

ment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. No amendment to that amendment in the nature of a substitute shall be in order except those printed in part 2 of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

When said resolution was considered. After debate,

On motion of Mr. SOLOMON, the previous question was ordered on the resolution to its adoption or rejection.

The question being put, *viva voce*,

Will the House agree to said resolution?

The SPEAKER pro tempore, Mr. HANSEN, announced that the yeas had it.

Mr. FROST objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas 311
Nays 105

44.12 [Roll No. 142]
YEAS—311

Abercrombie	Bliley	Campbell
Ackerman	Blumenauer	Canady
Allen	Blunt	Cannon
Andrews	Boehler	Capps
Archer	Boehner	Castle
Armey	Bonilla	Chabot
Baker	Bonior	Chambliss
Ballenger	Bono	Chenoweth
Barcia	Boucher	Clayton
Barr	Boyd	Clement
Barrett (NE)	Brady	Coble
Bartlett	Brown (OH)	Collins
Barton	Bryant	Combust
Bass	Bunning	Condit
Bereuter	Burr	Cook
Berry	Burton	Cooksey
Bilbray	Buyer	Cox
Bilirakis	Callahan	Coyne
Bishop	Calvert	Crane
Blagojevich	Camp	Crapo

Cubin	Kelly
Cummings	Kennedy (RI)
Cunningham	Kennelly
Davis (FL)	Kildee
Deal	Kim
DeGette	Kind (WI)
DeLauro	King (NY)
DeLay	Kingston
Deutsch	Kleczka
Diaz-Balart	Klink
Dingell	Klug
Doggett	Knollenberg
Dooley	Kolbe
Doolittle	Largent
Doyle	Latham
Dreier	LaTourrette
Dunn	Lazio
Edwards	Leach
Ehlers	Levin
Ehrlich	Lewis (CA)
Emerson	Linder
Engel	Livingston
English	LoBiondo
Ensign	Lofgren
Eshoo	Lucas
Etheridge	Maloney (NY)
Fawell	Manton
Fazio	Manzullo
Foley	Markey
Forbes	Mascara
Ford	McCarthy (NY)
Fossella	McCrery
Fowler	McDade
Fox	McGovern
Franks (NJ)	McHugh
Frelinghuysen	McInnis
Frost	McIntosh
Furse	McKeon
Gallegly	McKinney
Ganske	McNulty
Gejdenson	Meeke (NY)
Gibbons	Metcalfe
Gillmor	Mica
Gilman	Miller (FL)
Goodlatte	Minge
Goodling	Moakley
Gordon	Mollohan
Goss	Moran (KS)
Graham	Moran (VA)
Granger	Morella
Green	Murtha
Greenwood	Myrick
Gutknecht	Nadler
Hall (TX)	Neal
Hamilton	Nethercutt
Hansen	Neumann
Hastert	Ney
Hastings (WA)	Northup
Hayworth	Norwood
Herger	Nussle
Hill	Oberstar
Hinojosa	Ortiz
Hobson	Oxley
Hoekstra	Packard
Holden	Pallone
Hooley	Pappas
Horn	Parker
Hostettler	Pascrell
Houghton	Pastor
Hulshof	Paul
Hunter	Paxon
Hutchinson	Pease
Hyde	Peterson (MN)
Inglis	Peterson (PA)
Jackson-Lee	Petri
(TX)	Pickering
Jefferson	Pickett
Jenkins	Pitts
John	Pombo
Johnson (CT)	Pomeroy
Johnson, E.B.	Porter
Johnson, Sam	Portman
Kaptur	Pryce (OH)
Kasich	Quinn

NAYS—105

Aderholt	Clyburn
Bachus	Coburn
Baessler	Conyers
Baldacci	Costello
Barrett (WI)	Cramer
Becerra	Danner
Bentsen	Davis (IL)
Berman	Davis (VA)
Borski	DeFazio
Boswell	Delahunt
Brown (CA)	Dickey
Brown (FL)	Dicks
Cardin	Dixon
Carson	Duncan

