



1 industry, there is a risk that the structure of the de-  
2 posit insurance funds since FIRREA could under-  
3 mine even the healthiest segments of the thrift in-  
4 dustry by impeding their ability to compete and pre-  
5 cipitating another costly crisis in that industry. The  
6 structural issues involve—

7 (a) the presence of two separate insurance  
8 funds, the BIF and SAIF funds;

9 (b) the projected, substantial disparity in  
10 deposit insurance premiums to be paid by BIF  
11 and SAIF members and the potential for a  
12 competitive imbalance;

13 (c) the presence of a designated reserve  
14 ratio of 1.25 percent of insured deposits for  
15 BIF and SAIF funds; and

16 (d) the effect which existing debt obliga-  
17 tions have on the ability of the SAIF fund to  
18 accumulate reserves and to become fiscally  
19 sound.

20 (2) to ensure the continued availability of hous-  
21 ing credit and to avoid another costly crisis in the  
22 thrift industry as a result of some of these struc-  
23 tural impediments involving the FIRREA-mandated  
24 separate fund concept, an Advisory Commission  
25 shall be formed to advise the President and the Con-

1       gress on the viability of merging or maintaining the  
2       separation of the deposit insurance funds and the  
3       impact of such action on the health of the BIF and  
4       SAIF funds, the confidence of depositors in the fed-  
5       eral deposit insurance system, and the regulation of  
6       and competitive balance between banks and thrifts.

7       ESTABLISHMENT OF AN ADVISORY COMMISSION

8       SEC. 2. There is hereby established an Advisory Com-  
9       mission to be known as the Advisory Commission on BIF  
10      and SAIF funds (hereafter referred to as the “Advisory  
11      Commission”).

12      (a) MEMBERSHIP OF THE ADVISORY COMMISSION.—

13          (1) NUMBER AND APPOINTMENT.—The Advi-  
14      sory Commission shall be composed of 7 members  
15      appointed no later than ninety days after the date  
16      of the enactment of this Act. The members shall be  
17      appointed as follows:

18          (A) Two citizens of the United States ap-  
19      pointed by the President.

20          (B) One citizen of the United States ap-  
21      pointed by the President pro tempore of the  
22      Senate upon the recommendation of the major-  
23      ity leader of the Senate.

24          (C) One citizen of the United States ap-  
25      pointed by the President pro tempore of the

1 Senate upon the recommendation of the minor-  
2 ity leader of the Senate.

3 (D) One citizen of the United States ap-  
4 pointed by the Speaker of the House upon the  
5 recommendation of the majority leader of the  
6 House of Representatives.

7 (E) One citizen of the United States ap-  
8 pointed by the Speaker of the House upon the  
9 recommendation of the minority leader of the  
10 House of Representatives.

11 (F) The Secretary of the Treasury or his  
12 designate.

13 (2) ADDITIONAL QUALIFICATIONS.—

14 (A) IN GENERAL.—Members of the Advi-  
15 sory Commission who are appointed under any  
16 subparagraph of paragraph (1) shall be ap-  
17 pointed from among individuals who are spe-  
18 cially qualified to serve on the Advisory Com-  
19 mission by virtue of their education, training, or  
20 experience.

21 (B) LIMITATION.—Of the total number of  
22 members of the Advisory Commission who are  
23 described in subparagraph (A), not more than  
24 one such member may be, at the time of any  
25 such member's appointment and during any

1           such member's service on the Advisory Commis-  
2           sion—

3                   (i) a director, officer, or employee of  
4                   any savings association;

5                   (ii) a director, officer, or employee of  
6                   any bank; or

7                   (iii) a director, officer, employee or  
8                   agent of any consumer organization.

9           (3) TERMS.—Members shall be appointed for  
10          the life of the Advisory Commission.

11          (4) CHAIRPERSON.—The chairperson of the Ad-  
12          visory Commission shall be the Secretary of the  
13          Treasury or his designate.

14          (5) QUORUM.—A majority of the members of  
15          the Advisory Commission shall constitute a quorum  
16          for the transaction of business.

17          (6) VOTING.—Each member of the Advisory  
18          Commission shall be entitled to 1 vote, which shall  
19          be equal to the vote of every other member of the  
20          Advisory Commission.

