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108TH CONGRESS
1ST SESSION

H. R. 1375

[Report No. 108–152, Parts I and II]

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2003

Mrs. CAPITO (for herself, Mr. OXLEY, Mr. BACHUS, and Mr. ROSS) introduced the following bill; which was referred to the Committee on Financial Services

JUNE 12, 2003

Reported with an amendment and referred to the Committee on the Judiciary for a period ending not later than July 14, 2003, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X

[Strike out all after the enacting clause and insert the part printed in italic]

JULY 14, 2003

Additional sponsors: Mr. ROYCE, Mr. NEY, Mr. LATOURETTE, Ms. HART, Mr. TIBERI, Mr. SANDLIN, Mr. HENSARLING, and Mr. CANTOR

JULY 14, 2003

Reported from the Committee on the Judiciary with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 20, 2003]

A BILL

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

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

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

4 *(a) SHORT TITLE.—This Act may be cited as the "Fi-*
5 *nancial Services Regulatory Relief Act of 2003".*

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

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL BANK PROVISIONS

Sec. 101. National bank directors.
Sec. 102. Voting in shareholder elections.
Sec. 103. Simplifying dividend calculations for national banks.
Sec. 104. Repeal of obsolete limitation on removal authority of the Comptroller of the Currency.
Sec. 105. Repeal of intrastate branch capital requirements.
Sec. 106. Clarification of waiver of publication requirements for bank merger notices.
Sec. 107. Capital equivalency deposits for Federal branches and agencies of foreign banks.
Sec. 108. Equal treatment for Federal agencies of foreign banks.
Sec. 109. Maintenance of a Federal branch and a Federal agency in the same State.
Sec. 110. Business organization flexibility for national banks.
Sec. 111. Clarification of the main place of business of a national bank.

TITLE II—SAVINGS ASSOCIATION PROVISIONS

Sec. 201. Parity for savings associations under the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940.
Sec. 202. Investments by Federal savings associations authorized to promote the public welfare.

Sec. 203. Mergers and consolidations of Federal savings associations with non-depository institution affiliates.
Sec. 204. Repeal of statutory dividend notice requirement for savings association subsidiaries of savings and loan holding companies.
Sec. 205. Modernizing statutory authority for trust ownership of savings associations.
Sec. 206. Repeal of overlapping rules governing purchased mortgage servicing rights.
Sec. 207. Restatement of authority for Federal savings associations to invest in small business investment companies.
Sec. 208. Removal of limitation on investments in auto loans.
Sec. 209. Selling and offering of deposit products.
Sec. 210. Funeral- and cemetery-related fiduciary services.
Sec. 211. Repeal of qualified thrift lender requirement with respect to out-of-state branches.
Sec. 212. Small business and other commercial loans.
Sec. 213. Clarifying citizenship of Federal savings associations for Federal court jurisdiction.
Sec. 214. Clarification of applicability of certain procedural doctrines.

TITLE III—CREDIT UNION PROVISIONS

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

TITLE IV—DEPOSITORY INSTITUTION PROVISIONS

Sec. 401. Easing restrictions on interstate branching and mergers.
Sec. 402. Statute of limitations for judicial review of appointment of a receiver for depository institutions.
Sec. 403. Reporting requirements relating to insider lending.
Sec. 404. Amendment to provide an inflation adjustment for the small depository institution exception under the Depository Institution Management Interlocks Act.
Sec. 405. Enhancing the safety and soundness of insured depository institutions.
Sec. 406. Investments by insured savings associations in bank service companies authorized.
Sec. 407. Cross guarantee authority.

Sec. 408. Golden parachute authority and nonbank holding companies.
Sec. 409. Amendments relating to change in bank control.

TITLE V—DEPOSITORY INSTITUTION AFFILIATES PROVISIONS

Sec. 501. Clarification of cross marketing provision.
Sec. 502. Amendment to provide the Federal Reserve Board with discretion concerning the imputation of control of shares of a company by trustees.
Sec. 503. Eliminating geographic limits on thrift service companies.
Sec. 504. Clarification of scope of applicable rate provision.

TITLE VI—BANKING AGENCY PROVISIONS

Sec. 601. Waiver of examination schedule in order to allocate examiner resources.
Sec. 602. Interagency data sharing.
Sec. 603. Penalty for unauthorized participation by convicted individual.
Sec. 604. Amendment permitting the destruction of old records of a depository institution by the FDIC after the appointment of the FDIC as receiver.
Sec. 605. Modernization of recordkeeping requirement.
Sec. 606. Clarification of extent of suspension, removal, and prohibition authority of Federal banking agencies in cases of certain crimes by institution-affiliated parties.
Sec. 607. Streamlining depository institution merger application requirements.
Sec. 608. Inclusion of Director of the Office of Thrift Supervision in list of banking agencies regarding insurance customer protection regulations.
Sec. 609. Shortening of post-approval antitrust review period with the agreement of the Attorney General.
Sec. 610. Protection of confidential information received by Federal banking regulators from foreign banking supervisors.
Sec. 611. Prohibition on the participation in the affairs of bank holding company or Edge Act or agreement corporations by convicted individual.
Sec. 612. Clarification that notice after separation from service may be made by an order.
Sec. 613. Examiners of financial institutions.
Sec. 614. Parity in standards for institution-affiliated parties.
Sec. 615. Enforcement against misrepresentations regarding FDIC deposit insurance coverage.
Sec. 616. Compensation of Federal home loan bank directors.
Sec. 617. Extension of terms of Federal home loan bank directors.
Sec. 618. Biennial reports on the status of agency employment of minorities and women.
Sec. 619. Coordination of State examination authority.