Rahall	Istook
Ramstad	Jackson (IL)
Rangel	Johnson (WI)
Redmond	Jones
Regula	Kanjorski
Reyes	Kennedy (MA)
Rivers	Kucinich
Rodriguez	LaFalce
Roukema	LaHood
Royce	Lampson
Rush	Lantos
Ryun	Klug
Sabo	Rohrabacher
Salmon	Ros-Lehtinen
Sanchez	Roukema
Sanders	Royce
Sanford	Rush
Saxton	Ryun
Scarborough	Sabo
Schaefer, Dan	Salmon
Schaffer, Bob	Sanchez
Sensenbrenner	Sanders
Sessions	Sanford
Shadegg	Saxton
Shaw	Scarborough
Shays	Schaefer, Dan
Shimkus	Schaffer, Bob
Shuster	Sensenbrenner
Sisisky	Sessions
Skeen	Shadegg
Smith (MI)	Shaw
Smith (NJ)	Shays
Smith (OR)	Shimkus
Smith (TX)	Shuster
Smith, Linda	Sisisky
Snowbarger	Skeen
Snyder	Smith (MI)
Solomon	Smith (NJ)
Souder	Smith (OR)
Spence	Smith (TX)
Spratt	Smith, Linda
Stabenow	Snowbarger
Stark	Snyder
Stearns	Solomon
Stenholm	Souder
Strickland	Spence
Stump	Spratt
Stupak	Stabenow
Sununu	Stark
Talent	Stearns
Tanner	Stenholm
Tauscher	Strickland
Tauzin	Stump
Taylor (NC)	Stupak
Thomas	Neal
Thornberry	Sununu
Thurman	Talent
Towns	Tanner
Traficant	Tauscher
Upton	Tauzin
Velazquez	Taylor (NC)
Visclosky	Thomas
Walsh	Thornberry
Watkins	Thurman
Watts (OK)	Towns
Weldon (FL)	Traficant
Weldon (PA)	Upton
Weller	Velazquez
Wexler	Visclosky
Weygand	Walsh
White	Watkins
Whitfield	Watts (OK)
Wicker	Weldon (FL)
Wise	Weldon (PA)
Wolf	Weller
Woolsey	Wexler
Wynn	Weygand
Young (AK)	White
Young (FL)	Whitfield

McDermott	Scott
McHale	Serrano
McIntyre	Sherman
Meehan	Skelton
Meeke (FL)	Slaughter
Menendez	Smith, Adam
Miller (CA)	Stokes
Miller (CA)	Taylor (MS)
Miller (CA)	Thompson
Miller (CA)	Thune
Miller (CA)	Tiahrt
Miller (CA)	Tierney
Miller (CA)	Torres
Miller (CA)	Turner
Miller (CA)	Vento
Miller (CA)	Wamp
Miller (CA)	Waters
Miller (CA)	Watt (NC)
Miller (CA)	Waxman
Miller (CA)	Yates

NOT VOTING—16

Bateman	Gonzalez	Mink
Christensen	Hall (OH)	Radanovich
Clay	Harman	Riggs
Ewing	Hefner	Skaggs
Gekas	Hilliard	
Gilchrist	Kilpatrick	

So the resolution was agreed to. A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

44.13 FINANCIAL SERVICES COMPETITION

The SPEAKER pro tempore, Mr. HANSEN, pursuant to House Resolution 428 and rule XXIII, declared the House resolved into the Committee of the Whole House on the state of the Union for the consideration of the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial services providers, and for other purposes.

The SPEAKER pro tempore, Mr. HANSEN, by unanimous consent, designated Mrs. EMERSON as Chairman of the Committee of the Whole; and after some time spent therein,

44.14 RECORDED VOTE

A recorded vote by electronic device was ordered in the Committee of the Whole on the following amendment submitted by Mr. BLILEY:

At the end of title II of the Amendment in the Nature of a Substitute, insert the following new subtitle (and conform the table of contents accordingly):

Subtitle E—Disclosure of Customer Costs of Acquiring Financial Products
SEC. 251. IMPROVED AND CONSISTENT DISCLOSURE.

(a) REVISED REGULATIONS REQUIRED.—Within one year after the date of enactment of this Act, each Federal financial regulatory authority shall prescribe rules, or revisions to its rules, to improve the accuracy, simplicity, and completeness, and to make more consistent, the disclosure of information by persons subject to the jurisdiction of such regulatory authority concerning any commissions, fees, markups, or other costs incurred by customers in the acquisition of financial products.

