

“(ii) each subsidiary of the bank to cease any activity as principal that is not permissible for the bank to engage in directly.”

SEC. 123. RULES APPLICABLE TO FINANCIAL SUBSIDIARIES.

(a) TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARIES AND OTHER AFFILIATES.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d), the following new subsection:

“(e) RULES RELATING TO BANKS WITH FINANCIAL SUBSIDIARIES.—

“(1) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section and section 23B, the term ‘financial subsidiary’ means a company which—

“(A) is a subsidiary of a bank (other than a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act); and

“(B) is engaged in a financial activity (as defined in section 5136A(a)(4)) that is not a permissible activity for a national bank to engage in directly.

“(2) APPLICATION TO TRANSACTIONS BETWEEN A FINANCIAL SUBSIDIARY OF A BANK AND THE BANK.—For purposes of applying this section and section 23B to a transaction between a financial subsidiary of a bank and the bank (or between such financial subsidiary and any other subsidiary of the bank which is not a financial subsidiary) and notwithstanding subsection (b)(2) and section 23B(d)(1), the financial subsidiary of the bank—

“(A) shall be an affiliate of the bank and any other subsidiary of the bank which is not a financial subsidiary; and

“(B) shall not be treated as a subsidiary of the bank.

“(3) APPLICATION TO TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARY AND NONBANK AFFILIATES.—

“(A) IN GENERAL.—A transaction between a financial subsidiary and an affiliate of the financial subsidiary shall not be deemed to be a transaction between a subsidiary of a national bank and an affiliate of the bank for purposes of section 23A or section 23B of the Federal Reserve Act.

“(B) CERTAIN AFFILIATES EXCLUDED.—For purposes of subparagraph (A) and notwithstanding paragraph (4), the term ‘affiliate’ shall not include a bank, or a subsidiary of a bank, which is engaged exclusively in activities permissible for a national bank to engage in directly.

“(4) EQUITY INVESTMENTS EXCLUDED SUBJECT TO THE APPROVAL OF THE BANKING AGENCY.—Subsection (a)(1) shall not apply so as to limit the equity investment of a bank in a financial subsidiary of such bank, except that any investment that exceeds the amount of a dividend that the bank could pay at the time of the investment without obtaining prior approval of the appropriate Federal banking agency and is in excess of the limitation which would apply under subsection (a)(1), but for this paragraph, may be made only with the approval of the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) with respect to such bank.”

(b) TREATMENT OF FINANCIAL SUBSIDIARIES UNDER OTHER PROVISIONS OF LAW.—

(1) BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—Section 106(a) of the Bank Holding Company Act Amendments of 1970 is amended by adding at the end the following new sentence: “For purposes of this section, a financial subsidiary (as defined in section 5136A(a)(5)(A) of the Revised Statutes of the United States or referenced in the 20th undesignated paragraph of section 9 of the Federal Reserve Act or section 24(d)(3)(A) of the

Federal Deposit Insurance Act) shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.”; and

(2) FEDERAL RESERVE ACT.—The 20th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 335) is amended by adding at the end of the following new sentence: “To the extent permitted under State law, a State member bank may acquire or establish and retain a financial subsidiary (as defined in section 5136A(a)(3)(A) of the Revised Statutes of the United States, except that all references in that section to the Comptroller of the Currency, the Comptroller, or regulations or orders of the Comptroller shall be deemed to be references to the Board or regulations or orders of the Board.”.

[3. CONSUMER PROTECTION]

In paragraph (1) of section 45(a) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, insert “governing sales practices” after “regulations” in the portion of such paragraph which precedes subparagraph (A).

In paragraph (1) of section 45(d) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike “and the making of loans”.

Strike 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, and insert the following new paragraph:

“(2) EFFECT ON OTHER LAWS.—Subject to section 104, regulations prescribed by a Federal banking agency under this section shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the regulations prescribed by a Federal banking agency under this section and then only to the extent of the inconsistency. For purposes of this paragraph, a State statute, regulation, order, or interpretation is not inconsistent with the regulations prescribed by a Federal banking agency under this section if the protection such statute, regulation, order, or interpretation affords any consumer is greater than the protection provided by the regulations under this section.

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)”.

In section 307(e) of the Amendment in the Nature of a Substitute, strike “, without unequal deference”.

After section 145 of the Amendment in the Nature of a Substitute, insert the following new section (and redesignate the subsequent section and conform the table of contents accordingly):

SEC. 146. 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 acquisitions within regions or other limited geographical areas.

After section 108 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 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, to the Committee on Commerce and the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at the conclusion of each stage of such study and a final report at the conclusion of the study.

