State or political sub-  
10 division thereof, a territory of the United States, or  
11 the District of Columbia, but only to the extent that  
12 such person acts in such capacity and provides ei-  
13 ther—

14 (A) non-recourse credit secured by a  
15 possessory security interest in tangible goods  
16 physically delivered by the consumer to the

1 pawnbroker for which the consumer does not  
2 provide a written or electronic promise, order or  
3 authorization to pay, or in any other manner  
4 authorize a debit of a deposit account, prior to  
5 or contemporaneously with the disbursement of  
6 the original proceeds; or

7 (B) credit or any other financial activity  
8 issued directly by a pawnbroker to a consumer,  
9 in a case in which the good or service being  
10 provided is not itself a consumer financial prod-  
11 uct or service, exclusively for the purpose of en-  
12 abling that consumer to purchase goods or serv-  
13 ices directly from the pawnbroker.

14 (2) RULE OF CONSTRUCTION.—

15 (A) FTC AUTHORITY PRESERVED.—Ex-  
16 cept as provided in subparagraph (B), no provi-  
17 sion of this title shall be construed as modi-  
18 fying, limiting, or superseding the authority of  
19 the Federal Trade Commission with respect to  
20 the activities described under paragraph (1).

21 (B) EXERCISE OF RULEMAKING AUTHOR-  
22 ITY.—The Director may exercise any rule-  
23 making authority regarding the activities de-  
24 scribed in paragraph (1) only as may be author-  
25 ized by the enumerated consumer laws or any

1 law or authority transferred under subtitle F or  
2 H.

3 (m) EXCLUSION FOR CERTAIN CONSUMER REPORT-  
4 ING AGENCIES.—

5 (1) IN GENERAL.—Except as permitted in para-  
6 graph (2), the Director and the Agency may not ex-  
7 ercise any rulemaking, supervisory, enforcement or  
8 other authority, including authority to order assess-  
9 ments, over a person that is a consumer reporting  
10 agency, as such term is defined in section 603(f) of  
11 the Fair Credit Reporting Act (15 U.S.C. 1681a(f)),  
12 but only to the extent that such consumer reporting  
13 agency furnishes a consumer report to another per-  
14 son that it has reason to believe intends to use the  
15 information for employment purposes, including for  
16 security investigations, government licensing and  
17 evaluating a consumer's residential or tenant his-  
18 tory.

19 (2) DESCRIPTION OF ACTIVITIES.—Paragraph  
20 (1) shall not apply to any person described in such  
21 paragraph to the extent such person is engaged in  
22 any financial activity described in any subparagraph  
23 of section 4002(19) or is otherwise subject to any of  
24 the enumerated consumer laws or the authorities  
25 transferred under subtitle F or H.

1           (n) LIMITED AUTHORITY OF THE AGENCY TO OB-  
2 TAIN INFORMATION.—Notwithstanding subsections (a),  
3 (f), (g), (h), (i), and (k), the Director may request or re-  
4 quire information from any person subject to or described  
5 in any such subsection in order to carry out the respon-  
6 sibilities and functions of the Agency and in accordance  
7 with section 4206, 4501, or 4502.

Page 781, line 22, after the period insert the following: “This authority shall not prohibit or restrict a consumer from entering into a voluntary arbitration agreement with a covered person after a dispute has arisen.”.

Page 787, strike line 17 and all that follows through page 788, line 10, and insert the following new subsection:

8           (c) UNFAIR, DECEPTIVE, OR ABUSIVE ACTS OR  
9 PRACTICES DEFINED.—

10           (1) UNFAIR ACTS OR PRACTICES.—Any deter-  
11 mination by the Director and the Agency that an act  
12 or practice is unfair shall be consistent with the  
13 standard set forth under section 5 of the Federal  
14 Trade Commission Act and with the policy state-  
15 ment adopted by the Federal Trade Commission

1       pursuant to section 5 of the Federal Trade Commis-  
2       sion Act and dated December 17, 1980.

3           (2) DECEPTIVE ACTS OR PRACTICES.—Any de-  
4       termination by the Director and the Agency that an  
5       act or practice is deceptive shall be consistent with  
6       the policy statement adopted by the Federal Trade  
7       Commission pursuant to section 5 of the Federal  
8       Trade Commission Act and dated October 14, 1983.

9           (3) ABUSIVE ACTS OR PRACTICES.—The Direc-  
10      tor and the Agency may determine that an act or  
11      practice is abusive only if the Director finds that—

12           (A) the act or practice is reasonably likely  
13      to result in a consumer’s inability to under-  
14      stand the terms and conditions of a financial  
15      product or service or to protect their own inter-  
16      ests in selecting or using a financial product or  
17      service; and

18           (B) the widespread use of the act or prac-  
19      tice is reasonably likely to contribute to insta-  
20      bility and greater risk in the financial system.

Page 795, line 23, insert “(other than by the Agen-  
cy, or by a State regulator, as may be necessary to en-  
force an administrative order under this section)” before  
the comma at the end.

Page 799, line 24, after “and” insert “, notwithstanding any other provision of this title,”.

Page 815, line 11, insert “to be effected or used primarily for personal, family, or household purposes” after “funds”.

Page 845, after line 13, insert the following new paragraph (and redesignate succeeding paragraphs accordingly):

1           (4) COVERED EMPLOYEE.—The term “covered  
2           employee” means any individual performing tasks  
3           related to the provision of a financial product or  
4           service to a consumer.

Page 878, beginning on line 5, strike “for any violation of a regulation prescribed under section 4306 or”.

Page 880, strike line 16 through page 893, line 8 and insert the following:

**5   SEC. 4507. EMPLOYEE PROTECTION.**

6           (a) No covered person shall terminate or in any other  
7           way discriminate against, or cause to be terminated or dis-  
8           criminated against, any covered employee or any author-  
9           ized representative of covered employees by reason of the  
10          fact that such employee or representative whether at the  
11          employee’s initiative or in the ordinary course of the em-

1 ployee's duties (or any person acting pursuant to a request  
2 of the employee) has—

3 (1) provided information to the Agency or to  
4 any other state, local, federal, or tribal government  
5 entity, filed, instituted or caused to be filed or insti-  
6 tuted any proceeding under this title, any enumer-  
7 ated consumer law, any law for which authorities  
8 were transferred by subtitles F and H, or has testi-  
9 fied or is about to testify in any proceeding resulting  
10 from the administration or enforcement of the provi-  
11 sions of this title; or

12 (2) objected to, or refused to participate in, any  
13 activity, policy, practice, or assigned task that the  
14 employee (or other such person) reasonably believed  
15 to be in violation of any law, rule, or regulation, or  
16 to be unfair, deceptive, or abusive and likely to cause  
17 specific and substantial injury to one or more con-  
18 sumers.

19 (b)(1) A person who believes that he or she has been  
20 discharged or otherwise discriminated against by any per-  
21 son in violation of subsection (a) may, not later than 180  
22 days after the date on which such violation occurs, file  
23 (or have any person file on his or her behalf) a complaint  
24 with the Secretary of Labor alleging such discharge or dis-  
25 crimination and identifying the person responsible for

1 such act. Upon receipt of such a complaint, the Secretary  
2 shall notify, in writing, the person named in the complaint  
3 of the filing of the complaint, of the allegations contained  
4 in the complaint, of the substance of evidence supporting  
5 the complaint, and of the opportunities that will be af-  
6 farded to such person under paragraph (2).

7 (2)(A) Not later than 60 days after the date of re-  
8 ceipt of a complaint filed under paragraph (1) and after  
9 affording the complainant and the person named in the  
10 complaint an opportunity to submit to the Secretary a  
11 written response to the complaint and an opportunity to  
12 meet with a representative of the Secretary to present  
13 statements from witnesses, the Secretary shall initiate an  
14 investigation and determine whether there is reasonable  
15 cause to believe that the complaint has merit and notify,  
16 in writing, the complainant and the person alleged to have  
17 committed a violation of subsection (a) of the Secretary's  
18 findings. If the Secretary concludes that there is reason-  
19 able cause to believe that a violation of subsection (a) has  
20 occurred, the Secretary shall accompany the Secretary's  
21 findings with a preliminary order providing the relief pre-  
22 scribed by paragraph (3)(B). Not later than 30 days after  
23 the date of notification of findings under this paragraph,  
24 either the person alleged to have committed the violation  
25 or the complainant may file objections to the findings or

1 preliminary order, or both, and request a hearing on the  
2 record. The filing of such objections shall not operate to  
3 stay any reinstatement remedy contained in the prelimi-  
4 nary order. Any such hearing shall be conducted expedi-  
5 tiously. If a hearing is not requested in such 30-day pe-  
6 riod, the preliminary order shall be deemed a final order  
7 that is not subject to judicial review.

8 (B)(i) The Secretary shall dismiss a complaint filed  
9 under this subsection and shall not conduct an investiga-  
10 tion otherwise required under subparagraph (A) unless the  
11 complainant makes a prima facie showing that any behav-  
12 ior described in paragraphs (1) through (4) of subsection  
13 (a) was a contributing factor in the unfavorable personnel  
14 action alleged in the complaint.

15 (ii) Notwithstanding a finding by the Secretary  
16 that the complainant has made the showing required  
17 under clause (i), no investigation otherwise required  
18 under subparagraph (A) shall be conducted if the  
19 employer demonstrates, by clear and convincing evi-  
20 dence, that the employer would have taken the same  
21 unfavorable personnel action in the absence of that  
22 behavior.

23 (iii) The Secretary may determine that a viola-  
24 tion of subsection (a) has occurred only if the com-  
25 plainant demonstrates that any behavior described in

1 paragraphs (1) through (4) of subsection (a) was a  
2 contributing factor in the unfavorable personnel ac-  
3 tion alleged in the complaint.

4 (iv) Relief may not be ordered under subpara-  
5 graph (A) if the employer demonstrates by clear and  
6 convincing evidence that the employer would have  
7 taken the same unfavorable personnel action in the  
8 absence of that behavior.

9 (3)(A) Not later than 120 days after the date  
10 of conclusion of any hearing under paragraph (2),  
11 the Secretary shall issue a final order providing the  
12 relief prescribed by this paragraph or denying the  
13 complaint. At any time before issuance of a final  
14 order, a proceeding under this subsection may be  
15 terminated on the basis of a settlement agreement  
16 entered into by the Secretary, the complainant, and  
17 the person alleged to have committed the violation.

18 (B) If, in response to a complaint filed under  
19 paragraph (1), the Secretary determines that a vio-  
20 lation of subsection (a) has occurred, the Secretary  
21 shall order the person who committed such viola-  
22 tion—

23 (i) to take affirmative action to abate the  
24 violation;

1 (ii) to reinstate the complainant to his or  
2 her former position together with compensation  
3 (including back pay) and restore the terms,  
4 conditions, and privileges associated with his or  
5 her employment; and

6 (iii) to provide compensatory damages to  
7 the complainant. If such an order is issued  
8 under this paragraph, the Secretary, at the re-  
9 quest of the complainant, shall assess against  
10 the person against whom the order is issued a  
11 sum equal to the aggregate amount of all costs  
12 and expenses (including attorneys' and expert  
13 witness fees) reasonably incurred, as deter-  
14 mined by the Secretary, by the complainant for,  
15 or in connection with, the bringing of the com-  
16 plaint upon which the order was issued.

17 (C) If the Secretary finds that a complaint  
18 under paragraph (1) is frivolous or has been brought  
19 in bad faith, the Secretary may award to the pre-  
20 vailing employer a reasonable attorneys' fee, not ex-  
21 ceeding \$ 1,000, to be paid by the complainant.

22 (4) If the Secretary has not issued a final decision  
23 within 210 days after the filing of the complaint, or within  
24 90 days after receiving a written determination, the com-  
25 plainant may bring an action at law or equity for de novo

1 review in the appropriate district court of the United  
2 States with jurisdiction, which shall have jurisdiction over  
3 such an action without regard to the amount in con-  
4 troversy, and which action shall, at the request of either  
5 party to such action, be tried by the court with a jury.  
6 The proceedings shall be governed by the same legal bur-  
7 dens of proof specified in paragraph (2)(B). The court  
8 shall have jurisdiction to grant all relief necessary to make  
9 the employee whole, including injunctive relief and com-  
10 pensatory damages, including—

11 (A) reinstatement with the same seniority sta-  
12 tus that the employee would have had, but for the  
13 discharge or discrimination;

14 (B) the amount of back pay, with interest; and

15 (C) compensation for any special damages sus-  
16 tained as a result of the discharge or discrimination,  
17 including litigation costs, expert witness fees, and  
18 reasonable attorney's fees.

19 (5)(A) Unless the complainant brings an action under  
20 paragraph (4), any person adversely affected or aggrieved  
21 by a final order issued under paragraph (3) may obtain  
22 review of the order in the United States Court of Appeals  
23 for the circuit in which the violation, with respect to which  
24 the order was issued, allegedly occurred or the circuit in  
25 which the complainant resided on the date of such viola-

1 tion. The petition for review must be filed not later than  
2 60 days after the date of the issuance of the final order  
3 of the Secretary. Review shall conform to chapter 7 of title  
4 5, United States Code. The commencement of proceedings  
5 under this subparagraph shall not, unless ordered by the  
6 court, operate as a stay of the order.

7 (B) An order of the Secretary with respect to  
8 which review could have been obtained under sub-  
9 paragraph (A) shall not be subject to judicial review  
10 in any criminal or other civil proceeding.

11 (6) Whenever any person has failed to comply  
12 with an order issued under paragraph (3), the Sec-  
13 retary may file a civil action in the United States  
14 district court for the district in which the violation  
15 was found to occur, or in the United States district  
16 court for the District of Columbia, to enforce such  
17 order. In actions brought under this paragraph, the  
18 district courts shall have jurisdiction to grant all ap-  
19 propriate relief including, but not limited to, injunc-  
20 tive relief and compensatory damages.

21 (7)(A) A person on whose behalf an order was  
22 issued under paragraph (3) may commence a civil  
23 action against the person to whom such order was  
24 issued to require compliance with such order. The  
25 appropriate United States district court shall have

1 jurisdiction, without regard to the amount in con-  
2 troversy or the citizenship of the parties, to enforce  
3 such order.

4 (B) The court, in issuing any final order  
5 under this paragraph, may award costs of liti-  
6 gation (including reasonable attorneys' and ex-  
7 pert witness fees) to any party whenever the  
8 court determines such award is appropriate.

9 (c) Any nondiscretionary duty imposed by this section  
10 shall be enforceable in a mandamus proceeding brought  
11 under section 1361 of title 28, United States Code.

12 (d)(1) Except as provided under paragraph (3), the  
13 rights and remedies provided for in this section may not  
14 be waived by any agreement, policy, form, or condition of  
15 employment, including by any predispute arbitration  
16 agreement.

17 (2) Except as provided under paragraph (3), no  
18 predispute arbitration agreement shall be valid or enforce-  
19 able if it requires arbitration of a dispute arising under  
20 this section.

21 (e) Notwithstanding paragraphs (1) and (2), an arbi-  
22 tration provision in a collective bargaining agreement shall  
23 be enforceable as to disputes arising under paragraph  
24 (a)(2) of this section unless the Agency determines by rule

1 that such provision is inconsistent with the purposes of  
2 this Act.

3 (f) Any employer receiving covered funds shall post  
4 notice of the rights and remedies provided under this sec-  
5 tion.

Page 881, line 1, strike “provided information to”  
and insert “provided, caused to be provided, or is about  
to provide or cause to be provided information to the em-  
ployer,”.

Page 893, line 6, strike “(a)(2)” and insert  
“(a)(4)”.

Page 893, after line 8 insert the following new sec-  
tion (and redesignate succeeding sections accordingly):

**6 SEC. 4508. NO PRIVATE RIGHT OF ACTION.**

7 Nothing in this title shall be construed to create a  
8 private right of action, but this section shall not be con-  
9 strued or interpreted to deny any private right of action  
10 arising under the enumerated consumer laws or the au-  
11 thorities transferred under subtitle F or H.

Page 897, beginning on line 21, strike “BACKSTOP”.

Page 898, line 2, strike “4202(e)(3)” and insert  
“paragraph (2) or (3) of section 4202(e)”.

Page 898, line 8, insert “transferred under subsection (a)” after “functions”.

Page 922, beginning on line 1, strike “a Federal home loan bank, a joint office of the Federal home loan banks,”.

Page 922, line 5, strike “or”.

Page 922, line 6, insert “, or the Federal Home Loan Bank Board or any successor to such Board” before “shall be”.

Page 922, beginning on line 23, strike “a Federal home loan bank, a joint office of the Federal home loan banks,”.

Page 923, line 2, strike “or”.

Page 923, line 3, insert “, or the Federal Home Loan Bank Board or any successor to such Board” before “shall be”.

Page 933, line 4, insert “the Federal Home Loan Bank Board or any successor to such Board,” after “Federal reserve bank”.

Page 933, line 21, insert “the Federal Home Loan Bank Board or any successor to such Board,” after “reserve bank”.

Page 934, line 24, strike “before the designated transfer date” and insert “during the 24-month period beginning on the date of the enactment of this title”.

Page 954, line 2, insert “and shall not apply to the term ‘Board’ when used in reference to the Federal Deposit Insurance Corporation or the National Credit Union Administration” before the period.

Page 955, line 16, strike “25(a)” and insert “25A”.

Page 957, line 3, insert “(other than the Consumer Financial Protection Agency)” after “agency”.

Page 957, line 20, insert “(and except for any insertion of ‘Federal Trade Commission’ made by this subtitle)” after “subparagraph (B)”.

Page 958, line 2, strike “and 129(m) (as amended by paragraph (7))” and insert “129(m) (as amended by paragraph (7)), 140A, or 149 (as amended by paragraph (8)).”.

Page 959, after line 13, insert the following:

1           (8) SECTION 149.—Section 149(b) of the Truth  
2           in Lending Act (15 U.S.C. 1665d(b)) is amended by  
3           inserting “the Federal Trade Commission,” after “in  
4           consultation with”.

Page 960, beginning on line 1, strike “paragraph (7)(A)” and insert “ paragraphs (7)(B), (8)(A), (8)(C), and (8)(D) of this subsection (and except for any insertion of ‘Federal Trade Commission’ made by this subtitle)”.

Page 961, after line 21, insert the following:

1           (5) SECTION 609.—Section 609(d)(1) of the  
2           Fair Credit Reporting Act (15 U.S.C. 1681g(d)(1))  
3           is amended by inserting “the Federal Trade Com-  
4           mission,” after “in consultation with”.

Page 961, line 22, strike “(5)” and insert “(6)”.

Page 961, line 22, strike “611(e)(2)” and insert “611(e)”.

Page 961, line 23, strike “15 U.S.C.1681i(e)(2)” and insert “15 U.S.C. 1681i(e)”.

Page 961, line 24, strike “amended to read as follows:” and insert “amended—”, and after such line insert the following:

5           (A) by amending paragraph (2) to read as  
6           follows:

Page 962, line 5, strike the period following the quotation marks and insert “; and” and after such line insert the following:

1                   (B) in the heading of paragraph (3) by in-  
2                   serting “CONSUMER REPORTING” before  
3                   “AGENCY”.

Page 962, strike lines 6 through 8 and insert the following:

4                   (8) SECTION 615.—Section 615 of the Fair  
5                   Credit Reporting Act (15 U.S.C. 1681m) is amend-  
6                   ed—

7                   (A) in subsection (d)(2)(B), by inserting  
8                   “the Federal Trade Commission,” after “in  
9                   consultation with”;

10                  (B) in subsection (e)(1), by striking “and  
11                  the Commission” and inserting “the Federal  
12                  Trade Commission, the Securities and Ex-  
13                  change Commission, and the Commodities Fu-  
14                  tures Trading Commission”; and

15                  (C) by striking subparagraph (A) of sub-  
16                  section (h)(6) and inserting the following:

Page 962, line 11, strike “(7)” and insert “(8)”.

Page 963, line 2, insert “(other than the Consumer  
Financial Protection Agency)” after “agency”.

Page 968, after line 7, insert the following (and re-designate succeeding subparagraphs accordingly):

- 1 (C) in paragraph (2) of subsection (c)—  
2 (i) by inserting “the Agency and” be-  
3 fore “the Federal Trade Commission” in  
4 the first sentence;  
5 (ii) by inserting “Agency and the Fed-  
6 eral Trade” after “provide the”; and  
7 (iii) by inserting “Agency,” before  
8 “Federal Trade Commission” in the sec-  
9 ond sentence;
- 10 (D) in paragraph (4) of subsection (c)—  
11 (i) by inserting “Agency”, before “the  
12 Federal Trade Commission”; and  
13 (ii) inserting “Agency, the Federal  
14 Trade” after “complaint of the”;
- 15 (E) in paragraph (2) of subsection (f), by  
16 inserting “the Federal Trade Commission”  
17 after “in consultation with”;

Page 968, beginning on line 12, strike “with respect to a covered person described in subsection (b)” and insert “, except that, with respect to sections 615(e) and 628 of this title, the agencies identified in subsections (a) and (b) of this section shall prescribe such regulations as necessary to carry out the purposes of such sections with

respect to entities within their enforcement authority under such subsections”.

Page 968, line 14, strike “(D)” and insert “(G)”.

Page 973, strike lines 8 and 9 and insert the following:

- 1 (iii) in paragraph (1)(B)—  
2 (I) by inserting “of Governors of  
3 the Federal Reserve System” after  
4 “Board”; and  
5 (II) by striking “and” after the  
6 semicolon;

Page 974, line 2, insert “(other than the Consumer Financial Protection Agency)” after “agency”.

Page 978, line 4, insert “(other than the Consumer Financial Protection Agency)” after “agency”.

Page 982, line 21, strike “and” and after such line insert the following:

- 7 (iii) in paragraph (1)(B), by inserting  
8 “of Governors of the Federal Reserve Sys-  
9 tem” after “Board”;

Page 982, line 22, strike “(iii)” and insert “(iv)”.

Page 983, line 7, insert “(other than the Consumer Financial Protection Agency)” after “agency”.

Page 988, after line 7, insert the following (and redesignate succeeding subsections accordingly):

1       (a) SECTION 501.—Section 501(b) of the Gramm-  
2 Leach-Bliley Act (15 U.S.C. 6801(b)) is amended by in-  
3 serting “(other than the Consumer Financial Protection  
4 Agency)” after “title”.

5       (b) SECTION 502.—Section 502(e)(5) of the Gramm-  
6 Leach-Bliley Act (15 U.S.C. 6802(e)(5)) is amended by  
7 inserting “the Consumer Financial Protection Agency,”  
8 after “(including”.

9       (c) SECTION 503.—Section 503(e)(1) of the Gramm-  
10 Leach-Bliley Act (15 U.S.C. 6803(e)(1)) is amended—

11           (1) by inserting “Consumer Financial Protec-  
12 tion Agency in consultation with the other” before  
13 “agencies”; and

14           (2) by striking “jointly”.

Page 988, line 13, strike “and” at the end.

Page 988, line 15, strike the period and insert “;  
and” and after such line insert the following:

15           (3) by inserting “the Federal banking agencies,  
16 the National Credit Union Administration, the Sec-  
17 retary of the Treasury, the Federal Trade Commis-

1 sion, and” before “representatives of State insurance  
2 authorities”.

Page 989, after line 15, insert the following:

3 (f) SECTION 507.—Subsection 507(b) of the Gramm-  
4 Leach-Bliley Act (15 U.S.C. 6807(b)) is amended by strik-  
5 ing “Federal Trade Commission” and inserting “Con-  
6 sumer Financial Protection Agency, or in the case of a  
7 rule under section 501(b), the Federal Trade Commission  
8 or the Securities and Exchange Commission”.