(b) CONSULTATION.—In prescribing rules and revisions under subsection (a), the Federal financial regulatory authorities shall consult with each other and with appropriate State financial regulatory authorities.

(c) CONSIDERATION OF EXISTING DISCLOSURES.—In prescribing rules and revisions

under subsection (a), the Federal financial regulatory authorities shall consider the sufficiency and appropriateness of then existing laws and rules applicable to persons subject to their jurisdiction, and may prescribe exemptions from the rules and revisions required by subsection (a) to the extent appropriate in light of the objective of this section to increase the consistency of disclosure practices.

(d) ENFORCEMENT.—Any rule prescribed by a Federal financial regulatory authority pursuant to this section shall, for purposes of enforcement, be treated as a rule prescribed by such regulatory authority pursuant to the statute establishing such regulatory authority's jurisdiction over the persons to whom such rule applies.

(e) DEFINITION.—As used in this section, the term "Federal financial regulatory authority" means the Board of Governors of the Federal Reserve System, the Securities and Exchange Commission, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Commodity Futures Trading Commission, and any self-regulatory organization under the supervision of any of the foregoing.

In section 17(i)(6) of the Securities Exchange Act of 1934, as amended by section 231(a) of the Amendment in the Nature of a Substitute, after "For purposes of this subsection" insert "and subsection (j)".

In section 17 of the Securities Exchange Act of 1934, as amended by section 231(a) of the Amendment in the Nature of a Substitute, redesignate subsection (j) as subsection (k) and before such redesignated subsection (k) insert the following new subsection:

"(j) COMMISSION BACKUP AUTHORITY.—

"(1) AUTHORITY.—The Commission may make inspections of any wholesale financial holding company that—

"(A) controls a wholesale financial institution,

"(B) is not a foreign bank, and

"(C) does not control an insured bank (other than an institution permitted under subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956) or a savings association,

and any affiliate of such company, for the purpose of monitoring and enforcing compliance by the wholesale financial holding company with the Federal securities laws.

"(2) LIMITATION.—The Commission shall limit the focus and scope of any inspection under paragraph (1) to those transactions, policies, procedures, or records that are reasonably necessary to monitor and enforce compliance by the wholesale financial holding company or any affiliate with the Federal securities laws.

"(3) DEFERENCE TO EXAMINATIONS.—To the fullest extent possible, the Commission shall use, for the purposes of this subsection, the reports of examinations—

"(A) made by the Board of Governors of the Federal Reserve System of any wholesale financial holding company that is supervised by the Board;

"(B) made by or on behalf of any State regulatory agency responsible for the supervision of an insurance company of any licensed insurance company; and

"(C) made by any Federal or State banking agency of any bank or institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956.

"(4) NOTICE.—To the fullest extent possible, the Commission shall notify the appropriate regulatory agency prior to conducting an inspection of a wholesale financial institution or institution described in subparagraph (D), (F), or (G) of section 2(c)(2), or

held under section 4(f), of the Bank Holding Company Act of 1956.

At the end of subtitle A of title II of the Amendment in the Nature of a Substitute, insert the following new section (and conform the table of contents accordingly):

SEC. 210. RULE OF CONSTRUCTION.

Nothing in this Act shall supersede, affect, or otherwise limit the scope and applicability of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

In subparagraph (A) of section 45(a)(1) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, insert "practices" after "retail sales".

In paragraph (1) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike "(1) No provision" and insert "(1) IN GENERAL.—No provision".

In paragraph (1)(B) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, insert "except as provided in paragraph (2)," after "(B)".

In paragraph (2) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike "(2) Regulations" and insert "(2) COORDINATION WITH STATE LAW.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), regulations".

At the end of paragraph (2) of section 45(g) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, add the following new subparagraph:

(B) PREEMPTION.—If, with respect to any provision of the regulations prescribed under this section, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Board of Directors of the Federal Deposit Insurance Corporation determine jointly that the protection afforded by such provision for consumers is greater than the protection provided by a comparable provision of the statutes, regulations, orders, or interpretations referred to in subparagraph (A) of any State, such provision of the regulations prescribed under this section shall supersede the comparable provision of such State statute, regulation, order, or interpretation.