TITLE VII—CLERICAL AND TECHNICAL AMENDMENTS

Sec. 701. Clerical amendments to the Home Owners' Loan Act.
Sec. 702. Technical corrections to the Federal Credit Union Act.
Sec. 703. Other technical corrections.
Sec. 704. Repeal of obsolete provisions of the Bank Holding Company Act of 1956.

TITLE I—NATIONAL BANK PROVISIONS

SEC. 101. NATIONAL BANK DIRECTORS.

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

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

"SEC. 5146. REQUIREMENTS FOR BANK DIRECTORS.

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

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

"(b) INVESTMENT REQUIREMENT.—

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

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

"(2) EXCEPTION FOR SUBORDINATED DEBT IN CERTAIN CASES.—In lieu of the requirements of paragraph (1) relating to the ownership of capital stock in the national bank, the Comptroller of the Currency may, by regulation or order, permit an individual to serve as a director of a national bank that has elected, or notifies the Comptroller of the bank's intention to

elect, to operate as a S corporation pursuant to section 1362(a) of the Internal Revenue Code of 1986, if that individual holds debt of at least $1,000 issued by the national bank that is subordinated to the interests of depositors and other general creditors of the national bank.".

SEC. 102. VOTING IN SHAREHOLDER ELECTIONS.

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

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

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

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

SEC. 103. SIMPLIFYING DIVIDEND CALCULATIONS FOR NATIONAL BANKS.

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

"SEC. 5199. NATIONAL BANK DIVIDENDS.

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

"(b) APPROVAL REQUIRED UNDER CERTAIN CIRCUMSTANCES.—A national bank may not declare and pay dividends in any year in excess of an amount equal to the sum of the total of the net income of the bank for that year and the retained net income of the bank in the preceding two years, minus any transfers required by the Comptroller of the Currency (including any transfers required to be made to a fund for the retirement of any preferred stock), unless the Comptroller of the Currency approves the declaration and payment of dividends in excess of such amount.".

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

"5199. National bank dividends.".

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

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

SEC. 105. REPEAL OF INTRASTATE BRANCH CAPITAL REQUIREMENTS.

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

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

(2) by striking the last sentence.

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

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

by unanimous action to waive the publication requirement for their respective institutions".

SEC. 107. CAPITAL EQUIVALENCY DEPOSITS FOR FEDERAL BRANCHES AND AGENCIES OF FOREIGN BANKS.

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

"(g) CAPITAL EQUIVALENCY DEPOSIT.—

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

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

eign bank under the laws and regulations of the State in which the Federal agency or branch is located.''.

SEC. 108. EQUAL TREATMENT FOR FEDERAL AGENCIES OF FOREIGN BANKS.

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

SEC. 109. MAINTENANCE OF A FEDERAL BRANCH AND A FEDERAL AGENCY IN THE SAME STATE.

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

SEC. 110. BUSINESS ORGANIZATION FLEXIBILITY FOR NATIONAL BANKS.

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

''SEC. 5136C. ALTERNATIVE BUSINESS ORGANIZATION.

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

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

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

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

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

(c) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended by insert-

ing after the item relating to section 5136B the following new item:

"5136C. Alternative business organization.".

SEC. 111. CLARIFICATION OF THE MAIN PLACE OF BUSINESS OF A NATIONAL BANK.

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

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

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

TITLE II—SAVINGS ASSOCIATION PROVISIONS

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

(a) SECURITIES EXCHANGE ACT OF 1934.—

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

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

(B) in subparagraph (C)—

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

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

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

(A) in subparagraph (A)—

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

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

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

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

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

(B) in subparagraph (B)—

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

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

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

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

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

by the Federal Deposit Insurance Corporation, or a subsidiary of any such savings association, or a savings and loan holding company; and";

(C) in subparagraph (C)—

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

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

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

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

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

(D) in subparagraph (D)—

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

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

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

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

(E) in subparagraph (F)—

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

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

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

by the Federal Deposit Insurance Corporation; and";

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

(G) by adding at the end the following new sentence: "As used in this paragraph, the term 'savings and loan holding company' has the meaning given it in section 10(a) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)).".