Page 997, line 6, strike “25(a)” and insert “25A”.

Page1016, strike line 7 through page 1018, line 5,  
and insert the following:

9 **SEC. 4815. AMENDMENTS TO THE TELEMARKETING AND**  
10 **CONSUMER FRAUD ABUSE AND PREVENTION**  
11 **ACT.**

12 (a) Section 4 of the Telemarketing and Consumer  
13 Fraud Abuse and Prevention Act (15 U.S.C. 6102) is  
14 amended—

15 (1) in subsection (b)—

16 (A) by inserting “and the Consumer Fi-  
17 nancial Protection Agency with respect to a  
18 person subject to the authority of that Agency  
19 under the Consumer Financial Protection Agen-

1           cy Act” after “Commission” each of the first 2  
2           places it appears; and

3                   (B) by inserting “or the Consumer Finan-  
4           cial Protection Agency” after “Commission” the  
5           last place it appears; and

6                   (2) in subsection (d), by inserting “or the Con-  
7           sumer Financial Protection Agency” after “Commis-  
8           sion” each place such term appears.

9           (b) Section 5 of the Telemarketing and Consumer  
10   Fraud Abuse and Prevention Act (15 U.S.C. 6102) is  
11   amended—

12                   (1) in subsection (b)—

13                           (A) by inserting “and the Consumer Fi-  
14           nancial Protection Agency with respect to a  
15           person subject to the authority of that Agency  
16           under the Consumer Financial Protection Agen-  
17           cy Act” after “Commission” each of the first 2  
18           places it appears; and

19                           (B) by inserting “or the Consumer Finan-  
20           cial Protection Agency” after “Commission” the  
21           last place it appears; and

22                   (2) in subsection (c), by inserting “or the Con-  
23           sumer Financial Protection Agency” after “Commis-  
24           sion” each place such term appears.

1 (c) Section 6 of the Telemarketing and Consumer  
2 Fraud Abuse and Prevention Act (15 U.S.C. 6102) is  
3 amended by redesignating subsection (c) as subsection (d)  
4 and inserting after subsection (b) the following:

5 “(c) ENFORCEMENT BY THE CONSUMER FINANCIAL  
6 PROTECTION AGENCY.—Subject to section 4202 of the  
7 Consumer Financial Protection Agency Act of 2009, this  
8 Act shall be enforced by the Consumer Financial Protec-  
9 tion Agency, under subtitle E of that Act, with respect  
10 to a person subject to the authority of that Agency under  
11 that Act. For the purpose of the exercise by the Consumer  
12 Financial Protection Agency of its powers under subtitle  
13 E, a violation of any requirement imposed under this Act  
14 shall be deemed to be a violation of a requirement imposed  
15 under the Consumer Financial Protection Agency Act. In  
16 addition to its powers under subtitle E of that Act, the  
17 Agency may exercise, for the purpose of enforcing compli-  
18 ance with any requirement imposed under this Act, any  
19 other authority conferred on it by law.”.

Page 1019, line 8, strike “and” and after such line  
insert the following:

20 (2) by inserting a comma after “under this  
21 Act”;  
22 (3) by inserting a comma after “subsection  
23 (a)(1)”;

Page 1019, line 9, strike “(2)” and insert “(4)”.

Page 1019, line 15, insert “partnership, or corporation” after “person,”.

Page 1020, after line 20, insert the following new subtitle:

1                   **Subtitle J—Miscellaneous**  
2 **SEC. 4951. REQUIREMENTS FOR STATE-LICENSED LOAN**  
3                   **ORIGINATORS.**

4           Paragraph (2) of section 1505 (b) of the S.A.F.E.  
5 Mortgage Licensing Act of 2008 (12 U.S.C. 5104(b)(2))  
6 is amended by inserting after and below subparagraph  
7 (B), the following:

8           “Notwithstanding the preceding sentence, a State  
9 loan originator supervisory authority may provide  
10 for review of applicants and for granting exceptions,  
11 on a case-by-case basis, to the minimum standard  
12 under subparagraph (B), but only to the extent that  
13 any such exception otherwise complies with the pur-  
14 poses of this title.”.

Page 1021, strike lines 24 and 25 and insert the following:

15                                   “(i) in total, fewer than 15 clients and  
16                                   investors in the United States in private

1 funds advised by the investment adviser;  
2 and”.

Page 1022, strike lines 1 and 2 and insert the following:

3 “(ii) aggregate assets under manage-  
4 ment attributable to clients and investors  
5 in the United States in private funds ad-  
6 vised by the investment adviser of”.

Page 1022, line 20, strike “Section” and insert the following:

7 (a) EXEMPTION.—Section

Page 1024, after line 3, insert the following:

8 (b) CONSIDERATION OF RISK.—Section 203(c) of the  
9 Investment Advisers Act of 1940 (15 U.S.C. 80b—3(e))  
10 is amended by adding at the end the following:

11 “(3) The Commission shall take into account  
12 the relative risk profile of different classes of private  
13 funds as it establishes, by rule or regulation, the  
14 registration requirements for private funds.”.

Page 1024, line 4, strike “**SYSTEMIC RISK**”.

Page 1024, beginning on line 23, strike “, and to  
any other entity that the Commission identifies as having

systemic risk responsibility” and insert “and to the Financial Services Oversight Council”.

Page 1027, beginning on line 12, strike “, and to any other entity that the Commission identifies as having systemic risk responsibility” and insert “and to the Financial Services Oversight Council”.

Page 1027, line 17, strike “such other entity” and insert “the Financial Services Oversight Council”.

Page 1028, strike line 11 and all that follows through page 1029, line 2, and insert the following:

1           “(8) NON-DISCLOSURE OF CERTAIN PROPRI-  
2           ETARY INFORMATION AND CONFIDENTIALITY OF RE-  
3           PORTS.—Any proprietary information of an invest-  
4           ment adviser ascertained by the Commission from  
5           any report required to be filed with the Commission  
6           pursuant to this section 204(b) shall be subject to  
7           the same limitations on public disclosure as any  
8           facts ascertained during an examination as provided  
9           by section 210(b) of this title. The Commission may  
10          not compel the private fund to disclose such propri-  
11          etary information to counterparties and creditors.  
12          For purposes of this section, proprietary information  
13          shall include sensitive, non-public information re-  
14          garding the investment adviser’s investment or trad-

1       ing strategies, analytical or research methodologies,  
2       trading data, computer hardware or software con-  
3       taining intellectual property, and any additional in-  
4       formation that the Commission determines to be  
5       proprietary. Notwithstanding any other provision of  
6       law, the Commission shall not be compelled to dis-  
7       close any report or information contained therein re-  
8       quired to be filed with the Commission under this  
9       subsection. Nothing in this paragraph shall author-  
10      ize the Commission to withhold information from the  
11      Congress or to prevent the Commission from com-  
12      plying with a request for information from any other  
13      Federal department or agency or any self-regulatory  
14      organization requesting the report or information for  
15      purposes within the scope of its jurisdiction, or com-  
16      plying with an order of a court of the United States  
17      in an action brought by the United States or the  
18      Commission. For purposes of section 552 of title 5,  
19      United States Code, this paragraph shall be consid-  
20      ered a statute described in subsection (b)(3)(B) of  
21      such section.”.

Page 1030, line 12, strike “private funds” the sec-  
ond place it appears and insert “investment adviser acts  
solely as an adviser to private funds and”.

Page 1032, line 23, insert “, 203(m),” after “203(l)”.

Page 1033, line 23, insert “to the extent necessary” after “regulations”.

Page 1034, line 7, insert “in any rule or regulation” after “any factor used”.

Page 1034, line 11, insert “by order,” after “Commission shall,”.

Page 1034, line 15, strike “\$1,000” and insert “\$100,000”.

Page 1034, line 16, strike “\$1,000” and insert “\$100,000”.

Page 1038, line 2, insert “disclosure of” after “with respect to”.

Page 1041, beginning on line 13, strike “and reliable”.

Page 1042, beginning on line 2, strike “or its ultimate holding company”.

Page 1059, line 2, strike “; and” and insert a period.

Page 1059, strike lines 3 through 8 and insert the following:

1           (2) SYMBOLS.— The Commission may prescribe  
2           rules that require nationally recognized statistical  
3           rating organizations to establish credit rating sym-  
4           bols that distinguish credit ratings for structured  
5           products from credit ratings for other products that  
6           the Commission determines appropriate or necessary  
7           in the public interest and for the protection of inves-  
8           tors, provided such rules do not prevent public pen-  
9           sion funds or other State regulated entities from in-  
10          vesting in rated products.

Page 1059, line 9, strike “(2)” and insert “(3)”.

Page 1066, line 7, insert “certify that they” after  
“diligence services”.

Page 1067, line 10, strike “service,” and insert  
“service to that issuer, underwriter, or placement agent  
in determining a credit rating.”.

Page 1068, line 17, strike “this title” and insert  
“the securities laws”.

Page 1068, line 21, strike “or a similar”.

Page 1090, line 14, insert “section 211 of” after  
“under”.

Page 1090, line 18, insert after the period the fol-  
lowing: “Nothing in this section shall require a broker or

dealer or registered representative to have a continuing duty of care or loyalty to the customer after providing personalized investment advice about securities.”.

Page 1092, line 1, strike “(3)” and insert “(2)”.

Page 1096, line 4, insert “**AND RULEMAKING**” after “**STUDY**”.

Page 1096, beginning on line 9, strike “manner in which” and all that follows through “products or services” on line 12 and insert “provision of documents or information to retail customers prior to the purchase of investment products or services”.

Page 1098, line 19, strike “in connection with” and insert “rules that require the provision of documents or information to retail customers prior to”.

Page 1103, strike “**ADVISOR**” and insert “**ADVISER**”.

Page 1109, line 11, insert “law enforcement agency,” after the comma.

Page 1109, line 17, strike “or” and after such line insert the following:

- 1 (C) to any whistleblower who gains the in-
- 2 formation through the performance of an audit

1 of financial statements required under the secu-  
2 rities laws; or

Page 1109, line 18 strike “(C)” and insert “(D)”.

Page 1116, strike lines 11 through page 1118, line  
13, and insert the following:

3 “(2) CONFIDENTIALITY.—

4 “(A) IN GENERAL.—Except as provided in  
5 subparagraph (B), the Commission and any of-  
6 ficer or employee of the Commission shall not  
7 disclose any information, including information  
8 provided by a whistleblower to the Commission,  
9 which could reasonably be expected to reveal  
10 the identity of a whistleblower, except in ac-  
11 cordance with the provisions of section 552a of  
12 title 5, United States Code, unless and until re-  
13 quired to be disclosed to a defendant or re-  
14 spondent in connection with a public proceeding  
15 instituted by the Commission or any entity de-  
16 scribed in subparagraph (B). For purposes of  
17 section 552 of title 5, United States Code, this  
18 paragraph shall be considered a statute de-  
19 scribed in subsection (b)(3)(B) of such section  
20 552.

1           “(B) AVAILABILITY TO GOVERNMENT  
2 AGENCIES.—Without the loss of its status as  
3 confidential and privileged in the hands of the  
4 Commission, all information referred to in sub-  
5 paragraph (A) may, in the discretion of the  
6 Commission, when determined by the Commis-  
7 sion to be necessary to accomplish the purposes  
8 of this Act and protect investors, be made avail-  
9 able to—

10           “(i) the Attorney General of the  
11 United States,  
12           “(ii) an appropriate regulatory au-  
13 thority,  
14           “(iii) a self-regulatory organization,  
15           “(iv) State attorneys general in con-  
16 nection with any criminal investigation,  
17 and  
18           “(v) any appropriate State regulatory  
19 authority,  
20           “each of which shall not disclose such informa-  
21 tion in accordance with subparagraph (A).”.

Page 1123, line 13, insert “municipal financial ad-  
viser,” after “transfer agent,”.

Page 1123, line 22, insert “municipal financial ad-  
viser,” after “transfer agent,”.

Page 1124, line 6, insert “municipal financial adviser,” after “municipal securities dealer,”.

Page 1124, line 15, insert “municipal financial adviser,” after “transfer agent,”.

Page 1127, beginning on line 18, strike “head of any division or office within the Commission or his designee” and insert “Director of the Division of Enforcement of the Commission or the Director’s designee”.

Page 1127, beginning on line 24, strike “head of any division or office within the Commission or his designee” and insert “Director of the Division of Enforcement of the Commission or the Director’s designee”.

Page 1128, beginning on line 3, strike “head of any division or office within the Commission or his designee” and insert “Director of the Division of Enforcement of the Commission or the Director’s designee”.

Page 1128, beginning on line 9, strike “head of any division or office within the Commission or his designee” and insert “Director of the Division of Enforcement of the Commission or the Director’s designee”.

Page 1128, line 24, strike “without findings” and insert “, has concluded without findings,”.

Page 1129, line 3, insert “responsible for compliance examinations and inspections” after “Commission”.

Page 1129, line 7, insert a comma after “inspection”.

Page 1129, line 8, insert a comma after “action”.

Page 1129, line 11, insert “responsible for compliance examinations and inspections” after “Commission”.

Page 1129, strike line 16 through page 1131, line 2, and insert the following:

1       (a) SECURITIES ACT OF 1933.—Section 22(a) of the  
2 Securities Act of 1933 (15 U.S.C. 77v(a)) is amended by  
3 inserting after the second sentence the following: “In any  
4 civil action instituted by the Commission under this title  
5 in a United States district court for any judicial district,  
6 subpoenas issued to compel the attendance of witnesses  
7 or the production of documents or tangible things (or  
8 both) at any hearing or trial may be served at any place  
9 within the United States. Rule 45(c)(3)(A)(ii) of the Fed-  
10 eral Rules of Civil Procedure does not apply to a subpoena  
11 so issued.”.

12       (b) SECURITIES EXCHANGE ACT OF 1934.—Section  
13 27 of the Securities Exchange Act of 1934 (15 U.S.C.  
14 78aa) is amended by inserting after the third sentence the  
15 following: “In any civil action instituted by the Commis-

1 sion under this title in a United States district court for  
2 any judicial district, subpoenas issued to compel the at-  
3 tendance of witnesses or the production of documents or  
4 tangible things (or both) at any hearing or trial may be  
5 served at any place within the United States. Rule  
6 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure  
7 does not apply to a subpoena so issued.”.

8 (c) INVESTMENT COMPANY ACT OF 1940.—Section  
9 44 of the Investment Company Act of 1940 (15 U.S.C.  
10 80a–43) is amended by inserting after the fourth sentence  
11 the following: “In any civil action instituted by the Com-  
12 mission under this title in a United States district court  
13 for any judicial district, subpoenas issued to compel the  
14 attendance of witnesses or the production of documents  
15 or tangible things (or both) at any hearing or trial may  
16 be served at any place within the United States. Rule  
17 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure  
18 does not apply to a subpoena so issued.”.

19 (d) INVESTMENT ADVISERS ACT OF 1940.—Section  
20 214 of the Investment Advisers Act of 1940 (15 U.S.C.  
21 80b–14) is amended by inserting after the third sentence  
22 the following: “In any civil action instituted by the Com-  
23 mission under this title in a United States district court  
24 for any judicial district, subpoenas issued to compel the  
25 attendance of witnesses or the production of documents

1 or tangible things (or both) at any hearing or trial may  
2 be served at any place within the United States. Rule  
3 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure  
4 does not apply to a subpoena so issued.”.

Page 1131, line 9, strike “MONEY” and insert  
“MONETARY”.

Page 1133, line 21, strike “TO ASSESS MONEY” and  
insert “TO ASSESS MONETARY”.

Page 1143, beginning on line 2, strike “Except as  
provided in subsection (f), the” and insert “The”.

Page 1146, beginning on line 8, strike “The juris-  
diction” and all that follows through line 11 and insert  
“With respect to any actions or proceedings brought or  
instituted by the Commission or the United States, this  
jurisdiction includes violations of section 17(a) of this  
title, and all”.

Page 1147, beginning on line 4, strike “The juris-  
diction” and all that follows through “subsection (a)”  
and insert “With respect to any actions or proceedings  
brought or instituted by the Commission or the United  
States, this jurisdiction”.

Page 1148, beginning on line 3, strike “The juris-  
diction” and all that follows through “subsection (a)”

and insert “With respect to any actions or proceedings brought or instituted by the Commission or the United States, this jurisdiction”.

Page 1149, line 18, strike the semicolon at the end.

Page 1158, line 7, insert “and” after “with”.

Page 1190, line 13, strike “that—” and insert the following: “that is not exempt from registration under section 203 and—”.

Page 1190, beginning on line 15, strike “by a State” and insert “in the State where it maintains its principal office and place of business”.

Page 1191, line 8, insert after the first period the following: “If no State in which an investment adviser described in subparagraph (B) is registered conducts such an examination, the investment adviser must register with the Commission. If, pursuant to this paragraph, an investment adviser would be required to register with 5 or more States, then the adviser may maintain its registration with the Commission.”.

Page 1191, strike line 10 and all that follows through page 1192, line 3, and insert the following:

- 1 (a) IN GENERAL.—Not later than 180 days after the
- 2 date of the enactment of this title, the Securities and Ex-

1 change Commission shall adopt a rule pursuant to its au-  
2 thority under section 211(a) of the Investment Advisers  
3 Act of 1940 making it unlawful under section 206(4) of  
4 that Act for an investment adviser registered under such  
5 Act to have custody of funds or securities of a client the  
6 value of which exceeds \$10,000,000, unless—

7 (1) the funds and securities are maintained  
8 with a qualified custodian either in a separate ac-  
9 count for each client under the client's name, or in  
10 accounts that contain only client funds and securi-  
11 ties under the name of the investment adviser as  
12 agent or trustee for the client; and

13 (2) the qualified custodian does not directly or  
14 indirectly provide investment advice with respect to  
15 such funds or securities.

16 (b) EXCEPTIONS.—The rule adopted under sub-  
17 section (a) shall include such exceptions as the Commis-  
18 sion determines in the public interest and consistent with  
19 the protection of investors. Any exemption granted under  
20 this subsection shall ensure that at least once per year,  
21 a client described in subsection (a) shall receive a report  
22 from an independent entity with a fiduciary responsibility  
23 to the client to verify that the assets in the client's account  
24 are in accord with those stated on the client's account  
25 statement.

1 (c) NO LIMITS ON OTHER ACTIONS.—Nothing in this  
2 section shall be construed to limit other actions the Securi-  
3 ties and Exchange Commission may take under this Act  
4 to require the protection of client assets.

Page 1192, line 21, strike “maintain” and insert  
“assure that safeguards exist to maintain”.

Page 1193, line 9, strike “regards” and insert “re-  
gard”.

Page 1193, after line 10, insert the following new  
sections:

5 **SEC. 7421. NOTICE TO MISSING SECURITY HOLDERS.**

6 Section 17A of the Securities Exchange Act of 1934  
7 (15 U.S.C. 78q-1) is amended by adding at the end the  
8 following new subsection:

9 “(g) DUE DILIGENCE FOR THE DELIVERY OF DIVI-  
10 DENDS, INTEREST, AND OTHER VALUABLE PROPERTY  
11 RIGHTS.—

12 “(1) REVISION OF RULES REQUIRED.—The  
13 Commission shall revise its regulations in section  
14 240.17Ad-17 of title 17, Code of Federal Regula-  
15 tions, as in effect on December 8, 1997, to extend  
16 the application of such section to brokers and deal-  
17 ers and to provide for the following:

1           “(A) A requirement that the paying agent  
2 provide a single written notification to each  
3 missing security holder that the missing secu-  
4 rity holder has been sent a check that has not  
5 yet been negotiated. The written notification  
6 may be sent along with a check or other mailing  
7 subsequently sent to the missing security holder  
8 but must be provided no later than 7 months  
9 after the sending of the not yet negotiated  
10 check.

11           “(B) An exclusion for paying agents from  
12 the notification requirements when the value of  
13 the not yet negotiated check is less than \$25.

14           “(C) A provision clarifying that the re-  
15 quirements described in subparagraph (A) shall  
16 have no effect on State escheatment laws.

17           “(D) For purposes of such revised regula-  
18 tions—

19                   “(i) a security holder shall be consid-  
20 ered a ‘missing security holder’ if a check  
21 is sent to the security holder and the check  
22 is not negotiated before the earlier of the  
23 paying agent sending the next regularly  
24 scheduled check or the elapsing of 6

1 months after the sending of the not yet ne-  
2 gotiated check; and

3 “(ii) the term ‘paying agent’ includes  
4 any issuer, transfer agent, broker, dealer,  
5 investment adviser, indenture trustee, cus-  
6 todian, or any other person that accepts  
7 payments from the issuer of a security and  
8 distributes the payments to the holders of  
9 the security.

10 “(2) RULEMAKING.—The Commission shall  
11 adopt such rules, regulations, and orders necessary  
12 to implement this subsection no later than 1 year  
13 after the date of enactment of this subsection. In  
14 proposing such rules, the Commission shall seek to  
15 minimize disruptions to current systems used by or  
16 on behalf of paying agents to process payment to ac-  
17 count holders and avoid requiring multiple paying  
18 agents to send written notification to a missing secu-  
19 rity holder regarding the same not yet negotiated  
20 check.”.

21 **SEC. 7422. SHORT SALE REFORMS.**

22 (a) SHORT SALE DISCLOSURE.—Section 13(f) of the  
23 Securities Exchange Act of 1934 (15 U.S.C. 78m(f)) is  
24 amended by redesignating paragraphs (2), (3), (4), and

1 (5) as paragraphs (3), (4), (5), and (6), respectively, and  
2 inserting after paragraph (1) the following:

3           “(2)(A) Every institutional investment manager  
4           that effects a short sale of an equity security shall  
5           also file a report on a daily basis with the Commis-  
6           sion in such form as the Commission, by rule, may  
7           prescribe. Such report shall include, as applicable,  
8           the name of the institution, the name of the institu-  
9           tional investment manager and the title, class,  
10          CUSIP number, number of shares or principal  
11          amount, aggregate fair market value of each secu-  
12          rity, and any additional information requested by  
13          the Commission. For purposes of section 552 of title  
14          5, United States Code, this subparagraph shall be  
15          considered a statute described in subsection  
16          (b)(3)(B) of such section. The information contained  
17          in reports of an institutional investment manager  
18          filed with the Commission pursuant to this section,  
19          shall be subject to the same non-disclosure and con-  
20          fidentiality protection provided under section  
21          204(b)(8) of the Investment Advisers Act of 1940.

22           “(B) The Commission shall prescribe rules pro-  
23          viding for the public disclosure of the name of the  
24          issuer and the title, class, CUSIP number, aggregate  
25          amount of the number of short sales of each secu-

1 rity, and any additional information determined by  
2 the Commission following the end of the reporting  
3 period. At a minimum, such public disclosure shall  
4 occur every month.”.

5 (b) SHORT SELLING ENFORCEMENT.—Section 9 of  
6 the Securities Exchange Act of 1934 (15 U.S.C. 78i) is  
7 amended—

8 (1) by redesignating subsections (d), (e), (f),  
9 (g), (h), and (i) as subsections (e), (f), (g), (h), (i),  
10 and (j), respectively; and

11 (2) inserting after subsection (c), the following  
12 new subsection:

13 “(d) TRANSACTIONS RELATING TO SHORT SALES OF  
14 SECURITIES.—It shall be unlawful for any person, directly  
15 or indirectly, by the use of the mails or any means or in-  
16 strumentality of interstate commerce, or of any facility of  
17 any national securities exchange, or for any member of  
18 a national securities exchange to effect, alone or with one  
19 or more other persons, a manipulative short sale of any  
20 security. The Commission shall issue such other rules as  
21 are necessary or appropriate to ensure that the appro-  
22 priate enforcement options and remedies are available for  
23 violations of this subsection in the public interest or for  
24 the protection of investors.”.