It was decided in the { Yeas 115 negative } Nays 306

44.17

[Roll No. 144]

AYES—115

Allen	Hooley	Mollohan
Baesler	Hostettler	Moran (VA)
Barrett (WI)	Hoyer	Myrick
Becerra	Jackson (IL)	Oberstar
Bentsen	Jackson-Lee	Obey
Berman	(TX)	Olver
Bishop	Jefferson	Ortiz
Blumenauer	Johnson (WI)	Owens
Boehlert	Johnson, E. B.	Pastor
Bonior	Kanjorski	Payne
Borski	Kaptur	Pelosi
Boswell	Kelly	Petri
Brown (CA)	Kennedy (MA)	Price (NC)
Capps	Kennedy (RI)	Ramstad
Cardin	Kind (WI)	Roybal-Allard
Carson	Kleczka	Rush
Castle	Kucinich	Sabo
Clayton	LaFalce	Sanders
Clyburn	Lampson	Sandlin
Conyers	Lantos	Schumer
Davis (IL)	LaTourrette	Serrano
Davis (VA)	Lee	Sherman
DeFazio	Lewis (GA)	Slaughter
Dixon	Luther	Smith, Adam
Dreier	Maloney (CT)	Snyder
Eshoo	Maloney (NY)	Souder
Evans	Martinez	Stark
Farr	McDermott	Stokes
Fattah	McHale	Thompson
Filner	McInnis	Thurman
Frank (MA)	McIntosh	Tierney
Gibbons	McKinney	Torres
Goode	Meehan	Velazquez
Goodlatte	Meek (FL)	Vento
Green	Meeke (NY)	Viscosky
Gutierrez	Millender	Waters
Hall (OH)	McDonald	Watt (NC)
Hastings (FL)	Miller (CA)	Weygand
Hinchee	Moakley	Woolsey

NOES—306

Abercrombie	Archer	Baldacci
Ackerman	Armey	Ballenger
Aderholt	Bachus	Barcia
Andrews	Baker	Barr

Barrett (NE)	Gordon	Pease
Bartlett	Goss	Peterson (MN)
Barton	Graham	Peterson (PA)
Bass	Granger	Pickering
Bereuter	Greenwood	Pickett
Berry	Gutknecht	Pitts
Bilbray	Hall (TX)	Pombo
Bilirakis	Hamilton	Pomeroy
Blagojevich	Hansen	Porter
Bliley	Hastert	Portman
Blunt	Hastings (WA)	Poshard
Boehner	Hayworth	Pryce (OH)
Bonilla	Hefley	Quinn
Bono	Herger	Rahall
Boucher	Hill	Rangel
Boyd	Hilleary	Redmond
Brady	Hinojosa	Regula
Brown (FL)	Hobson	Reyes
Brown (OH)	Hoekstra	Riggs
Bryant	Holden	Riley
Bunning	Horn	Rivers
Burr	Houghton	Rodriguez
Burton	Hulshof	Roemer
Buyer	Hunter	Rogan
Callahan	Hutchinson	Rogers
Calvert	Hyde	Rohrabacher
Camp	Inglis	Ros-Lehtinen
Campbell	Istook	Rothman
Canady	Jenkins	Roukema
Cannon	John	Royce
Chabot	Johnson (CT)	Ryun
Chambliss	Johnson, Sam	Salmon
Chenoweth	Jones	Sanchez
Clement	Kasich	Sanford
Coble	Kennelly	Sawyer
Coburn	Kildee	Saxton
Collins	Kim	Scarborough
Combest	King (NY)	Schaefer, Dan
Condit	Kingston	Schaffer, Bob
Cook	Klink	Scott
Cooksey	Klug	Sensenbrenner
Costello	Knollenberg	Sessions
Cox	Kolbe	Shadegg
Coyne	LaHood	Shaw
Cramer	Largent	Shays
Crane	Latham	Shimkus
Crapo	Lazio	Shuster
Cubin	Leach	Sisisky
Cummings	Levin	Skeen
Cunningham	Lewis (CA)	Skelton
Danner	Lewis (KY)	Smith (MI)
Davis (FL)	Linder	Smith (NJ)
Deal	Lipinski	Smith (OR)
DeGette	Livingston	Smith (TX)
Delahunt	LoBiondo	Smith, Linda
DeLauro	Lofgren	Snowbarger
DeLay	Lowey	Solomon
Deutsch	Lucas	Spence
Diaz-Balart	Manton	Spratt
Dickey	Manzullo	Stabenow
Dicks	Markey	Stearns
Dingell	Mascara	Stenholm
Doggett	Matsui	Strickland
Dooley	McCarthy (MO)	Stump
Doolittle	McCarthy (NY)	Stupak
Doyle	McCollum	Sununu
Duncan	McCrery	Talent
Dunn	McDade	Tanner
Edwards	McGovern	Tauscher
Ehlers	McHugh	Tauzin
Ehrlich	McIntyre	Taylor (MS)
Emerson	McKeon	Taylor (NC)
Engel	McNulty	Thomas
English	Menendez	Thornberry
Ensign	Metcalf	Thune
Etheridge	Mica	Tiahrt
Everett	Miller (FL)	Towns
Ewing	Minge	Trafficant
Fawell	Mink	Turner
Fazio	Moran (KS)	Upton
Foley	Morella	Walsh
Forbes	Murtha	Wamp
Ford	Nadler	Watkins
Fossella	Neal	Watts (OK)
Fowler	Nethercutt	Waxman
Fox	Neumann	Weldon (FL)
Franks (NJ)	Ney	Weldon (PA)
Frelinghuysen	Northup	Weller
Frost	Norwood	Wexler
Furse	Nussle	White
Gallegly	Oxley	Whitfield
Ganske	Packard	Wicker
Gejdenson	Pallone	Wise
Gekas	Pappas	Wolf
Gephardt	Parker	Wynn
Gillmor	Pascrell	Yates
Gilman	Paul	Young (AK)
Goodling	Paxon	Young (FL)

NOT VOTING—11

Bateman	Gonzalez	Kilpatrick
Christensen	Harman	Radanovich
Clay	Hefner	Skaggs
Gilchrist	Hilliard	

So the amendment was not agreed to. After some further time, The Committee rose informally to receive a message from the President. The SPEAKER pro tempore, Mr. NETHERCUTT, assumed the Chair.