(b) INVESTMENT ADVISERS ACT OF 1940.—

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

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

(B) in subparagraph (C)—

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

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

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

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

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

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

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

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

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

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

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

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

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

"(v) FLEXIBLE AGGREGATE INVESTMENT LIMITATION.—The aggregate amount of investments of any savings association under this subparagraph may not exceed an amount equal to the sum of 5 percent of the savings association's capital stock actually paid in and unimpaired and 5 percent of the savings association's unimpaired surplus, unless—

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

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

"(vi) MAXIMUM AGGREGATE INVESTMENT LIMITATION.—Notwithstanding clause (v), the aggregate amount of investments of any savings association under this subparagraph may not exceed an amount equal to the sum of 10 percent of the savings association's capital stock actually paid in and unimpaired and 10 percent of the savings association's unimpaired surplus.

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

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

"(A) [Repealed.]".

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

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

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

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

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

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

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

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

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

of this Act or any other provision of law.".

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

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

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

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

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

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

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

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

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

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

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

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

(3) by striking subparagraph (B).

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

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

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

"(4) [Repealed.]"; and

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

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

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

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

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

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

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

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

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

SEC. 209. SELLING AND OFFERING OF DEPOSIT PRODUCTS.

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

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

to qualify or register as a broker, dealer, associated person of a broker, or associated person of a dealer, or to qualify or register in any other similar status or capacity, if the individual does not—

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

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

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

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

"(E) create a secondary market with respect to a deposit product or otherwise add enhance-

ments or features to such product independent of those offered by the association.".

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

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

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

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

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

"(i) CEMETERY.—The term 'cemetery' means any land or structure used, or intended to be used, for the interment of human remains in any form.

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

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

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

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

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

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

SEC. 212. SMALL BUSINESS AND OTHER COMMERCIAL LOANS.

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

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

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

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

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

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

izen only of the State in which such savings association has its main office.".

SEC. 214. CLARIFICATION OF APPLICABILITY OF CERTAIN PROCEDURAL DOCTRINES.

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

(1) by striking "LEGAL PROCEEDINGS.—Any judgment" and inserting "LEGAL PROCEEDINGS.—

"(1) IN GENERAL.—Any judgment"; and

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

"(2) CLARIFICATION OF APPLICABILITY OF CERTAIN PROCEDURAL DOCTRINES.—In any proceeding seeking a monetary recovery against the United States, or an agency or official thereof, based upon actions of the Federal Savings and Loan Insurance Corporation prior to its dissolution, or the Federal Home Loan Bank Board prior to its dissolution, and arising from the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 or its implementation, and where any monetary recovery in such proceeding would be paid from the FSLIC Resolution Fund or any supplements thereto, neither the United States Court of Federal Claims, the United States Court of Appeals for the Federal Circuit, nor any

other court of competent jurisdiction shall dismiss, or affirm on appeal the dismissal of, the claims of any party seeking such monetary recovery, on the basis of res judicata, collateral estoppel, or any similar doctrine, defense, or rule of law, based upon any decision, opinion, or order of judgment entered by any court prior to July 1, 1996. Unless some other defense is applicable, in any such proceeding, the United States Court of Federal Claims, the United States Court of Appeals for the Federal Circuit, and any other court of competent jurisdiction shall review the merits of the claims of the party seeking such monetary relief and shall enter judgment accordingly.".

TITLE III—CREDIT UNION PROVISIONS

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

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

"(5) CERTAIN PRIVATELY INSURED CREDIT UNIONS.—

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

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

"(B) CERTIFICATION BY APPROPRIATE SUPERVISOR.—

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

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

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

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

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

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

(b) COPIES OF AUDITS OF PRIVATE INSURERS OF CERTAIN DEPOSITORY INSTITUTIONS REQUIRED TO BE PROVIDED TO SUPERVISORY AGENCIES.—Section 43(a)(2)

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

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

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

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

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

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

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

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

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

"(i) lacks Federal deposit insurance; and

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

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

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

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

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

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

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

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

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

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

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

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

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

"(b) INVESTMENT FOR THE CREDIT UNION'S OWN ACCOUNT.—

"(1) IN GENERAL.—A Federal credit union may purchase and hold for its own account such investment securities of investment grade as the Board may authorize by regulation, subject to such limitations and restrictions as the Board may prescribe in the regulations.

"(2) PERCENTAGE LIMITATIONS.—

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

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

"(3) INVESTMENT SECURITY DEFINED.—

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

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

"(4) INVESTMENT GRADE DEFINED.—The term 'investment grade' means with respect to an investment security purchased by a credit union for its own

account, an investment security that at the time of such purchase is rated in one of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization.

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

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

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

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

(2) in subparagraph (A)—

(A) by striking clause (ii);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 310. CREDIT UNION GOVERNANCE.

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

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

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

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

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

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

(b) TERM LIMITS AUTHORIZED FOR BOARD MEMBERS OF FEDERAL CREDIT UNIONS.—Section 111(a) of the Federal Credit Union Act (12 U.S.C. 1761(a)) is amended by adding at the end the following new sentence: "The bylaws of a Federal credit union may limit the number of consecutive terms any person may serve on the board of directors of such credit union.".