21          (7) VACANCIES.—No vacancy on the Advisory  
22          Commission shall affect the powers of the Advisory  
23          Commission and any such vacancy shall be filled in  
24          the manner in which the original appointment was  
25          made.

1 (8) COMPENSATION AND EXPENSES.—

2 (A) NO BASIC PAY.—Except as provided in  
3 subparagraph (B), members of the Advisory  
4 Commission shall receive no additional pay, al-  
5 lowances, or benefits by reason of their service  
6 on the Advisory Commission.

7 (B) PER DIEM AND TRAVEL EXPENSES.—  
8 Members of the Advisory Commission who are  
9 appointed from among private citizens of the  
10 United States may be allowed travel expenses,  
11 including per diem, in lieu of substance, as au-  
12 thorized by law for persons serving intermit-  
13 tently in the government service to the extent  
14 that funds are available for such purposes.

15 (9) MEETINGS.—The Advisory Commission  
16 shall meet at the call of the Chairperson or a major-  
17 ity of the members.

18 (b) FUNCTIONS OF THE ADVISORY COMMISSION.—

19 (1) CONTENTS AND SPECIFIC RECOMMENDA-  
20 TIONS.—The Advisory Commission shall conduct an  
21 investigation and evaluation of and shall report and  
22 make recommendations on the future status of the  
23 deposit insurance system.

1           (2) ISSUES TO BE CONSIDERED.—Pursuant to  
2 its responsibilities under this section the Advisory  
3 Commission shall consider the following issues:

4           (A) An analysis of whether a deposit insur-  
5           ance premium disparity between banks and  
6           thrifts is likely and the competitive impact  
7           thereof.

8           (B) The practical justification for main-  
9           taining two separate Federal deposit funds.

10          (C) The impact on the soundness of the  
11          Federal deposit insurance system by the con-  
12          tinuation of a separate insurance fund for  
13          banks and savings associations.

14          (D) Whether a merger of the Bank Insur-  
15          ance Fund and Savings Association Insurance  
16          Fund can be accomplished in a manner which  
17          is equitable and the legal and structural impedi-  
18          ments which need to be addressed in such a  
19          merger.

20          (E) The timing of a merger of the two  
21          funds, should such occur.

22          (F) Whether the designated ratio of re-  
23          serves of 1.25 per centum of insured deposits,  
24          which must now be held by each deposit insur-

1           ance fund, is appropriate in light of current and  
2           future needs and considerations.

3           (G) The impact of any remaining regu-  
4           latory differences between banks and thrifts on  
5           the soundness of a merged fund.

6           (H) The impact of a fund merger on a  
7           consolidation of the bank and thrift regulatory  
8           agencies.

9           (3) FINAL REPORT.—

10           (A) REPORT REQUIRED.—Not later than  
11           the end of the one-year period beginning on the  
12           date of the enactment of this Act, the Advisory  
13           Commission shall submit to the President, the  
14           Committee on Banking, Finance and Urban Af-  
15           fairs of the House of Representatives, and the  
16           Committee on Banking, Housing and Urban  
17           Affairs of the Senate, a final report which con-  
18           tains a detailed statement of the findings and  
19           conclusions of the Advisory Board, including  
20           such recommendations for administrative and  
21           legislative action as the Advisory Commission  
22           determines to be appropriate.

23           (B) MAJORITY VOTE.—A recommendation  
24           may be made by the Advisory Commission to  
25           the President and to the Congress only if it is

1           adopted by a majority of the members of the  
2           Advisory Commission.

3           (C) ADDITIONAL, DISSENTING, AND SUP-  
4           PLEMENTAL VIEWS.—The report required  
5           under subparagraph (A) shall contain any addi-  
6           tional, dissenting, or supplemental views of any  
7           member of the Advisory Commission.

8           (c) POWERS OF THE ADVISORY BOARD.—

9           (1) HEARINGS.—The Advisory Commission may  
10          hold such hearings and sit and act at such times and  
11          places as the Advisory Commission may find advis-  
12          able.

13          (2) RULES AND REGULATIONS.—The Advisory  
14          Commission may adopt such rules and regulations  
15          as may be necessary to establish its procedures and  
16          to govern the manner of operations, organizations,  
17          and personnel.