1 (c) INVESTOR NOTIFICATION.—Section 15 of the Se-  
2 curities Exchange Act of 1934 (15 U.S.C. 78o) is amend-  
3 ed—

4 (1) by redesignating subsections (e), (f), (g),  
5 (h), and (i) as subsections (f), (g), (h), (i), and (j),  
6 respectively; and

7 (2) inserting after subsection (d) the following  
8 new subsection:

9 “(e) NOTICES TO CUSTOMERS REGARDING SECURI-  
10 TIES LENDING.—Every registered broker or dealer shall  
11 provide notice to its customers that they may elect not  
12 to allow their fully paid securities to be used in connection  
13 with short sales. If a broker or dealer uses a customer’s  
14 securities in connection with short sales, the broker or  
15 dealer shall provide notice to its customer that the broker  
16 or dealer may receive compensation in connection with  
17 lending the customer’s securities. The Commission, by  
18 rule, as it deems necessary or appropriate in the public  
19 interest and for the protection of investors, may prescribe  
20 the form, content, time, and manner of delivery of any  
21 notice required under this paragraph.”.

22 **SEC. 7423. STREAMLINING OF SEC FILING PROCEDURES.**

23 (a) APPROVAL PROCESS.—Section 19(b)(2) of the  
24 Securities Exchange Act of 1934 (15 U.S.C. 78s(b)(2))  
25 is amended to read as follows:

1           “(2) FILING PROCEDURES.—

2                   “(A) IN GENERAL.—Within thirty-five  
3 days of the date of publication of notice of the  
4 filing of a proposed rule change in accordance  
5 with paragraph (1) of this subsection, or within  
6 such longer period as the Commission may des-  
7 ignate up to ninety days of such date if it finds  
8 such longer period to be appropriate and pub-  
9 lishes its reasons for so finding or as to which  
10 the self-regulatory organization consents, the  
11 Commission shall—

12                           “(i) by order approve such proposed  
13 rule change; or

14                           “(ii) institute proceedings under sub-  
15 paragraph (B) to determine whether the  
16 proposed rule change should be dis-  
17 approved.

18           “(B) PROCEEDINGS.—Proceedings to de-  
19 termine whether the proposed rule change  
20 should be disapproved shall include notice of  
21 the grounds for disapproval under consideration  
22 and opportunity for hearing and be concluded  
23 within 200 days from the date of receipt of a  
24 proper filing. At the conclusion of such pro-  
25 ceedings the Commission, by order, shall ap-

1           prove or disapprove such proposed rule change.  
2           The Commission may extend the time for con-  
3           clusion of such proceedings for up to 60 days  
4           if it finds good cause for such extension and  
5           publishes its reasons for so finding or for such  
6           longer period as to which the self-regulatory or-  
7           ganization consents. The Commission shall ap-  
8           prove a proposed rule change of a self-regu-  
9           latory organization if it finds that such pro-  
10          posed rule change is consistent with the re-  
11          quirements of this title and the rules and regu-  
12          lations thereunder applicable to such organiza-  
13          tion. The Commission shall disapprove a pro-  
14          posed rule change of a self-regulatory organiza-  
15          tion if it does not make such finding. The Com-  
16          mission shall not approve any proposed rule  
17          change prior to the thirtieth day after the date  
18          of publication of notice of the filing thereof, un-  
19          less the Commission finds good cause for so  
20          doing and publishes its reasons for so finding.”.

21          (b) RULES.—Not later than 12 months after the date  
22          of enactment of this Act, the Commission shall issue rules  
23          implementing a disapproval process for filings submitted  
24          on or after the effective date of such rules.

Page 1196, line 5, strike “containing”.

Page 1198, strike line 22 through page 1199, line 16.

Page 1199, line 17, strike “(3)” and insert “(2)”.

Page 1199, line 21, strike “or (2)”.

Page 1206, strike lines 15, through 23.

Page 1211 strike line 24 through page 1212, line 21, and insert the following:

1 (e) INSPECTIONS BY REGISTERED ACCOUNTING  
2 FIRMS.—Subsection (a) of Section 104 of such Act is  
3 amended—

4 (1) by striking “(a) IN GENERAL.—The Board  
5 shall” and inserting the following:

6 “(a) IN GENERAL.—

7 “(1) The Board shall”; and

8 (2) by adding at the end of such subsection the  
9 following:

10 “(2) INSPECTIONS OF AUDIT REPORT FOR BRO-  
11 KERS AND DEALERS.—

12 “(A) The Board may, by rule, conduct and  
13 require a program of inspection in accordance  
14 with paragraph (a)(1), on a basis to be deter-  
15 mined by the Board, of registered public ac-  
16 counting firms that provide one or more audit  
17 reports for a broker or dealer. The Board, in

1           establishing such a program, may allow for dif-  
2           ferentiation among classes of brokers and deal-  
3           ers, as appropriate.

4           “(B) If the Board determines to establish  
5           a program of inspection pursuant to subpara-  
6           graph (A), the Board shall consider in estab-  
7           lishing any inspection schedules whether dif-  
8           fering schedules would be appropriate with re-  
9           spect to registered public accounting firms that  
10          issue audit reports only for one or more brokers  
11          or dealers that do not receive, handle, or hold  
12          customer securities or cash or are not a mem-  
13          ber of the Securities Investor Protection Cor-  
14          poration.

15          “(C) Any rules of the Board pursuant to  
16          this paragraph shall be subject to prior ap-  
17          proval by the Commission pursuant to section  
18          107(b) before the rules become effective, includ-  
19          ing an opportunity for public notice and com-  
20          ment.

21          “(D) Notwithstanding anything to the con-  
22          trary in section 102 of this Act, a public ac-  
23          counting firm shall not be required to register  
24          with the Board if the public accounting firm is  
25          exempt from the inspection program which may

1           be established by the Board under subpara-  
2           graph (a)(2)(A) of this section.

3           “(3) CONFORMING AMENDMENT.—Section 17  
4           (e)(1)(A) of the Securities Exchange Act of 1934  
5           (15 U.S.C. 78q(e) (1) (A)) is amended by striking  
6           ‘registered public accounting firm’ and inserting  
7           ‘independent public accounting firm or by a reg-  
8           istered public accounting firm if registration is re-  
9           quired under the Sarbanes-Oxley Act of 2002 as  
10          amended.’”.

Page 1215, line 1, strike “dealer” and insert “dealers”.

Page 1219, beginning on line 10, strike “domestic” and insert “domestically”.

Page 1223, lines 5, strike “shall—” and all that follows through line 13 and insert “shall prevent the Board from responding to requests for reports from the Committee’s specified under subsection (h) about the activities or programs of the Board, provided that any confidential information contained therein shall be subject to the provisions of section 105(b)(5).”.

Page 1228, line 14, strike “**MISLEAD**” and insert “**MISLED**”.

Page 1231, after line 15, insert the following:

1           (4) APPLICATION OF FIDUCIARY DUTY FOR  
2           PERSONALIZED INVESTMENT ADVICE ABOUT SECURI-  
3           TIES.—Nothing in this section shall diminish in any  
4           manner nor supersede the standard of conduct appli-  
5           cable to all brokers, dealers and investment advisers  
6           providing personalized investment advice about secu-  
7           rities as set forth in section 7103 of this Act.

Page 1231, line 16, strike “(4)” and insert “(5)”.

Page 1231, beginning on line 19, strike “, to the extent practicable, conform to the” and insert “meet or exceed”.

Page 1232, strike lines 3 through page 1235, line 5, and insert the following:

8           (6) SUITABILITY AND SUPERVISION RULES FOR  
9           ANNUITY PRODUCTS.—A State shall have adopted  
10          rules that govern suitability requirements in the sale  
11          of annuities which shall meet or exceed the minimum  
12          requirements established by the National Association of Insurance Commissioners Suitability in  
13          Annuity Transactions Model Regulation in effect on  
14          the date of the enactment of this Act, or any successor thereto.  
15  
16

Page 1235, line 18, strike “senior” and insert “seniors who are”.

Page 1238, line 13, insert a comma after “finding”.

Page 1242, line 7, insert “United States Code,” after “title 18,”.

Page 1243, line 9, insert “or the rules of the Municipal Securities Rulemaking Board,” after “statutes,”.

Page 1243, line 17, insert “or the rules of the Municipal Securities Rulemaking Board,” after “statutes,”.

Page 1247, line 18, insert “broker, dealer, investment adviser, municipal securities dealer, transfer agent, nationally recognized statistical rating organization, or”.

Page 1248, line 1, strike “or (E)” and insert “(E), (G), or (H)”.

Page 1254, line 22, strike “or”.

Page 1254, line 24, strike the period at the end and insert “; or” and after such line insert the following:

- 1 (v) the independent accountant that
- 2 audits the financial statements of the mu-
- 3 nicipal securities issuer.

Page 1259, after line 24, insert the following new subparagraph and redesignate subsequent subparagraphs accordingly):

1           “(C) To monitor the extent to which tradi-  
2           tionally underserved communities and con-  
3           sumers, minorities (as such term is defined in  
4           24 section 1204(c) of the Financial Institutions  
5           Reform, Recovery, and Enforcement Act of  
6           1989 (12 U.S.C. 1811 note)), and low- and  
7           moderate-income persons have access to afford-  
8           able insurance products regarding all lines of  
9           insurance, except health insurance.”.

Page 1261, after line 6, insert the following new paragraph:

10           “(3) ADVISORY CAPACITY ON COUNCIL.—The  
11           Director shall serve in an advisory capacity on the  
12           Financial Services Oversight Council established  
13           under the Financial Stability Improvement Act of  
14           2009.”.

Page 1261, line 9, after “Secretary” insert “in co-ordination with the Secretary of the Department of Health and Human Services”.

Page 1261, line 14, after “data” insert “, including financial data,”.

Page 1262, beginning on line 2, strike “is authorized to write” and insert “writes”.

Page 1262, line 3, strike “reinsure” and insert “re-insures”.

Page 1262, line 4, strike “issue” and insert “issues”.

Page 1278, line 13, strike “and broadened”.

Page 1279, line 1, insert “Federal or State” after “any”.

Page 1279, line 3, insert “with respect to such study” before “to modernize”.

Page 17 of title VII of the bill, as added by the amendment TITLE7\_\_02, strike lines 14 and 15 and insert the following:

1           “(A) permitting any yield spread premium  
2           or other similar compensation that would, for  
3           any mortgage loan, permit the total amount of  
4           direct and indirect compensation from all  
5           sources permitted to a mortgage originator to  
6           vary based on the terms of the loan (other than  
7           the amount of the principal);”.

Page 17 of title VII of the bill, as added by the amendment TITLE7\_\_02, line 25, strike “including through principal” and insert “at the option of the consumer, including through principal or rate”.

Page 18 of title VII of the bill, as added by the amendment TITLE7\_\_02, line 5, after “costs were” insert “limited by agreement with the consumer and were”.

Page 33 of title VII of the bill, as added by the amendment TITLE7\_\_02, line 24, after “that” insert “is insured by the Federal Housing Administration or”.

Page 153 of title VII of the bill, as added by the amendment TITLE7\_\_02, line 11, after “loan” insert “, other than a reverse mortgage loan insured by the Federal Housing Administration,”.

Add at the end of the bill the following:

1 **TITLE VIII—FORECLOSURE**  
 2 **AVOIDANCE AND AFFORD-**  
 3 **ABLE HOUSING**

4 **SEC. 10001. EMERGENCY MORTGAGE RELIEF.**

5 (a) USE OF TARP FUNDS.—Using the authority  
 6 available under sections 101(a) and 115(a) of division A  
 7 of the Emergency Economic Stabilization Act of 2008 (12  
 8 U.S.C. 5211(a), 5225(a)), the Secretary of the Treasury  
 9 shall transfer to the Secretary of Housing and Urban De-  
 10 velopment \$3,000,000,000, and the Secretary of Housing  
 11 and Urban Development shall credit such amount to the  
 12 Emergency Homeowners’ Relief Fund, which such Sec-  
 13 retary shall establish pursuant to section 107 of the Emer-

1 gency Housing Act of 1975 (12 U.S.C. 2706), as such  
2 Act is amended by this section, for use for emergency  
3 mortgage assistance in accordance with title I of such Act.

4 (b) REAUTHORIZATION OF EMERGENCY MORTGAGE  
5 RELIEF PROGRAM.—Title I of the Emergency Housing  
6 Act of 1975 is amended—

7 (1) in section 103 (12 U.S.C. 2702)—

8 (A) in paragraph (2)—

9 (i) by striking “have indicated” and  
10 all that follows through “regulation of the  
11 holder” and insert “have certified”;

12 (ii) by striking “(such as the volume  
13 of delinquent loans in its portfolio)”; and

14 (iii) by striking “, except that such  
15 statement” and all that follows through  
16 “purposes of this title”; and

17 (B) in paragraph (4), by inserting “or  
18 medical conditions” after “adverse economic  
19 conditions”;

20 (2) in section 104 (12 U.S.C. 2703)—

21 (A) in subsection (b), by striking “, but  
22 such assistance” and all that follows through  
23 the period at the end and inserting the fol-  
24 lowing: “. The amount of assistance provided to  
25 a homeowner under this title shall be an

1 amount that the Secretary determines is rea-  
2 sonably necessary to supplement such amount  
3 as the homeowner is capable of contributing to-  
4 ward such mortgage payment, except that the  
5 aggregate amount of such assistance provided  
6 for any homeowner shall not exceed \$50,000.”

7 ;

8 (B) in subsection (d), by striking “interest  
9 on a loan or advance” and all that follows  
10 through the end of the subsection and inserting  
11 the following: “(1) the rate of interest on any  
12 loan or advance of credit insured under this  
13 title shall be fixed for the life of the loan or ad-  
14 vance of credit and shall not exceed the rate of  
15 interest that is generally charged for mortgages  
16 on single-family housing insured by the Sec-  
17 retary of Housing and Urban Development  
18 under title II of the National Housing Act at  
19 the time such loan or advance of credit is made,  
20 and (2) no interest shall be charged on interest  
21 which is deferred on a loan or advance of credit  
22 made under this title. In establishing rates,  
23 terms and conditions for loans or advances of  
24 credit made under this title, the Secretary shall

1 take into account a homeowner's ability to  
2 repay such loan or advance of credit.”; and

3 (C) in subsection (e), by inserting after the  
4 period at the end of the first sentence the fol-  
5 lowing: “Any eligible homeowner who receives a  
6 grant or an advance of credit under this title  
7 may repay the loan in full, without penalty, by  
8 lump sum or by installment payments at any  
9 time before the loan becomes due and pay-  
10 able.”;

11 (3) in section 105 (12 U.S.C. 2704)—

12 (A) by striking subsection (b);

13 (B) in subsection (e)—

14 (i) by inserting “and emergency mort-  
15 gage relief payments made under section  
16 106” after “insured under this section”;  
17 and

18 (ii) by striking “\$1,500,000,000 at  
19 any one time” and inserting  
20 “\$3,000,000,000”;

21 (C) by redesignating subsections (c), (d),  
22 and (e) as subsections (b), (c), and (d), respec-  
23 tively; and

24 (D) by adding at the end the following new  
25 subsection:

1       “(e) The Secretary shall establish underwriting  
2 guidelines or procedures to allocate amounts made avail-  
3 able for loans and advances insured under this section and  
4 for emergency relief payments made under section 106  
5 based on the likelihood that a mortgagor will be able to  
6 resume mortgage payments, pursuant to the requirement  
7 under section 103(5).”;

8               (4) in section 107—

9                       (A) by striking “(a)”; and

10                      (B) by striking subsection (b);

11               (5) in section 108 (12 U.S.C. 2707), by adding  
12 at the end the following new subsection:

13       “(d) COVERAGE OF EXISTING PROGRAMS.—The Sec-  
14 retary shall allow funds to be administered by a State that  
15 has an existing program that is determined by the Sec-  
16 retary to provide substantially similar assistance to home-  
17 owners. After such determination is made such State shall  
18 not be required to modify such program to comply with  
19 the provisions of this title.”;

20               (6) in section 109 (12 U.S.C. 2708)—

21                       (A) in the section heading, by striking

22                      “AUTHORIZATION AND”;

23                       (B) by striking subsection (a);

24                       (C) by striking “(b)”; and

1 (D) by striking “1977” and inserting  
2 “2011”;  
3 (7) by striking sections 110, 111, and 113 (12  
4 U.S.C. 2709, 2710, 2712); and  
5 (8) by redesignating section 112 (12 U.S.C.  
6 2711) as section 110.

7 **SEC. 10002. ADDITIONAL ASSISTANCE FOR NEIGHBORHOOD**  
8 **STABILIZATION PROGRAM.**

9 Using the authority made available under sections  
10 101(a) and 115(a) of division A of the Emergency Eco-  
11 nomic Stabilization Act of 2008 (12 U.S.C. 5211(a),  
12 5225(a)), the Secretary of the Treasury shall transfer to  
13 the Secretary of Housing and Urban Development  
14 \$1,000,000,000, and the Secretary of Housing and Urban  
15 Development shall use such amounts for assistance to  
16 States and units of general local government for the rede-  
17 velopment of abandoned and foreclosed homes, in accord-  
18 ance with the same provisions applicable under the second  
19 undesignated paragraph under the heading “Community  
20 Planning and Development--Community Development  
21 Fund” in title XII of division A of the American Recovery  
22 and Reinvestment Act of 2009 (Public Law 111–5; 123  
23 Stat. 217) to amounts made available under such second  
24 undesignated paragraph, except as follows:

1           (1) Notwithstanding the matter of such second  
2           undesignated paragraph that precedes the first pro-  
3           viso, amounts made available by this section shall re-  
4           main available until expended.

5           (2) The 3rd, 4th, 5th, 6th, 7th, and 15th pro-  
6           visos of such second undesignated paragraph shall  
7           not apply to amounts made available by this section.

8           (3) Amounts made available by this section  
9           shall be allocated based on a funding formula for  
10          such amounts established by the Secretary in ac-  
11          cordance with section 2301(b) of the Housing and  
12          Economic Recovery Act of 2008 (42 U.S.C. 5301  
13          note), except that—

14                 (A) notwithstanding paragraph (2) of such  
15                 section 2301(b), the formula shall be estab-  
16                 lished not later than 30 days after the date of  
17                 the enactment of this Act;

18                 (B) the Secretary may not establish any  
19                 minimum grant amount or size for grants to  
20                 States;

21                 (C) the Secretary may establish a min-  
22                 imum grant amount for direct allocations to  
23                 units of general local government located within  
24                 a State, which shall not exceed \$1,000,000; and

1 (D) each State and local government re-  
2 ceiving grant amounts shall establish proce-  
3 dures to create preferences for the development  
4 of affordable rental housing for properties as-  
5 sisted with amounts made available by this sec-  
6 tion.

7 (4) Paragraph (1) of section 2301(c) of the  
8 Housing and Economic Recovery Act of 2008 shall  
9 not apply to amounts made available by this section.

10 (5) Section 2302 of the Housing and Economic  
11 Recovery Act of 2008 shall not apply to amounts  
12 made available by this section.

13 (6) The fourth proviso from the end of such  
14 second undesignated paragraph shall be applied to  
15 amounts made available by this section by sub-  
16 stituting “2013” for “2012”.

17 (7) Notwithstanding section 2301(a) of the  
18 Housing and Economic Recovery Act of 2008, the  
19 term “State” means any State of the United States,  
20 the District of Columbia, the Commonwealth of  
21 Puerto Rico, the Commonwealth of the Northern  
22 Mariana Islands, Guam, the Virgin Islands, Amer-  
23 ican Samoa, and other territory or possession of the  
24 United States for purposes of this section and title

1 III of division B of such Act, as applied to amounts  
2 made available by this section.

3 (8)(A) None of the amounts made available by  
4 this section shall be distributed to—

5 (i) any organization which has been con-  
6 victed for a violation under Federal law relating  
7 to an election for Federal office; or

8 (ii) any organization which employs appli-  
9 cable individuals.

10 (B) In this paragraph, the term “applicable in-  
11 dividual” means an individual who—

12 (i) is—

13 (I) employed by the organization in a  
14 permanent or temporary capacity;

15 (II) contracted or retained by the or-  
16 ganization; or

17 (III) acting on behalf of, or with the  
18 express or apparent authority of, the orga-  
19 nization; and

20 (ii) has been convicted for a violation  
21 under Federal law relating to an election for  
22 Federal office.

Page 204, line 14, strike “may decrease” and insert  
“decreases”.

Page 826, after line 20, insert the following new subsection:

1           (c) ADDITIONAL CONSUMER PROTECTION REGULA-  
2 TIONS IN RESPONSE TO STATE ACTION.—

3           (1) NOTICE OF PROPOSED RULE REQUIRED.—

4           The Agency shall issue a notice of proposed rule-  
5 making whenever a majority of the States has en-  
6 acted a resolution in support of the establishment or  
7 modification of a consumer protection regulation by  
8 the Agency.

9           (2) AGENCY CONSIDERATIONS REQUIRED FOR  
10 ISSUANCE OF FINAL REGULATION.—Before pre-  
11 scribing a final regulation based upon a notice  
12 issued pursuant to paragraph (1), the Agency shall  
13 take into account whether—

14           (A) the proposed regulation would afford  
15 greater protection to consumers than any exist-  
16 ing regulation;

17           (B) the intended benefits of the proposed  
18 regulation for consumers would outweigh any  
19 increased costs or inconveniences for con-  
20 sumers, and would not discriminate unfairly  
21 against any category or class of consumers; and

22           (C) a Federal banking agency has advised  
23 that the proposed regulation is likely to present

1 an unacceptable safety and soundness risk to  
2 insured depository institutions.

3 (3) EXPLANATION OF CONSIDERATIONS.—The  
4 Agency—

5 (A) shall include a discussion of the con-  
6 siderations required in subsection (b) in the  
7 Federal Register notice of a final regulation  
8 prescribed pursuant to this section; and

9 (B) whenever the Agency determines not to  
10 prescribe a final regulation, shall publish an ex-  
11 planation of such determination in the Federal  
12 Register, and provide a copy of such expla-  
13 nation to each State that enacted a resolution  
14 in support of the proposed regulation, the Com-  
15 mittee on Financial Services of the House of  
16 Representatives, and the Committee on Bank-  
17 ing, Housing, and Urban Affairs of the Senate.

18 (4) RESERVATION OF AUTHORITY.—No provi-  
19 sion of this section shall be construed as limiting or  
20 restricting the authority of the Agency to enhance  
21 consumer protection standards established pursuant  
22 to this title in response to its own motion or in re-  
23 sponse to a request by any other interested person.

24 (5) RULE OF CONSTRUCTION.—No provision of  
25 this section shall be construed as exempt the Agency

1 from complying with subchapter II of chapter 5 of  
2 title 5, United States Code.

3 (6) DEFINITION.—For purposes of this section,  
4 the term “consumer protection regulation” means a  
5 regulation that the Agency is authorized to prescribe  
6 under this title, the enumerated consumer laws, or  
7 any law or authority transferred under subtitle F or  
8 H.

Page 827, line 4, after “defendant,” strike the rest of line 4 through line 6 and insert, “to enforce and secure remedies under provisions of this title or regulations issued thereunder, or otherwise provided under other law.”.