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

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

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

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

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

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

(a) DEFINITION OF BANK UNDER THE SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(6) of the Securities

Exchange Act of 1934 (15 U.S.C. 78c(a)(6)) (as amended by section 201(a)(1) of this Act) is amended—

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

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

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

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

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

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

TITLE IV—DEPOSITORY INSTITUTION PROVISIONS

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

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

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

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

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

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

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

(c) DE NOVO INTERSTATE BRANCHES OF STATE MEMBER BANKS.—The 3rd undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 321) is amended by adding at the end the following new sentences: "A State member bank may establish and operate a de novo branch in a host State (as such terms are defined in section 18(d) of the Federal Deposit Insurance Act) on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of a de novo branch of a national bank in a host State under section 5155(g) of the Revised Statutes of the United States. Such section 5155(g) shall be applied for purposes of the preceding sentence by substituting 'Board of Governors of the Federal Reserve System' for 'Comptroller of the Currency' and 'State member bank' for 'national bank'.".

(d) INTERSTATE MERGER OF BANKS.—

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

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

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

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

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

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

"(5) INTERSTATE FIDUCIARY ACTIVITY.—

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

"(B) NONCONTRAVENTION OF HOST STATE LAW.—Whenever the laws of a host State authorize or permit the exercise of any or all of the foregoing powers by State banks or other corporations which compete with national banks, the granting to and the exercise of such powers by a State bank as provided in this paragraph

shall not be deemed to be in contravention of host State law within the meaning of this paragraph.

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

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

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

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

(A) in subsection (a)—

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

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

which is the State in which the branch is located.''; and

(ii) by striking paragraphs (5) and (6);

(B) in subsection (b)—

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

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

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

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

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

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

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

(D) in subsection (e)—

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

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

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

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

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

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

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

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

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

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

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

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

"(A) any national bank;

"(B) any savings association; and

"(C) any bank, banking association, trust company, savings bank, or other banking institu-

tion which is incorporated under the laws of any State,

that is authorized to act in 1 or more fiduciary capacities but is not engaged in the business of receiving deposits other than trust funds (as defined in section 3(p)).".

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

(A) in paragraph (1)—

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

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

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

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

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

(g) CLERICAL AMENDMENTS.—

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

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

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

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

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

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

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

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

"(b) JUDICIAL REVIEW.—If the Comptroller of the Currency appoints a receiver under subsection (a), the national bank may, within 30 days thereafter, bring an action

in the United States district court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller of the Currency to remove the receiver, and the court shall, upon the merits, dismiss such action or direct the Comptroller of the Currency to remove the receiver.".

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

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

(c) EXPANSION OF PERIOD FOR CHALLENGING THE APPOINTMENT OF A LIQUIDATING AGENT.—Subparagraph (B) of section 207(a)(1) of the Federal Credit Union Act (12 U.S.C. 1787(a)(1)) is amended by striking "10 days" and inserting "30 days".

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

SEC. 403. REPORTING REQUIREMENTS RELATING TO INSIDER LENDING.

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

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

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

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

(1) by striking subparagraph (G); and

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

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

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

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

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

"SEC. 49. ENFORCEMENT OF AGREEMENTS.

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

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

notice, or other request concerning a depository institution; or

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

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

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

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

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

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

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

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

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

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

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

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

"(9) the terms 'State depository institution', 'Federal depository institution', 'State savings asso-

ciation' and 'Federal savings association' have the meanings given the terms in section 3 of the Federal Deposit Insurance Act.".

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

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

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

(A) by striking "insured bank" and inserting "insured depository institution"

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

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

(6) Section 2 of the Bank Service Company Act (12 U.S.C. 1862) is amended by inserting "or savings associations, other than the limitation on the amount

of investment by a Federal savings association contained in section 5(c)(4)(B) of the Home Owners' Loan Act" after "relating to banks".

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

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

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

"(e) A bank service company may perform—

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

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

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

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

(A) in subsection (a)—

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

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

(B) in subsection (b), by striking "insured bank" and inserting "insured depository institution"; and

(C) in subsection (c)—

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

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

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

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

(B) in subsection (c)—

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

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

SEC. 407. CROSS GUARANTEE AUTHORITY.

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) in paragraph (4)(A)—

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

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

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

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

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

(9) in paragraph (6)—

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

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

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

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

(1) in paragraph (1)(D)—

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

"(i) to investigate";

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

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

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

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

TITLE V—DEPOSITORY INSTITUTION AFFILIATES PROVISIONS

SEC. 501. CLARIFICATION OF CROSS MARKETING PROVISION.

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

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

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

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

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

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

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

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

(1) by striking "corporation organized" and all that follows through "is available for purchase" and

inserting "company, if the entire capital of the company is available for purchase"; and

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

(b) TECHNICAL CORRECTIONS.—

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

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

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

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

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

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

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

"(4) OTHER LENDER DEFINED.—For purposes of paragraph (3), the term 'other lender' means any person engaged in the business of selling or financing the sale of personal property (and any services incidental to the sale of personal property) in such State, except that, with regard to any person or entity described in such paragraph, such term does not include—

"(A) an insured depository institution; or

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

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

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

TITLE VI—BANKING AGENCY PROVISIONS

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

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

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

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

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

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

SEC. 602. INTERAGENCY DATA SHARING.