In paragraph (1) of section 6(d) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, strike "or (C)" and insert "(C), or (D)".

In paragraph (4)(D) of section 6(d) of the Bank Holding Company Act of 1956, as added by section 103(a) of the Amendment in the Nature of a Substitute, strike "or (C)" and insert "(C), or (D)".

[6. STATE SECURITIES AND INSURANCE]

In section 104(a)(1) of the Amendment in the Nature of a Substitute, strike "restrict" and insert "significantly interfere with the ability of".

In section 104(a)(1) of the Amendment in the Nature of a Substitute, strike "from being" and insert "to be".

In section 104(b)(1) of the Amendment in the Nature of a Substitute, strike "paragraphs (2) and (3) and subject to section 18(c) of the Securities Act of 1933" and insert "paragraphs (2), (3), and (4)".

In section 104(b)(1) of the Amendment in the Nature of a Substitute, strike "restrict" and insert "significantly interfere with the ability of".

In section 104(b)(1) of the Amendment in the Nature of a Substitute, strike "from engaging," and insert "to engage".

In section 104(b)(2) of the Amendment in the Nature of a Substitute, strike "As stated by the United States Supreme Court" and insert "In accordance with the decision of the Supreme Court of the United States".

In section 104(b)(2) of the Amendment in the Nature of a Substitute, strike subparagraph (B) and insert the following new subparagraph:

(B) subparagraph (A) shall not create any inference regarding State statutes and regulations governing insurance sales and solicitations other than State statutes and regulations described in subparagraph (A).

In section 104(b) of the Amendment in the Nature of a Substitute, strike paragraph (3) and insert the following new paragraph:

(3) State statutes, regulations, orders, and interpretations or otherwise shall not be preempted under paragraph (1) if they—

(A) relate to, or are enacted or issued for the purpose of regulating, the business of insurance in accordance with the McCarran-Ferguson Act;

(B) apply only to entities that are not insured depository institutions or wholesale financial institutions but which are engaged in the business of insurance;

(C) do not relate to, and are not enacted or issued for the purpose of regulating—

(i) cross-marketing; or

(ii) activities, including cross-marketing, which are subject to paragraph (2);

(D) are applicable to and are applied in the same manner with respect to an affiliate of an insured depository institution or a wholesale financial institution as they are applicable to and are applied to those entities that are not affiliated with an insured depository institution or a wholesale financial institution; and

(E) do not prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution to engage in activities authorized for such institution under this Act or any other provision of Federal law.

In section 104(b) of the Amendment in the Nature of a Substitute, after paragraph (3) insert the following new paragraph:

(4) Paragraphs (1) and (2) shall not be construed as affecting the jurisdiction of the securities commission (or any agency or office performing like functions) of any State, under the laws of such State, to investigate and bring enforcement actions, consistent with section 18(c) of the Securities Act of 1933, with respect to fraud or deceit or unlawful conduct by any person, in connection with securities or securities transactions.

After section 116 of the Amendment in the Nature of a Substitute, insert the following new section (and amend the table of contents accordingly):

SEC. 117. INTERAGENCY CONSULTATION.

(a) PURPOSE.—It is the intention of Congress that the Board of Governors of the Federal Reserve System, as the umbrella supervisor for financial holding companies, and the State insurance regulators, as the functional regulators of companies engaged in insurance activities, coordinate efforts to supervise companies that control both a depository institution and a company engaged in insurance activities regulated under State law. In particular, Congress believes that the Board and the State insurance regulators should share, on a confidential basis, information relevant to the supervision of companies that control both a depository institution and a company engaged in insurance activities, including information regarding the financial health of the consolidated organization and information regarding transactions and relationships between insurance companies and affiliated depository institutions. The appropriate Federal banking agencies for depository institutions should also share, on a confidential basis, information with the relevant State insurance regulators regarding transactions and relationships between depository institutions and affiliated companies engaged in insurance activities.