Page 831, line 23, after “that” insert “directly and specifically”.

Page 832, beginning on line 8, strike “National banks” and all that follows through “State laws.” on line 9.

Page 832, line 9, strike “State laws are” and insert “State consumer financial laws are”.

Page 832, line 11, strike “state” and insert “State consumer financial”.

Page 832, strike lines 15 through 20, and insert the following:

1           “(B) the State consumer financial law pre-  
2           vents, significantly interferes with, or materially  
3           impairs the ability of an institution chartered as  
4           a national bank to engage in the business of  
5           banking. Any preemption determination under  
6           this subparagraph may be made by a court or  
7           by regulation or order of the Comptroller of the  
8           Currency in accordance with applicable law, on  
9           a case-by-case basis. Any such determination by  
10          a court shall comply with the standards set  
11          forth in subsection (d) of this section, with the  
12          court making the subsection (d) finding de  
13          novo; or

Page 832, line 21, insert “consumer financial” after  
“State”

Page 832, strike line 23 and all that follows through  
page 833, line 2 and insert the following:

14           “(2) SAVINGS CLAUSE.—This Act does not pre-  
15          empt or alter the applicability of any State law to  
16          any subsidiary or affiliate of a national bank (other  
17          than an institution chartered as a national bank)  
18          that is not a depository institution.

Page 833, strike lines 3 through 17 and insert the following:

1           “(3) CASE-BY-CASE DETERMINATION.—

2                   “(A) DEFINITION.—The term ‘case-by-case  
3 determination pursuant to this section’ means a  
4 determination made by the Comptroller con-  
5 cerning the impact of a particular State con-  
6 sumer financial law on any national bank that  
7 is subject to that law, or the law of any other  
8 State with substantively equivalent terms.

9                   “(B) CONSULTATION.—When making  
10 case-by-case determination pursuant to this sec-  
11 tion that a State consumer financial law of an-  
12 other State has a substantively equivalent terms  
13 as one that the Comptroller is preempting, the  
14 Comptroller shall first consult with the Con-  
15 sumer Financial Protection Agency and shall  
16 take such Agency’s views into account when  
17 making the determination.

18           “(4) RULE OF CONSTRUCTION.—This Act does  
19 not occupy the field in any area of State law.

20           “(5) STANDARDS OF REVIEW.—

21                   “(A) PREEMPTION.—A court reviewing  
22 any determinations made by the Comptroller re-  
23 garding preemption of a State law by this Act

1 shall assess the validity of such determinations  
2 depending upon the thoroughness evident in the  
3 agency's consideration, the validity of the agen-  
4 cy's reasoning, the consistency with other valid  
5 determinations made by the agency, and other  
6 factors which the court finds persuasive and rel-  
7 evant to its decision.

8 “(B) SAVINGS CLAUSE.—Except as pro-  
9 vided in subparagraph (A), nothing in this sec-  
10 tion shall affect the deference that a court may  
11 afford to the Comptroller in making determina-  
12 tions regarding the meaning or interpretation of  
13 title LXII of the Revised Statutes of the United  
14 States or other Federal laws.

15 “(6) COMPTROLLER DETERMINATION NOT DEL-  
16 EGABLE.—Any regulation, order or determination  
17 made by the Comptroller of the Currency under sub-  
18 section (b)(1)(B) shall be made by the Comptroller  
19 and shall not be delegable to another officer or em-  
20 ployee of the Comptroller of the Currency.

Page 833, line 18, after “regulation” insert “or  
order”.

Page 833, strike line 25 and all that follows through  
page 834, line 2, and insert the following: “prevents, sig-  
nificantly interferes with, or materially impairs the ability

of a national bank to engage in the business of banking.”.

Page 834, line 5, after “prescribe” insert “a”, after “regulation” insert “or order”.

Page 835, after line 9, insert new subsections as follows:

1       “(g) PRESERVATION OF POWERS RELATED TO  
2 CHARGING INTEREST.—No provision of this title shall be  
3 construed as altering or otherwise affecting the authority  
4 conferred by section 5197 of the Revised Statutes of the  
5 United States (12 U.S.C. 85) for the charging of interest  
6 by a national bank at the rate allowed by the laws of the  
7 State, territory or district where the bank is located, in-  
8 cluding with respect to the meaning of ‘interest’ under  
9 such provision.

10       “(h) TRANSPARENCY OF OCC PREEMPTION DETER-  
11 MINATIONS.—The Comptroller of the Currency shall pub-  
12 lish and update no less frequently than quarterly, a list  
13 of preemption determinations by the Comptroller of the  
14 Currency then in effect that identifies the activities and  
15 practices covered by each determination and the require-  
16 ments and constraints determined to be preempted.

Page 835, on lines 21 and 22 strike “supervisory, examination, or regulatory” and insert “visitorial”.

Page 836, strike lines 4 through 7 and renumber subsequent sections accordingly.

Page 836, line 12, after “or” delete the rest of line 12 through line 15 and insert, “nonpreempted State law against a national bank, as authorized by such law, or to seek relief as authorized by such law.”.

Page 838, line 13, after “that” and insert “directly and specifically”.

Page 838, beginning line 19, strike “Federal savings association” and all that follows through “State laws.”

Page 838, beginning on line 20, strike “State laws are” and insert “State consumer financial laws are”.

Page 838, line 22, strike “state” and insert “State consumer financial”.

Page 839, strike lines 1 through 7, and insert the following:

1                   “(B) the State consumer financial law pre-  
2                   vents, significantly interferes with, or materially  
3                   impairs the ability of an institution chartered as  
4                   a Federal savings association to engage in the  
5                   business of banking. Any preemption deter-  
6                   mination under this subparagraph may be made  
7                   by a court or by regulation or order of the Di-

1           rector of the Office of Thrift Supervision in ac-  
2           cordance with applicable law, on a case-by-case  
3           basis. Any such determination by a court shall  
4           comply with the standards set forth in sub-  
5           section (d) of this section, with the court mak-  
6           ing the subsection (d) finding de novo; or

Page 839, line 8, insert “consumer financial” after  
“State”.

Page 839, strike lines 10 through 14 and insert the  
following:

7           “(2) SAVINGS CLAUSE.—This Act does not pre-  
8           empt or alter the applicability of any State law to  
9           any subsidiary or affiliate of a Federal savings asso-  
10          ciation (other than an institution chartered as a  
11          Federal savings association) that is not a depository  
12          institution.

Page 839, strike line 15 and all that follows through  
page 840, line 4 and insert the following:

13          “(3) CASE-BY-CASE DETERMINATION.—  
14                 “(A) DEFINITION.—The term ‘case-by-case  
15                 determination pursuant to this section’ means a  
16                 determination made by the Director concerning  
17                 the impact of a particular State consumer fi-  
18                 nancial law on any Federal savings association

1 that is subject to that law, or the law of any  
2 other State with substantively equivalent terms.

3 “(B) CONSULTATION.—When making  
4 case-by-case determination pursuant to this sec-  
5 tion that a State consumer financial law of an-  
6 other State has a substantively equivalent terms  
7 as one that the Director of the Office of Thrift  
8 Supervision is preempting, the Director shall  
9 first consult with the Consumer Financial Pro-  
10 tection Agency and shall take such Agency’s  
11 views into account when making the determina-  
12 tion.

13 “(4) RULE OF CONSTRUCTION.—This Act does  
14 not occupy the field in any area of State law.

15 “(5) STANDARDS OF REVIEW.—

16 “(A) PREEMPTION.—A court reviewing  
17 any determinations made by the Director re-  
18 garding preemption of a State law by this Act  
19 shall assess the validity of such determinations  
20 depending upon the thoroughness evident in the  
21 agency’s consideration, the validity of the agen-  
22 cy’s reasoning, the consistency with other valid  
23 determinations made by the agency, and other  
24 factors which the court finds persuasive and rel-  
25 evant to its decision.

1           “(B) SAVINGS CLAUSE.—Except as pro-  
2           vided in subparagraph (A), nothing in this sec-  
3           tion shall affect the deference that a court may  
4           afford to the Director in making determinations  
5           regarding the meaning or interpretation of the  
6           Home Owners’ Loan Act or other Federal laws.

7           “(6) OTS DETERMINATION NOT DELEGABLE.—  
8           Any regulation, order, or determination made by the  
9           Director of the Office of Thrift Supervision under  
10          subsection (b)(1)(B) shall be made by the Director  
11          and shall not be delegable to another officer or em-  
12          ployee of the Director of the Office of Thrift Super-  
13          vision.

Page 840, line 7, after “regulation” insert “or order”.

Page 840, line 15, after “regulation” insert “or order”.

Page 840, strike lines 22 through 24 and insert the following: “finding that the provision prevents, significantly interferes with, or materially impairs the ability of a Federal savings association to engage in the business of banking.”.

Page 841, after line 23, insert new subsections as follows and renumber subsequent sections accordingly:

1       “(g) PRESERVATION OF POWERS RELATED TO  
2 CHARGING OF INTEREST.—No provision of this title shall  
3 be construed as altering or otherwise affecting the author-  
4 ity conferred by section 4(g) of the Home Owners’ Loan  
5 Act (12 U.S.C. 1463(g)) for the charging of interest by  
6 a Federal savings association at the rate allowed by the  
7 laws of the State, territory, or district where the bank is  
8 located, including with respect to the meaning of ‘interest’  
9 under such provision.

10       “(h) TRANSPARENCY OF OTS PREEMPTION DETER-  
11 MINATIONS.—The Director of the Office of Thrift Super-  
12 vision shall publish and update no less frequently than  
13 quarterly, a list of preemption determinations by such Di-  
14 rector then in effect that identifies the activities and prac-  
15 tices covered by each determination and the requirements  
16 and constraints determined to be preempted.

Page 842, strike lines 13 through 16 and renumber subsequent sections accordingly.

Page 842, line 22, after “law,” delete the rest of line 22 through page 843, line 2 and insert, “or to seek relief as authorized by such law”.

Page 30, after line 21, insert the following new subsection:

1 (e) STUDY OF EFFECTS CONSUMER FINANCIAL PRO-  
2 TECTION AGENCY REGULATIONS AND STANDARDS.—

3 (1) STUDY REQUIRED.—The Council shall con-  
4 duct a study of the effects that regulations and  
5 standards of the Consumer Financial Protection  
6 Agency will have on all covered persons (as such  
7 term is defined in section 4002(9)), including non-  
8 depository institution covered persons. The Director  
9 of the Consumer Financial Protection Agency shall  
10 take the findings of the study into account when  
11 issuing regulations.

12 (2) VALUE OF NONBANK PRODUCTS.—The  
13 study shall include an evaluation and assessment of  
14 the appropriateness of using “APR” as a true meas-  
15 ure of the value of all nonbank products.

16 (3) SUBMISSION.—Not later than 240 days  
17 after the date of the enactment of this Act, the Di-  
18 rector of the Consumer Financial Protection Agency  
19 shall submit the study to Congress and include any  
20 recommendations the Director may have for changes  
21 in law and regulations to improve consumer protec-  
22 tions and maintain access to credit.

Page 734, strike lines 8 through 12, and insert the  
following:

1           (A) consider the potential benefits and  
2           costs to consumers, covered persons, and the  
3           Federal Government, including the potential re-  
4           duction of consumers' access to consumer finan-  
5           cial products or services, resulting from such  
6           regulation; and

Page 734, line 20, insert before the period the fol-  
lowing: “and whether such regulation will have an incon-  
sistent effect on nondepository institution covered persons  
and depository institution covered persons”.

Page 747, after line 21, add the following new sub-  
sections:

7           (i) NO ONE SIZE FITS ALL REGULATION OF  
8 NONBANK PRODUCTS.—The Director shall be required to  
9 issue only product specific rules and regulations for each  
10 of the non-bank products under the jurisdiction of the  
11 Agency.

12           (j) NONBANK REGULATORY APPEAL RIGHTS.—

13           (1) ADMINISTRATIVE.—The Agency shall estab-  
14           lish a procedure through which a nonbank financial  
15           company that has been given contradictory or con-  
16           flicting supervisory determinations or directives from  
17           the Agency and their prudential supervisors will be

1 able to appeal the decisions to a disinterested gov-  
2 erning panel.

3 (2) JUDICIAL REVIEW.—Any nonbank financial  
4 company which has been subjected to contradictory  
5 or conflicting supervisory determinations or direc-  
6 tives may seek judicial review by filing a petition for  
7 such review in the United States Court of Appeals  
8 for the District of Columbia.

Page 731, after line 24, insert the following new  
subsection:

9 (h) ASSESSMENTS FOR CERTAIN NONDEPOSITORY  
10 INSTITUTION COVERED PERSONS.—

11 (1) IN GENERAL.—Notwithstanding any other  
12 provision of this Act, a nondepository institution  
13 covered person shall not be subject to assessments  
14 by the Agency if—

15 (A) the assets that are financial activities  
16 of that nondepository covered person represent  
17 less than a substantial portion of its total as-  
18 sets; and

19 (B) the gross revenues derived from finan-  
20 cial activities of that nondepository covered per-  
21 son are less than a substantial portion of its  
22 gross revenues.

1           (2) EXTENSIVE CONSUMER FINANCIAL PROD-  
2           UCTS OR SERVICES OPERATIONS.—Paragraph (1)  
3           shall not apply to nondepository institution covered  
4           person that the Director determines has a level of  
5           assets or revenues derived from financial activities,  
6           a number of transactions in consumer financial  
7           products or services, or a number of accounts relat-  
8           ing to consumer financial products or services that  
9           the Director determines represents an extensive con-  
10          sumer financial products or services operation.

Page 1068, line 7, strike “knowingly or recklessly violated” and insert “was grossly negligent in violating”.

Page 1068, beginning on line 18, strike “knowledge and recklessness” and insert “gross negligence”.

Page 1019, line 22, strike “57a(b)” and insert “57a”.

Page 1019, after line 22, insert the following:

11           (1) in subsection (a)(1), by striking “(h)” and  
12           inserting “(f)”;

Page 1019, line 23, strike “(1)” and insert “(2)”.

Page 1020, strike lines 6 through 13 and insert the following:

1 (3) by striking subsection (c);

2 (4) in subsection (d), by striking “(d)(1) The  
3 Commission’s” and all that follows through the end  
4 of paragraph (2) and by redesignating paragraph (3)  
5 of such subsection as subsection (c);

6 (5) In such subsection (c) (as so redesignated),  
7 by inserting “prescribed” after “any rule”;

8 (6) by striking subsections (f), (i), and (j) and  
9 redesignating subsections (e), (g), and (h) as sub-  
10 sections (d), (e), and (f), respectively;

Page 1020, line 14, strike “(4)” and insert “(7)”.

Page 1020, after line 14, insert the following:

11 (A) in paragraph (1)(A), by striking “pro-  
12 mulgated” and inserting “prescribed”;

Page 1020, line 15, strike “(A)” and insert “(B)”.

Page 1020, strike lines 17 through 20 and insert the  
following:

13 (C) in paragraph (3), by striking “The  
14 court shall hold unlawful” and all that follows  
15 through the end of the paragraph; and

16 (D) by striking paragraphs (4) and (5)  
17 and inserting the following:

1       “(4) The procedure set forth in this subsection for  
2 judicial review of a rule prescribed under subsection  
3 (a)(1)(B) is the exclusive means for such review, other  
4 than in an enforcement proceeding.”; and

5               (7) in subsection (e)(2) (as so redesignated), by  
6 striking “class or persons” and inserting “class of  
7 persons”.

Page 754, after line 1, add the following new sub-  
section at the end of section 4203:

8       (h) ASSISTIVE DIVISION FOR COMMUNITY FINANCIAL  
9 INSTITUTIONS.—

10           (1) ESTABLISHMENT; PURPOSE.—There is es-  
11 tablished in the Agency an office to be known as the  
12 “Assistive Division for Community Financial Institu-  
13 tions” to advise the Director on the impact of Agen-  
14 cy policies and regulations on community financial  
15 institutions and to help ensure that the policies and  
16 regulations of the Agency do not unduly burden  
17 community financial institutions.

18           (2) ADDITIONAL DUTIES.—The Assistive Divi-  
19 sion for Community Financial Institutions shall  
20 also—

21               (A) provide assistance to and respond to  
22 inquiries from community financial institutions  
23 regarding policies of the Agency and the effects

1 of such policies on community financial institu-  
2 tions;

3 (B) provide educational materials, training  
4 aides, and support to community financial insti-  
5 tutions with respect to any new regulatory obli-  
6 gations the Agency establishes during the initial  
7 rule-making period;

8 (C) establish and maintain a toll-free tele-  
9 phone number, to be available at least 8 hours  
10 a day and 7 days a week, at which community  
11 financial institution may make inquiries and re-  
12 ceive assistance under subparagraph (A); and

13 (D) perform other duties and exercise such  
14 other powers set by the Director.

Page 949, after line 2, add the following new section  
(and update the table of contents appropriately):

15 **SEC. 4704. REPORTING OF MORTGAGE DATA BY STATE.**

16 (a) IN GENERAL.—Section 104(a) of the Helping  
17 Families Save Their Homes Act of 2009 (division A of  
18 Public Law 111–22) is amended—

19 (1) in paragraph (2), by striking “resulting”  
20 and inserting “in each State that result”;

21 (2) in paragraph (3), by inserting “each State  
22 for” after “modifications in”; and

1           (3) in paragraph (4), by inserting “in each  
2           State” after “total number of loans”.

3           (b)       CONFORMING        AMENDMENT.—Section  
4 104(b)(1)(A) of such Act is amended by adding at the end  
5 the following sentence: “Not later than 60 days after the  
6 date of the enactment of the Wall Street Reform and Con-  
7 sumer Protection Act of 2009, the Comptroller of the Cur-  
8 rency and the Director of the Office of Thrift Supervision  
9 shall update such requirements to reflect amendments  
10 made to this section by such Act.”.

          In subtitle H of title VII (relating to mortgage re-  
form) insert “**and Data Collection**” after “**Re-  
ports**”

          At the end of title VII (relating to mortgage re-  
form), add the following new section (and update the  
table of contents appropriately):

11   **SEC. 9702. REPORTING OF MORTGAGE DATA BY STATE.**

12       (a) IN GENERAL.—Section 104(a) of the Helping  
13 Families Save Their Homes Act of 2009 (division A of  
14 Public Law 111–22) is amended—

15           (1) in paragraph (2), by striking “resulting”  
16           and inserting “in each State that result”;

17           (2) in paragraph (3), by inserting “each State  
18           for” after “modifications in”; and

1           (3) in paragraph (4), by inserting “in each  
2           State” after “total number of loans”.

3           (b)           CONFORMING           AMENDMENT.—Section  
4 104(b)(1)(A) of such Act is amended by adding at the end  
5 the following sentence: “Not later than 60 days after the  
6 date of the enactment of the Wall Street Reform and Con-  
7 sumer Protection Act of 2009, the Comptroller of the Cur-  
8 rency and the Director of the Office of Thrift Supervision  
9 shall update such requirements to reflect amendments  
10 made to this section by such Act.”.

Page 119, strike lines 12 to 13 and insert the fol-  
lowing new paragraph:

11           (1) the Board determines that a specified finan-  
12           cial company fails to meet prudential standards es-  
13           tablished by the Board; or

Page 1035, line 4, strike “Section” and insert “(a)  
IN GENERAL.—Section”.

Page 1035, strike lines 7 and 8 and insert the fol-  
lowing:

14           (A) by amending paragraph (1)(A) to read  
15           as follows:

16           “(A) IN GENERAL.—Each credit rating  
17           agency shall register as a nationally recognized  
18           statistical rating organization for the purposes

1 of this title (in this section referred to as the  
2 ‘applicant’), and shall file with the Commission  
3 an application for registration, in such form as  
4 the Commission shall require, by rule or regula-  
5 tion issued in accordance with subsection (n),  
6 and containing the information described in  
7 subparagraph (B).”.

Page 1035, line 10, strike “and”.

Page 1035, line 12, insert “and” after the semicolon  
and after such line insert the following:

8 (D) by adding at the end of paragraph (1)  
9 the following:

10 “(F) EXEMPTIONS.—The registration re-  
11 quirement in subparagraph (A) shall not apply  
12 to—

13 “(i) a credit rating agency if the cred-  
14 it rating agency—

15 “(I) does not engage in the provi-  
16 sion of credit ratings to issuers of se-  
17 curities for a fee; and

18 “(II) issues credit ratings only in  
19 any bona fide newspaper, news maga-  
20 zine, or business or financial publica-

1                   tion of general and regular circula-  
2                   tion; or  
3                   “(ii) such other persons as the Com-  
4                   mission may designate by rules and regula-  
5                   tions or order when in the public interest  
6                   and for the protection of investors.”.

Page 1067, after line 20, insert the following:

7           (b) CONFORMING AMENDMENT.—Section 3(a)(62) of  
8 the Securities Exchange Act of 1934 is amended by strik-  
9 ing subparagraph (A) and redesignating subparagraphs  
10 (B) and (C) as subparagraphs (A) and (B), respectively.

Page 731, after line 24, insert the following:

11           (4) FINANCIAL EDUCATION AND COUNSELING  
12 PROGRAM.—  
13           (A) IN GENERAL.—To the extent such vic-  
14 tims cannot be located or such payments are  
15 otherwise not practicable, 5 percent of the Vic-  
16 tims Relief Fund shall be transferred, up to  
17 \$10,000,000 on an annual basis, to the Sec-  
18 retary of the Treasury so that the Secretary  
19 may carry out the Financial Education and  
20 Counseling Grant Program established under  
21 section 1132 of the Housing and Economic Re-  
22 covery Act of 2008 (12 U.S.C. 1701).

1 (B) MEMORANDUM OF UNDERSTANDING.—

2 Not later than 12 months after the date of en-  
3 actment of this subtitle, the Director shall enter  
4 into a memorandum of understanding with the  
5 Secretary of the Treasury to coordinate the re-  
6 lease of Civil Penalty Fund amounts under sub-  
7 paragraph (A).

8 (C) ASSISTANCE FOR INDIVIDUALS AT FI-  
9 NANCIAL RISK.—Section 1132 of the Housing  
10 and Economic Recovery Act of 2008 (12 U.S.C.  
11 1701) is amended—

12 (i) in subsection (a), by striking “pro-  
13 spective homebuyers” each place that term  
14 appears and inserting “individuals at fi-  
15 nancial risk”;

16 (ii) in subsection (b)—

17 (I) in paragraph (1), by striking  
18 “prospective homebuyers” and insert-  
19 ing “individuals at financial risk”;  
20 and

21 (II) by adding at the end the fol-  
22 lowing:

23 “(3) DETERMINATION OF FINANCIAL RISK.—  
24 For purposes of this section, the Director of the  
25 Consumer Financial Protection Agency shall estab-

1       lish the criteria used to determine whether an indi-  
2       vidual is at financial risk, and the Secretary shall  
3       use such criteria when selecting organizations under  
4       paragraph (2).”; and

5                       (iii) in subsection (c)(1)—

6                       (I) in subparagraph (A), by strik-  
7                       ing “or”;

8                       (II) in subparagraph (B), by  
9                       striking the period and inserting “;  
10                      or”; and

11                      (III) by adding at the end the  
12                      following:

13                      “(C) a nonprofit corporation that—

14                      “(i) is exempt from taxation under  
15                      section 501(c)(3) of the Internal Revenue  
16                      Code of 1986; and

17                      “(ii) specializes or has expertise in  
18                      working with individuals at financial  
19                      risk.”.

Page 1278, after line 17 insert the following:

20                      (7) Geographic disparities in access to and cost  
21                      of insurance products.