¶44.18 MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

The Committee resumed its sitting; and after some further time spent therein,

¶44.19 RECORDED VOTE

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

After section 181, insert the following new sections (and conform the table of contents accordingly):

SEC. 182. CRA AMENDMENT.

Section 803(2) of the Community Reinvestment Act of 1977 (12 U.S.C. 2902(2)) is amended by inserting "which has total assets of more than \$100,000,000" before the semicolon at the end.

In section 305 of the Amendment in the Nature of a Substitute, strike "If a national bank" and insert "(a) IN GENERAL.—If a national bank".

In section 305 of the Amendment in the Nature of a Substitute, insert the following new subsections after subsection (a) (as so redesignated):

(b) STATE WAIVER.—If, in any community served by a national bank or a subsidiary of a national bank, there is no company licensed by the appropriate State regulator to provide insurance as agent which is available for acquisition, the State insurance regulator may, upon application by the national bank or subsidiary, waive the limitation of subsection (a) with respect to the provision of insurance as agent by such bank or subsidiary within such community.

(c) SUNSET.—This section shall cease to be effective at the end of the 3-year period beginning on the date of the enactment of this Act.

In paragraph (1) of section 45(d) of the Federal Deposit Insurance Act, as added by section 308(a) of the Amendment in the Nature of a Substitute, strike "and the making of loans".

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 "Regulations prescribed" and insert "Subject to section 104, regulations prescribed".

After section 309 of the Amendment in the Nature of a Substitute, add the following new section (and conform the table of contents accordingly):

SEC. 310. STUDY OF EFFECTIVENESS OF SAFE HARBOR.

(a) STUDY REQUIRED.—3 years after the date of the enactment of this Act, the Comptroller of the Currency shall study, in conjunction with the National Association of Insurance Commissioners should such Association choose to participate, the effectiveness of the provisions of section 104(b)(2)(A) in establishing a safe harbor for the regulation by States of insurance sales and solicitation activity.

(b) REPORT.—The Comptroller of the Currency, together with the National Association of Insurance Commissioners should such Association choose to participate, shall submit a report to the Congress before the end of the 6-month period beginning 3 years after the date of the enactment of this Act on findings made and conclusions reached with regard to the study required under subsection (a), together with such recommendations for legislative or administrative action as the Comptroller and the Association determine to be appropriate.

Paragraph (9) of section 10(c) of the Home Owners' Loan Act, as added by section 401 of the Amendment in the Nature of a Substitute, is amended by adding at the end the following new subparagraph:

"(C) NO ACQUISITION OF GRANDFATHERED UNITARIES BY UNREGULATED NONFINANCIAL COMPANIES.—Notwithstanding subparagraph (B), paragraph (3) shall not apply to any company described in subparagraph (B)(i)(II) which is not, at the time of the acquisition referred to in such subparagraph, subject to licensing, regulation, or examination by a Federal banking agency, the Securities and Exchange Commission, the Commodities Futures Trading Commission, or a State insurance regulator."

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

SUBTITLE C—SUBSIDIARIES OF INSURED DEPOSITORY INSTITUTIONS

Strike section 121 of the Amendment in the Nature of a Substitute and insert the following new sections (and redesignate subsequent sections and amend the table of contents accordingly):

SEC. 121. SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.

(a) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.—Chapter one of title LXII of the Revised Statutes of United States (12 U.S.C. 21 et seq.) is amended—

(1) by redesignating section 5136A as section 5136C; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

"SEC. 5136A. FINANCIAL SUBSIDIARIES OF NATIONAL BANKS.

"(a) SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.—

"(1) IN GENERAL.—A subsidiary of a national bank may engage in an activity that is not permissible for a national bank to engage in directly, but only if—

"(A) the activity is a financial activity (as defined in paragraph (4));

"(B) the national bank is well capitalized, well managed, and achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of the bank;

"(C) all depository institution affiliates of such national bank are well capitalized, well managed, and have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution; and

"(D) the bank has received the approval of the Comptroller of the Currency.

"(2) NO EFFECT ON EDGE ACT OR AGREEMENT CORPORATIONS.—Paragraph (1) shall not apply with respect to any subsidiary which is a corporation organized under section 25A of the Federal Reserve Act or a corporation operating under section 25 of such Act.

"(3) OTHER SUBSIDIARIES PROHIBITED.—A national bank may not control any subsidiary other than a subsidiary—

"(A) which engages solely in activities that are permissible for a national bank to