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

"(C) DATA SHARING WITH OTHER AGENCIES AND PERSONS.—In addition to reports of examination, reports of condition, and other reports required to be regularly provided to the Corporation (with respect to all insured depository institutions, including a depository institution for which the Corporation has been ap-

pointed conservator or receiver) or an appropriate State bank supervisor (with respect to a State depository institution) under subparagraph (A) or (B), a Federal banking agency may, in the agency's discretion, furnish any report of examination or other confidential supervisory information concerning any depository institution or other entity examined by such agency under authority of any Federal law, to—

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

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

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

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

"(8) DATA SHARING WITH OTHER AGENCIES AND PERSONS.—In addition to reports of examination, reports of condition, and other reports required to be

regularly provided to the Board (with respect to all insured credit unions, including a credit union for which the Corporation has been appointed conservator or liquidating agent) or an appropriate State commission, board, or authority having supervision of a State-chartered credit union, the Board may, in the Board's discretion, furnish any report of examination or other confidential supervisory information concerning any credit union or other entity examined by the Board under authority of any Federal law, to—

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

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

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

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

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

"(c) NONINSURED BANKS.—Subsections (a) and (b) shall apply to a noninsured national bank and a non-

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

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

"(2) The Board of Governors of the Federal Reserve System, in the case of a noninsured State member bank or any State agency or noninsured State branch of a foreign bank.".

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

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

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

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

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

"(ii) OLD RECORDS.—In the case of records of an insured depository institution which are at least 10 years old as of the date the Corporation is appointed as the receiver of such depository institution, the Corporation may destroy such records in accordance with clause (i) any time after such appointment is final without regard to the 6-year period of limitation contained in such clause.".

SEC. 605. MODERNIZATION OF RECORDKEEPING REQUIREMENT.

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

"(f) PRESERVATION OF AGENCY RECORDS.—

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

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

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

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

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

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

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

prescribe and the original records, papers, or documents may be destroyed or otherwise disposed of as the Federal banking agency may direct.".

SEC. 606. CLARIFICATION OF EXTENT OF SUSPENSION, REMOVAL, AND PROHIBITION AUTHORITY OF FEDERAL BANKING AGENCIES IN CASES OF CERTAIN CRIMES BY INSTITUTION-AFFILIATED PARTIES.

(a) INSURED DEPOSITORY INSTITUTION.—

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

(A) in subparagraph (A), by striking "the depository" each place such term appears and inserting "any depository";

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

(C) in subparagraph (C), by striking "the depository" each place such term appears and inserting "any depository";

(D) in subparagraph (D)(i), by inserting "of which the subject of the order is an institu-

tion-affiliated party" after "upon the depository institution"; and

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

"(E) CONTINUATION OF AUTHORITY.—A Federal banking agency may issue an order under this paragraph with respect to an individual who is an institution-affiliated party at a depository institution at the time of an offense described in subparagraph (A) without regard to—

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

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

(2) CLERICAL AMENDMENT.—Section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended by striking "(g)" and inserting the following new subsection heading:

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

(b) INSURED CREDIT UNIONS.—

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

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

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

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

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

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

"(E) CONTINUATION OF AUTHORITY.—The Board may issue an order under this paragraph with respect to an individual who is an institution-affiliated party at a credit union at the time of an offense described in subparagraph (A) without regard to—

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

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

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

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

SEC. 607. STREAMLINING DEPOSITORY INSTITUTION MERGER APPLICATION REQUIREMENTS.

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

"(4) REPORTS ON COMPETITIVE FACTORS.—

"(A) REQUEST FOR REPORT.—In the interests of uniform standards, before acting on any application for approval of a merger transaction, the responsible agency, unless the agency finds that it must act immediately in order to prevent the probable failure of a depository institution involved, shall—

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

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

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

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

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

(b) TECHNICAL AND CONFORMING AMENDMENT.—The penultimate sentence of section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended to read as follows: "If the agency has advised the Attorney General under paragraph (4)(B) of the existence of an emergency requiring expeditious action and has requested a report on the competitive factors within 10 days, the transaction may not be consummated before the fifth calendar day after the date of approval by the agency.".

SEC. 608. INCLUSION OF DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION IN LIST OF BANKING AGENCIES REGARDING INSURANCE CUSTOMER PROTECTION REGULATIONS.

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

SEC. 609. SHORTENING OF POST-APPROVAL ANTITRUST REVIEW PERIOD WITH THE AGREEMENT OF THE ATTORNEY GENERAL.

(a) ANTITRUST REVIEWS UNDER THE BANK HOLDING COMPANY ACT OF 1956.—The 4th sentence of section 11(b) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b) is amended by striking "15 calendar days" and inserting "5 calendar days".

(b) ANTITRUST REVIEWS UNDER THE FEDERAL DEPOSIT INSURANCE ACT.—The last sentence of section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended by striking "15 calendar days" and inserting "5 calendar days".

SEC. 610. PROTECTION OF CONFIDENTIAL INFORMATION RECEIVED BY FEDERAL BANKING REGULATORS FROM FOREIGN BANKING SUPERVISORS.