Page 35, line 25, insert “compelled to waive and  
shall not be” after “be”.

Page 26, line 22, strike “DEPARTMENT OF THE TREASURY” and insert “VOTING MEMBERS OF THE COUNCIL”.

Page 26, line 23, insert “and all other voting members of the Council may, with the approval of the Council,” after “shall”.

Page 27, line 10, strike “Secretary of the Treasury” and insert “Council”.

Page 33, after line 10, insert the following new section (and conform the table of contents accordingly):

**1 SEC. 1100. FEDERAL RESERVE BOARD AUTHORITY THAT OF**  
**2 AGENT ACTING ON BEHALF OF COUNCIL.**

**3** For purposes of this subtitle, the Board of Governors  
**4** of the Federal Reserve System shall act in the capacity  
**5** of agent for the Council, acting on behalf of the Council.

Page 1028, after line 10, insert the following new paragraph (and redesignate the subsequent paragraph):

**6** “(8) APPLICABLE PRIVILEGES NOT WAIVED.—  
**7** An investment advisor, and investment advisor to a  
**8** private fund, a private fund, foreign private fund ad-  
**9** visor, a foreign private fund, an advisor to a venture  
**10** capital fund, a venture capital fund, or other person  
**11** shall not be compelled to waive and shall not be

1 deemed to have waived any privilege otherwise appli-  
2 cable to any data or information by transferring the  
3 data or information to, or permitting that data or  
4 information to be used by—

5 “(A) the Financial Services Oversight  
6 Council; (B)

7 “(B) the Commission;

8 “(C) any Federal financial regulator or  
9 State financial regulator, in any capacity; or

10 “(D) any other agency of the Federal Gov-  
11 ernment (as defined in section 6 of title 18,  
12 United States Code).”.

Page 701, after line 9, insert the following:

13 (D) CONSUMER COMPLAINT WEBSITE.—  
14 The Director shall establish an Internet website  
15 for consumer complaints and inquiries con-  
16 cerning institutions regulated by the Agency.  
17 The website shall be interoperable with the  
18 database established under subparagraph (A).

Page 825, after line 12, insert the following:

19 **SEC. 4313. OVERDRAFT PROTECTION NOTICE REQUIRE-**  
20 **MENTS.**

21 Not later than 180 days after the date of the enact-  
22 ment of this Act, the Director shall promulgate a new rule

1 that requires banks to prominently place in each consumer  
2 branch office information regarding the fees and charges  
3 associated with enrollment in the bank's overdraft protec-  
4 tion program.

Page 1230, line 15, strike "\$500,000" and insert  
"1,000,000".

Page 1230, line 18, strike "\$100,000" and insert  
"250,000".

Page 1236, line 13, strike "\$8,000,000" and insert  
"16,000,000".

Page 93, line 8, insert "pursuant to subsection  
(e)(5)" after "action".

Page 93, beginning line 12, insert the following new  
subsection:

5 (i) RULE OF CONSTRUCTION.—Nothing in subsection  
6 (h) shall be construed as limiting the authority of a Fed-  
7 eral financial regulatory agency to take action with respect  
8 to a financial company subject to the jurisdiction of such  
9 agency pursuant to applicable law other than this section.

Page 22, after line 12, insert the following new sub-  
paragraph:

1           (C) A State securities commissioner (or an  
2           officer performing like functions), to be des-  
3           ignated by a selection process determined by  
4           such State securities commissioners, provided  
5           that the term for which a State securities com-  
6           missioner may serve shall last no more than the  
7           2-year period beginning on the date that the  
8           commissioner is selected.

Page 253, after line 21, insert the following new  
paragraph:

9           (3) Section 4(j) of the Bank Holding Company  
10          Act of 1956 is amended by inserting after paragraph  
11          (4) the following new paragraph (and redesignating  
12          succeeding paragraphs accordingly):

13               “(5) FINANCIAL STABILITY.—

14               “(A) IN GENERAL.—In every case, the  
15               Board shall take into consideration the extent  
16               to which the proposed acquisition, merger, or  
17               consolidation may pose risk to the stability of  
18               the United States financial system or the econ-  
19               omy of the United States, including the result-  
20               ing scope, nature, size, scale, concentration, or  
21               interconnectedness of activities that are finan-  
22               cial in nature.

1           “(B) STANDARDS FOR APPROVAL.—The  
2           Board may, in the sole discretion of the Board,  
3           disapprove any acquisition, merger, or consoli-  
4           dation of, or by, a financial holding company  
5           subject to stricter standards if the Board deter-  
6           mines that the resulting concentration of liabil-  
7           ities on a consolidated basis is likely to pose a  
8           great threat to financial stability during times  
9           of severe economic distress.”.

Page 255, after line 2, insert the following new section:

10 **SEC. 1316. MUTUAL NATIONAL BANKS AND FEDERAL MU-**  
11 **TUAL BANK HOLDING COMPANIES AUTHOR-**  
12 **IZED.**

13           (a) IN GENERAL.—Chapter one of title LXII of the  
14 Revised Statutes of the United States (12 U.S.C. 21 et  
15 seq.) is amended by inserting after section 5133 the fol-  
16 lowing new sections:

17 **“SEC. 5133A. MUTUAL NATIONAL BANKS.**

18           “(a) IN GENERAL.—Notwithstanding the section des-  
19 ignated the ‘Third’ of section 5134, in order to provide  
20 mutual institutions for the deposit of funds, the extension  
21 of credit, and provision of other services, the Comptroller  
22 of the Currency may charter mutual national banks either  
23 de novo or through a conversion of any insured depository

1 institution or any State mutual bank or credit union, sub-  
2 ject to regulations prescribed by the Comptroller of the  
3 Currency in accordance with this section. The powers con-  
4 ferred by this section are intended to provide for the cre-  
5 ation and maintenance of mutual national banks as bodies  
6 corporate existing in perpetuity for the benefit of their de-  
7 positors and the communities in which they operate.

8 “(b) REGULATIONS.—

9 “(1) REGULATIONS OF THE COMPTROLLER.—

10 The Comptroller of the Currency is authorized to  
11 prescribe appropriate regulations for the organiza-  
12 tion, incorporation, examination, operation, and reg-  
13 ulation of mutual national banks. Except to the ex-  
14 tent that such existing regulations conflict with sec-  
15 tions 5133A and 5133B, mutual national banks  
16 shall be subject to the regulations of the Director of  
17 the Office of Thrift Supervision governing corporate  
18 organization, governance, and conversion of mutual  
19 institutions, as in effect on the date of the enact-  
20 ment of the Wall Street Reform and Consumer Pro-  
21 tection Act of 2009, including parts 543, 544, 546,  
22 563b, and 563c of chapter V of title 12, Code of  
23 Federal Regulations (as in effect on that date), for  
24 up to 3 years beginning on the date of the enact-

1       ment of the Wall Street Reform and Consumer Pro-  
2       tection Act of 2009.

3               “(2) APPLICABILITY OF CAPITAL STOCK RE-  
4       QUIREMENTS.—The Comptroller of the Currency  
5       shall prescribe regulations regarding the manner in  
6       which requirements of this title with respect to cap-  
7       ital stock, and limitations imposed on national banks  
8       under this title based on capital stock, shall apply to  
9       mutual national banks.

10       “(c) CONVERSIONS.—

11               “(1) CONVERSION OF A MUTUAL DEPOSITORY  
12       TO A MUTUAL NATIONAL BANK.—Subject to such  
13       regulations as the Comptroller of the Currency may  
14       prescribe for the protection of depositors’ rights and  
15       for any other purpose the Comptroller of the Cur-  
16       rency may consider appropriate, any mutual deposi-  
17       tory may convert to a mutual national bank by filing  
18       with the Comptroller of the Currency a notice of its  
19       election to convert on a specified date that is not  
20       earlier than 30 days after the date on which the no-  
21       tice is filed, and the mutual depository shall be con-  
22       verted to a mutual national bank charter on the date  
23       specified in the notice.

24               “(2) CONVERSION TO STOCK NATIONAL  
25       BANK.—Subject to such regulations as the Comp-

1 troller of the Currency may prescribe for the protec-  
2 tion of depositors' rights and for any other purpose  
3 the Comptroller of the Currency may consider ap-  
4 propriate, any national bank that is organized in the  
5 mutual form under subsection (a) may reorganize as  
6 a stock national bank.

7 “(3) CONVERSION TO STATE BANKS.—Any na-  
8 tional mutual bank may convert to a State bank  
9 charter in accordance with regulations prescribed by  
10 the Comptroller of the Currency and applicable  
11 State law.

12 “(d) TERMINATING MUTUALITY.—If a mutual na-  
13 tional bank elects to terminate mutuality, it must do so  
14 by—

15 “(1) liquidating; or

16 “(2) converting to a national banking associa-  
17 tion operating in stock form.

18 “(e) STATUS AND RIGHTS OF MEMBERS.—

19 “(1) In general, the status of a member is pri-  
20 marily that of a depositor and secondarily that of a  
21 holder of a contingent right to participate in the eq-  
22 uity of a mutual national bank upon a liquidation or  
23 conversion.

24 “(2) Each member of a mutual national bank  
25 shall have the following rights:

1           “(A) Such rights as may be agreed upon,  
2           by contract, between the member and the mu-  
3           tual national bank.

4           “(B) The right to vote for members of the  
5           board of directors of the mutual national bank.

6           “(C) The right to attend any meeting of  
7           members properly called by the board of direc-  
8           tors of a mutual national bank.

9           “(D) In the event the board of directors,  
10          in its sole discretion, determines a conversion of  
11          a mutual national bank to a national banking  
12          association operating in stock form is in the  
13          best interests of the community in which the  
14          bank operates and the members approve the  
15          conversion through a special proxy, then the  
16          members as of a record date set by the board  
17          of directors shall have the first right to sub-  
18          scribe for and purchase stock in the converted  
19          bank.

20          “(E) In the event the board of directors, in  
21          its sole discretion, determines a liquidation of  
22          the mutual national bank is in the best inter-  
23          ests of the community in which the bank oper-  
24          ates and the members approve the liquidation,  
25          or if for any other reason the bank is liquidated

1 by operation of law, then the members as of the  
2 date of liquidation shall have the right to have  
3 credited to their accounts, on a pro rata basis,  
4 any residual assets left after the liquidation of  
5 the mutual national bank.

6 “(3) In the consideration of all questions re-  
7 quiring action by the members of a national mutual  
8 bank, the bank may provide in its charter that each  
9 member shall be permitted (i) one vote per member,  
10 or (ii) to cast one vote for each \$100, or fraction  
11 thereof, of the withdrawal value of the member’s ac-  
12 count, but not more than 1,000 votes per member.

13 “(f) PROXIES.—

14 “(1) A member may give, in writing or elec-  
15 tronically, a perpetual proxy to a committee of the  
16 board of directors of a mutual depository, provided  
17 that the member may revoke such a proxy in writing  
18 or electronically, with such revocation to take effect  
19 after six business days.

20 “(2) Such proxies may be used to vote on any  
21 issue requiring approval of the members, including  
22 the conversion of a mutual depository into a mutual  
23 national bank and the reorganization of a mutual  
24 national bank into a Federal mutual bank holding  
25 company, except that, without a prior finding by the

1 regulator of the mutual national bank that such ac-  
2 tion is needed to avoid loss to the Federal Deposit  
3 Insurance Corporation's deposit insurance fund or to  
4 protect the stability of the United States financial  
5 system, such proxies may not be used to vote in  
6 favor of—

7 “(A) terminating mutuality for a mutual  
8 national bank or a Federal mutual bank holding  
9 company;

10 “(B) permitting the modification of a Fed-  
11 eral mutual bank holding company; or

12 “(C) issuing mutual capital certificates  
13 (except when used to found a mutual national  
14 bank or a Federal mutual bank holding com-  
15 pany de novo).

16 “(3) Proxies given by a member, in writing or  
17 electronically, to management of, or to a committee  
18 of the board of directors of, a mutual depository  
19 shall not be deemed to have been revoked solely be-  
20 cause of, and shall continue to exist following, a con-  
21 version to a mutual national bank and any concur-  
22 rent or subsequent reorganization to a Federal mu-  
23 tual bank holding company.

24 “(g) DEFINITIONS.—For purposes of this section, the  
25 following definitions shall apply:

1           “(1) INSURED DEPOSITORY INSTITUTION.—The  
2 term ‘insured depository institution’ has the same  
3 meaning as in section 3 of the Federal Deposit In-  
4 surance Act.

5           “(2) MUTUAL NATIONAL BANK.—The term  
6 ‘mutual national bank’ means a national banking as-  
7 sociation that operates in mutual form and is char-  
8 tered by the Comptroller of the Currency under this  
9 section.

10           “(3) MUTUAL DEPOSITORY.—The term ‘mutual  
11 depository’ means a depository institution that is or-  
12 ganized in non-stock form, including a Federal non-  
13 stock depository and any form of non-stock deposit-  
14 tory provided for under State law, the deposits of  
15 which are insured by an instrumentality of the Fed-  
16 eral Government.

17           “(4) MUTUALITY.—The term ‘mutuality’ means  
18 the quality of being an insured depository institution  
19 organized under a Federal or State law providing for  
20 the organization of non-stock depository institutions,  
21 or a holding company organized under a Federal or  
22 State law providing for the organization of non-stock  
23 entities that control one or more depository institu-  
24 tions.

1           “(5) MEMBER.—The term ‘member’ means  
2 each tax-liable depositor in a mutual depository’s  
3 savings, demand, or other authorized depository ac-  
4 counts and each tax-liable depositor in such an ac-  
5 count in a depository subsidiary of a Federal mutual  
6 bank holding company.

7           “(6) TAX LIABLE DEPOSITOR.—The term ‘tax  
8 liable depositor’ means the single person responsible  
9 for paying any Federal taxes due on any interest  
10 paid on any deposits held within any savings, de-  
11 mand, or other authorized depository account or ac-  
12 counts with any mutual depository.

13           “(7) MEMBERSHIP RIGHTS.—The term ‘mem-  
14 bership rights’ means the rights of each member  
15 under this section.

16           “(h) CONFORMING REFERENCES.—Unless otherwise  
17 provided by the Comptroller of the Currency—

18           “(1) any reference in any Federal law to a na-  
19 tional bank operating in stock form, including a ref-  
20 erence to the term ‘national banking association’,  
21 ‘member bank’, ‘national bank’, ‘national associa-  
22 tion’, ‘bank’, ‘insured bank’, ‘insured depository in-  
23 stitution’, or ‘depository institution’, shall be deemed  
24 to refer also to a mutual national bank;

1           “(2) any reference in any Federal law to the  
2 term ‘board of directors’, ‘director’, or ‘directors’ of  
3 a national bank operating in stock form shall be  
4 deemed to refer also to the board of a mutual na-  
5 tional bank; and

6           “(3) any terms in Federal law that may apply  
7 only to a national bank operating in stock form, in-  
8 cluding the terms ‘stock’, ‘shares’, ‘shares of stock’,  
9 ‘capital stock’, ‘common stock’, ‘stock certificate’,  
10 ‘stock certificates’, ‘certificates representing shares  
11 of stock’, ‘stock dividend’, ‘transferable stock’, ‘each  
12 class of stock’, ‘cumulate such shares’, ‘par value’,  
13 ‘preferred stock’ shall not apply to a mutual national  
14 bank, unless the Comptroller of the Currency deter-  
15 mines that the context requires otherwise.

16 **“SEC. 5133B. FEDERAL MUTUAL BANK HOLDING COMPA-**  
17 **NIES.**

18           “(a) REORGANIZATION OF MUTUAL NATIONAL BANK  
19 AS A HOLDING COMPANY.—

20           “(1) IN GENERAL.—Subject to approval under  
21 the Bank Holding Company Act of 1956, a mutual  
22 national bank may reorganize so as to become a  
23 Federal mutual bank holding company by submitting  
24 a reorganization plan to the appropriate bank hold-  
25 ing company regulator.

1           “(2) PLAN APPROVAL.—Upon the approval of  
2           the reorganization plan by the appropriate bank  
3           holding company regulator and the issuance of the  
4           appropriate charters—

5                   “(A) the substantial part of the mutual na-  
6                   tional bank’s assets and liabilities, including all  
7                   of the bank’s insured liabilities, shall be trans-  
8                   ferred to a national banking association, a ma-  
9                   jority of the shares of voting stock of which is  
10                  owned, directly or indirectly, by the mutual na-  
11                  tional bank that is to become a Federal mutual  
12                  bank holding company; and

13                   “(B) the mutual national bank shall be-  
14                  come a Federal mutual bank holding company.

15           “(b) DIRECTORS AND CERTAIN ACCOUNT HOLDERS’  
16 APPROVAL OF PLAN REQUIRED.—This subsection does  
17 not authorize a reorganization unless—

18                   “(1) a majority of the mutual national bank’s  
19                  board of directors has approved the plan providing  
20                  for such reorganization; and

21                   “(2) a majority of members has approved the  
22                  plan at a meeting held at the call of the directors  
23                  under the procedures prescribed by the bank’s char-  
24                  ter and bylaws.

1           “(c) OWNERSHIP OF DEPOSITORY SUBSIDIARIES.—  
2 To avoid terminating mutuality, a Federal mutual bank  
3 holding company must own, directly or indirectly, a major-  
4 ity of the shares of voting stock of each of its depository  
5 subsidiaries.

6           “(d) NO TERMINATION OF MUTUALITY.—Neither a  
7 reorganization of a mutual depository nor a modification  
8 of a Federal mutual bank holding company shall cause a  
9 termination of mutuality.

10          “(e) RETENTION OF CAPITAL.—In connection with a  
11 transaction described in subsection (a), a mutual national  
12 bank may, subject to the approval of the appropriate bank  
13 holding company regulator, retain capital at the holding  
14 company level to the extent that the capital retained at  
15 the holding company level exceeds the amount of capital  
16 required for the national banking association chartered as  
17 a part of a transaction described in subsection (a) to meet  
18 all relevant capital standards established by the Comp-  
19 troller of the Currency for national banking associations.

20          “(f) TERMINATING MUTUALITY.—If a Federal mu-  
21 tual bank holding company elects to terminate mutuality,  
22 it must do so by either liquidating or converting to a bank  
23 holding company operating in stock form.

24          “(g) MEMBERSHIP RIGHTS.—Holders of savings, de-  
25 mand, or other authorized depository accounts in a depositi-

1 tory subsidiary of a Federal mutual bank holding company  
2 shall have the same membership rights with respect to the  
3 Federal mutual bank holding company as those holders  
4 would have had if the depository subsidiary of the Federal  
5 mutual bank holding company had been a mutual national  
6 bank.

7 “(h) REGULATION.—A Federal mutual bank holding  
8 company shall be—

9 “(1) chartered by the appropriate bank holding  
10 company regulator and shall be subject to such regu-  
11 lations as the appropriate bank holding company  
12 regulator shall prescribe; and

13 “(2) regulated under the Bank Holding Com-  
14 pany Act of 1956 on the same terms and subject to  
15 the same limitations as any other company that con-  
16 trols a bank.

17 “(i) CAPITAL IMPROVEMENT.—

18 “(1) PLEDGE OF STOCK OF NATIONAL BANK  
19 SUBSIDIARY.—This section shall not prohibit a Fed-  
20 eral mutual bank holding company from pledging all  
21 or a portion of the stock of the national banking as-  
22 sociation chartered as part of a transaction de-  
23 scribed in subsection (a) to raise capital for such na-  
24 tional banking association.

1           “(2) ISSUANCE OF NONVOTING SHARES.—This  
2 section shall not prohibit a national banking associa-  
3 tion chartered as part of a transaction described in  
4 subsection (a) from issuing any nonvoting shares or  
5 less than 50 percent of the voting shares of such  
6 bank to any person other than the Federal mutual  
7 bank holding company.

8           “(j) INSOLVENCY AND LIQUIDATION.—

9           “(1) IN GENERAL.—Notwithstanding any other  
10 provision of law, the appropriate bank holding com-  
11 pany regulator may file a petition under chapter 7  
12 of title 11, United States Code, with respect to a  
13 Federal mutual bank holding company upon—

14                   “(A) the default of any national bank—

15                           “(i) the stock of which is owned by  
16 the Federal mutual bank holding company;  
17 and

18                           “(ii) that was chartered in a trans-  
19 action described in subsection (a); or

20                   “(B) a foreclosure on a pledge by the Fed-  
21 eral mutual bank holding company described in  
22 subsection (i)(1).

23           “(2) DISTRIBUTION OF NET PROCEEDS.—Ex-  
24 cept as provided in paragraph (3), the net proceeds  
25 of any liquidation of any Federal mutual bank hold-

1       ing company under paragraph (1) shall be trans-  
2       ferred to persons who hold membership interests in  
3       such Federal mutual bank holding company.

4               “(3) RECOVERY BY FDIC.—If the Federal De-  
5       posit Insurance Corporation incurs a loss as a result  
6       of the default of any insured bank subsidiary of a  
7       Federal mutual bank holding company that is liq-  
8       uidated under paragraph (1), the Federal Deposit  
9       Insurance Corporation shall succeed to the interests  
10      of the depositors of the bank as members in the  
11      Federal mutual bank holding company, to the extent  
12      of the Federal Deposit Insurance Corporation’s loss.

13      “(k) DEFINITIONS.—

14              “(1) FEDERAL MUTUAL BANK HOLDING COM-  
15      PANY.—The term ‘Federal mutual bank holding  
16      company’ means a holding company that is orga-  
17      nized in mutual form and owns, directly or indi-  
18      rectly, a majority of the shares of voting stock of  
19      one or more depository subsidiaries of a Federal mu-  
20      tual bank holding company.

21              “(2) DEPOSITORY SUBSIDIARY OF A FEDERAL  
22      MUTUAL BANK HOLDING COMPANY.—The term ‘de-  
23      pository subsidiary of a Federal mutual bank hold-  
24      ing company’ means a depository institution orga-  
25      nized in stock form that is insured by the Federal

1 Deposit Insurance Corporation, the majority of the  
2 shares of voting stock of which are owned by the  
3 Federal mutual bank holding company or its wholly  
4 owned subsidiaries and none of the shares of stock  
5 of which are pledged or otherwise subjected to lien  
6 except as permitted in subsection (i).

7 “(3) REORGANIZATION OF A MUTUAL DEPOSI-  
8 TORY.—The term ‘reorganization of a mutual deposi-  
9 tory’ means the conversion of a mutual depository  
10 into a depository subsidiary of a Federal mutual  
11 bank holding company.

12 “(4) MODIFICATION OF A FEDERAL MUTUAL  
13 BANK HOLDING COMPANY.—The term ‘modification  
14 of a Federal mutual bank holding company’ means  
15 either (A) the sale of shares of common or preferred  
16 stock in a depository subsidiary of a Federal mutual  
17 bank holding company to any party other than the  
18 subsidiary’s parent Federal mutual bank holding  
19 company or a wholly owned subsidiary of that par-  
20 ent, or (B) the voluntary grant of a lien on shares  
21 of common or preferred stock in a depository sub-  
22 sidiary of a Federal mutual bank holding company.

23 “(5) DEFAULT.—With respect to a national  
24 bank, the term ‘default’ means an adjudication or  
25 other official determination by any court of com-

1       petent jurisdiction, the Comptroller of the Currency,  
2       or other public authority pursuant to which a con-  
3       servator, receiver, or other legal custodian is ap-  
4       pointed for the national bank.