The purpose of this section is to encourage this coordination and confidential sharing of information, and to thereby improve both the efficiency and the quality of the supervision of financial holding companies and their affiliated depository institutions and companies engaged in insurance activities.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—

(1) INFORMATION OF THE BOARD.—Upon the request of the appropriate insurance regulator of any State, the Board may provide any information of the Board regarding the financial condition, risk management policies, and operations of any financial holding company that controls a company that is engaged in insurance activities and is regulated by such State insurance regulator, and regarding any transaction or relationship between such an insurance company and any affiliated depository institution. The Board may provide any other information to the appropriate State insurance regulator that the Board believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(2) BANKING AGENCY INFORMATION.—Upon the request of the appropriate insurance regulator of any State, the appropriate Federal banking agency may provide any information of the agency regarding any transaction or relationship between a depository institution supervised by such Federal banking agency and any affiliated company that is engaged in insurance activities regulated by such State insurance regulator. The appropriate Federal banking agency may provide any other information to the appropriate State insurance regulator that the agency believes is necessary or appropriate to permit the State insurance regulator to administer and enforce applicable State insurance laws.

(3) STATE INSURANCE REGULATOR INFORMATION.—Upon the request of the Board or the appropriate Federal banking agency, a State insurance regulator may provide any examination or other reports, records, or other information to which such insurance regulator may have access with respect to a company which—

(A) is engaged in insurance activities and regulated by such insurance regulator; and

(B) is an affiliate of an insured depository institution, wholesale financial institution, or financial holding company.

(c) CONSULTATION.—Before making any determination relating to the initial affiliation of, or the continuing affiliation of, an insured depository institution, wholesale financial institution, or financial holding company with a company engaged in insurance activities, the appropriate Federal banking agency shall consult with the appropriate State insurance regulator of such company and take the views of such insurance regulator into account in making such determination.

(d) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to an insured depository institution, wholesale financial institution, or bank holding company or any affiliate thereof under any provision of law.

(e) CONFIDENTIALITY AND PRIVILEGE.—

(1) CONFIDENTIALITY.—The appropriate Federal banking agency shall not provide any information or material that is entitled to confidential treatment under applicable Federal banking agency regulations, or other applicable law, to a State insurance regulator unless such regulator agrees to maintain the information or material in confidence and to take all reasonable steps to oppose any effort to secure disclosure of the information or material by the regulator. The appropriate Federal banking agency

shall treat as confidential any information or material obtained from a State insurance regulator that is entitled to confidential treatment under applicable State regulations, or other applicable law, and take all reasonable steps to oppose any effort to secure disclosure of the information or material by the Federal banking agency.

(2) PRIVILEGE.—The provision pursuant to this section of information or material by a Federal banking agency or State insurance regulator shall not constitute a waiver of, or otherwise affect, any privilege to which the information or material is otherwise subject.

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

(1) APPROPRIATE FEDERAL BANKING AGENCY; INSURED DEPOSITORY INSTITUTION.—The terms “appropriate Federal banking agency” and “insured depository institution” shall have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(2) BOARD; FINANCIAL HOLDING COMPANY; AND WHOLESALE FINANCIAL INSTITUTION.—The terms “Board”, “financial holding company”, and “wholesale financial institution” shall have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

In paragraph (1) of section 309 of the Amendment in the Nature of a Substitute, strike “restrict” and insert “significantly interfere with the ability of”.

In paragraph (1) of section 309 of the Amendment in the Nature of a Substitute, strike “from becoming” and insert “to become”.

In paragraph (1) of section 309 of the Amendment in the Nature of a Substitute, strike “from acquiring” and insert “to acquire”.

In paragraph (3) of section 309 of the Amendment in the Nature of a Substitute, strike “restrict” and insert “significantly interfere with”.

In section 3(a)(4)(B) of the Securities Exchange Act of 1934, as amended by section 201 of the Amendment in the Nature of a Substitute, strike clause (ii) (relating to trust activities) and insert the following:

“(ii) TRUST ACTIVITIES.—The bank effects transactions in a trustee capacity, or effects transactions in a fiduciary capacity in its trust department or other department that is regularly examined by bank examiners for compliance with fiduciary principles and standards, and (in either case)—

“(I) is primarily compensated on the basis of an administration or annual fee (payable on a monthly, quarterly, or other basis), a percentage of assets under management, or a flat or capped per order processing fee, or any combination of such fees, but does not otherwise receive brokerage commissions, or other similar remuneration based on effecting transactions in securities, that exceed the cost incurred by the bank in connection with executing securities transactions for trustee or fiduciary customers; and

“(II) does not publicly solicit brokerage business, other than by advertising that it effects transactions in securities in conjunction with advertising its other trust activities.

In section 3(a)(4)(B) of the Securities Exchange Act of 1934, as amended by section 201 of the Amendment in the Nature of a Substitute, strike clause (iv) (relating to certain stock purchase plans) and insert the following:

“(iv) CERTAIN STOCK PURCHASE PLANS.—

“(I) EMPLOYEE BENEFIT PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of any pension, retirement, profit-sharing, bonus, thrift, savings, incentive, or other similar benefit plan for the employees of that issuer or its subsidiaries, if—

(aa) the bank does not solicit transactions or provide investment advice with respect to

the purchase or sale of securities in connection with the plan; and

“(bb) the bank’s compensation for such plan or program consists of administration fees, or flat or capped per order processing fees, or both, but the bank does not otherwise receive brokerage commissions, or other similar remuneration based on effecting transactions in securities, that exceed the cost incurred by the bank in connection with executing securities transactions under this subclause (I).

“(II) DIVIDEND REINVESTMENT PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of that issuer’s dividend reinvestment plan, if—

“(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan;

“(bb) the bank does not net shareholders’ buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

“(cc) the bank’s compensation for such plan or program consists of administration fees, or flat or capped per order processing fees, or both, but the bank does not otherwise receive brokerage commissions, or other similar remuneration based on effecting transactions in securities, that exceed the cost incurred by the bank in connection with executing securities transactions under this subclause (II).

“(III) ISSUER PLANS.—The bank effects transactions, as part of its transfer agency activities, in the securities of an issuer as part of a plan or program for the purchase or sale of that issuer’s shares, if—

“(aa) the bank does not solicit transactions or provide investment advice with respect to the purchase or sale of securities in connection with the plan or program;

“(bb) the bank does not net shareholders’ buy and sell orders, other than for programs for odd-lot holders or plans registered with the Commission; and

“(cc) the bank’s compensation for such plan or program consists of administration fees, or flat or capped per order processing fees, or both, but the bank does not otherwise receive brokerage commissions, or other similar remuneration based on effecting transactions in securities, that exceed the cost incurred by the bank in connection with executing securities transactions under this subclause (III).

“(IV) PERMISSIBLE DELIVERY OF MATERIALS.—The exception to being considered a broker for a bank engaged in activities described in subclauses (I), (II), and (III) will not be affected by a bank’s delivery of written or electronic plan materials to employees of the issuer, shareholders of the issuer, or members of affinity groups of the issuer, so long as such materials are—

“(aa) comparable in scope or nature to that permitted by the Commission as of the date of the enactment of the Financial Services Act of 1998; or

“(bb) otherwise permitted by the Commission.

Strike subtitle E of title I of the Amendment in the Nature of a Substitute and insert the following new subtitle (and conform the table of contents accordingly):

Subtitle E—Preservation of FTC Authority
SEC. 141. AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956 TO MODIFY NOTIFICATION AND POST-APPROVAL WAITING PERIOD FOR SECTION 3 TRANSACTIONS.

Section 11(b)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting “and, if the transaction also involves an acquisition under section 4 or section 6, the Board shall also

notify the Federal Trade Commission of such approval" before the period at the end of the 1st sentence.

SEC. 142. INTERAGENCY DATA SHARING.

To the extent not prohibited by other law, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the Board of Governors of the Federal Reserve System shall make available to the Attorney General and the Federal Trade Commission any data in the possession of any such banking agency that the antitrust agency deems necessary for antitrust review of any transaction requiring notice to any such antitrust agency or the approval of such agency under section 3, 4, or 6 of the Bank Holding Company Act of 1956, section 18(c) of the Federal Deposit Insurance Act, the National Bank Consolidation and Merger Act, section 10 of the Home Owners' Loan Act, or the antitrust laws.

SEC. 143. CLARIFICATION OF STATUS OF SUBSIDIARIES AND AFFILIATES.

(a) CLARIFICATION OF FEDERAL TRADE COMMISSION JURISDICTION.—Any person which directly or indirectly controls, is controlled directly or indirectly by, or is directly or indirectly under common control with, any bank or savings association (as such terms are defined in section 3 of the Federal Deposit Insurance Act) and is not itself a bank or savings association shall not be deemed to be a bank or savings association for purposes of the Federal Trade Commission Act or any other law enforced by the Federal Trade Commission.

(b) SAVINGS PROVISION.—No provision of this section shall be construed as restricting the authority of any Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) under any Federal banking law, including section 8 of the Federal Deposit Insurance Act.

(c) HART-SCOTT-RODINO AMENDMENT.—Section 7A(c)(7) of the Clayton Act (15 U.S.C. 18a(c)(7)) is amended by inserting before the semicolon at the end thereof the following: ", except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) requires notice under section 6 of the Bank Holding Company Act of 1956; and (B) does not require approval under section 3 or 4 of the Bank Holding Company Act of 1956".

SEC. 144. ANNUAL GAO REPORT.

(a) IN GENERAL.—By the end of the 1-year period beginning on the date of the enactment of this Act and annually thereafter, the Comptroller General of the United States shall submit a report to the Congress on market concentration in the financial services industry and its impact on consumers.

(b) ANALYSIS.—Each report submitted under subsection (a) shall contain an analysis of—

(1) the positive and negative effects of affiliations between various types of financial companies, and of acquisitions pursuant to this Act and the amendments made by this Act to other provisions of law, including any positive or negative effects on consumers, area markets, and submarkets thereof or on registered securities brokers and dealers which have been purchased by depository institutions or depository institution holding companies;

(2) the changes in business practices and the effects of any such changes on the availability of venture capital, consumer credit, and other financial services or products and the availability of capital and credit for small businesses; and

(3) the acquisition patterns among depository institutions, depository institution holding companies, securities firms, and insurance companies including acquisitions among the largest 20 percent of firms and ac-

quisitions within regions or other limited geographical areas.

In section 206(a)(1)(F) of the Amendment in the Nature of a Substitute, strike clauses (ii) and (iii), and insert the following:

(ii) interest rates, except interest rate derivative instruments (I) that are based on a security or a group or index of securities (other than government securities or a group or index of government securities); (II) that provide for the delivery of one or more securities (other than government securities); or (III) that trade on a national securities exchange; or

(iii) commodities, other rates, indices, or other assets, except derivative instruments (I) that are securities or that are based on a group or index of securities (other than government securities or a group or index of government securities); (II) that provide for the delivery of one or more securities (other than government securities); or (III) that trade on a national securities exchange.

In section 206(a)(3) of the Amendment in the Nature of a Substitute, strike "and" at the end of subparagraph (B); redesignate subparagraph (C) as subparagraph (D); and after subparagraph (B), insert the following new subparagraph:

(C) the term 'government securities' has the meaning provided in section 3(a)(42) of such Act, and, for purposes of this subsection, commercial paper, bankers acceptances, and commercial bills shall be treated in the same manner as government securities; and

In paragraph (55)(A) of section 3(a) of the Securities Exchange Act of 1934, as added by section 207 of the Amendment in the Nature of a Substitute, strike "or" at the end of clause (viii).

In paragraph (55)(A) of section 3(a) of the Securities Exchange Act of 1934, as added by section 207 of the Amendment in the Nature of a Substitute, strike the period at the end of clause (ix) and insert "; or".

In paragraph (55)(A) of section 3(a) of the Securities Exchange Act of 1934, as added by section 207 of the Amendment in the Nature of a Substitute, insert the following new clause after clause (ix):

"(x) the government of any foreign country.

At the end of subtitle A of title I of the Amendment in the Nature of a Substitute, insert the following new section (and amend the table of contents accordingly):

SEC. 109. RESPONSIVENESS TO COMMUNITY NEEDS FOR FINANCIAL SERVICES.

(a) STUDY.—The Secretary of the Treasury, in consultation with the Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act) and the Securities and Exchange Commission, shall conduct a study of the extent to which adequate services are being provided as intended by the Community Reinvestment Act of 1977, including services in low- and moderate-income neighborhoods and for persons of modest means, as a result of the enactment of this Act.

(b) REPORT.—Before the end of the 2-year period beginning on the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Federal banking agencies and the Securities and Exchange Commission, shall submit a report to the Congress on the study conducted pursuant to subsection (a) and shall include such recommendations as the Secretary determines to be appropriate for administrative and legislative action with respect to institutions covered under the Community Reinvestment Act of 1977.

After section 109 (as so added) of the Amendment in the Nature of a Substitute, insert the following new section (and amend the table of contents accordingly):

SEC. 110. REPORTS ON ONGOING FTC STUDY OF CONSUMER PRIVACY ISSUES.

With respect to the ongoing multistage study being conducted by the Federal Trade Commission on consumer privacy issues, the Commission shall submit to the Congress an interim report on the findings and conclusions of the Commission, together with such recommendations for legislative and administrative action as the Commission determines to be appropriate, at the conclusion of each stage of such study and a final report at the conclusion of the study.

In section 322(b) of the Amendment in the Nature of a Substitute, strike paragraph (1) and insert the following:

(1) be a nonprofit corporation;
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AYES—407		
Abercrombie	Coyne	Hall (TX)
Ackerman	Cramer	Hamilton
Aderholt	Crane	Hansen
Allen	Crapo	Hastert
Andrews	Cubin	Hastings (FL)
Archer	Cummings	Hastings (WA)
Armey	Cunningham	Hayworth
Baesler	Danner	Hefley
Baker	Davis (FL)	Herger
Baldacci	Davis (IL)	Hill
Ballenger	Davis (VA)	Hilleary
Barcia	Deal	Hinchey
Barr	DeFazio	Hinojosa
Barrett (NE)	DeGette	Hobson
Barrett (WI)	Delahunt	Hoekstra
Bartlett	DeLauro	Holden
Barton	DeLay	Hooley
Bass	Deutsch	Horn
Becerra	Diaz-Balart	Hostettler
Bentsen	Dickey	Houghton
Bereuter	Dicks	Hoyer
Berman	Dingell	Hulshof
Berry	Dixon	Hunter
Bilbray	Doggett	Hutchinson
Bilirakis	Dooley	Hyde
Bishop	Doolittle	Inglis
Blagojevich	Doyle	Istook
Biley	Duncan	Jackson (IL)
Blumenauer	Dunn	Jackson-Lee
Blunt	Edwards	(TX)
Boehlert	Ehlers	Jefferson
Boehner	Ehrlich	Jenkins
Bonilla	Emerson	John
Bonior	Engel	Johnson (CT)
Bono	English	Johnson (WI)
Borski	Ensign	Johnson, E.B.
Boswell	Eshoo	Jones
Boucher	Etheridge	Kanjorski
Boyd	Evans	Kaptur
Brady	Everett	Kasich
Brown (CA)	Ewing	Kelly
Brown (FL)	Farr	Kennedy (MA)
Brown (OH)	Fawell	Kennedy (RI)
Bryant	Fazio	Kennelly
Bunning	Filner	Kildee
Burr	Foley	Kim
Burton	Forbes	Kind (WI)
Buyer	Ford	King (NY)
Callahan	Fossella	Kingston
Calvert	Fowler	Kleczka
Camp	Fox	Klink
Campbell	Frank (MA)	Klug
Canady	Franks (NJ)	Knollenberg
Cannon	Frelinghuysen	Kolbe
Capps	Frost	Kucinich
Cardin	Furse	LaFalce
Carson	Galleghy	Lampson
Castle	Ganske	Lantos
Chabot	Gejdenson	Largent
Chambliss	Gekas	Latham
Chenoweth	Gephardt	LaTourette
Clayton	Gillmor	Lazio
Clement	Gilman	Leach
Clyburn	Goodlatte	Lee
Coble	Goodling	Levin
Coburn	Gordon	Lewis (CA)
Collins	Goss	Lewis (GA)
Combest	Graham	Lewis (KY)
Condit	Granger	Linder
Conyers	Green	Lipinski
Cook	Greenwood	Livingston
Cooksey	Gutierrez	LoBiondo
Costello	Gutknecht	Lofgren
Cox	Hall (OH)	Lowe