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

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

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

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

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

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

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

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

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

"(A) authorizing any Federal banking agency to withhold any information from any

duly authorized committee of the House of Representatives or the Senate; or

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

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

SEC. 611. PROHIBITION ON PARTICIPATION BY CONVICTED INDIVIDUAL.

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

"(d) BANK HOLDING COMPANIES.—Subsections (a) and (b) shall apply to any bank holding company, any subsidiary (other than a bank) of a bank holding company, and any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act as if such bank holding company, subsidiary, or organization were an insured depository institution, except such subsections shall be applied for

purposes of this subsection by substituting 'Board of Governors of the Federal Reserve System' for 'Corporation' each place such term appears in such subsections.

"(e) SAVINGS AND LOAN HOLDING COMPANIES.—Subsections (a) and (b) shall apply to any savings and loan holding company and any subsidiary (other than a savings association) of a savings and loan holding company as if such savings and loan holding company or subsidiary were an insured depository institution, except such subsections shall be applied for purposes of this subsection by substituting 'Director of the Office of Thrift Supervision' for 'Corporation' each place such term appears in such subsections.".

SEC. 612. CLARIFICATION THAT NOTICE AFTER SEPARATION FROM SERVICE MAY BE MADE BY AN ORDER.

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

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

SEC. 613. EXAMINERS OF FINANCIAL INSTITUTIONS.

(a) OFFER OF CREDIT TO BANK EXAMINER.—Section 212 of title 18, United States Code, is amended to read as follows:

"§ 212. Offer of credit to bank examiner

"(a) Subject to section 213(b), whoever being an officer, director or employee of a financial institution extends credit to any examiner which the examiner is prohibited from accepting under section 213 shall be fined under this title or imprisoned not more than one year, or both; and may be fined a further sum equal to the amount of the credit extended.

"(b) For purposes of this section, the following definitions shall apply:

"(1) The term 'financial institution' does not include a credit union, a Federal reserve bank, a Federal home loan bank, or a depository institution holding company.

"(2) The term 'examiner' means any person—

"(A) appointed by a Federal financial institution regulatory agency or pursuant to the laws of any State to examine a financial institution; or

"(B) elected under the law of any State to conduct examinations of any financial institution.

"(3) The term 'Federal financial institution regulatory agency' means—

"(A) the Comptroller of the Currency;

"(B) the Board of Governors of the Federal Reserve System;

"(C) the Director of the Office of Thrift Supervision;

"(D) the Federal Deposit Insurance Corporation;

"(E) the Federal Housing Finance Board;

"(F) the Farm Credit Administration;

"(G) the Farm Credit System Insurance Corporation; and

"(H) the Small Business Administration.".

(b) ACCEPTANCE OF CREDIT BY A BANK EXAMINER.—Section 213 of title 18, United States Code, is amended to read as follows:

"§ 213. Acceptance of credit by bank examiner

"(a) Whoever, being an examiner, accepts an extension of credit from any financial institution that the examiner examines or has authority to examine, or from any person connected with any such financial institution, shall be fined under this title or imprisoned not more than one year, or both; and may be fined a further sum equal to the amount

of the credit extended, and shall be disqualified from holding office as such examiner.

"(b) Notwithstanding subsection (a) or section 212, a Federal financial institution regulatory agency may, by regulation or by order on a case-by-case basis, permit a financial institution to extend credit to an examiner, and permit an examiner to accept an extension of credit from a financial institution, if the agency determines that the extension of credit would not likely affect the integrity of any examination of a financial institution. Before prescribing regulations or issuing any order under this subsection, a Federal financial institution regulatory agency shall consult with each other Federal financial institution regulatory agency with regard to any such regulation or order. Any regulation prescribed by a Federal financial institution regulatory agency under this subsection, may exempt certain classes or categories of credit from the scope of this section or section 212, and shall provide procedures for examiners and financial institutions to request case-by-case exemption orders under this subsection, subject to subsection (c).

"(c) In considering any request by a financial institution or examiner for a case-by-case exemption order under subsection (b), a Federal financial institution regulatory

agency shall consider such factors as the agency determines to be appropriate, including—

"(1) whether the terms and conditions of the credit being offered the examiner are generally comparable to those offered by the financial institution in connection with similar types of credit extended to other customers in similar circumstances;

"(2) the nature and extent of any other relationship the examiner has with the financial institution or any officer, director, or employee of the financial institution;

"(3) the proximity in time between any examination of the financial institution in which the examiner participated, or is scheduled to participate, and the extension, or the offer of an extension, of credit;

"(4) whether there are any other circumstances involving the transaction, or the proposed transaction, that may be perceived as providing the examiner with preferential treatment; and

"(5) any other fact or circumstance the agency may consider to be appropriate under the circumstances.

"(d) Notwithstanding subsection (a) or section 212, an examiner employed by a Federal financial institution regu-

latory agency may apply for and receive a credit card, or otherwise be approved as a cardholder, under any credit card account under an open end consumer credit plan, to the extent the terms and conditions applicable with respect to such account, and any credit extended under such account, are no more favorable generally to the examiner than the terms and conditions that are generally applicable to credit card accounts offered by the same financial institution to other cardholders under open end consumer credit plans.