18          (3) ASSISTANCE FROM FEDERAL AGENCIES.—

19                (A) INFORMATION.—The Advisory Com-  
20          mission may request from the head of any Fed-  
21          eral agency or instrumentality such information  
22          as the Advisory Commission may require for  
23          the purpose of this section. Each such agency  
24          or instrumentality shall furnish such informa-  
25          tion to the Advisory Commission upon request

1           made by the Chairperson of the Advisory Com-  
2           mission.

3           (B) ADMINISTRATIVE SUPPORT SERVICES  
4           AND PERSONNEL.—Upon request of the Chair-  
5           person of the Advisory Commission, the head of  
6           any Federal agency or instrumentality shall, to  
7           the extent possible and subject to the discretion  
8           of such head—

9                   (i) make any of the facilities and serv-  
10                  ices of such agency or instrumentality  
11                  available to the Advisory Commission; and

12                  (ii) detail any of the personnel of such  
13                  agency or instrumentality to the Advisory  
14                  Commission, on a nonreimbursable basis,  
15                  to assist the Advisory Commission in car-  
16                  rying out its duties under this section, ex-  
17                  cept that any expenses of the Advisory  
18                  Commission incurred under this clause  
19                  shall be subject to the limitation on total  
20                  expenses set forth in subsection (d)(2).

21           (4) MAILS.—The Advisory Commission may use  
22           the United States mails in the same manner and  
23           under the same conditions as other Federal agencies.

24           (5) CONTRACTING.—The Advisory Commission  
25           may, to such extent and in such amounts as pro-

1 vided in advance in appropriation Acts, enter into  
2 contracts with State agencies, private firms, institu-  
3 tions, and individuals for the purpose of conducting  
4 research or surveys necessary to enable the Advisory  
5 Commission to discharge its duties under this sec-  
6 tion, subject to the limitation on total expenses set  
7 forth in subsection (d)(2).

8 (6) STAFF.—

9 (A) IN GENERAL.—Subject to such rules  
10 and regulations as may be adopted by the Advi-  
11 sory Commission and the limitation on total ex-  
12 penses set forth in subsection (e)(2), the Chair-  
13 person of the Advisory Commission may ap-  
14 point, terminate, and fix the compensation of  
15 an executive director and such additional staff  
16 as the Chairperson deems advisable to assist  
17 the Advisory Commission.

18 (B) PAY RATES.—Individuals appointed  
19 under subparagraph (A) may be paid at rates  
20 not to exceed a rate equal to the maximum rate  
21 for GS-18 of the General Schedule under sec-  
22 tion 5332 of title 5, United States Code.

23 (C) CERTAIN PROVISIONS OF TITLE 5,  
24 UNITED STATES CODE, NOT APPLICABLE.—Ap-

1 pointments may be made under subparagraph  
2 (A) without regard to—

3 (i) provisions of title 5, United States  
4 Code, concerning appointments in the com-  
5 petitive service, and

6 (ii) provisions of chapter 51 and sub-  
7 chapter III of chapter 53 of such title, or  
8 of any other provision of law relating to  
9 number, classification, and General Sched-  
10 ule rates.

11 (7) ADVISORY COMMITTEE.—The Advisory  
12 Commission shall be considered an advisory commit-  
13 tee under the Federal Advisory Committee Act.

14 (d) EXPENSES OF ADVISORY BOARD.—

15 (1) IN GENERAL.—Any expense of the Advisory  
16 Commission shall be paid from such funds as may  
17 be available to the Secretary of the Treasury.

18 (2) LIMITATION.—The total expenses of the  
19 Advisory Commission shall not exceed \$500,000.

20 (3) GAO AUDIT.—Prior to the termination of  
21 the Advisory Commission pursuant to subsection (f),  
22 the Comptroller General of the United States shall  
23 conduct an audit of the financial books and records  
24 of the Advisory Commission to determine that the  
25 limitation on expenses under paragraph (2) has not

1       been exceeded, and shall include its determination in  
2       an opinion to be included in the report of the Advi-  
3       sory Commission.

4       (e) TERMINATION OF THE ADVISORY COMMISSION.—  
5       The Advisory Commission shall cease to exist on the date  
6       that is thirty days after the date on which the Advisory  
7       Commission submits the report required under subsection  
8       (b)(3).

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