5       “(1) CONFORMING REFERENCES.—Unless otherwise  
6       provided by the appropriate bank holding company regu-  
7       lator—

8               “(1) any reference in any Federal law to a bank  
9       holding company operating in stock form shall be  
10      deemed to refer also to a Federal mutual bank hold-  
11      ing company;

12              “(2) any reference in any Federal law to the  
13      term ‘board of directors’, ‘director’, or ‘directors’ of  
14      a national bank operating in stock form shall be  
15      deemed to refer also to the board of a Federal mu-  
16      tual bank holding company; and

17              “(3) any terms in Federal law that may apply  
18      only to a national bank operating in stock form, in-  
19      cluding the terms ‘stock’, ‘shares’, ‘shares of stock’,  
20      ‘capital stock’, ‘common stock’, ‘stock certificate’,  
21      ‘stock certificates’, ‘certificates representing shares  
22      of stock’, ‘stock dividend’, ‘transferable stock’, ‘each  
23      class of stock’, ‘cumulate such shares’, ‘par value’,  
24      ‘preferred stock’ shall not apply to a Federal mutual  
25      bank holding company, unless the appropriate bank

1 holding company regulator determines that the con-  
2 text requires otherwise.”.

3 (b) LIMITATION ON FEDERAL REGULATION OF  
4 STATE BANKS.—Except as otherwise provided in Federal  
5 law, the Comptroller of the Currency, the Board of Gov-  
6 ernors of the Federal Reserve System, and the Federal  
7 Deposit Insurance Corporation may not adopt or enforce  
8 any regulation that contravenes the corporate governance  
9 rules prescribed by State law or regulation for State banks  
10 unless the Director, Board, or Corporation finds that the  
11 Federal regulation is necessary to assure the safety and  
12 soundness of the State banks.

13 (c) TECHNICAL AMENDMENT.—The table of sections  
14 for chapter one of title LXII of the Revised Statutes of  
15 the United States (12 U.S.C. 21 et seq) is amended by  
16 inserting after the item relating to section 5133 the fol-  
17 lowing new items:

“5133A. Mutual national banks

“5133B. Federal mutual bank holding companies”

18 (d) APPROPRIATE FEDERAL BANKING AGENCY FOR  
19 FEDERAL MUTUAL BANK HOLDING COMPANIES.—Sec-  
20 tion 3(q)(1) of the Federal Deposit Insurance Act (12  
21 U.S.C. 1813(q)(2)) is amended by inserting after subpara-  
22 graph (F) the following new subparagraph:

23 “(G) supervisory or regulatory proceedings  
24 arising from the authority given to the appro-

1           priate bank holding company regulator under  
2           section 5133B of the Revised Statutes of the  
3           United States.”.

4           (e) MUTUAL HOLDING COMPANY CONVERSION.—

5           (1) IN GENERAL.—Any mutual holding com-  
6           pany, including any form of mutual depository hold-  
7           ing company provided for under State law, may con-  
8           vert to a Federal mutual bank holding company by  
9           filing with the appropriate bank holding company  
10          regulator a notice of its election to convert on a  
11          specified date that is not earlier than 30 days after  
12          the date on which the notice is filed, and the mutual  
13          holding company shall be converted to a Federal mu-  
14          tual holding company charter on the date specified  
15          in the notice.

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

18                (A) FEDERAL MUTUAL BANK HOLDING  
19                COMPANY.—The term “Federal mutual bank  
20                holding company” has the same meaning as in  
21                section 5133B of the Revised Statutes of the  
22                United States (as added by this section); and

23                (B) MUTUAL HOLDING COMPANY.—The  
24                term “mutual holding company” has the same  
25                meaning as in section 10(o)(10)(A) of the

1 Home Owners Loan Act as in effect on the day  
2 before the date of enactment of this Act.

3 (f) **EFFECTIVE DATE.**—This section shall take effect  
4 on the date of enactment of this Act.

Page 255, after line 2, insert the following new section (and conform the table of contents accordingly):

5 **SEC. 1316. NATIONWIDE DEPOSIT CAP FOR INTERSTATE AC-**  
6 **QUISITIONS.**

7 (a) **AMENDMENTS TO THE BANK HOLDING COMPANY**  
8 **ACT OF 1956.**—

9 (1) **CONCENTRATION LIMIT FOR BANK HOLDING**  
10 **COMPANIES.**—Section 3(d)(2)(A) of the Bank Hold-  
11 ing Company Act (12 U.S.C. 1842(d)(2)(A)) is  
12 amended by striking “paragraph (1)(A)” and in-  
13 serting “subsection (a) of this section”.

14 (2) **REMOVAL OF NONBANK SAVINGS ASSOCIA-**  
15 **TION PROVISION IN LIGHT OF BEING DEFINED AS A**  
16 **BANK.**—Section 4 of the Bank Holding Company  
17 Act is amended by striking subsection (i) and insert  
18 the following new subsection:

19 “(i) [Repealed.]”.

20 (b) **AMENDMENTS TO THE FEDERAL DEPOSIT IN-**  
21 **SURANCE ACT.**—

1           (1) IN GENERAL.—Section 18(e) of the Federal  
2     Deposit Insurance Act (12 U.S.C. I 828(c)) is  
3     amended—

4           (A) by redesignating paragraph (12) as  
5     paragraph (13); and

6           (B) by inserting after paragraph (11), the  
7     following new paragraph:

8           “(12) NATIONWIDE DEPOSIT CAP.—The respon-  
9     sible agency may not approve an application for an  
10    interstate merger transaction if the resulting insured  
11    depository institution (including all insured depository  
12    institutions which are affiliates of the resulting  
13    insured depository institution), upon consummation  
14    of the transaction, would control more than 10 per-  
15    cent of, the total amount of deposits of insured de-  
16    pository institutions in the United States.”.

17          (2) PARALLEL REQUIREMENT.—Section  
18    44(b)(2) of the Federal Deposit Insurance Act (12  
19    U.S.C. 1831u(b)(2)(A) is amended to read as fol-  
20    lows:

21           “(A) NATIONWIDE CONCENTRATION LIM-  
22    ITS.—The responsible agency may not approve  
23    an application for an interstate merger trans-  
24    action involving two or more insured depository  
25    institutions if the resulting insured depository

1 institution (including all insured depository in-  
2 stitutions which are affiliates of such institu-  
3 tion), upon consummation of the transaction  
4 would control more than 10 percent of the total  
5 amount of deposits of insured depository insti-  
6 tutions in the United States.”.

7 (c) AMENDMENTS TO THE HOME OWNERS’ LOAN  
8 ACT.—Section 10(e)(2) of the Home Owners’ Loan Act  
9 (12 U.S.C. 467a(e)(2)) is amended—

10 (1) by striking “or” at the end of subparagraph  
11 (C); and

12 (2) by striking the period at the end of sub-  
13 paragraph (D), the following new subparagraph:

14 “(E) in the case of an application involving  
15 an interstate acquisition, if the applicant (in-  
16 cluding all insured depository institutions which  
17 are affiliates of the applicant) controls, or upon  
18 consummation of the acquisition for which such  
19 application is filed would control, more than 10  
20 percent of the total amount of deposits of in-  
21 sured depository institutions in the United  
22 States.”.

Page 763, beginning online 11, strike “authority to  
exercise” and all that follows through “this title” and in-  
sert “rulemaking, supervisory, enforcement or other au-

thority, including the authority to order assessments, under this title”.

Page 436, after line 11, insert the following new section:

1 **SEC. 1615. TREASURY STUDY.**

2 (a) **STUDY REQUIRED.**—The Secretary shall carry  
3 out a study analyzing how the resolution authority pro-  
4 vided under this subtitle should be funded. Such study  
5 shall consider the following factors:

6 (1) The consequences of any assessments on the  
7 overall recovery of the economy of the United States.

8 (2) Any immediate or continuing consequences  
9 of assessments on other aspects of the economy of  
10 the United States, including job creation, public and  
11 private investments, small business loans, and gen-  
12 eral credit availability.

13 (3) The consequences of any assessments on in-  
14 dividual sectors of the financial services industry.

15 (4) The consequences of any assessments on the  
16 financial integrity on individual firms within each  
17 sector of the financial services industry.

18 (5) The appropriateness and effect of assess-  
19 ments on firms that are subject to separate assess-  
20 ments under existing State or Federal depositor, pol-  
21 icyholder, or investor protection mechanisms and the

1 consequences of any such assessments on these  
2 mechanisms themselves.

3 (6) The implications of assessments on all rel-  
4 evant stakeholders, including taxpayers, depositors,  
5 insurance policyholders, investors, counterparties,  
6 and creditors.

7 (7) Evaluation of the appropriate assessment  
8 base, including but not limited to factors such as as-  
9 sets and liabilities, assets under management, policy-  
10 holder reserves, other reserves, statutory and regu-  
11 latory capital requirements, trustee assets, and de-  
12 posits and inflationary factors.

13 (b) REPORT.—Not later than the end of the 6-month  
14 period beginning on the date of the enactment of this sub-  
15 title, the Secretary shall issue a report to the Congress  
16 containing all determinations and conclusions made by the  
17 Secretary in carrying out the study required under sub-  
18 section (a).

Page 894, after line 4, add at the end of section  
4601(a)(1) the following new subparagraph:

19 (C) RETENTION OF CONSUMER ADVISORY  
20 COUNCIL.—

21 (i) RETENTION AND CONTINU-  
22 ATION.—Notwithstanding the transfer of  
23 functions under subparagraph (A), the

1 Consumer Advisory Council established by  
2 the Board of Governors pursuant to sec-  
3 tion 703(b) of Public Law 90-321 (15  
4 U.S.C. 1691b(b)) shall continue as an enti-  
5 ty within the Federal Reserve System.

6 (ii) ADDITIONAL FUNCTIONS.—In ad-  
7 dition to the functions performed by the  
8 Consumer Advisory Council as of the des-  
9 ignated transfer date, the Consumer Advi-  
10 sory Council shall—

11 (I) submit to the Director (and  
12 make available to the public) an an-  
13 nual set of recommendations for con-  
14 sumer protection regulations and meet  
15 with the Director to discuss the an-  
16 nual recommendations;

17 (II) meet with the Board of Gov-  
18 ernors of the Federal Reserve System  
19 at least once a year and provide oral  
20 or written representations concerning  
21 matters within the jurisdiction of the  
22 Board; and

23 (III) call for information and  
24 make recommendations in regard to  
25 consumer protection regulations.

1 (iii) RESPONSE TO RECOMMENDA-  
2 TIONS.—When the Chair of the Federal  
3 Reserve testifies before Congress, the  
4 Chair shall also testify about the rec-  
5 ommendations of the Consumer Advisory  
6 Council under clause (ii)(II) and its rec-  
7 ommendations for consumer protection  
8 regulations.

Page 216, line 21, strike “or”.

Page 216, after line 21, insert the following new  
subparagraphs:

9 “(II) a change of control of an  
10 industrial bank, its section 6 holding  
11 company, or any entity that directly  
12 or indirectly controls the industrial  
13 bank, in a transaction other than a  
14 merger described in subclause (I), by  
15 an acquiring company that is pre-  
16 dominately engaged in activities not  
17 permissible for a financial holding  
18 company pursuant to subsection (k),  
19 if—

20 “(aa) the transaction is ap-  
21 proved by the appropriate Fed-

1 eral banking agency and the  
2 Board; and

3 “(bb) the industrial bank  
4 does not thereafter establish a  
5 domestic branch as defined in  
6 section 3(o) of the Federal De-  
7 posit Insurance Act (12 U.S.C.  
8 1813(o)),

9 “(III) an inadvertent acquisition  
10 of control, as determined by the  
11 Board, if such inadvertent acquisition  
12 of control is reversed or rectified with-  
13 in 180 days of its discovery, or”.

Page 216, line 22, strike “(II)” and insert “(IV)”.

Page 669, line 15, insert “(b),” after “Subsections”.

Page 669, line 20, insert “except for section 505 as  
it applies to section 501(b)” before the period.

Page 670, after line 9, insert the following:

14 (N) Section 626 of the Omnibus Appro-  
15 priations Act, 2009 (Public Law 111–8).

16 (O) The Unlawful Internet Gambling En-  
17 forcement Act of 2006.

Page 701, line 1, insert “the Federal Trade Commission,” after “banking agencies,”.

Page 714, line 13, strike “received and collected” and insert “identified”.

Page 743, line 3, insert “a provision of” after “reports under”.

Page 743, line 4, insert “a provision of” after “title,”.

Page 743, line 5, insert “any provision of” after “law,”.

Page 743, line 8, insert “under that provision of law” after “exclusive authority”.

Page 897, beginning on line 21, strike “BACKSTOP”.

Page 898, line 2, strike “4202(e)(3)” and insert “paragraph (2) or (3) of section 4202(e)”.

Page 898, line 8, insert “transferred under subsection (a)” after “functions”.

Page 954, line 2, insert “and shall not apply to the term ‘Board’ when used in reference to the Federal Deposit Insurance Corporation or the National Credit Union Administration” before the period.

Page 957, line 3, insert “(other than the Consumer Financial Protection Agency)” after “agency”.

Page 957, line 20, insert “(and except for any insertion of ‘Federal Trade Commission’ made by this subtitle)” after “subparagraph (B)”.

Page 958, line 2, strike “and 129(m) (as amended by paragraph (7))” and insert “129(m) (as amended by paragraph (7)), 140A, or 149 (as amended by paragraph (8)).”.

Page 959, after line 13, insert the following:

1           (8) SECTION 149.—Section 149(b) of the Truth  
2           in Lending Act (15 U.S.C. 1665d(b)) is amended by  
3           inserting “the Federal Trade Commission,” after “in  
4           consultation with”.

Page 960, beginning on line 1, strike “paragraph (7)(A)” and insert “ paragraphs (7)(B), (8)(A), (8)(C), and (8)(D) of this subsection (and except for any insertion of ‘Federal Trade Commission’ made by this subtitle)”.

Page 961, after line 21, insert the following:

5           (5) SECTION 609.—Section 609(d)(1) of the  
6           Fair Credit Reporting Act (15 U.S.C. 1681g(d)(1))

1 is amended by inserting “the Federal Trade Com-  
2 mission,” after “in consultation with”.

Page 961, line 22, strike “(5)” and insert “(6)”.

Page 961, line 22, strike “611(e)(2)” and insert  
“611(e)”.

Page 961, line 23, strike “15 U.S.C.1681i(e)(2)”  
and insert “15 U.S.C. 1681i(e)”.

Page 961, line 24, strike “amended to read as fol-  
lows:” and insert “amended—”, and after such line in-  
sert the following:

3 (A) by amending paragraph (2) to read as  
4 follows:

Page 962, line 5, strike the period following the  
quotation marks and insert “; and” and after such line  
insert the following:

5 (B) in the heading of paragraph (3) by in-  
6 serting “CONSUMER REPORTING” before  
7 “AGENCY”.

Page 962, strike lines 6 through 8 and insert the  
following:

1           (7) SECTION 615.—Section 615 of the Fair  
2           Credit Reporting Act (15 U.S.C. 1681m) is amend-  
3           ed—

4                   (A) in subsection (d)(2)(B), by inserting  
5                   “the Federal Trade Commission,” after “in  
6                   consultation with”;

7                   (B) in subsection (e)(1), by striking “and  
8                   the Commission” and inserting “the Federal  
9                   Trade Commission, the Securities and Ex-  
10                  change Commission, and the Commodities Fu-  
11                  tures Trading Commission”; and

12                  (C) by striking subparagraph (A) of sub-  
13                  section (h)(6) and inserting the following:

Page 962, line 11, strike “(7)” and insert “(8)”.

Page 963, line 2, insert “(other than the Consumer  
Financial Protection Agency)” after “agency”.

Page 968, after line 7 insert the following:

14                  (C) in paragraph (2) of subsection (c)—

15                           (i) by inserting “the Agency and” be-  
16                           fore “the Federal Trade Commission” in  
17                           the first sentence;

18                           (ii) by inserting “Agency and the Fed-  
19                           eral Trade” after “provide the”; and

- 1 (iii) by inserting “Agency,” before  
2 “Federal Trade Commission” in the sec-  
3 ond sentence;  
4 (D) in paragraph (4) of subsection (c)—  
5 (i) by inserting “Agency”, before “the  
6 Federal Trade Commission”; and  
7 (ii) inserting “Agency, the Federal  
8 Trade” after “complaint of the”;  
9 (E) in paragraph (2) of subsection (f), by  
10 inserting “the Federal Trade Commission”  
11 after “in consultation with”;

Page 968, line 8, strike “(C)” and insert “(F)”.

Page 968, beginning on line 12, strike “with respect to a covered person described in subsection (b)” and insert “, except that, with respect to sections 615(e) and 628 of this title, the agencies identified in subsections (a) and (b) of this section shall prescribe such regulations as necessary to carry out the purposes of such sections with respect to entities within their enforcement authority under such subsections”.

Page 968, line 14, strike “(D)” and insert “(G)”.

Page 973, strike lines 8 and 9 and insert the following:

- 12 (iii) in paragraph (1)(B)—

1 (I) by inserting “of Governors of  
2 the Federal Reserve System” after  
3 “Board”; and

4 (II) by striking “and” after the  
5 semicolon;

Page 974, line 2, insert “(other than the Consumer  
Financial Protection Agency)” after “agency”.

Page 978, line 4, insert “(other than the Consumer  
Financial Protection Agency)” after “agency”.

Page 982, line 21, strike “and” and after such line  
insert the following:

6 (iii) in paragraph (l)(B), by inserting  
7 “of Governors of the Federal Reserve Sys-  
8 tem” after “Board”;

Page 982, line 22, strike “(iii)” and insert “(iv)”.

Page 983, line 7, insert “(other than the Consumer  
Financial Protection Agency)” after “agency”.

Page 988, after line 7, insert the following (and re-  
designate succeeding subsections accordingly):

9 (a) SECTION 501.—Section 501(b) of the Gramm-  
10 Leach-Bliley Act (15 U.S.C. 6801(b)) is amended by in-

1 serting “(other than the Consumer Financial Protection  
2 Agency)” after “title”.

3 (b) SECTION 502.—Section 502(e)(5) of the Gramm-  
4 Leach-Bliley Act (15 U.S.C. 6802(e)(5)) is amended by  
5 inserting “the Consumer Financial Protection Agency,”  
6 after “(including)”.

7 (c) SECTION 503.—Section 503(e)(1) of the Gramm-  
8 Leach-Bliley Act (15 U.S.C. 6803(e)(1)) is amended—

9 (1) by inserting “Consumer Financial Protec-  
10 tion Agency in consultation with the other” before  
11 “agencies”; and

12 (2) by striking “jointly”.

Page 988, line 13, strike “and” at the end.

Page 988, line 15, strike the period and insert “;  
and” and after such line insert the following:

13 (3) by inserting “the Federal banking agencies,  
14 the National Credit Union Administration, the Sec-  
15 retary of the Treasury, the Federal Trade Commis-  
16 sion, and” before “representatives of State insurance  
17 authorities”.

Page 989, after line 15, insert the following:

18 (f) SECTION 507.—Subsection 507(b) of the Gramm-  
19 Leach-Bliley Act (15 U.S.C. 6807(b)) is amended by strik-  
20 ing “Federal Trade Commission” and inserting “Con-

1 sumer Financial Protection Agency, or in the case of a  
2 rule under section 501(b), the Federal Trade Commission  
3 or the Securities and Exchange Commission”.

Page 1019, line 8, strike “and” and after such line  
insert the following:

4 (2) by inserting a comma after “under this  
5 Act”;

6 (3) by inserting a comma after “subsection  
7 (a)(1)”;

Page 1019, line 9, strike “(2)” and insert “(4)”.

Page 1019, line 15, insert “partnership, or corpora-  
tion” after “person,”.

Page 825, after line 12, insert the following:

8 **SEC. 4313. REVIEW, REPORT, AND PROGRAM WITH RE-**  
9 **SPECT TO EXCHANGE FACILITATORS.**

10 (a) REVIEW.—The Director shall review all Federal  
11 laws and regulations relating to the protection of persons  
12 who utilize exchange facilitators.

13 (b) REPORT.—Not later than 180 days after the ef-  
14 fective date of this subtitle, the Director shall submit to  
15 Congress a report describing—

16 (1) recommendations for legislation to ensure  
17 the appropriate protection of persons who utilize ex-  
18 change facilitators;

1           (2) recommendations for updating the regula-  
2           tions of Federal departments and agencies to ensure  
3           the appropriate protection of such persons; and

4           (3) recommendations for Agency regulations to  
5           ensure the appropriate protection of such persons.

6           (c) PROGRAM.—Not later than 180 days after the  
7           date of the submission of the report under subsection (b),  
8           the Director shall establish and carry out a program, uti-  
9           lizing the authorities of the Agency, to protect persons  
10          who utilize exchange facilitators.

11          (d) EXCHANGE FACILITATOR DEFINED.—In this sec-  
12          tion, the term “exchange facilitator” means a person  
13          that—

14               (1) facilitates, for a fee, an exchange of like-  
15               kind property by entering into an agreement with a  
16               taxpayer by which the exchange facilitator acquires  
17               from the taxpayer the contractual rights to sell the  
18               taxpayer’s relinquished property and transfers a re-  
19               placement property to the taxpayer as a qualified  
20               intermediary (within the meaning of Treasury Regu-  
21               lations section 1.1031(k)-1(g)(4)) or enters into an  
22               agreement with the taxpayer to take title to a prop-  
23               erty as an exchange accommodation titleholder  
24               (within the meaning of Revenue Procedure 2000-37)  
25               or enters into an agreement with a taxpayer to act

1 as a qualified trustee or qualified escrow holder  
2 (within the meaning of Treasury Regulations section  
3 1.1031(k)-1(g)(3));

4 (2) maintains an office for the purpose of solie-  
5 iting business as an exchange facilitator; or

6 (3) purports to be an exchange facilitator by  
7 advertising any of the services listed in paragraph  
8 (1) or soliciting clients in printed publications, direct  
9 mail, television or radio advertisements, telephone  
10 calls, facsimile transmissions, or other electronic  
11 communications directed to the general public for  
12 purposes of providing any such services.

Page 255, after line 2, insert the following new section:

13 **SEC. 1316. DE NOVO BRANCHING INTO STATES.**

14 (a) NATIONAL BANKS.—Section 5155(g)(1)(A) of the  
15 Revised Statutes (12 U.S.C. 36(g)(1)(A)) is amended to  
16 read as follows:

17 “(A) the law of the State where the branch  
18 is located, or is to be located, would permit es-  
19 tablishment of the branch if the national bank  
20 were a state bank chartered by such State;”.

21 (b) STATE INSURED BANKS.—Section 18(d)(4)(A)(i)  
22 of the Federal Deposit Insurance Act (12 U.S.C.  
23 1828(d)(4)(A)(i)) is amended to read as follows:

1                   “(i) the law of the State where the  
2                   branch is located, or is to be located, would  
3                   permit establishment of the branch if the  
4                   bank were a State bank chartered by such  
5                   State;”.

Page 277, line 22, strike the period and insert “;  
and”.

Page 277, after line 22, insert the following:

6                   (C) is not an insured depository institution  
7                   (as defined in section 3(c) of the Federal De-  
8                   posit Insurance act), a Federal credit union or  
9                   a State-chartered credit union (as such terms  
10                  are defined in section 101 of the Federal Credit  
11                  Union Act), or a government-sponsored enter-  
12                  prise (as such term is defined in section 1004(f)  
13                  of the Financial Institutions Reform, Recovery  
14                  and Enforcement Act of 1989 (12 U.S.C. 1811  
15                  note)).

Page 305, beginning on line 25, strike “(that be-  
came a legally enforceable or perfected security interest  
after the date of the enactment of this clause) other than  
a legally enforceable or perfected security interest of the  
Federal Government,” and insert “in assets of the cov-  
ered financial company arising under a qualified financial

contract (as defined under subsection (c)(8)(D)(i)) with an original term of 30 days or less (except that, for a contract for a term linked to a calendar month, the original term must be less than one calendar month), secured by collateral other than securities issued by the United States Treasury, the Board of Governors of the Federal Reserve System, any agency of the United States, any Federal Reserve bank, or any Government Sponsored Enterprise, that became a legally enforceable or perfected security interest after the date of the enactment of this clause, and that is not a security interest of the Federal Government”.

Page 306, beginning on line 7, strike “the amount of up to 20 percent” and insert “in the amount specified under clause (v)”.

Page 306, line 13, insert after the period the following sentence: “This clause shall not apply with respect to debt obligations secured by real property. This clause may only be implemented with respect to secured creditors if, as a result of the dissolution of the covered financial company, no funds are available to satisfy, in whole or in part, any claims of unsecured creditors or shareholders.”.

Page 306, after line 13, insert the following:

1                   (v) AMOUNT SPECIFIED.—For pur-  
2                   poses of clause (iv), the amount specified  
3                   under this clause, in the case of a secured  
4                   creditor, is the amount of up to 10 per-  
5                   cent.

Page 318, after line 11, insert the following sub-  
paragraphs (and redesignate subparagraphs (B) through  
(E) as subparagraphs (J) through (M), respectively):

6                   (B) PREFERENTIAL TRANSFERS.—The  
7                   Corporation as receiver for any covered finan-  
8                   cial company may avoid a transfer of an inter-  
9                   est of the covered financial company in property  
10                  that—

11                   (i) was made to or for the benefit of  
12                   a creditor;

13                   (ii) was made for or on account of an  
14                   antecedent debt that was owed by the cov-  
15                   ered financial company before the transfer  
16                   was made;

17                   (iii) was made while the covered fi-  
18                   nancial company was insolvent;

19                   (iv) was made—

20                   (I) on or within 90 days before  
21                   the date on which the Corporation  
22                   was appointed receiver; or

1 (II) between 90 days and one  
2 year before the date that the Corpora-  
3 tion was appointed receiver, if such  
4 creditor at the time of the transfer  
5 was an insider, as that term is defined  
6 in section 101(31) of title 11, United  
7 States Code; and

8 (v) enables such creditor to receive  
9 more than such creditor would receive in  
10 the liquidation of the covered financial  
11 company if—

12 (I) the transfer had not been  
13 made; and

14 (II) such creditor received pay-  
15 ment of such debt to the extent pro-  
16 vided by the provisions of this sub-  
17 title.

18 (C) POST-RECEIVERSHIP TRANSACTIONS.—  
19 The Corporation as receiver for any covered fi-  
20 nancial company may avoid a transfer of prop-  
21 erty of the receivership that occurred after the  
22 Corporation was appointed receiver that was  
23 not authorized under this title.

24 (D) RIGHT OF RECOVERY.—To the extent  
25 that a transfer is avoided under subparagraphs

1 (A), (B) or (C), the Corporation may recover,  
2 for the benefit of the covered financial com-  
3 pany, the property transferred or, if a court so  
4 orders, the value of such property from—

5 (i) the initial transferee of such trans-  
6 fer or the entity for whose benefit such  
7 transfer was made; or

8 (ii) any immediate or mediate trans-  
9 feree of any such initial transferee.

10 (E) RIGHTS OF TRANSFEREE OR OBLI-  
11 GEE.—The Corporation may not recover under  
12 subparagraph (D)(ii)—

13 (i) from a transferee that takes for  
14 value, including satisfaction or securing of  
15 a present or antecedent debt, in good faith,  
16 and without knowledge of the violability of  
17 the transfer avoided; or

18 (ii) any immediate or mediate good  
19 faith transferee of such transferee.

20 (F) DEFENSES.—A transferee or obligee  
21 from whom the Corporation seeks to recover a  
22 transfer or avoid an obligation under subpara-  
23 graphs (A), (B) or (C) shall have the same af-  
24 firmative defenses and rights to liens on the  
25 property transferred to the extent they would be

1 available to a transferee or obligee from whom  
2 a trustee under title 11 seeks to recover a  
3 transfer under sections 547, 548, and 549 of  
4 title 11, United States Code.

5 (G) LIMITATIONS ON AVOIDING POWERS.—  
6 The rights of the Corporation under subpara-  
7 graphs (A), (B) or (C) are restricted to the  
8 same extent as the rights of a trustee in bank-  
9 ruptcy under section 546(b)(1) of the Bank-  
10 ruptcy Code.

11 (H) PRESUMPTION OF INSOLVENCY.—For  
12 purposes of subparagraph (B), the covered fi-  
13 nancial company is presumed to have been in-  
14 solvent on and during the 90 days immediately  
15 preceding the date on which the Corporation is  
16 appointed as receiver.

17 (I) RIGHTS UNDER THIS SUBSECTION.—  
18 The rights of the Corporation as receiver for a  
19 covered financial company under this subsection  
20 shall be superior to any rights of a trustee or  
21 any other party (other than any party which is  
22 a Federal agency of a Federal Home Loan  
23 Bank) under title 11, United States Code.

Page 31, line 24, strike “control of the Council;  
and” and insert “control of or used by the Council;”.

Page 32, line 5, strike the period and insert “; and”  
and after such line insert the following:

1           (C) the officers, directors, employees, fi-  
2           nancial advisors, staff, working groups, and  
3           agents and representatives of the Council (as  
4           related to the agent’s or representative’s activi-  
5           ties on behalf of the Council) at such reasonable  
6           times as the Comptroller General may request.

Page 32, after line 12, insert the following:

7           (3) COPIES.—Comptroller General may make  
8           and retain copies of such books, accounts, and other  
9           records access to which is granted under this provi-  
10          sion as the Comptroller General considers appro-  
11          priate.

Page 732, after line 10, insert the following:

12 **SEC. 4111. OVERSIGHT BY GAO.**

13          (a) AUTHORITY.—The Comptroller General may  
14          audit the programs, activities, receipts, expenditures, and  
15          financial transactions of the Agency and of any agents and  
16          representatives of the Agency as related to the agent’s or  
17          representative’s activities on behalf of or under authority  
18          of the Agency.

19          (b) ACCESS.—Notwithstanding any other provision of  
20          law, the Comptroller General shall have access, upon re-

1 quest, to any information, data, schedules, books, ac-  
2 counts, financial records, reports, files, electronic commu-  
3 nications, or other papers, things, or property belonging  
4 to or in use by the Agency, or any vehicles established  
5 by the Agency under this Act, and to the directors, offi-  
6 cers, employees, independent public accountants, financial  
7 advisors, staff, working groups, and agents and represent-  
8 atives of the Agency (as related to the agent's or rep-  
9 resentative's activities on behalf of the Agency) or any ve-  
10 hicle established by the Agency at such reasonable time  
11 as the Comptroller General may request. The Comptroller  
12 General may make and retain copies of such books, ac-  
13 counts, and other records as the Comptroller General  
14 deems appropriate.

Page 732, line 11, strike "4111" and insert "4112".

Page 1077, line 23, strike "1 year" and insert "18  
months".

Page 1079, after line 24, insert the following:

15 (3) ACCESS.—

16 (A) IN GENERAL.—For purposes of con-  
17 ducting the study described in paragraph (1),  
18 the Comptroller General shall have access, upon  
19 request and with the consent of the Securities  
20 and Exchange Commission, to any information,

1 data, schedules, books, accounts, financial  
2 records, reports, files, electronic communica-  
3 tions, or other papers, things, or property be-  
4 longing to or in use by each nationally recog-  
5 nized statistical rating organization, and to the  
6 officers, directors, employees, independent pub-  
7 lic accountants, financial advisors, staff and  
8 agents and representatives of the organization  
9 (as related to the agent's or representative's ac-  
10 tivities on behalf of the organization) at such  
11 reasonable times as the Comptroller General  
12 may request. The Comptroller General may  
13 make and retain copies of books, records, ac-  
14 counts, and other records as the Comptroller  
15 General deems appropriate.

16 (B) CONFIDENTIALITY.—The Comptroller  
17 General may not disclose reasonably designated  
18 proprietary, trade secret or business confiden-  
19 tial information obtained from the organization  
20 except that such information shall be disclosed  
21 by the Comptroller General—

22 (i) to other Federal Government de-  
23 partments, agencies, and officials for offi-  
24 cial use upon request;

1 (ii) to committees of Congress upon  
2 request; and

3 (iii) to a court in any judicial pro-  
4 ceeding under court order.

5 Nothing in this provision shall be construed to  
6 limit the requirements imposed by section 1905  
7 of title 18, United States Code.

Page 1186, beginning on line 8, strike “and the Se-  
curities and Exchange Commission shall each” and insert  
“shall”.

Page 1186, line 17, strike “and”.

Page 1186, line 20, strike the period and insert a  
semicolon and after such line insert the following:

8 (3) determine how to reduce the burden of com-  
9 plying with section 404(b) of the Sarbanes-Oxley Act  
10 of 2002 for companies whose market capitalization  
11 is less than \$250,000,000 for the relevant reporting  
12 period while maintaining investor protections for  
13 such companies; and

14 (4) determine whether various methods of re-  
15 ducing the compliance burden or a complete exemp-  
16 tion for such companies (whose market capitalization  
17 is less than \$250,000,000 for the relevant reporting  
18 period) from such compliance would encourage com-

1       panies to list on exchanges in the United States in  
2       their initial public offerings.

Page 1186, beginning on line 21, strike “On or before June 1, 2010” and insert “Not later than 9 months after the date of the enactment of this subtitle”.

Page 1186, beginning on line 22, strike “and the Securities and Exchange Commission shall submit separate reports” and insert “shall submit a report”.

Page 1222, line 4, strike “and the Comptroller General shall jointly” and insert “shall”.

Page 1222, line 15, strike “180 days” and insert “9 months”.

Page 1222, beginning on line 16, strike “and the Comptroller General”.

Page 706, after line 7, insert the following new paragraph:

3           (3) OFFICE OF FINANCIAL PROTECTION FOR  
4       OLDER AMERICANS.—

5           (A) ESTABLISHMENT.—Before the end of  
6       the 180-day period beginning on the date of the  
7       enactment of this title, the Director shall estab-  
8       lish within the Agency the Office of Financial  
9       Protection for Older Americans, whose func-

1           tions shall include activities designed to facili-  
2           tate the financial literacy of individuals who  
3           have attained the age of 62 years or more (in  
4           this paragraph, referred to as “seniors”) on  
5           protection from unfair and deceptive practices  
6           and on current and future financial choices, in-  
7           cluding through the dissemination of materials  
8           to seniors on such topics.

9                   (B) DIRECTOR.—The Office of Financial  
10           Protection for Older Americans shall be headed  
11           by a director.

12                   (C) DUTIES.—Such unit shall perform the  
13           following duties:

14                           (i) Develop goals for programs that  
15           provide seniors financial literacy and coun-  
16           seling, including programs that—

17                                   (I) help seniors recognize warn-  
18           ing signs of unfair and deceptive prac-  
19           tices, protect themselves from such  
20           practices;

21                                   (II) provide one-on-one financial  
22           counseling on issues including long-  
23           term savings and later-life economic  
24           security; and

1 (III) provide personal consumer  
2 credit advocacy to respond to con-  
3 sumer problems caused by unfair and  
4 deceptive practices.

5 (ii) Monitor certifications or designa-  
6 tions of financial advisors who advise sen-  
7 iors and alert the Securities and Exchange  
8 Commission and State regulators of certifi-  
9 cations or designations that are identified  
10 as unfair or deceptive.

11 (iii) Not later than 18 months after  
12 the date of the establishment of the Office  
13 of Financial Protection for Older Ameri-  
14 cans, submit to Congress and the Securi-  
15 ties and Exchange Commission rec-  
16 ommendations of the best practices for any  
17 legislative and regulatory—

18 (I) disseminating information re-  
19 garding the legitimacy of certifications  
20 of financial advisers who advise sen-  
21 iors;

22 (II) methods in which a senior  
23 can identify the financial advisor most  
24 appropriate for the senior's needs; and

1 (III) methods in which a senior  
2 can verify a financial advisor's creden-  
3 tials.

4 (iv) Conduct research to identify best  
5 practices and effective methods, tools, tech-  
6 nology and strategies to educate and coun-  
7 sel seniors about personal finance manage-  
8 ment with a focus on—

9 (I) protecting themselves from  
10 unfair and deceptive practices;

11 (II) long-term savings; and

12 (III) planning for retirement and  
13 long-term care.

14 (v) Coordinate consumer protection  
15 efforts of seniors with other Federal agen-  
16 cies and State regulators, as appropriate,  
17 to promote consistent, effective, and effi-  
18 cient enforcement.

19 (vi) Work with community organiza-  
20 tions, non-profit organizations, and other  
21 entities that are involved with educating or  
22 assisting seniors (including the National  
23 Education and Resource Center on Women  
24 and Retirement Planning).

Page 760, strike line 19 and all that follows through page 762, line 22, and insert the following:

1           (a) EXCLUSION FOR MERCHANTS, RETAILERS, AND  
2 SELLERS OF NONFINANCIAL SERVICES.—

3           (1) IN GENERAL.—Notwithstanding any provi-  
4 sion of this title (other than paragraph (4)) and sub-  
5 ject to paragraph (2), the Director and the Agency  
6 may not exercise any rulemaking, supervisory, en-  
7 forcement or other authority, including authority to  
8 order assessments, under this title with respect to—

9                   (A) credit extended directly by a merchant,  
10 retailer, or seller of nonfinancial goods or serv-  
11 ices to a consumer, in a case in which the good  
12 or service being provided is not itself a con-  
13 sumer financial product or service, exclusively  
14 for the purpose of enabling that consumer to  
15 purchase such goods or services directly from  
16 the merchant, retailer, or seller of financial  
17 services; or

18                   (B) collection of debt, directly by the mer-  
19 chant, retailer, or seller of nonfinancial services,  
20 arising from such credit extended. In the appli-  
21 cation of this paragraph, the extension of credit  
22 and the collection of debt described in subpara-  
23 graphs (A) and (B), respectively, shall not be

1           considered a consumer financial product or  
2           service.

3           (2) EXCEPTIONS FOR EXISTING AUTHORITY.—

4           The Director may exercise any rulemaking authority  
5           regarding an extension of credit described in para-  
6           graph (1)(A) or the collection of debt arising from  
7           such extension, as may be authorized by the enumer-  
8           ated consumer laws or any law or authority trans-  
9           ferred under subtitle F or H.

10          (3) RULE OF CONSTRUCTION.—No provision of  
11          this title shall be construed as modifying, limiting,  
12          or superseding the authority of the Federal Trade  
13          Commission or any agency other than the Agency  
14          with respect to credit extended, or the collection of  
15          debt arising from such extension, directly by a mer-  
16          chant or retailer to a consumer exclusively for the  
17          purpose of enabling that consumer to purchase  
18          goods or services directly from the merchant or re-  
19          tailer.

20          (4) EXCLUSION NOT APPLICABLE TO CERTAIN  
21          CREDIT TRANSACTIONS.—Paragraph (1) shall not  
22          apply to—

23                 (A) any credit transaction, including the  
24                 collection of the debt arising from such exten-  
25                 sion, in which the merchant, retailer, or seller

1 of nonfinancial services assigns, sells, or other-  
2 wise conveys such debt owed by the consumer  
3 to another person; or

4 (B) any credit transaction—

5 (i) in which the credit provided sig-  
6 nificantly exceeds the market value of the  
7 product or service provided, and

8 (ii) with respect to which the Director  
9 finds that the sale of the product or service  
10 is done as a subterfuge so as to evade or  
11 circumvent the provisions of this title.

Page 675, strike line 10 and all that follows through  
page 676, line 9, and insert the following:

12 (xi) Financial data processing by any  
13 technological means, including providing  
14 data processing, access to or use of data-  
15 bases or facilities, or advice regarding  
16 processing or archiving, if the data to be  
17 processed, furnished, stored, or archived  
18 are financial, banking, or economic, except  
19 that it shall not be considered a financial  
20 activity with respect to financial data pro-  
21 cessing—

22 (I) to the extent the person is  
23 providing interactive computer service,

1 as defined in section 230 of the Com-  
2 munications Act of 1934 (47 U.S.C.  
3 230); or  
4 (II) if the person—  
5 (aa) unknowingly or inciden-  
6 tally transmits, processes, or  
7 stores financial data in a manner  
8 that such data is undifferentiated  
9 from other types of data that the  
10 person transmits, processes, or  
11 stores;  
12 (bb) does not provide to any  
13 consumer a consumer financial  
14 product or service in connection  
15 with or relating to in any manner  
16 financial data processing; and  
17 (cc) does not provide a ma-  
18 terial service to any covered per-  
19 son in connection with the provi-  
20 sion of a consumer financial  
21 product or service.

Page 1205, line 2, insert before the period at the end the following: “and to provide additional levels of coverage on an optional basis”.

Page 1205, line 22, strike “and” after the semicolon.

Page 1205, line 25, strike the period at the end and insert “; and”.

Page 1205, after line 25, insert the following:

1           (6) examine the feasibility of SIPC providing  
2           additional levels of coverage on an optional basis,  
3           what those additional levels of coverage should be,  
4           and the appropriate risk-based premium for providing  
5           additional coverage.

Page 1018, after line 25, insert the following:

6   **SEC. 4818. AMENDMENTS TO TRUTH IN LENDING ACT.**

7           (a) IN GENERAL.—Section 128(e) of the Truth in  
8   Lending Act is amended—

9           (1) by striking paragraph (3) and inserting the  
10   following new paragraph (3):

11           “(3) INSTITUTIONAL CERTIFICATION RE-  
12   QUIRED.—(A) Except as provided in subparagraph  
13   (B), before a creditor may issue any funds with re-  
14   spect to an extension of credit described in para-  
15   graph (1), the creditor shall obtain from the relevant  
16   institution of higher education such institution’s cer-  
17   tification—

1           “(i) of the enrollment status of the bor-  
2           rower;

3           “(ii) of the borrower’s cost of attendance  
4           at the institution as determined by the institu-  
5           tion under part F of title IV of the Higher  
6           Education Act of 1965;

7           “(iii) of the difference between the bor-  
8           rower’s cost of attendance and the borrower’s  
9           estimated financial assistance received under  
10          title IV of the Higher Education Act of 1965  
11          and other assistance known to the institution,  
12          as applicable; and

13          “(iv) that the institution has—

14               “(I) informed the borrower—

15                   “(aa) about the availability of,  
16                   and the borrower’s potential eligibility  
17                   for, Federal financial assistance under  
18                   this title, including disclosing the  
19                   terms, conditions, and interest rates  
20                   of Federal student loans;

21                   “(bb) of the borrower’s ability to  
22                   select a private educational lender of  
23                   the borrower’s choice;

24                   “(cc) about the impact of a pro-  
25                   posed private education loan on the

1 borrowers' potential eligibility for  
2 other financial assistance, including  
3 Federal financial assistance under the  
4 Higher Education Act of 1965; and

5 “(dd) about a borrower’s right to  
6 accept or reject a private education  
7 loan within the 30-day period fol-  
8 lowing a private educational lender’s  
9 approval of a borrower’s application  
10 and about a borrower’s 3-day right to  
11 cancel altogether;

12 “(II) determined whether the bor-  
13 rower has applied for and exhausted the  
14 Federal financial assistance available to  
15 the borrower under the Higher Education  
16 Act of 1965 and informed the borrower ac-  
17 cordingly; and

18 “(III) counseled the borrower on the  
19 borrower’s financial aid options.

20 “(B) A creditor may issue funds with respect to  
21 an extension of credit described in paragraph (1)  
22 without obtaining from the relevant institution of  
23 higher education such institution’s certification if  
24 such institution fails to provide such certification  
25 within 21 calendar days or 15 business days, which-

1 ever comes first, of the creditor's request for such  
2 certification.”;

3 (2) by redesignating paragraphs (9), (10), and  
4 (11) as paragraphs (10), (11), and (12), respec-  
5 tively; and

6 (3) by inserting after paragraph (8) the fol-  
7 lowing new paragraph (9):

8 “(9) PROVISION OF INFORMATION.—On or be-  
9 fore the date a creditor issues any funds with re-  
10 spect to an extension of credit described in para-  
11 graph (1), the creditor shall notify the relevant insti-  
12 tution of higher education, in writing, of the amount  
13 of the extension of credit and the student on whose  
14 behalf credit is extended. The form of such written  
15 notification shall be subject to the regulations of the  
16 Agency.”.

17 (b) REGULATIONS.—

18 (1) DEADLINE FOR REGULATIONS.—Not later  
19 than 365 days after the date of enactment of this  
20 Act, the Agency shall issue regulations in final form  
21 to implement paragraphs (3) and (9) of section  
22 128(e) of the Truth in Lending Act, as amended by  
23 subsection (a). Such regulations shall become effec-  
24 tive not later than 6 months after their date of  
25 issuance.

1           (2) EFFECTIVE DATE.—The regulations in ef-  
2           fect pursuant to section 128(e) of the Truth in  
3           Lending Act as of the date of the enactment of this  
4           Act shall remain in effect until the effective date of  
5           the regulations issued under paragraph (1).

6           (c) STUDY AND REPORT ON PRIVATE EDUCATION  
7           LOANS AND PRIVATE EDUCATIONAL LENDERS.—

8           (1) REPORT.—Not later than 2 years after the  
9           date of enactment of this Act, the Director and the  
10          Secretary of Education, in consultation with the  
11          Commissioners of the Federal Trade Commission,  
12          and the Attorney General, shall submit a report to  
13          the Committee on Financial Services and the Com-  
14          mittee on Education and Labor of the House of  
15          Representatives and the Committee on Banking,  
16          Housing, and Urban Affairs and the Committee on  
17          Health Education, Labor, and Pensions of the Sen-  
18          ate on private education loans (as that term is de-  
19          fined in section 140 of the Truth in Lending Act (15  
20          U.S.C. 1650)) and private educational lenders (as  
21          that term is defined in such section).

22          (2) CONTENT.—The report required by this  
23          subsection shall examine, at a minimum, the fol-  
24          lowing:

1 (A) the growth and changes of the private  
2 education loan market in the United States;

3 (B) factors influencing such growth and  
4 changes;

5 (C) the extent to which students and par-  
6 ents of students rely on private education loans  
7 to finance postsecondary education and the pri-  
8 vate education loan indebtedness of borrowers,

9 (D) the characteristics of private education  
10 loan borrowers, including the types of institu-  
11 tions of higher education they attend, socio-  
12 economic characteristics (including income and  
13 education levels, racial characteristics, geo-  
14 graphical background, age, and gender), what  
15 other forms of financing borrowers use to pay  
16 for education, whether they exhaust their fed-  
17 eral loan options before taking out a private  
18 loan, whether such borrowers are dependent or  
19 independent students (as determined under part  
20 F of title IV of the Higher Education Act of  
21 1965) or parents of such students, whether  
22 such borrowers are students enrolled in a pro-  
23 gram leading to a certificate, license or creden-  
24 tial other than a degree, an associates degree,  
25 a baccalaureate degree, or a graduate or profes-

1           sional degree and, if practicable, employment  
2           and repayment behaviors;

3           (E) the characteristics of private edu-  
4           cational lenders, including whether such credi-  
5           tors are for-profit, non-profit, or institutions of  
6           higher education;

7           (F) the underwriting criteria used by pri-  
8           vate educational lenders, including the use of  
9           cohort default rate (as such term is defined in  
10          section 435(m) of the Higher Education Act of  
11          1965);

12          (G) the terms, conditions, and pricing of  
13          private education loans;

14          (H) the consumer protections available to  
15          private education loan borrowers, including the  
16          effectiveness of existing disclosures and require-  
17          ments and borrowers' awareness and under-  
18          standing about terms and conditions of various  
19          financial products;

20          (I) whether federal regulators and the pub-  
21          lic have access to information sufficient to pro-  
22          vide them with assurances that private edu-  
23          cation loans are provided in accord with the  
24          Nation's fair lending laws and that allows pub-

1           lic officials to determine lenders' compliance  
2           with fair lending laws; and

3           (J) any statutory or legislative rec-  
4           ommendations necessary to improve consumer  
5           protections for private education loan borrowers  
6           and to better enable federal regulators and the  
7           public to ascertain private educational lender  
8           compliance with fair lending laws.

9           (d) REPORT.— Not later than 18 months after the  
10          issuance of regulations under subsection (b)(1), the Con-  
11          sumer Financial Protection Agency and the Secretary of  
12          Education shall jointly submit to Congress a report on the  
13          compliance of institutions and private educational lenders  
14          with the amendments made by this section. The report  
15          shall include the degree to which specific institutions uti-  
16          lize certifications in effectively encouraging the exhaustion  
17          of Federal student loan eligibility and lowering student  
18          debt.

Page 198, after line 15, insert the following new  
subtitle:

1           **Subtitle K—Home Affordable**  
2           **Modification Program**

3   **SEC. 9911. HOME AFFORDABLE MODIFICATION PROGRAM**  
4           **GUIDELINES.**

5           (a) NET PRESENT VALUE INPUT DATA.—The Sec-  
6   retary of the Treasury (in this section referred to as the  
7   “Secretary”) shall revise the supplemental directives and  
8   other guidelines for the Home Affordable Modification  
9   Program of the Making Home Affordable initiative of the  
10   Secretary of the Treasury, authorized under the Emer-  
11   gency Economic Stabilization Act of 2008 (Public Law  
12   110–343), to require each mortgage servicer participating  
13   in such program to provide each borrower under a mort-  
14   gage whose request for a mortgage modification under the  
15   Program is denied with all borrower-related and mort-  
16   gage-related input data used in any net present value  
17   (NPV) analyses performed in connection with the subject  
18   mortgage. Such input data shall be provided to the bor-  
19   rower at the time of such denial.

20           (b) WEB-BASED SITE FOR NPV CALCULATOR AND  
21   APPLICATION.—

22           (1) NPV CALCULATOR.—In carrying out the  
23   Home Affordable Modification Program, the Sec-  
24   retary shall establish and maintain a site on the  
25   World Wide Web that provides a calculator for net

1 present value analyses of a mortgage, based on the  
2 Secretary's methodology for calculating such value,  
3 that mortgagors can use to enter information re-  
4 garding their own mortgages and that provides a de-  
5 termination after entering such information regard-  
6 ing a mortgage of whether such mortgage would be  
7 accepted or rejected for modification under the Pro-  
8 gram, using such methodology.

9 (2) DISCLOSURE.— Such Web site shall also  
10 prominently disclose that each mortgage servicer  
11 participating in such Program may use a method for  
12 calculating net present value of a mortgage that is  
13 different than the method used by such calculator.

14 (3) APPLICATION.— The Secretary shall make  
15 a reasonable effort to include on such World Wide  
16 Web site a method for homeowners to apply for a  
17 mortgage modification under the Home Affordable  
18 Modification Program.

19 (c) PUBLIC AVAILABILITY OF NPV METHODOLOGY,  
20 COMPUTER MODEL, AND VARIABLES.—The Secretary  
21 shall make publicly available, including by posting on a  
22 World Wide Web site of the Secretary—

23 (1) the Secretary's methodology and computer  
24 model, including all formulae used in such computer  
25 model, used for calculating net present value of a

1 mortgage that is used by the calculator established  
2 pursuant to subsection (b); and  
3 (2) all variables used in such net present value  
4 analysis.

Page 1068, after line 22, insert the following:

5 (c) REQUIREMENTS FOR LIABILITY.—Section 21D of  
6 the Securities Exchange Act of 1934 (15 U.S.C. 78u–4)  
7 is amended—

8 (1) by redesignating subsections (e) through (f)  
9 as subsections (d) through (g), respectively; and  
10 (2) by inserting after subsection (b) the fol-  
11 lowing:

12 “(c) REQUIREMENTS FOR LIABILITY.—A purchaser  
13 of a security given a rating by a nationally recognized sta-  
14 tistical rating organization shall have the right to recover  
15 for damages if the process of determining the credit rating  
16 was—

17 “(1) grossly negligent, based on the facts and  
18 circumstances at the time the rating was issued; and

19 “(2) a substantial factor in the economic loss  
20 suffered by the investor.

21 No action shall be maintained to enforce any liability cre-  
22 ated under this subsection unless brought within 2 years  
23 after the discovery of the facts constituting the violation

1 and within 3 years after the initial issuance of the rat-  
2 ing.”.

Strike section 1109 and insert the following new section:

3 **SEC. 1109. EMERGENCY FINANCIAL STABILIZATION.**

4 (a) IN GENERAL.—Upon the written determination  
5 of the Council that a liquidity event exists that could de-  
6 stabilize the financial system (which determination shall  
7 be made upon a vote of not less than two-thirds of the  
8 members of the Council then serving) and with the written  
9 consent of the Secretary of the Treasury (after certifi-  
10 cation by the President that an emergency exists), the  
11 Corporation may create a widely-available program de-  
12 signed to avoid or mitigate adverse effects on systemic eco-  
13 nomic conditions or financial stability by guaranteeing ob-  
14 ligations of solvent insured depository institutions or sol-  
15 vent depository institution holding companies (including  
16 any affiliates thereof), if necessary to prevent systemic fi-  
17 nancial instability during times of severe economic dis-  
18 tress, except that a guarantee of obligations under this  
19 section may not include provision of equity in any form.

20 (b) POLICIES AND PROCEDURES.—Prior to exercising  
21 any authority under this section, the Corporation shall es-  
22 tablish policies and procedures governing the issuance of

1 guarantees. The terms and conditions of any guarantees  
2 issued shall be established by the Corporation with the ap-  
3 proval of the Secretary of the Treasury and the Financial  
4 Stability Oversight Council. Such terms and conditions  
5 may include the Corporation requiring collateral as a con-  
6 dition of any such guarantee.

7 (c) CAP FOR GUARANTEED AMOUNT.—

8 (1) IN GENERAL.—In connection with any pro-  
9 gram established pursuant to subsection (a) and  
10 subject to paragraph (2), the Corporation may not  
11 have guaranteed debt outstanding at any time of  
12 more than \$500,000,000,000 (as indexed to reflect  
13 growth in assets of insured depository institutions  
14 and depository institution holding companies as de-  
15 termined by the Corporation).

16 (2) ADDITIONAL DEBT GUARANTEE AUTHOR-  
17 ITY.—If the Corporation, with the concurrence of  
18 the Council and the Secretary (in consultation with  
19 the President), determines that the Corporation  
20 must guarantee debt in excess of \$500,000,000,000  
21 (as indexed pursuant to paragraph (1)) to prevent  
22 systemic financial instability, the Corporation may  
23 transmit to the Congress a request for authority to  
24 guarantee debt in excess of \$500,000,000,000 (as  
25 indexed pursuant to paragraph (1)). Such request

1 shall be considered granted by Congress upon adop-  
2 tion of a joint resolution approving such request.  
3 Such joint resolution shall be considered in the Sen-  
4 ate under expedited procedures.

5 (d) FUNDING.—

6 (1) ADMINISTRATIVE EXPENSES AND COST OF  
7 GUARANTEES.—A program established pursuant to  
8 this section shall require funding only for the pur-  
9 poses of paying administrative expenses and for pay-  
10 ing a guarantee in the event that a guaranteed loan  
11 defaults.

12 (2) FEES AND OTHER CHARGES.—The Corpora-  
13 tion shall charge fees or other charges to all partici-  
14 pants in such program established pursuant to this  
15 section to offset projected losses and administrative  
16 expenses. To the extent that a program established  
17 pursuant to this section has expenses or losses, the  
18 program will be funded entirely through fees or  
19 other charges assessed on participants in such pro-  
20 gram.

21 (3) EXCESS FUNDS.—If at the conclusion of  
22 such program there are any excess funds collected  
23 from the fees associated with such program, the  
24 funds will be deposited into the Systemic Dissolution  
25 Fund established pursuant to section 1609(n).

1           (4) AUTHORITY OF CORPORATION.—For pur-  
2           poses of conducting a program established pursuant  
3           to this section, the Corporation—

4                   (A) may borrow funds from the Secretary  
5                   of the Treasury, which shall be repaid in full  
6                   with interest through fees and charges paid by  
7                   participants in accordance with paragraph (2),  
8                   and there shall be available to the Corporation  
9                   amounts in the Treasury not otherwise appro-  
10                  priated, including for the payment of reasonable  
11                  administrative expenses;

12                  (B) may not borrow funds from the De-  
13                  posit Insurance Fund established pursuant to  
14                  section 11(a)(4) of the Federal Deposit Insur-  
15                  ance Act; and

16                  (C) may not borrow funds from the Sys-  
17                  temic Dissolution Fund established pursuant to  
18                  section 1609(n).

19           (5) BACK-UP SPECIAL ASSESSMENT.—To the  
20           extent that the funds collected pursuant to para-  
21           graph (2) are insufficient to cover any losses or ex-  
22           penses (including monies borrowed pursuant to  
23           paragraph (4)) arising from a program established  
24           pursuant to this section, the Corporation shall im-

1       pose a special assessment solely on participants in  
2       the program.

3       (e) PLAN FOR MAINTENANCE OR INCREASE OF  
4 LENDING.—In connection with any application or request  
5 to participate in such program authorized pursuant to this  
6 section, a solvent entity seeking to participate in such pro-  
7 gram shall be required to submit to the Corporation a plan  
8 detailing how the use of such guaranteed funds will facili-  
9 tate the increase or maintenance of such solvent com-  
10 pany’s level of lending to consumers or small businesses.

11       (f) SUNSET OF CORPORATION’S AUTHORITY.—The  
12 Corporation’s authority under subsections (a) and (d) and  
13 the authority to borrow funds from the Treasury under  
14 section 1609(o) shall expire on December 31, 2013.

15       (g) RULE OF CONSTRUCTION.—For purposes of this  
16 section, a guarantee of deposits held by insured depository  
17 institutions shall not be treated as a debt guarantee pro-  
18 gram.

19       (h) DEFINITIONS.—For purposes of this section, the  
20 following definitions apply:

21           (1) CORPORATION.—The term “Corporation”  
22 means the Federal Deposit Insurance Corporation.

23           (2) DEPOSITORY INSTITUTION HOLDING COM-  
24 PANY.—The term “depository institution holding  
25 company” has the meaning given the term in section

1       3 of the Federal Deposit Insurance Act (12 U.S.C.  
2       1813).

3           (3) INSURED DEPOSITORY INSTITUTION.—The  
4       term “insured depository institution” has the mean-  
5       ing given the term in section 3 of the Federal De-  
6       posit Insurance Act (12 U.S.C. 1813).

7           (4) SOLVENT.—The term “solvent” means as-  
8       sets are more than the obligations to creditors.

Page 110, after line 7, insert the following new sec-  
tion (and redesignate the subsequent sections accord-  
ingly):

9   **SEC. 1110. ADDITIONAL RELATED AMENDMENTS.**

10       (a) FEDERAL DEPOSIT INSURANCE ACT RELATED  
11    AMENDMENTS.—

12           (1) SUSPENSION OF PARALLEL FEDERAL DE-  
13       POSIT INSURANCE ACT AUTHORITY.—Effective upon  
14       the date of the enactment of this section through  
15       December 31, 2013, the Corporation may not exer-  
16       cise its authority under section 13(c)(4)(G)(i) of the  
17       Federal Deposit Insurance Act (12 U.S.C.  
18       1823(c)(4)(G)(i)) to establish any widely-available  
19       debt guarantee program for which section 1109  
20       would provide authority.

21           (2) FEDERAL DEPOSIT INSURANCE ACT AU-  
22       THORITY PRESERVED.—Effective December 31,

1       2013, the Corporation shall have the same authority  
2       pursuant to section 13(c)(4)(G)(i) of the Federal  
3       Deposit Insurance Act as the Corporation had prior  
4       to the date of enactment of this Act.

5       (b) EFFECT OF DEFAULT ON AN FDIC GUAR-  
6 ANTEE.—If an insured depository institution or depository  
7 institution holding company participating in a program  
8 under section 1109 or any participant in a debt guarantee  
9 program established pursuant to section 13(c)(4)(G)(i) of  
10 the Federal Deposit Insurance Act defaults on any obliga-  
11 tion guaranteed by the Corporation after the date of en-  
12 actment of this Act, the Corporation may—

13           (1) appoint itself as receiver for the insured de-  
14       pository institution that defaults;

15           (2) with respect to any other participating com-  
16       pany that is not an insured depository institution  
17       that defaults—

18                   (A) require consideration of whether a de-  
19       termination shall be made as provided in sec-  
20       tion 1603 to resolve the company under subtitle  
21       G; and

22                   (B) if the Corporation is not appointed re-  
23       ceiver pursuant to subtitle G within 30 days of  
24       the date of default, require the company to file  
25       a petition for bankruptcy under section 301 of

1 title 11, United States Code, or file a petition  
2 for bankruptcy against the company under sec-  
3 tion 303 of title 11, United States Code.

4 (c) **AUTHORITY TO FILE INVOLUNTARY PETITION**  
5 **FOR BANKRUPTCY.**—Section 303 of title 11, United  
6 States Code, is amended by adding at the end the fol-  
7 lowing:

8 “(m) Notwithstanding subsections (a) and (b), an in-  
9 voluntary case may be commenced by the Federal Deposit  
10 Insurance Corporation against a depository institution  
11 holding company as defined in section 3 of the Federal  
12 Deposit Insurance Act (12 U.S.C. 1813) or other company  
13 participating in a guarantee program established by the  
14 Corporation on the ground that the company has defaulted  
15 on a debt or obligation guaranteed by the Corporation.”.

16 (d) **BANKRUPTCY PRIORITY FOR DEFAULTS ON**  
17 **DEBT GUARANTEED PURSUANT TO SECTION 1109.**—Sec-  
18 tion 507(a)(9) of title 11, United States Code, is amended  
19 by inserting before the period at the end the following:  
20 “and allowed unsecured claims based upon any debt to  
21 the Federal Deposit Insurance Corporation that arose  
22 prior to the commencement of the case under this title,  
23 as a result of the debtor’s default on a guarantee provided  
24 by the Corporation pursuant to section 1109 of the Finan-  
25 cial Stability Improvement Act of 2009 or the Federal De-

1 posit Insurance Act, under a program established by the  
2 Corporation after the date of enactment of the Financial  
3 Stability Improvement Act of 2009”.

Page 110, line 8, strike “**MUST**” and insert “**MAY**”.

Page 110, strike line 10 and all that follows through  
line 18 and insert the following:

4 (a) IN GENERAL.—In connection with any payment,  
5 credit extension, or guarantee or any commitment under  
6 section 1109 or 1604, the Corporation may obtain from  
7 the insured depository institution, depository institution  
8 holding company (including any affiliates thereof), or cov-  
9 ered financial company, as the case may be—

Page 110, line 19, strike “financial company” and  
insert “insured depository institution, depository institu-  
tion holding company (including any affiliates thereof), or  
covered financial company”.

Page 111, line 3, strike “financial company” and in-  
sert “insured depository institution, depository institution  
holding company (including any affiliates thereof), or cov-  
ered financial company”.

Strike section 1614 and insert the following new sec-  
tion:

1 **SEC. 1614. APPLICATION OF EXECUTIVE COMPENSATION**  
2 **LIMITATIONS.**

3 At any time that the Corporation has borrowed from  
4 the Treasury pursuant to section 1609(o) to resolve a cov-  
5 ered financial company, the Corporation shall apply the  
6 executive compensation limits under section 111 of the  
7 Emergency Economic Stabilization Act of 2008 to such  
8 company for so long as such company is in receivership.

Page 436, after line 11, insert the following new section:

9 **SEC. 1615. PRIORITY OF CLAIMS IN FEDERAL DEPOSIT IN-**  
10 **SURANCE ACT.**

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

13 (1) by redesignating clauses (iii) through (v) as  
14 clauses (iv) through (vi), respectively; and

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

17 “(iii) Any obligation of the institution  
18 owed to the Corporation as a result of the  
19 institution’s default on a Corporation-guar-  
20 anteed debt.”.

Page 825, after line 12, insert the following new section:

1 **SEC. 4313. REGULATION OF PERSON-TO-PERSON LENDING.**

2 (a) SCOPE OF EXEMPTION FROM FEDERAL SECURI-  
3 TIES REGULATION.—Section 3(a) of the Securities Act of  
4 1933 (15 U.S.C. 77c(a)) is amended by adding at the end  
5 the following new paragraph:

6 “(15) PERSON-TO-PERSON LENDING.—

7 “(A) IN GENERAL.—Any consumer loan,  
8 and any note representing a whole or fractional  
9 interest in any such loan, funded or sold  
10 through a person-to-person lending platform.

11 “(B) DEFINITIONS.— For purposes of this  
12 paragraph:

13 “(i) CONSUMER LOAN.—The term  
14 ‘consumer loan’ means a loan made to a  
15 natural person, the proceeds of which are  
16 intended primarily for personal, family,  
17 educational, household, or business use.

18 “(ii) PERSON-TO-PERSON LENDING  
19 PLATFORM.—

20 “(I) IN GENERAL.—The term  
21 ‘person-to-person lending platform’  
22 means an Internet website, the pri-  
23 mary purpose of which is to provide a  
24 transaction platform for the funding  
25 or sale of individual consumer loans,  
26 or the sale of notes representing whole

1 or fractional interests in individual  
2 consumer loans, by matching natural  
3 persons who wish to obtain such loans  
4 with persons who wish to fund them,  
5 or by matching persons who wish to  
6 sell such loans or notes with persons  
7 who wish to purchase them.

8 “(II) PROHIBITION ON MULTIPLE  
9 LOANS IN A SINGLE TRANSACTION.—  
10 The term ‘person-to-person lending  
11 platform’ does not include any plat-  
12 form on which multiple loans may be  
13 funded or sold in a single transaction,  
14 or on which a note representing an in-  
15 terest in multiple loans or other debt  
16 obligations may be sold.”.

17 (b) REGULATION BY THE AGENCY.—

18 (1) IN GENERAL.—Primary jurisdiction for the  
19 regulation of the lending activities of person-to-per-  
20 son lending and person-to-person lending platforms  
21 is hereby vested in the Agency.

22 (2) INTERIM REQUIREMENTS.—Until the Direc-  
23 tor issues and adopts disclosure requirements with  
24 respect to the sale of consumer loans, or notes rep-  
25 resenting whole or fractional interests therein, on

1 person-to-person lending platforms, a person-to-per-  
2 son lending platform that registers the offer and sale  
3 of any such notes under the Securities Act of 1933  
4 shall, with respect to such registered offer and sale,  
5 provide the disclosure required under the Securities  
6 Act of 1933 to be contained in the registration  
7 statement and prospectus and provide such disclo-  
8 sure required in any periodic reports required to be  
9 filed by such person-to-person lender pursuant to  
10 section 13 or section 15(d) of the Securities Ex-  
11 change Act of 1934.

12 (3) DEFINITIONS.—For purposes of this sub-  
13 section, the terms “consumer loan”, “person-to-per-  
14 son lending platform”, “prospectus”, and “registra-  
15 tion statement” shall have the meaning given such  
16 term under the Securities Act of 1933.

17 (c) RULEMAKING.—The Director may prescribe such  
18 regulations and issue such orders as the Director con-  
19 sider necessary or appropriate to implement the provi-  
20 sions of this section and to provide borrower protection,  
21 lender protection, consumer choice, and expanded con-  
22 sumer access to fair and reasonable credit choices.

23 (d) EFFECTIVE DATE.—Notwithstanding section  
24 4310, this section shall take effect on the date of the en-  
25 actment of this title.

Page 699, line 13, strike “and”.

Page 699, line 17, insert “and” after “services;”.

Page 699, after line 17, insert the following:

1                   (vi) the nature, range, and size of  
2                   variations between the credit scores sold to  
3                   creditors and those sold to consumers by  
4                   consumer reporting agencies that compile  
5                   and maintain files on consumers on a na-  
6                   tionwide basis (as defined in section  
7                   603(p) of the Fair Credit Reporting Act;  
8                   15 U.S.C. 1681a(p)), and whether such  
9                   variations disadvantage consumers;

Page 788, after line 10, insert the following:

10                   (3) CONSIDER AS UNFAIR CERTAIN PRACTICES  
11                   WITH REGARD TO THE PROVISION OF CREDIT  
12                   SCORES.—Subject to regulations prescribed by the  
13                   Director, it shall be considered unfair for any con-  
14                   sumer reporting agency that compiles and maintains  
15                   files on consumers on a nationwide basis (as defined  
16                   in section 603(p) of the Fair Credit Reporting Act;  
17                   15 U.S.C. 1681a(p)) to make available for purchase  
18                   by creditors any credit score for a consumer that is  
19                   not also available for purchase by that consumer at

1 the same price as other credit scores sold to con-  
2 sumers by such agency.

Page 699, line 17, insert “, and the impact of Federal policies, including resource limits in means-tested Federal benefit programs (as defined in section 318 of the Higher Education Act of 1965; 20 U.S.C. 1059e), on such consumers in influencing banking behavior” after “financial products or services”.

In section 4109(f) (as modified pursuant to the rule providing for the consideration of the bill and contained in the amendment designated MWB\_\_05), strike paragraph (3) and insert the following:

3 (3) EXCEPTION.—Notwithstanding paragraph  
4 (1), an attorney’s activities related to assisting an-  
5 other person in preventing a foreclosure shall be  
6 subject to this title except to the extent such activi-  
7 ties constitute, or are incidental to, the provision of  
8 legal services to a client of the attorney.

Page 776, after line 19, insert the following new subsection:

9 (1) EXCLUSION FOR ACTIVITIES RELATING TO CHAR-  
10 ITABLE CONTRIBUTIONS.—

11 (1) The Director and the Agency may not exer-  
12 cise any rulemaking, supervisory, enforcement, or

1 other authority, including authority to order assess-  
2 ments or penalties, over any activities related to the  
3 solicitation or making of voluntary contributions to  
4 or through a tax-exempt organization as recognized  
5 by the Internal Revenue Service, by any agent, vol-  
6 unteer or representative of such organizations to the  
7 extent the organization, agent, volunteer or rep-  
8 resentative thereof is soliciting or providing advice,  
9 information, education or instruction to donor(s) or  
10 potential donor(s) relating to a contribution to or  
11 through the organization.

12 (2) This exclusion shall not apply to other ac-  
13 tivities not described in the paragraph above and are  
14 financial activities as described in any subparagraph  
15 of section 4002(19), or otherwise subject to any of  
16 the enumerated consumer laws, or the authorities  
17 transferred under subtitle F or H.



**AMENDMENT TO H.R. 4173**

**OFFERED BY** \_\_\_\_\_

In the last section title I of the bill (as added pursuant to the rule providing for the consideration of the bill and contained in the amendment designated "TARP\_\_001"), strike "\$22,059,000,000," and insert "23,625,000,000".