"(e) For purposes of this section, the following definitions shall apply:

"(1) The terms 'examiner', 'Federal financial institution regulatory agency', and 'financial institution' have the same meaning as in section 212.

"(2) The term 'credit' means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

"(3) The term 'creditor' refers only to a person who both (A) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required, and (B) is the person to whom the debt arising from the con-

sumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the preceding sentence, in the case of an open-end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors.

"(4) The term 'consumer', when used with reference to an open end credit plan, means a credit plan under which the party to whom credit is offered or extended is a natural person, and the money, property, or services which are the subject of any transaction under the plan are primarily for personal, family, or household purposes.

"(5) The term 'open end credit plan' means a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan which is an open end credit plan within the meaning of the preceding sentence is an open end credit plan even if credit information is verified from time to time.

"(6) The term 'credit card' means any card, plate, coupon book or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

"(7) The term 'cardholder' means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.

"(8) The term 'card issuer' means any person who issues a credit card, or the agent of such person with respect to such card.".

(c) CLERICAL AMENDMENTS.—The table of sections for chapter 11 of title 18, United States Code, is amended by striking the items relating to sections 212 and 213 and inserting the following new items:

"212. Offer of credit to bank examiner.
"213. Acceptance of credit by bank examiner.".

SEC. 614. PARITY IN STANDARDS FOR INSTITUTION-AFFILIATED PARTIES.

Section 3(u)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)(4)) is amended by striking "knowingly or recklessly".

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

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

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

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

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

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

to represent, suggest or imply that any deposit liability, obligation, certificate or share is insured or guaranteed by the Federal Deposit Insurance Corporation, if such deposit liability, ob-

ligation, certificate, or share is not insured or guaranteed by the Corporation.

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

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

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

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

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

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

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

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

as if such person were a state nonmember insured bank.

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

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

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

"(A) TEMPORARY ORDER.—

"(i) IN GENERAL.—If a notice of charges served under subsection (b)(1) of this section specifies on the basis of particular facts that any person is engaged in conduct described in section 18(a)(4), the

Corporation may issue a temporary order requiring—

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

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

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

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

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

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

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

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

(B) by striking the 2nd sentence; and

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

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

SEC. 616. COMPENSATION OF FEDERAL HOME LOAN BANK DIRECTORS.

Section 7(i) of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended to read as follows:

"(i) DIRECTORS' COMPENSATION.—

"(1) IN GENERAL.—Each Federal home loan bank may pay the directors on the board of directors of the bank reasonable compensation for the time required of such directors, and reasonable expenses incurred by the directors, in connection with service on the board of directors, in accordance with resolutions adopted by the board of directors and subject to the approval of the board.

"(2) ANNUAL REPORT BY THE BOARD.—Information regarding compensation and expenses paid by the Federal home loan banks to the directors on the boards of directors of the banks shall be included in the annual report submitted to the Congress by the Board pursuant to section 2B(d).".

SEC. 617. EXTENSION OF TERMS OF FEDERAL HOME LOAN BANK DIRECTORS.

(a) IN GENERAL.—Section 7(d) of the Federal Home Loan Bank Act (12 U.S.C. 1427(d)) is amended—

(1) in the first sentence, by striking "3 years" and inserting "4 years"; and

(2) in the 2nd sentence—

(A) by striking "Federal Home Loan Bank System Modernization Act of 1999" and inserting "Financial Services Regulatory Relief Act of 2003"; and

(B) by striking "1/3" and inserting "1/4".

(b) PROSPECTIVE APPLICATION.—The amendment made by subsection (a) shall not apply to the term of office in which any director of a Federal home loan bank is serving as of the date of the enactment of this Act, including any director elected or appointed to fill a vacancy in any such term of office.

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

(a) IN GENERAL.—Before December 31, 2003, and the end of each 2-year period beginning after such date, each Federal banking agency shall submit a report to the Congress on the status of the employment by the agency of minority individuals and women.

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

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

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

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

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

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

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

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

(B) includes the National Credit Union Administration.

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

SEC. 619. COORDINATION OF STATE EXAMINATION AUTHORITY.

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

"(h) COORDINATION OF EXAMINATION AUTHORITY.—

"(1) IN GENERAL.—The appropriate State bank supervisor of the home State of an insured State bank has authority to examine and supervise the bank. The State bank supervisor of the home State of an insured

State bank shall exercise its authority to supervise and examine the branches of the bank in a host State in accordance with the terms of any applicable cooperative agreement between the home State bank supervisor and the State bank supervisor of the relevant host State. Except as expressly provided in a cooperative agreement between the State bank supervisors of the home State and host State(s) of an insured State bank, only the State bank supervisor of the home State of an insured State bank may levy or charge State supervisory fees on the bank.

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

"(A) with written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of such home State, examine such branch for the purpose

of determining compliance with host State laws that are applicable pursuant to section 24(j) of this Act, including those that govern community reinvestment, fair lending, and consumer protection; and

"(B) if expressly permitted under and subject to the terms of a cooperative agreement with the State bank supervisor of the bank's home State or if such out-of-State insured State bank has been determined to be in a troubled condition by either the State bank supervisor of the bank's home State or the bank's appropriate Federal banking agency, participate in the examination of the bank by the State bank supervisor of the bank's home State to ascertain that the activities of the branch in such host State are not conducted in an unsafe or unsound manner. The State bank supervisor of the home State of an insured State bank shall notify the State bank supervisor of each host State of the bank if there has been a final determination that the bank is in a troubled condition. The State bank supervisor of the bank's home State shall provide such notice as soon as reasonably possible but in all cases within 15 business days after the State

bank supervisor has made such final determination or has received written notification of such final determination.

"(3) HOST STATE ENFORCEMENT.—If the State bank supervisor of a host State determines that a branch of an out-of-State State insured State bank is violating any law of the host State that is applicable to such branch pursuant to section 24(j) of this Act, including a law that governs community reinvestment, fair lending, or consumer protection, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a host State law enforcement officer may, with written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of the bank's home State, undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

"(4) COOPERATIVE AGREEMENT.—The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of exami-

nations and joint participation in examinations. For purposes of this subsection (h), the term "cooperative agreement" means a written agreement that is signed by the home State bank supervisor and host State bank supervisor to facilitate State regulatory supervision of State banks and includes nationwide or multi-state cooperative agreements and cooperative agreements solely between the home State and host State. Except for State bank supervisors, no provision of this subsection (h) relating to such cooperative agreements shall be construed as limiting in any way the authority of home and host State law enforcement officers, regulatory supervisors, or other officials that have not signed such cooperative agreements to enforce host State laws that are applicable to a branch of an out-of-State insured State bank located in the host State pursuant to section 24(j) of this Act.

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

"(6) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this subsection (h) shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or

administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

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

"(A) The terms 'host State', 'home State', and 'out-of-State bank' have the same meanings as in section 44(g).

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

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

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

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

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

"(D) For the purposes of paragraph (2)(B), the term 'final determination' means the transmittal of a Report of Examination to the bank or transmittal of official notice of proceedings to the bank.".

TITLE VII—CLERICAL AND TECHNICAL AMENDMENTS

SEC. 701. CLERICAL AMENDMENTS TO THE HOME OWNERS' LOAN ACT.

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

"Sec. 5. Savings associations.
"Sec. 6. [Repealed.]".

(b) CLERICAL AMENDMENTS TO HEADINGS.—

(1) The heading for section 4(a) of the Home Owners' Loan Act (12 U.S.C. 1463(a)) is amended by striking "(a) FEDERAL SAVINGS ASSOCIATIONS.—" and inserting "(a) GENERAL RESPONSIBILITIES OF THE DIRECTOR.—".

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

"SEC. 5. SAVINGS ASSOCIATIONS.".

SEC. 702. TECHNICAL CORRECTIONS TO THE FEDERAL CREDIT UNION ACT.

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

(1) In section 101(3), strike "and" after the semicolon.

(2) In section 101(5), strike the terms "account account" and "account accounts" each place any such term appears and insert "account".

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

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

(5) In section 107(a)(7)(D) (as so designated by section 303 of this Act), strike "the Federal Savings and Loan Insurance Corporation or".

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

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

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

(9) In section 109(c)(2)(A)(i), strike "(12 U.S.C. 4703(16))".

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

(11) In section 201(b)(5), strike "section 116 of".

(12) In section 202(h)(3), strike "section 207(c)(1)" and insert "section 207(k)(1)".

(13) In section 204(b), strike "such others powers" and insert "such other powers".

(14) In section 206(e)(3)(D), strike "and" after the semicolon at the end.

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

(16) In section 206(g)(7)(D), strike "and subsection (1)".

(17) In section 206(t)(2)(B), insert "regulations" after "as defined in".

(18) In section 206(t)(2)(C), strike "material affect" and insert "material effect".

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

(20) In section 206A(a)(2)(A), strike "regulator agency" and insert "regulatory agency".

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

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

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

(24) In section 207(f)(3)(A), strike "category or claimants" and insert "category of claimants".

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

(26) In section 216(n), insert "any action" before "that is required".

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

(28) In section 310, strike "section 102(e)" and insert "section 102(d)".

SEC. 703. OTHER TECHNICAL CORRECTIONS.

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

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

SEC. 704. REPEAL OF OBSOLETE PROVISIONS OF THE BANK HOLDING COMPANY ACT OF 1956.

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

(1) in subsection (c)(2), by striking subparagraphs (I) and (J); and

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

"(m) [Repealed]".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 4(h) of the Bank Holding

Company Act of 1956 (12 U.S.C. 1843(h)) are each amended by striking "(G), (H), (I), or (J) of section 2(c)(2)" and inserting "(G), or (H) of section 2(c)(2)".

Union Calendar No. 113

108TH CONGRESS
1ST SESSION

H. R. 1375

[Report No. 108–152, Parts I and II]

A BILL

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

JULY 14, 2003

Reported from the Committee on the Judiciary with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed