SENSENBRENNER, CALVERT and COSTELLO.

From the Committee on Transportation and Infrastructure, for consideration of sections 601, 602, 1060, 1079, and 1080 of the Senate bill, and sections 361, 601, 602, and 3404 of the House amendment, and modifications committed to conference: Messrs. SHUSTER, GILCHREST and DEFAZIO.

From the Committee on Veterans' Affairs, for consideration of sections 671–75, 681, 682, 696, 697, 1062, and 1066 of the Senate bill, and modifications committed to conference: Messrs. BILIRAKIS, QUINN and FILNER.

There was no objection.

ANNOUNCEMENT BY CHAIRMAN OF COMMITTEE ON RULES REGARDING AMENDMENT PROCESS FOR H.R. 434, AFRICA GROWTH AND OPPORTUNITY ACT; AND H.R. 1211, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2000 AND 2001

Mr. DREIER. Mr. Speaker, the Committee on Rules is expected to meet the week of July 12 to grant a rule which may limit amendments for consideration of H.R. 434, the Africa Growth and Opportunity Act. The Committee on Rules is also expected to meet the week of July 12 to grant a rule which may limit amendments for consideration of H.R. 1211, the Foreign Relations Authorization Act, Fiscal Years 2000 and 2001.

Any Member contemplating an amendment to H.R. 434 should submit 55 copies of the amendment and a brief explanation of the amendment to the Committee on Rules no later than noon, Tuesday, July 13. Amendments should be drafted to the text of the bill as reported by the Committee on Ways and Means on June 17.

Any Member contemplating an amendment to H.R. 1211 should also submit 55 copies of the amendment and a brief explanation of the amendment to us up in the Committee on Rules no later than 4 p.m. on Tuesday, July 13.

For those who are not aware of it, the Committee on Rules is located in room H–312 in the Capitol. That is right upstairs.

Amendments should be drafted to the text of H.R. 2415, the American Embassy Security Act of 1999, as introduced by the gentleman from New Jersey (Mr. SMITH) and the gentlewoman from Georgia (Ms. MCKINNEY) on July 1, 1999.

Members should use the Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL FRIDAY, JULY 9, 1999, TO FILE PRIVILEGED REPORT ON A BILL MAKING APPROPRIATIONS FOR DEPARTMENT OF INTERIOR AND RELATED AGENCIES FOR FISCAL YEAR 2000

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until Friday, July 9, 1999, to file a privileged report on a bill making appropriations for the Department of Interior and related agencies for the fiscal year 2000, and for other purposes.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL FRIDAY, JULY 9, 1999, TO FILE PRIVILEGED REPORT ON A BILL MAKING APPROPRIATIONS FOR MILITARY CONSTRUCTION, FAMILY HOUSING, AND BASE REALIGNMENT AND CLOSURE FOR THE DEPARTMENT OF DEFENSE FOR FISCAL YEAR 2000

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until Friday, July 9, 1999 to file a privileged report on a bill making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year 2000, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

APPOINTMENT OF CONFEREES ON H.R. 1905, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2000

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1905) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2000, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina? The Chair hears none and, without objection, appoints the following conferees: Messrs. TAYLOR of North Carolina, WAMP, LEWIS of California, Ms. GRANGER, and Messrs. PETERSON of Pennsylvania, YOUNG of Florida, PASTOR, MURTHA, HOYER and OBEY.

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

FINANCIAL SERVICES ACT OF 1999

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 235 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 10.

□ 1638

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself 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 service providers, and for other purposes, with Mrs. EMERSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Iowa (Mr. LEACH), the gentleman from New York (Mr. LAFALCE), the gentleman from Virginia (Mr. BLILEY), and the gentleman from Michigan (Mr. DINGELL) each will control 22½ minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Madam Chairman, I yield myself such time as I may consume.

(Mr. LEACH asked and was given permission to revise and extend his remarks.)

Madam Chairman, I realize that feelings are imperfect with relation to the rule debate. For all the frustration on the minority side, it is more than matched by this Member whose advice was disregarded by the Rules Committee on key amendments. Nonetheless the big picture is that this is a good bill, good for individual citizens and the economy at large. I ask all my colleagues to vote on the quality of the end product, not the process of consideration which I acknowledge has been imperfect.

In this regard, let me stress that the big picture is that financial modernization legislation will save the public approximately $15 billion a year. It will provide increased services to individuals and firms, particularly those in less comprehensively served parts of the country. It will also allow U.S. financial companies to compete more fully abroad.

The economy on a global basis is changing and we must be prepared to lead market developments, rather than lose market share. In this effort, the fundamental precept of the bill is to end the arbitrary constraints on commerce implicit in the 65-year-old Glass-Steagall law. Competition is the American way and enhanced competition is the underlying precept of this bill.

In this regard, I'd like to address the issues of bigness and of privacy. With regard to conglomeration which is proceeding at a pace with which I am

deeply uncomfortable, it should be understood that the big are getting bigger from the top down, utilizing regulatory fiat. What this bill does is provide a modern regulation framework for change. It empowers all equally. Smaller institutions will be provided the same competitive tools that currently are only available to a few. Indeed, in a David and Goliath world, H.R. 10 is the community bankers and independent insurance agents' slingshot.

Finally, with regard to privacy, let me stress no financial services bill in modern history has gone to this floor with stronger privacy provisions. Importantly, pretext calling—the idea that someone can call a financial institution and obtain your financial information—is now effectively outlawed; medical records are protected; and individuals are given powerful new rights to prevent financial institutions from transferring or selling information to third parties.

Here, let me stress, if Congress subsequently passes more comprehensive medical records provisions, they will be allowed to bolster or supercede these safeguards and if HHS promulgates regulations in this area they would augment the provisions of this bill. Nothing in this act is intended to shackle Executive Branch actions in this area.

In conclusion, I would like to thank my Democratic colleagues on the Banking Committee and, in particular, JOHN LAFALCE and BRUCE VENTO, and JOHN DINGELL of the Commerce Committee, whose support I have been appreciative in the past and whose dissent I respect today; also my friends TOM BLILEY, MIKE OXLEY, DAVID DREIER, JOHN BOEHNER and so many others, like MARGE ROUKEMA, SUE KELLY, PAT TOOMEY and RICK LAZIO, whose leadership has been so important to bringing this bill to the floor.

The legislation before the House is historic win-win-win legislation, updating America's financial services system for the 21st Century.

It's a win for consumers who will benefit from more convenient and less expensive financial services, from major consumer protection provisions and from the strongest financial and medical privacy protections ever considered by the Congress.

It's a win for the American economy by modernizing the financial services industry and savings an estimated $15 billion in unnecessary costs.

And, it's a win for America's international competition position by allowing U.S. companies to compete more effectively for business around the world and create more financial services jobs for Americans.

It would be an understatement to say that this has not been an easy, nor a quickly-produced piece of legislation to bring before the House.

For many of the 66 years since the Congress enacted the Glass-Steagall Act in 1933 to separate commercial banking from investment banking, there have been proposals to repeal the act. The Senate has thrice passed repeal legislation and last year the House approved the 105th Congress version of H.R. 10.

But, this year it appears that we may be closer than ever before to final passage. The bill before us today is the result of months and months of tough negotiation and compromise; among different congressional committees, different political parties, different industrial groupings and different regulators. No single individual or group got all—or even most—of what it wanted. Equity and the public interest have prevailed.

It should be remembered that while the work of Congress inevitably involves adjudicating regulatory turf battles or refereeing industrial groups fighting for their piece of the pie, the principal work of Congress is the work of the people—to ensure that citizens have access to the widest range of products at the lowest possible price; that taxpayers are not put at risk; that large institutions are able to compete against their larger international rivals; and that small institutions can compete effectively against big ones.

We address this legislation in the shadow of major, ongoing changes in the financial services sector, largely the result of decisions by the courts and regulators, who have stepped forward in place of Congress. Many of us have concern about certain trends in finance. Whether one likes or dislikes what is happening in the marketplace, the key is to ensure that there is fair competition among industry groups and protection for consumers. In this regard, this bill provides for functional regulation with state and federal bank regulators overseeing banking activities, state and federal securities regulators governing securities activities and the state insurance commissioners looking over the operations of insurance companies and sales.

The benefits to consumers in this bill cannot be stressed more. First, they will gain in improved convenience. This bill allows for one-stop shopping for financial services with banking, insurance and securities activities being available under one roof.

Second, consumers will benefit from increased competition and the price advantages that competition produces.

Third, there are increased protections on insurance and securities sales, a required disclosure on ATM machines and screens of bank fees and a requirement that the Federal Reserve Board hold public hearings on large financial services merger proposals.

Fourth, the Federal Home Loan Bank reform provisions expand the availability of credit to farmers and small businesses and for rural and low-income community economic development projects.

Fifth, the bill also contains major consumer privacy protections making so-called pretext calling, in which a person uses fraudulent means to obtain private financial information of another person, a federal crime punishable by up to five years in jail and a fine of up to $250,000; would wall off the medical records held by insurance companies from transfer to any other party; and requires banks to disclose their privacy policies to customers.

A bipartisan amendment developed by members of the Banking, Commerce and Rules Committee will further enhance these protections and I urge its adoption.

In closing, I'd like to emphasize again the philosophic underpinnings of this legislation. Americans have long held concerns about bigness in the economy. As we have seen in other countries, concentration of economic power does not automatically lead to increased competition, innovation or customer service.

But the solution to the problem of concentration of economic power is to empower our smaller financial institutions to compete against large institutions, combining the new powers granted in this legislation with their personal service and local knowledge in order to maintain and increase their market share.

For many communities, retaining their local, independent bank depends upon granting that bank the power to compete against mega-giants which are being formed under the current regulatory and legal framework.

H.R. 10 provides community banks with the tools to compete, not only against large mega-banks but also against new technologies such as Internet banking. Banks which stick with offering the same old accounts and services in the same old ways will find their viability threatened. Those that innovate and adapt under the provisions of this bill will be extraordinarily well positioned to grow and serve their customer base.

Large financial institutions can already offer a variety of services. But community banks are usually not large enough to utilize legal loopholes like Section 20 affiliates or the creation of a unitary thrift holding company to which large financial institutions—commercial as well as financial—have turned.

By bolstering the viability of community-based institutions and providing greater flexibility to them, H.R. 10 increases the percentage of dollars retained in local communities. Community institutions are further protected by a small, but important provision that prohibits banks from setting up ''deposit production offices'' which gather up deposits in communities without lending out money to people in the community.

Additionally, the bill before us strengthens the Community Reinvestment Act by making compliance with the act a condition for a bank to affiliate with a securities firm or securities company. CRA is also expanded to a newly created entity called Wholesale Financial Institutions.

One of the most controversial provisions in H.R. 10 is the provision in Title IV which prohibits commercial entities from establishing thrifts in the future. Under current law, commercial entities are already prohibited from buying or owning commercial banks. This restriction between commercial banking and commerce is not only maintained in H.R. 10 but extended to restrict future commercial affiliations with savings associations.

The reason this restriction on commerce and banking is being expanded is several fold. First, savings associations that once were exclusively devoted to providing housing loans, have become more like banks, devoting more of their assets to consumer and commercial loans. Hence the appropriateness for comparability between the commercial bank and thrift charter is self-evident.

Second, this provision must be viewed with the history of past legislative efforts affecting the banking and thrift industries. The S&L industry has tapped the U.S. Treasury for $140 billion to clean up the 1980s S&L crisis. In 1996, savings associations received a multi-billion dollar tax break to facilitate their conversion to a bank charter. Also, in 1996, the S&Ls tapped the banking industry for $6 to $7 billion to help pay over the next 30 years for

their FICO obligations, that part of the S&L bailout costs that remained with the thrift industry.

During this time period, Congress has liberalized the qualified thrift lending test and the restrictions on the Federal savings association charter. These legislative changes are in addition to the numerous advantages that the industry has historically enjoyed, such as the broad preemption rights over state laws and more liberal branching laws.

H.R. 10 continues the Congressional grant of benefits to the thrift industry by repealing the SAIF special reserve, providing voluntary membership by Federal savings associations in the Federal Home Loan Bank System, allowing state thrifts to keep the term ''Federal'' in their names, and allowing mutual S&L holding companies to engage in the same activities as stock S&L holding companies.

Opponents of this provision correctly argue that commercial companies that have acquired thrifts (so-called unitary thrift holding companies) before and after the S&L debacles of the 1980s have not, for the most part, caused taxpayer losses. However, the Federal deposit insurance fund that was bailed out by the taxpayers applied to the entire thrift industry including the unitary thrift holding companies. Three years ago some $6 billion to $7 billion in thrift industry liabilities left over from cleaning up the S&Ls were transferred to the commercial banking industry with the understanding that sharing liabilities would be matched by ending special provisions. This is another reason to provide comparable regulation.

It is with this history and the assumption that decisions in this bill are made in the context of a legislative continuum that the provision in the bill was added to not only restrict the establishment of new unitary thrift holding companies, but also to require that commercial entities may not buy a thrift from an existing grandfathered company without first getting Federal Reserve Board approval.

As we all know, there are complex issues involved in this legislation, and there will be differing judgments by Members. One thing we all may agree upon, however, is that Congress needs to reassert its Constitutional role in determining what should be the laws governing financial services, instead of allowing the regulators and courts to usurp this responsibility.

If Congress turns its back on financial services modernization, we should not fool ourselves that rapid evolution in the fields of banking, securities and insurance will cease. It will not. Financial services modernization will take place with or without Congressional approval. Without this legislation, however, changes in financial services will continue unabated, but they will take place in an ad hoc manner through the courts and through regulatory fiat, and will not be subject to the safeguards and prudential parameters established in this legislation.

Now is the time for Congress, to step up to the challenge of modernizing our nation's financial services sector for the 21st century, to ensure that it remains competitive internationally, that it is stable and poses the least possible threat to the taxpayer, and that it provides quality service to all our citizens and communities.

Madam Chairman, I reserve the balance of my time.

Mr. LAFALCE. Madam Chairman, I yield myself 3 minutes.

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE. Madam Chairman, first, I want to thank the Chairman of the Committee on Banking and Financial Services, the gentleman from Iowa (Mr. LEACH), for working collegially with so many of us on the Democratic side of the aisle in order to produce a bipartisan bill out of the Committee on Banking and Financial Services that could be signed by the President and enacted into law. Each side had to give and take, each side had to make tremendous amount of concessions, but we did in order to advance the public interest and financial services modernization.

□ 1645

We produced a bill with a 51–8 vote, 21–6 on the Democratic side of the aisle. The Democrats voted for it, however, in large part because we were able to retain the strongest community reinvestment provisions, because we were able to have strong consumer protection before and beyond that, most especially provisions regarding redlining in the insurance industry. Once that eroded, so too did a lot of the Democratic support. And that is unfortunate. It is unfortunate.

There are other provisions that we are concerned about, too, and that is the medical privacy language of the gentleman from Iowa (Mr. GANSKE). I am hopeful that if this bill passes those concerns that we have can be dealt with in conference, and I look forward to a colloquy with the gentleman from Iowa (Mr. GANSKE) regarding his disposition on that.

There are some amendments that have been offered that I do not think should have been allowed that would create severe difficulties for me, in particular, the amendment of the gentleman from Texas (Mr. PAUL) which would eviscerate the ability of law enforcement agencies to enforce our anti-money-laundering statutes. The FBI is adamantly opposed to that.

I also am adamantly opposed to the Bliley amendment that would be a rip-off for the officers of mutual insurance companies at the expense of policyholders. It would be a Federal intrusion on State law. It would say to insurance officers, disregard your policyholders if they want to convert. They are entitled to all the money, not their policyholders. We must defeat the Bliley amendment if this bill is to advance the way I would like it to advance.

I am hopeful that, at the conclusion of debate and at the conclusion of the amendment process, we could advance to conference and then deal with whatever problems are left in conference. But that remains to be seen.

Mr. LAFALCE. Madam Chairman, I reserve the balance of my time.

Mr. BLILEY. Madam Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. OXLEY), chairman of the Subcommittee on Finance and Hazardous Material, the coach of our successful baseball team.

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Madam Chairman, I rise in support of H.R. 10, the Financial Services Act of 1999.

This is indeed an historic occasion, something that many of us have worked on for a number of years. As a matter of fact, this is by my count the 10th time in the last 20 years that we have sought to bring our financial laws into the modern world as we enter the 21st century. So here is hoping that number 11 is the charm.

Building on the progress we made last year through the help of many people that I see here on the floor, including our good friend, the gentleman from Ohio (Mr. BOEHNER), the gentleman from Virginia (Chairman BLILEY), the gentleman from Iowa (Chairman LEACH), the gentleman from Michigan (Mr. DINGELL), the gentleman from New York (Mr. TOWNS) and others, that we passed this bill by one vote in the House.

I suspect this year it will be far different and it will be a large vote, because the time has come for financial services modernization in this Congress and indeed in this country.

We have arrived at a point where just about everybody, including those on the opposite side of specific issues on the op-sub issue, for example, agree that the country's financial regulations crafted during the Depression years of the 1930s need to be brought up to date.

The Glass-Steagall Act has outlived its useful purpose. It now serves only as the cause of inefficiency in the markets as our markets change dramatically.

Madam Chairman, we have had a series of hearings, for example, in my committee about what is going on with the securities industry and how on-line brokerage has now become the most growing part of the securities industry. That shows how things have changed in technology and in markets and in consumer preference. And yet we continue to rely on a 1930 statute known as Glass-Steagall that simply has outlived its usefulness.

That means legislation that will provide for fair competition among all players. And it also means not only modernizing the marketplace and treating the consumer as the one who makes those kinds of decisions in the marketplace to provide that consumer with a new array of services and products, some products we probably have not even thought of or that financial service institutions have not even thought of yet today will be offered more and more to the consuming public and they are going to be able to one-stop shop as they go into this financial institution.

And ultimately it will not make any difference what it says on the door because they are going to be able to buy

a wide variety of products in that area. And, yes, those functions will be regulated by the regulators who know what that is all about. It is called functional regulation. Or as chairman of the SEC Arthur Levitt says, commonsense regulation in our marketplace is to protect the consumer but not to constrict the marketplace so that people do not have the ability to make decisions based on what is in their long-term economic interest. It means legislation that will promote, not jeopardize, the long-term stability of U.S. financial markets and the interests of American taxpayers.

Americans are becoming increasingly active participants in our booming securities markets and going on-line and investing, sometimes around the clock, for their families' future, investing for their education, for their children's education, investing for the future that we have tried to encourage.

One of the frustrations, I guess, in our country over the years has been that our savings rate has been far too low compared to some of our other competing nations. This will give people the ability to make long-term plans, to work with a financial institution that has the ability for them to buy their banking products, to get their securities, their 401(k), their savings, their insurance needs, all of those, under one roof dealing with professionals that they trust and that they know can provide them with the kind of economic security that they have come to expect.

The change already taking place in the marketplace may make it impossible for us to try Glass-Steagall reform a 12th time, and I would implore the Members to understand that this may be our last really good shot at bringing our laws up-to-date with what is happening in the marketplace and what is happening with technology, and all of those forces are now moving us so inextricably in that direction.

Because of the leadership of the gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services, because of the leadership of the gentleman from Virginia (Mr. BLILEY) chairman of the Committee on Commerce, because of participation on the other side of the aisle, it brings us here today.

Let us move forward. Let us support H.R. 10. Let us provide the kind of modern financial institutions that all of us have come to expect.

Mr. DINGELL. Madam Chairman, I yield myself 4 minutes.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Madam Chairman, this is a bad bill. We consider it under a bad rule.

George Santayana said something which I thought was very interesting. He said, ''He who does not learn from history is doomed to repeat it.''

It looks like this Congress is setting out to create exactly the same situation which caused the 1929 crash. It looks like this Congress is setting out to create the situation that caused the collapse of the banks in Japan and Thailand by setting up op-subs and by setting up monstrous conglomerates which will expose the American taxpayers and American investors to all manner of mischief and to the most assured economic calamity.

The bill is considered under a rule which does not afford either an opportunity to offer all the amendments or to have adequate debate thereof. But what does the bill do, among other things?

First all, it allows megamergers to create monstrous institutions which could engage in almost any sort of financial action. It sets up essentially, devices like the banks in Japan, which are in a state of collapse at this time, banks in Korea and Thailand, which are in a state of collapse, or banks in the United States, which could do anything and which did anything and contributed in a massive way to the economic collapse of this country in 1929 which was only cleared and cured by World War II.

Some of the special abuses of this particular legislation need to be noted. The Committee on Rules has stripped out an anti-redlining provision which had been in the law and which is valuable, and it is brazen and outrageous discrimination against women and minorities and it sanctifies such actions by insurance companies and others within the banks' financial holding companies which will be set up hereunder.

It attacks the privacy of American citizens. It allows unauthorized dissemination of their personal financial information and records. It guts the current protections for medical information now under State law. And it hampers the ability of the Secretary of Health and Human Services to adopt meaningful protections.

Every single health group in the United States and the AFL-CIO oppose this provision because it guts the rights of Americans to know that what they tell their doctor and what their doctor tells them is secure.

If we want to protect the security of our own financial records, we should tremble at this bill. It contains laughable financial privacy protections that tell a bank that it only has to disclose its privacy policy if it happens to have one. In other words, if they are going to give them the shaft, they should tell them. But they can do anything they want in terms of the financial information which they give them and which can be used to hurt them in their personal affairs.

The bill wipes out more than 1,700 essential State insurance laws across the country. It creates no Federal regulator to fill the void. So, as a result, their protections when they buy insurance are stripped away.

Alan Greenspan, the chairman of the Federal Reserve, is properly worried, and that should count for a lot. Let me read to my colleagues what he said to the Committee on Commerce this year.

''I and my colleagues are firmly of the view that the long-term stability of U.S. financial markets and the interests of the American taxpayer would be better served by no financial modernization bill rather than one that allows the proposed new activities to be conducted by the bank.'' And he goes on to state that he and his colleagues ''believe strongly that the operating subsidiary approach would damage competition in and the vitality of our financial services industry and poses serious risks for the American taxpayer.''

He noted that it creates a situation where banks and other financial activities will be made too big to fail and that the taxpayers then will be compelled to come in and bail them out.

So if my colleagues enjoyed the outrage of what the Committee on Banking and Financial Services did to us on the savings and loan reform, this, they should know, is a perfection of that. That cost us about $500 billion. This, my colleagues can be assured, will cost us a lot more.

I urge my colleagues to vote against this abominable legislation.

In case my colleagues have any questions about my views, I want to clearly state for the record that I rise to condemn this bill. It is a terrible piece of legislation and should cause Americans to quake at the prospect of its passing.

If you value your civil rights, you should worry about this bill. The Rules Committee stripped out an anti-redlining provision, offered by our colleague Ms. LEE and agreed to by the Banking Committee. This brazen act allows discrimination against women and minorities by insurance companies within the bill's financial holding companies.

If you have had cancer or diabetes or depression or any other medical condition that could affect your employment or lead to discrimination against you, you should fear this bill. It contains a medical privacy provision that actually sanctifies the unauthorized dissemination of your personal medical information records. It guts many current protections for medical information and hampers the ability of the Secretary of Health and Human Services to adopt meaningful protections. Legions of groups oppose this provision from the American Medical Association to the AFL–CIO.

If you want to protect the privacy of your own personal financial records, you should tremble at the prospect of this bill. The bill contains laughable financial privacy protections that tell a bank to disclose its privacy policy—if it has one. This bill deprives you of the right to say no.

If you own insurance, you should worry if you bought it from a bank. This bill wipes out more than 1,700 essential state insurance laws across the country, with no federal regulator to fill the void.

If you are a taxpayer, you should recoil in horror at this bill. No less an august person than Alan Greenspan is worried, and usually that counts for a lot. Let me read to you what he said before the Commerce Committee in April of this year:

I and my colleagues are firmly of the view that the long-term stability of U.S. financial

markets and the interests of the American taxpayer would be better served by no financial modernization bill rather than one that allows the proposed new activities to be conducted by the bank.

He reiterated these views to me on June 28 in a letter which I intend to put into the RECORD, but I want to read just one part:

I and my colleagues on the Board believe strongly that the operating subsidiary approach would damage competition in and the vitality of our financial services industry and poses serious risks for the American taxpayer. We have no doubt that the holding company approach, adopted by the house last year, passed by the Senate this year, and supported by each previous Treasury and Administration for nearly 20 years, is the prudent and safest way to modernize our financial affiliation laws and does not sacrifice any of the benefits of financial reform.

This bill greatly expands the authority of political appointees and bureaucrats over banking and monetary policy. That worries Alan Greenspan. It should worry all Americans.

In the earlier debate on the rule, several of my Republican colleagues labeled our concerns as ''partisan.'' So be it! If the Republicans want to accuse Democrats of caring about equal rights and protection from discrimination under the Constitution, I'll proudly stand with my Democratic colleagues. If the Republicans want to accuse Democrats of standing for full and fair protection of Americans' privacy rights, I'll proudly stand under that banner as well.

What I won't stand for is this abominable legislation. I support responsible financial modernization. I do not support this bill. It is a terrible piece of legislation and I urge the House to defeat it so we can go back to the drawing board and write a good bill.

In closing, I would like to address an important technical matter and explain the purpose of the Section 303 ''Functional Regulation of Insurance'' reference to Section 13 of the Federal Reserve Act. That reference is included to ensure that everyone that engages in the business of insurance—including national banks selling insurance as agents under the small-town sales provision commonly known as ''Section 92''—are subject to state regulation of those activities.

Some have argued that this reference is not meant to overrule the Supreme Court's ruling in the Barnett Bank case. I want to make clear that that statement is correct to the extent that the Commerce Committee intended that all state functional regulation of the insurance activities of financial institutions would be subject to the preemption rules set forth in Section 104. Indeed, that is why there is a specific reference to Section 104 at the end of Section 303. And Section 104 incorporates the preemption standard articulated by the Supreme Court in the Barnett Bank case and even specifically cites that case.

The statement, however, is incorrect to the extent that it implies that the Comptroller of the Currency remains free to issue his own set of rules and regulations to govern small-town national bank insurance sales activities. Although—as the Barnett Bank opinion recognizes—Section 92 specifically authorizes the Comptroller to issue such regulations, Section 303 makes clear that States are now the paramount authority in the regulation of small-town national bank insurance sales activities. Under Section 303, all state regulations of insurance sales activities apply to small-town national bank insurance sales activities under Section 92 unless those regulations are prohibited under the Section 104 preemption standard.

ORGANIZATIONS OPPOSED TO THE MEDICAL RECORDS PROVISIONS IN H.R. 10

Physician Organizations

American Medical Association
American Psychiatric Association
American College of Surgeons
American College of Physicians/American Society of Internal Medicine
American Academy of Family Physicians
American Psychological Association

Nurses Organizations

American Nurses Association
American Association of Occupational Health Nurses

Patient Organizations

National Breast Cancer Coalition
Consortium for Citizens with Disabilities/Privacy Working Group
National Association of People with AIDS
AIDS Action
National Organization for Rare Disorders
National Mental Health Association
Myositis Association
Infectious Disease Society

Privacy/Civil Rights Organizations

Consumer Coalition for Health Privacy
American Civil Liberties Union
Center for Democracy and Technology
Bazwlon Center for Mental Health Law

Labor Organizations

AFL–CIO
American Federation of State, County and Municipal Employees
Service Employees International Union

Senior and Family Organizations

American Association of Retired Persons
National Senior Citizens Law Center
Planned Parenthood Federation of America, Inc.
National Partnership for Women and Families
American Family Foundation

Other Organizations

American Association for Psychosocial Rehabilitation
American Counseling Association
American Lung Association
American Occupational Therapy Association
American Osteopathic Association
American Psychoanalytic Association
American Society of Cataract and Refractive Surgery
American Society of Clinical Psychopharmacology
American Society for Gastrointestinal Endoscopy
American Society of Plastic and Reconstructive Surgeons
American Thoracic Society
Anxiety Disorders Association of America
Association for the Advancement of Psychology
Association for Ambulatory Behavioral Health
Center for Women Policy Studies
Children & Adults with Attention-Deficit/Hyperactivity Disorder
Corporation for the Advancement of Psychiatry
Federation of Behavioral, Psychological and Cognitive Sciences
Intenational Association of Psychosocial Rehabilitation Services
Legal Action Center
National Association of Alcoholism And Drug Abuse Counselors
National Association of Developmental Disabilities Councils
National Association of Psychiatric Treatment Centers for Children
National Association of Social Workers
National Council for Community Behavioral Healthcare
National Depressive and Manic Depressive Association
National Foundation for Depressive Illness
Renal Physicians Association

ADDITIONAL VIEWS

During the consideration of H.R. 10, an amendment was offered to add a new section 351, entitled ''Confidentiality of Health and Medical Information.'' While we support increased protection for medical information, we opposed this provision, because, unfortunately, the provision weakens existing protections for medical confidentiality, and establishes a number of poor precedents for private medical information disclosure.

While the provision at first blush appears to place limits on the disclosure of medical information, the lengthy list of exceptions to these limits leaves the consumer with little, if any protection. In fact, the provisions ends up authorizing disclosure of information rather than limiting it.

In medicine, the first principle is ''Do no harm.'' In crafting a Federal medical privacy law, this principle requires that state laws providing a greater level of protection be left in place. Yet section 351 could preempt the laws of 21 states that have enacted medical privacy laws. While we agree that genetic information should also be protected—in fact, should deserve a higher level of protection—this provision could also preempt 36 state laws which protect the confidentiality of genetic information.

The provision also lacks any right for the individual to inspect and correct one's medical records. As a result, an individual has greater rights to inspect and correct credit information than medical records.

There is no requirement that the customer even be told that his medical information is being provided to a third party. Thus there is no way that the customer could prevent the records from being disseminated if the customer believed that statutory rights were being violated.

An individual has no right to seek redress if the rights under this provision are violated. In fact, the customer is unlikely to even know that the rights were violated. The only enforcement authority is given to the states. If the individual is unlikely to have knowledge of the transfer of confidential medical records, it is hard to understand how the state Attorney General would know to bring an action as provided in subsection (b) of the provision. Even if the state brings an action, it can only enjoin further disclosures. The customer has no right to seek damages.

The provision places absolutely no restrictions on the subsequent disclosure of medical records by anyone receiving the records. Once the records are out the door for any of the myriad exceptions in this provision, they are fair game for anyone.

We agree that information should be disclosed only with the consent of the customer, as provided in (a)(1), but this right is rendered meaningless with the extensive laundry list of exceptions that swallows this simple rule. We shall only discuss a few of these exceptions.

The provision allows financial institutions to provide medical records, including genetic information, for purposes of underwriting. As a result, customers could find themselves being uninsurable, or facing whopping rate increases for health insurance, based upon their genetic information, or health records. In addition, the information may be inaccurate, but the customer cannot correct it.

The provision allows financial institutions to provide medical records for ''research

projects.'' This term is undefined, and could include marketing research, or nearly anything else. For example, a customer's prescription drug information could be provided to a drug company doing marketing research on candidates for a new related drug.

Moreover, the provision establishes no research protections for individually identifiable records. The majority of human subject research studies conducted in this country are subject to the Common Rule, a set of requirements for federally-funded research. Analogous requirements apply to clinical trials conducted pursuant to the FDA's product approval procedures. The Common Rule dictates that a study must be approved by an entity that specifically examines whether the potential benefits of the study outweigh the potential intrusion into an individual's private records and whether the study includes strong safeguards to protect the confidentiality of those records. Two weeks ago at a hearing before the Health and Environment Subcommittee, witnesses from the National Breast Cancer Coalition and the National Organization for Rare Disorders testified that these Federal standards should be extended to all research using individually-identifiable medical records. Extending these protections would strengthen confidence in the integrity of the research community and encourage more individuals to participate in studies. Because this provision establishes no protections for individually-identifiable records, it could actually stifle research.

The provision allows the disclosure of confidential medical records ''in connection with'' a laundry list of transactions, most of which have nothing to do with medical records. The provision does not define who can receive the records, but instead allows disclosure to anyone, so long as it is ''in connection with'' a transaction. There was no explanation at the markup why medical records should be disclosed in connection with ''the transfer of receivables, accounts, or interest therein.'' There is no definition of ''fraud protection'' or ''risk control'' for which the provision also authorizes disclosure. The provision gives carte blanche to financial institutions to disclose confidential medical records for ''account administration'' or for ''reporting, investigating, or preventing fraud.'' Reporting to whom? An investigation by whom?

While most laws protecting medical records provide for disclosure in compliance with criminal investigations, those laws provide safeguards to permit the individual the opportunity to raise legal issues. This provision does not. In fact, as is the case with all other disclosures in this provision, the consumer would not even be informed that the information has been disclosed. Thus, a customer's medical records could be disclosed to an opponent in a civil action without the customer even knowing it.

Within hours of passage of this provision, we began learning from patient groups and others who have fought to improve the privacy rights of individuals that this provision is seriously flawed. These concerns demonstrate why Congress needs to deal comprehensively with the issue of medical confidentiality, not in a slapdash amendment that has received no scrutiny. The Health and Environment Subcommittee of the Commerce Committee has already held a hearing on medical privacy, and a Senate committee has held multiple hearings on the subject. We look forward to enacting real medical information privacy provisions that will truly protect individuals. Unfortunately, this premature move by the Committee will actually set back the health and medical information privacy rights of all Americans.

John D. Dingell, Henry A. Waxman, Edward J. Markey, Rick Boucher, Edolphus Towns, Frank Pallone, Jr., Sherrod Brown, Bart Gordon, Peter Deutsch, Bobby L. Rush, Ron Klink, Bart Stupak, Tom Sawyer, Albert R. Wynn, Gene Green, Ted Strickland, Diana DeGette, Thomas M. Barrett, and Lois Capps.

THE VERSION OF HR 10 RELEASED BY THE HOUSE RULES COMMITTEE SWEEPS AWAY 1,781 ESSENTIAL STATE INSURANCE LAWS ACROSS THE COUNTRY

State governments are solely responsible for regulating the business of insurance in the United States.

The States regulate insurance in order to protect consumers and supervise the solvency and stability of insurers and agents.

The version of HR 10 released by the House Rules Committee on June 24, 1999 will likely preempt many State consumer protection and solvency laws needed to regulate the insurance activities of banks and their affiliates.

State	Number of State laws likely preempted by the House Rules Committee version of H.R. 10
Alabama	33
Alaska	30
Arizona	35
Arkansas	41
California	43
Colorado	35
Connecticut	36
Delaware	32
Florida	40
Georgia	38
Hawaii	28
Idaho	31
Illinois	41
Indiana	33
Iowa	39
Kansas	41
Kentucky	36
Louisiana	37
Maine	37
Maryland	36
Massachusetts	32
Michigan	33
Minnesota	36
Mississippi	32
Missouri	37
Montana	36
Nebraska	36
Nevada	36
New Hampshire	28
New Jersey	41
New Mexico	31
New York	37
North Carolina	46
North Dakota	34
Ohio	38
Oklahoma	31
Oregon	39
Pennsylvania	35
Rhode Island	35
South Carolina	34
South Dakota	37
Tennessee	37
Texas	42
Utah	34
Vermont	32
Virginia	36
Washington	36
West Virginia	34
Wisconsin	33
Wyoming	31
Total	1,781

Source: National Association of Insurance Commissioners

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
Washington, DC, June 28, 1999.

Hon. JOHN D. DINGELL,
Ranking Minority Member, Committee on Commerce, House of Representatives, Washington, DC.

DEAR MR. DINGELL: This is in response to your request for the Board's views on the operating subsidiary approach to financial modernization contained in H.R. 10. As I have testified, I, and my colleagues on the Board believe strongly that the operating subsidiary approach would damage competition in and the vitality of our financial services industry and poses serious risks for the American taxpayer. We have no doubt that the holding company approach, adopted by the House last year, passed by the Senate this year, and supported by each previous Treasury and Administration for nearly 20 years, is the prudent and safest way to modernize our financial affiliation laws and does not sacrifice any of the benefits of financial reform.

The structure adopted by Congress for financial modernization will prove decisive to the shape of our financial system, the long term health of our economy, and the level of protection afforded the American taxpayer long into the next century. Thus, this decision on banking structure is a policy matter of national importance. Allowing national banks to engage through operating subsidiaries in merchant banking, securities underwriting, and other newly authorized financial activities is likely to have as profound an impact on our entire financial sector as the 1982 legislation regarding the thrift industry.

The problem with the operating subsidiary approach is that insured banks are supported by the U.S. Government and, consequently, are able to raise funds at a materially lower cost, which is equivalent to approximately half of the interest spread on an investment grade loan. This subsidized ability to raise lower cost funds provides banks and their operating subsidiaries a decisive advantage over independent securities, insurance and financial services firms. This advantage will inevitably reduce competition and innovation in and between these industries as it has in other countries that have adopted the universal banking approach. In addition, the experiences in Asia demonstrate that linking financial markets more tightly to the health of the banking system—as is inevitable under the operating subsidiary approach—makes the economy more vulnerable to crises that affect banks and makes the broader financial markets more dependent on the protection and advantages of the federal safety net.

The operating subsidiary approach also poses substantial risks to the safety and soundness of our banking system and to the American taxpayer. This derives from the fact that an operating subsidiary of a bank is consolidated with, and controlled by, the bank and the fate of the bank and its subsidiary are inextricably interdependent. The measures contained in H.R. 10 to address these risks are not adequate. These measures are based on creating a regulatory accounting system that is different from market accounting and on the hope that operating subsidiaries can be quickly divested before problems spread to the parent bank. We have learned from the thrift crisis of the 1980s that regulatory accounting can give a dangerously false sense of security that only masks real problems. In addition, experience with other subsidiaries of national banks illustrates that banks can lose far more than they invest in an operating subsidiary, that those losses can occur quickly and before regulators have an opportunity to act, and that banks feel forced to support their subsidiaries through capital injections and liberal interpretations of the law. Troubled operating subsidiaries are also very difficult to sell and can result in prolonged exposure and expense to the parent bank. In the heat of a crisis, the taxpayer cannot be confident that regulatory constraints will prove entirely effective.

In a world where mega-mergers are increasing the size of banks on a stand-alone basis, the operating subsidiary structure allows banks to increase their balance sheets in even more dramatic fashion. This, on its own, may not be a problem. However, the operating subsidiary structure focuses all

losses from new activities—as well as the risks from the bank's direct activities—on the bank itself. Thus, the operating subsidiary structure leads to precisely the type of organization that inspires too-big-to-fail concerns.

Some argue that H.R. 10 does nothing more than preserve freedom of choice of management. However, this is not a matter of choice for private enterprise. Rational management will inevitably choose the operating subsidiary because it allows the maximum exploitation of the cheaper funding ability of the bank. Because this so-called ''choice'' involves the use of the sovereign credit of the United States, it is a decision that should rest exclusively with Congress.

It is also noteworthy that the holding company approach does not in any way diminish the powers or attractiveness of the national bank charter. The national bank charter has flourished in recent years even though national banks are not authorized today to conduct through operating subsidiaries the broad new powers permitted in H.R. 10. Nor does the holding company approach diminish the influence of the Treasury over bank policy. Treasury continues to play a significant and appropriate role through its oversight of all national banks and thrifts.

On the other hand, the operating subsidiary approach would damage the Federal Reserve's ability to address systemic concerns in our financial system. This will occur as the holding company structure atrophies because of the funding advantage the operating subsidiary derives from the federal safety net.

I and my colleagues are especially concerned because there is no reason to take the risks associated with the operating subsidiary approach. The holding company framework achieves all the public and consumer benefits contemplated by H.R. 10 without the dangers of the operating subsidiary approach.

The Board has been a strong supporter of financial modernization legislation for nearly 20 years. We are seriously concerned, however, about the destructive effects of the operating subsidiary approach for the long-term health of the national economy and the taxpayer.

Sincerely,

ALAN GREENSPAN.

Madam Chairman, I reserve the balance of my time.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA) the distinguished chairperson of the Subcommittee on Financial Institutions, whose work on this bill is the most important of any Member of this body, and I very very much appreciate her friendship and leadership.

Mrs. ROUKEMA. Madam Chairman, I thank the chairman for yielding me the time.

I certainly rise in support, strong support, of H.R. 10 and associate myself with the commentary of the chairman at the beginning of this discussion and completely disagree with the gentleman we just heard.

I have worked on this issue for a long time, and really it is very clear. We are going beyond the 1930 laws, Glass-Steagall, far out-of-date. Technology and market forces have broken down the barriers here, and over the years we have just been letting the regulators and the courts and creative industries deal with this.

It is now the time for us to catch up with the modern financial world both domestically and globally and do what the Constitution requires us to do and not abrogate our responsibility to the courts and other Federal regulators.

I am most intent on saying that, is it a perfect bill? No. Can it be after all these years of negotiation? Maybe not. Maybe. But, on the other hand, only not perfect because we cannot get all these industries to agree on every single thing. But we have compromises represented here that strongly protect the fundamental principles that we should have, and that is preserving the safety and soundness of the financial system.

They are protected here. The Federal deposit system and the rest of the Federal safety net. If we abandon this now, we are just saying it is just going to evolve as the regulators or the courts would like them to, without any statutory responsibility.

Do we provide for fair and equal competition? I believe we do in the real world of financial institutions.

□ 1700

I believe strongly that we have protected the consumers and enhanced their choices in this bill. The new holding company structure that is in this bill will be overseen by the Federal Reserve Board. H.R. 10 includes new consumer privacy. There will be an amendment on the floor that will increase the consumer privacy that is in this bill and close any of the loopholes that we can see.

I urge strong support for this bill.

Madam Chairman, I rise in strong support of H.R. 10, the Financial Services Act and associate myself with the commentary of our Chairman, Representative LEACH, and urge my Colleagues to support this landmark legislation.

As many of my colleagues know, I have long been and advocate for passing financial modernization legislation. Markets are changing every day. Technology and market forces have broken down the barriers between insurance, securities and banking. Mega-merger deals like Citicorp/Travelers, NationsBank/Bank of America, Bankers Trust/Deutsche Bank—are being contemplated or announced daily.

We need to replace the outdated Glass-Steagall Act of the 1930s. Glass-Steagall did its part in its day, but the financial world has changed and we must have a financial system that is able to compete in the modern world. Our current statutory framework has remained stuck in the '30s because of Congress's reluctance to act, hampering the ability of our financial institutions to compete. In the absence of congressional action, federal agencies, the courts and the industry have been forced to find loopholes and novel interpretations of the law to allow financial institutions to adapt to an ever-changing marketplace. Unfortunately, this has resulted in piecemeal regulatory reform that may not be in the best interest of the U.S. financial services industry as a whole.

As elected representatives of Congress, it is our constitutional duty to make the important policy decisions that determine the structure and legal authority under which our financial institutions will operate. For Congress to not act today would be a serious abdication of our responsibility.

Throughout this process, I have based my support for this bill on some very fundamental principles:

It must:

(1) Preserve the safety and soundness of the financial system—including the federal deposit system and the rest of the federal safety net.

(2) Provide for fair and equal competition; and

(3) Protect consumers and enhance their choices.

H.R. 10 maintains these fundamental principles.

Much like the bill we passed last year, H.R. 10 creates a new holding company structure under which entities that are financial in nature can directly affiliate.

This new holding company will be overseen by the Federal Reserve Board, but each affiliate will be regulated by its own ''functional'' regulator.

H.R. 10 includes important new consumer privacy provisions requiring banking institutions to tell customers their policies for sharing customer's financial information with bird parties for marketing purposes. It would also makes ''pre-text calling'' illegal.

In addition, the bill prohibits all insurance companies (including companies not affiliated under a Financial Holding Company) from disclosing medical information to third parties—without prior consent. In addition to these important privacy provisions, my colleagues and I will later be offering an amendment that further enhances privacy protection.

Finally, we have included legislation that I introduced which provides important consumer ATM disclosures. These provisions mandate clear ATM fee disclosures and guarantees the consumers rights to opt out of a transaction before a fee is charged.

This legislation also includes language I proposed to allow new Financial Holding Companies to retain or acquire commercial entities that are ''complimentary'' to their current or future financial activities. While I do not support full mixing of banking and commerce, this amendment accepts the reality that the lines between financial and commerce are blurring. At a time when we are allowing various financial to affiliate and create new financial holding companies, it is prudent to provide flexibility for companies to engaged in activities which may not meet the definition of financial but are complimentary to the financial activities. This provision stipulates that the investment in the complimentary activity must remain small, and will be subject to Federal Reserve review.

For those of us that serve on the Banking Committee, we are painfully aware of how controversial the issues surrounding the financial services industry can be. To say the least, various sectors of the financial services industry have had different and often conflicting views on how best to go about modernization, but H.R. 10 includes many compromises between all of the interested parties, and it deserves our support.

Did everyone get everything they wanted? No they did not. In fact, I strongly oppose the operating subsidiary provisions included in this bill. We must work to improve this regulatory structure in conference. In addition, while I support the provisions in the bill that would

close the unitary thrift loophole, I do not support permitting the transferability of unitary thrift holding companies to commercial entities. The unitary thrift provisions included in this bill today do not prohibit transfers to commercial entities.

In short, allowing the transferability of unitary thrifts to commercial entities in the same as allowing full banking and commerce. I do not support full banking and commerce and believe it could pose serious safety and soundness risks to the deposit insurance fund.

We respect to the operating subsidiary, I am concerned that losses in an operating subsidiary could ultimately affect the parent bank.

A case in point is the First Options/Continental Illinois problems in the late 1980s—Continental Illinois lost considerable more than its investment in First Options. While there are firewalls in place that limit the amount of bank investment, in times of stress, firewalls melt. Such was the case with First Options/Continental Illinois where Continental Illinois injected millions of dollars to prevent the failure of First Options.

Furthermore, the likely result of allowing bank operating subsidiaries is that an independent securities industry will become a thing of the past. The advantage that the U.S. economy has enjoyed is that the credit and capital markets have grown up separately and are strong with each having a great deal of depth.

Not having an independent securities industry will seriously undermine these vitally important markets. Innovation will be stifled and these markets will become less competitive. And importantly, it will make it much harder on the U.S. economy to address economic downturns because the securities system will become directly tie to the health of the banking system. Any stresses on the banking system will affect all of the capital markets. I, for one, do not want to see that result, particularly because the simple answer is to allow banks and securities firms to become sister companies through a holding company which means the securities industry will not be tied directly to the banking industry.

For these reasons I will continue to work to change the operating subsidiary and unitary thrift provisions included in H.R. 10 as this bill moves through conference. However, despite the problems I have with these specific provisions, I believe that we must act today to pass this landmark legislation. There is far too much in this bill that warrants our support. We have come too far to turn back now.

If we fail to act today, we will lose the opportunity to reform our financial system in a meaningful, rational way. It's now or never.

Years of good faith negotiation and compromise have gone into this bill.

Support the passage of H.R. 10.

Mr. LAFALCE. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Minnesota (Mr. VENTO) the ranking Democrat on the Subcommittee on Financial Institutions and Consumer Credit.

Mr. VENTO. Madam Chairman, I rise in strong support of H.R. 10. This is a good work product. This is a legislative product that finally brings our statutory provisions of law in line with the current developed financial entities and the future policy path that is necessary to in fact fully engage our economy and our financial institutions in serving our enterprise and serving the consumers of this Nation.

The fact is that I think it is due to a lot of hard work on the part of the gentleman from Iowa (Mr. LEACH) and the gentleman from Virginia (Mr. BLILEY) and the gentleman from New York (Mr. LAFALCE), so too the work of the gentleman from Michigan (Mr. DINGELL) who is in dissent today.

Nevertheless, I think it follows a tradition and path that will, in fact, put us in charge. I think, though, that we probably will not work ourselves out of a job with this measure. There is much to do in many, many aspects of it, but it does for the first time through the work with the various enterprises, the industry, the banks, the securities firms and the insurance firms that are already affiliating today under court and under regulatory practices, it finally puts a statutory policy path that Congress stipulates in place and one that is effective. Of course there is a claim that there is $15 billion worth of saving that inures to the benefit of our economy in terms of some of the streamlining that takes place with this policy and law.

Do we like big banks and big financial institutions? Probably not. But the fact is that the global marketplace that we compete in and that we participate in today is actually bringing these together and about. This is happening in the absence of this law. But what we are trying to do is to try to put in place a legal framework to put back some consumer voice, some public policy voice in that process that affects consumers.

This bill has strengthened Community Reinvestment Act provisions. This bill when the amendment on privacy is adopted, I think the banks will have about the strongest privacy policy of any of the financial entities commercial or otherwise that we have responsibility at the national government for or, for that matter, even at the State level. We know how important that issue is. The privacy provisions that will finally be written into this bill are stronger than those that were in the Commerce bill, stronger than those that were in the Banking provision of H.R. 10.

Beyond that, I think that the bill provides many opportunities to deal with antitrust issues, other issues such as supernotice requirements for mergers, mandatory ATM fee disclosure. It provides the opportunity for posted privacy policies. Some medical privacy. I think we are going to have some debate about that today. Some would have us believe that no policy is better than the policy that we have in this bill, but we are trying to, in fact, do the right thing. As I said, it deals with antitrust concentration.

As far as the operating subsidiary goes, I think we ought to look very closely at Chairman Greenspan's comments because he pointed out in 1997 that operating subsidiaries pose no safety soundness problem in terms of their operation. As a matter of fact, the Chairman of the Federal Reserve Board regulates just such operating subsidiaries in the States and in the foreign bank operation. These are safe, they are sound, and I think this bill is a good bill and deserves our support.

H.R. 10 represents the changes in law that we need to catch up with reality by mapping a path of true modernization for financial institutions in the financial services marketplace for today and tomorrow. We need to enhance the competitiveness of our financial services sector and to move forward with predictable, certain, logical, and uniform regulation.

As my colleagues are by now painfully aware, there are many Democrats, some of whom supported the bill in the Banking Committee, who can now no longer feel comfortable supporting this legislation. Despite the partisan gamesmanship of the past 24 hours, I remain committed to achieving comprehensive financial modernization through the enactment of H.R. 10 into law, and thus hope that we can pass this bill at the end of the day.

I have put a great deal of time, effort and energy working with my Democratic Colleague and my Colleagues from across the aisle. We have been laboring together for many years—three Congresses on this particular version—crafting and perfecting a compromise on financial modernization that will put the Congressional imprint on modernization. Our Chairman, Mr. LEACH, and the Ranking Member, Mr. LAFALCE were able to work together with Members such as myself and Mrs. ROUKEMA to put together a bill. The Administration, which was opposed to the bill passed last year, was supportive of our Banking Committee product.

We have accomplished much of which we should be proud.

Back in March, the House Banking and Financial Services Committee approved H.R. 10 on a strong bi-partisan basis, 51–8 with 21 Democratic votes cast in support of the bill. Much of this Banking Committee product has been carried forward in the product before us today.

Some important provisions are lacking or inadequate. We do not have complete parity, for example, for affiliation between banks and insurance and securities firms with regard to commercial activities. I would preferred to have gone a little further on limiting Unitary Thrift Holding Companies—indeed, we could have merged the bank and thrift charters. I would have also hoped that we could have included fair housing compliance on affiliates, low-cost banking accounts and application of Community Reinvestment Act-like requirements on products that are similar to bank products, such as mortgages product sold and issued through affiliates.

On the main, however, we have a product that will remove the rusted chains of Glass-Steagall, providing in its place a new financial services infrastructure to keep U.S. companies competitive in the global marketplace, while ensuring consumers the quality services and protections they deserve. We remove the barriers preventing affiliation. We provide financial services firms the choice of conducting certain financial activities in bank holding company affiliates or in subsidiaries of banks on a safe and sound basis.

Some today may say that the operating subsidiary is too risky. That is just not the case.

Outgoing Treasury Secretary Robert Rubin, the Federal Deposit Insurance Corporation, and four past Chairs of the FDIC have all explained how the subsidiary structure protects the public interest as well as the affiliate structure—and provides greater protection for the FDIC and bank safety and soundness. Even Chairman Greenspan—the foremost opponent of subsidiaries—acknowledged in 1997 testimony that the subsidiary approach posed no safety and soundness problems.

By requiring bank to be well-capitalized even after investing capital in a subsidiary, we are providing a proper cushion that is not the S&L crisis all over again. Our national banks have been and should remain a source of economic strength and a solid foundation to construct an economic framework of growth. This bill will keep them vigorous and viable, with or without a holding company structure and does not change the balance between the national bank and state bank dual banking charters, and regulation structure.

As I said earlier today, the focus of the lengthy and seemingly endless public debate over this legislation has been the opening of the financial services marketplace to new competition and the reduction of barriers between financial services providers. It is equally important that this bill is a positive step for our constituents and the communities in which they live, as well.

In general, there are inherent benefits of being able to provide streamlined, one-stop shopping with comprehensive services choices for consumers. According to the Treasury Department, financial services modernization could mean as much as $15 billion annually in savings to consumers.

There are additional, specific and key positive consumer and community provisions in the base text.

We have modernized the Community Reinvestment Act (CRA) in a positive manner. And I am pleased that this bill will not contain provisions that move us back in time for CRA. The CRA was enacted by Congress in 1977 to combat discrimination. The CRA encourages federally-insured financial institutions to help meet the credit needs of their entire communities by providing credit and deposit services in the communities they serve on a safe and sound basis. According to the National Community Reinvestment Coalition, the law has helped bring more than $1 trillion in commitments to these communities since its enactment. Groups like LISC, Enterprise, Neighborhood Housing Services, and others too plentiful to mention them all, use CRA to work with their local financial institutions to make their communities better places to live.

CRA's success results from the effective partnership of municipal leaders, local development advocacy organizations, and community-minded financial institutions. By creating such partnerships, the CRA has proven that local investment is not only good for business, but critical to improving the quality of life for low- and moderate-income constituents in the communities financial institutions serve.

Importantly, H.R. 10 ensures CRA will remain of central relevance in a changing financial marketplace. It furthers the goals of the Community Reinvestment Act by requiring that all of a holding company's subsidiary depository institutions have at least a ''satisfactory'' CRA rating in order to affiliate as a Financial Holding Company and in order to maintain that affiliation, including appropriate enforcement. In addition, H.R. 10 extends the CRA to the newly created Wholesale Financial Institutions (''Woofies''). These provisions represent substantial progress and a critical contribution to the overall balance reflected in this bill.

Other positive provisions include the requirement that institutions ensure that consumers are not confused about new financial products along with strong anti-typing the anti-coercion provisions governing the marketing of financial products; super notices to customers that state that when banks sell non-deposit products they are not insured by the Federal Deposit Insurance Corporation (FDIC) like traditional bank accounts are insured; the requirement to maintain market-related data and to produce an annual report on concentration of financial resources to assure that community credit needs are being met; and the disclosure to consumers of ATM fees, not only on the computer screen, but, also on the ATM machine itself. Additionally, when issuing ATM cards, banks must issue a warning that surcharges may be imposed by other parties.

I would also like to highlight an amendment of I advanced that has been included with a minor change from Commerce committee, requiring public meetings in the case of mega-mergers between banks which both have more than $1 billion in assets where there may be a substantial public impact because of the larger merger, providing our constituents with the important opportunity to express their views regarding mega mergers in their communities.

Importantly, the base text also includes required posted privacy policies by depository institutions of financial holding companies to clearly and conspicuously disclose to their customers their privacy policies, specifying what their policies are with regard to a customer's information. While an amendment later today will make vast improvements for consumer privacy, with this provision, customers can learn what a financial institution's policies are and could be clearly informed of their rights under the Fair Credit Reporting Act to choose not to have their information shared among affiliates.

Frankly, in this way, customers would be able to choose whether they want to do business with institutions that have privacy policies with which they disagree. If they don't like affiliate sharing or other parts of the privacy policy that an institution has, they have the benefit of living in a country with thousands of small community banks and with other institutions even offering banking on the Internet.

I do want to note something on the medical privacy provisions in Title III of the bill. Mindful of the deep concerns raised by our colleagues on the Commerce Committee and many other outside the Congress, I want to state that we do not want to preempt any comprehensive medical privacy provision. We do not want to create loopholes or set up consumers to be forced to disclosed private data just to get insurance coverage. Neither, however, do we want to leave wide open the possibility that within the confines of this new affiliated structure this bill creates allowing insurance, banking and securities firms to join, that they can learn private medical or genetic information to base credit decisions upon.

I would hope that we will have an opportunity in time to appropriately fix this provision and if that means limiting it to situations where insurance and banks affiliate—so that within these confines insurance companies which affiliate with a bank will keep confidential customer's health and medical information. This represents an initial effort to assure that health information cannot be used to determine eligibility for credit or other financial services. It was not our intent to undercut, circumvent of weaken—but rather to enhance and protect, so let us work together in Conference to improve this if the amendment sought by Mr. WAXMAN and Mr. CONDIT cannot be a part of this process here today.

As I noted earlier in my statement, I had hoped that we could have included a Banking committee reported provision to condition affiliation of insurance companies with banks based on compliance with an existing law—the Fair Housing Act. It is a productive provision that more than suggests that companies who seek to expand their opportunities are meeting the needs of communities and following the law by not discriminating.

There have been settlement agreements and consent decrees between the Department of Housing and Urban Development, the Department of Justice and insurance entities that resulted from alleged violations of the Fair Housing Act. What has resulted is changes in underwriting guidelines (such as changes eliminating ''year the dwelling the built'' or ''minimum dollar amounts of coverage'' OR not denying coverage SOLELY on the basis of information contained in credit reports) that will better ensure the homeowners are not denied insurance—and quite possibly the opportunity to become homeowners—because of discrimination.

It is indeed unfortunate that neither the base text has not did the rule allow as an amendment a provision to strengthen fair housing and to eliminate discrimination. This provision could have been step forward for consumers as much as requiring low-cost banking accounts could have been. These provisions would have ensured that the benefits of modernization would be more available to consumers of all economic means. Low cost accounts could have taken a form similar to the ETA accounts created by Treasury with little or no burden, and certainly no credit risk borne by depository institutions.

Mr. Chairman, in closing, following more than 20 years of debate on financial modernization, I think that we are close to achieving our goal. And if not on the rule, on much of the substance of the bill before us today, we have done so on a bipartisan basis. We have much to do so we can get this bill through a Conference with Members of the other body. Their bill has many provisions that are extremely problematic for the Administration and for House Democrats, from debilitating limitation on the national bank operating subsidiary to outright gutting of the Community Reinvestment Act.

I ask my colleagues to join me in supporting H.R. 10. I want to thank Chairman LEACH, Ranking Member LAFALCE, and Chairwoman ROUKEMA and their respective staff for all of their work and cooperation on this important legislation.

Mr. BLILEY. Madam Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. GILLMOR), the vice chairman of the committee.

(Mr. GILLMOR asked and was given permission to revise and extend his remarks.)

Mr. GILLMOR. Madam Chairman, I thank the gentleman for yielding me this time and I thank him for his leadership on this issue. I rise in support of the bill.

Madam Chairman, this bill makes the most fundamental change in the laws covering financial institutions in 60 years. It deals with a broad scope of services, banking, insurance, securities. It also recognizes the changes that have taken place in the economy over that period of time and also the dramatic change in technology which has made possible the offering of services now which would not have been possible before.

The financial combinations authorized by this bill can result in significant savings in the delivery of financial services. But as institutions are combined and as they become larger, it is essential that there be safeguards for safety and soundness to protect both consumers and taxpayers. This bill for the most part contains those safeguards.

I am also happy that the bill before us contains several provisions I sponsored in the Committee on Commerce. Among those was the requirement that the Federal Reserve consider before approving mergers whether the merged institution would be ''too big to fail.'' Mergers that are if they fail so big that the taxpayers or the government will have to bail them out simply should not be permitted.

The bill also contains a provision I introduced to prevent discrimination against certain banks in the sale of title insurance, and those regulatory restrictions I sponsored in last year's bill have stayed in here called ''Fed Lite.''

Regrettably, it does not include some of the provisions I introduced in the Committee on Commerce, which the committee approved, to protect the privacy of customers of merged institutions. But I am happy that those privacy provisions were made in order in the amendment to be offered by the gentleman from Ohio (Mr. OXLEY) later in this bill.

I urge the support of that amendment and I urge the support of the bill.

Madam Chairman, I rise in support of the bill.

This bill makes the most fundamental change in the laws covering financial institutions in over 60 years. It deals with the broad scope of services—including banking, insurance and securities. It recognizes the changes which have taken place in the economy in that time, and also the dramatic change in technology which has made possible the offering of services now which would not have been possible before.

This bill has the potential of expanding financial services to consumers and creating more competition. The financial combinations authorized by this bill can result in substantial savings in the delivery of financial services. However, as institutions are combined, and as they become larger, it is essential that there be safeguards for safety and soundness to protect both consumers and taxpayers. The bill for the most part contains those safeguards.

Two years ago as H.R. 10 was being considered in the previous Congress, I was concerned with the broad expansion of certain regulatory powers. My amendment in the Commerce Committee two years ago, which was included in the current bill, created the functional regulation framework for financial holding companies. The purpose of this ''Fed Lite'' regulatory framework is to parallel the financial services affiliate structure envisioned under this legislation. This parallel regulatory structure eliminates the duplicative and burdensome regulations on businesses not engaged in banking activities, and importantly, preserves the role of the Federal Reserve as the prudential supervisor over businesses that have access to taxpayer guarantees and the federal safety net.

Besides numerous consumer protections, H.R. 10 also includes important taxpayer protections. I am happy that the bill before us contains certain provisions that I sponsored before the Commerce Committee. Among those was the requirement that the Federal Reserve consider before approving mergers whether the merged company will be ''too big to fail.'' Mergers that are so big that failure would result in the government or taxpayers bailing them out should not be permitted.

We are in the age of megamergers, and the creation of increasingly large financial institutions. To give you an idea of how big, consider that the recent merger of Citicorp and Travelers created a company with $690 billion in assets. The merger of Bank of America and Nations Bank left an institution with $614 billion. To put those figures in prospective, the budget for the entire federal government is $1.8 trillion, or one thousand eight hundred billion.

There are clearly economic benefits to be gained from consolidation. But the larger the potential for economic benefits, the larger the potential costs become to the financial system, and the American taxpayers, should the combined entity fail. Any substantial disruption in the institution's operations would likely have a serious effect on the financial markets.

There is currently no statutory requirement that the Fed explicitly examine whether a combined entity would be too big to fail. The too big to fail provision does not focus on limiting megamergers, but instead maximizes the credibility of prudently managed large financial institutions, which will benefit financial consumers and the American taxpayers.

The bill before us also contains the provision I introduced to prevent discrimination against certain banks in the sale of title insurance. This amendment brings the special carve out for one kind of insurance activity back in line with the purpose of financial modernization—the consistent application of authority and restrictions on title insurance activity for all banks.

The operating structure of the new financial entities created by this bill is a crucial issue for the safety and soundness of our financial system. The question is not how the financial institutions can best offer and market their financial services and products. The fact is, whether under an affiliate structure or an operating-subsidiary structure, business will make it work either way. Instead, the question is how to regulate the structure under which financial services and products are offered and sold.

Under the holding company affiliate structure, if one business goes broke, that failure will not affect the safety and soundness of the bank in the holding company. But under the operating-subsidiary structure, if a subsidiary of a bank goes broke, that can pose material risk to the safety and soundness of the bank.

Banking regulators have indicated that they do not like deferring to functional regulators for activities of bank subsidiaries. Do we want a politicized federal banking regulator to regulate a structure that is supposed to achieve competitive equality across the board for all financial services? The bank holding company affiliate structure is the best institutional vehicle that permits participation in financial modernization with the least risk of transferring the safety net subsidy.

Regrettably, this bill does not include all the provisions I introduced in the Commerce Committee, and which the committee approved, to protect the privacy of customers of these merged institutions. However, I am pleased that most of my privacy protections were made in order to be offered in an amendment later in the bill.

This amendment which I offered in committee was an important step forward in protecting individual privacy. It protected consumer privacy by regulating the disclosure and sharing of customer information by financial institutions to third parties.

My amendment, which the committee adopted, required that a financial institution not only disclose to a customer its policy about transfer of non-public personal information about the customer to a third party, it also requires that the customer have the opportunity to opt-out of having personal information disclosed to a third party.

Privacy is more of a concern than it was in the past. George Washington didn't have the privacy threats that face even the average individual today. To obtain George Washington's private information you would probably have had to break into Mount Vernon, and then have been lucky enough to find the right papers in his desk or strong box. It is now much easier to get anyone's personal information.

The simple reason for the much greater threat to privacy today is the astounding growth of technology and information gathering. The tremendous human benefits that have come from these advances also carry with them unprecedented new threats to personal privacy. Personal privacy needs reasonable protections, because personal privacy is an important part of individual freedom.

Personal information is much more accessible now, even without the person whose privacy is being invaded ever knowing. The sale and transfer of personal information, without the individual's knowledge or consent, is both widespread and growing.

Individual privacy is in danger from government, from business, and even from individuals sitting at home with a computer. My amendment recognizes those changes by providing in the area of financial institutions reasonable and realistic privacy protections, without unduly interfering with the normal and reasonable conduct of business.

Mr. DINGELL. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Madam Chairman, I thank the gentleman for yielding me this time.

The banking modernization bill could be a good bill, but I oppose the selling out of your and my personal privacy. I oppose compromising my privacy. Democrats oppose the selling of the privacy of all Americans. All Democratic amendments on privacy have been rejected. And why?

Let us take a look at the Los Angeles Times editorial dated today, ''No Prescription for Privacy,'' and I quote:

''The House must defeat legislation that would allow health insurers to sell medical records to other insurers without the consent or even knowledge of the patients.

''Legislators usually become angry and defensive when ulterior motives are ascribed to legislation. But if voters are to believe that this measure is unrelated to the fact that the insurance industry was the single largest soft-money donor to Republicans in 1997–98, then let them explain how this anti-consumer amendment benefits those voters.''

Folks, they are selling you out. They are selling your privacy, not just your financial privacy but now your medical privacy. When I go to the bank, when I buy insurance, I provide information which is personal, private. But this bill allows personal, private medical, financial information. Every check I ever wrote, every medical decision I ever made, they are going to sell it, and they are going to sell it to the telemarketers, without my knowledge and without my consent.

I know the Republicans have said they will fix it later with comprehensive privacy legislation. Later, later. But once they sell the information, once it is out in the world, once it is out in this electronic world we live in, they are going to pass a law then and say you cannot have it. Are they going to recall it? Are they going to tell every person, every business to recall the information? Plus once it is paid for, you think businesses are not going to make copies and continue to hold it?

Your privacy has been violated. Oh, they will stop all right. Will they? Will they? Will they let their largest single soft-money contributor to the GOP, the insurance industry, call it back? They will not.

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from Alabama (Mr. BACHUS), the distinguished subcommittee chairman.

Mr. BACHUS. Madam Chairman, in 1933, most of our U.S. highways were gravel-topped, we had no controlled interstates like we do today, controlled access four-lane highways; our railroads were operating steam engines, diesels were still several years off; our airlines were flying biplanes with three engines; and we had Glass-Steagall.

Today we have interstate highways, they have replaced our gravel U.S. highways; we do not have any more steam engines, you have to go to China to see one; but we still have Glass-Steagall.

Thank goodness that today we have a modern financial bill that is before us to vote that will save the American people $15 billion a year, that will increase privacy protections. You can tell your bank, ''No, I would rather not have that information released.'' Finally, these two things:

It will increase our competitive ability against the world and the global market, our financial firms, it will increase convenience for Americans, and it will increase competition, lowering the cost of insurance, mortgages and all financial services.

I urge the Members to vote ''yes'' on final passage and get us out of the biplane, steam engine age.

1933. There were no interstate highways. In fact, there were no four-lane limited-access highways in America. Most of our U.S. highways were gravel; a few were dirt.

In 1933 steam engines pulled trains along America's railroads. Diesels were still a decade away. Today's college graduates have never seen a steam engine in revenue service on America's railroads. Want to see a working steam engine. You had better take a quick trip to the third world or remote areas of China, for instance, because the last few in service are rapidly disappearing.

1933. Take a trip on a jet airplane. Hardly. They were decades away. To get from city to city, if there was air service (and that was a big if), you might climb aboard a tri-engine wood-framed biplane. Today you can see that very aircraft of 1933 in the Smithsonian. Not even my generation saw them in service.

However, such is not the case for our financial services laws. The law which regulates and applies to the entire financial services industry (banking, insurance and securities) today applied in 1933. In fact, it was in 1933—not the year Albert Einstein became famous, but the year he immigrated to America—that the law in effect today was enacted by Congress. You may not recall that Congress or even the events in Washington that year. The big political happening in 1933 was Calvin Coolidge's funeral. You don't recall that event? The ''Three Little Pigs'' was making its debut as one of Walt Disney's first productions. It has been several years since Walt Disney died. But our 1933 financial services laws of that day live on today. Yes, like the memory of Calvin Cooledge's funeral they are dog-eared and worn. And every bit as inefficient as a steam engine would be on today's railroad tracks or a tri-engine wood-frame biplane in service by today's airlines. Imagine wanting to travel across country and finding not only no controlled access highways, but only gravel-topped or dirt-topped highways. What an inefficiency. What an inconvenience. What a cost to the economy. How outmoded. That's exactly what America's financial services community has to contend with today. The law is no more intended for today's market than a Model T Ford. This is true of today's outdated financial services laws. It is time to bring financial modernization laws not only into the late 20th Century but revise them for the fast-approaching 21st Century. H.R. 10 is such a law.

But H.R. 10 is more than just an updated or modern approach to banking. It's an improvement over existing laws. All Americans today would benefit from H.R. 10 in the following ways:

Greaer efficiency in competition will drive down prices of financial services (loan rates, insurance premiums, etc.). Savings are estimated at $15 billion a year. Seeing what competition can do in sports and other businesses, it is time to find out in financial services.

Imagine our American financial firms having to compete effectively in international markets restrained by laws of yesteryear. In a global economy the ability of American financial firms to compete effectively internationally is mandatory. They can only do so under modern laws such as H.R. 10. Let's increase their effectiveness to compete internationally. It is past due.

Americans not only love competition and low prices, but also convenience. H.R. 10 promises better convenience and access to financial products, more choices in both urban and rural America. Time is money and convenience is paramount in today's fast-moving society. After years of trying and failing, isn't it time this Congress finally offered the convenience of modern banking to American consumers? Convenience and more choices.

Not only does H.R. 10 offer improved ability for our companies to compete in the world market, more competition and choice for the American public, but it also promises increased privacy protections. Under an amendment to be offered today, which I support, the American banking customer can tell his local bank, ''I'd rather you did not show that information outside the bank.'' Americans love their privacy and what it protected.

For all of these reasons, it's time, no it's past time, to modernize our financial services laws. Accomplish this and preserve American financial leadership for the 21st Century by voting yes on final passage of the Financial Services Act of 1999.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Madam Chairman, I rise in opposition to H.R. 10, the Financial Services Act of 1999. I must oppose this legislation because it distorts the intent of the members of the House Committee on Banking and Financial Services who worked hard to develop a credible piece of legislation that would cover the mergers of banks and commercial interests.

Instead of respecting the bipartisan work of the House Committees on Banking and Financial Services and Commerce, the House Committee on Rules hijacked this bill. They stripped out the Lee anti-redlining amendment that had been adopted in Banking and the Markey amendment was stripped out on privacy that had been adopted in Commerce. I have never seen this before. You vote, you get an amendment passed, and then the Committee on Rules literally takes it out without a vote? The Committee on Rules then denied a rule to have a debate on privacy. And, of course, they denied my amendment on lifeline banking for low-income consumers who do not have bank accounts with traditional banking institutions.

The House Committee on Rules further added a dangerous amendment by the gentleman from Iowa (Mr. GANSKE) that allows private medical record information to be given to subsidiaries

and sold to others. Then, to add insult to injury, the Committee on Rules made in order an amendment by the gentleman from Texas (Mr. PAUL), the gentleman from Georgia (Mr. BARR) and the gentleman from California (Mr. CAMPBELL) that can only be identified as the Dope Dealers and Money Launderers Act of 1999. The Paul amendment adjusts the currency transaction reporting requirement from $10,000 to $25,000, making it easier for drug dealers to spend and launder drug proceeds.

Let us go a little bit further. The gentleman from Virginia (Mr. BLILEY) will have Members believe that he is doing something about domestic violence and protecting the victims. It is a trick. He is allowing these mutual insurance companies to move out of their States that do not allow them to take their proceeds away from the policyholders and put them in the hands of the officers. He is trying to make Members believe that he is doing something for women. Members do not want their fingerprints on this bill. This is a bad one. Vote ''no.''

Mr. BLILEY. Madam Chairman, I yield 3 minutes to the gentleman from New York (Mr. LAZIO), a member of the Committee on Commerce and a member of the Committee on Banking and Financial Services.

Mr. LAZIO. Madam Chairman, let me begin by congratulating and thanking the gentleman from Virginia (Mr. BLILEY) and the gentleman from Iowa (Mr. LEACH) for the stewardship of this fundamentally important piece of legislation for the American economy, having persevered through a number of different discussions and bringing this to the verge of passing as an historic piece of legislation.

Let us go back for a moment to the early 1930s. The stock market collapsed, the SEC did not exist, and there were few Federal securities laws. In 3 years between 1930 and 1933, 8,000 banks went bankrupt and American families lost $5 billion in deposits, an enormous sum at the time.

To restore American confidence in our banks, Glass-Steagall erected a wall between commercial banks and securities firms. Deposit insurance was created so American families knew their financial nest egg was safe. Glass-Steagall made sense, 60 years ago. But 60 years ago, families kept the bulk of their savings in banks, earning low rates of interest. Today, families invest in the stock market and 43 percent of adults own a piece of the market because Americans in the 1990s seek higher returns on their investments.

Consumer behavior changed because stocks and mutual funds achieved superior long-term results, people began managing their own retirement funds through individual retirement accounts, 401(k) plans and Keogh plans. In short, Americans are no longer hiding their savings in their mattresses.

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Today we stand at the center of an electronic revolution. On line brokerage businesses are growing. Three securities legends teamed up to create a rival to the New York Stock Exchange. Money moves from Tokyo and back in an instant. A consumer can see and speak to a live teller via the Internet. We simply no longer live in a depression era that gave birth to Glass-Steagall.

With this bill, working families will have more choices. Do my colleagues want an account with no commissions and pricing based on household assets? Do my colleagues want to carry a credit card that has no ATM fees for transactions worldwide? Do my colleagues want a e-commerce link that has a rewards point program?

With this bill, small businesses will have a greater array of products and services from which to choose. Do my colleagues want convenient Internet access to their checking, savings and investment activities? Do my colleagues want a discount for goods purchased through e-commerce? Do my colleagues want global market intelligence and unified accounting reporting?

This bill breaks the chains of Glass-Steagall that no longer serve the interests of American families without sweeping us away in a tide of economic euphoria. This bill intends to keep us as the caretakers of a senior citizen's nest egg and to ensure that the life savings of working families are not lost in economic downturns.

Congress should break down these barriers and encourage competition, creating an environment for more innovative products and better prices. I urge my colleagues, Democrats and Republicans, to let American banking step into the 21st century. Support the Financial Services Act.

Mr. DINGELL. Madam Chairman, I yield 1½ minutes to the distinguished gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Madam Chairman, I commend the ranking member, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Florida (Mr. BLILEY) for their leadership on this bill. H.R. 10 would be a much more efficient financial service bill, bringing greater choices and lower prices for consumers, and that is a good thing. But this bill has serious flaws that must be corrected. Most important, the language regarding privacy of medical information has to be strengthened.

The American Nurses Association says this about H.R. 10:

The proposed language would, in fact, facilitate the broad sharing of sensitive health and medical information without the consent of the consumer.

H.R. 10, as it is now written, will allow an insurance company to sell consumers personal health information. That is wrong. Patients should be encouraged to share with their doctors, nurses, and therapists all their health information. No diagnosis or treatment is complete without it. But if patients cannot be sure that this sensitive and personal information will be kept confidential, they will not be so forthcoming, and that will hurt patient care and stifle research projects.

Let us be clear. Privacy must never take a back seat to profits. We must first fix these provisions and then pass an outstanding financial services bill.

Mr. LEACH. Madam Chairman, I yield 1 minute to my great friend, the gentleman from Nebraska (Mr. BEREUTER).

(Mr. BEREUTER asked and was given permission to revise and extend his remarks.)

Mr. BEREUTER. Madam Chairman, today marks a positive and long sought milestone along the long journey to financial modernization. I commend the chairman and the ranking member, the gentleman from New York (Mr. LAFALCE) and the Committee on Commerce leadership also for their involvement and cooperation.

This bill is necessary to keep the United States in its preeminent position in the world's financial marketplace. There are a number of reasons to support. I am going to list just a few:

H.R. 10 illustrates that a Federal statutory change in financial law is imperative.

Second, this measure will allow financial companies to offer a diverse number of financial products to their consumers.

Third, this bill will have a distinct positive effect on consumers.

Fourth, the bill allows for no mixing of banking commerce through a commercial basket.

Fifth, this measure will necessarily restrict unitary thrifts.

Sixth, the bill will avoid the threat of presidential veto by placing the integrated financial activities in the operating subsidiary structure.

Seventh, it balances the interests of a State in regulating insurance with that ability of a national bank to sell insurance.

And Number 8, it strikes an equilibrium on the issue of securities.

My colleagues, I urge strong support for this legislation. It is a long time coming. It is worth the effort.

First, a Federal statutory change in financial law is imperative because Congress must call a halt to the recent trend of ad hoc financial modernization through regulatory fiat and judicial consent. Instead we need to modernize the nation's banking laws through statute.

As a matter of fact, on the first day of Banking Committee consideration of financial modernization legislation in 1998, during the 105th Congress, this Member stated: ''Once more, we start an effort to modernize our financial institutions structure. It is an effort we have tried before and must begin someplace. It should begin in the House, and so I commend you, Chairman Leach, for launching this effort. We need to do this. We need to face up to our responsibilities as a legislative body. There is no doubt about that.''

Second, this Member supports H.R. 10 as it will allow financial companies to offer a diverse number of financial services to the consumer. This bill removes the legislative barriers within the Glass-Stegall Act of 1933 and

the 1956 Bank Holding Company Act. As a result, H.R. 10 will allow financial companies to offer a broad spectrum of financial services to their customers, including banking, insurance, securities, and other financial products through either a financial holding company or through an operating subsidiary.

Banks, securities firms, and insurance companies will be able to affiliate one another through this financial holding company model. These entities will be able to engage in those activities which are defined to be ''financial in nature'' which include: lending, other traditional bank activities, insurance underwriting, financial and investment services, securities underwriting and dealing, merchant banking, and other activities.

In order for banks to be able to engage in the new financial activities, the banks affiliated under the holding company or through an operating subsidiary have to be well-capitalized, well-managed, and have at least a satisfactory Community Reinvestment Act rating.

Third, this Member supports H.R. 10 because it is very pro-consumer. It will increase choices for the consumer in the financial services marketplace by creating an environment of greater competition. As a result, financial modernization will allow consumers to be able to choose from a variety of services from the same, convenient, financial institution. Financial modernization will give consumers more options.

Whether it be in rural Nebraska, or in New York City, consumers of financial products all across the United States deserve additional competitive options. Moreover, under the current setting, many rural communities are under-served in regards to their access to a broad array of financial services. Financial modernization will help ensure that the financial sector keeps pace with the ever-changing needs and desires of the all-important consumer.

In addition, H.R. 10 will also allow financial institutions to provide more affordable services to the consumer. Financial modernization will result in additional competition and in efficiency which in turn should result in lower prices for financial services to the customer.

Fourth, this Member has been a fervent advocate of keeping banking and commerce separate. In fact, this Member is quite pleased that H.R. 10 does not contain a ''commercial market basket'' which would have allowed the very dangerous mix of commerce and banking—equity positions by commercial banks. We must avoid the problems that the Japanese have lately experienced because of such a dangerously volatile mixture of commerce and banking in their banking institutions.

An amendment was initially filed, but not offered, in the House Banking Committee in the 106th Congress which would have allowed for the mixing of banking and commerce in a five percent market basket. However, this Member believes in large part because of expressed strong opposition, including vocal and effective opposition of this Member, this amendment was withdrawn for consideration in the Committee.

Fifth, the issues of the unitary thrift charter is of significant importance to Nebraska commercial banks. One of the reasons this Member is unequivocally opposed to the existence of this unitary thrift charter is because of its mixing of thrift activities with commercial ventures. However, this is not the sole reason—it also results in an extremely powerful variety of financial institutions that has an uncompetitive advantage over other types of financial institutions. At the H.R. 10, Banking Committee markup in the 106th Congress, I expressed my desire to completely closing the unitary thrift loophole.

Financial modernization, H.R. 10, allows for no new unitary thrifts; indeed it restricts commercial entities from purchasing grandfathered, existing thrifts. There was a compromise in the legislation before us which establishes an application process whereby the Federal Reserve Board and the Office of Thrift Supervision will determine whether an existing unitary thrift holding company may be sold to a commercial firm. This Member wants that grandfather loophole closed altogether.

This Member also believes that the provisions on unitary thrifts in H.R. 10 are better than the status quo which allows both new unitary thrifts as well the unfettered transferability of existing thrifts to commercial entities. A very recent example is Walmart's recent application with the Office of Thrift Supervision to acquire a unitary thrift in Oklahoma. Again, this Member wishes that H.R. 10 would go one step further and prohibit the transferability of existing unitary thrifts to commercial entities. If H.R. 10 passes, this Member is hopeful that such a prohibition could be considered and adopted during the probably House-Senate conference on H.R. 10. This Member would reiterate that his concerns about unitary thrifts transferability remains as a major concern regarding H.R. 10.

Sixth, this Member believes that, in order to avoid the President's veto of H.R. 10, the operating subsidiary structure for these integrated financial activities is the preferred financial structure to adopt. As is well known among the Members of this body, the Treasury Department desires the operating subsidiary structure. However, the Federal Reserve Board desires the affiliate structure. Both sides of this issue make compelling arguments for their positions on this matter. However, among other important reasons, because of the threat of a veto, this Member believes that the operating subsidiary is the best structure for these integrated financial activities.

Seventh, this Member supports H.R. 10 because, it balances the interest of a state in regulating insurance with that of the interests of a national bank to sell insurance. At the outset, this Member notes that he has a strong record of supporting states rights, especially in the area of insurance regulation.

In that respect it is important to note that H.R. 10 preserves state rights by providing that the state insurance regulator is the appropriate functional regulator of insurance sales. Whether insurance is sold by an independent agent or through a national bank, the state, and only the state, is the functional regulator of insurance in both instances. Moreover, H.R. 10 also does not unduly burden the ability of national banks to be able to sell insurance.

Eighth, this Member supports H.R. 10 as it strikes an equilibrium between the interests of securities firms with those banks that will be allowed to sell securities under H.R. 10. This measure amends the 1934 Securities Exchange Act to provide functional regulation of bank securities activities. As a general rule, securities activities under H.R. 10 will continue to be regulated by the Securities and Exchange Commission.

Financial modernization, H.R. 10, repeals the ''broker'' and ''dealer'' exemptions that banks have under Federal law, which subject banks to the same regulation as all securities firms. In addition, H.R. 10 replaces the ''broker'' and ''dealer'' exemptions with other exemptions which allow banks to be able to engage in their current activities involving securities.

Lastly, this Member supports H.R. 10 as its passage is necessary to keep the United States in its preeminent position in the world, financial marketplace. U.S. financial institutions are among the most competitive providers of financial products in the world. However, the financial marketplace is currently undergoing three changes which are altering the financial landscape of the world.

The first of those changes involves a technological revolution including the internet through electronic banking. Technology is blurring the distinction between financial products. The other two changes include innovations in capital markets, and the globalization of the financial services industry.

Financial modernization is the proper, appropriate step in this ever-changing financial marketplace. Consequently, in order to maintain American's financial institutions' competitive and innovative position abroad, H.R. 10 needs to be enacted into law. In the absence of this bill, the American banking system could suffer irreparable harm in the world market as we will allow our foreign competitors to overtake U.S. financial institutions in terms of innovative products and services. We must simply not allow this to happen.

Therefore, for all these reasons, and many more than have been addressed today by this Member's colleagues, we must, and will pass H.R. 10. This Member urges his colleagues to support H.R. 10, the Financial Modernization bill.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Madam Chairman, I rise in strong opposition to this bill. I support financial modernization if modernization means more choices for consumers, more competition, greater safety and soundness, stopping unfair bank fees and protecting consumers and underserved communities. But Madam Chairman, I believe this legislation in its current form will do more harm than good. It will lead to fewer banks and financial service providers, increased charges in fees for individual consumers and small businesses, diminish credit for rural America and taxpayer exposure to potential loses should a financial conglomerate fail. It will lead to more megamergers, a small number of corporations dominating the financial service industry and further concentration of economic power in this country.

It is no secret, Madam Chairman, that far bigger financial institutions lead to bigger fees which total more than $18 billion last year. The U.S. Public Interest Research Group and the Federal Reserve Bank have conducted studies and confirm that bigger banks charge larger fees, and there is no question in my mind that if this bill is

passed, that process will be accelerated.

This bill is in fact, however, good for big banks, but the big banks are doing just fine without this bill. Government-insured banks earned a record $18 billion in just the first 3 months of this year, 2.1 billion more than they earned in the same period last year. At a time of increasing bank fees, increasing ATM surcharges, increasing credit card fees, increasing minimum balance requirements, it is time for the Congress to stand up for the consumers. The big banks are doing fine. Let us protect the consumers. Let us vote no on this legislation.

Madam Chairman, I rise in opposition to the bill.

I support financial modernization—if modernization means more choices for consumers; more competition; greater safety and soundness; stopping unfair bank fees; and protecting consumers and under-served communities.

But Madam Chairman, I believe this legislation, in its current form, will do more harm than good. It will lead to fewer banks and financial service providers; increased charges and fees for individual consumers and small businesses; diminished credit for rural America; and taxpayer exposure to potential losses should a financial conglomerate fail. It will lead to more mega-mergers; and small number of corporations dominating the financial service industry; and further concentration of economic power in our country.

The banking industry is currently involved in some of the largest mergers in history. Four of the top ten mergers last year involved bank deals totaling almost $200 billion. Today, three-quarters of all domestic bank assets are held by 100 large banks. And this bill, if passed in its current form, will further accelerate the consolidation of banking and financial assets that we have seen in recent years.

It is no secret, Madam Chairman, that bigger financial institutions lead to bigger fees—which totaled more than $18 billion last year. The U.S. Public Interest Research Group and the Federal Reserve Bank have conducted studies and confirmed that bigger banks charge higher fees than smaller banks and credit unions. The Public Interest Research Group's 1997 study of deposit account fees at over 400 banks found that big banks charge fees that are 15 percent higher than fees at small banks. Credit union fees, by comparison, were half those of big banks. And the Public Interest Research Group's 1998 ATM surcharging report found that more big banks surcharge non-customers, and big-bank surcharges are higher.

This bill is certainly good for the big banks of America, but the big banks are doing fine even without this bill. Government-insured banks earned a record $18 billion in just the first three months of this year—$2.1 billion more than they earned in the same period last year. Bank profits were also up $1.9 billion in the first three months of this year—beating the previous record set in 1998. And, according to the Federal Deposit Insurance Corporation, the increase in earnings was led by the largest banks, while smaller banks saw their earnings decline.

This bill has everything the big banks want, but it has little or nothing for consumers. It does not modernize the Community Reinvestment Act (CRA) by applying CRA requirements to new financial conglomerates. It does not stop ATM surcharges. It does not safeguard stronger consumer protection laws passed by the various States. It does not provide the strong privacy provisions that will be needed with the creation of large financial service conglomerates, It does not require that banks serve low- and moderate-income consumers by offering basic, lifeline accounts. And it does not even include provisions to protect women and minorities from discrimination in homeowner's insurance and mortgage services. These anti-discrimination provisions were included in the version of the bill that was reported out the Banking Committee, but they mysteriously disappeared from the bill when it came out of the Rules Committee.

At a time of increasing bank fees, ATM surcharges, credit card fees, increasing minimum balance requirements, discrimination against women and minorities, and the loss of many locally-owned banks to large, multi-billion dollar corporate institutions, Congress should consider pro-consumer legislation to directly address those problems. But this bill is not good for consumers, or small businesses, or taxpayers, or under-served communities. I urge my colleagues to reject this bill.

Mr. BLILEY. Madam Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. GANSKE), my friend and colleague.

Mr. GANSKE. Madam Chairman, I yield to the gentleman from New York (Mr. LAFALCE), my friend and colleague.

Mr. LAFALCE. Madam Chairman, I and many, many others have tremendous concerns about the gentleman's amendment, two in particular.

Number one, we want to make sure that it does not in any way preclude the authority of the Secretary of HHS to promulgate medical privacy regulations subsequent to August 21, and it is imperative that that be made explicit in conference.

Secondly, there are so many health provider organizations, the AMA, the Nurses Association that have concerns primarily because of the exceptions in the gentleman's amendment, and I want my colleague's assurance that he will work for specific statutory language in conference that will deal with both those problems.

Mr. GANSKE. Madam Chairman, I want to assure my friend that it was not the intent of the language in this bill to preclude the Secretary from being able to issue her regulations in August, and I will work with the gentleman in conference to make that explicitly clear in language, that nothing in this would preclude her from doing that.

Madam Chairman, I yield to the gentleman from Washington (Mr. BAIRD).

Mr. BAIRD. Madam Chairman, as a clinical psychologist myself and in the gentleman's role as a physician I know that we are both concerned about protecting the confidentiality of individual medical information. I also know of the gentleman's hard work to craft language that would limit the sharing of information between financial industry entities and their subsidy areas.

However, it is my concern and the concern of other Members about the confidentiality of sensitive health and medical information under the listed exemptions of the current bill. To address those concerns I would like to ask my colleague and good friend if he would agree to support at conference inclusion of language to allow the exchange of general economic and clinical information but prohibit the exchange of personally identifying information such as the names, addresses, or social securities of specific patients.

Mr. GANSKE. Madam Chairman, I appreciate the comments of my colleague the gentleman from Washington (Mr. BAIRD). We both want privacy for our patients. We also both want to see insurance function. I pledge to work with my colleague and also the gentleman from Massachusetts (Mr. MARKEY), the gentleman from California (Mr. CONDIT), the gentleman from California (Mr. WAXMAN) to improve the provisions in this bill in conference so that we can do both.

Mr. DINGELL. Madam Chairman, I yield 4 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Madam Chairman, the gentleman from Michigan (Mr. DINGELL), myself, many Members of this body over the last 14 years for me have worked to produce this financial modernization bill. Many times I have brought it out here on the floor. I can remember our final meeting with President Bush and Secretary Baker back in 1990 where it just came down to one final detail. We have been here many times before. It is an important bill. But it is only half a bill because as the financial revolution speeded up by the global technology telecommunications revolution, hits our country, we need to provide protections for ordinary people as well.

Yes, this bill gives ordinary Americans a window on Wall Street, but simultaneously it gives Wall Street a window on each one of our living rooms. The problem with the Republican bill is that it says that if their checks, and let us just say for the sake of this discussion, they you have had their checks in the same bank for the last 25 years, every check my colleagues have written for your family. Now, after this bill passes, that bank can now buy a brokerage or an insurance affiliate. This legislation says that they can hand over all of my colleagues checks for the last 25 years to the 300 or 400 brokers in their new affiliate even though they have got a broker down the street who has been their broker for the last 25 years. So every one of the checks that my colleagues have written are now in the hands of 300 brokers in town who my colleagues do not want to go through everything that they have done financially for the last 25 years.

Now should people have the right to say, no, I do not want that? The Republicans refuse to give that right. What they say is we are going to give people notification that we are going to compromise their privacy. That is like a burglar leaving behind a note saying what they have stolen, giving notice, but my colleagues have no right to stop it.

Now, my colleagues, here is how the American people feel about this issue. Question, AARP: ''Would you mind if a company did business with sold information about you to another company?'' Ninety-two percent of Americans would mind. I do not know who the other 7 percent are, but 92 percent would mind.

Now let us go to the next poll. The next poll is just as bad. Here is the question: ''In the future banks, insurance companies, and investment firms may be able to merge into a single company. If they do, would you support or oppose these narrowly merged companies from internally sharing information about your accounts or your insurance policy?'' Eighty percent would oppose sharing. Eleven percent would support it.

Eighty percent oppose. They want the right. This is the AARP.

And the final chart: Here is what a typical bank's policy says quite simply: ''Even if you request to be excluded from affiliate sharing of information, we will share this other information about you and your products and services with each other to the extent permitted by law.'' We determine what the law is. If we do not pass a law, they are sharing that information.

Madam Chairman, the world breaks into three categories, the information peepers, and they are out there; now, with the new technology, the information mining reapers who use these electronic technologies to gather all parts of our life, medical, financial, checking; and third, information keepers. They used to be our local doctor, our local banker, but they have been purchased by multinational banks, by multinational or by national HMOs.

The information keepers of the modern era are the United States Congress. If we do not pass these laws today, the American people are unprotected.

□ 1730

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from California (Mr. ROYCE), my colleague and great friend.

Mr. ROYCE. Madam Chairman, we can create a financial structure that provides lower costs, increased access, better services, and greater convenience to consumers.

Every consumer in this country is connected in some way to the financial services industry. Nearly every economic transaction involves the exchange of money or the promise of a future exchange of money, meaning that every day every consumer feels the weight of an outdated and overburdened system of regulation in the form of higher costs.

The legislation we are voting on today provides consumers with significant relief from these costs. Indeed, with the efficiencies that could be realized from increased competition among banking, securities and insurance providers under this legislation, the Treasury Department tells us that consumers will ultimately save as much as 5 percent, or $15 billion per year in the aggregate.

As a member of the House Committee on Banking and Financial Services, I urge my colleagues to support this legislation.

Madam Chairman, we have the opportunity here today to accomplish what no other Congress of the last 20 years has been able to, and that is to modernize the depression era laws governing our financial services sector. In doing so, we will create a structure that provides lower costs, increased access, better services, and greater convenience to consumers.

Every consumer is connected in some way to the financial services industry. Nearly every economic transaction involves the exchange of money or the promise of a future exchange of money—meaning that every day, every consumer in this country feels the weight of an outdated and overburdened system of regulation, in the form of higher costs.

The legislation we are voting on today provides consumers with significant relief from these costs. Indeed, with the efficiencies that could be realized from increased competition among banking, securities, and insurance providers under this legislation, the Treasury Department has estimated that consumers may ultimately save as much as 5 percent—or $15 billion per year in the aggregate.

This monumental legislation is good for consumers and it is good for America.

At this time, I would like to commend Rules Committee Chairman DAVID DREIER for his work on the compromise language for Title IV, and take a few moments to clarify this language.

The Title IV of the Dreier substitute amendment to H.R. 10 requires that certain companies with nonfinancial activities that propose to acquire control of a savings association must notify the Board of Governors of the Federal Reserve in the same manner as a notice of nonbanking activities is filed with the Board under section 4(j) of the Bank Holding Company Act of 1956. This notice would be in addition to the application that is already filed with the Office of Thrift Supervision. The Federal Reserve would have the opportunity to review and take action on the notice prior to the applicable time periods under section 4(j).

The Federal Deposit Insurance Corporation and the Office of Thrift Supervision have testified that affiliations between commercial companies and thrift institutions have not been a cause for regulatory concern.

Thus, we do not intend or anticipate that the Federal Reserve Board will treat the affiliation of commercial companies and savings associations as giving rise, per se, to undue concentration of resources, anti-competitive effects, conflicts of interest or unsound banking practices.

Rather, it is intended that the Federal Reserve Board will examine proposed transactions for unusual or extraordinary circumstances that would have an adverse effect on a subsidiary savings association that outweighs the public benefits of the transaction.

Again, as a member of the House Banking Committee, I urge my colleagues to support this legislation.

Mr. LAFALCE. Madam Chairman, I yield 1½ minutes to the gentleman from Texas (Mr. BENTSEN), a distinguished member of the committee.

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Madam Chairman, this is, overall, a pretty good bill. It starts to bring statutory law up to pace with where the marketplace is. The markets, the financial markets in the United States, are the strongest in the world, but the laws governing them are greatly outdated.

As a result of financial disintermediation in the markets, we now see different industries, banking and securities, securities and insurance, banking and insurance. It is time to catch up with that.

This bill goes a long way in getting there. It does not create the perfect holding company model, the perfect financial holding company model, but it goes a long way to get there. I am very much appreciative that we have included the operating subsidiary language, allowing banks to decide what model they want to have, whether a national bank or a holding company. I think this is very safe and sound.

In fact, one of my previous colleagues mentioned that the chairman of the Federal Reserve even said that there was no safety and soundness issue; at least 2 years ago he said that. Then he entered into a turf battle and changed his position, but he has been known to change his position before.

I think this is overall a good bill. There are a couple of problems with it. Unfortunately, I think we are going backwards in putting restrictions on unitary thrifts. We are bringing the Federal Reserve into regulation of unitary thrifts where they have never been before. I offered amendments in committee that would have addressed that in a proper way, either with the FDIC, which has regulatory authority, or bringing the OTS in. Unfortunately, the committee did not accept it.

It is ironic again that we made in order the Burr amendment which goes the other direction for certain entities but we take it away from thrifts.

Madam Chairman, thank you for giving me this opportunity to discuss H.R. 10, financial modernization legislation. As a member of the House Banking Committee, I strongly support this legislation and urge my colleagues to support it. I believe that this comprehensive banking reform legislation will bring new benefits to consumers by encouraging competition between banking, securities, and insurance firms to create a ''one-stop'' shopping for consumers.

Our markets today in the United States are the strongest financial markets in the world and provide a robust market system for consumers. Yet, our system has been restrained

by the Glass-Steagall law that requires financial companies to separate their banking, securities, and insurance companies into different companies. By repealing Glass-Steagall, Congress will bring new competition to financial services so that consumers can purchase more products. The net effect of this legislation will be to promote more competition, create more products at lower prices, and better protect American consumers. It allows federal law to catch-up to the fast paced structural changes occurring in the financial marketplace.

While H.R. 10 does not necessarily produce the ''ideal'' financial holding company model or charter, it does repeal portions of existing regulatory constraints dating back to the Great Depression commensurate with a market that has matured greatly through disintermediation brought on by increased consumer wealth, sophistication, and access to information. This proposal should not be viewed as a repudiation of past regulatory regimes, but rather a maturing of such regimes.

While this bill is not perfect, it strikes a balance in this new marketplace. First, H.R. 10 includes multiple structures for banking entities through either a holding company-affiliate model or operating subsidiary, which I have long supported and believe is adequately safe and sound. In fact, the majority of bank regulators believe this model is in some cases more safe than an affiliated holding company structure. Second, the bill addresses in a prudent way the issue of commerce and banking through a new ''complimentary to banking'' approach that I hope will meet my previous concerns that an outright ban on commerce would limit future abilities to meet market demands and product development. Finally, it continues the efforts of the Community Reinvestment Act so that all sectors of our society can benefit equally from capital formation and economic development. It is important that these areas of H.R. 10 are not changed or watered down.

It is regrettable that the Rules Committee chose to strip the bill of the Lee amendment addressing ''redlining'' by insurance companies.

Additionally, this bill inadequately addresses an issue that I have long advocated related to the transferability of unitary thrift holding companies. In the House Banking Committee, I successfully offered an amendment that would ensure that grandfathered unitary thrift holding companies can be sold and transferred. I strongly believe that we must ensure this transferability in order to protect those unitary thrift holding companies which have existed for more than 30 years on a sound and safe manner.

Regrettably, the bill we are considering today includes a provision that would make it more difficult for these transfers to be approved. This bill would impose a new requirement that the Federal Reserve Board should review any of these mergers. I believe that this Federal Reserve Board review is unnecessary and unprecedented. As you may know, the unitary thrift holding companies are regulated on the federal level by the Office of Thrift Supervision. This new language, would for the first time, subject unitary thrifts to federal regulatory oversight by the Federal Reserve Board. I believe that this review process will prevent transfers and would lower the value of unitary thrifts holding companies. I am also concerned that the Federal Reserve will not be required to provide a written record for their reasoning related to reviews.

I filed three amendments in the House Rules Committee that would have corrected this inequity.

Unfortunately, the House Rules Committee did not allow any of these amendments to be considered today. My first amendment, which is also jointly supported by Representatives ROYCE, INSLEE, and WELLER would strike the Federal Reserve Board review process and restore the language to the amendment that was adopted by the Housing Banking Committee by a roll-call vote. I believe that this is the best option and would ensure that transfers are reviewed by the Office of Thrift Supervision.

The second amendment which is also sponsored by Representatives ROYCE and INSLEE would substitute the Federal Deposit Insurance Corporation as the secondary reviewer in cases of unitary thrift holding companies mergers. I believe that the FDIC is better equipped to review these mergers, because they already have enforcement authority over federally-chartered thrifts and have worked well with thrifts. This amendment would also require that the review process should consider reasonable criteria related to these reviews and that the final decisions should be written so that parties would understand the reasoning behind decisions.

The third amendment which was also sponsored by Representatives ROYCE and INSLEE would add the Office of Thrift Supervision to the current Federal Reserve review process. This joint review would help to ensure that grandfathered unitary thrift holding companies mergers have a fair hearing of their cases and that all final decisions would be written. I believe that the OTS, as the principal regulatory for unitary thrifts, should be part of the final decision to approve such mergers. In a case where OTS and the Federal Reserve do not agree, this amendment would ensure that all final decisions would be written and would permit owners to apply for judicial review of any decisions made.

I believe that all of my amendments would improve the current Federal Reserve review included in this bill.

Unitary thrift holding companies have existed for more than 30 years. During the thrift crisis of the 1980's, Congress acted to encourage commercial companies to purchase insolvent thrifts. As a result, for instance, Ford Motor Company infused more than $3 billion in one thrift to prevent their failure.

Second, unitary thrift holding companies are safe and sound institutions subject to strict regulatory standards as are all federally insured thrifts. In fact, unitary thrift holding companies must meet strict standards to stay in business. Unitary thrift holding companies must meet the ''Qualified Thrift Lender (QTL)'' test in which they purchase and provide mortgages. As opposed to banks, unitary thrift holding companies are greatly limited in underwriting commercial loans. And, Congress has prohibited loans from unitary thrift holding companies to their non-banking affiliates. I believe that all of these safety and soundness protections ensure that taxpayers are protected.

Third, the thrift business is specialized. As of the end of 1998, there are only 547 thrift holding companies. Of these 547 thrift holding companies, only 24, less than 5% are engaged in commercial activities. If the unitary thrift holding company charter was so valuable, you would expect that many companies would be applying for this specialized charter. Yet, the evidence does not bear this out. A powerful reason that limits the number of applicants is the qualified thrift lending test and the commercial lending limits have done their job; a thrift charter is only attractive to those companies prepared to commit to residential real estate and credit card lending, and a few other forms of consumer banking. For most companies, these restrictions are sufficient to deter interest.

Fourth, nearly three-quarters of the recent holding company applicants are acceptable to critics. A total of 75 companies with non-banking interests has applied for the thrift charter since the beginning of 1997. Of those, a total of 55 firms or 73 percent is currently in the insurance and securities businesses and therefore could not obtain a bank charter under current law. However, under H.R. 10, these firms would be eligible to convert a bank charter. Indeed, the Travelers-Citigroup merger suggests that the bank charter would be preferable and they would transfer their charter once this broader bank charter is available. Travelers actually gave up its unitary thrift holding company status in favor of becoming a bank holding company and in the expectation of financial services reform legislation.

Finally, it is a question of equity. Congress allowed for the creation and growth of the unitary thrift charter in the 1960s. To retroactively close the market for those who have ''played by the rules'' and pose no threat to safety and soundness of the Nation's federally insured lending does not seem fair. And while H.R. 10 may provide a new financial model we should at least hold harmless those already in the program and not legislatively depreciate their value. Congress has been down that road before with limited success. Such a course deviates from the concepts of increased competition, economic vibrancy and consumer choice that inspired the pending bills.

Finally, with respect to the issue of privacy, I believe that we have structured strong, bipartisan financial privacy language which goes far beyond existing law. For the first time transfer of specific account information to third parties would be prohibited. Consumers could ''opt-out'' of other third party transfers and financial institutions would be required to establish a financial privacy standard for its customers. And while some questions remain with respect to the language on medical privacy, this bill still goes far beyond current law. Passing this does far more than doing nothing.

While this bill is not perfect, I strongly believe that we must act to promote more competition and provide new products for consumers. I strongly urge my colleagues to vote for H.R. 10.

Mr. BLILEY. Madam Chairman, I yield 3 minutes to the gentleman from Florida (Mr. STEARNS), a member of the Committee on Commerce.

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Madam Chairman, H.R. 10 would modernize America's financial service industry. Now, the big debate seems to be on the privacy protection. I think this bill contains very

important, very start-of-the-debate important, issues for protecting the customers of the insurance industry, the banking industry and the securities industries.

One of the most important provisions of this bill is this privacy information.

Now, during consideration of this measure in the House Committee on Commerce, many of us know the gentleman from Iowa (Mr. GANSKE) offered an amendment on health information confidentiality, a lot of debate on it. We had a lot of debate on it. We talked about it, but all of us felt that this was just the start. If we did nothing, if we could not even get this debate started and we defeat this bill today, then we are going to have no privacy.

So I think we should not let this small debate that we are having on privacy stall the entire bill, because in the end we can amend and we can work through HCFA and other places to create more privacy and perhaps more to everyone's liking.

Think about it. If we allow a bank, an insurance company, to work together and the insurance company does a check on a person's health records, how does one know that those health records could not end up in a bank? Or perhaps the bank, when applying for a loan, would use some of the information from a person's health records? So that is why I think what we offered in the full committee was important.

I was also able to have an amendment that offered the word genetic information to include in that privacy information. So I say to the Members on that side of the aisle, I think genetic information is something that also should be protected.

Now, there are a lot of people that say we are going to stop the Secretary of Health and Human Services from issuing regulations on this issue as required under the Health Insurance Portability and Accountability Act that we passed in 1996.

This language in this bill says nothing to stop the Secretary of HHS from issuing regulations on this matter. In fact, Madam Chairman, the cite reference in the bill, which is 264(c)(1), if we go to look at it, is the very language, the very language that gives authority to Health and Human Services to issue the regulations.

So, Madam Chairman, I think we should all come together. We have looked at H.R. 10 until we are blue in the face. We have talked about this. We should not let this be defeated today, trying to talk about just the privacy. I think it is a first step, so I look forward to our continuing discussion on this, and we can go back after we have passed H.R. 10 to talk about medical records and confidentiality with a separate piece of legislation.

So, in the meantime, I support the language we have in the bill today protecting all Americans, consumers, so that their information is not inappropriately shared.

Mr. DINGELL. Madam Chairman, I yield 3 minutes to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Madam Chairman, I thank the ranking member, the very distinguished ranking member of the House Committee on Commerce, the gentleman from Michigan (Mr. DINGELL), for yielding me this time.

Madam Chairman, I think I am going to leave my printed copy just on the stand here because really I think everyone in the Chamber has their minds made up about what kind of a vote they are going to cast on this bill.

We are here as representatives for the American people. So my message to the American people, whomever is tuned in, is what is it that we are debating? What is it that we are fighting and arguing about which is so important in this bill?

First of all, this is a bill to reshape financial services and how they are delivered in our great Nation. It is an overhaul of laws that need to be overhauled because they have not been touched really since the Great Depression. So we know that there is a timeliness to this effort and an importance attached to it.

I want to raise something to the American people, and the reason why I come to the floor in my disappointment is because when I cast my votes in the House Committee on Commerce I had every intention of supporting this financial services bill.

This is not an excuse on my part, American people. I feel very strongly about this.

What brings me to the floor is the issue of privacy, financial privacy.

Now, if someone asks Mrs. Smith how much is in her money market account, her first reaction is, why should I say? It is not anyone's business.

Financial dealings and how we conduct our finances is very, very private. Who we write our checks to, where they go, whether it is to a doctor, should the bank manager know more or as much as our personal physicians? I think not. I think it is the responsibility of the House of Representatives, the House of the people, the people that are out there, to protect their personal financial privacy.

That is what I am raising in this. Regardless of what anyone else says, and whomever rises, when one reads the print, it says, we will protect their financial privacy, dot, dot, dot, with all of these following exceptions. I do not think this is good enough. I know we can do better.

I think the American consumer deserves this kind of protection. In fact, I think there is going to be like a prairie fire of objection that moves across the country on this issue, because no one would believe that their elected representative would not stand between them, the constituent, and whatever financial institutions are out there. We need them to do business with. But that our personal, private financial information be sold and dealt away and possibly used against us? Come on. We can do better than this. I would say thanks to Mr. and Mrs. America. This is what brought me to the floor.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. BOEHNER), who has worked on this legislation more than any noncommittee member in the history of the Congress. To him I am grateful.

(Mr. BOEHNER asked and was given permission to revise and extend his remarks.)

Mr. BOEHNER. Madam Chairman, I rise today in support of this landmark piece of legislation. In one great cascade, it washes over decades of obsolete law, congressional inattention and regulatory creep to give us a modern and prudent legislative framework for one of our most important and dynamic industries. I believe it is the most important bill that we will debate in this Congress this year, and I strongly urge its passage.

In a bill this complex, it is easy to miss the forest for the trees, but the broad direction I think is what is most important. Our Nation's financial services sector is the irrigation system for our economy. If we remove outdated obstacles to innovation and greater efficiency in the financial services industry, we are helping our entire economy become more competitive, more vibrant and healthier.

It is important to recognize additional benefits of this legislation. By putting in place a regulatory system that actually makes sense for today's financial services industry, not the industry of 1933, we are both making the industry more internationally competitive and reducing the kinds of risks that led to bank and savings and loan failures of the late 1980s.

By giving consumers the chance to do one-stop shopping for all of their financial needs, we are giving them more control, better information and better choices for their financial needs.

Madam Chairman, this really is a superb piece of legislation, crafted with great care, with fairness and with patience. Let me say about patience, of the four gentlemen, the two chairmen and the two ranking members who I have had the pleasure to work with over the last 3 years on this legislation, this is a great example of how the Congress can work, when we agree on what the goals are and we work together and work through all types of objections. The gentlemen that I have just pointed out deserve a great deal of credit for a job well done.

Mr. LAFALCE. Madam Chairman, I yield 1½ minutes to a distinguished member of the committee, the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Madam Chairman, I would like to thank my distinguished ranking member, the gentleman from New York (Mr. LAFALCE), and the committee chair, the gentleman from Iowa (Mr. LEACH), for all of their hard work that they have done on this bill.

I rise today in support of H.R. 10, which, in fact, is good for the ordinary citizen and, in fact, does provide more privacy protection than they have ever had before. This bill uses the House banking bill as its text base, which passed the Committee on Banking and Financial Services 50 to 8. It had support of Democrats, Republicans and the administration, who took painstaking work on this particular piece of legislation to strike a compromise that is also supported by a diverse sector of the financial services industry.

After 15 years of moving the ball down the field, it is time we put it over the goal line. This bill preserves the Community Reinvestment Act, which has brought billions of dollars of investment into our underserved urban and rural communities and encompasses important consumer protections.

While we may hear otherwise today, this bill has good privacy measures in it. Today we have the opportunity to support an amendment that would make those privacy sections even better. With the passage of a strong privacy measure, I urge my colleagues to vote yes on H.R. 10.

Madam Chairman, this bill strengthens the safety and soundness of our financial institutions. This bill gives consumers one-stop shopping. This bill gives consumers better privacy protection. This bill saves consumers money. This bill is good for the economy. Let us pass stronger privacy amendments. Let us put the ball over the goal and pass H.R. 10 today.

□ 1745

Mr. BLILEY. Madam Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. LEACH) for purposes of control.

Mr. DINGELL. Madam Chairman, I yield 3 minutes to the distinguished gentleman from California (Mr. WAXMAN).

(Mr. WAXMAN asked and was given permission to revise and extend his remarks.)

Mr. WAXMAN. Madam Chairman, I thank the gentleman for yielding time to me.

Madam Chairman, the proponents of this bill say they have increased privacy protection for health records, but in fact, every independent expert that has reviewed the legislation has reached exactly the opposite conclusion.

The medical record provisions in H.R. 10 are opposed by physician organizations like the American Medical Association and the American Psychiatric Association. They are opposed by nurses' organizations, like the American Nurses' Association. They are opposed by patients groups, like the National Association of People with AIDS and the Consortium for Citizens With Disabilities, and they are opposed by privacy experts, like the Consumer Coalition for Health Privacy and the ACLU.

Why have they reached that conclusion, when the other side on this issue say they have put something in the bill to protect medical privacy? They have a provision saying an organization cannot give out information without the consent or the direction of the customer, but then they have this huge exception.

They can, however, give it without ever asking the customer to insurance companies, who then can keep a whole database on a lot of people's medical records. They can give it to people participating in research projects. It does not say it is a scientific research project. Anybody could say they have a research project and therefore they get the medical data, and these groups can then turn around and sell it. There is no restriction on them whatsoever from further disseminating our personal medical records.

This idea that we have to give our consent is not very convincing when an insurance company can say to us that in order to get insurance, we have to sign a waiver that will allow them to do whatever they want with our medical records, or we go without insurance.

I feel that this provision is a step backwards. The proponents say they are following a democratic process. In fact, they snuck the medical records provision into the legislation like a midnight prowler, to use the words of the Los Angeles Times. There have been no hearings on the implications of what we are doing.

In fact, we are not even allowed to offer amendments to this provision. Under the rule, the gentleman from California (Mr. CONDIT), who has been working on health privacy issues for 10 years, was even denied a motion to strike.

It would be better to strike all the medical provisions, privacy provisions that are in this bill out because they do such a disservice to the idea that we are protecting people's privacy.

In 1949 George Orwell wrote a chilling novel called 1984 about a society that denied its citizens privacy. It is 15 years later than Mr. Orwell predicted, but today 1984 is becoming a reality. Doublespeak reigns in this House, and Big Brother in the form of all-knowing financial conglomerates is being brought to life.

I urge my colleagues to vote against the bill because of this provision alone.

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Madam Chairman, we have heard that we should should not make the perfect the enemy of the good. We have some people, I believe, who would like to make the perfect the enemy of the very, very, very good.

We are about to set history here. This body has attempted to pass and enact into law reform of our financial services industry for I understand a decade and a half, and we have a product that the vast majority of stakeholders agree on.

The medical privacy provisions happen to be something that I am very interested in as a physician, and I believe the language in this bill is pretty good. Can it be made better? Yes. As a matter of fact, we put provisions in the language that say if the administration passes regulations that are stronger, these provisions expire. We have language in there that says if this body enacts legislation signed by the President that is stronger, these provisions expire.

So to oppose this bill now, at this point, when we have an extremely good product here, a very, very good product on this to me is a tremendous disservice. I believe that all of our colleagues on both sides of the aisle should support this, because this is extremely good for America.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from Texas (Mr. SANDLIN).

(Mr. SANDLIN asked and was given permission to revise and extend his remarks.)

Mr. SANDLIN. Madam Chairman, financial modernization is already occurring in this country, and is here to stay. However, burdensome regulatory barriers are hindering the efforts of our financial institutions to compete globally through the development and delivery of new financial products. This only exacerbates or makes worse the problems within the financial services industry.

The bottom line is simple: Financial modernization is necessary and will continue in this country as a result of market forces, even in the absence of any sort of legislation. However, the success of American firms and ultimately the strength of our economy is going to depend upon passing a good bill, one that will ensure that financial modernization occurs in an efficient manner, and protects the interests of consumers as well as the safety and soundness of our financial industries.

But as we debate these important issues, we must remember community banks. People trust community banks. They know their community bankers. We have recognized these institutions as an integral part of rural America. We must not overlook them or jeopardize their future in any way as we undertake this monumental legislation.

I believe this bill addresses the needs of Main Street as much as Wall Street, and I urge Members to cast their vote in support of this important legislation.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY), who has worked so diligently on this bill.

Mrs. KELLY. Madam Chairman, I thank my good friend, the gentleman from Iowa (Mr. LEACH) for yielding time to me.

Madam Chairman, I rise in strong support of H.R. 10. I would like to take

just a minute to talk about the provision in H.R. 10 regarding NARAB, the National Association of Registered Agents and Brokers.

Under NARAB, States would be encouraged to streamline insurance agent and broker licensing laws, creating reciprocity, uniformity, and eliminating protectionist residency barriers. The NARAB provisions have been designed to bring true modernization to insurance licensing, and it is something that I believe that we really do need to have in the United States of America today.

It is for the commonsense provisions in H.R. 10 like NARAB that we all need to join together in support of H.R. 10.

Madam Chairman, I rise in strong support of H.R. 10. We have been hearing the debates so far mostly focus on the more controversial sections of the bill. Many of the benefits of H.R. 10 have been heralded here today because they represent breakthroughs on issues that have been contentious and seemingly irreconcilable for many years. Yet there are other modernization provisions which are extremely valuable, but have not been highly publicized because they have been essentially non-controversial. I'd like to specifically point to the provisions regarding NARAB—the National Association of Registered Agents and Brokers.

Under the NARAB subtitle of Title III, states would be encouraged to streamline insurance agent and broker licensing laws—creating reciprocity, uniformity, and eliminating projectionist residency barriers. If a majority of states fail to enact reciprocal licensing laws within three years of enactment of this legislation, NARAB would be created as a uniform, agent/broker licensing clearinghouse governed by state insurance regulators.

I'd like to thank the bipartisan leadership of both the Banking and Commerce Committees for including this provision in H.R. 10. Since I raised this issue in the Banking Committee in 1997, the National Association of Insurance Commissioners and individual states have significantly ratcheted up their efforts to achieve licensing reform. For many years prior, there were attempts to ease the burden and unnecessary costs associated with multi-state licensing. But those attempts failed to keep pace with consolidations in the insurance industry, along with increasing financial services consolidation and globalization of insurance markets. The NARAB provisions have been designed to bring true modernization to insurance licensing laws, in keeping with functional state insurance regulations.

Perhaps the most gratifying development on the licensing front in recent months has been the increasing acceptance of NARAB by the NAIC as a good incentive for licensing reform. NAIC President George Reider, Kentucky Commissioner George Nichols, North Dakota Commissioner Glenn Pomeroy and others have been doing a superb job in elevating uniform and reciprocal licensing on the agendas of individual state legislatures. They understand that barriers to competition from out-of-state insurance agents and brokers is incompatible with today's integrated financial institutions marketplace. Their commitment to reform is real, and NARAB will be the assurance their efforts will ultimately succeed.

Currently, there is no counterpart NARAB provision in the financial services bill approved by the other body, and I look forward to working with congressional conferees to assure that these important licensing reforms can be achieved in the context of broad modernization legislation.

It is for these common sense provisions that we all must join together in support of H.R. 10.

I want to take a moment to thank Chairman Leach for his superior leadership in steering H.R. 10 through committee. It was because of his patience, thoughtfulness and considerable knowledge of the financial service industry that this legislation has come to the floor with a strong bipartisan support it now has. The gentleman from Iowa has also had the assistance of an excellent staff at his side to assist his considerable efforts. Just to name a few, Tony Cole, Gary Parker, Laurie Schaffer and Alison Watson. There are so many more but I haven't the time to name them all. Chairman Leach really does have the highest standards for his staff and they have all lived up to those standards set by the Chairman.

Secretary Rubin estimates that passage of this legislation will save consumers $15 billion a year. The efficiencies created by this legislation will allow financial institutions to stop wasting time and money complying with out of date laws written in the 1930's and enable them to better serve their customers in the 21st century.

H.R. 10 comes before us with the strong support of both parties and the administration. Let's join together in ensuring that we preserve this agreement by passing this rule with a strong bipartisan vote. I thank the gentleman from California and his colleagues on the Rules Committee for their good work on the rule and ask all of my colleagues from both sides of the aisle to join me in voting for legislation years in the making that will improve the lives of all Americans, H.R. 10.

Mr. LAFALCE. Madam Chairman, I yield 1½ minutes to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON. Madam Chairman, I would like to thank the ranking member for yielding me the time to engage the chairman of the committee, the gentleman from Iowa (Mr. LEACH) in a colloquy.

Madam Chairman, I would like the chairman's clarification with respect to section 351 relating to the medical information confidentiality provisions.

The rule report on page 371, line 7, subparagraphs 1, 2, and 3, I read each as several separate clauses, and that following clause 1 and before clause 2 there is an implied ''or'' that indicates that each of these is to be read as separate clauses.

Mr. LEACH. Madam Chairman, will the gentlewoman yield?

Ms. CARSON. I yield to the gentleman from Iowa.

Mr. LEACH. The gentlewoman has raised a very important point. I fully concur in her interpretation. That is exactly correct. I think it is an important clarification for the RECORD.

Ms. CARSON. Madam Chairman, I appreciate the gentleman's comment.

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from New York (Mr. SWEENEY).

(Mr. SWEENEY asked and was given permission to revise and extend his remarks.)

Mr. SWEENEY. Madam Chairman, I thank the chairman for yielding time to me.

Madam Chairman, I joined the Committee on Banking and Financial Services, and my desire is to help spur economic growth in my congressional district in upstate New York. In my mind, today is a historic step in that direction. I am very proud to fully support H.R. 10, because financial services provide the basis for private investment in new business that creates jobs.

We here in Congress have the responsibility to ensure that our financial services law reflects and therefore does not stifle the level of innovation and service in the financial services marketplace.

We have a responsibility to ensure that all participants in the marketplace, from security brokers to community banks to independent insurance agents, are given the opportunity to compete and thereby provide the best service to our constituents.

So I urge support for this bill, H.R. 10, and confirm this House's commitment to that responsibility.

Madam Chairman, I rise in strong support of H.R. 10 and commend the hard work of its sponsors.

I joined the Banking Committee based on my desire to spur economic growth in my Congressional district in Upstate, NY—by providing businesses and entrepreneurs with the access to capital to create new jobs. Therefore, I am pleased to speak in support of this important legislation.

Financial services provide the basis for private investment in new business that create jobs, for the protection of people's hard-earned assets from catastrophic loss, and for the ability of Americans to save and effectively plan for their retirements.

Given the importance of financial services as the base for our economy, Congress has many responsibilities to ensure that our laws are responsive to the everyday function of these essential markets.

We have a responsibility to ensure that our laws reflect, and therefore do not stifle, the level of innovation and service in the financial services marketplace.

We, as a Congress, have a responsibility to oversee those laws to ensure that consumers are treated fairly in the marketplace, protected from fraud and other potential abuses.

We have a responsibility to ensure that all participants in the marketplace—from securities brokers, to the community banks, to independent insurance agents—are given the opportunity to compete and thereby provide the best possible service in the world.

H.R. 10 confirms this House's commitment to these responsibilities.

I commend the work of the Chairmen and the Ranking Members.

I urge your support of the bill.

Mr. LAFALCE. Madam Chairman, I yield 1½ minutes to the gentleman from North Carolina (Mr. PRICE).

(Mr. PRICE of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. PRICE of North Carolina. Madam Chairman, I would like to engage the managers from both sides, if I might, in a colloquy.

Mr. Chairman and Mr. ranking member, I first want to express my appreciation to you for the hard work that you and your colleagues have put into the drafting of this complex and necessary piece of legislation.

I am a former member of the Committee on Banking and Financial Services, and I am well acquainted with the difficulties that have to be overcome just to bring a financial services modernization bill to this floor. I do have a concern, however, that I hope the gentlemen will spend some time addressing before bringing a conference report back to the House.

The National Association of Insurance Commissioners and North Carolina's Insurance Commissioner, Jim Long, have expressed to me a concern with section 104 of this bill. This is a section that describes under what circumstances State insurance law should be preempted in order to ensure that financial institutions are not discriminated against.

I know there are differing interpretations of this section as to what sorts of State laws might be preempted. For example, North Carolina just passed a Patients' Bill of Rights. This is legislation that is very important to our citizens. I hope the gentlemen can assure me that it is not the Committee's intention in this bill to allow financial institutions that provide insurance products to be exempted from this law or other important consumer protection statutes.

If there are remaining problems or ambiguities that need to be cleared up, I hope the gentlemen will work during the conference to clarify in what situations State insurance law should and should not be preempted by this bill, and to make sure that functional regulation and vital consumer protections are not compromised.

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. PRICE of North Carolina. I yield to the gentleman from Iowa.

Mr. LEACH. Madam Chairman, let me say to the gentleman that the major intent of the law is to maintain functional regulation, and the major intent of the law is to have State regulation and law apply without discrimination.

Mr. LAFALCE. Madam Chairman, will the gentleman yield?

Mr. PRICE of North Carolina. I yield to the gentleman from New York.

Mr. LAFALCE. Madam Chairman, I share the judgment of the chairman on this particular question. That certainly is our intent, to prohibit discriminatory action and to preserve the maximum amount of consumer protection.

With respect to a State's Patients' Bill of Rights, I strongly support a Federal Patients' Bill of Rights, and to the extent that the State has acted similarly or more strongly, we would want to give deference to such a bill of rights.

Certainly to the extent that it might need clarification, I am not sure that it does, we would attempt to clarify that.

Mr. PRICE of North Carolina. I appreciate the gentlemen's assurances, both the chairman and the ranking member, that it is not the intent of this bill as drafted to compromise these essential consumer protections, many of them administered by State insurance commissioners, and that if there is any remaining ambiguity, that that will be attended to in conference.

□ 1800

Mr. BLILEY. Madam Chairman, I continue to reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I continue to reserve the balance of my time.

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from Texas (Mr. PAUL), one of the most thoughtful philosophers of the United States Congress.

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Madam Chairman, I will take my one minute to address the subject of privacy, because I do have an amendment that I think would improve the protection of privacy.

We have had a lot of talk and indication on this side of the aisle about protecting privacy. But I believe the understanding of what our role is in protecting privacy, if it applied across the board, would mean that politicians and political action committees could never rent a list from the Sierra club or the American Civil Liberties Union.

But I am addressing the subject of Know Your Customer. At the same time we hear these declarations for protection of privacy, we hear from the same people that we cannot get rid of Know Your Customer.

Now, if one wants to really find something where one invades the privacy of the individual citizen, it is this notion that the Federal Government would dictate a profiling of every bank customer in this country; and then, if that customer varied its financial activities at any time, it could be reported to the various agencies of the Federal Government. Now, that is privacy. That is what we have to stop. I ask for support for my amendment.

Mr. LAFALCE. Madam Chairman, I yield 2 minutes to the very distinguished Member of the committee, the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Madam Chairman, I thank the gentleman from New York for yielding me this time. It is long past due that we have a bill that brings our financial services into the 21st Century.

We should be able to compete with other industrialized nations where financial institutions have been allowed to merge and bring a wide variety of products and services to their customers. The bill allows the law to catch up with the reality of the international merger movement.

Some of these mergers have taken place on the probability that Congress will finally act so that financial services will no longer be hamstrung by outdated restrictions of the 1930s. The bill allows financial institutions to merge, but prevents banks from merging with commercial businesses, and it requires functional regulation.

The Committee on Rules has changed what came out of our Committee on Banking and Financial Services with tremendous bipartisan support. I thank the gentleman from Iowa (Chairman LEACH) and the gentleman from New York (Mr. LAFALCE), the ranking member, for their leadership.

Many of these changes are inappropriate and wrong, such as the medical privacy provision, and they should be changed in conference. While I will vote for this bill so that it can go to conference, my final vote will be contingent on a bill that has strong privacy provisions.

Also, we should be cognizant that the President will veto any bill that does not contain strong CRA provisions, which I also fully support, and are in the House bill.

Mr. BLILEY. Madam Chairman, I yield myself the balance of my time.

Madam Chairman, I want to take a moment first to recognize the hours and hours of hard work contributed by my finance staff team, Linda Rich, David Cavicke, Robert Gordon, Brian McCullough, and the trustee clerks, Robert Simison and Mike Flood.

They were joined by diligent efforts of the minority staff, Consuela Washington and Bruce Gwynn. These professionals performed above and beyond the call of duty, and the committee is in their debt.

Glass-Steagall, Madam Chairman, was passed in 1933 in reaction to the financial markets crash in the Great Depression. Those were extreme times, and the American people demanded extreme measures to rescue them from continuing economic crisis.

Just two years after Glass-Steagall was enacted, the law's primary architect, the gentleman from Virginia named Carter Glass, realized that Congress had gone too far, and he began an effort to undue the damage that had been done.

Carter Glass may have been the first Congressman who tried to reform Glass-Steagall, but he was not the last. In just the last 20 years, there have been 11 efforts to modernize these archaic laws.

Last term, the Committee on Commerce Republicans and Democrats worked with the Republican leadership of the Committee on Banking and Financial Services to pass Glass-Steagall on the House floor for the first time ever. I strongly supported that bill and was disappointed that it faltered in the waning days of the Senate.

Today is a historic day. We join together here in the House to approve legislation that is long overdue, and we are in a stronger position than ever before to achieve our goal of modernizing financial regulation in America.

Every step of the way we were opposed by lobbyists and special interest groups who said it could not be done. But we heard the concerns of the American people about all of these megamergers. We heard the concerns of the local businessmen who want to compete, but have one hand tied behind their backs by the archaic Glass-Steagall restrictions. We heard from the Federal and State financial regulators who emphasized the need to protect consumers and preserve the safety and soundness of our financial system.

It is a testament to the will of the American people that we have heard their concerns and are here today to pass legislation to protect the future.

The legislation protects American investors by ensuring that the rules for securities sales will be the same for everybody, no matter where the securities activities take place. That means that investors will be assured of the protections of the Federal securities laws, even when they purchase securities in a bank, a protection investors do not enjoy today.

The bill also treats the thrift industry fairly, by preventing future expansion of the unitary thrift system, while protecting the ability of existing thrifts to raise capital from the commercial markets. This is an important win for American homebuyers who have relied on the thrift industry to realize their American dream of homeownership.

This bill provides a better structure for regulating the financial marketplace in the 21st Century. I look forward to further strengthening that structure as we go to conference, by eliminating the operating subsidiary and improving insurance consumer protections.

Our financial system has not been modernized since the Great Depression. Federal regulators have been forced to invent highly questionable and unauthorized make-shift regulations to try and shoehorn an archaic legal system into the modern world. It must be fixed. It must be fixed by Congress, not some unelected special interest regulators.

H.R. 10 is the solution, and I am proud we are at the bridge of achieving another historic accomplishment for the American people.

Beginning with the seminal efforts from the gentleman from Virginia in 1935 to repeal the Glass-Steagall barriers to competition, Congress has had neither the will nor the vision to open our financial markets to full competition.

Mr. DINGELL. Madam Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. TOWNS).

Mr. TOWNS. Madam Chairman, I would like to begin by applauding the leadership on both sides of the aisle in terms of the gentleman from Virginia (Mr. BLILEY), the chairman of the committee, and, of course, the gentleman from Ohio (Mr. OXLEY), the chairman of the Subcommittee on Finance and Hazardous Materials, and, of course, the gentleman from Michigan (Mr. DINGELL), the ranking member on the Democratic side for all their hard work. A lot of work and time and effort has gone into this, a lot of hearings and all of that.

But I come today to say that I am concerned. First, I am concerned about the privacy issue. I am very concerned about that. I am also concerned about the behavior of the Committee on Rules. I think that we want to be open and want to have the democratic process, but when the Committee on Rules just makes decisions to drop out things just because they have the ability to drop them out, without having a discussion on them, I think that it does not serve this body well. It does not serve the American people well. I am hoping that the Committee on Rules will take another look at that and not continue to behave in that fashion.

This is not a perfect bill, but it is a step in the right direction. I think that it will make us internationally competitive, which we need to do. The time has come when we need to stop vacillating and to begin to do the right thing, as my constituent Spike Lee says in Brooklyn.

I am very happy that at least the CRA provision, in terms of the fact Community Reinvestment Act is very important, that they had the common sense and good sense to leave that in there. They did not eliminate that. I want to applaud the Committee on Rules for that because, I will be honest with my colleagues, any bill that does not have the Community Reinvestment Act in a strong way in it, I could not vote for it in any way. So I am happy that at least that part is there.

But to conclude, let me say that I am hoping that some of the problems that still exists with this legislation that we will correct it in conference.

Mr. LEACH. Madam Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. BARTON), a distinguished member of the Committee on Commerce.

(Mr. BARTON of Texas asked and was given permission to revise and extend his remarks.)

Mr. BARTON of Texas. Madam Chairman, I thank the distinguished gentleman from Iowa (Mr. LEACH), chairman of the Committee on Banking and Financial Services.

Madam Chairman, I am standing on the Republican side to express some of the same concerns that have been expressed on the Democratic side about the inadequacy about the privacy protections in the bill that is pending before us.

I want to commend the gentlewoman from Ohio (Ms. PRYCE) and the gentleman from Ohio (Mr. GILLMOR) and others on the Republican side for beginning to address the issue.

Sadly, we have not gone as far as we should go. We are about to enter a brave new world where financial institutions offer large ranges of services, not just checking account balances and savings account balances. That is good. That is going to provide additional choice and additional products for the American consuming public.

In the bill before us, if the Oxley amendment is adopted, we are going to protect privacy in most cases for third-party transfers outside the affiliate structure with some exceptions. We are going to allow, within the affiliate structure, transfers with disclosure.

My opinion is, if it is a necessity to provide privacy for third-party transactions outside of the affiliate structure, it is just as much a necessity to provide that same opt-out provision within the affiliate structure, given the fact that the very reason the bill is before us is because we want to have these financial service conglomerates.

I had offered, with the gentleman from Massachusetts (Mr. MARKEY), a modified version of his amendment that was adopted on a voice vote by the full Subcommittee on Energy and Power and Committee on Commerce. That was not made in order by the Committee on Rules. I think that is unfortunate.

I voted for the rule even knowing that my amendment had not been made in order. I have spoken with the Speaker and the majority leader, and I have their assurances that these privacy issues will continue to be addressed.

I am sure that the gentleman from Iowa (Chairman LEACH) and the gentleman from Virginia (Chairman BLILEY) share these same assurances.

But I want to let the body know that this concern about privacy is not specifically a Democrat concern or Republican concern, it is concern for all Americans. It is not going to go away, and we will have to address it as this bill moves forward in the conference if it passes the House.

Madam Chairman, I yield to the gentleman from Iowa (Mr. LEACH) if he wants to make a comment.

Mr. LEACH. Madam Chairman, I would just like to stress there is no intent in this bill to jeopardize any confidences associated with doctor-patient relationships nor the privacy protections currently afforded any medical records. Indeed, the intent is to strengthen those protections. To the degree that more precision in this area is required, this gentleman is prepared to work in conference to ensure that that occurs.

Mr. BARTON of Texas. Madam Chairman, I appreciate that pledge, and I will work with the gentleman.

Mr. LAFALCE. Madam Chairman, I yield 30 seconds to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Madam Speaker, I am just flattered to continue to be yielded time.

I yield to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Madam Chairman, it is my expectation that the bipartisan

amendment that was drafted with the gentlewoman from Ohio (Ms. PRYCE), the gentleman from Texas (Mr. FROST), myself, the gentleman from Iowa (Mr. LEACH) and others, and that a motion to recommit that will be offered that will take whatever this body works its will on and then simply takes the Markey-Barton amendment and a provision striking the medical privacy provisions that my colleague is concerned about, and that will be in the motion to recommit. So the gentleman will have an opportunity to vote on exactly what he expressed concern about.

Mr. BARTON of Texas. Madam Chairman, I look forward to that opportunity.

Mr. LAFALCE. Madam Chairman, I yield 1½ minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), the distinguished ranking member of the Subcommittee on Capital Markets, Securities, and Government Sponsored Enterprises.

(Mr. KANJORSKI asked and was given permission to revise and extend his remarks.)

Mr. KANJORSKI. Madam Chairman, I thank the ranking member for yielding me this time.

Madam Chairman, I will take just one second to congratulate the gentleman from Iowa (Chairman LEACH) and the gentleman from New York (Mr. LAFALCE), the ranking member, on a job well done, a number of years that everybody slaved over this. It is not a perfect bill, but I think we should support the bill and move it on to conference.

Now, I would like to engage in a colloquy with the gentleman from Louisiana (Mr. BAKER). Madam Chairman, I rise to engage in a colloquy with him about the Federal Home Loan Bank provisions contained in H.R. 10. As he will note, and as we have worked over the years, will there be an understanding that he and I will work in conference together to address issues to appropriately revise the REFCorp payments, put a cap on the class B stock that can be counted toward meeting the risk-based capital requirement, and that we should determine who should issue debt for the system, and finally to work on the issue advanced base stock purchase requirements for non-QTL members?

Madam Chairman, I yield to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Madam Chairman, I certainly appreciate the gentleman's interest and wish to express my full cooperation on these matters and others that will be before us on the Federal Home Loan Bank. I congratulate the gentleman from Pennsylvania and thank him for all his courtesies and cooperation over the year in making this a reality.

Mr. KANJORKSI. Madam chairman, I want to thank the gentleman from Louisiana (Mr. BAKER) for his commitment to address these issues in conference.

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Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Madam Chairman, I thank the gentleman for yielding me this time, and in this colloquy with the chairman I would just say that it is this Member's understanding that H.R. 10 would not alter the definition of a diversified savings and loan holding company. Is this correct?

Mr. LEACH. Madam Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Iowa.

Mr. LEACH. The answer to the gentleman's question is, yes, that is correct.

Mr. BEREUTER. I thank the chairman. In particular, it is this Member's understanding that under H.R. 10 insurance revenues will still not be deemed to be banking related for the purposes of determining whether a savings and loan holding company qualifies as diversified. Is this correct?

Mr. LEACH. If the gentleman will continue to yield, the answer to that question is also yes, that is correct, sir.

Mr. BEREUTER. Madam Chairman, I thank the gentleman for his comments.

Mr. LAFALCE. Madam Chairman, I yield 1 minute to the gentleman from New York (Mr. CROWLEY).

(Mr. CROWLEY asked and was given permission to revise and extend his remarks.)

Mr. CROWLEY. Madam Chairman, as a freshman congressman representing the financial capital of the U.S., I rise today in support of H.R. 10.

Madam Chairman, currently our financial services industry is governed by outdated laws and regulations which are costly and inconvenient to consumers and which have put the industry at a competitive disadvantage in the global marketplace.

Modernizing these outdated laws is needed to bring about the real benefits available to the millions of Americans who use financial services and to allow U.S. financial firms to remain the predominant force in global markets.

Madam Chairman, this legislation strikes a critical, unprecedented balance by providing a new financial services infrastructure aimed at keeping the United States competitive in the global marketplace while ensuring quality services and protections for consumers and communities.

Madam Chairman, I know many of my colleagues are disappointed that stronger privacy language was not included to protect the confidential medical and financial information of consumers. I understand and agree with their disappointment that the Committee on Rules did not rule in order many Democratic-sponsored amendments to protect consumers.

The underlying Banking Committee version is a good bill. Let us not lose sight of what we are trying to do.

Madam Chairman, we simply cannot afford to wait any longer to create a modern framework for U.S. financial corporations and our Nation's capital markets.

Failure to act now on financial services reform would send a terrible message to global financial markets, and constitute a clear danger to U.S. economic leadership in the world and so I strongly urge my colleagues to support passage of H.R. 10.

Mr. LEACH. Madam Chairman, I yield 1 minute to the gentleman from Delaware (Mr. CASTLE), the former chairman of the Subcommittee on Domestic and International Monetary Policy.

Mr. CASTLE. Madam Chairman, let me just congratulate the gentleman from Iowa and the gentleman from New York for the wonderful and extraordinary work they have done on this. I rise in strong support of H.R. 10, the Financial Services Modernization Act of 1999, and I urge my colleagues to seize the opportunity to pass this historic legislation.

This legislation is not just years overdue, it is decades overdue. H.R. 10 will allow the marketplace to give American consumers more products and better choices to build a better financial future for them and their families. H.R. 10 will give American banks, insurance companies and insurance firms the opportunity to compete fairly in the international marketplace.

We are finally close to achieving the overdue goal of financial modernization. The President is ready to work with us to enact a law. We cannot falter now. This legislation will benefit American families and American business and maintain sound regulation. Seize this great opportunity. Pass H.R. 10. Let us move our financial laws out of the 1930s and into the next century. Vote ''yes'' on H.R. 10. It means a better future for our Nation.

To say that this legislation is long-overdue is a tremendous understatement. It is not just years overdue. It is decades overdue. Past attempts to pass financial services reform often failed because one industry group or another felt that past bills put them at a disadvantage.

While this legislative struggle has been going on, our constituents have been looking for new, efficient and affordable products to give their families financial security. We are long past the days when people were satisfied with a simple savings account or life insurance policy. Most Americans want to maximize their earnings and to find products that will give them the best return.

The financial services marketplace has been struggling to meet consumers needs within a regulatory structure that was created in the 1930s and 1950s.

Our Nation's banking, securities and insurance laws must be updated to face the challenges of the next century.

Over the past three years, Congress has moved ever closer to the goal of legislation that will benefit consumers and fairly balance the divergent interests of banks, insurance companies, insurance agents, and securities firms, as well as the federal and state regulators that oversee these industries.

As a member of the House Banking Committee, I have been directly involved in the work to modernize our financial services laws

since I came to Congress in 1993. I have to tell you it has been a difficult struggle to balance the competing interests of the banking, securities and insurance industries.

The legislation before us today, while not perfect, has finally won the endorsement of all major industry groups.

Now is the time to act. We must do this to benefit consumers who need a variety of financial products to help them plan for their economic futures. In addition, we must update these laws to allow our financial services providers to compete effectively in the next century.

The most important reason for supporting this legislation is that it will benefit every American seeking to improve their family's financial security by saving and investing more. This legislation will help them achieve that goal by making more savings and investment products available in one-stop shopping at competitive prices. In addition, the bill contains important disclosure and sales standards to protect consumers as they shop for these products.

This legislation will help consumers, but it will also benefit the businesses seeking to provide these financial products. It will enable banks, insurance companies and securities firms to affiliate and operate more competitively on a level playing field. It will expand the products that these financial services firms can offer to their customers, while maintaining adequate regulation to preserve the safety and soundness of the system.

Madam Chairman, as part of the long deliberations seeking to treat all financial services providers fairly, I have been particularly interested in assuring that national banks are permitted to compete fairly in selling and underwriting insurance products. Bank sales and underwriting of insurance will be good for competition and good for American consumers.

To be candid, the provisions in this legislation regarding banking and insurance are not perfect. I am sure representatives of the banking and insurance industries can tell you how they believe the provisions can be improved, but the fact of the matter is we have a workable compromise that will protect consumers and allow for improved and fair competition in how insurance is sold and underwritten by banks and their new affiliates.

Madam Chairman, on this floor last year, I said to my colleagues that this is historic legislation that has been a longtime in coming. That statement is more true than ever.

Overall, H.R. 10 is a well-crafted effort to make our financial services system ready for the 21st century and to meet the needs of American consumers and business.

This is our best opportunity in years to bring our financial laws out of the past and into the next century. The Senate has finally passed its own legislation and the President is ready to join us in enacting this legislation.

Every American who has a bank account, a mutual fund, or an insurance policy will have new opportunities and choices to help build financial security for their families. I urge my colleagues to take this historic step and pass H.R. 10 today.

Mr. LAFALCE. Madam Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from New York (Mr. LAFALCE) has 1¼ minutes remaining.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

(Mrs. BIGGERT asked and was given permission to revise and extend her remarks.)

Mrs. BIGGERT. Madam Chairman, I rise in support of H.R. 10 and thank the gentleman from Iowa for the opportunity to speak.

As a freshman member of the Committee on Banking and Financial Services, I was privileged to help produce in committee a bipartisan bill that will modernize our Nation's banking, insurance and securities industries. Over the past months I have heard from hundreds of my constituents in support of this monumental legislation.

H.R. 10 allows broad new affiliations among banks, securities and insurance companies. As our Nation and the world have progressed technologically, the distinctions between financial fields have eased. H.R. 10 reforms the outdated laws and regulations that add cost and inconvenience to consumers and restrict their choices for financial services.

Madam Chairman, H.R. 10 will allow our Nation's financial institutions, security companies and insurance industries to compete in the global marketplace. I am pleased that the Committee on Banking and Financial Services and the Committee on Commerce overwhelmingly approved this legislation. I hope that any snafus can be worked out in the near future, and I urge the support of the whole House.

Mr. LEACH. Madam Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. BAKER).

Mr. BAKER. Madam Chairman, I thank the gentleman for yielding me this time; and I wish to extend my appreciation and congratulations on the job the chairman has done over the decade. He has committed himself to the goal of financial modernization. I do not think without his persistence this evening would have been possible.

I wish to speak tonight directly to the issue of what is in this bill for the small town bank. With all the discussions about op-subs, opting out, and privacy issues, there are a great deal of concerns that affect many people, but when it comes to the 9,000 small institutions across this Nation, I think it is important to point out that they are struggling like any other small business to survive. Often their product, money, is hard to come by. As banks merge and acquire one another, small town banks do not often have the partner down the street that can take part of that loan and help them extend credit in the local community.

The Federal Home Loan Bank provisions in this legislation provide an extraordinary new opportunity for small town banks. For banks in asset size under $500 million, which is about 85 percent of the banks in America, they can now go to the Federal Home Loan Bank and get credit. And get this: Fixed interest rates for up to 15 years; and now for small business and agricultural lending purposes.

With the passage of H.R. 10, we are opening up small town America banks to the Federal Home Loan Bank credit window and giving them the opportunity to meet the needs of working people, small businesses and farmers across this country.

I think it is high time we do something in this Congress for those small banks which have been too long ignored and neglected. And in this process tonight, due to the leadership of the gentleman from Iowa (Mr. LEACH), we are going to meet this important community need. I congratulate him and the ranking member on what I think will be an important, successful night when we pass H.R. 10.

Mr. DINGELL. Madam Chairman, I yield 1 minute to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Madam Chairman, I regretfully say that I must oppose this bill. This bill is an abject total failure to deal with the issue of telemarketing by affiliated telemarketing firms.

Imagine this: Aunt Emma inherits $10,000. She puts her $10,000 into her trusted bank. Should that banker be able to call their affiliated telemarketing company, tell them that Aunt Emma is a ripe target to sell some hot stock or annuity, and allow them to call her at 6 o'clock at night and interrupt her watching Jeopardy to sell her that? And the answer is, ''no,'' they should not be allowed to do that if Aunt Emma does not want it.

Now, why is this important now? Some people have said we have moved ahead a little on third parties, but we are creating an entirely new species of telemarketer here. We are creating an entirely new species with H.R. 10 of affiliated firms. And if we are going to create the Tyrannosaurus rex of telemarketing, we ought to tame that before we create the species.

Today is the time to tame that. Today is the time to reject this, go back, and protect the rights of privacy of our constituents.

Mr. DINGELL. Madam Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. LUTHER).

Mr. LUTHER. Madam Chairman, I thank the gentleman from Michigan for yielding me this time, and I rise in opposition to this bill.

Let me tell my colleagues a little bit about my home State of Minnesota's unique experience with financial privacy rights. Less than a month ago, Minnesota Attorney General Mike Hatch filed a civil suit against a large financial institution for allegedly selling its customers confidential information to a telemarketer. Of course, the bank's customers had no idea their financial data was being handled like this, and they never would have dreamed of it. The public reacted very strongly upon learning the information.

This week that case was settled, only after a few weeks, on terms very favorable to Minnesota consumers and very

similar to the Markey-Dingell-Stupak amendment.

I would simply ask my colleagues this: Should the consumers of America be entitled to anything less than what the Minnesota Attorney General obtained for Minnesota consumers after only a few weeks?

I urge my colleagues to oppose this bill. All Americans deserve real privacy protections, and they deserve them now.

The CHAIRMAN. The Chair would propose to recognize Members for final speeches in reverse order of their original allocations of time under the rule, to wit: The gentleman from Michigan (Mr. DINGELL), the gentleman from New York (Mr. LAFALCE), and the gentleman from Iowa (Mr. LEACH).

Mr. DINGELL. Madam Chairman, I yield myself the balance of my time.

Let us talk about medical privacy. The Secretary's recommendations on this matter would explicitly preserve existing State laws that provide for essential privacy protection. H.R. 10 implicitly overrides them. With few exceptions, the Secretary's recommendations would require consent before medical records could be disclosed. H.R. 10 permits extensive disclosure without consent. Indeed, there are two pages of exceptions in the rule and in the bill.

The recommendations of the Secretary would prohibit unauthorized disclosure of medical records to insurance companies for underwriting purposes, to credit agencies and to banks. H.R. 10 expressly allows such disclosure. The Secretary's recommendations would require that any authorization to disclose medical records be truly voluntary. H.R. 10 permits the insurers to coerce consent by saying they will refuse the right to insurance unless that disclosure takes place.

H.R. 10 provides no safeguards ensuring only genuine medical research projects attain access to medical records. The Secretary's recommendations would include express protection in that regard.

The Secretary's recommendations would hold third parties responsible for medical information that they receive. H.R. 10 allows third parties to disclose medical information to anybody.

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Mr. LAFALCE. Madam Chairman, I yield myself the balance of my time.

First of all, I would like to thank the staff of the Committee on Banking and Financial Services, the majority and minority staff. The majority acted in a very bipartisan way. Our minority staff, Jeanne Roslanovick, Rick Maurano, Dean Sagar, Tricia Haisten, Kirsten Johnson, Patty Lord, and so many others were just terrific. We would not be here without them.

Secondly, I would like to point out that there is a Statement of Administration Policy. The administration supports the bill that is on the floor today, but it has some very serious reservations, reservations that are very similar to those I expressed.

They strongly favor the bipartisan privacy amendment that the gentleman from Texas (Mr. FROST), the gentlewoman from Ohio (Ms. PRYCE), myself, the gentleman from Minnesota (Mr. VENTO), the gentleman from Iowa (Mr. LEACH) and others have worked out so strongly. They are terrific privacy.

They strongly oppose the medical privacy language of Ganske and want that deleted. They strongly oppose the Paul-Barr-Campbell amendment, et cetera. They strongly object to the fact that the Committee on Rules did not permit the Lee anti-redlining amendment.

So, in sum, the position of the administration and the position that I have expressed have been virtually identical. They would like us to go forward but only if certain amendments are defeated and only if certain provisions within the bill are cured in conference.

Mr. LEACH. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, let me just first thank all associated with this process. My colleagues have had varied perspectives, and this is a very controversial bill. The staff has been extraordinarily professional. I personally believe that the committee staff that the gentleman from New York (Mr. LAFALCE) and I have is as good a staff as any in the history of the Congress.

We have also enjoyed working with the committee staff of the Committee on Commerce, which does not quite meet that standard, because we have the highest standard, but we appreciate working with the committee staff of the Committee on Commerce.

Let me also say that there are some perspectives that have been presented in a contrasting way that on many of the underlying philosophical aspects there is total consensus in this body. The intent of this legislation is dramatic in the area of privacy. It will be inconceivable to bring forth a law that will do anything except bolster privacy. There is no intent in this law of any nature to undercut executive discretion, which may arise later this summer if certain follow-on legislation does not arise in a timely fashion from another committee of jurisdiction.

In any regard, I am personally convinced that, in any historical landscape of consideration, this is the right bill at the right time. There will be nuances that we will all disagree about. But the framework is to present a financial community that will be second to none in the world, a financial community that will serve the American consumer and be so competitive and broad that it will help bring American financial practices and models to the rest of the world. So this bill is designed to look to the next century in such a way that finance will serve rather than be the servant of the people of the world.

I urge support of this bill. I personally believe that we can go forth. To the degree there are nuances that need to be corrected, I assure my colleagues they will be.

Ms. STABENOW. Madam Chairman, I rise today to explain my vote on the Bliley amendment to H.R. 10, the Financial Services Act of 1999. While I support the efforts of my colleague, Mr. BLILEY, to add new protections for victims of domestic violence, I object to the second provision in his amendment regarding mutual insurance companies.

One of my top priorities as a legislator here in the House and when I served in both the Michigan House and Senate, has been to help the victims of domestic violence. Last year I introduced two bills to help victims of domestic abuse, H.R. 3901, Arrest Policies for Domestic Violence and H.R. 3902, Court Appointed Special Advocates for Victims of Child Abuse.

I strongly support the first provision in the Bliley amendment that would prohibit banks from discriminating against victims of domestic violence in providing insurance. This provision expressed the Sense of Congress that all states should enact laws prohibiting such discrimination. This kind of discrimination must be stopped so that victims of domestic violence take the necessary steps toward financial and personal freedom. Had I been given the opportunity to vote on this provision of the amendment separately, I would have voted in favor.

Unfortunately, I was compelled to vote against the Bliley amendment due to the language in the second provision regarding mutual insurance companies. This language would permit mutual insurance companies to relocate from one state to another and to reorganize into a mutual holding company or stock company. This would permit some companies to operate outside the important safety net of state regulation. Therefore, in an effort to protect consumers, I voted against the Bliley amendment.

Mr. POMEROY. Madam Chairman, I am reluctantly voting yes on H.R. 10. It needs work—a lot of work—in conference committee to fully establish functional regulation of insurance in state insurance departments.

In light of assurances I have received from the Banking Committee Chairman and Ranking Member to revisit the concerns I have advanced in this regard I will vote for the bill to keep the process moving forward.

We desperately need financial services modernization, but it is vitally important the legislation establishing these reforms get it done right.

Mrs. CAPPS. Madam Chairman, tonight I will vote against H.R. 10.

I do this with great disappointment because I truly believe that we must modernize our woefully out-of-date financial service laws.

Modernizing these laws would create a more efficient financial service industry and bring greater choice and lower prices for consumers.

But I cannot in good conscience support this legislation. The so-called medical privacy provision endangers consumer privacy protection by allowing their sensitive health information to be sold.

I hope to work with my colleagues to tighten these provisions during conference so I can support a financial services bill that does not endanger patient privacy.

Mr. GONZALEZ. Madam Chairman, I am disappointed that the Rules Committee did not allow me the opportunity to offer on the floor the amendment on title insurance. I hoped to be able to explain the treatment of title insurance in the bill and ensure the protection of Texas state law.

The title insurance section of H.R. 10—Section 305—generally prohibits national banks from underwriting or selling title insurance, either directly or through a subsidiary. There is a grandfather clause (Section 305(c)) that enables any national bank or national bank subsidiary currently engaged in title insurance sales activities to continue to engage in those activities. National banks would remain free, however, to underwrite and sell title insurance products through affiliates. The core prohibition on national bank and national bank subsidiary title insurance sales activities is based on the idea that there are problems associated with bank sales of title insurance. These are real problems, and I thought that the best way to address them was to limit bank-related title insurance activities to their affiliates. This was why I originally offered the amendment that was adopted by the House Banking Committee to require that title insurance sales be done only through affiliates.

Section 305(b) of this bill has a ''parity'' exception that grants national banks parity with state-chartered banks in the sale of title insurance. The intent is to grant national banks in a State the power to sell title insurance products in the same manner and to the same extent as state-chartered banks that we actually and lawfully engaged in title insurance sales activities in that State. My amendment would simply have made it clear that Section 305(b) was a true parity provision. It would have made clear that national banks could sell title insurance products in a State only if state-chartered banks are actively and lawfully engaged in title insurance activity on the date of enactment. Alternatively, national banks could sell title insurance if a state expressly authorizes bank title insurance sales for national banks. Therefore, if the State legislature has not expressly authorized title insurance sales as a lawful power for its State banks, but has some other general statutory provision that might be interpreted as an authorization (but does not explicitly do so), that other general provision would not trigger parity rights for national banks. I thought this clarification was necessary because it is only in states where state legislatures had actually considered these problems that the unique problems associated with bank title insurance sales activities have been addressed.

Texas State insurance law is very important to me, and I hope this clarification can still be made at some point during the consideration of the bill.

Mr. PAYNE. Madam Chairman, I rise to express my strong support for the Community Reinvestment Act which has helped ensure fair and equal access to capital and credit. We all strive for the American dream of home ownership and many of us aspire to start our own businesses. But that dream is out of reach for some in our society because there are financial institutions which discriminate against minorities living in working class neighborhoods.

Fortunately, blatant discrimination in lending is declining, and homeownership and small business opportunities are on the rise. Much of this progress against so-called ''relining'' can be attributed to the Community Reinvestment Act. Under CRA, federal banking agencies grade lending institutions on how well they meet the credit and capital needs of all the communities in which they are chartered and from which they take deposits.

In my own state of New Jersey, CRA has helped provide more than $8 billion in discounted mortgages, discounted home improvement loans, loans to small businesses owned by women and minorities and loans and investments for community and economic development. Many people who never thought it would be possible to own their own home have succeeded through programs made possible by the Community Reinvestment Act.

Madam Chairman, let's help make the American Dream a reality for millions of Americans by continuing to support a strong CRA.

Ms. ROYBAL-ALLARD. Madam Chairman, I rise in opposition to H.R. 1. Rather than updating our antiquated banking laws and bringing the United States financial system into the 21st century, H.R. 10 will leave consumers and our communities more vulnerable than ever before.

Why should we allow for the unprecedented conglomeration of banks, securities firms, and insurance companies while at the same time we ignore the most modest provisions to protect our consumers?

I am opposed to H.R. 10 for a number of reasons:

H.R. 10 is missing important community reinvestment provisions. Specifically, the bill fails to extend the Community Reinvestment Act—the CRA—to the banking activities of nonbank financial institutions that seek to affiliate with banks. In other words, if credit card companies, securities firms or insurers would like to offer traditional banking products such as checking accounts or loans, they should be subject to the CRA. Why should we make it easier for banks, brokers and insurance companies to merge without simultaneously modernizing and expanding the CRA?

The CRA has averaged billions of dollars of investment into communities such as mine, where unemployment and poverty levels are still well above the national average. Low-income families, small businesses and small farmers have all benefited from the CRA through increased opportunities to purchase a home, and obtain start-up and business expansion loans. Let's strengthen it, not weaken it.

H.R. 10 fails to crack down on insurance redlining. Missing from this bill is a modest, consumer-friendly provision, authored by my colleague BARBARA LEE, which would combat redlining of neighborhoods by insurance companies. Excluding this provision will once again leave vast segments of our urban and rural communities vulnerable to discriminatory lending practices by some unscrupulous insurance companies.

H.R. 10 isn't friendly to our thrifts and severely limits their viability. The bill grants the Federal Reserve significant and perhaps unwarranted new regulatory authority over unitary thrift holding companies. Thrifts have been critically important in serving the financial needs of low income and minority communities, particularly in the area of mortgage financing. Threats to the thrift charter would, therefore, disproportionately impact low income and minority communities.

H.R. 10 permits the unprecedented preemption of stronger consumer-friendly state laws thereby undermining state authority and harming consumers. Under H.R. 10, progressive State banking laws such as those requiring low-cost checking accounts or prohibiting ATM surcharges would be weakened.

H.R. 10 fails to provide strong financial and medical privacy protections. If we're going to allow H.R. 10 to accelerate mergers, create mega one-stop centers with access to information about millions of customers, we need to stop information from being disclosed to third parties and affiliates. Anything less is unacceptable.

Certainly, we need to preserve America's financial leadership as we approach the 21st century.

Certainly, we need to update our archaic laws so that U.S. companies are not at a competitive disadvantage in the global marketplace.

Certainly, we should promote convenient and affordable one-stop shopping for consumers in order to meet all of their financial needs.

But not at the expense of consumer privacy. Nor at the expense of the Community Reinvestment Act.

I am not willing to trade the so-called perks of financial modernization—efficiency, choice, convenience, one-stop-shopping—for the decimation of privacy rights and community reinvestment. It's that simple.

Our nations consumers should be our number one priority as we contemplate the merits of H.R. 10. Unfortunately, H.R. 10 doesn't meet this threshold. I urge my colleagues to oppose this bill.

Ms. MCCARTHY of Missouri. Madam Chairman, I rise today in opposition to this measure, H.R. 10, as put forth by the Rules Committee. I support financial modernization, but the current bill fails to achieve the goals set out by both the Banking and Commerce Committees. We can do better than the measure that we are considering this evening. The committee efforts were solid and established a procedure for consensus. The Rules Committee refused to allow the consideration of key amendments vital to financial modernization so that opportunities for investment and savings continue fairly, and fair pricing practices and misuse of private information essential to consumers are assured.

In the Commerce Committee on which I serve, agreement was achieved on issues such as consumer privacy, state regulatory authority, and the Community Reinvestment Act (CRA). The bipartisan resolution was altered by the Rules Committee to preempt important language to protect consumers against unfair lending, ATM surcharges, and check cashing charges. Further, the measure now preempts essential state insurance laws across the country, including requirements that insurance companies pay legitimate claims in a timely manner, invest premiums paid by insurance consumers in a prudent and safe manner, and contribute to state funds established to guarantee the solvency of insurers.

The measure before us no longer includes full disclosure requirements allowing consumers to control how their financial information will be used, transferred, and shared. Consumers should have confidence that personal information shared with their insurer will be kept confidential. To achieve this goal, the

need to safeguard consumers' personal and medical information must be balanced with the need to allow financial institutions, including insurance companies, to efficiently provide services to consumers.

The measure under consideration does not proactively address the issue of insurance redlining. Allowing banks and insurance companies to discriminate against consumers for any reason is unacceptable. Violating fair housing practices should be addressed—this is a glaring omission in the bill.

Finally, as written, this measure will sanctify the ability of the Comptroller of the Currency (OCC) to override state consumer laws and allow national banks to ignore essential consumer protections, such as unnecessarily high prices on checking accounts and prepayment penalties when consumers sell their homes and pay off their mortgages. Further, we must address the issue of operating subsidiaries. Consumers are easily confused and unfairly targeted when subsidiaries are allowed to coexist with traditional banking services. Further, the Securities Exchange Commission (SEC) and not the Comptroller should regulate these entitles, to ensure that consumers are properly protected. The OCC's focus is on the safety and soundness of investments, while the SEC focuses on consumer protection.

Each of our lives are impacted daily by financial transactions—when we write a check, have our paychecks directly deposited, pay our bills, buy something over the Internet, purchase a house, or invest for our retirement. We must successfully address and modernize the procedures to safeguard consumer rights and prevent the inappropriate use of personal information.

I will continue my advocacy for the proper balance between consumer privacy and economic growth and hope the measure improves so that I can support passage following Conference Committee efforts.

Mr. WEYGAND. Madam Chairman, I rise in support of H.R. 10, the Financial Services Act of 1999.

I believe the House Banking Committee, of which I am a member, has done an admirable job at balancing the many differing views and opinions on how to structure financial services reform. I commend Chairman LEACH, Ranking Member LAFALCE, and their staffs for all their hard work in bringing what I believe is a balanced approach to financial services reform to the floor.

Mr. Speaker, I have previously stated that there are two fundamental questions to ask when considering the type of financial services overhaul we are debating. First, what effect will this legislation have on consumers? Second, what effect will the same legislation have on U.S. financial institutions' ability to compete in an ever increasing global market place?

In my view, this bill that makes significant progress on a number of consumer issues. First, the bill we have before us preserves the integrity of the Community Reinvestment Act (CRA). In fact, as a requirement of affiliation, a financial holding company must have and maintain at least a satisfactory CRA rating. Additionally, this bill extends CRA requirements to any newly created Wholesale Financial Institution. This language will ensure that financial institutions continue to invest in those communities from which they take deposits. This investment is crucial in order to meet the credit and lending needs of traditionally underserved communities. The fact is, CRA has provided thousands of families and entrepreneurs with the credit they needed to buy a home or start a business. CRA works. I urge my colleagues to support the CRA provisions in this bill and oppose any potentially weakening amendments.

Second, the bill addresses the important matter of financial privacy. During the Banking Committee's consideration of H.R. 10, I cosponsored an amendment with Mr. INSLEE, of Washington, addressing financial privacy. That amendment would have provided consumers with the ability to 'opt out' of information sharing by their financial institution. Ultimately, our amendment was defeated. However, due to the hard work of Mr. INSLEE, his staff, and the Banking Committee we are taking positive steps toward protecting consumers personal financial information.

This bill also requires greater disclosure of policies, procedures, risks, and costs of certain transactions, including ATM fees. It requires disclosure of existing privacy policies, contains strong anti-tying and anti-coercion provisions, and includes the requirement to disclose what products are federally insured and which ones are not. All of these are proconsumer and make good business sense.

However, I am concerned about one glaring omission from this bill. The House Banking Committee approved an amendment that would have prevented the practice of insurance redlining in low-income communities. Redlining is a practice that strikes at the very heart of what we should be opposing—discrimination based on your neighborhood or income level.

The second concern I have with this bill, as it is before us today, is with the potential disclosure of medical or health information. I believe that there should be strong firewalls established between affiliates or operating subsidiaries as it pertains to the exchange of medical or health information. When a person shares private medical information with an insurance company they should have every assurance that whatever information is shared is not then given to the bank or securities company that happens to own or is affiliated with that insurance company.

It is my sincere hope that as this bill moves to conference with the Senate we will continue to make progress on protecting individuals' private medical information. I also hope that we can reinstate the Banking Committee provision that would prohibit insurance redlining.

H.R. 10 will indeed make U.S. financial institutions more competitive and assist them in remaining leaders in the world financial marketplace. It will remove antiquated barriers to expansion and competition. It will also allow financial institutions to take advantage of new technologies, economies of scale and scope that will result in efficiencies providing consumers with greater choice at lower costs.

Developing this financial services modernization bill has been a long and difficult process. What we have before us today is a carefully constructed, balanced bill that will make our financial services industry more competitive, provide consumers with more choice, and takes several positive steps regarding consumer protections. This bill deserves our support.

Mr. BLUMENAUER. Madam Chairman, I support the modernization principles in this long overdue financial legislation. It has been years in the making and this legislation is about as good as it is going to get. On balance, it will improve the competitiveness of our financial system and provide more choices for consumers.

There has emerged a growing concern about protecting the privacy rights of Americans. These concerns are independent, but related to financial services. Privacy is a major issue in business practices generally and in the health care system in particular. I am disappointed that the Republican Leadership did not allow several provisions to be discussed that would have strengthened the protections and I believe they would have made H.R. 10 a better bill. Nonetheless, these concerns are not going to go away. They will be a part of the Patients' Bill of Rights legislation and may be the subject of a comprehensive stand alone bill that will spell out what protections Americans can expect from their government regarding sensitive and personal data.

Even though we were denied an opportunity to deal with these issues in connection with H.R. 10, I hope the attention and the controversy will spur this Congress to action and that we will not adjourn until we provide a vehicle for understanding the rights and responsibility surrounding individual privacy.

Mr. EWING. Madam Chairman, I rise today in support of H.R. 10. While many of us have reservations about some sections of H.R. 10, I believe that the House needs to pass this legislation to begin the process of modernizing outdated, Depression-era laws that separate the financial services industry. These changes are long overdue.

However, I would hope that the conference takes a hard look at the so-called parity provision that was added to Section 305 by the Commerce Committee. This parity provision would grant title insurance sales authority to any national bank or its subsidiary located in a state in which state-chartered banks have such authority. I believe that the adoption of any such parity provision is unwarranted.

For instance, individual consumers purchasing homes and refinancing their mortgages will have to pay for title insurance, and under the current language in this bill, will pay a bank-owned agency to insure the bank and basically your home. A national bank should be prohibited from engaging in title insurance sales activities in a State unless the state-chartered banks in that State are explicitly authorized to engage in title insurance sales activities. H.R. 10 should require that subsequent to enactment of the bill, states must explicitly authorize state banks to sell title insurance.

Congress has always set the parameters for the exercise of national bank powers and there is no reason to depart from that traditional approach in this context. Moreover, adopting such an approach would ignore the unique issues related to bank sales of title insurance that mandate the confinement of such activities to bank affiliates. Simply stated, I think we should leave it up to the individual States to decide what best suits their banking and title insurance agents and not Washington, D.C. There is a very unique relationship that currently exists and this provision would significantly endanger the title insurance agents across the nation.

I am also concerned that the unique needs of independent bankers are not fully accounted for by H.R. 10. This issue should be

resolved in conference, so that independent bankers will be able to continue to provide their crucial services to their communities.

In conclusion, I would like to express my support of H.R. 10 and urge my colleagues on both sides of the aisle to support the passage of this legislation.

Mr. DAVIS of Illinois. Madam Chairman, I take this opportunity to express my support for H.R. 10, although reluctantly. In spite of and notwithstanding the good premises of this bill, I am concerned that it does not go far enough in its protection and/or expansion of Community Reinvestment. I represent one of the most diverse districts in the nation, the 7th District of Illinois. It contains many of the very wealthy and many of the very poor. Moderately stable, upscale and low-income communities, sixty-eight percent of all public housing in Chicago. Community Reinvestment requirements have been a pipeline and a lifesaver for the inner-city south and westside of my District. It has saved communities and revitalized neighborhoods. It is amazing to me that, as we debate such a revolutionizing, and modernizing bill, that this House has failed to use this opportunity to elevate the Community Reinvestment Act to its appropriate level.

Since its enactment in 1977, the CRA has made sure that our banks would reach our country's poor communities. At the time of CRA's enactment, banks and thrifts held ⅔ of all financial industry assets, today that number has fallen to ¼ of financial assets. This steady erosion of CRA's financial base has the possibility to threaten the future of the Act's effectiveness. Today, the specter of reduced CRA effectiveness looms over H.R. 10. This bill could allow banks to move their money into their securities and insurance affiliates where the CRA cannot reach.

In my district, where nearly 175,000 individuals live at or below the poverty level, CRA has been the most effective means by which they have been able to purchase their home, or start their own business. But now, as a result of H.R. 10's failure on the CRA, banks' ties to the local community will be diminished, and the needs of the poor may not be met. For those living in places like the West Side of Chicago, maintaining a strong CRA will make all the difference in world.

Though I agree that the time has arrived to tear down the walls that divide the banking, securities, and insurance industries, there is no reason that the new conglomerates that this bill will spawn should not also be subject to CRA. Though H.R. 10 does not include any changes that will specifically alter CRA, without being amended, H.R. 10 can deteriorate the financial base of CRA coverage. That a basic banking service, whether offered through a parent bank or through a subsidiary bank or a bank holding company, should affect its coverage under the CRA does not make sense. Even if we pass H.R. 10 in its current form, we must recognize a need to expand the current CRA laws to include all institutions that are engaged in banking practices so that CRA's effectiveness in revitalizing low income communities will never be diminished. As long as I am a member in Congress, I will stand guard over the CRA and make sure financial service companies respect the intent and purpose of the CRA.

Mr. COYNE. Madam Chairman, as we consider the legislation before us today, I want to express my strong support for the Community Reinvestment Act.

Thanks to the CRA, many families and small businesses across the country have gained meaningful access to credit for the first time. Nationwide, more than one trillion dollars has been invested in traditionally underserved neighborhoods as a result of the CRA.

I strongly support efforts to apply the CRA's requirements to the banking activities of non-bank financial institutions which seek to affiliate with banks. I deeply regret that the Rules Committee has not made such an amendment in order.

I urge my colleagues to work with me as Congressional action on financial services legislation proceeds to ensure that the CRA will continue to promote equal access to credit.

Mr. BOEHNER. Madam Chairman, I rise in support of this landmark legislation. In one great cascade, it washes over decades of obsolete law, Congressional inattention, and regulatory creep to give us a modern and prudent legislative framework for one of our most important and dynamic industries. I believe it's the most important bill we'll debate this year, and I strongly urge its passage.

In a bill this complex, it's easy to miss the forest for the trees. But the broad direction is what's most important. Our nation's financial services sector is the irrigation system for our economy. By allowing for the quick and efficient flow of cash and of capital, it provides the fuel that the rest of our economy needs to grow. By calculating and allocating risk effectively, it minimizes the harm that sudden distortions can do. And by providing a variety of savings, investment, and insurance vehicles for our citizens, it allows us all to plan and work for a secure retirement. Much is made of the dynamism of the so-called high-tech sector, and its growth has been truly phenomenal. But without a vibrant, stable, and innovative financial services marketplace, many of these high-tech firms would still be languishing on someone's chalkboard.

We have the most dynamic and competitive financial service sector in the world. And that's why we have to pass this bill. Because the industry has so outgrown our Depression-era regulatory framework that soon, the framework will be irrelevant. And because our competitors are catching up by passing modernized financial service laws of their own. Unless we act here today, we may find ourselves ceding our dominance in this critical market to our foreign competitors.

How does the bill accomplish this? Again, the broad strokes are the important ones. First, functional regulation. Conduct should be overseen by regulators who understand it. That means that securities activities should be supervised by securities regulators, even if they're performed by a bank. It means banking activities should be regulated by banking authorities, and insurance activities by insurance authorities. Functional regulations means that proper regulators can see the warning signs of instability early enough to head it off. Writing a functional regulatory structure is far more difficult, however, than simply describing one, and the chairmen of the Banking and Commerce committees have done a superb job.

Second, the bill reflects the marketplace fact that banking, securities, and insurance underwriting all have far more in common than not. All essentially reflect the same functions—calculating and allocating risk, accumulating and investing capital. Keeping them apart makes little sense economically, and so for the first time in 66 years, the bill lets them affiliate. In good times, this means more innovation, greater efficiency, and better products. In bad times, it means that their risks will be diversified, protecting our economy and our taxpayers from the failure of financial firms.

Third, it mixes this new flexibility with prudence. We've learned from Japan that we need to go slow on mixing banking and commerce. Let's see how we do with affiliation first, then return to the question of commerce and banking.

And fourth, it's politically viable. We all know the controversy that has always surrounded this bill. With industry groups historically fighting each other for every advantage, it's no surprise that over the last 22 years this bill has failed 11 times. But this bill, building on the work of last year's, has the support of the broadest financial services coalition yet.

Madam Chairman, in closing I want to congratulate my friends the gentlemen from Iowa and Virginia, the chairmen of the Banking and Commerce Committees. This is a huge accomplishment for this Congress and for them personally. It's a testament to their leadership and, given the history of this issue, it's a testament to their character that we're here today to debate and pass this bill. I admire them both.

Madam Chairman, I strongly support H.R. 10, the Financial Services Act of 1999. It is the right bill at the right time for our financial services industry, for its consumers, and for our entire economy.

Mr. STARK. Madam Chairman, lawmakers casting a ''yea'' vote today on the Financial Services Act, H.R. 10, are making a fundamental error. They are effectively voting to strip millions of Americans of a basic right: the ability to exercise meaningful control over who sees their most sensitive information. Title III, Subtitle D, Section 351 of the bill gives insurers extensive ability to disclose medical information without a consumer's consent.

If this provision is enacted into law, it will create legal chaos. As written, it appears to overlay myriad state medical privacy laws that regulate disclosure and access.

Does it make you feel ill to know that under H.R. 10, a travel insurance agent could peruse your medical records? Does it make your blood pressure rise to know that under H.R. 10, auto insurance companies could use medical data to raise your family's rate? And that any insurer, as well as its affiliates and subsidiaries, would be legally authorized to share sensitive, personal information with credit reporting companies?

Unless lawmakers appointed as conferees for H.R. 10 take action to strike the bill's medical privacy provisions, American consumers will wake up to find that the insurance industry—which makes most of its money through underwriting to reduce financial risk—can disclose their medical data without authorization in many, many circumstances. And that's plainly wrong.

It's also disturbing that the majority leadership has done next to nothing to advance comprehensive medical privacy legislation in the House of Representatives. Title V of the 1998 GOP managed care bill, H.R. 4250, featured sorry medical privacy provisions that were roundly condemned by consumer groups and privacy advocates through the country.

Now the August deadline for action set three years ago by the Health Insurance Portability and Accountability Act is fast approaching. It is my hope that a coalition of members to work together to produce medical confidentiality legislation that is at least as strong as the 1997 recommendations developed by the HHS Secretary—with one notable exception. The Secretary's recommendations proposed no additional restraints on access to medical data by law enforcement officials in the form of a subpoena or court order requirement. That is a position with which I strongly disagree.

It is not too late to enact sound medical privacy legislation that puts federal protections in place for consumers across the country, while leaving stronger state laws in place and allowing states the flexibility to add additional protections for those customers of the future who find themselves afflicted with as-yet-unknown disorders, and who, as a result, also suffer discrimination.

Enactment of H.R. 10's medical privacy provisions would not only eradicate many existing medical privacy protections, but also hinder the HHS Secretary's ability to promulgate regulations under HIPAA if Congress does not act by next month.

Madam Chairman, we must not do this. The consequences for consumers are far too grave.

Mr. FALEOMAVAEGA. Madam Chairman, H.R. 10 is about as complex a bill as we address in this house. The bill has been in the making for years, and at times it seemed impossible to get a majority of the Banking Committee, let alone the full House, to agree on its contents.

Mr. Speaker, I know H.R. 10 remains a controversial bill, with supporters on both sides of many issues. Without getting into the more controversial issues, I do wish to comment on Section 162 contained in the subtitle entitled ''Federal Home Loan Bank System Modernization''. Among other technical amendments, this section adds American Samoa and the Commonwealth of the Northern Mariana Islands to the provisions of the Federal Home Loan Bank Act.

The condition of much of the private housing in American Samoa is deplorable. Too many people are forced to live without electricity and running water, and many structures could not withstand gale-force winds, let alone the hurricane-force winds which blow through Samoa on a regular basis. With an annual per capita income barely over $3,000, and interest rates on commercial home loans in the 13%–14% range, there is very little new construction or refurbishment of housing in American Samoa.

To partially address this problem, Public Law 102–547 created a pilot program through which Native American Samoan veterans, and other Native American veterans, could obtain home loans at moderate rates, and the response in American Samoa has been overwhelming. Unfortunately, this pilot program is available only to a small segment of the population residing in American Samoa.

During the first five-year authorization of the VA pilot program, to the best of my knowledge, no loan went into default and needed to be assumed by the Department of Veterans Affairs. I believe there is now a sufficient track record for private lenders to feel comfortable in making residential loans in American Samoa.

There is interest within the banking industry in American Samoa to be included in the Federal Home Loan Bank program, The Amerika Samoa Bank, a local bank, is on record in support of including American Samoa in this federal housing program and is looking forward to obtaining access to a source of long-term, low-interest funding to make home loans.

The number of complaints I receive from constituents in American Samoa concerning the cost of home loans will further attest to the need for loans at affordable interest rates in this remote, rural area.

Last year, the Federal Housing Finance Board issued a final rule including American Samoa within its regulations. I am appreciative of the willingness and efforts of the Federal Housing Finance Board to include American Samoa and the Commonwealth of the Northern Mariana Islands within its regulations, and that administrative action has been working well; however, this statutory amendment will ensure a more permanent solution.

In the 105th Congress I introduced H.R. 904, a bill which would clarify that American Samoa is included in the Federal Home Loan Bank Act. That provision is a part of Section 162 of H.R. 10, and I strongly support that provision.

Mr. SANDLIN. Madam Chairman, I rise today in support of this bill.

Financial modernization is already occurring. Innovation and technological advances are allowing financial services firms to offer customers a wide range of new products and thus increasing competition and benefitting consumers. These changes are occurring globally and dramatically changing how financial services providers operate and deliver their products. In the United States, however, burdensome regulatory barriers are hindering the efforts of our financial institutions to compete globally through the development and delivery of new financial products.

The buttom line is simple, financial modernization is necessary and will continue as a result of market forces, even in the absence of legislation. However, the success of American firms, and ultimately, the strength of the American economy, depend on a good bill—one that will ensure that financial modernization occurs in an efficient manner and protects the interests of customers as well as the safety and soundness of our financial system.

But as we debate these important issues and work to modernize the way our financial services firms do business, we must remember our community banks. In East Texas, people trust their community banks and know their local bankers. We have recognized that these institutions are an integral part of rural America and that we must not overlook them or jeopardize their future in any way as we undertake this monumental legislation. I believe that this bill addresses these needs—the needs of Main Street as much as Wall Street—and I urge you to cast your vote in support.

Mr. NEY. Madam Chairman, I rise today in support of H.R. 10, The Financial Services Modernization Bill of 1999. As a supporter of this bill, I want to send a message to the Office of the Comptroller of the Currency, on behalf of the Members who worked so hard to obtain passage of this much-needed legislation.

This bill for the first time allows the true marriage of insurance, banking and securities. The principle behind the bill is functional regulation, the activities of any entity should be regulated by function. So when a bank engages in insurance activities, those activities should be regulated by insurance regulators, not banking regulators. The same holds true for securities activities.

The bill seeks to craft a balance between Congress' authority to grant banks certain powers and the States' authority to regulate certain activities. This balance is particularly delicate in the context of state regulation of the insurance sales activities of banks and their affiliates. Section 104 of the bill sets up a fairly complex scheme, designed to allow states to regulate insurance activities without substantially interfering with banks' ability to sell insurance. While the bill affords states a certain amount of certainty regarding what is permissible regulation, through a creation of safe harbor, it leaves much to potential challenge. As the bill makes clear, our creation of a safe harbor is not intended to establish any kind of inference regarding the permissibility of state insurance laws that fall outside the safe harbor.

As a result of this legislation, federal banking regulators and state insurance regulators will work together cooperatively in the best interests of the public. This positive relationship should be given an opportunity to develop. What we do not want to see is aggressive moves on the part of the OCC, or other federal banking regulators, to displace state insurance laws and regulations applied to banks. This legislation is designed to foreclose the OCC's opportunity to do that.

Mr. PACKARD. Madam Chairman, I would like to issue my support for H.R. 10, the Financial Services Act of 1999. This legislation will allow citizens more control of their own money, not Washington bureaucrats.

H.R. 10 enhances competition in the banking and financial service markets. As the law stands today, the financial sector has to comply with regulations set up after the Great Depression. This has to change. The Financial Services Act will allow American companies to enter the new millennium on an equal standing with financial businesses around the world.

The Financial Services Act will benefit each individual who uses a financial institute. Increasing free trade inside the financial sector ensures higher quality services and lower prices. The government is already far too involved in the lives of private citizens. This legislation will increase choices and services for the American people.

Mr. Speaker, the Financial Services Act will ensure that American companies continue to lead the world in the financial sector. I urge my colleagues to support its passage.

Mr. BONILLA. Madam Chairman, I rise today in support of our community leaders, America's bankers. Everyday, America's bankers serve their communities whether it's through lending to home buyers, supporting small businesses or even softball sponsorships. Still, if their actions don't fit into the arbitrary mandates of the Community Reinvestment Act, banks are strapped with large fines and their good deeds go unnoticed.

Banks are the primary engines for small business lending everywhere. Banks, especially small banks, invest in their communities and reflect their communities. If they don't, they simply do not survive.

The rising tide of CRA threatens to put these community leaders out of business. The

CRA has gone far, far beyond its original intent of ensuring fair lending. Banks are now forced to have employees whose entire job is devoted to CRA compliance.

Instead of working for their communities, these folks are working for CRA federal bureaucrats. Instead of helping families buy their first home, bankers are living in fear of their next CRA review.

Our colleagues in the Senate have already approved much-needed changes in CRA. Let's end the bureaucratic nightmare of CRA and give bankers a chance to truly serve their communities.

Mr. HYDE. Madam Chairman, I rise in support of H.R. 10, the ''Financial Services Act of 1999.'' For many years, we have been trying to repeal the outdated restrictions that keep banks, securities firms, and insurance companies from getting into one another's businesses. After all the debate, I think we have finally come up with something in this bill that will open up a whole new world of competition.

Financial services are becoming increasingly globalized, increasingly computerized, and increasingly seamless. Banking laws passed during the Depression simply will not do in the 21st century. I wish that we could maintain a world where everyone knew their banker on a first name basis and loans were made on a handshake, and I think in the new world some banks will provide that kind of service to those who demand it. But we need not have laws that limit us to that kind of service, as desirable as it may seem. Everyone is better off if the market decides what kinds of services financial firms will offer.

Just think about the progress we have made in the past ten years. When I was a child, only the wealthy owned stocks. Now, with the growth of the mutual fund industry and self-directed retirement funds, millions and millions of average Americans not only own stocks, but make their own investment decisions. These developments create wealth, increase people's incentive to produce, and relieve some of the entitlement burden of government. I believe that this bill will bring more such positive developments.

I want to say a word about my friends JIM LEACH, chairman of the Banking Committee, and TOM BLILEY, chairman of the Commerce Committee. They have done an excellent job of putting this package together. I commend them for their work in bringing this bill to the floor in a very difficult and contentious environment.

I especially want to commend them for working with me on the bank merger provisions of the bill and the bankruptcy provisions relating to wholesale financial institutions. Under current law, bank mergers are reviewed under special bank merger statutes, and they do not go through the Hart-Scott-Rodino merger review process that covers most other mergers. Now banks will be able to get into other businesses which they have not been able to do before.

The principle that we have tried to follow is that when mergers occur, the bank part of that merger will be judged under the current bank merger statutes, and we do not intend any change in that process or in any of the agencies' respective jurisdictions. The non-bank part of that merger, which will fall under the new Section 6 of the Bank Holding Company Act, will be subject to the normal Hart-Scott-Rodino merger review by either the Justice Department or the Federal Trade Commission. The amendment in the nature of a substitute has language that embodies that principle. This language is essentially the same as that in last year's bill, but certain technical and clarifying changes have been made.

In short, no bank is treated differently than it otherwise would be because it has some other business within its corporate family. Likewise, no other business is treated differently than it otherwise would be because it has a bank within its corporate family.

We have embodied that same principle with respect to the Federal Trade Commission's authority to enforce the Federal Trade Commission Act and other laws. Section 5 of the Federal Trade Commission Act specifically prohibits the FTC from enforcing the Act against banks because they are heavily regulated. The language in the amendment in the nature of a substitute does not change that, but it does clarify that the bank prohibition does not extend to any other non-bank parts of a bank's corporate family. I would also note that similar language was not necessary for the Justice Department because there are no specific statutory prohibitions on its ability to enforce laws against banks, other than the Hart-Scott-Rodino exemption that I have already discussed.

With respect to the bankruptcy language on wholesale financial institutions, I think that we all agree on the substance involved, but the specific language may require some further refinement in conference.

I will be requesting Judiciary Committee conferees on a few narrow parts of the bill, and I look forward to continuing to work with my Banking Committee and Commerce Committee colleagues.

I will insert four jurisdictional letters relating to the Judiciary Committee's participation in this matter for printing in the RECORD.

Let me again commend my friends JIM LEACH and TOM BLILEY and everyone else who has worked on this legislation, and I ask my colleagues to support it.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, June 15, 1999.

Hon. DENNIS HASTERT,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am writing to let you know of the Committee on the Judiciary's jurisdictional interest in H.R. 10, the ''Financial Services Act of 1999.'' As you know, the Committee on Banking and Financial Services has filed its report on H.R. 10, and the Committee on Commerce will do so shortly.

The Committee on the Judiciary has jurisdiction over several provisions of the bill as introduced: §104(a)(3) (dealing with the preservation of state antitrust laws); §104(b)(3)(A) & (b)(4)(B) (dealing with the non-preemption of the McCarran-Ferguson Act); §122 (amending Title 18 to create a crime for misrepresentations regarding financial institution liability for obligations of affiliates); §136(b) (to the extent that it deals with the treatment of wholesale financial institutions under the Bank Merger Act and the Bankruptcy Code in the new §9B(b)(5) & (e)(3) of the Federal Reserve Act); §13(d) (dealing with amendments to the Bankruptcy Code for wholesale financial institutions); §136(e) (to the extent that it deals with the treatment under the Bankruptcy Code of corporations organized under §25A of the Federal Reserve Act); §§141–44 (dealing with the antitrust review of mergers in the financial services industry); §206(b) & (d) (dealing with administrative procedures for the Securities and Exchange Commission outside the Administrative Procedure Act); §214 (to the extent that it creates a new crime under the Investment Company Act); §301 (dealing with the continued viability of the McCarran-Ferguson Act); §306 (dealing with expedited dispute resolution for disputes between state and federal regulators); §314(a) (dealing with court jurisdiction over litigation concerning redomesticated insurer); §321(d) (dealing with court jurisdiction over litigation concerning reciprocity or uniformity determinations); §335 (dealing with court jurisdiction over litigation concerning the National Association of Registered Agents and Brokers). In addition, there are at least two provisions of the bill as reported by the Banking Committee over which this committee has jurisdiction: §179 (creating new criminal and civil liability for violations of new privacy requirements) and §193 (to the extent that it limits the claims of bankruptcy trustees).

The foregoing list is intended to be as comprehensive as possible, but any inadvertent omission of a provision in either the introduced or reported versions of the bill that the Committee would otherwise have jurisdiction over does not waive that jurisdiction. The Committee has not yet been able to obtain a copy of the bill as ordered reported by the Commerce Committee, and it reserves its rights with respect to any additional provisions that may be included therein.

I have several relatively minor concerns with the language of these provisions, and my staff has been working with the staffs of the Banking and Commerce Committees to resolve those concerns. I am confident that we will resolve them in the near future. For that reason, I have written to Chairman Leach and Chairman Bliley to inform them that I am willing to waive the Committee's right to a sequential referral of H.R. 10 subject to the good faith commitment of all concerned that these minor concerns will be addressed to our satisfaction either in the base text made in order under the rule or a manager's amendment when H.R. 10 goes to the floor.

My doing so does not constitute any waiver of the Committee's jurisdiction over these provisions and does not prejudice its rights in any future legislation relating to these provisions or other similar provisions that may be included in the Act. I request that you appoint Members of this Committee as conferees on these provisions or any other similar provisions in the bill should it go to conference.

I appreciate your consideration of my views on this issue. Please let me know if you need any further information.

Sincerely,

HENRY J. HYDE,
Chairman.

Hon. JIM LEACH,
Chairman, Committee on Banking and Financial Services, Washington, DC.

Hon. TOM BLILEY,
Chairman, Committee on Commerce, Washington, DC.

DEAR JIM AND TOM. I am writing to let you know of the Committee on the Judiciary's jurisdictional interest in H.R. 10, the ''Financial Services Act of 1999.'' As you know, the Committee on Banking and Financial Services has filed its report on H.R. 10, and the Committee on Commerce will do so shortly.

The Committee on the Judiciary has jurisdiction over several provisions of the bill as introduced: §104(a)(3) (dealing with the preservation of state antitrust laws); §104(b)(3)(A) & (b)(4)(B) (dealing with the

non-preemption of the McCarran-Ferguson Act); §122 (amending Title 18 to create crime for mispresentations regarding financial institution liability for obligations of affiliates); §136(b) (to the extent that it deals with the treatment of wholesale financial institutions under the Bank Merger Act and the Bankruptcy Code in the new §9B(b)(5) & (e)(3) of the Federal Reserve Act); §136(d) (dealing with amendments to the Bankruptcy Code for wholesale financial institutions); §136(e) (to the extent that it deals with the treatment under the Bankruptcy Code of corporations organized under §25A of the Federal Reserve Act); §§141–44 (dealing with the antitrust review mergers in the financial services industry); §206(b) & (d) (dealing with administrative procedures for the Securities and Exchange Commission outside the Administrative Procedure Act); §214 (to the extent that it creates a new crime under the Investment Company Act); §301 (dealing with the continued viability of the McCarran-Ferguson Act); §306 (dealing with expedited dispute resolution for disputes between state and federal regulators); §314(a) (dealing with court jurisdiction over litigation concerning redomesticated insurer); §321(d) (dealing with court jurisdiction over litigation concerning reciprocity or uniformity determinations); §335 (dealing with court jurisdiction over litigation concerning the National Association of Registered Agents and Brokers). In addition, there are at least two provisions of the bill as reported by the Banking Committee over which this committee has jurisdiction: §179 (creating new criminal and civil liability for violations of new privacy requirements) and §193 (to the extent that it limits the claims of bankruptcy trustees).

The foregoing list is intended to be as comprehensive as possible, but any inadvertent omission of a provision in either the introduced or reported versions of the bill that the Committee would otherwise have jurisdiction over does not waive that jurisdiction. The Committee has not yet been able to obtain a copy of the bill as ordered reported by the Commerce Committee, and it reserves its rights with respect to any additional provisions that may be included therein.

As you know, I have several relatively minor concerns with the language of these provisions, and my staff has been working with yours to resolve them. I am confident that we will resolve them in the near future. For that reason, I am willing to waive the Committee's right to a sequential referral of H.R. 10 subject to the good faith commitment of all concerned that these minor concerns will be addressed to our satisfaction either in the base text made in order under the rule or a manager's amendment which H.R. 10 goes to the floor.

However, my doing so does not constitute any waiver of the Committee's jurisdiction over these provisions and does not prejudice its rights in any future legislation relating to these provisions or any other similar provisions that may be included in the Act. I will, of course, insist that Members of this Committee be named as conferees on these provisions or any other similar provisions in the bill should it go to conference. By separate letter, a copy of which is attached, I am making that request Speaker Hastert today.

I appreciate your consideration of my views on this issue. Please let me know if you need any further information.

Sincerely,

HENRY J. HYDE,
Chaiman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON COMMERCE,
Washington, DC, June 18, 1999.

Hon. HENRY HYDE,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR HENRY: Thank you for your letter regarding the Committee on the Judiciary's jurisdictional interest in H.R. 10, the ''Financial Services Act of 1999.''

I acknowledge the Judiciary Committee jurisdictional interest in a number of provisions in H.R. 10. The Committee on Commerce has included your proposed revision to the antitrust subtitle in its consideration of the legislation. I will work with you to address any other concerns you have either in base text or as part of a manager's amendment on the House floor.

I would not oppose Members of the Judiciary Committee being named as conferees for provisions within your Committee's jurisdiction.

Thank you for foregoing a request for a sequential referral of this important legislation. I appreciate your willingness to work with me.

Sincerely,

TOM BLILEY,
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING AND FINANCIAL SERVICES,
Washington, DC, June 15, 1999.

Hon. HENRY HYDE,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR HENRY: Thank you for your letter regarding the Judiciary Committee's jurisdictional interest in H.R. 10, the ''Financial Services Act of 1999.''

I recognize that the Committee on the Judiciary has jurisdictional claims to those provisions in H.R. 10 which affect the Bankruptcy Code, criminal sanctions, antitrust laws, the McCarran-Ferguson Act, administrative procedures and the court system. Your willingness to waive the Committee's right to a sequential referral of this legislation so that we may move it to the floor expeditiously is appreciated. As outlined in your letter, I will continue to work with you in good faith to see that the thrust of the Judiciary Committee's concerns will be addressed as H.R. 10 goes to the floor. In addition, I agree with you that on the provisions within the Judiciary Committee's jurisdiction the Judiciary Committee should be represented when the bill goes to conference.

Thanks again for your cooperation. I appreciate your willingness to work with the Committee on Banking and Financial Services.

Sincerely,

JAMES A. LEACH,
Chairman.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of the Committee on Rules print dated June 24, 1999, is considered as an original bill for the purpose of amendment under the 5-minute rule and is considered read.

The text of the amendment in the nature of a substitute is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; PURPOSES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Financial Services Act of 1999''.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To enhance competition in the financial services industry, in order to foster innovation and efficiency.

(2) To ensure the continued safety and soundness of depository institutions.

(3) To provide necessary and appropriate protections for investors and ensure fair and honest markets in the delivery of financial services.

(4) To avoid duplicative, potentially conflicting, and overly burdensome regulatory requirements through the creation of a regulatory framework for financial holding companies that respects the divergent requirements of each of the component businesses of the holding company, and that is based upon principles of strong functional regulation and enhanced regulatory coordination.

(5) To reduce and, to the maximum extent practicable, to eliminate the legal barriers preventing affiliation among depository institutions, securities firms, insurance companies, and other financial service providers and to provide a prudential framework for achieving that result.

(6) To enhance the availability of financial services to citizens of all economic circumstances and in all geographic areas.

(7) To enhance the competitiveness of United States financial service providers internationally.

(8) To ensure compliance by depository institutions with the provisions of the Community Reinvestment Act of 1977 and enhance the ability of depository institutions to meet the capital and credit needs of all citizens and communities, including underserved communities and populations.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; purposes; table of contents.

TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

Subtitle A—Affiliations

Sec. 101. Glass-Steagall Act reformed.
Sec. 102. Activity restrictions applicable to bank holding companies which are not financial holding companies.
Sec. 103. Financial holding companies.
Sec. 104. Operation of State law.
Sec. 105. Mutual bank holding companies authorized.
Sec. 105A. Public meetings for large bank acquisitions and mergers.
Sec. 106. Prohibition on deposit production offices.
Sec. 107. Clarification of branch closure requirements.
Sec. 108. Amendments relating to limited purpose banks.
Sec. 109. GAO study of economic impact on community banks, other small financial institutions, insurance agents, and consumers.
Sec. 110. Responsiveness to community needs for financial services.

Subtitle B—Streamlining Supervision of Financial Holding Companies

Sec. 111. Streamlining financial holding company supervision.
Sec. 112. Elimination of application requirement for financial holding companies.
Sec. 113. Authority of State insurance regulator and Securities and Exchange Commission.
Sec. 114. Prudential safeguards.
Sec. 115. Examination of investment companies.
Sec. 116. Limitation on rulemaking, prudential, supervisory, and enforcement authority of the Board.

Sec. 117. Equivalent regulation and supervision.
Sec. 118. Prohibition on FDIC assistance to affiliates and subsidiaries.
Sec. 119. Repeal of savings bank provisions in the Bank Holding Company Act of 1956.
Sec. 120. Technical amendment.
Subtitle C—Subsidiaries of National Banks
Sec. 121. Permissible activities for subsidiaries of national banks.
Sec. 122. Safety and soundness firewalls between banks and their financial subsidiaries.
Sec. 123. Misrepresentations regarding depository institution liability for obligations of affiliates.
Sec. 124. Repeal of stock loan limit in Federal Reserve Act.
Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions
CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES
Sec. 131. Wholesale financial holding companies established.
Sec. 132. Authorization to release reports.
Sec. 133. Conforming amendments.
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TITLE I—FACILITATING AFFILIATION AMONG SECURITIES FIRMS, INSURANCE COMPANIES, AND DEPOSITORY INSTITUTIONS

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SEC. 101. GLASS-STEAGALL ACT REFORMED.

(a) SECTION 20 REPEALED.—Section 20 of the Banking Act of 1933 (12 U.S.C. 377) (commonly referred to as the ''Glass-Steagall Act'') is repealed.

(b) SECTION 32 REPEALED.—Section 32 of the Banking Act of 1933 (12 U.S.C. 78) is repealed.

SEC. 102. ACTIVITY RESTRICTIONS APPLICABLE TO BANK HOLDING COMPANIES WHICH ARE NOT FINANCIAL HOLDING COMPANIES.

(a) IN GENERAL.—Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8)) is amended to read as follows:

''(8) shares of any company the activities of which had been determined by the Board by regulation or order under this paragraph as of the day before the date of the enactment of the Financial Services Act of 1999, to be so closely related to banking as to be a proper incident thereto (subject to such terms and conditions contained in such regulation or order, unless modified by the Board);''.

(b) CONFORMING CHANGES TO OTHER STATUTES.—

(1) AMENDMENT TO THE BANK HOLDING COMPANY ACT AMENDMENTS OF 1970.—Section 105 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1850) is amended by striking '', to engage directly or indirectly in a nonbanking activity pursuant to section 4 of such Act,''.

(2) AMENDMENT TO THE BANK SERVICE COMPANY ACT.—Section 4(f) of the Bank Service Company Act (12 U.S.C. 1864(f)) is amended by striking the period and adding at the end the following: ''as of the day before the date of enactment of the Financial Services Act of 1999.''.

SEC. 103. FINANCIAL HOLDING COMPANIES.

(a) IN GENERAL.—The Bank Holding Company Act of 1956 is amended by inserting after section 5 (12 U.S.C. 1844) the following new section:

''SEC. 6. FINANCIAL HOLDING COMPANIES.

''(a) FINANCIAL HOLDING COMPANY DEFINED.—For purposes of this section, the term 'financial holding company' means a bank holding company which meets the requirements of subsection (b).

''(b) ELIGIBILITY REQUIREMENTS FOR FINANCIAL HOLDING COMPANIES.—

''(1) IN GENERAL.—No bank holding company may engage in any activity or directly or indirectly acquire or retain shares of any company under this section unless the bank holding company meets the following requirements:

''(A) All of the subsidiary depository institutions of the bank holding company are well capitalized.

''(B) All of the subsidiary depository institutions of the bank holding company are well managed.

''(C) All of the subsidiary depository institutions of the bank holding company have achieved a rating of 'satisfactory record of meeting community credit needs', or better, at the most recent examination of each such institution;

''(D) The company has filed with the Board a declaration that the company elects to be a financial holding company and certifying that the company meets the requirements of subparagraphs (A), (B), and (C).

''(2) FOREIGN BANKS AND COMPANIES.—For purposes of paragraph (1), the Board shall establish and apply comparable capital and other operating standards to a foreign bank that operates a branch or agency or owns or controls a bank or commercial lending company in the United States, and any company that owns or controls such foreign bank, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(3) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY ACQUIRED DEPOSITORY INSTITUTIONS.—Any depository institution acquired by a bank holding company during the 12-month period preceding the submission of a notice under paragraph (1)(D) and any depository institution acquired after the submission of such notice may be excluded for purposes of paragraph (1)(C) during the 12-month period beginning on the date of such acquisition if—

''(A) the bank holding company has submitted an affirmative plan to the appropriate Federal banking agency to take such action as may be necessary in order for such institution to achieve a rating of 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution; and

''(B) the plan has been accepted by such agency.

''(c) ENGAGING IN ACTIVITIES THAT ARE FINANCIAL IN NATURE.—

''(1) FINANCIAL ACTIVITIES.—

''(A) IN GENERAL.—Notwithstanding section 4(a), a financial holding company may engage in any activity, and acquire and retain the shares of any company engaged in any activity, that the Board has determined (by regulation or order and in accordance with subparagraph (B)) to be—

''(i) financial in nature or incidental to such financial activities; or

''(ii) complementary to activities authorized under this subsection to the extent that the amount of such complementary activities remains small.

''(B) COORDINATION BETWEEN THE BOARD AND THE SECRETARY OF THE TREASURY.—

''(i) PROPOSALS RAISED BEFORE THE BOARD.—

''(I) CONSULTATION.—The Board shall notify the Secretary of the Treasury of, and consult with the Secretary of the Treasury concerning, any request, proposal, or application under this subsection, including a regulation or order proposed under paragraph (4), for a determination of whether an activity is financial in nature or incidental to such a financial activity.

''(II) TREASURY VIEW.—The Board shall not determine that any activity is financial in nature or incidental to a financial activity under this subsection if the Secretary of the Treasury notifies the Board in writing, not later than 30 days after the date of receipt of the notice described in subclause (I) (or such longer period as the Board determines to be appropriate in light of the circumstances) that the Secretary of the Treasury believes that the activity is not financial in nature or incidental to a financial activity.

''(ii) PROPOSALS RAISED BY THE TREASURY.—

''(I) TREASURY RECOMMENDATION.—The Secretary of the Treasury may, at any time, recommend in writing that the Board find an activity to be financial in nature or incidental to a financial activity.

''(II) TIME PERIOD FOR BOARD ACTION.—Not later than 30 days after the date of receipt of a written recommendation from the Secretary of the Treasury under subclause (I) (or such longer period as the Secretary of the Treasury and the Board determine to be appropriate in light of the circumstances), the Board shall determine whether to initiate a public rulemaking proposing that the subject recommended activity be found to be financial in nature or incidental to a financial activity under this subsection, and shall notify the Secretary of the Treasury in writing of the determination of the Board and, in the event that the Board determines not to seek public comment on the proposal, the reasons for that determination.

''(2) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to financial activities, the Board shall take into account—

''(A) the purposes of this Act and the Financial Services Act of 1999;

''(B) changes or reasonably expected changes in the marketplace in which bank holding companies compete;

''(C) changes or reasonably expected changes in the technology for delivering financial services; and

''(D) whether such activity is necessary or appropriate to allow a bank holding company and the affiliates of a bank holding company to—

''(i) compete effectively with any company seeking to provide financial services in the United States;

''(ii) use any available or emerging technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions, in providing financial services; and

''(iii) offer customers any available or emerging technological means for using financial services.

''(3) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—The following activities shall be considered to be financial in nature:

''(A) Lending, exchanging, transferring, investing for others, or safeguarding money or securities.

''(B) Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or providing and issuing annuities, and acting as principal, agent, or broker for purposes of the foregoing.

''(C) Providing financial, investment, or economic advisory services, including advising an investment company (as defined in section 3 of the Investment Company Act of 1940).

''(D) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly.

''(E) Underwriting, dealing in, or making a market in securities.

''(F) Engaging in any activity that the Board has determined, by order or regulation that is in effect on the date of enactment of the Financial Services Act of 1999, to be so closely related to banking or managing or controlling banks as to be a proper incident thereto (subject to the same terms and conditions contained in such order or regulation, unless modified by the Board).

''(G) Engaging, in the United States, in any activity that—

''(i) a bank holding company may engage in outside the United States; and

''(ii) the Board has determined, under regulations issued pursuant to section 4(c)(13) of this Act (as in effect on the day before the date of enactment of the Financial Services Act of 1999) to be usual in connection with the transaction of banking or other financial operations abroad.

''(H) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

''(i) the shares, assets, or ownership interests are not acquired or held by a depository institution;

''(ii) such shares, assets, or ownership interests are acquired and held by an affiliate of the bank holding company that is a registered broker or dealer that is engaged in securities underwriting activities, or an affiliate of such broker or dealer, as part of a bona fide underwriting or investment banking activity, including investment activities engaged in for the purpose of appreciation and ultimate resale or disposition of the investment;

''(iii) such shares, assets, or ownership interests are held only for such a period of time as will permit the sale or disposition thereof on a reasonable basis consistent with the nature of the activities described in clause (ii); and

''(iv) during the period such shares, assets, or ownership interests are held, the bank

holding company does not actively participate in the day to day management or operation of such company or entity, except insofar as necessary to achieve the objectives of clause (ii).

''(I) Directly or indirectly acquiring or controlling, whether as principal, on behalf of 1 or more entities (including entities, other than a depository institution or subsidiary of a depository institution, that the bank holding company controls) or otherwise, shares, assets, or ownership interests (including without limitation debt or equity securities, partnership interests, trust certificates or other instruments representing ownership) of a company or other entity, whether or not constituting control of such company or entity, engaged in any activity not authorized pursuant to this section if—

''(i) the shares, assets, or ownership interests are not acquired or held by a depository institution or a subsidiary of a depository institution;

''(ii) such shares, assets, or ownership interests are acquired and held by an insurance company that is predominantly engaged in underwriting life, accident and health, or property and casualty insurance (other than credit-related insurance) or providing and issuing annuities;

''(iii) such shares, assets, or ownership interests represent an investment made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments; and

''(iv) during the period such shares, assets, or ownership interests are held, the bank holding company does not directly or indirectly participate in the day-to-day management or operation of the company or entity except insofar as necessary to achieve the objectives of clauses (ii) and (iii).

''(4) AUTHORIZATION OF NEW FINANCIAL ACTIVITIES.—The Board shall, by regulation or order and in accordance with paragraph (1)(B), define, consistent with the purposes of this Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to activities which are financial in nature:

''(A) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

''(B) Providing any device or other instrumentality for transferring money or other financial assets.

''(C) Arranging, effecting, or facilitating financial transactions for the account of third parties.

''(5) POST-CONSUMMATION NOTIFICATION.—

''(A) IN GENERAL.—A financial holding company that acquires any company, or commences any activity, pursuant to this subsection shall provide written notice to the Board describing the activity commenced or conducted by the company acquired no later than 30 calendar days after commencing the activity or consummating the acquisition.

''(B) APPROVAL NOT REQUIRED FOR CERTAIN FINANCIAL ACTIVITIES.—Except as provided in section 4(j) with regard to the acquisition of a savings association or in paragraph (6) of this subsection, a financial holding company may commence any activity, or acquire any company, pursuant to paragraph (3) or any regulation prescribed or order issued under paragraph (4), without prior approval of the Board.

''(6) NOTICE REQUIRED FOR LARGE COMBINATIONS.—

''(A) IN GENERAL.—No financial holding company shall directly or indirectly acquire, and no company that becomes a financial holding company shall directly or indirectly acquire control of, any company in the United States, including through merger, consolidation, or other type of business combination, that—

''(i) is engaged in activities permitted under this subsection or subsection (g); and

''(ii) has consolidated total assets in excess of $40,000,000,000,

unless such holding company has provided notice to the Board, not later than 60 days prior to such proposed acquisition or prior to becoming a financial holding company, and during that time period, or such longer time period not exceeding an additional 60 days, as established by the Board, the Board has not issued a notice disapproving the proposed acquisition or retention.

''(B) FACTORS FOR CONSIDERATION.—In reviewing any prior notice filed under this paragraph, the Board shall take into consideration—

''(i) whether the company is in compliance with all applicable criteria set forth in subsection (b) and the provisions of subsection (d);

''(ii) whether the proposed combination represents an undue aggregation of resources;

''(iii) whether the proposed combination poses a risk to the deposit insurance system;

''(iv) whether the proposed combination poses a risk to State insurance guaranty funds;

''(v) whether the proposed combination can reasonably be expected to be in the best interests of depositors or policyholders of the respective entities;

''(vi) whether the proposed transaction can reasonably be expected to further the purposes of this Act and produce benefits to the public; and

''(vii) whether, and the extent to which, the proposed combination poses an undue risk to the stability of the financial system in the United States.

''(C) REQUIRED INFORMATION.—The Board may disapprove any prior notice filed under this paragraph if the company submitting such notice neglects, fails, or refuses to furnish to the Board all relevant information required by the Board.

''(D) SOLICITATION OF VIEWS OF OTHER SUPERVISORY AGENCIES.—

''(i) IN GENERAL.—Upon receiving a prior notice under this paragraph, in order to provide for the submission of their views and recommendations, the Board shall give notice of the proposal to—

''(I) the appropriate Federal banking agency of any bank involved;

''(II) the appropriate functional regulator of any functionally regulated nondepository institution (as defined in section 5(c)(1)(C)) involved; and

''(III) the Secretary of the Treasury, the Attorney General, and the Federal Trade Commission.

''(ii) TIMING.—The views and recommendations of any agency provided notice under this paragraph shall be submitted to the Board not later than 30 calendar days after the date on which notice to the agency was given, unless the Board determines that another shorter time period is appropriate.

''(d) PROVISIONS APPLICABLE TO FINANCIAL HOLDING COMPANIES THAT FAIL TO MEET REQUIREMENTS.—

''(1) IN GENERAL.—If the Board finds, after notice from or consultation with the appropriate Federal banking agency, that a financial holding company is not in compliance with the requirements of subparagraph (A), (B), or (C) of subsection (b)(1), the Board shall give notice of such finding to the company.

''(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—Within 45 days of receipt by a financial holding company of a notice given under paragraph (1) (or such additional period as the Board may permit), the company shall execute an agreement acceptable to the Board to comply with the requirements applicable to a financial holding company.

''(3) AUTHORITY TO IMPOSE LIMITATIONS.—Until the conditions described in a notice to a financial holding company under paragraph (1) are corrected—

''(A) the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances; and

''(B) the appropriate Federal banking agency may impose such limitations on the conduct or activities of an affiliated depository institution or subsidiary of a depository institution as the appropriate Federal banking agency determines to be appropriate under the circumstances.

''(4) FAILURE TO CORRECT.—If, after receiving a notice under paragraph (1), a financial holding company does not—

''(A) execute and implement an agreement in accordance with paragraph (2);

''(B) comply with any limitations imposed under paragraph (3);

''(C) in the case of a notice of failure to comply with subsection (b)(1)(A), restore each depository institution subsidiary to well capitalized status before the end of the 180-day period beginning on the date such notice is received by the company (or such other period permitted by the Board); or

''(D) in the case of a notice of failure to comply with subparagraph (B) or (C) of subsection (b)(1), restore compliance with any such subparagraph by the date the next examination of the depository institution subsidiary is completed or by the end of such other period as the Board determines to be appropriate,

the Board may require such company, under such terms and conditions as may be imposed by the Board and subject to such extension of time as may be granted in the Board's discretion, to divest control of any depository institution subsidiary or, at the election of the financial holding company, instead to cease to engage in any activity conducted by such company or its subsidiaries pursuant to this section.

''(5) CONSULTATION.—In taking any action under this subsection, the Board shall consult with all relevant Federal and State regulatory agencies.

''(e) SAFEGUARDS FOR BANK SUBSIDIARIES.—A financial holding company shall assure that—

''(1) the procedures of the holding company for identifying and managing financial and operational risks within the company, and the subsidiaries of such company, adequately protect the subsidiaries of such company which are insured depository institutions or wholesale financial institution from such risks;

''(2) the holding company has reasonable policies and procedures to preserve the separate corporate identity and limited liability of such company and the subsidiaries of such company, for the protection of the company's subsidiary insured depository institutions and wholesale financial institutions; and

''(3) the holding company complies with this section.

''(f) AUTHORITY TO RETAIN LIMITED NONFINANCIAL ACTIVITIES AND AFFILIATIONS.—

''(1) IN GENERAL.—Notwithstanding section 4(a), a company that is not a bank holding company or a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978) and becomes a financial holding company after the date of the enactment of the Financial Services Act of 1999 may continue to engage in any activity and retain direct

or indirect ownership or control of shares of a company engaged in any activity if—

''(A) the holding company lawfully was engaged in the activity or held the shares of such company on September 30, 1997;

''(B) the holding company is predominantly engaged in financial activities as defined in paragraph (2); and

''(C) the company engaged in such activity continues to engage only in the same activities that such company conducted on September 30, 1997, and other activities permissible under this Act.

''(2) PREDOMINANTLY FINANCIAL.—For purposes of this subsection, a company is predominantly engaged in financial activities if the annual gross revenues derived by the holding company and all subsidiaries of the holding company (excluding revenues derived from subsidiary depository institutions), on a consolidated basis, from engaging in activities that are financial in nature or are incidental to activities that are financial in nature under subsection (c) represent at least 85 percent of the consolidated annual gross revenues of the company.

''(3) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A financial holding company that engages in activities or holds shares pursuant to this subsection, or a subsidiary of such financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the Board has not determined to be financial in nature or incidental to activities that are financial in nature under subsection (c).

''(4) CONTINUING REVENUE LIMITATION ON GRANDFATHERED COMMERCIAL ACTIVITIES.—Notwithstanding any other provision of this subsection, a financial holding company may continue to engage in activities or hold shares in companies pursuant to this subsection only to the extent that the aggregate annual gross revenues derived from all such activities and all such companies does not exceed 15 percent of the consolidated annual gross revenues of the financial holding company (excluding revenues derived from subsidiary depository institutions).

''(5) CROSS MARKETING RESTRICTIONS APPLICABLE TO COMMERCIAL ACTIVITIES.—A depository institution controlled by a financial holding company shall not—

''(A) offer or market, directly or through any arrangement, any product or service of a company whose activities are conducted or whose shares are owned or controlled by the financial holding company pursuant to this subsection or subparagraph (H) or (I) of subsection (c)(3); or

''(B) permit any of its products or services to be offered or marketed, directly or through any arrangement, by or through any company described in subparagraph (A).

''(6) TRANSACTIONS WITH NONFINANCIAL AFFILIATES.—A depository institution controlled by a financial holding company may not engage in a covered transaction (as defined by section 23A(b)(7) of the Federal Reserve Act) with any affiliate controlled by the company pursuant to section 10(c), this subsection, or subparagraph (H) or (I) of subsection (c)(3).

''(7) SUNSET OF GRANDFATHER.—A financial holding company engaged in any activity, or retaining direct or indirect ownership or control of shares of a company, pursuant to this subsection, shall terminate such activity and divest ownership or control of the shares of such company before the end of the 10-year period beginning on the date of the enactment of the Financial Services Act of 1999. The Board may, upon application by a financial holding company, extend such 10-year period by a period not to exceed an additional 5 years if such extension would not be detrimental to the public interest.

''(g) DEVELOPING ACTIVITIES.—A financial holding company may engage directly or indirectly, or acquire shares of any company engaged, in any activity that the Board has not determined to be financial in nature or incidental to financial activities under subsection (c) if—

''(1) the holding company reasonably concludes that the activity is financial in nature or incidental to financial activities;

''(2) the gross revenues from all activities conducted under this subsection represent less than 5 percent of the consolidated gross revenues of the holding company;

''(3) the aggregate total assets of all companies the shares of which are held under this subsection do not exceed 5 percent of the holding company's consolidated total assets;

''(4) the total capital invested in activities conducted under this subsection represents less than 5 percent of the consolidated total capital of the holding company;

''(5) neither the Board nor the Secretary of the Treasury has determined that the activity is not financial in nature or incidental to financial activities under subsection (c);

''(6) the holding company is not required to provide prior written notice of the transaction to the Board under subsection (c)(6); and

''(7) the holding company provides written notification to the Board describing the activity commenced or conducted by the company acquired no later than 10 business days after commencing the activity or consummating the acquisition.''.

(b) FACTORS FOR CONSIDERATION IN REVIEWING APPLICATION BY FINANCIAL HOLDING COMPANY TO ACQUIRE BANK.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end the following new paragraph:

''(6) 'TOO BIG TO FAIL' FACTOR.—In considering an acquisition, merger, or consolidation under this section involving a financial holding company or a company that would be any such holding company upon the consummation of the transaction, the Board shall consider whether, and the extent to which, the proposed acquisition, merger, or consolidation poses an undue risk to the stability of the financial system of the United States.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by adding at the end the following new subsection:

''(p) INSURANCE COMPANY.—For purposes of sections 5, 6, and 10, the term 'insurance company' includes any person engaged in the business of insurance to the extent of such activities.''.

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

(1) in paragraph (1)(A), by inserting ''or in any complementary activity under section 6(c)(1)(B)'' after ''subsection (c)(8) or (a)(2)''; and

(2) in paragraph (3)—

(A) by inserting '', other than any complementary activity under section 6(c)(1)(B),'' after ''to engage in any activity''; and

(B) by inserting ''or a company engaged in any complementary activity under section 6(c)(1)(B)'' after ''insured depository institution''.

(d) REPORT.—

(1) IN GENERAL.—By the end of the 4-year period beginning on the date of the enactment of this Act and every 4 years thereafter, the Board of Governors of the Federal Reserve System and the Secretary of the Treasury shall submit a joint report to the Congress containing a summary of new activities which are financial in nature, including grandfathered commercial activities, in which any financial holding company is engaged pursuant to subsection (c)(1) or (f) of section 6 of the Bank Holding Company Act of 1956 (as added by subsection (a)).

(2) OTHER CONTENTS.—Each report submitted to the Congress pursuant to paragraph (1) shall also contain the following:

(A) A discussion of actions by the Board of Governors of the Federal Reserve System and the Secretary of the Treasury, whether by regulation, order, interpretation, or guideline or by approval or disapproval of an application, with regard to activities of financial holding companies which are incidental to activities financial in nature or complementary to such financial activities.

(B) An analysis and discussion of the risks posed by commercial activities of financial holding companies to the safety and soundness of affiliate depository institutions.

(C) An analysis and discussion of the effect of mergers and acquisitions under section 6 of the Bank Holding Company Act of 1956 on market concentration in the financial services industry.

(D) An analysis and discussion, by the Board and the Secretary in consultation with the other Federal banking agencies (as defined in section 3(z) of the Federal Deposit Insurance Act), of the impact of the implementation of this Act, and the amendments made by this Act, on the extent of meeting community credit needs and capital availability under the Community Reinvestment Act of 1977.

SEC. 104. OPERATION OF STATE LAW.

(a) AFFILIATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict an insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof, from being affiliated directly or indirectly or associated with any person or entity, as authorized or permitted by this Act or any other provision of Federal law.

(2) INSURANCE.—With respect to affiliations between insured depository institutions or wholesale financial institutions, or any subsidiary or affiliate thereof, and persons or entities engaged in the business of insurance, paragraph (1) does not prohibit—

(A) any State from requiring any person or entity that proposes to acquire control of an entity that is engaged in the business of insurance and domiciled in that State (hereafter in this subparagraph referred to as the ''insurer'') to furnish to the insurance regulatory authority of that State, not later than 60 days before the effective date of the proposed acquisition—

(i) the name and address of each person by whom, or on whose behalf, the affiliation referred to in this subparagraph is to be effected (hereafter in this subparagraph referred to as the ''acquiring party'');

(ii) if the acquiring party is an individual, his or her principal occupation and all offices and positions held during the 5 years preceding the date of notification, and any conviction of crimes other than minor traffic violations during the 10 years preceding the date of notification;

(iii) if the acquiring party is not an individual—

(I) a report of the nature of its business operations during the 5 years preceding the date of notification, or for such shorter period as such person and any predecessors thereof shall have been in existence;

(II) an informative description of the business intended to be done by the acquiring party and any subsidiary thereof; and

(III) a list of all individuals who are, or who have been selected to become, directors or executive officers of the acquiring party or who perform, or will perform, functions appropriate to such positions, including, for each such individual, the information required by clause (ii);

(iv) the source, nature, and amount of the consideration used, or to be used, in effecting the merger or other acquisition of control, a description of any transaction wherein funds were, or are to be, obtained for any such purpose, and the identity of persons furnishing such consideration, except that, if a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential if the person filing such statement so requests;

(v) fully audited financial information as to the earnings and financial condition of each acquiring party for the 5 fiscal years preceding the date of notification of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not earlier than 90 days before the date of notification, except that, in the case of an acquiring party that is an insurer actively engaged in the business of insurance, the financial statements of such insurer need not be audited, but such audit may be required if the need therefor is determined by the insurance regulatory authority of the State;

(vi) any plans or proposals that each acquiring party may have to liquidate such insurer, to sell its assets, or to merge or consolidate it with any person or to make any other material change in its business or corporate structure or management;

(vii) the number of shares of any security of the insurer that each acquiring party proposes to acquire, the terms of any offer, request, invitation, agreement, or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at;

(viii) the amount of each class of any security of the insurer that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(ix) a full description of any contracts, arrangements, or understandings with respect to any security of the insurer in which any acquiring party is involved, including transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies, and identification of the persons with whom such contracts, arrangements, or understandings have been entered into;

(x) a description of the purchase of any security of the insurer during the 12-month period preceding the date of notification by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid, or agreed to be paid, therefor;

(xi) a description of any recommendations to purchase any security of the insurer made during the 12-month period preceding the date of notification by any acquiring party or by any person based upon interviews or at the suggestion of such acquiring party;

(xii) copies of all tender offers for, requests or invitations for tenders of, exchange offers for and agreements to acquire or exchange any securities of the insurer and, if distributed, of additional soliciting material relating thereto; and

(xiii) the terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of securities of the insurer for tender and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto;

(B) in the case of a person engaged in the business of insurance which is the subject of an acquisition or change or continuation in control, the State of domicile of such person from reviewing or taking action (including approval or disapproval) with regard to the acquisition or change or continuation in control, as long as the State reviews and actions—

(i) are completed by the end of the 60-day period beginning on the later of the date the State received notice of the proposed action or the date the State received the information required under State law regarding such acquisition or change or continuation in control;

(ii) do not have the effect of discriminating, intentionally or unintentionally, against an insured depository institution or affiliate thereof or against any other person based upon affiliation with an insured depository institution; and

(iii) are based on standards or requirements relating to solvency or managerial fitness;

(C) any State from requiring an entity that is acquiring control of an entity that is engaged in the business of insurance and domiciled in that State to maintain or restore the capital requirements of that insurance entity to the level required under the capital regulations of general applicability in that State to avoid the requirement of preparing and filing with the insurance regulatory authority of that State a plan to increase the capital of the entity, except that any determination by the State insurance regulatory authority with respect to such requirement shall be made not later than 60 days after the date of notification under subparagraph (A);

(D) any State from taking actions with respect to the receivership or conservatorship of any insurance company;

(E) any State from restricting a change in the ownership of stock in an insurance company, or a company formed for the purpose of controlling such insurance company, for a period of not more than 3 years beginning on the date of the conversion of such company from mutual to stock form; or

(F) any State from requiring an organization which has been eligible at any time since January 1, 1987, to claim the special deduction provided by section 833 of the Internal Revenue Code of 1986 to meet certain conditions in order to undergo, as determined by the State, a reorganization, recapitalization, conversion, merger, consolidation, sale or other disposition of substantial operating assets, demutualization, dissolution, or to undertake other similar actions and which is governed under a State statute enacted on May 22, 1998, relating to hospital, medical, and dental service corporation conversions.

(3) PRESERVATION OF STATE ANTITRUST AND GENERAL CORPORATE LAWS.—

(A) IN GENERAL.—Subject to subsection (c) and the nondiscrimination provisions contained in such subsection, no provision in paragraph (1) shall be construed as affecting State laws, regulations, orders, interpretations, or other actions of general applicability relating to the governance of corporations, partnerships, limited liability companies or other business associations incorporated or formed under the laws of that State or domiciled in that State, or the applicability of the antitrust laws of any State or any State law that is similar to the antitrust laws.

(B) DEFINITION.—The term ''antitrust laws'' has the same meaning as in subsection (a) of the first section of the Clayton Act, and includes section 5 of the Federal Trade Commission Act to the extent that such section 5 relates to unfair methods of competition.

(b) ACTIVITIES.—

(1) IN GENERAL.—Except as provided in paragraph (3), and except with respect to insurance sales, solicitation, and cross marketing activities, which shall be governed by paragraph (2), no State may, by statute, regulation, order, interpretation, or other action, prevent or restrict an insured depository institution, wholesale financial institution, or subsidiary or affiliate thereof from engaging directly or indirectly, either by itself or in conjunction with a subsidiary, affiliate, or any other entity or person, in any activity authorized or permitted under this Act.

(2) INSURANCE SALES.—

(A) IN GENERAL.—In accordance with the legal standards for preemption set forth in the decision of the Supreme Court of the United States in Barnett Bank of Marion County N.A. v. Nelson, 517 U.S. 25 (1996), no State may, by statute, regulation, order, interpretation, or other action, prevent or significantly interfere with the ability of an insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof, to engage, directly or indirectly, either by itself or in conjunction with a subsidiary, affiliate, or any other party, in any insurance sales, solicitation, or cross-marketing activity.

(B) CERTAIN STATE LAWS PRESERVED.—Notwithstanding subparagraph (A), a State may impose any of the following restrictions, or restrictions which are substantially the same as but no more burdensome or restrictive than those in each of the following clauses:

(i) Restrictions prohibiting the rejection of an insurance policy by an insured depository institution, wholesale financial institution, or any subsidiary or affiliate thereof, solely because the policy has been issued or underwritten by any person who is not associated with such insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, when such insurance is required in connection with a loan or extension of credit.

(ii) Restrictions prohibiting a requirement for any debtor, insurer, or insurance agent or broker to pay a separate charge in connection with the handling of insurance that is required in connection with a loan or other extension of credit or the provision of another traditional banking product by an insured depository institution, wholesale financial institution, or any subsidiary or affiliate thereof, unless such charge would be required when the insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, is the licensed insurance agent or broker providing the insurance.

(iii) Restrictions prohibiting the use of any advertisement or other insurance promotional material by an insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof, that would cause a reasonable person to believe mistakenly that—

(I) a State or the Federal Government is responsible for the insurance sales activities of, or stands behind the credit of, the institution, affiliate, or subsidiary; or

(II) a State, or the Federal Government guarantees any returns on insurance products, or is a source of payment on any insurance obligation of or sold by the institution, affiliate, or subsidiary;

(iv) Restrictions prohibiting the payment or receipt of any commission or brokerage fee or other valuable consideration for services as an insurance agent or broker to or by any person, unless such person holds a valid State license regarding the applicable class

of insurance at the time at which the services are performed, except that, in this clause, the term ''services as an insurance agent or broker'' does not include a referral by an unlicensed person of a customer or potential customer to a licensed insurance agent or broker that does not include a discussion of specific insurance policy terms and conditions.

(v) Restrictions prohibiting any compensation paid to or received by any individual who is not licensed to sell insurance, for the referral of a customer that seeks to purchase, or seeks an opinion or advice on, any insurance product to a person that sells or provides opinions or advice on such product, based on the purchase of insurance by the customer.

(vi) Restrictions prohibiting the release of the insurance information of a customer (defined as information concerning the premiums, terms, and conditions of insurance coverage, including expiration dates and rates, and insurance claims of a customer contained in the records of the insured depository institution or wholesale financial institution, or a subsidiary or affiliate thereof) to any person or entity other than an officer, director, employee, agent, subsidiary, or affiliate of an insured depository institution or a wholesale financial institution, for the purpose of soliciting or selling insurance, without the express consent of the customer, other than a provision that prohibits—

(I) a transfer of insurance information to an unaffiliated insurance company, agent, or broker in connection with transferring insurance in force on existing insureds of the insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof, or in connection with a merger with or acquisition of an unaffiliated insurance company, agent, or broker; or

(II) the release of information as otherwise authorized by State or Federal law.

(vii) Restrictions prohibiting the use of health information obtained from the insurance records of a customer for any purpose, other than for its activities as a licensed agent or broker, without the express consent of the customer.

(viii) Restrictions prohibiting the extension of credit or any product or service that is equivalent to an extension of credit, lease or sale of property of any kind, or furnishing of any services or fixing or varying the consideration for any of the foregoing, on the condition or requirement that the customer obtain insurance from an insured depository institution, wholesale financial institution, a subsidiary or affiliate thereof, or a particular insurer, agent, or broker, other than a prohibition that would prevent any insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof—

(I) from engaging in any activity described in this clause that would not violate section 106 of the Bank Holding Company Act Amendments of 1970, as interpreted by the Board of Governors of the Federal Reserve System; or

(II) from informing a customer or prospective customer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent upon the procurement by the customer of acceptable insurance, or that insurance is available from the insured depository institution or wholesale financial institution, or any subsidiary or affiliate thereof.

(ix) Restrictions requiring, when an application by a consumer for a loan or other extension of credit from an insured depository institution or wholesale financial institution is pending, and insurance is offered or sold to the consumer or is required in connection with the loan or extension of credit by the insured depository institution or wholesale financial institution or any affiliate or subsidiary thereof, that a written disclosure be provided to the consumer or prospective customer indicating that his or her choice of an insurance provider will not affect the credit decision or credit terms in any way, except that the insured depository institution or wholesale financial institution may impose reasonable requirements concerning the creditworthiness of the insurance provider and scope of coverage chosen.

(x) Restrictions requiring clear and conspicuous disclosure, in writing, where practicable, to the customer prior to the sale of any insurance policy that such policy—

(I) is not a deposit;

(II) is not insured by the Federal Deposit Insurance Corporation;

(III) is not guaranteed by the insured depository institution or wholesale financial institution or, if appropriate, its subsidiaries or affiliates or any person soliciting the purchase of or selling insurance on the premises thereof; and

(IV) where appropriate, involves investment risk, including potential loss of principal.

(xi) Restrictions requiring that, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from an insured depository institution or wholesale financial institution, or its subsidiaries or affiliates, or any person soliciting the purchase of or selling insurance on the premises thereof, the credit and insurance transactions be completed through separate documents.

(xii) Restrictions prohibiting, when a customer obtains insurance (other than credit insurance or flood insurance) and credit from an insured depository institution or wholesale financial institution or its subsidiaries or affiliates, or any person soliciting the purchase of or selling insurance on the premises thereof, inclusion of the expense of insurance premiums in the primary credit transaction without the express written consent of the customer.

(xiii) Restrictions requiring maintenance of separate and distinct books and records relating to insurance transactions, including all files relating to and reflecting consumer complaints, and requiring that such insurance books and records be made available to the appropriate State insurance regulator for inspection upon reasonable notice.

(C) LIMITATIONS.—

(i) OCC DEFERENCE.—Section 306(e) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(ii) NONDISCRIMINATION.—Subsection (c) does not apply with respect to any State statute, regulation, order, interpretation, or other action regarding insurance sales, solicitation, or cross marketing activities described in subparagraph (A) that was issued, adopted, or enacted before September 3, 1998, and that is not described in subparagraph (B).

(iii) CONSTRUCTION.—Nothing in this paragraph shall be construed to limit the applicability of the decision of the Supreme Court in Barnett Bank of Marion County N.A. v. Nelson, 116 S. Ct. 1103 (1996) with respect to a State statute, regulation, order, interpretation, or other action that is not described in subparagraph (B).

(iv) LIMITATION ON INFERENCES.—Nothing in this paragraph shall be construed to create any inference with respect to any State statute, regulation, order, interpretation, or other action that is not referred to or described in this paragraph.

(3) INSURANCE ACTIVITIES OTHER THAN SALES.—State statutes, regulations, interpretations, orders, and other actions shall not be preempted under subsection (b)(1) to the extent that they—

(A) relate to, or are issued, adopted, or enacted for the purpose of regulating the business of insurance in accordance with the Act of March 9, 1945 (commonly known as the ''McCarran-Ferguson Act'');

(B) apply only to persons or entities that are not insured depository institutions or wholesale financial institutions, but that are directly engaged in the business of insurance (except that they may apply to depository institutions engaged in providing savings bank life insurance as principal to the extent of regulating such insurance);

(C) do not relate to or directly or indirectly regulate insurance sales, solicitations, or cross-marketing activities; and

(D) are not prohibited under subsection (c).

(4) FINANCIAL ACTIVITIES OTHER THAN INSURANCE.—No State statute, regulation, interpretation, order, or other action shall be preempted under subsection (b)(1) to the extent that—

(A) it does not relate to, and is not issued and adopted, or enacted for the purpose of regulating, directly or indirectly, insurance sales, solicitations, or cross marketing activities covered under paragraph (2);

(B) it does not relate to, and is not issued and adopted, or enacted for the purpose of regulating, directly or indirectly, the business of insurance activities other than sales, solicitations, or cross marketing activities, covered under paragraph (3);

(C) it does not relate to securities investigations or enforcement actions referred to in subsection (d); and

(D) it—

(i) does not distinguish by its terms between insured depository institutions, wholesale financial institutions, and subsidiaries and affiliates thereof engaged in the activity at issue and other persons or entities engaged in the same activity in a manner that is in any way adverse with respect to the conduct of the activity by any such insured depository institution, wholesale financial institution, or subsidiary or affiliate thereof engaged in the activity at issue;

(ii) as interpreted or applied, does not have, and will not have, an impact on depository institutions, wholesale financial institutions, or subsidiaries or affiliates thereof engaged in the activity at issue, or any person or entity affiliated therewith, that is substantially more adverse than its impact on other persons or entities engaged in the same activity that are not insured depository institutions, wholesale financial institutions, or subsidiaries or affiliates thereof, or persons or entities affiliated therewith;

(iii) does not effectively prevent a depository institution, wholesale financial institution, or subsidiary or affiliate thereof from engaging in activities authorized or permitted by this Act or any other provision of Federal law; and

(iv) does not conflict with the intent of this Act generally to permit affiliations that are authorized or permitted by Federal law.

(c) NONDISCRIMINATION.—Except as provided in any restrictions described in subsection (b)(2)(B), no State may, by statute, regulation, order, interpretation, or other action, regulate the insurance activities authorized or permitted under this Act or any other provision of Federal law of an insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof, to the extent that such statute, regulation, order, interpretation, or other action—

(1) distinguishes by its terms between insured depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, and other persons or entities engaged in such activities, in a manner that is in any way adverse to any such insured depository institution or wholesale financial institution, or subsidiary or affiliate thereof;

(2) as interpreted or applied, has or will have an impact on depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, that is substantially more adverse than its impact on other persons or entities providing the same products or services or engaged in the same activities that are not insured depository institutions, wholesale financial institutions, or subsidiaries or affiliates thereof, or persons or entities affiliated therewith;

(3) effectively prevents a depository institution or wholesale financial institution, or subsidiary or affiliate thereof, from engaging in insurance activities authorized or permitted by this Act or any other provision of Federal law; or

(4) conflicts with the intent of this Act generally to permit affiliations that are authorized or permitted by Federal law between insured depository institutions or wholesale financial institutions, or subsidiaries or affiliates thereof, and persons and entities engaged in the business of insurance.

(d) LIMITATION.—Subsections (a) and (b) shall not be construed to affect the jurisdiction of the securities commission (or any agency or office performing like functions) of any State, under the laws of such State—

(1) 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; or

(2) to require the registration of securities or the licensure or registration of brokers, dealers, or investment advisers (consistent with section 203A of the Investment Advisers Act of 1940), or the associated persons of a broker, dealer, or investment adviser (consistent with such section 203A).

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

(1) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' includes any foreign bank that maintains a branch, agency, or commercial lending company in the United States.

(2) STATE.—The term ''State'' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

SEC. 105. MUTUAL BANK HOLDING COMPANIES AUTHORIZED.

Section 3(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(g)(2)) is amended to read as follows:

''(2) REGULATIONS.—A bank holding company organized as a mutual holding company shall be regulated on terms, and shall be subject to limitations, comparable to those applicable to any other bank holding company.''.

SEC. 105A. PUBLIC MEETINGS FOR LARGE BANK ACQUISITIONS AND MERGERS.

(a) BANK HOLDING COMPANY ACT OF 1956.—Section 3(c)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)(2)) is amended—

(1) by striking ''FACTORS.—In every case'' and inserting ''FACTORS.—

''(A) IN GENERAL.—In every case''; and

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

''(B) PUBLIC MEETINGS.—In each case involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the Board shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the Board believes, in the sole discretion of the Board, there will be a substantial public impact.''.

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) is amended by adding at the end the following new paragraph:

''(12) PUBLIC MEETINGS.—In each merger transaction involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the responsible agency shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the agency believes, in the sole discretion of the agency, there will be a substantial public impact.''.

(c) NATIONAL BANK CONSOLIDATION AND MERGER ACT.—The National Bank Consolidation and Merger Act (12 U.S.C. 215 et seq.) is amended by adding at the end the following new section:

''SEC. 6. PUBLIC MEETINGS FOR LARGE BANK CONSOLIDATIONS AND MERGERS.

''In each case of a consolidation or merger under this Act involving 1 or more banks each of which has total assets of $1,000,000,000 or more, the Comptroller shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the Comptroller believes, in the sole discretion of the Comptroller, there will be a substantial public impact.''.

(d) HOME OWNERS' LOAN ACT.—Section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1463) is amended by adding at the end the following new paragraph:

''(7) PUBLIC MEETINGS FOR LARGE DEPOSITORY INSTITUTION ACQUISITIONS AND MERGERS.—In each case involving 1 or more insured depository institutions each of which has total assets of $1,000,000,000 or more, the Director shall, as necessary and on a timely basis, conduct public meetings in 1 or more areas where the Director believes, in the sole discretion of the Director, there will be a substantial public impact.''.

SEC. 106. PROHIBITION ON DEPOSIT PRODUCTION OFFICES.

(a) IN GENERAL.—Section 109(d) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(d)) is amended—

(1) by inserting '', the Financial Services Act of 1999,'' after ''pursuant to this title''; and

(2) by inserting ''or such Act'' after ''made by this title''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 109(e)(4) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a(e)(4)) is amended by inserting ''and any branch of a bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)'' before the period.

SEC. 107. CLARIFICATION OF BRANCH CLOSURE REQUIREMENTS.

Section 42(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1831r–1(d)(4)(A)) is amended by inserting ''and any bank controlled by an out-of-State bank holding company (as defined in section 2(o)(7) of the Bank Holding Company Act of 1956)'' before the period.

SEC. 108. AMENDMENTS RELATING TO LIMITED PURPOSE BANKS.

(a) IN GENERAL.—Section 4(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(f)) is amended—

(1) in paragraph (2)(A)(ii)—

(A) by striking ''and'' at the end of subclause (IX);

(B) by inserting ''and'' after the semicolon at the end of subclause (X); and

(C) by inserting after subclause (X) the following new subclause:

''(XI) assets that are derived from, or are incidental to, consumer lending activities in which institutions described in subparagraph (F) or (H) of section 2(c)(2) are permitted to engage,'';

(2) in paragraph (2), by striking subparagraph (B) and inserting the following new subparagraphs:

''(B) any bank subsidiary of such company engages in any activity in which the bank was not lawfully engaged as of March 5, 1987, unless the bank is well managed and well capitalized;

''(C) any bank subsidiary of such company both—

''(i) accepts demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties; and

''(ii) engages in the business of making commercial loans (and, for purposes of this clause, loans made in the ordinary course of a credit card operation shall not be treated as commercial loans); or

''(D) after the date of the enactment of the Competitive Equality Amendments of 1987, any bank subsidiary of such company permits any overdraft (including any intraday overdraft), or incurs any such overdraft in such bank's account at a Federal reserve bank, on behalf of an affiliate, other than an overdraft described in paragraph (3).''; and

(3) by striking paragraphs (3) and (4) and inserting the following new paragraphs:

''(3) PERMISSIBLE OVERDRAFTS DESCRIBED.—For purposes of paragraph (2)(D), an overdraft is described in this paragraph if—

''(A) such overdraft results from an inadvertent computer or accounting error that is beyond the control of both the bank and the affiliate;

''(B) such overdraft—

''(i) is permitted or incurred on behalf of an affiliate which is monitored by, reports to, and is recognized as a primary dealer by the Federal Reserve Bank of New York; and

''(ii) is fully secured, as required by the Board, by bonds, notes, or other obligations which are direct obligations of the United States or on which the principal and interest are fully guaranteed by the United States or by securities and obligations eligible for settlement on the Federal Reserve book entry system; or

''(C) such overdraft—

''(i) is incurred on behalf of an affiliate solely in connection with an activity that is so closely related to banking, or managing or controlling banks, as to be a proper incident thereto, to the extent the bank incurring the overdraft and the affiliate on whose behalf the overdraft is incurred each document that the overdraft is incurred for such purpose; and

''(ii) does not cause the bank to violate any provision of section 23A or 23B of the Federal Reserve Act, either directly, in the case of a member bank, or by virtue of section 18(j) of the Federal Deposit Insurance Act, in the case of a nonmember bank.

''(4) DIVESTITURE IN CASE OF LOSS OF EXEMPTION.—If any company described in paragraph (1) fails to qualify for the exemption provided under such paragraph by operation of paragraph (2), such exemption shall cease to apply to such company and such company shall divest control of each bank it controls before the end of the 180-day period beginning on the date that the company receives notice from the Board that the company has failed to continue to qualify for such exemption, unless before the end of such 180-day period, the company has—

''(A) corrected the condition or ceased the activity that caused the company to fail to continue to qualify for the exemption; and

''(B) implemented procedures that are reasonably adapted to avoid the reoccurrence of such condition or activity.

The issuance of any notice under this paragraph that relates to the activities of a bank shall not be construed as affecting the authority of the bank to continue to engage in such activities until the expiration of such 180-day period.''.

(b) INDUSTRIAL LOAN COMPANIES AFFILIATE OVERDRAFTS.—Section 2(c)(2)(H) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(H)) is amended by inserting before the period at the end '', or that is otherwise permissible for a bank controlled by a company described in section 4(f)(1)''.

SEC. 109. GAO STUDY OF ECONOMIC IMPACT ON COMMUNITY BANKS, OTHER SMALL FINANCIAL INSTITUTIONS, INSURANCE AGENTS, AND CONSUMERS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of the projected economic impact and the actual economic impact that the enactment of this Act will have on financial institutions, including community banks, registered brokers and dealers and insurance companies, which have total assets of $100,000,000 or less, insurance agents, and consumers.

(b) REPORTS TO THE CONGRESS.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit reports to the Congress, at the times required under paragraph (2), containing the findings and conclusions of the Comptroller General with regard to the study required under subsection (a) and such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

(2) TIMING OF REPORTS.—The Comptroller General shall submit—

(A) an interim report before the end of the 6-month period beginning after the date of the enactment of this Act;

(B) another interim report before the end of the next 6-month period; and

(C) a final report before the end of the 1-year period after such second 6-month period,''

SEC. 110. 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), 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, 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.

Subtitle B—Streamlining Supervision of Financial Holding Companies

SEC. 111. STREAMLINING FINANCIAL HOLDING COMPANY SUPERVISION.

Section 5(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)) is amended to read as follows:

''(c) REPORTS AND EXAMINATIONS.—

''(1) REPORTS.—

''(A) IN GENERAL.—The Board from time to time may require any bank holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

''(i) its financial condition, systems for monitoring and controlling financial and operating risks, and transactions with depository institution subsidiaries of the holding company; and

''(ii) compliance by the company or subsidiary with applicable provisions of this Act.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that a bank holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

''(ii) AVAILABILITY.—A bank holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

''(iii) REQUIRED USE OF PUBLICLY REPORTED INFORMATION.—The Board shall, to the fullest extent possible, accept in fulfillment of any reporting or recordkeeping requirements under this Act information that is otherwise required to be reported publicly and externally audited financial statements.

''(iv) REPORTS FILED WITH OTHER AGENCIES.—In the event the Board requires a report from a functionally regulated nondepository institution subsidiary of a bank holding company of a kind that is not required by another Federal or State regulator or appropriate self-regulatory organization, the Board shall request that the appropriate regulator or self-regulatory organization obtain such report. If the report is not made available to the Board, and the report is necessary to assess a material risk to the bank holding company or any of its subsidiary depository institutions or compliance with this Act, the Board may require such subsidiary to provide such a report to the Board.

''(C) DEFINITION.—For purposes of this subsection, the term 'functionally regulated nondepository institution' means—

''(i) a broker or dealer registered under the Securities Exchange Act of 1934;

''(ii) an investment adviser registered under the Investment Advisers Act of 1940, or with any State, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

''(iii) an insurance company subject to supervision by a State insurance commission, agency, or similar authority; and

''(iv) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.

''(2) EXAMINATIONS.—

''(A) EXAMINATION AUTHORITY.—

''(i) IN GENERAL.—The Board may make examinations of each bank holding company and each subsidiary of a bank holding company.

''(ii) FUNCTIONALLY REGULATED NONDEPOSITORY INSTITUTION SUBSIDIARIES.—Notwithstanding clause (i), the Board may make examinations of a functionally regulated nondepository institution subsidiary of a bank holding company only if—

''(I) the Board has reasonable cause to believe that such subsidiary is engaged in activities that pose a material risk to an affiliated depository institution, or

''(II) based on reports and other available information, the Board has reasonable cause to believe that a subsidiary is not in compliance with this Act or with provisions relating to transactions with an affiliated depository institution and the Board cannot make such determination through examination of the affiliated depository institution or bank holding company.

''(B) LIMITATIONS ON EXAMINATION AUTHORITY FOR BANK HOLDING COMPANIES AND SUBSIDIARIES.—Subject to subparagraph (A)(ii), the Board may make examinations under subparagraph (A)(i) of each bank holding company and each subsidiary of such holding company in order to—

''(i) inform the Board of the nature of the operations and financial condition of the holding company and such subsidiaries;

''(ii) inform the Board of—

''(I) the financial and operational risks within the holding company system that may pose a threat to the safety and soundness of any subsidiary depository institution of such holding company; and

''(II) the systems for monitoring and controlling such risks; and

''(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any subsidiary depository institution and its affiliates.

''(C) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a bank holding company to—

''(i) the bank holding company; and

''(ii) any subsidiary of the holding company that, because of—

''(I) the size, condition, or activities of the subsidiary; or

''(II) the nature or size of transactions between such subsidiary and any depository institution which is also a subsidiary of such holding company,

could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

''(D) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use, for the purposes of this paragraph, the reports of examinations of depository institutions made by the appropriate Federal and State depository institution supervisory authority.

''(E) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and instead reviewing the reports of examination made of—

''(i) any registered broker or dealer by or on behalf of the Securities and Exchange Commission;

''(ii) any investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State, whichever is required by law;

''(iii) any licensed insurance company by or on behalf of any state regulatory authority responsible for the supervision of insurance companies; and

''(iv) any other subsidiary that the Board finds to be comprehensively supervised by a Federal or State authority.

''(3) CAPITAL.—

''(A) IN GENERAL.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, guidelines, standards, or requirements on any subsidiary of a financial holding company that is not a depository institution and—

''(i) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority;

''(ii) is registered as an investment adviser under the Investment Advisers Act of 1940, or with any State, whichever is required by law; or

''(iii) is licensed as an insurance agent with the appropriate State insurance authority.

''(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to—

''(i) activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities; or

''(ii) activities of a licensed insurance agent other than insurance agency activities or activities incidental to insurance agency activities.

''(C) LIMITATIONS ON INDIRECT ACTION.—In developing, establishing, or assessing holding company capital or capital adequacy rules, guidelines, standards, or requirements for purposes of this paragraph, the Board shall not take into account the activities, operations, or investments of an affiliated investment company registered under the Investment Company Act of 1940, unless the investment company is—

''(i) a bank holding company; or

''(ii) controlled by a bank holding company by reason of ownership by the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, and the shares owned by the bank holding company have a market value equal to more than $1,000,000.

''(4) TRANSFER OF BOARD AUTHORITY TO APPROPRIATE FEDERAL BANKING AGENCY.—

''(A) IN GENERAL.—In the case of any bank holding company which is not significantly engaged in nonbanking activities, the Board, in consultation with the appropriate Federal banking agency, may designate the appropriate Federal banking agency of the lead insured depository institution subsidiary of such holding company as the appropriate Federal banking agency for the bank holding company.

''(B) AUTHORITY TRANSFERRED.—An agency designated by the Board under subparagraph (A) shall have the same authority as the Board under this Act to—

''(i) examine and require reports from the bank holding company and any affiliate of such company (other than a depository institution) under section 5;

''(ii) approve or disapprove applications or transactions under section 3;

''(iii) take actions and impose penalties under subsections (e) and (f) of section 5 and section 8; and

''(iv) take actions regarding the holding company, any affiliate of the holding company (other than a depository institution), or any institution-affiliated party of such company or affiliate under the Federal Deposit Insurance Act and any other statute which the Board may designate.

''(C) AGENCY ORDERS.—Section 9 of this Act and section 105 of the Bank Holding Company Act Amendments of 1970 shall apply to orders issued by an agency designated under subparagraph (A) in the same manner such sections apply to orders issued by the Board.

''(5) FUNCTIONAL REGULATION OF SECURITIES AND INSURANCE ACTIVITIES.—The Board shall defer to—

''(A) the Securities and Exchange Commission with regard to all interpretations of, and the enforcement of, applicable Federal securities laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of registered brokers, dealers, investment advisers, and investment companies;

''(B) the relevant State securities authorities with regard to all interpretations of, and the enforcement of, applicable State securities laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of brokers, dealers, and investment advisers required to be registered under State law; and

''(C) the relevant State insurance authorities with regard to all interpretations of, and the enforcement of, applicable State insurance laws (and rules, regulations, orders, and other directives issued thereunder) relating to the activities, conduct, and operations of insurance companies and insurance agents.''.

SEC. 112. ELIMINATION OF APPLICATION REQUIREMENT FOR FINANCIAL HOLDING COMPANIES.

(a) PREVENTION OF DUPLICATIVE FILINGS.—Section 5(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(a)) is amended by adding the following new sentence at the end: ''A declaration filed in accordance with section 6(b)(1)(D) shall satisfy the requirements of this subsection with regard to the registration of a bank holding company but not any requirement to file an application to acquire a bank pursuant to section 3.''.

(b) DIVESTITURE PROCEDURES.—Section 5(e)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(e)(1)) is amended—

(1) by striking ''Financial Institutions Supervisory Act of 1966, order'' and inserting ''Financial Institutions Supervisory Act of 1966, at the election of the bank holding company—

''(A) order''; and

(2) by striking ''shareholders of the bank holding company. Such distribution'' and inserting ''shareholders of the bank holding company; or

''(B) order the bank holding company, after due notice and opportunity for hearing, and after consultation with the primary supervisor for the bank, which shall be the Comptroller of the Currency in the case of a national bank, and the Federal Deposit Insurance Corporation and the appropriate State supervisor in the case of an insured nonmember bank, to terminate (within 120 days or such longer period as the Board may direct) the ownership or control of any such bank by such company.

The distribution referred to in subparagraph (A)''.

SEC. 113. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

(a) BANK HOLDING COMPANIES.—Section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) is amended by adding at the end the following new subsection:

''(g) AUTHORITY OF STATE INSURANCE REGULATOR AND THE SECURITIES AND EXCHANGE COMMISSION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, any regulation, order, or other action of the Board which requires a bank holding company to provide funds or other assets to a subsidiary insured depository institution shall not be effective nor enforceable with respect to an entity described in subparagraph (A) if—

''(A) such funds or assets are to be provided by—

''(i) a bank holding company that is an insurance company, a broker or dealer registered under the Securities Exchange Act of 1934, an investment company registered under the Investment Company Act of 1940, or an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State; or

''(ii) an affiliate of the depository institution which is an insurance company or a broker or dealer registered under the Securities Exchange Act of 1934, an investment company registered under the Investment Company Act of 1940, or an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State ; and

''(B) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker, dealer, investment adviser (solely with respect to investment advisory activities or activities incidental thereto), or investment company, as the case may be, determines in writing sent to the holding company and the Board that the holding company shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker, dealer, investment company, or investment adviser, as the case may be.

''(2) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the Board requires a bank holding company, or an affiliate of a bank holding company, which is an insurance company or a broker, dealer, investment company, or investment adviser described in paragraph (1)(A) to provide funds or assets to an insured depository institution subsidiary of the holding company pursuant to any regulation, order, or other action of the Board referred to in paragraph (1), the Board shall promptly notify the State insurance authority for the insurance company, the Securities and Exchange Commission, or State securities regulator, as the case may be, of such requirement.

''(3) DIVESTITURE IN LIEU OF OTHER ACTION.—If the Board receives a notice described in paragraph (1)(B) from a State insurance authority or the Securities and Exchange Commission with regard to a bank holding company or affiliate referred to in that paragraph, the Board may order the bank holding company to divest the insured depository institution not later than 180 days after receiving the notice, or such longer period as the Board determines consistent with the safe and sound operation of the insured depository institution.

''(4) CONDITIONS BEFORE DIVESTITURE.—During the period beginning on the date an order to divest is issued by the Board under paragraph (3) to a bank holding company and ending on the date the divestiture is completed, the Board may impose any conditions or restrictions on the holding company's ownership or operation of the insured depository institution, including restricting or prohibiting transactions between the insured depository institution and any affiliate of the institution, as are appropriate under the circumstances.''.

(b) SUBSIDIARIES OF DEPOSITORY INSTITUTIONS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

''SEC. 45. AUTHORITY OF STATE INSURANCE REGULATOR AND SECURITIES AND EXCHANGE COMMISSION.

''(a) IN GENERAL.—Notwithstanding any other provision of law, any regulation, order, or other action of the appropriate Federal banking agency which requires a subsidiary to provide funds or other assets to an insured depository institution shall not be effective nor enforceable with respect to an entity described in paragraph (1) if—

''(1) such funds or assets are to be provided by a subsidiary which is an insurance company, a broker or dealer registered under the Securities Exchange Act of 1934, an investment company registered under the Investment Company Act of 1940, or an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State; and

''(2) the State insurance authority for the insurance company or the Securities and Exchange Commission for the registered broker or dealer, the investment company, or the investment adviser, as the case may be, determines in writing sent to the insured depository institution and the appropriate Federal banking agency that the subsidiary

shall not provide such funds or assets because such action would have a material adverse effect on the financial condition of the insurance company or the broker, dealer, investment company, or investment adviser, as the case may be.

''(b) NOTICE TO STATE INSURANCE AUTHORITY OR SEC REQUIRED.—If the appropriate Federal banking agency requires a subsidiary, which is an insurance company, a broker or dealer, an investment company, or an investment adviser (solely with respect to investment advisory activities or activities incidental thereto) described in subsection (a)(1) to provide funds or assets to an insured depository institution pursuant to any regulation, order, or other action of the appropriate Federal banking agency referred to in subsection (a), the appropriate Federal banking agency shall promptly notify the State insurance authority for the insurance company, the Securities and Exchange Commission, or State securities regulator, as the case may be, of such requirement.

''(c) DIVESTITURE IN LIEU OF OTHER ACTION.—If the appropriate Federal banking agency receives a notice described in subsection (a)(2) from a State insurance authority or the Securities and Exchange Commission with regard to a subsidiary referred to in that subsection, the appropriate Federal banking agency may order the insured depository institution to divest the subsidiary not later than 180 days after receiving the notice, or such longer period as the appropriate Federal banking agency determines consistent with the safe and sound operation of the insured depository institution.

''(d) CONDITIONS BEFORE DIVESTITURE.—During the period beginning on the date an order to divest is issued by the appropriate Federal banking agency under subsection (c) to an insured depository institution and ending on the date the divestiture is complete, the appropriate Federal banking agency may impose any conditions or restrictions on the insured depository institution's ownership of the subsidiary including restricting or prohibiting transactions between the insured depository institution and the subsidiary, as are appropriate under the circumstances.''.

SEC. 114. PRUDENTIAL SAFEGUARDS.

(a) COMPTROLLER OF THE CURRENCY.—

(1) IN GENERAL.—The Comptroller of the Currency may, by regulation or order, impose restrictions or requirements on relationships or transactions between a national bank and a subsidiary of the national bank which the Comptroller finds are consistent with the public interest, the purposes of this Act, title LXII of the Revised Statutes of the United States, and other Federal law applicable to national banks, and the standards in paragraph (2).

(2) STANDARDS.—The Comptroller of the Currency may exercise authority under paragraph (1) if the Comptroller finds that such action will have any of the following effects:

(A) Avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund.

(B) Enhance the financial stability of banks.

(C) Avoid conflicts of interest or other abuses.

(D) Enhance the privacy of customers of the national bank or any subsidiary of the bank.

(E) Promote the application of national treatment and equality of competitive opportunity between subsidiaries owned or controlled by domestic banks and subsidiaries owned or controlled by foreign banks operating in the United States.

(3) REVIEW.—The Comptroller of the Currency shall regularly—

(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

(B) modify or eliminate any restriction or requirement the Comptroller finds is no longer required for such purposes.

(b) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System may, by regulation or order, impose restrictions or requirements on relationships or transactions—

(A) between a depository institution subsidiary of a bank holding company and any affiliate of such depository institution (other than a subsidiary of such institution); or

(B) between a State member bank and a subsidiary of such bank,

which the Board finds are consistent with the public interest, the purposes of this Act, the Bank Holding Company Act of 1956, the Federal Reserve Act, and other Federal law applicable to depository institution subsidiaries of bank holding companies or State banks (as the case may be), and the standards in paragraph (2).

(2) STANDARDS.—The Board of Governors of the Federal Reserve System may exercise authority under paragraph (1) if the Board finds that such action will have any of the following effects:

(A) Avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund.

(B) Enhance the financial stability of bank holding companies.

(C) Avoid conflicts of interest or other abuses.

(D) Enhance the privacy of customers of the State member bank or any subsidiary of the bank.

(E) Promote the application of national treatment and equality of competitive opportunity between nonbank affiliates owned or controlled by domestic bank holding companies and nonbank affiliates owned or controlled by foreign banks operating in the United States.

(3) REVIEW.—The Board of Governors of the Federal Reserve System shall regularly—

(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

(B) modify or eliminate any restriction or requirement the Board finds is no longer required for such purposes.

(4) FOREIGN BANKS.—

(A) IN GENERAL.—The Board may, by regulation or order, impose restrictions or requirements on relationships or transactions between a branch, agency, or commercial lending company of a foreign bank in the United States and any affiliate in the United States of such foreign bank that the Board finds are consistent with the public interest, the purposes of this Act, the Bank Holding Company Act of 1956, the Federal Reserve Act, and other Federal law applicable to foreign banks and their affiliates in the United States, and the standards in paragraphs (2) and (3).

(B) EVASION.—In the event that the Board determines that there may be circumstances that would result in an evasion of this paragraph, the Board may also impose restrictions or requirements on relationships or transactions between operations of a foreign bank outside the United States and any affiliate in the United States of such foreign bank that are consistent with national treatment and equality of competitive opportunity.

(c) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation may, by regulation or order, impose restrictions or requirements on relationships or transactions between a State nonmember bank (as defined in section 3 of the Federal Deposit Insurance Act) and a subsidiary of the State nonmember bank which the Corporation finds are consistent with the public interest, the purposes of this Act, the Federal Deposit Insurance Act, or other Federal law applicable to State nonmember banks and the standards in paragraph (2).

(2) STANDARDS.—The Federal Deposit Insurance Corporation may exercise authority under paragraph (1) if the Corporation finds that such action will have any of the following effects:

(A) Avoid any significant risk to the safety and soundness of depository institutions or any Federal deposit insurance fund.

(B) Enhance the financial stability of banks.

(C) Avoid conflicts of interest or other abuses.

(D) Enhance the privacy of customers of the State nonmember bank or any subsidiary of the bank.

(E) Promote the application of national treatment and equality of competitive opportunity between subsidiaries owned or controlled by domestic banks and subsidiaries owned or controlled by foreign banks operating in the United States.

(3) REVIEW.—The Federal Deposit Insurance Corporation shall regularly—

(A) review all restrictions or requirements established pursuant to paragraph (1) to determine whether there is a continuing need for any such restriction or requirement to carry out the purposes of the Act, including any purpose described in paragraph (2); and

(B) modify or eliminate any restriction or requirement the Corporation finds is no longer required for such purposes.

SEC. 115. EXAMINATION OF INVESTMENT COMPANIES.

(a) EXCLUSIVE COMMISSION AUTHORITY.—

(1) IN GENERAL.—Except as provided in paragraph (3), the Commission shall be the sole Federal agency with authority to inspect and examine any registered investment company that is not a bank holding company or a savings and loan holding company.

(2) PROHIBITION ON BANKING AGENCIES.—Except as provided in paragraph (3), a Federal banking agency may not inspect or examine any registered investment company that is not a bank holding company or a savings and loan holding company.

(3) CERTAIN EXAMINATIONS AUTHORIZED.—Nothing in this subsection prevents the Federal Deposit Insurance Corporation, if the Corporation finds it necessary to determine the condition of an insured depository institution for insurance purposes, from examining an affiliate of any insured depository institution, pursuant to its authority under section 10(b)(4) of the Federal Deposit Insurance Act, as may be necessary to disclose fully the relationship between the depository institution and the affiliate, and the effect of such relationship on the depository institution.

(b) EXAMINATION RESULTS AND OTHER INFORMATION.—The Commission shall provide to any Federal banking agency, upon request, the results of any examination, reports, records, or other information with respect to any registered investment company to the extent necessary for the agency to carry out its statutory responsibilities.

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

(1) BANK HOLDING COMPANY.—The term ''bank holding company'' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

(2) COMMISSION.—The term ''Commission'' means the Securities and Exchange Commission.

(3) FEDERAL BANKING AGENCY.—The term ''Federal banking agency'' has the same meaning as in section 3(z) of the Federal Deposit Insurance Act.

(4) REGISTERED INVESTMENT COMPANY.—The term ''registered investment company'' means an investment company which is registered with the Commission under the Investment Company Act of 1940.

(5) SAVINGS AND LOAN HOLDING COMPANY.—The term ''savings and loan holding company'' has the same meaning as in section 10(a)(1)(D) of the Home Owners' Loan Act.

SEC. 116. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended by inserting after section 10 the following new section:

''SEC. 10A. LIMITATION ON RULEMAKING, PRUDENTIAL, SUPERVISORY, AND ENFORCEMENT AUTHORITY OF THE BOARD.

''(a) LIMITATION ON DIRECT ACTION.—

''(1) IN GENERAL.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a regulated subsidiary of a bank holding company unless the action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by such subsidiary that poses a material risk to—

''(A) the financial safety, soundness, or stability of an affiliated depository institution; or

''(B) the domestic or international payment system.

''(2) CRITERIA FOR BOARD ACTION.—The Board shall not take action otherwise permitted under paragraph (1) unless the Board finds that it is not reasonably possible to effectively protect against the material risk at issue through action directed at or against the affiliated depository institution or against depository institutions generally.

''(b) LIMITATION ON INDIRECT ACTION.—The Board may not prescribe regulations, issue or seek entry of orders, impose restraints, restrictions, guidelines, requirements, safeguards, or standards, or otherwise take any action under or pursuant to any provision of this Act or section 8 of the Federal Deposit Insurance Act against or with respect to a financial holding company or a wholesale financial holding company where the purpose or effect of doing so would be to take action indirectly against or with respect to a regulated subsidiary that may not be taken directly against or with respect to such subsidiary in accordance with subsection (a).

''(c) ACTIONS SPECIFICALLY AUTHORIZED.—Notwithstanding subsection (a), the Board may take action under this Act or section 8 of the Federal Deposit Insurance Act to enforce compliance by a regulated subsidiary with Federal law that the Board has specific jurisdiction to enforce against such subsidiary.

''(d) REGULATED SUBSIDIARY DEFINED.—For purposes of this section, the term 'regulated subsidiary' means any company that is not a bank holding company and is—

''(1) a broker or dealer registered under the Securities Exchange Act of 1934;

''(2) an investment adviser registered by or on behalf of either the Securities and Exchange Commission or any State, whichever is required by law, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities;

''(3) an investment company registered under the Investment Company Act of 1940;

''(4) an insurance company or an insurance agency, with respect to the insurance activities and activities incidental to such insurance activities, subject to supervision by a State insurance commission, agency, or similar authority; or

''(5) an entity subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities.''.

SEC. 117. EQUIVALENT REGULATION AND SUPERVISION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the provisions of—

(1) section 5(c) of the Bank Holding Company Act of 1956 (as amended by this Act) that limit the authority of the Board of Governors of the Federal Reserve System to require reports from, to make examinations of, or to impose capital requirements on bank holding companies and their nonbank subsidiaries or that require deference to other regulators; and

(2) section 10A of the Bank Holding Company Act of 1956 (as added by this Act) that limit whatever authority the Board might otherwise have to take direct or indirect action with respect to bank holding companies and their nonbank subsidiaries,

shall also limit whatever authority that a Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) might otherwise have under any statute to require reports, make examinations, impose capital requirements or take any other direct or indirect action with respect to bank holding companies and their nonbank subsidiaries (including nonbank subsidiaries of depository institutions), subject to the same standards and requirements as are applicable to the Board under such provisions.

(b) CERTAIN EXAMINATIONS AUTHORIZED.—No provision of this section shall be construed as preventing the Federal Deposit Insurance Corporation, if the Corporation finds it necessary to determine the condition of an insured depository institution for insurance purposes, from examining an affiliate of any insured depository institution, pursuant to its authority under section 10(b)(4) of the Federal Deposit Insurance Act, as may be necessary to disclose fully the relationship between the depository institution and the affiliate, and the effect of such relationship on the depository institution.

SEC. 118. PROHIBITION ON FDIC ASSISTANCE TO AFFILIATES AND SUBSIDIARIES.

Section 11(a)(4)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(B)) is amended by striking ''to benefit any shareholder of'' and inserting ''to benefit any shareholder, affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act), or subsidiary of''.

SEC. 119. REPEAL OF SAVINGS BANK PROVISIONS IN THE BANK HOLDING COMPANY ACT OF 1956.

Section 3(f) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(f)) is amended to read as follows:

''(f) [Repealed].''.

SEC. 120. TECHNICAL AMENDMENT.

Section 2(o)(1)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(o)(1)(A)) is amended by striking ''section 38(b)'' and inserting ''section 38''.

Subtitle C—Subsidiaries of National Banks

SEC. 121. PERMISSIBLE ACTIVITIES FOR SUBSIDIARIES OF NATIONAL BANKS.

(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. SUBSIDIARIES OF NATIONAL BANKS.

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

''(1) EXCLUSIVE AUTHORITY.—No provision of section 5136 or any other provision of this title LXII of the Revised Statutes of the United States shall be construed as authorizing a subsidiary of a national bank to engage in, or own any share of or any other interest in any company engaged in, any activity that—

''(A) is not permissible for a national bank to engage in directly; or

''(B) is conducted under terms or conditions other than those that would govern the conduct of such activity by a national bank, unless a national bank is specifically authorized by the express terms of a Federal statute and not by implication or interpretation to acquire shares of or an interest in, or to control, such subsidiary, such as by paragraph (2) of this subsection and section 25A of the Federal Reserve Act.

''(2) SPECIFIC AUTHORIZATION TO CONDUCT ACTIVITIES WHICH ARE FINANCIAL IN NATURE.—Subject to paragraphs (3) and (4), a national bank may control a financial subsidiary, or hold an interest in a financial subsidiary, that is controlled by insured depository institutions or subsidiaries thereof.

''(3) ELIGIBILITY REQUIREMENTS.—A national bank may control or hold an interest in a company pursuant to paragraph (2) only if—

''(A) the national bank and all depository institution affiliates of the national bank are well capitalized;

''(B) the national bank and all depository institution affiliates of the national bank are well managed;

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

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

''(4) ACTIVITY LIMITATIONS.—In addition to any other limitation imposed on the activity of subsidiaries of national banks, a subsidiary of a national bank may not, pursuant to paragraph (2)—

''(A) engage as principal in insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death (other than in connection with credit-related insurance) or in providing or issuing annuities;

''(B) engage in real estate investment or development activities; or

''(C) engage in any activity permissible for a financial holding company under paragraph (3)(I) of section 6(c) of the Bank Holding Company Act of 1956 (relating to insurance company investments).

''(5) SIZE FACTOR WITH REGARD TO FREE-STANDING NATIONAL BANKS.—Notwithstanding paragraph (2), a national bank which has total assets of $10,000,000,000 or more may not control a subsidiary engaged in financial activities pursuant to such paragraph unless such national bank is a subsidiary of a bank holding company.

''(6) LIMITED EXCLUSIONS FROM COMMUNITY NEEDS REQUIREMENTS FOR NEWLY AFFILIATED DEPOSITORY INSTITUTIONS.—Any depository institution which becomes an affiliate of a national bank during the 12-month period preceding the date of an approval by the Comptroller of the Currency under paragraph (3)(D) for such bank, and any depository institution which becomes an affiliate

of the national bank after such date, may be excluded for purposes of paragraph (3)(C) during the 12-month period beginning on the date of such affiliation if—

''(A) the national bank or such depository institution has submitted an affirmative plan to the appropriate Federal banking agency to take such action as may be necessary in order for such institution to achieve a rating of 'satisfactory record of meeting community credit needs', or better, at the next examination of the institution; and

''(B) the plan has been accepted by such agency.

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

''(A) COMPANY; CONTROL; AFFILIATE; SUBSIDIARY.—The terms 'company', 'control', 'affiliate', and 'subsidiary' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

''(B) FINANCIAL SUBSIDIARY.—The term 'financial subsidiary' means a company which is a subsidiary of an insured bank and is engaged in financial activities that have been determined to be financial in nature or incidental to such financial activities in accordance with subsection (b) or permitted in accordance with subsection (b)(4), other than activities that are permissible for a national bank to engage in directly or that are authorized under the Bank Service Company Act, section 25 or 25A of the Federal Reserve Act, or any other Federal statute (other than this section) that specifically authorizes the conduct of such activities by its express terms and not by implication or interpretation.

''(C) WELL CAPITALIZED.—The term 'well capitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act and, for purposes of this section, the Comptroller shall have exclusive jurisdiction to determine whether a national bank is well capitalized.

''(D) WELL MANAGED.—The term 'well managed' means—

''(i) in the case of a depository institution that has been examined, unless otherwise determined in writing by the appropriate Federal banking agency—

''(I) the achievement of a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the depository institution; and

''(II) at least a rating of 2 for management, if that rating is given; or

''(ii) in the case of any depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.

''(E) INCORPORATED DEFINITIONS.—The terms 'appropriate Federal banking agency' and 'depository institution' have the same meanings as in section 3 of the Federal Deposit Insurance Act.

''(b) ACTIVITIES THAT ARE FINANCIAL IN NATURE.—

''(1) FINANCIAL ACTIVITIES.—

''(A) IN GENERAL.—For purposes of subsection (a)(7)(B), an activity shall be considered to have been determined to be financial in nature or incidental to such financial activities only if—

''(i) such activity is permitted for a financial holding company pursuant to section 6(c)(3) of the Bank Holding Company Act of 1956 (to the extent such activity is not otherwise prohibited under this section or any other provision of law for a subsidiary of a national bank engaged in activities pursuant to subsection (a)(2)); or

''(ii) the Secretary of the Treasury determines the activity to be financial in nature or incidental to such financial activities in accordance with subparagraph (B) or paragraph (3).

''(B) COORDINATION BETWEEN THE BOARD AND THE SECRETARY OF THE TREASURY.—

''(i) PROPOSALS RAISED BEFORE THE SECRETARY OF THE TREASURY.—

''(I) CONSULTATION.—The Secretary of the Treasury shall notify the Board of, and consult with the Board concerning, any request, proposal, or application under this subsection, including any regulation or order proposed under paragraph (3), for a determination of whether an activity is financial in nature or incidental to such a financial activity.

''(II) BOARD VIEW.—The Secretary of the Treasury shall not determine that any activity is financial in nature or incidental to a financial activity under this subsection if the Board notifies the Secretary in writing, not later than 30 days after the date of receipt of the notice described in subclause (I) (or such longer period as the Secretary determines to be appropriate in light of the circumstances) that the Board believes that the activity is not financial in nature or incidental to a financial activity.

''(ii) PROPOSALS RAISED BY THE BOARD.—

''(I) BOARD RECOMMENDATION.—The Board may, at any time, recommend in writing that the Secretary of the Treasury find an activity to be financial in nature or incidental to a financial activity (other than an activity which the Board has sole authority to regulate under subparagraph (C)).

''(II) TIME PERIOD FOR SECRETARIAL ACTION.—Not later than 30 days after the date of receipt of a written recommendation from the Board under subclause (I) (or such longer period as the Secretary of the Treasury and the Board determine to be appropriate in light of the circumstances), the Secretary shall determine whether to initiate a public rulemaking proposing that the subject recommended activity be found to be financial in nature or incidental to a financial activity under this subsection, and shall notify the Board in writing of the determination of the Secretary and, in the event that the Secretary determines not to seek public comment on the proposal, the reasons for that determination.

''(C) AUTHORITY OVER MERCHANT BANKING.—The Board shall have sole authority to prescribe regulations and issue interpretations to implement this paragraph with respect to activities described in section 6(c)(3)(H) of the Bank Holding Company Act of 1956.

''(2) FACTORS TO BE CONSIDERED.—In determining whether an activity is financial in nature or incidental to financial activities, the Secretary shall take into account—

''(A) the purposes of this Act and the Financial Services Act of 1999;

''(B) changes or reasonably expected changes in the marketplace in which banks compete;

''(C) changes or reasonably expected changes in the technology for delivering financial services; and

''(D) whether such activity is necessary or appropriate to allow a bank and the subsidiaries of a bank to—

''(i) compete effectively with any company seeking to provide financial services in the United States;

''(ii) use any available or emerging technological means, including any application necessary to protect the security or efficacy of systems for the transmission of data or financial transactions, in providing financial services; and

''(iii) offer customers any available or emerging technological means for using financial services.

''(3) AUTHORIZATION OF NEW FINANCIAL ACTIVITIES.—The Secretary of the Treasury shall, by regulation or order and in accordance with paragraph (1)(B), define, consistent with the purposes of this Act, the following activities as, and the extent to which such activities are, financial in nature or incidental to activities which are financial in nature:

''(A) Lending, exchanging, transferring, investing for others, or safeguarding financial assets other than money or securities.

''(B) Providing any device or other instrumentality for transferring money or other financial assets.

''(C) Arranging, effecting, or facilitating financial transactions for the account of third parties.

''(4) DEVELOPING ACTIVITIES.—Subject to subsection (a)(2), a financial subsidiary of a national bank may engage directly or indirectly, or acquire shares of any company engaged, in any activity that the Secretary has not determined to be financial in nature or incidental to financial activities under this subsection if—

''(A) the subsidiary reasonably concludes that the activity is financial in nature or incidental to financial activities;

''(B) the gross revenues from all activities conducted under this paragraph represent less than 5 percent of the consolidated gross revenues of the national bank;

''(C) the aggregate total assets of all companies the shares of which are held under this paragraph do not exceed 5 percent of the national bank's consolidated total assets;

''(D) the total capital invested in activities conducted under this paragraph represents less than 5 percent of the consolidated total capital of the national bank;

''(E) neither the Secretary of the Treasury nor the Board has determined that the activity is not financial in nature or incidental to financial activities under this subsection; and

''(F) the national bank provides written notice to the Secretary of the Treasury describing the activity commenced by the subsidiary or conducted by the company acquired no later than 10 business days after commencing the activity or consummating the acquisition.

''(c) PROVISIONS APPLICABLE TO NATIONAL BANKS THAT FAIL TO MEET REQUIREMENTS.—

''(1) IN GENERAL.—If a national bank or depository institution affiliate is not in compliance with the requirements of subparagraph (A), (B), or (C) of subsection (a)(3), the appropriate Federal banking agency shall notify the Comptroller of the Currency, who shall give notice of such finding to the national bank.

''(2) AGREEMENT TO CORRECT CONDITIONS REQUIRED.—Not later than 45 days after receipt by a national bank of a notice given under paragraph (1) (or such additional period as the Comptroller of the Currency may permit), the national bank and any relevant affiliated depository institution shall execute an agreement acceptable to the Comptroller of the Currency and the other appropriate Federal banking agencies, if any, to comply with the requirements applicable under subsection (a)(3).

''(3) COMPTROLLER OF THE CURRENCY MAY IMPOSE LIMITATIONS.—Until the conditions described in a notice to a national bank under paragraph (1) are corrected—

''(A) the Comptroller of the Currency may impose such limitations on the conduct or activities of the national bank or any subsidiary of the bank as the Comptroller of the Currency determines to be appropriate under the circumstances; and

''(B) the appropriate Federal banking agency may impose such limitations on the conduct or activities of an affiliated depository

institution or any subsidiary of the depository institution as such agency determines to be appropriate under the circumstances.

''(4) FAILURE TO CORRECT.—If, after receiving a notice under paragraph (1), a national bank and other affiliated depository institutions do not—

''(A) execute and implement an agreement in accordance with paragraph (2);

''(B) comply with any limitations imposed under paragraph (3);

''(C) in the case of a notice of failure to comply with subsection (a)(3)(A), restore the national bank or any depository institution affiliate of the bank to well capitalized status before the end of the 180-day period beginning on the date such notice is received by the national bank (or such other period permitted by the Comptroller of the Currency); or

''(D) in the case of a notice of failure to comply with subparagraph (B) or (C) of subsection (a)(3), restore compliance with any such subparagraph on or before the date on which the next examination of the depository institution subsidiary is completed or by the end of such other period as the Comptroller of the Currency determines to be appropriate,

the Comptroller of the Currency may require such national bank, under such terms and conditions as may be imposed by the Comptroller of the Currency and subject to such extension of time as may be granted in the Comptroller of the Currency's discretion, to divest control of any subsidiary engaged in activities pursuant to subsection (a)(2) or, at the election of the national bank, instead to cease to engage in any activity conducted by a subsidiary of the national bank pursuant to subsection (a)(2).

''(5) CONSULTATION.—In taking any action under this subsection, the Comptroller of the Currency shall consult with all relevant Federal and State regulatory agencies.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended—

(1) by redesignating the item relating to section 5136A as section 5136C; and

(2) by inserting after the item relating to section 5136 the following new item:

''5136A. Subsidiaries of national banks.''.

SEC. 122. SAFETY AND SOUNDNESS FIREWALLS BETWEEN BANKS AND THEIR FINANCIAL SUBSIDIARIES.

(a) PURPOSES.—The purposes of this section are—

(1) to protect the safety and soundness of any insured bank that has a financial subsidiary;

(2) to apply to any transaction between the bank and the financial subsidiary (including a loan, extension of credit, guarantee, or purchase of assets), other than an equity investment, the same restrictions and requirements as would apply if the financial subsidiary were a subsidiary of a bank holding company having control of the bank; and

(3) to apply to any equity investment of the bank in the financial subsidiary restrictions and requirements equivalent to those that would apply if—

(A) the bank paid a dividend in the same dollar amount to a bank holding company having control of the bank; and

(B) the bank holding company used the proceeds of the dividend to make an equity investment in a subsidiary that was engaged in the same activities as the financial subsidiary of the bank.

(b) SAFETY AND SOUNDNESS FIREWALLS APPLICABLE TO SUBSIDIARIES OF BANKS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 45 (as added by section 113(b) of this title) the following new section:

''SEC. 46. SAFETY AND SOUNDNESS FIREWALLS APPLICABLE TO SUBSIDIARIES OF BANKS.

''(a) LIMITING THE EQUITY INVESTMENT OF A BANK IN A SUBSIDIARY.—

''(1) CAPITAL DEDUCTION.—In determining whether an insured bank complies with applicable regulatory capital standards—

''(A) the appropriate Federal banking agency shall deduct from the assets and tangible equity of the bank the aggregate amount of the outstanding equity investments of the bank in financial subsidiaries of the bank; and

''(B) the assets and liabilities of such financial subsidiaries shall not be consolidated with those of the bank.

''(2) INVESTMENT LIMITATION.—An insured bank shall not, without the prior approval of the appropriate Federal banking agency, make any equity investment in a financial subsidiary of the bank if that investment would, when made, exceed the amount that the bank could pay as a dividend without obtaining prior regulatory approval.

''(3) TREATMENT OF RETAINED EARNINGS.—The amount of any net earnings retained by a financial subsidiary of an insured depository institution shall be treated as an outstanding equity investment of the bank in the subsidiary for purposes of paragraph (1).

''(b) OPERATIONAL AND FINANCIAL SAFEGUARDS FOR THE BANK.—An insured bank that has a financial subsidiary shall maintain procedures for identifying and managing any financial and operational risks posed by the financial subsidiary.

''(c) MAINTENANCE OF SEPARATE CORPORATE IDENTITY AND SEPARATE LEGAL STATUS.—

''(1) IN GENERAL.—Each insured bank shall ensure that the bank maintains and complies with reasonable policies and procedures to preserve the separate corporate identity and legal status of the bank and any financial subsidiary or affiliate of the bank.

''(2) EXAMINATIONS.—The appropriate Federal banking agency, as part of each examination, shall review whether an insured bank is observing the separate corporate identity and separate legal status of any subsidiaries and affiliates of the bank.

''(d) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section, the term 'financial subsidiary' has the meaning given to such term in section 5136A(a)(7)(B) of the Revised Statutes of the United States.

''(e) REGULATIONS.—The appropriate Federal banking agencies shall jointly prescribe regulations implementing this section.''.

(c) 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 is a subsidiary of a bank and is engaged in activities that are financial in nature or incidental to such financial activities pursuant to subsection (a)(2) or (b)(4) of section 5136A of the Revised Statutes of the United States.

''(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 or which are authorized by any Federal law other than section 5136A of the Revised Statutes of the United States.

''(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.''.

(d) ANTITYING.—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 subsidiary of a national bank which engages in activities pursuant to subsection (a)(2) or (b)(4) of section 5136A of the Revised Statutes of the United States shall be deemed to be a subsidiary of a bank holding company, and not a subsidiary of a bank.''.

SEC. 123. MISREPRESENTATIONS REGARDING DEPOSITORY INSTITUTION LIABILITY FOR OBLIGATIONS OF AFFILIATES.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1007 the following new section:

''§ 1008. Misrepresentations regarding financial institution liability for obligations of affiliates

''(a) IN GENERAL.—No institution-affiliated party of an insured depository institution or institution-affiliated party of a subsidiary or affiliate of an insured depository institution shall fraudulently represent that the institution is or will be liable for any obligation of a subsidiary or other affiliate of the institution.

''(b) CRIMINAL PENALTY.—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 5 years, or both.

''(c) INSTITUTION-AFFILIATED PARTY DEFINED.—For purposes of this section, the term 'institution-affiliated party' has the same meaning as in section 3 of the Federal Deposit Insurance Act and any reference in that section shall also be deemed to refer to a subsidiary or affiliate of an insured depository institution.

''(d) OTHER DEFINITIONS.—For purposes of this section, the terms 'affiliate', 'insured depository institution', and 'subsidiary' have same meanings as in section 3 of the Federal Deposit Insurance Act.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after

the item relating to section 1007 the following new item:

''1008. Misrepresentations regarding financial institution liability for obligations of affiliates.''.

SEC. 124. REPEAL OF STOCK LOAN LIMIT IN FEDERAL RESERVE ACT.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by striking the paragraph designated as ''(m)'' and inserting ''(m) [Repealed]''.

Subtitle D—Wholesale Financial Holding Companies; Wholesale Financial Institutions

CHAPTER 1—WHOLESALE FINANCIAL HOLDING COMPANIES

SEC. 131. WHOLESALE FINANCIAL HOLDING COMPANIES ESTABLISHED.

Section 10 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended to read as follows:

''SEC. 10. WHOLESALE FINANCIAL HOLDING COMPANIES.

''(a) COMPANIES THAT CONTROL WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) WHOLESALE FINANCIAL HOLDING COMPANY DEFINED.—The term 'wholesale financial holding company' means any company that—

''(A) is registered as a bank holding company;

''(B) is predominantly engaged in financial activities as defined in section 6(f)(2);

''(C) controls 1 or more wholesale financial institutions;

''(D) does not control—

''(i) a bank other than a wholesale financial institution;

''(ii) an insured bank other than an institution permitted under subparagraph (D), (F), or (G) of section 2(c)(2); or

''(iii) a savings association; and

''(E) is not a foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978).

''(2) SAVINGS ASSOCIATION TRANSITION PERIOD.—Notwithstanding paragraph (1)(D)(iii), the Board may permit a company that controls a savings association and that otherwise meets the requirements of paragraph (1) to become supervised under paragraph (1), if the company divests control of any such savings association within such period not to exceed 5 years after becoming supervised under paragraph (1) as permitted by the Board.

''(b) SUPERVISION BY THE BOARD.—

''(1) IN GENERAL.—The provisions of this section shall govern the reporting, examination, and capital requirements of wholesale financial holding companies.

''(2) REPORTS.—

''(A) IN GENERAL.—The Board from time to time may require any wholesale financial holding company and any subsidiary of such company to submit reports under oath to keep the Board informed as to—

''(i) the company's or subsidiary's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions with depository institution subsidiaries of the holding company; and

''(ii) the extent to which the company or subsidiary has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—The Board shall, to the fullest extent possible, accept reports in fulfillment of the Board's reporting requirements under this paragraph that the wholesale financial holding company or any subsidiary of such company has provided or been required to provide to other Federal and State supervisors or to appropriate self-regulatory organizations.

''(ii) AVAILABILITY.—A wholesale financial holding company or a subsidiary of such company shall provide to the Board, at the request of the Board, a report referred to in clause (i).

''(C) EXEMPTIONS FROM REPORTING REQUIREMENTS.—

''(i) IN GENERAL.—The Board may, by regulation or order, exempt any company or class of companies, under such terms and conditions and for such periods as the Board shall provide in such regulation or order, from the provisions of this paragraph and any regulation prescribed under this paragraph.

''(ii) CRITERIA FOR CONSIDERATION.—In making any determination under clause (i) with regard to any exemption under such clause, the Board shall consider, among such other factors as the Board may determine to be appropriate, the following factors:

''(I) Whether information of the type required under this paragraph is available from a supervisory agency (as defined in section 1101(7) of the Right to Financial Privacy Act of 1978) or a foreign regulatory authority of a similar type.

''(II) The primary business of the company.

''(III) The nature and extent of the domestic and foreign regulation of the activities of the company.

''(3) EXAMINATIONS.—

''(A) LIMITED USE OF EXAMINATION AUTHORITY.—The Board may make examinations of each wholesale financial holding company and each subsidiary of such company in order to—

''(i) inform the Board regarding the nature of the operations and financial condition of the wholesale financial holding company and its subsidiaries;

''(ii) inform the Board regarding—

''(I) the financial and operational risks within the wholesale financial holding company system that may affect any depository institution owned by such holding company; and

''(II) the systems of the holding company and its subsidiaries for monitoring and controlling those risks; and

''(iii) monitor compliance with the provisions of this Act and those governing transactions and relationships between any depository institution controlled by the wholesale financial holding company and any of the company's other subsidiaries.

''(B) RESTRICTED FOCUS OF EXAMINATIONS.—The Board shall, to the fullest extent possible, limit the focus and scope of any examination of a wholesale financial holding company under this paragraph to—

''(i) the holding company; and

''(ii) any subsidiary (other than an insured depository institution subsidiary) of the holding company that, because of the size, condition, or activities of the subsidiary, the nature or size of transactions between such subsidiary and any affiliated depository institution, or the centralization of functions within the holding company system, could have a materially adverse effect on the safety and soundness of any depository institution affiliate of the holding company.

''(C) DEFERENCE TO BANK EXAMINATIONS.—The Board shall, to the fullest extent possible, use the reports of examination of depository institutions made by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision or the appropriate State depository institution supervisory authority for the purposes of this section.

''(D) DEFERENCE TO OTHER EXAMINATIONS.—The Board shall, to the fullest extent possible, address the circumstances which might otherwise permit or require an examination by the Board by forgoing an examination and by instead reviewing the reports of examination made of—

''(i) any registered broker or dealer or any registered investment adviser by or on behalf of the Commission; and

''(ii) any licensed insurance company by or on behalf of any State government insurance agency responsible for the supervision of the insurance company.

''(E) CONFIDENTIALITY OF REPORTED INFORMATION.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, the Board shall not be compelled to disclose any nonpublic information required to be reported under this paragraph, or any information supplied to the Board by any domestic or foreign regulatory agency, that relates to the financial or operational condition of any wholesale financial holding company or any subsidiary of such company.

''(ii) COMPLIANCE WITH REQUESTS FOR INFORMATION.—No provision of this subparagraph shall be construed as authorizing the Board to withhold information from the Congress, or preventing the Board from complying with a request for information from any other Federal department or agency for purposes within the scope of such department's or agency's jurisdiction, or from complying with any order of a court of competent jurisdiction in an action brought by the United States or the Board.

''(iii) COORDINATION WITH OTHER LAW.—For purposes of section 552 of title 5, United States Code, this subparagraph shall be considered to be a statute described in subsection (b)(3)(B) of such section.

''(iv) DESIGNATION OF CONFIDENTIAL INFORMATION.—In prescribing regulations to carry out the requirements of this subsection, the Board shall designate information described in or obtained pursuant to this paragraph as confidential information.

''(F) COSTS.—The cost of any examination conducted by the Board under this section may be assessed against, and made payable by, the wholesale financial holding company.

''(4) CAPITAL ADEQUACY GUIDELINES.—

''(A) CAPITAL ADEQUACY PROVISIONS.—Subject to the requirements of, and solely in accordance with, the terms of this paragraph, the Board may adopt capital adequacy rules or guidelines for wholesale financial holding companies.

''(B) METHOD OF CALCULATION.—In developing rules or guidelines under this paragraph, the following provisions shall apply:

''(i) FOCUS ON DOUBLE LEVERAGE.—The Board shall focus on the use by wholesale financial holding companies of debt and other liabilities to fund capital investments in subsidiaries.

''(ii) NO UNWEIGHTED CAPITAL RATIO.—The Board shall not, by regulation, guideline, order, or otherwise, impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

''(iii) NO CAPITAL REQUIREMENT ON REGULATED ENTITIES.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that—

''(I) is not a depository institution; and

''(II) is in compliance with applicable capital requirements of another Federal regulatory authority (including the Securities and Exchange Commission) or State insurance authority.

''(iv) LIMITATION.—The Board shall not, by regulation, guideline, order or otherwise, prescribe or impose any capital or capital adequacy rules, standards, guidelines, or requirements upon any subsidiary that is not a depository institution and that is registered as an investment adviser under the Investment Advisers Act of 1940, except that this

clause shall not be construed as preventing the Board from imposing capital or capital adequacy rules, guidelines, standards, or requirements with respect to activities of a registered investment adviser other than investment advisory activities or activities incidental to investment advisory activities.

''(v) LIMITATIONS ON INDIRECT ACTION.—In developing, establishing, or assessing holding company capital or capital adequacy rules, guidelines, standards, or requirements for purposes of this paragraph, the Board shall not take into account the activities, operations, or investments of an affiliated investment company registered under the Investment Company Act of 1940, unless the investment company is—

''(I) a bank holding company; or

''(II) controlled by a bank holding company by reason of ownership by the bank holding company (including through all of its affiliates) of 25 percent or more of the shares of the investment company, and the shares owned by the bank holding company have a market value equal to more than $1,000,000.

''(vi) APPROPRIATE EXCLUSIONS.—The Board shall take full account of—

''(I) the capital requirements made applicable to any subsidiary that is not a depository institution by another Federal regulatory authority or State insurance authority; and

''(II) industry norms for capitalization of a company's unregulated subsidiaries and activities.

''(vii) INTERNAL RISK MANAGEMENT MODELS.—The Board may incorporate internal risk management models of wholesale financial holding companies into its capital adequacy guidelines or rules and may take account of the extent to which resources of a subsidiary depository institution may be used to service the debt or other liabilities of the wholesale financial holding company.

''(c) NONFINANCIAL ACTIVITIES AND INVESTMENTS.—

''(1) GRANDFATHERED ACTIVITIES.—

''(A) IN GENERAL.—Notwithstanding section 4(a), a company that becomes a wholesale financial holding company may continue to engage, directly or indirectly, in any activity and may retain ownership and control of shares of a company engaged in any activity if—

''(i) on the date of the enactment of the Financial Services Act of 1999, such wholesale financial holding company was lawfully engaged in that nonfinancial activity, held the shares of such company, or had entered into a contract to acquire shares of any company engaged in such activity; and

''(ii) the company engaged in such activity continues to engage only in the same activities that such company conducted on the date of the enactment of the Financial Services Act of 1999, and other activities permissible under this Act.

''(B) NO EXPANSION OF GRANDFATHERED COMMERCIAL ACTIVITIES THROUGH MERGER OR CONSOLIDATION.—A wholesale financial holding company that engages in activities or holds shares pursuant to this paragraph, or a subsidiary of such wholesale financial holding company, may not acquire, in any merger, consolidation, or other type of business combination, assets of any other company which is engaged in any activity which the Board has not determined to be financial in nature or incidental to activities that are financial in nature under section 6(c).

''(C) LIMITATION TO SINGLE EXEMPTION.—No company that engages in any activity or controls any shares under subsection (f) of section 6 may engage in any activity or own any shares pursuant to this paragraph.

''(2) COMMODITIES.—

''(A) IN GENERAL.—Notwithstanding section 4(a), a wholesale financial holding company which was predominately engaged as of January 1, 1997, in financial activities in the United States (or any successor to any such company) may engage in, or directly or indirectly own or control shares of a company engaged in, activities related to the trading, sale, or investment in commodities and underlying physical properties that were not permissible for bank holding companies to conduct in the United States as of January 1, 1997, if such wholesale financial holding company, or any subsidiary of such holding company, was engaged directly, indirectly, or through any such company in any of such activities as of January 1, 1997, in the United States.

''(B) LIMITATION.—The attributed aggregate consolidated assets of a wholesale financial holding company held under the authority granted under this paragraph and not otherwise permitted to be held by all wholesale financial holding companies under this section may not exceed 5 percent of the total consolidated assets of the wholesale financial holding company, except that the Board may increase such percentage of total consolidated assets by such amounts and under such circumstances as the Board considers appropriate, consistent with the purposes of this Act.

''(3) CROSS MARKETING RESTRICTIONS.—A wholesale financial holding company shall not permit—

''(A) any company whose shares it owns or controls pursuant to paragraph (1) or (2) to offer or market any product or service of an affiliated wholesale financial institution; or

''(B) any affiliated wholesale financial institution to offer or market any product or service of any company whose shares are owned or controlled by such wholesale financial holding company pursuant to such paragraphs.

''(d) QUALIFICATION OF FOREIGN BANK AS WHOLESALE FINANCIAL HOLDING COMPANY.—

''(1) IN GENERAL.—Any foreign bank, or any company that owns or controls a foreign bank, that operates a branch, agency, or commercial lending company in the United States, including a foreign bank or company that owns or controls a wholesale financial institution, may request a determination from the Board that such bank or company be treated as a wholesale financial holding company other than for purposes of subsection (c), subject to such conditions as the Board considers appropriate, giving due regard to the principle of national treatment and equality of competitive opportunity and the requirements imposed on domestic banks and companies.

''(2) CONDITIONS FOR TREATMENT AS A WHOLESALE FINANCIAL HOLDING COMPANY.—A foreign bank and a company that owns or controls a foreign bank may not be treated as a wholesale financial holding company unless the bank and company meet and continue to meet the following criteria:

''(A) NO INSURED DEPOSITS.—No deposits held directly by a foreign bank or through an affiliate (other than an institution described in subparagraph (D) or (F) of section 2(c)(2)) are insured under the Federal Deposit Insurance Act.

''(B) CAPITAL STANDARDS.—The foreign bank meets risk-based capital standards comparable to the capital standards required for a wholesale financial institution, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(C) TRANSACTION WITH AFFILIATES.—Transactions between a branch, agency, or commercial lending company subsidiary of the foreign bank in the United States, and any securities affiliate or company in which the foreign bank (or any company that owns or controls such foreign bank) has invested, directly or indirectly, and which engages in any activity pursuant to subsection (c) or (g) of section 6, comply with the provisions of sections 23A and 23B of the Federal Reserve Act in the same manner and to the same extent as such transactions would be required to comply with such sections if the bank were a member bank.

''(3) TREATMENT AS A WHOLESALE FINANCIAL INSTITUTION.—Any foreign bank which is, or is affiliated with a company which is, treated as a wholesale financial holding company under this subsection shall be treated as a wholesale financial institution for purposes of subsections (c)(1)(C) and (c)(3) of section 9B of the Federal Reserve Act, and any such foreign bank or company shall be subject to paragraphs (3), (4), and (5) of section 9B(d) of the Federal Reserve Act, except that the Board may adopt such modifications, conditions, or exemptions as the Board deems appropriate, giving due regard to the principle of national treatment and equality of competitive opportunity.

''(4) SUPERVISION OF FOREIGN BANK WHICH MAINTAINS NO BANKING PRESENCE OTHER THAN CONTROL OF A WHOLESALE FINANCIAL INSTITUTION.—A foreign bank that owns or controls a wholesale financial institution but does not operate a branch, agency, or commercial lending company in the United States (and any company that owns or controls such foreign bank) may request a determination from the Board that such bank or company be treated as a wholesale financial holding company, except that such bank or company shall be subject to the restrictions of paragraphs (2)(A) and (3) of this subsection.

''(5) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed as limiting the authority of the Board under the International Banking Act of 1978 with respect to the regulation, supervision, or examination of foreign banks and their offices and affiliates in the United States.

''(6) APPLICABILITY OF COMMUNITY REINVESTMENT ACT OF 1977.—The branches in the United States of a foreign bank that is, or is affiliated with a company that is, treated as a wholesale financial holding company shall be subject to section 9B(b)(11) of the Federal Reserve Act as if the foreign bank were a wholesale financial institution under such section. The Board and the Comptroller of the Currency shall apply the provisions of sections 803(2), 804, and 807(1) of the Community Reinvestment Act of 1977 to branches of foreign banks which receive only such deposits as are permissible for receipt by a corporation organized under section 25A of the Federal Reserve Act, in the same manner and to the same extent such sections apply to such a corporation.''.

SEC. 132. AUTHORIZATION TO RELEASE REPORTS.

(a) FEDERAL RESERVE ACT.—The last sentence of the eighth undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 326) is amended to read as follows: ''The Board of Governors of the Federal Reserve System, at its discretion, may furnish reports of examination or other confidential supervisory information concerning State member banks or any other entities examined under any other authority of the Board to any Federal or State authorities with supervisory or regulatory authority over the examined entity, to officers, directors, or receivers of the examined entity, and to any other person that the Board determines to be proper.''.

(b) COMMODITY FUTURES TRADING COMMISSION.—The Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.) is amended—

(1) in section 1101(7) of the (12 U.S.C. 3401(7))—

(A) by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I), respectively; and

(B) by inserting after subparagraph (F) the following new subparagraph:

''(G) the Commodity Futures Trading Commission; or''; and

(2) in section 1112(e), by striking ''and the Securities and Exchange Commission'' and inserting '', the Securities and Exchange Commission, and the Commodity Futures Trading Commission''.

SEC. 133. CONFORMING AMENDMENTS.

(a) BANK HOLDING COMPANY ACT OF 1956.—

(1) DEFINITIONS.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended by inserting after subsection (p) (as added by section 103(b)(1)) the following new subsections:

''(q) WHOLESALE FINANCIAL INSTITUTION.—The term 'wholesale financial institution' means a wholesale financial institution subject to section 9B of the Federal Reserve Act.

''(r) COMMISSION.—The term 'Commission' means the Securities and Exchange Commission.

''(s) DEPOSITORY INSTITUTION.—The term 'depository institution'—

''(1) has the meaning given to such term in section 3 of the Federal Deposit Insurance Act; and

''(2) includes a wholesale financial institution.''.

(2) DEFINITION OF BANK INCLUDES WHOLESALE FINANCIAL INSTITUTION.—Section 2(c)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(1)) is amended by adding at the end the following new subparagraph:

''(C) A wholesale financial institution.''.

(3) INCORPORATED DEFINITIONS.—Section 2(n) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(n)) is amended by inserting '' 'insured bank','' after '' 'in danger of default',''.

(4) EXCEPTION TO DEPOSIT INSURANCE REQUIREMENT.—Section 3(e) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(e)) is amended by adding at the end the following: ''This subsection shall not apply to a wholesale financial institution.''.

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(q)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)(2)(A)) is amended to read as follows:

''(A) any State member insured bank (except a District bank) and any wholesale financial institution subject to section 9B of the Federal Reserve Act;''.

CHAPTER 2—WHOLESALE FINANCIAL INSTITUTIONS

SEC. 136. WHOLESALE FINANCIAL INSTITUTIONS.

(a) NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.—

(1) 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 5136A (as added by section 121(a) of this title) the following new section:

''SEC. 5136B. NATIONAL WHOLESALE FINANCIAL INSTITUTIONS.

''(a) AUTHORIZATION OF THE COMPTROLLER REQUIRED.—A national bank may apply to the Comptroller on such forms and in accordance with such regulations as the Comptroller may prescribe, for permission to operate as a national wholesale financial institution.

''(b) REGULATION.—A national wholesale financial institution may exercise, in accordance with such institution's articles of incorporation and regulations issued by the Comptroller, all the powers and privileges of a national bank formed in accordance with section 5133 of the Revised Statutes of the United States, subject to section 9B of the Federal Reserve Act and the limitations and restrictions contained therein.

''(c) COMMUNITY REINVESTMENT ACT OF 1977.—A national wholesale financial institution shall be subject to the Community Reinvestment Act of 1977.

(2) CLERICAL AMENDMENT.—The table of sections for chapter one of title LXII of the Revised Statutes of the United States is amended by inserting after the item relating to section 5136A (as added by section 121(d) of this title) the following new item:

''5136B. National wholesale financial institutions.''.

(b) WHOLESALE FINANCIAL INSTITUTIONS.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 9A the following new section:

''SEC. 9B. WHOLESALE FINANCIAL INSTITUTIONS.

''(a) APPLICATION FOR MEMBERSHIP AS WHOLESALE FINANCIAL INSTITUTION.—

''(1) APPLICATION REQUIRED.—

''(A) IN GENERAL.—Any bank may apply to the Board of Governors of the Federal Reserve System to become a State wholesale financial institution, or to the Comptroller of the Currency to become a national wholesale financial institution, and, as a wholesale financial institution, to subscribe to the stock of the Federal reserve bank organized within the district where the applying bank is located.

''(B) TREATMENT AS MEMBER BANK.—Any application under subparagraph (A) shall be treated as an application under, and shall be subject to the provisions of, section 9.

''(2) INSURANCE TERMINATION.—No bank the deposits of which are insured under the Federal Deposit Insurance Act may become a wholesale financial institution unless it has met all requirements under that Act for voluntary termination of deposit insurance.

''(b) GENERAL REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) FEDERAL RESERVE ACT.—Except as otherwise provided in this section, wholesale financial institutions shall be member banks and shall be subject to the provisions of this Act that apply to member banks to the same extent and in the same manner as State member insured banks or national banks, except that a wholesale financial institution may terminate membership under this Act only with the prior written approval of the Board and on terms and conditions that the Board determines are appropriate to carry out the purposes of this Act.

''(2) PROMPT CORRECTIVE ACTION.—A wholesale financial institution shall be deemed to be an insured depository institution for purposes of section 38 of the Federal Deposit Insurance Act except that—

''(A) the relevant capital levels and capital measures for each capital category shall be the levels specified by the Board for wholesale financial institutions;

''(B) subject to subparagraph (A), all references to the appropriate Federal banking agency or to the Corporation in that section shall be deemed to be references to the Comptroller of the Currency, in the case of a national wholesale financial institution, and to the Board, in the case of all other wholesale financial institutions; and

''(C) in the case of wholesale financial institutions, the purpose of prompt corrective action shall be to protect taxpayers and the financial system from the risks associated with the operation and activities of wholesale financial institutions.

''(3) ENFORCEMENT AUTHORITY.—Section 3(u), subsections (j) and (k) of section 7, subsections (b) through (n), (s), (u), and (v) of section 8, and section 19 of the Federal Deposit Insurance Act shall apply to a wholesale financial institution in the same manner and to the same extent as such provisions apply to State member insured banks or national banks, as the case may be, and any reference in such sections to an insured depository institution shall be deemed to include a reference to a wholesale financial institution.

''(4) CERTAIN OTHER STATUTES APPLICABLE.—A wholesale financial institution shall be deemed to be a banking institution, and the Board shall be the appropriate Federal banking agency for such bank and all such bank's affiliates, for purposes of the International Lending Supervision Act.

''(5) BANK MERGER ACT.—A wholesale financial institution shall be subject to sections 18(c) and 44 of the Federal Deposit Insurance Act in the same manner and to the same extent the wholesale financial institution would be subject to such sections if the institution were a State member insured bank or a national bank.

''(6) BRANCHING.—Notwithstanding any other provision of law, a wholesale financial institution may establish and operate a branch at any location on such terms and conditions as established by, and with the approval of—

''(A) the Board, in the case of a State-chartered wholesale financial institution; and

''(B) the Comptroller of the Currency, in the case of a national bank wholesale financial institution.

''(7) ACTIVITIES OF OUT-OF-STATE BRANCHES OF WHOLESALE FINANCIAL INSTITUTIONS.—A State-chartered wholesale financial institution shall be deemed to be a State bank and an insured State bank for purposes of paragraphs (1), (2), and (3) of section 24(j) of the Federal Deposit Insurance Act.

''(8) DISCRIMINATION REGARDING INTEREST RATES.—Section 27 of the Federal Deposit Insurance Act shall apply to State-chartered wholesale financial institutions in the same manner and to the same extent as such provisions apply to State member insured banks and any reference in such section to a State-chartered insured depository institution shall be deemed to include a reference to a State-chartered wholesale financial institution.

''(9) PREEMPTION OF STATE LAWS REQUIRING DEPOSIT INSURANCE FOR WHOLESALE FINANCIAL INSTITUTIONS.—The appropriate State banking authority may grant a charter to a wholesale financial institution notwithstanding any State constitution or statute requiring that the institution obtain insurance of its deposits and any such State constitution or statute is hereby preempted solely for purposes of this paragraph.

''(10) PARITY FOR WHOLESALE FINANCIAL INSTITUTIONS.—A State bank that is a wholesale financial institution under this section shall have all of the rights, powers, privileges, and immunities (including those derived from status as a federally chartered institution) of and as if it were a national bank, subject to such terms and conditions as established by the Board.

''(11) COMMUNITY REINVESTMENT ACT OF 1977.—A State wholesale financial institution shall be subject to the Community Reinvestment Act of 1977.

''(c) SPECIFIC REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) LIMITATIONS ON DEPOSITS.—

''(A) MINIMUM AMOUNT.—

''(i) IN GENERAL.—No wholesale financial institution may receive initial deposits of $100,000 or less, other than on an incidental and occasional basis.

''(ii) LIMITATION ON DEPOSITS OF LESS THAN $100,000.—No wholesale financial institution may receive initial deposits of $100,000 or less if such deposits constitute more than 5 percent of the institution's total deposits.

''(B) NO DEPOSIT INSURANCE.—Except as otherwise provided in section 8A(f) of the Federal Deposit Insurance Act, no deposits held by a wholesale financial institution

shall be insured deposits under the Federal Deposit Insurance Act.

''(C) ADVERTISING AND DISCLOSURE.—The Board and the Comptroller of the Currency shall prescribe jointly regulations pertaining to advertising and disclosure by wholesale financial institutions to ensure that each depositor is notified that deposits at the wholesale financial institution are not federally insured or otherwise guaranteed by the United States Government.

''(2) MINIMUM CAPITAL LEVELS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—The Board shall, by regulation, adopt capital requirements for wholesale financial institutions—

''(A) to account for the status of wholesale financial institutions as institutions that accept deposits that are not insured under the Federal Deposit Insurance Act; and

''(B) to provide for the safe and sound operation of the wholesale financial institution without undue risk to creditors or other persons, including Federal reserve banks, engaged in transactions with the bank.

''(3) ADDITIONAL REQUIREMENTS APPLICABLE TO WHOLESALE FINANCIAL INSTITUTIONS.—In addition to any requirement otherwise applicable to State member insured banks or applicable, under this section, to wholesale financial institutions, the Board may impose, by regulation or order, upon wholesale financial institutions—

''(A) limitations on transactions, direct or indirect, with affiliates to prevent—

''(i) the transfer of risk to the deposit insurance funds; or

''(ii) an affiliate from gaining access to, or the benefits of, credit from a Federal reserve bank, including overdrafts at a Federal reserve bank;

''(B) special clearing balance requirements; and

''(C) any additional requirements that the Board determines to be appropriate or necessary to—

''(i) promote the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

''(ii) prevent the transfer of risk to the deposit insurance funds; or

''(iii) protect creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

''(4) EXEMPTIONS FOR WHOLESALE FINANCIAL INSTITUTIONS.—The Board may, by regulation or order, exempt any wholesale financial institution from any provision applicable to a member bank that is not a wholesale financial institution, if the Board finds that such exemption is consistent with—

''(A) the promotion of the safety and soundness of the wholesale financial institution or any insured depository institution affiliate of the wholesale financial institution;

''(B) the protection of the deposit insurance funds; and

''(C) the protection of creditors and other persons, including Federal reserve banks, engaged in transactions with the wholesale financial institution.

''(5) LIMITATION ON TRANSACTIONS BETWEEN A WHOLESALE FINANCIAL INSTITUTION AND AN INSURED BANK.—For purposes of section 23A(d)(1) of the Federal Reserve Act, a wholesale financial institution that is affiliated with an insured bank shall not be a bank.

''(6) NO EFFECT ON OTHER PROVISIONS.—This section shall not be construed as limiting the Board's authority over member banks or the authority of the Comptroller of the Currency over national banks under any other provision of law, or to create any obligation for any Federal Reserve bank to make, increase, renew, or extend any advance or discount under this Act to any member bank or other depository institution.

''(d) CAPITAL AND MANAGERIAL REQUIREMENTS.—

''(1) IN GENERAL.—A wholesale financial institution shall be well capitalized and well managed.

''(2) NOTICE TO COMPANY.—The Board shall promptly provide notice to a company that controls a wholesale financial institution whenever such wholesale financial institution is not well capitalized or well managed.

''(3) AGREEMENT TO RESTORE INSTITUTION.—Not later than 45 days after the date of receipt of a notice under paragraph (2) (or such additional period not to exceed 90 days as the Board may permit), the company shall execute an agreement acceptable to the Board to restore the wholesale financial institution to compliance with all of the requirements of paragraph (1).

''(4) LIMITATIONS UNTIL INSTITUTION RESTORED.—Until the wholesale financial institution is restored to compliance with all of the requirements of paragraph (1), the Board may impose such limitations on the conduct or activities of the company or any affiliate of the company as the Board determines to be appropriate under the circumstances.

''(5) FAILURE TO RESTORE.—If the company does not execute and implement an agreement in accordance with paragraph (3), comply with any limitation imposed under paragraph (4), restore the wholesale financial institution to well capitalized status not later than 180 days after the date of receipt by the company of the notice described in paragraph (2), or restore the wholesale financial institution to well managed status within such period as the Board may permit, the company shall, under such terms and conditions as may be imposed by the Board subject to such extension of time as may be granted in the discretion of the Board, divest control of its subsidiary depository institutions.

''(6) WELL MANAGED DEFINED.—For purposes of this subsection, the term 'well managed' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

''(e) RESOLUTION OF WHOLESALE FINANCIAL INSTITUTIONS.—

''(1) CONSERVATORSHIP OR RECEIVERSHIP.—

''(A) APPOINTMENT.—The Board may appoint a conservator or receiver to take possession and control of a wholesale financial institution to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank.

''(B) POWERS.—The conservator or receiver for a wholesale financial institution shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

''(2) BOARD AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed under paragraph (1), and the wholesale financial institution for which it has been appointed, as the Comptroller of the Currency has with respect to a conservator or receiver for a national bank and the national bank for which the conservator or receiver has been appointed.

''(3) BANKRUPTCY PROCEEDINGS.—The Comptroller of the Currency (in the case of a national wholesale financial institution) or the Board may direct the conservator or receiver of a wholesale financial institution to file a petition pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the wholesale financial institution in lieu of otherwise applicable Federal or State insolvency law.

''(f) BOARD BACKUP AUTHORITY.—

''(1) NOTICE TO THE COMPTROLLER.—Before taking any action under section 8 of the Federal Deposit Insurance Act involving a wholesale financial institution that is chartered as a national bank, the Board shall notify the Comptroller and recommend that the Comptroller take appropriate action. If the Comptroller fails to take the recommended action or to provide an acceptable plan for addressing the concerns of the Board before the close of the 30-day period beginning on the date of receipt of the formal recommendation from the Board, the Board may take such action.

''(2) EXIGENT CIRCUMSTANCES.—Notwithstanding paragraph (1), the Board may exercise its authority without regard to the time period set forth in paragraph (1) where the Board finds that exigent circumstances exist and the Board notifies the Comptroller of the Board's action and of the exigent circumstances.

''(g) EXCLUSIVE JURISDICTION.—Subsections (c) and (e) of section 43 of the Federal Deposit Insurance Act shall not apply to any wholesale financial institution.''.

(c) VOLUNTARY TERMINATION OF INSURED STATUS BY CERTAIN INSTITUTIONS.—

(1) SECTION 8 DESIGNATIONS.—Section 8(a) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (10) as paragraphs (1) through (9), respectively.

(2) VOLUNTARY TERMINATION OF INSURED STATUS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 8 the following new section:

''SEC. 8A. VOLUNTARY TERMINATION OF STATUS AS INSURED DEPOSITORY INSTITUTION.

''(a) IN GENERAL.—Except as provided in subsection (b), an insured State bank or a national bank may voluntarily terminate such bank's status as an insured depository institution in accordance with regulations of the Corporation if—

''(1) the bank provides written notice of the bank's intent to terminate such insured status—

''(A) to the Corporation and the Board of Governors of the Federal Reserve System, in the case of an insured State bank, or to the Corporation and the Comptroller of the Currency, in the case of an insured national bank authorized to operate as a wholesale financial institution, not less than 6 months before the effective date of such termination; and

''(B) to all depositors at such bank, not less than 6 months before the effective date of the termination of such status; and

''(2) either—

''(A) the deposit insurance fund of which such bank is a member equals or exceeds the fund's designated reserve ratio as of the date the bank provides a written notice under paragraph (1) and the Corporation determines that the fund will equal or exceed the applicable designated reserve ratio for the 2 semiannual assessment periods immediately following such date; or

''(B) the Corporation and the Board of Governors of the Federal Reserve System, in the case of an insured State bank, or the Corporation and the Comptroller of the Currency, in the case of an insured national bank authorized to operate as a wholesale financial institution, has approved the termination of the bank's insured status and the bank pays an exit fee in accordance with subsection (e).

''(b) EXCEPTION.—Subsection (a) shall not apply with respect to—

''(1) an insured savings association; or

''(2) an insured branch that is required to be insured under subsection (a) or (b) of section 6 of the International Banking Act of 1978.

''(c) ELIGIBILITY FOR INSURANCE TERMINATED.—Any bank that voluntarily elects to terminate the bank's insured status under subsection (a) shall not be eligible for insurance on any deposits or any assistance authorized under this Act after the period specified in subsection (f)(1).

''(d) INSTITUTION MUST BECOME WHOLESALE FINANCIAL INSTITUTION OR TERMINATE DEPOSIT-TAKING ACTIVITIES.—Any depository institution which voluntarily terminates such institution's status as an insured depository institution under this section may not, upon termination of insurance, accept any deposits unless the institution is a wholesale financial institution subject to section 9B of the Federal Reserve Act.

''(e) EXIT FEES.—

''(1) IN GENERAL.—Any bank that voluntarily terminates such bank's status as an insured depository institution under this section shall pay an exit fee in an amount that the Corporation determines is sufficient to account for the institution's pro rata share of the amount (if any) which would be required to restore the relevant deposit insurance fund to the fund's designated reserve ratio as of the date the bank provides a written notice under subsection (a)(1).

''(2) PROCEDURES.—The Corporation shall prescribe, by regulation, procedures for assessing any exit fee under this subsection.

''(f) TEMPORARY INSURANCE OF DEPOSITS INSURED AS OF TERMINATION.—

''(1) TRANSITION PERIOD.—The insured deposits of each depositor in a State bank or a national bank on the effective date of the voluntary termination of the bank's insured status, less all subsequent withdrawals from any deposits of such depositor, shall continue to be insured for a period of not less than 6 months and not more than 2 years, as determined by the Corporation. During such period, no additions to any such deposits, and no new deposits in the depository institution made after the effective date of such termination shall be insured by the Corporation.

''(2) TEMPORARY ASSESSMENTS; OBLIGATIONS AND DUTIES.—During the period specified in paragraph (1) with respect to any bank, the bank shall continue to pay assessments under section 7 as if the bank were an insured depository institution. The bank shall, in all other respects, be subject to the authority of the Corporation and the duties and obligations of an insured depository institution under this Act during such period, and in the event that the bank is closed due to an inability to meet the demands of the bank's depositors during such period, the Corporation shall have the same powers and rights with respect to such bank as in the case of an insured depository institution.

''(g) ADVERTISEMENTS.—

''(1) IN GENERAL.—A bank that voluntarily terminates the bank's insured status under this section shall not advertise or hold itself out as having insured deposits, except that the bank may advertise the temporary insurance of deposits under subsection (f) if, in connection with any such advertisement, the advertisement also states with equal prominence that additions to deposits and new deposits made after the effective date of the termination are not insured.

''(2) CERTIFICATES OF DEPOSIT, OBLIGATIONS, AND SECURITIES.—Any certificate of deposit or other obligation or security issued by a State bank or a national bank after the effective date of the voluntary termination of the bank's insured status under this section shall be accompanied by a conspicuous, prominently displayed notice that such certificate of deposit or other obligation or security is not insured under this Act.

''(h) NOTICE REQUIREMENTS.—

''(1) NOTICE TO THE CORPORATION.—The notice required under subsection (a)(1)(A) shall be in such form as the Corporation may require.

''(2) NOTICE TO DEPOSITORS.—The notice required under subsection (a)(1)(B) shall be—

''(A) sent to each depositor's last address of record with the bank; and

''(B) in such manner and form as the Corporation finds to be necessary and appropriate for the protection of depositors.''.

(3) DEFINITION.—Section 19(b)(1)(A)(i) of the Federal Reserve Act (12 U.S.C. 461(b)(1)(A)(i)) is amended by inserting '', or any wholesale financial institution subject to section 9B of this Act'' after ''such Act''.

(d) TECHNICAL AND CONFORMING AMENDMENTS TO THE BANKRUPTCY CODE.—

(1) BANKRUPTCY CODE DEBTORS.—Section 109(b)(2) of title 11, United States Code, is amended by striking ''; or'' and inserting the following: '', except that—

''(A) a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act may be a debtor if a petition is filed at the direction of the Comptroller of the Currency (in the case of a wholesale financial institution established under section 5136B of the Revised Statutes of the United States) or the Board of Governors of the Federal Reserve System (in the case of any wholesale financial institution); and

''(B) a corporation organized under section 25A of the Federal Reserve Act may be a debtor if a petition is filed at the direction of the Board of Governors of the Federal Reserve System; or''.

(2) CHAPTER 7 DEBTORS.—Section 109(d) of title 11, United States Code, is amended to read as follows:

''(d) Only a railroad and a person that may be a debtor under chapter 7 of this title, except that a stockbroker, a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, a corporation organized under section 25A of the Federal Reserve Act, or a commodity broker, may be a debtor under chapter 11 of this title.''.

(3) DEFINITION OF FINANCIAL INSTITUTION.—Section 101(22) of title 11, United States Code, is amended to read as follows:

''(22) 'financial institution' means a person that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, or corporation organized under section 25A of the Federal Reserve Act and, when any such person is acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741 of this title, such customer,''.

(4) SUBCHAPTER V OF CHAPTER 7.—

(A) IN GENERAL.—Section 103 of title 11, United States Code, is amended—

(i) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively; and

(ii) by inserting after subsection (d) the following:

''(e) Subchapter V of chapter 7 of this title applies only in a case under such chapter concerning the liquidation of a wholesale financial institution established under section 5136B of the Revised Statutes of the United States or section 9B of the Federal Reserve Act, or a corporation organized under section 25A of the Federal Reserve Act.''.

(B) WHOLESALE BANK LIQUIDATION.—Chapter 7 of title 11, United States Code, is amended by adding at the end the following:

''SUBCHAPTER V—WHOLESALE BANK LIQUIDATION

''§ 781. Definitions for subchapter

''In this subchapter—

''(1) the term 'Board' means the Board of Governors of the Federal Reserve System;

''(2) the term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act, and includes any wholesale bank;

''(3) the term 'national wholesale financial institution' means a wholesale financial institution established under section 5136B of the Revised Statutes of the United States; and

''(4) the term 'wholesale bank' means a national wholesale financial institution, a wholesale financial institution established under section 9B of the Federal Reserve Act, or a corporation organized under section 25A of the Federal Reserve Act.

''§ 782. Selection of trustee

''(a) Notwithstanding any other provision of this title, the conservator or receiver who files the petition shall be the trustee under this chapter, unless the Comptroller of the Currency (in the case of a national wholesale financial institution for which it appointed the conservator or receiver) or the Board (in the case of any wholesale bank for which it appointed the conservator or receiver) designates an alternative trustee. The Comptroller of the Currency or the Board (as applicable) may designate a successor trustee, if required.

''(b) Whenever the Comptroller of the Currency or the Board appoints or designates a trustee, chapter 3 and sections 704 and 705 of this title shall apply to the Comptroller or the Board, as applicable, in the same way and to the same extent that they apply to a United States trustee.

''§ 783. Additional powers of trustee

''(a) The trustee under this subchapter has power to distribute property not of the estate, including distributions to customers that are mandated by subchapters III and Iv of this chapter.

''(b) The trustee under this subchapter may, after notice and a hearing—

''(1) sell the wholesale bank to a depository institution or consortium of depository institutions (which consortium may agree on the allocation of the wholesale bank among the consortium);

''(2) merge the wholesale bank with a depository institution;

''(3) transfer contracts to the same extent as could a receiver for a depository institution under paragraphs (9) and (10) of section 11(e) of the Federal Deposit Insurance Act;

''(4) transfer assets or liabilities to a depository institution;

''(5) transfer assets and liabilities to a bridge bank as provided in paragraphs (1), (3)(A), (5), (6), and (9) through (13), and subparagraphs (A) through (H) and (K) of paragraph (4) of section 11(n) of the Federal Deposit Insurance Act, except that—

''(A) the bridge bank shall be treated as a wholesale bank for the purpose of this subsection; and

''(B) any references in any such provision of law to the Federal Deposit Insurance Corporation shall be construed to be references to the appointing agency and that references to deposit insurance shall be omitted.

''(c) Any reference in this section to transfers of liabilities includes a ratable transfer of liabilities within a priority class.

''§ 784. Right to be heard

''The Comptroller of the Currency (in the case of a national wholesale financial institution), the Board (in the case of any wholesale bank), or a Federal Reserve bank (in the case of a wholesale bank that is a member of

that bank) may raise and may appear and be heard on any issue in a case under this subchapter.

(C) CONFORMING AMENDMENT.—The table of sections for chapter 7 of title 11, United States Code, is amended by adding at the end the following:

''SUBCHAPTER V—WHOLESALE BANK LIQUIDATION

''781. Definitions for subchapter.
''782. Selection of trustee.
''783. Additional powers of trustee.
''784. Right to be heard.''.

(e) RESOLUTION OF EDGE CORPORATIONS.—The 16th undesignated paragraph of section 25A of the Federal Reserve Act (12 U.S.C. 624) is amended to read as follows:

''(16) APPOINTMENT OF RECEIVER OR CONSERVATOR.—

''(A) IN GENERAL.—The Board may appoint a conservator or receiver for a corporation organized under the provisions of this section to the same extent and in the same manner as the Comptroller of the Currency may appoint a conservator or receiver for a national bank, and the conservator or receiver for such corporation shall exercise the same powers, functions, and duties, subject to the same limitations, as a conservator or receiver for a national bank.

''(B) EQUIVALENT AUTHORITY.—The Board shall have the same authority with respect to any conservator or receiver appointed for a corporation organized under the provisions of this section under this paragraph and any such corporation as the Comptroller of the Currency has with respect to a conservator or receiver of a national bank and the national bank for which a conservator or receiver has been appointed.

''(C) TITLE 11 PETITIONS.—The Board may direct the conservator or receiver of a corporation organized under the provisions of this section to file a petition pursuant to title 11, United States Code, in which case, title 11, United States Code, shall apply to the corporation in lieu of otherwise applicable Federal or State insolvency law.''.

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 first 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 AMENDMENTS.—

(1) BANKS.—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 the following: '', except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) is subject to section 6 of the Bank Holding Company Act of 1956; and (B) does not require agency approval under section 3 of the Bank Holding Company Act of 1956''.

(2) BANK HOLDING COMPANIES.—Section 7A(c)(8) of the Clayton Act (15 U.S.C. 18a(c)(8)) is amended by inserting before the semicolon at the end the following: '', except that a portion of a transaction is not exempt under this paragraph if such portion of the transaction (A) is subject to section 6 of the Bank Holding Company Act of 1956; and (B) does not require agency approval under section 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 acquisitions within regions or other limited geographical areas.

(c) SUNSET.—This section shall not apply after the end of the 5-year period beginning on the date of the enactment of this Act.

Subtitle F—National Treatment

SEC. 151. FOREIGN BANKS THAT ARE FINANCIAL HOLDING COMPANIES.

Section 8(c) of the International Banking Act of 1978 (12 U.S.C. 3106(c)) is amended by adding at the end the following new paragraph:

''(3) TERMINATION OF GRANDFATHERED RIGHTS.—

''(A) IN GENERAL.—If any foreign bank or foreign company files a declaration under section 6(b)(1)(D) or receives a determination under section 10(d)(1) of the Bank Holding Company Act of 1956, any authority conferred by this subsection on any foreign bank or company to engage in any activity which the Board has determined to be permissible for financial holding companies under section 6 of such Act shall terminate immediately.

''(B) RESTRICTIONS AND REQUIREMENTS AUTHORIZED.—If a foreign bank or company that engages, directly or through an affiliate pursuant to paragraph (1), in an activity which the Board has determined to be permissible for financial holding companies under section 6 of the Bank Holding Company Act of 1956 has not filed a declaration with the Board of its status as a financial holding company under such section or received a determination under section 10(d)(1) by the end of the 2-year period beginning on the date of enactment of the Financial Services Act of 1999, the Board, giving due regard to the principle of national treatment and equality of competitive opportunity, may impose such restrictions and requirements on the conduct of such activities by such foreign bank or company as are comparable to those imposed on a financial holding company organized under the laws of the United States, including a requirement to conduct such activities in compliance with any prudential safeguards established under section 114 of the Financial Services Act.''.

SEC. 152. FOREIGN BANKS AND FOREIGN FINANCIAL INSTITUTIONS THAT ARE WHOLESALE FINANCIAL INSTITUTIONS.

Section 8A of the Federal Deposit Insurance Act (as added by section 136(c)(2) of this Act) is amended by adding at the end the following new subsection:

''(i) VOLUNTARY TERMINATION OF DEPOSIT INSURANCE.—The provisions on voluntary termination of insurance in this section shall apply to an insured branch of a foreign bank (including a Federal branch) in the same manner and to the same extent as they apply to an insured State bank or a national bank.''.

SEC. 153. REPRESENTATIVE OFFICES.

(a) DEFINITION OF ''REPRESENTATIVE OFFICE''.—Section 1(b)(15) of the International Banking Act of 1978 (12 U.S.C. 3101(15)) is amended by striking ''State agency, or subsidiary of a foreign bank'' and inserting ''or State agency''.

(b) EXAMINATIONS.—Section 10(c) of the International Banking Act of 1978 (12 U.S.C. 3107(c)) is amended by adding at the end the following: ''The Board may also make examinations of any affiliate of a foreign bank conducting business in any State if the Board deems it necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or other applicable Federal banking law.''.

SEC. 154. RECIPROCITY.

(a) NATIONAL TREATMENT REPORTS.—

(1) REPORT REQUIRED IN THE EVENT OF CERTAIN ACQUISITIONS.—

(A) IN GENERAL.—Whenever a person from a foreign country announces its intention to acquire or acquires a bank, a securities underwriter, broker, or dealer, an investment adviser, or insurance company that ranks within the top 50 firms in that line of business in the United States, the Secretary of Commerce, in the case of an insurance company, or the Secretary of the Treasury, in the case of a bank, a securities underwriter, broker, or dealer, or an investment adviser, shall, within the earlier of 6 months of such announcement or such acquisition and in consultation with other appropriate Federal and State agencies, prepare and submit to

the Congress a report on whether a United States person would be able, de facto or de jure, to acquire an equivalent sized firm in the country in which such person from a foreign country is located.

(B) ANALYSIS AND RECOMMENDATIONS.—If a report submitted under subparagraph (A) states that the equivalent treatment referred to in such subparagraph, de facto and de jure, is not provided in the country which is the subject of the report, the Secretary of Commerce or the Secretary of the Treasury, as the case may be and in consultation with other appropriate Federal and State agencies, shall include in the report analysis and recommendations as to how that country's laws and regulations would need to be changed so that reciprocal treatment would exist.

(2) REPORT REQUIRED BEFORE FINANCIAL SERVICES NEGOTIATIONS COMMENCE.—The Secretary of Commerce, with respect to insurance companies, and the Secretary of the Treasury, with respect to banks, securities underwriters, brokers, dealers, and investment advisers, shall, not less than 6 months before the commencement of the financial services negotiations of the World Trade Organization and in consultation with other appropriate Federal and State agencies, prepare and submit to the Congress a report containing—

(A) an assessment of the 30 largest financial services markets with regard to whether reciprocal access is available in such markets to United States financial services providers; and

(B) with respect to any such financial services markets in which reciprocal access is not available to United States financial services providers, an analysis and recommendations as to what legislative, regulatory, or enforcement changes would be required to ensure full reciprocity for such providers.

(3) PERSON OF A FOREIGN COUNTRY DEFINED.—For purposes of this subsection, the term ''person of a foreign country'' means a person, or a person which directly or indirectly owns or controls that person, that is a resident of that country, is organized under the laws of that country, or has its principal place of business in that country.

(b) PROVISIONS APPLICABLE TO SUBMISSIONS.—

(1) NOTICE.—Before preparing any report required under subsection (a), the Secretary of Commerce or the Secretary of the Treasury, as the case may be, shall publish notice that a report is in preparation and seek comment from United States persons.

(2) PRIVILEGED SUBMISSIONS.—Upon the request of the submitting person, any comments or related communications received by the Secretary of Commerce or the Secretary of the Treasury, as the case may be, with regard to the report shall, for the purposes of section 552 of title 5, of the United States Code, be treated as commercial information obtained from a person that is privileged or confidential, regardless of the medium in which the information is obtained. This confidential information shall be the property of the Secretary and shall be privileged from disclosure to any other person. However, this privilege shall not be construed as preventing access to that confidential information by the Congress.

(3) PROHIBITION OF UNAUTHORIZED DISCLOSURES.—No person in possession of confidential information, provided under this section may disclose that information, in whole or in part, except for disclosure made in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the confidential information of any person.

Subtitle G—Federal Home Loan Bank System Modernization

SEC. 161. SHORT TITLE.

This subtitle may be cited as the ''Federal Home Loan Bank System Modernization Act of 1999''.

SEC. 162. DEFINITIONS.

Section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422) is amended—

(1) in paragraph (1), by striking ''term 'Board' means'' and inserting ''terms 'Finance Board' and 'Board' mean'';

(2) by striking paragraph (3) and inserting the following:

''(3) STATE.—The term 'State', in addition to the States of the United States, includes the District of Columbia, Guam, Puerto Rico, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.''; and

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

''(13) COMMUNITY FINANCIAL INSTITUTION.—

''(A) IN GENERAL.—The term 'community financial institution' means a member—

''(i) the deposits of which are insured under the Federal Deposit Insurance Act; and

''(ii) that has, as of the date of the transaction at issue, less than $500,000,000 in average total assets, based on an average of total assets over the 3 years preceding that date.

''(B) ADJUSTMENTS.—The $500,000,000 limit referred to in subparagraph (A)(ii) shall be adjusted annually by the Finance Board, based on the annual percentage increase, if any, in the Consumer Price Index for all urban consumers, as published by the Department of Labor.''.

SEC. 163. SAVINGS ASSOCIATION MEMBERSHIP.

Section 5(f) of the Home Owners' Loan Act (12 U.S.C. 1464(f)) is amended to read as follows:

''(f) FEDERAL HOME LOAN BANK MEMBERSHIP.—On and after January 1, 1999, a Federal savings association may become a member of the Federal Home Loan Bank System, and shall qualify for such membership in the manner provided by the Federal Home Loan Bank Act.''.

SEC. 164. ADVANCES TO MEMBERS; COLLATERAL.

(a) IN GENERAL.—Section 10(a) of the Federal Home Loan Bank Act (12 U.S.C. 1430(a)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and indenting appropriately;

(2) by striking ''(a) Each'' and inserting the following:

''(a) IN GENERAL.—

''(1) ALL ADVANCES.—Each'';

(3) by striking the 2d sentence and inserting the following:

''(2) PURPOSES OF ADVANCES.—A long-term advance may only be made for the purposes of—

''(A) providing funds to any member for residential housing finance; and

''(B) providing funds to any community financial institution for small business, agricultural, rural development, or low-income community development lending.'';

(4) by striking ''A Bank'' and inserting the following:

''(3) COLLATERAL.—A Bank'';

(5) in paragraph (3) (as so designated by paragraph (4) of this subsection)—

(A) in subparagraph (C) (as so redesignated by paragraph (1) of this subsection) by striking ''Deposits'' and inserting ''Cash or deposits'';

(B) in subparagraph (D) (as so redesignated by paragraph (1) of this subsection), by striking the 2d sentence; and

(C) by inserting after subparagraph (D) (as so redesignated by paragraph (1) of this subsection) the following new subparagraph:

''(E) Secured loans for small business, agriculture, rural development, or low-income community development, or securities representing a whole interest in such secured loans, in the case of any community financial institution.'';

(6) in paragraph (5)—

(A) in the 2d sentence, by striking ''and the Board'';

(B) in the 3d sentence, by striking ''Board'' and inserting ''Federal home loan bank''; and

(C) by striking ''(5) Paragraphs (1) through (4)'' and inserting the following:

''(4) ADDITIONAL BANK AUTHORITY.—Subparagraphs (A) through (E) of paragraph (3)''; and

(7) by adding at the end the following:

''(5) REVIEW OF CERTAIN COLLATERAL STANDARDS.—The Board may review the collateral standards applicable to each Federal home loan bank for the classes of collateral described in subparagraphs (D) and (E) of paragraph (3), and may, if necessary for safety and soundness purposes, require an increase in the collateral standards for any or all of those classes of collateral.

''(6) DEFINITIONS.—For purposes of this subsection, the terms 'small business', 'agriculture', 'rural development', and 'low-income community development' shall have the meanings given those terms by rule or regulation of the Finance Board.''.

(b) CLERICAL AMENDMENT.—The section heading for section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended to read as follows:

''SEC. 10. ADVANCES TO MEMBERS.''.

(c) CONFORMING AMENDMENTS RELATING TO MEMBERS WHICH ARE NOT QUALIFIED THRIFT LENDERS—The 1st of the 2 subsections designated as subsection (e) of section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(1)) is amended—

(1) in the last sentence of paragraph (1), by inserting ''or, in the case of any community financial institution, for the purposes described in subsection (a)(2)'' before the period; and

(2) in paragraph (5)(C), by inserting ''except that, in determining the actual thrift investment percentage of any community financial institution for purposes of this subsection, the total investment of such member in loans for small business, agriculture, rural development, or low-income community development, or securities representing a whole interest in such loans, shall be treated as a qualified thrift investment (as defined in such section 10(m))'' before the period.

SEC. 165. ELIGIBILITY CRITERIA.

Section 4(a) of the Federal Home Loan Bank Act (12 U.S.C. 1424(a)) is amended—

(1) in paragraph (2)(A), by inserting, ''(other than a community financial institution)'' after ''institution''; and

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

''(3) LIMITED EXEMPTION FOR COMMUNITY FINANCIAL INSTITUTIONS.—A community financial institution that otherwise meets the requirements of paragraph (2) may become a member without regard to the percentage of its total assets that is represented by residential mortgage loans, as described in subparagraph (A) of paragraph (2).''.

SEC. 166. MANAGEMENT OF BANKS.

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

(1) by striking ''(d) The term'' and inserting the following:

''(d) TERMS OF OFFICE.—The term''; and

(2) by striking ''shall be two years''.

(b) COMPENSATION.—Section 7(i) of the Federal Home Loan Bank Act (12 U.S.C. 1427(i)) is amended by striking '', subject to the approval of the board''.

(c) REPEAL OF SECTIONS 22A AND 27.—The Federal Home Loan Bank Act (12 U.S.C. 1421

et seq.) is amended by striking sections 22A (12 U.S.C. 1442a) and 27 (12 U.S.C. 1447).

(d) SECTION 12.—Section 12 of the Federal Home Loan Bank Act (12 U.S.C. 1432) is amended—

(1) in subsection (a)—

(A) by striking '', but, except'' and all that follows through ''ten years'';

(B) by striking ''subject to the approval of the Board'' the first place that term appears;

(C) by striking ''and, by its Board of directors,'' and all that follows through ''agent of such bank,'' and inserting ''and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable laws and regulations, as administered by the Finance Board. No officer, employee, attorney, or agent of a Federal home loan bank''; and

(D) by striking ''Board of directors'' where such term appears in the penultimate sentence and inserting ''board of directors''; and

(2) in subsection (b), by striking ''loans banks'' and inserting ''loan banks''.

(e) POWERS AND DUTIES OF FEDERAL HOUSING FINANCE BOARD.—

(1) ISSUANCE OF NOTICES OF VIOLATIONS.—Section 2B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1422b(a)) is amended by adding at the end the following new paragraphs:

''(5) To issue and serve a notice of charges upon a Federal home loan bank or upon any executive officer or director of a Federal home loan bank if, in the determination of the Finance Board, the bank, executive officer, or director is engaging or has engaged in, or the Finance Board has reasonable cause to believe that the bank, executive officer, or director is about to engage in, any conduct that violates any provision of this Act or any law, order, rule, or regulation or any condition imposed in writing by the Finance Board in connection with the granting of any application or other request by the bank, or any written agreement entered into by the bank with the agency, in accordance with the procedures provided in section 1371(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. Such authority includes the same authority to take affirmative action to correct conditions resulting from violations or practices or to limit activities of a bank or any executive officer or director of a bank as appropriate Federal banking agencies have to take with respect to insured depository institutions under paragraphs (6) and (7) of section 8(b) of the Federal Deposit Insurance Act, and to have all other powers, rights, and duties to enforce this Act with respect to the Federal home loan banks and their executive officers and directors as the Office of Federal Housing Enterprise Oversight has to enforce the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Federal National Mortgage Association Charter Act, or the Federal Home Loan Mortgage Corporation Act with respect to the Federal housing enterprises under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

''(6) To address any insufficiencies in capital levels resulting from the application of section 5(f) of the Home Owners' Loan Act.

''(7) To sue and be sued, by and through its own attorneys.''.

(2) TECHNICAL AMENDMENT.—Section 111 of Public Law 93–495 (12 U.S.C. 250) is amended by striking ''Federal Home Loan Bank Board,'' and inserting ''Director of the Office of Thrift Supervision, ''the Federal Housing Finance Board,''.

(f) ELIGIBILITY TO SECURE ADVANCES.—

(1) SECTION 9.—Section 9 of the Federal Home Loan Bank Act (12 U.S.C. 1429) is amended—

(A) in the 2d sentence, by striking ''with the approval of the Board''; and

(B) in the 3d sentence, by striking '', subject to the approval of the Board,''.

(2) SECTION 10.—Section 10 of the Federal Home Loan Bank Act (12 U.S.C. 1430) is amended—

(A) in subsection (c)—

(i) in the 1st sentence, by striking ''Board'' and inserting ''Federal home loan bank''; and

(ii) by striking the 2d sentence;

(B) in subsection (d)—

(i) in the 1st sentence, by striking ''and the approval of the Board''; and

(ii) by striking ''Subject to the approval of the Board, any'' and inserting ''Any''; and

(C) in subsection (j)(1)—

(i) by striking ''to subsidize the interest rate on advances'' and inserting ''to provide subsidies, including subsidized interest rates on advances'';

(ii) by striking ''Pursuant'' and inserting the following:

''(A) ESTABLISHMENT.—Pursuant''; and

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

''(B) NONDELEGATION OF APPROVAL AUTHORITY.—Subject to such regulations as the Finance Board may prescribe, the board of directors of each Federal home loan bank may approve or disapprove requests from members for Affordable Housing Program subsidies, and may not delegate such authority.''.

(g) SECTION 16.—Section 16(a) of the Federal Home Loan Bank Act (12 U.S.C. 1436(a)) is amended—

(1) in the 3d sentence—

(A) by striking ''net earnings'' and inserting ''previously retained earnings or current net earnings''; and

(B) by striking '', and then only with the approval of the Federal Housing Finance Board''; and

(2) by striking the 4th sentence.

(h) SECTION 18.—Section 18(b) of the Federal Home Loan Bank Act (12 U.S.C. 1438(b)) is amended by striking paragraph (4).

SEC. 167. RESOLUTION FUNDING CORPORATION.

(a) IN GENERAL.—Section 21B(f)(2)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)) is amended to read as follows:

''(C) PAYMENTS BY FEDERAL HOME LOAN BANKS.—

''(i) IN GENERAL.—To the extent that the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay to the Funding Corporation in each calendar year, 20.75 percent of the net earnings of that bank (after deducting expenses relating to section 10(j) and operating expenses).

''(ii) ANNUAL DETERMINATION.—The Board annually shall determine the extent to which the value of the aggregate amounts paid by the Federal home loan banks exceeds or falls short of the value of an annuity of $300,000,000 per year that commences on the issuance date and ends on the final scheduled maturity date of the obligations, and shall select appropriate present value factors for making such determinations.

''(iii) PAYMENT TERM ALTERATIONS.—The Board shall extend or shorten the term of the payment obligations of a Federal home loan bank under this subparagraph as necessary to ensure that the value of all payments made by the banks is equivalent to the value of an annuity referred to in clause (ii).

''(iv) TERM BEYOND MATURITY.—If the Board extends the term of payments beyond the final scheduled maturity date for the obligations, each Federal home loan bank shall continue to pay 20.75 percent of its net earnings (after deducting expenses relating to section 10(j) and operating expenses) to the Treasury of the United States until the value of all such payments by the Federal home loan banks is equivalent to the value of an annuity referred to in clause (ii). In the final year in which the Federal home loan banks are required to make any payment to the Treasury under this subparagraph, if the dollar amount represented by 20.75 percent of the net earnings of the Federal home loan banks exceeds the remaining obligation of the banks to the Treasury, the Finance Board shall reduce the percentage pro rata to a level sufficient to pay the remaining obligation.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1999. Payments made by a Federal home loan bank before that effective date shall be counted toward the total obligation of that bank under section 21B(f)(2)(C) of the Federal Home Loan Bank Act, as amended by this section.

SEC. 168. CAPITAL STRUCTURE OF FEDERAL HOME LOAN BANKS.

Section 6 of the Federal Home Loan Bank Act (12 U.S.C. 1426) is amended to read as follows:

''SEC. 6. CAPITAL STRUCTURE OF FEDERAL HOME LOAN BANKS.

''(a) REGULATIONS.—

''(1) CAPITAL STANDARDS.—Not later than 1 year after the date of enactment of the Financial Services Act of 1999, the Finance Board shall issue regulations prescribing uniform capital standards applicable to each Federal home loan bank, which shall require each such bank to meet—

''(A) the leverage requirement specified in paragraph (2); and

''(B) the risk-based capital requirements, in accordance with paragraph (3).

''(2) LEVERAGE REQUIREMENT.—

''(A) IN GENERAL.—The leverage requirement shall require each Federal home loan bank to maintain a minimum amount of total capital based on the aggregate on-balance sheet assets of the bank and shall be 5 percent.

''(B) TREATMENT OF STOCK AND RETAINED EARNINGS.—In determining compliance with the minimum leverage ratio established under subparagraph (A), the paid-in value of the outstanding Class B stock shall be multiplied by 1.5, the paid-in value of the outstanding Class C stock and the amount of retained earnings shall be multiplied by 2.0, and such higher amounts shall be deemed to be capital for purposes of meeting the 5 percent minimum leverage ratio.

''(3) RISK-BASED CAPITAL STANDARDS.—

''(A) IN GENERAL.—Each Federal home loan bank shall maintain permanent capital in an amount that is sufficient, as determined in accordance with the regulations of the Finance Board, to meet—

''(i) the credit risk to which the Federal home loan bank is subject; and

''(ii) the market risk, including interest rate risk, to which the Federal home loan bank is subject, based on a stress test established by the Finance Board that rigorously tests for changes in market variables, including changes in interest rates, rate volatility, and changes in the shape of the yield curve.

''(B) CONSIDERATION OF OTHER RISK-BASED STANDARDS.—In establishing the risk-based standard under subparagraph (A)(ii), the Finance Board shall take due consideration of any risk-based capital test established pursuant to section 1361 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4611) for the enterprises (as defined in that Act), with such modifications as the Finance Board determines to be

appropriate to reflect differences in operations between the Federal home loan banks and those enterprises.

''(4) OTHER REGULATORY REQUIREMENTS.—The regulations issued by the Finance Board under paragraph (1) shall—

''(A) permit each Federal home loan bank to issue, with such rights, terms, and preferences, not inconsistent with this Act and the regulations issued hereunder, as the board of directors of that bank may approve, any 1 or more of—

''(i) Class A stock, which shall be redeemable in cash and at par 6 months following submission by a member of a written notice of its intent to redeem such shares;

''(ii) Class B stock, which shall be redeemable in cash and at par 5 years following submission by a member of a written notice of its intent to redeem such shares; and

''(iii) Class C stock, which shall be nonredeemable;

''(B) provide that the stock of a Federal home loan bank may be issued to and held by only members of the bank, and that a bank may not issue any stock other than as provided in this section;

''(C) prescribe the manner in which stock of a Federal home loan bank may be sold, transferred, redeemed, or repurchased; and

''(D) provide the manner of disposition of outstanding stock held by, and the liquidation of any claims of the Federal home loan bank against, an institution that ceases to be a member of the bank, through merger or otherwise, or that provides notice of intention to withdraw from membership in the bank.

''(5) DEFINITIONS OF CAPITAL.—For purposes of determining compliance with the capital standards established under this subsection—

''(A) permanent capital of a Federal home loan bank shall include (as determined in accordance with generally accepted accounting principles)—

''(i) the amounts paid for the Class C stock and any other nonredeemable stock approved by the Finance Board;

''(ii) the amounts paid for the Class B stock, in an amount not to exceed 1 percent of the total assets of the bank; and

''(iii) the retained earnings of the bank; and

''(B) total capital of a Federal home loan bank shall include—

''(i) permanent capital;

''(ii) the amounts paid for the Class A stock, Class B stock (excluding any amount treated as permanent capital under subparagraph (5)(A)(ii)), or any other class of redeemable stock approved by the Finance Board;

''(iii) consistent with generally accepted accounting principles, and subject to the regulation of the Finance Board, a general allowance for losses, which may not include any reserves or allowances made or held against specific assets; and

''(iv) any other amounts from sources available to absorb losses incurred by the bank that the Finance Board determines by regulation to be appropriate to include in determining total capital.

''(6) TRANSITION PERIOD.—Notwithstanding any other provisions of this Act, the requirements relating to purchase and retention of capital stock of a Federal home loan bank by any member thereof in effect on the day before the date of enactment of the Federal Home Loan Bank System Modernization Act of 1999, shall continue in effect with respect to each Federal home loan bank until the regulations required by this subsection have taken effect and the capital structure plan required by subsection (b) has been approved by the Finance Board and implemented by such bank.

''(b) CAPITAL STRUCTURE PLAN.—

''(1) APPROVAL OF PLANS.—Not later than 270 days after the date of publication by the Finance Board of final regulations in accordance with subsection (a), the board of directors of each Federal home loan bank shall submit for Finance Board approval a plan establishing and implementing a capital structure for such bank that—

''(A) the board of directors determines is best suited for the condition and operation of the bank and the interests of the members of the bank;

''(B) meets the requirements of subsection (c); and

''(C) meets the minimum capital standards and requirements established under subsection (a) and other regulations prescribed by the Finance Board.

''(2) APPROVAL OF MODIFICATIONS.—The board of directors of a Federal home loan bank shall submit to the Finance Board for approval any modifications that the bank proposes to make to an approved capital structure plan.

''(c) CONTENTS OF PLAN.—The capital structure plan of each Federal home loan bank shall contain provisions addressing each of the following:

''(1) MINIMUM INVESTMENT.—

''(A) IN GENERAL.—Each capital structure plan of a Federal home loan bank shall require each member of the bank to maintain a minimum investment in the stock of the bank, the amount of which shall be determined in a manner to be prescribed by the board of directors of each bank and to be included as part of the plan.

''(B) INVESTMENT ALTERNATIVES.—

''(i) IN GENERAL.—In establishing the minimum investment required for each member under subparagraph (A), a Federal home loan bank may, in its discretion, include any 1 or more of the requirements referred to in clause (ii), or any other provisions approved by the Finance Board.

''(ii) AUTHORIZED REQUIREMENTS.—A requirement is referred to in this clause if it is a requirement for—

''(I) a stock purchase based on a percentage of the total assets of a member; or

''(II) a stock purchase based on a percentage of the outstanding advances from the bank to the member.

''(C) MINIMUM AMOUNT.—Each capital structure plan of a Federal home loan bank shall require that the minimum stock investment established for members shall be set at a level that is sufficient for the bank to meet the minimum capital requirements established by the Finance Board under subsection (a).

''(D) ADJUSTMENTS TO MINIMUM REQUIRED INVESTMENT.—The capital structure plan of each Federal home loan bank shall impose a continuing obligation on the board of directors of the bank to review and adjust the minimum investment required of each member of that bank, as necessary to ensure that the bank remains in compliance with applicable minimum capital levels established by the Finance Board, and shall require each member to comply promptly with any adjustments to the required minimum investment.

''(2) TRANSITION RULE.—

''(A) IN GENERAL.—The capital structure plan of each Federal home loan bank shall specify the date on which it shall take effect, and may provide for a transition period of not longer than 3 years to allow the bank to come into compliance with the capital requirements prescribed under subsection (a), and to allow any institution that was a member of the bank on the date of enactment of the Financial Services Act of 1999, to come into compliance with the minimum investment required pursuant to the plan.

''(B) INTERIM PURCHASE REQUIREMENTS.—The capital structure plan of a Federal home loan bank may allow any member referred to in subparagraph (A) that would be required by the terms of the capital structure plan to increase its investment in the stock of the bank to do so in periodic installments during the transition period.

''(3) DISPOSITION OF SHARES.—The capital structure plan of a Federal home loan bank shall provide for the manner of disposition of any stock held by a member of that bank that terminates its membership or that provides notice of its intention to withdraw from membership in that bank.

''(4) CLASSES OF STOCK.—

''(A) IN GENERAL.—The capital structure plan of a Federal home loan bank shall afford each member of that bank the option of maintaining its required investment in the bank through the purchase of any combination of classes of stock authorized by the board of directors of the bank and approved by the Finance Board in accordance with its regulations.

''(B) RIGHTS REQUIREMENT.—A Federal home loan bank shall include in its capital structure plan provisions establishing terms, rights, and preferences, including minimum investment, dividends, voting, and liquidation preferences of each class of stock issued by the bank, consistent with Finance Board regulations and market requirements.

''(C) REDUCED MINIMUM INVESTMENT.—The capital structure plan of a Federal home loan bank may provide for a reduced minimum stock investment for any member of that bank that elects to purchase Class B, Class C, or any other class of nonredeemable stock, in a manner that is consistent with meeting the minimum capital requirements of the bank, as established by the Finance Board.

''(D) LIQUIDATION OF CLAIMS.—The capital structure plan of a Federal home loan bank shall provide for the liquidation in an orderly manner, as determined by the bank, of any claim of that bank against a member, including claims for any applicable prepayment fees or penalties resulting from prepayment of advances prior to stated maturity.

''(5) LIMITED TRANSFERABILITY OF STOCK.—The capital structure plan of a Federal home loan bank shall—

''(A) provide that—

''(i) any stock issued by that bank shall be available only to, held only by, and tradable only among members of that bank and between that bank and its members; and

''(ii) a bank has no obligation to repurchase its outstanding Class C stock but may do so, provided it is consistent with Finance Board regulations and is at a price that is mutually agreeable to the bank and the member; and

''(B) establish standards, criteria, and requirements for the issuance, purchase, transfer, retirement, and redemption of stock issued by that bank.

''(6) BANK REVIEW OF PLAN.—Before filing a capital structure plan with the Finance Board, each Federal home loan bank shall conduct a review of the plan by—

''(A) an independent certified public accountant, to ensure, to the extent possible, that implementation of the plan would not result in any write-down of the redeemable bank stock investment of its members; and

''(B) at least 1 major credit rating agency, to determine, to the extent possible, whether implementation of the plan would have any material effect on the credit ratings of the bank.

''(d) TERMINATION OF MEMBERSHIP.—

''(1) VOLUNTARY WITHDRAWAL.—Any member may withdraw from a Federal home loan bank by providing written notice to the bank of its intent to do so. The applicable stock

redemption notice periods shall commence upon receipt of the notice by the bank. Upon the expiration of the applicable notice period for each class of redeemable stock, the member may surrender such stock to the bank, and shall be entitled to receive in cash the par value of the stock. During the applicable notice periods, the member shall be entitled to dividends and other membership rights commensurate with continuing stock ownership.

''(2) INVOLUNTARY WITHDRAWAL.—

''(A) IN GENERAL.—The board of directors of a Federal home loan bank may terminate the membership of any institution if, subject to Finance Board regulations, it determines that—

''(i) the member has failed to comply with a provision of this Act or any regulation prescribed under this Act; or

''(ii) the member has been determined to be insolvent, or otherwise subject to the appointment of a conservator, receiver, or other legal custodian, by a State or Federal authority with regulatory and supervisory responsibility for the member.

''(B) STOCK DISPOSITION.—An institution, the membership of which is terminated in accordance with subparagraph (A)—

''(i) shall surrender redeemable stock to the Federal home loan bank, and shall receive in cash the par value of the stock, upon the expiration of the applicable notice period under subsection (a)(4)(A);

''(ii) shall receive any dividends declared on its redeemable stock, during the applicable notice period under subsection (a)(4)(A); and

''(iii) shall not be entitled to any other rights or privileges accorded to members after the date of the termination.

''(C) COMMENCEMENT OF NOTICE PERIOD.—With respect to an institution, the membership of which is terminated in accordance with subparagraph (A), the applicable notice period under subsection (a)(4) for each class of redeemable stock shall commence on the earlier of—

''(i) the date of such termination; or

''(ii) the date on which the member has provided notice of its intent to redeem such stock.

''(3) LIQUIDATION OF INDEBTEDNESS.—Upon the termination of the membership of an institution for any reason, the outstanding indebtedness of the member to the bank shall be liquidated in an orderly manner, as determined by the bank and, upon the extinguishment of all such indebtedness, the bank shall return to the member all collateral pledged to secure the indebtedness.

''(e) REDEMPTION OF EXCESS STOCK.—

''(1) IN GENERAL.—A Federal home loan bank, in its sole discretion, may redeem or repurchase, as appropriate, any shares of Class A or Class B stock issued by the bank and held by a member that are in excess of the minimum stock investment required of that member.

''(2) EXCESS STOCK.—Shares of stock held by a member shall not be deemed to be 'excess stock' for purposes of this subsection by virtue of a member's submission of a notice of intent to withdraw from membership or termination of its membership in any other manner.

''(3) PRIORITY.—A Federal home loan bank may not redeem any excess Class B stock prior to the end of the 5-year notice period, unless the member has no Class A stock outstanding that could be redeemed as excess.

''(f) IMPAIRMENT OF CAPITAL.—If the Finance Board or the board of directors of a Federal home loan bank determines that the bank has incurred or is likely to incur losses that result in or are expected to result in charges against the capital of the bank, the bank shall not redeem or repurchase any stock of the bank without the prior approval of the Finance Board while such charges are continuing or are expected to continue. In no case may a bank redeem or repurchase any applicable capital stock if, following the redemption, the bank would fail to satisfy any minimum capital requirement.

''(g) REJOINING AFTER DIVESTITURE OF ALL SHARES.—

''(1) IN GENERAL.—Except as provided in paragraph (2), and notwithstanding any other provision of this Act, an institution that divests all shares of stock in a Federal home loan bank may not, after such divestiture, acquire shares of any Federal home loan bank before the end of the 5-year period beginning on the date of the completion of such divestiture, unless the divestiture is a consequence of a transfer of membership on an uninterrupted basis between banks.

''(2) EXCEPTION FOR WITHDRAWALS FROM MEMBERSHIP BEFORE 1998.—Any institution that withdrew from membership in any Federal home loan bank before December 31, 1997, may acquire shares of a Federal home loan bank at any time after that date, subject to the approval of the Finance Board and the requirements of this Act.

''(h) TREATMENT OF RETAINED EARNINGS.—

''(1) IN GENERAL.—The holders of the Class C stock of a Federal home loan bank, and any other classes of nonredeemable stock approved by the Finance Board (to the extent provided in the terms thereof), shall own the retained earnings, surplus, undivided profits, and equity reserves, if any, of the bank.

''(2) NO NONREDEEMABLE CLASSES OF STOCK.—If a Federal home loan bank has no outstanding Class C or other such nonredeemable stock, then the holders of any other classes of stock of the bank then outstanding shall have ownership in, and a private property right in, the retained earnings, surplus, undivided profits, and equity reserves, if any, of the bank.

''(3) EXCEPTION.—Except as specifically provided in this section or through the declaration of a dividend or a capital distribution by a Federal home loan bank, or in the event of liquidation of the bank, a member shall have no right to withdraw or otherwise receive distribution of any portion of the retained earnings of the bank.

''(4) LIMITATION.—A Federal home loan bank may not make any distribution of its retained earnings unless, following such distribution, the bank would continue to meet all applicable capital requirements.''.

Subtitle H—ATM Fee Reform

SEC. 171. SHORT TITLE.

This subtitle may be cited as the ''ATM Fee Reform Act of 1999''.

SEC. 172. ELECTRONIC FUND TRANSFER FEE DISCLOSURES AT ANY HOST ATM.

Section 904(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693b(d)) is amended by adding at the end the following new paragraph:

''(3) FEE DISCLOSURES AT AUTOMATED TELLER MACHINES.—

''(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall require any automated teller machine operator who imposes a fee on any consumer for providing host transfer services to such consumer to provide notice in accordance with subparagraph (B) to the consumer (at the time the service is provided) of—

''(i) the fact that a fee is imposed by such operator for providing the service; and

''(ii) the amount of any such fee.

''(B) NOTICE REQUIREMENTS.—

''(i) ON THE MACHINE.—The notice required under clause (i) of subparagraph (A) with respect to any fee described in such subparagraph shall be posted in a prominent and conspicuous location on or at the automated teller machine at which the electronic fund transfer is initiated by the consumer; and

''(ii) ON THE SCREEN.—The notice required under clauses (i) and (ii) of subparagraph (A) with respect to any fee described in such subparagraph shall appear on the screen of the automated teller machine, or on a paper notice issued from such machine, after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction.

''(C) PROHIBITION ON FEES NOT PROPERLY DISCLOSED AND EXPLICITLY ASSUMED BY CONSUMER.—No fee may be imposed by any automated teller machine operator in connection with any electronic fund transfer initiated by a consumer for which a notice is required under subparagraph (A), unless—

''(i) the consumer receives such notice in accordance with subparagraph (B); and

''(ii) the consumer elects to continue in the manner necessary to effect the transaction after receiving such notice.

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

''(i) ELECTRONIC FUND TRANSFER.—The term 'electronic fund transfer' includes a transaction which involves a balance inquiry initiated by a consumer in the same manner as an electronic fund transfer, whether or not the consumer initiates a transfer of funds in the course of the transaction.

''(ii) AUTOMATED TELLER MACHINE OPERATOR.—The term 'automated teller machine operator' means any person who—

''(I) operates an automated teller machine at which consumers initiate electronic fund transfers; and

''(II) is not the financial institution which holds the account of such consumer from which the transfer is made.

''(iii) HOST TRANSFER SERVICES.—The term 'host transfer services' means any electronic fund transfer made by an automated teller machine operator in connection with a transaction initiated by a consumer at an automated teller machine operated by such operator.''.

SEC. 173. DISCLOSURE OF POSSIBLE FEES TO CONSUMERS WHEN ATM CARD IS ISSUED.

Section 905(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693c(a)) is amended—

(1) by striking ''and'' at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting ''; and''; and

(3) by inserting after paragraph (9) the following new paragraph:

''(10) a notice to the consumer that a fee may be imposed by—

''(A) an automated teller machine operator (as defined in section 904(d)(3)(D)(ii)) if the consumer initiates a transfer from an automated teller machine which is not operated by the person issuing the card or other means of access; and

''(B) any national, regional, or local network utilized to effect the transaction.''.

SEC. 174. FEASIBILITY STUDY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the feasibility of requiring, in connection with any electronic fund transfer initiated by a consumer through the use of an automated teller machine—

(1) a notice to be provided to the consumer before the consumer is irrevocably committed to completing the transaction, which clearly states the amount of any fee which will be imposed upon the consummation of the transaction by—

(A) any automated teller machine operator (as defined in section 904(d)(3)(D)(ii) of the Electronic Fund Transfer Act) involved in the transaction;

(B) the financial institution holding the account of the consumer;

(C) any national, regional, or local network utilized to effect the transaction; and

(D) any other party involved in the transfer; and

(2) the consumer to elect to consummate the transaction after receiving the notice described in paragraph (1).

(b) FACTORS TO BE CONSIDERED.—In conducting the study required under subsection (a) with regard to the notice requirement described in such subsection, the Comptroller General shall consider the following factors:

(1) The availability of appropriate technology.

(2) Implementation and operating costs.

(3) The competitive impact any such notice requirement would have on various sizes and types of institutions, if implemented.

(4) The period of time which would be reasonable for implementing any such notice requirement.

(5) The extent to which consumers would benefit from any such notice requirement.

(6) Any other factor the Comptroller General determines to be appropriate in analyzing the feasibility of imposing any such notice requirement.

(c) REPORT TO THE CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing—

(1) the findings and conclusions of the Comptroller General in connection with the study required under subsection (a); and

(2) the recommendation of the Comptroller General with regard to the question of whether a notice requirement described in subsection (a) should be implemented and, if so, how such requirement should be implemented.

SEC. 175. NO LIABILITY IF POSTED NOTICES ARE DAMAGED.

Section 910 of the Electronic Fund Transfer Act (15 U.S.C 1693h) is amended by adding at the end the following new subsection:

''(d) EXCEPTION FOR DAMAGED NOTICES.—If the notice required to be posted pursuant to section 904(d)(3)(B)(i) by an automated teller machine operator has been posted by such operator in compliance with such section and the notice is subsequently removed, damaged, or altered by any person other than the operator of the automated teller machine, the operator shall have no liability under this section for failure to comply with section 904(d)(3)(B)(i).''.

Subtitle I—Direct Activities of Banks

SEC. 181. AUTHORITY OF NATIONAL BANKS TO UNDERWRITE CERTAIN MUNICIPAL BONDS.

The paragraph designated the Seventh of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24(7)) is amended by adding at the end the following new sentence: ''In addition to the provisions in this paragraph for dealing in, underwriting or purchasing securities, the limitations and restrictions contained in this paragraph as to dealing in, underwriting, and purchasing investment securities for the national bank's own account shall not apply to obligations (including limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of the Internal Revenue Code of 1986) issued by or on behalf of any State or political subdivision of a State, including any municipal corporate instrumentality of 1 or more States, or any public agency or authority of any State or political subdivision of a State, if the national bank is well capitalized (as defined in section 38 of the Federal Deposit Insurance Act).''.

Subtitle J—Deposit Insurance Funds

SEC. 186. STUDY OF SAFETY AND SOUNDNESS OF FUNDS.

(a) STUDY REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation shall conduct a study of the following issues with regard to the Bank Insurance Fund and the Savings Association Insurance Fund:

(1) SAFETY AND SOUNDNESS.—The safety and soundness of the funds and the adequacy of the reserve requirements applicable to the funds in light of—

(A) the size of the insured depository institutions which are resulting from mergers and consolidations since the effective date of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994; and

(B) the affiliation of insured depository institutions with other financial institutions pursuant to this Act and the amendments made by this Act.

(2) CONCENTRATION LEVELS.—The concentration levels of the funds, taking into account the number of members of each fund and the geographic distribution of such members, and the extent to which either fund is exposed to higher risks due to a regional concentration of members or an insufficient membership base relative to the size of member institutions.

(3) MERGER ISSUES.—Issues relating to the planned merger of the funds, including the cost of merging the funds and the manner in which such costs will be distributed among the members of the respective funds.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall submit a report to the Congress on the study conducted pursuant to subsection (a).

(2) CONTENTS OF REPORT.—The report shall include—

(A) detailed findings of the Board of Directors with regard to the issues described in subsection (a);

(B) a description of the plans developed by the Board of Directors for merging the Bank Insurance Fund and the Savings Association Insurance Fund, including an estimate of the amount of the cost of such merger which would be borne by Savings Association Insurance Fund members; and

(C) such recommendations for legislative and administrative action as the Board of Directors determines to be necessary or appropriate to preserve the safety and soundness of the deposit insurance funds, reduce the risks to such funds, provide for an efficient merger of such funds, and for other purposes.

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

(1) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' has the same meaning as in section 3(c) of the Federal Deposit Insurance Act.

(2) BIF AND SAIF MEMBERS.—The terms ''Bank Insurance Fund member'' and ''Savings Association Insurance Fund member'' have the same meanings as in section 7(l) of the Federal Deposit Insurance Act.

SEC. 187. ELIMINATION OF SAIF AND DIF SPECIAL RESERVES.

(a) SAIF SPECIAL RESERVES.—Section 11(a)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(6)) is amended by striking subparagraph (L).

(b) DIF SPECIAL RESERVES.—Section 2704 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note) is amended—

(1) by striking subsection (b); and

(2) in subsection (d)—

(A) by striking paragraph (4);

(B) in paragraph (6)(C)(i), by striking ''(6) and (7)'' and inserting ''(5), (6), and (7)''; and

(C) in paragraph (6)(C), by striking clause (ii) and inserting the following:

''(ii) by redesignating paragraph (8) as paragraph (5).''.

Subtitle K—Miscellaneous Provisions

SEC. 191. TERMINATION OF ''KNOW YOUR CUSTOMER'' REGULATIONS.

(a) IN GENERAL.—None of the proposed regulations described in subsection (b) may be published in final form and, to the extent any such regulation has become effective before the date of the enactment of this Act, such regulation shall cease to be effective as of such date.

(b) PROPOSED REGULATIONS DESCRIBED.—The proposed regulations referred to in subsection (a) are as follows:

(1) The regulation proposed by the Comptroller of the Currency to amend part 21 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

(2) The regulation proposed by the Director of the Office of Thrift Supervision to amend part 563 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

(3) The regulation proposed by the Board of Governors of the Federal Reserve System to amend parts 208, 211, and 225 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

(4) The regulation proposed by the Federal Deposit Insurance Corporation to amend part 326 of title 12 of the Code of Federal Regulations, as published in the Federal Register on December 7, 1998.

SEC. 192. STUDY AND REPORT ON FEDERAL ELECTRONIC FUND TRANSFERS.

(a) STUDY.—The Secretary of the Treasury shall conduct a feasibility study to determine—

(1) whether all electronic payments issued by Federal agencies could be routed through the Regional Finance Centers of the Department of the Treasury for verification and reconciliation;

(2) whether all electronic payments made by the Federal Government could be subjected to the same level of reconciliation as United States Treasury checks, including matching each payment issued with each corresponding deposit at financial institutions;

(3) whether the appropriate computer security controls are in place in order to ensure the integrity of electronic payments;

(4) the estimated costs of implementing, if so recommended, the processes and controls described in paragraphs (1), (2), and (3); and

(5) a possible timetable for implementing those processes if so recommended.

(b) REPORT TO CONGRESS.—Not later than October 1, 2000, the Secretary of the Treasury shall submit a report to Congress containing the results of the study required by subsection (a).

(c) DEFINITION.—For purposes of this section, the term ''electronic payment'' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tapes so as to order, instruct, or authorize a debit or credit to a financial account.

SEC. 193. GENERAL ACCOUNTING OFFICE STUDY OF CONFLICTS OF INTEREST

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study analyzing the conflict of interest faced by the Board of Governors of the Federal Reserve System between its role as a primary regulator of the banking industry and its role as a vendor of services to the banking and financial services industry.

(b) SPECIFIC CONFLICT REQUIRED TO BE ADDRESSED.—In the course of the study required under subsection (a), the Comptroller General shall address the conflict of interest faced by the Board of Governors of the Federal Reserve System between the role of the Board as a regulator of the payment system, generally, and its participation in the payment system as a competitor with private entities who are providing payment services.

(c) REPORT TO CONGRESS.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the study required under this section, together with such recommendations for such legislative or administrative actions as the Comptroller General may determine to be appropriate, including recommendations for resolving any such conflict of interest.

SEC. 194. STUDY OF COST OF ALL FEDERAL BANKING REGULATIONS.

(a) IN GENERAL.—In accordance with the finding in the Board of Governors of the Federal Reserve System Staff Study Numbered 171 (April, 1998) that ''Further research covering more and different types of regulations and regulatory requirements is clearly needed to make informed decisions about regulations'', the Board of Governors of the Federal Reserve System, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) shall conduct a comprehensive study of the total annual costs and benefits of all Federal financial regulations and regulatory requirements applicable to banks.

(b) REPORT REQUIRED.—Before the end of the 2-year period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall submit a comprehensive report to the Congress containing the findings and conclusions of the Board in connection with the study required under subsection (a) and such recommendations for legislative and administrative action as the Board may determine to be appropriate.

SEC. 195. STUDY AND REPORT ON ADAPTING EXISTING LEGISLATIVE REQUIREMENTS TO ONLINE BANKING AND LENDING.

(a) STUDY REQUIRED.—The Federal banking agencies shall conduct a study of banking regulations regarding the delivery of financial services, including those regulations that may assume that there will be person-to-person contact during the course of a financial services transaction, and report their recommendations on adapting those existing requirements to online banking and lending.

(b) REPORT REQUIRED.—Within 1 year of the date of the enactment of this Act, the Federal banking agencies shall submit a report to the Congress on the findings and conclusions of the agencies with respect to the study required under subsection (a), together with such recommendations for legislative or regulatory action as the agencies may determine to be appropriate.

(c) DEFINITION.—For purposes of this section, the term ''Federal banking agencies'' means each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act).

SEC. 196. REGULATION OF UNINSURED STATE MEMBER BANKS.

Section 9 of the Federal Reserve Act (12 U.S.C. 321 et seq.) is amended by adding at the end the following new paragraph:

''(24) ENFORCEMENT AUTHORITY OVER UNINSURED STATE MEMBER BANKS.—Section 3(u) of the Federal Deposit Insurance Act, subsections (j) and (k) of section 7 of such Act, and subsections (b) through (n), (s), (u), and (v) of section 8 of such Act shall apply to an uninsured State member bank in the same manner and to the same extent such provisions apply to an insured State member bank and any reference in any such provision to 'insured depository institution' shall be deemed to be a reference to 'uninsured State member bank' for purposes of this paragraph.''.

SEC. 197. CLARIFICATION OF SOURCE OF STRENGTH DOCTRINE.

Section 18 of the Federal Deposit Insurance Act (21 U.S.C. 1828) is amended by adding at the end the following new subsection:

''(t) LIMITATION ON CLAIMS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law other than paragraph (2), no person shall have any claim for monetary damages or return of assets or other property against any Federal banking agency (including in its capacity as conservator or receiver) relating to the transfer of money, assets, or other property to increase the capital of an insured depository institution by any depository institution holding company or controlling shareholder for such depository institution, or any affiliate or subsidiary of such depository institution, if at the time of the transfer—

''(A) the insured depository institution is subject to any direction issued in writing by a Federal banking agency to increase its capital;

''(B) the depository institution is undercapitalized, significantly undercapitalized, or critically undercapitalized (as defined in section 38 of this Act); and

''(C) for that portion of the transfer that is made by an entity covered by section 5(g) of the Bank Holding Company Act of 1956 or section 45 of this Act, the Federal banking agency has followed the procedure set forth in such section.

''(2) EXCEPTION.—No provision of this subsection shall be construed as limiting—

''(A) the right of an insured depository institution, a depository institution holding company, or any other agency or person to seek direct review of an order or directive issued by a Federal banking agency under this Act, the Bank Holding Company Act of 1956, the National Bank Receivership Act, the Bank Conservation Act, or the Home Owners' Loan Act;

''(B) the rights of any party to a contract pursuant to section 11(e) of this Act; or

''(C) the rights of any party to a contract with a depository institution holding company or a subsidiary of a depository institution holding company (other than an insured depository institution).''

SEC. 198. INTEREST RATES AND OTHER CHARGES AT INTERSTATE BRANCHES.

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

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

(2) by inserting after subsection (e) the following:

''(f) APPLICABLE RATE AND OTHER CHARGE LIMITATIONS.—

''(1) IN GENERAL.—Except as provided for in paragraph (3), upon the establishment of a branch of any insured depository institution in a host State under this section, 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 or discount made or upon any note, bill of exchange, financing transaction, or other evidence of debt by any insured depository institution in such State shall be equal to not more than the greater of—

''(A) the maximum interest rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction under the constitution, statutory, or other lows of the home State of the insured depository institution establishing any such branch, without reference to this section, as such maximum interest rate or amount of interest may change from time to time; or

''(B) the maximum rate or amount of interest, discount points, finance charges, or other similar charges that may be charged, taken, received, or reserved in a similar transaction by an insured depository institution under the constitution, statutory, or other laws of the host State, without reference to this section.

''(2) PREEMPTION.—The limitations established under paragraph (1) shall apply only in any State that has a constitutional provision that sets a maximum lawful rate of interest on any contract at not more than 5 percent per annum above the Federal Reserve Discount Rate or 90-day commercial paper in effect in the Federal Reserve Bank in the Federal Reserve District in which the State is located.

''(3) RULE OF CONSTRUCTION.—No provision of this subsection shall be construed as superseding section 501 of the Depository Institutions Deregulation and Monetary Control Act of 1980.

Subtitle L-Effective Date of Title

SEC. 199. EFFECTIVE DATE.

Except with regard to any subtitle or other provision of this title for which a specific effective date is provided, this title and the amendments made by this title shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

TITLE II—FUNCTIONAL REGULATION

Subtitle A—Brokers and Dealers

SEC. 201. DEFINITION OF BROKER.

Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended to read as follows:

''(4) BROKER.—

''(A) IN GENERAL.—The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others.

''(B) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a broker because the bank engages in any one or more of the following activities under the conditions described:

''(i) THIRD PARTY BROKERAGE ARRANGEMENTS.—The bank enters into a contractual or other written arrangement with a broker or dealer registered under this title under which the broker or dealer offers brokerage services on or off the premises of the bank if—

''(I) such broker or dealer is clearly identified as the person performing the brokerage services;

''(II) the broker or dealer performs brokerage services in an area that is clearly marked and, to the extent practicable, physically separate from the routine deposit-taking activities of the bank;

''(III) any materials used by the bank to advertise or promote generally the availability of brokerage services under the arrangement clearly indicate that the brokerage services are being provided by the broker or dealer and not by the bank;

''(IV) any materials used by the bank to advertise or promote generally the availability of brokerage services under the arrangement are in compliance with the Federal securities laws before distribution;

''(V) bank employees (other than associated persons of a broker or dealer who are qualified pursuant to the rules of a self-regulatory organization) perform only clerical or

ministerial functions in connection with brokerage transactions including scheduling appointments with the associated persons of a broker or dealer, except that bank employees may forward customer funds or securities and may describe in general terms the types of investment vehicles available from the bank and the broker or dealer under the arrangement;

''(VI) bank employees do not receive incentive compensation for any brokerage transaction unless such employees are associated persons of a broker or dealer and are qualified pursuant to the rules of a self-regulatory organization, except that the bank employees may receive compensation for the referral of any customer if the compensation is a nominal one-time cash fee of a fixed dollar amount and the payment of the fee is not contingent on whether the referral results in a transaction;

''(VII) such services are provided by the broker or dealer on a basis in which all customers which receive any services are fully disclosed to the broker or dealer;

''(VIII) the bank does not carry a securities account of the customer except as permitted under clause (ii) or (viii) of this subparagraph; and

''(IX) the bank, broker, or dealer informs each customer that the brokerage services are provided by the broker or dealer and not by the bank and that the securities are not deposits or other obligations of the bank, are not guaranteed by the bank, and are not insured by the Federal Deposit Insurance Corporation.

''(ii) TRUST ACTIVITIES.—The bank effects transactions in a trustee or fiduciary capacity in its trust department, or another department where the trust or fiduciary activity is regularly examined by bank examiners under the same standards and in the same way as such activities are examined in the trust department, and—

''(I) is chiefly compensated for such transactions, consistent with fiduciary principles and standards, 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 equal to not more than the cost incurred by the bank in connection with executing securities transactions for trustee and fiduciary customers, or any combination of such fees; and

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

''(iii) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank effects transactions in—

''(I) commercial paper, bankers acceptances, or commercial bills;

''(II) exempted securities;

''(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

''(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

''(iv) CERTAIN STOCK PURCHASE PLANS.—

''(I) EMPLOYEE BENEFIT PLANS.—The bank effects transactions, as a registered transfer agent (including as a registrar of stocks), 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 affiliates (as defined in section 2 of the Bank Holding Company Act of 1956), 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 chiefly of administration fees, or flat or capped per order processing fees, or both.

''(II) DIVIDEND REINVESTMENT PLANS.—The bank effects transactions, as a registered transfer agent (including as a registrar of stocks), 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 chiefly of administration fees, or flat or capped per order processing fees, or both.

''(III) ISSUER PLANS.—The bank effects transactions, as a registered transfer agent (including as a registrar of stocks), in the securities of an issuer as part of that issuer's plan 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 chiefly of administration fees, or flat or capped per order processing fees, or both.

''(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 1999; or

''(bb) otherwise permitted by the Commission.

''(v) SWEEP ACCOUNTS.—The bank effects transactions as part of a program for the investment or reinvestment of deposit funds into any no-load, open-end management investment company registered under the Investment Company Act of 1940 that holds itself out as a money market fund.

''(vi) AFFILIATE TRANSACTIONS.—The bank effects transactions for the account of any affiliate (as defined in section 2 of the Bank Holding Company Act of 1956) of the bank other than—

''(I) a registered broker or dealer; or

''(II) an affiliate that is engaged in merchant banking, as described in section 6(c)(3)(H) of the Bank Holding Company Act of 1956.

''(vii) PRIVATE SECURITIES OFFERINGS.—The bank—

''(I) effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 or the rules and regulations issued thereunder;

''(II) at any time after the date that is 1 year after the date of enactment of the Financial Services Act of 1999, is not affiliated with a broker or dealer that has been registered for more than 1 year in accordance with this Act, and engages in dealing, market making, or underwriting activities, other than with respect to exempted securities; and

''(III) effects transactions exclusively with qualified investors.

''(viii) SAFEKEEPING AND CUSTODY ACTIVITIES.—

''(I) IN GENERAL.—The bank, as part of customary banking activities—

''(aa) provides safekeeping or custody services with respect to securities, including the exercise of warrants and other rights on behalf of customers;

''(bb) facilitates the transfer of funds or securities, as a custodian or a clearing agency, in connection with the clearance and settlement of its customers' transactions in securities;

''(cc) effects securities lending or borrowing transactions with or on behalf of customers as part of services provided to customers pursuant to division (aa) or (bb) or invests cash collateral pledged in connection with such transactions; or

''(dd) holds securities pledged by a customer to another person or securities subject to purchase or resale agreements involving a customer, or facilitates the pledging or transfer of such securities by book entry or as otherwise provided under applicable law, if the bank maintains records separately identifying the securities and the customer.

''(II) EXCEPTION FOR CARRYING BROKER ACTIVITIES.—The exception to being considered a broker for a bank engaged in activities described in subclause (I) shall not apply if the bank, in connection with such activities, acts in the United States as a carrying broker (as such term, and different formulations thereof, are used in section 15(c)(3) of this title and the rules and regulations thereunder) for any broker or dealer, unless such carrying broker activities are engaged in with respect to government securities (as defined in paragraph (42) of this subsection).

''(ix) EXCEPTED BANKING PRODUCTS.—The bank effects transactions in excepted banking products, as defined in section 206 of the Financial Services Act of 1999.

''(x) MUNICIPAL SECURITIES.—The bank effects transactions in municipal securities.

''(xi) DE MINIMIS EXCEPTION.—The bank effects, other than in transactions referred to in clauses (i) through (x), not more than 500 transactions in securities in any calendar year, and such transactions are not effected by an employee of the bank who is also an employee of a broker or dealer.

''(C) BROKER DEALER EXECUTION.—The exception to being considered a broker for a bank engaged in activities described in clauses (ii), (iv), and (viii) of subparagraph (B) shall not apply if the activities described in such provisions result in the trade in the United States of any security that is a publicly traded security in the United States, unless—

''(i) the bank directs such trade to a registered broker or dealer for execution;

''(ii) the trade is a cross trade or other substantially similar trade of a security that—

''(I) is made by the bank or between the bank and an affiliated fiduciary; and

''(II) is not in contravention of fiduciary principles established under applicable Federal or State law; or

''(iii) the trade is conducted in some other manner permitted under rules, regulations, or orders as the Commission may prescribe or issue.

''(D) FIDUCIARY CAPACITY.—For purposes of subparagraph (B)(ii), the term 'fiduciary capacity' means—

''(i) in the capacity as trustee, executor, administrator, registrar of stocks and bonds, transfer agent, guardian, assignee, receiver, or custodian under a uniform gift to minor

act, or as an investment adviser if the bank receives a fee for its investment advice;

''(ii) in any capacity in which the bank possesses investment discretion on behalf of another; or

''(iii) in any other similar capacity.

''(F) EXCEPTION FOR ENTITIES SUBJECT TO SECTION 15(e).—The term 'broker' does not include a bank that—

''(i) was, immediately prior to the enactment of the Financial Services Act of 1999, subject to section 15(e) of this title; and

''(ii) is subject to such restrictions and requirements as the Commission considers appropriate.''.

SEC. 202. DEFINITION OF DEALER.

Section 3(a)(5) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(5)) is amended to read as follows:

''(5) DEALER.—

''(A) IN GENERAL.—The term 'dealer' means any person engaged in the business of buying and selling securities for such person's own account through a broker or otherwise.

''(B) EXCEPTION FOR PERSON NOT ENGAGED IN THE BUSINESS OF DEALING.—The term 'dealer' does not include a person that buys or sells securities for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

''(C) EXCEPTION FOR CERTAIN BANK ACTIVITIES.—A bank shall not be considered to be a dealer because the bank engages in any of the following activities under the conditions described:

''(i) PERMISSIBLE SECURITIES TRANSACTIONS.—The bank buys or sells—

''(I) commercial paper, bankers acceptances, or commercial bills;

''(II) exempted securities;

''(III) qualified Canadian government obligations as defined in section 5136 of the Revised Statutes of the United States, in conformity with section 15C of this title and the rules and regulations thereunder, or obligations of the North American Development Bank; or

''(IV) any standardized, credit enhanced debt security issued by a foreign government pursuant to the March 1989 plan of then Secretary of the Treasury Brady, used by such foreign government to retire outstanding commercial bank loans.

''(ii) INVESTMENT, TRUSTEE, AND FIDUCIARY TRANSACTIONS.—The bank buys or sells securities for investment purposes—

''(I) for the bank; or

''(II) for accounts for which the bank acts as a trustee or fiduciary.

''(iii) ASSET-BACKED TRANSACTIONS.—The bank engages in the issuance or sale to qualified investors, through a grantor trust or other separate entity, of securities backed by or representing an interest in notes, drafts, acceptances, loans, leases, receivables, other obligations (other than securities of which the bank is not the issuer), or pools of any such obligations predominantly originated by—

''(I) the bank;

''(II) an affiliate of any such bank other than a broker or dealer; or

''(III) a syndicate of banks of which the bank is a member, if the obligations or pool of obligations consists of mortgage obligations or consumer-related receivables.

''(iv) EXCEPTED BANKING PRODUCTS.—The bank buys or sells excepted banking products, as defined in section 206 of the Financial Services Act of 1999.

''(v) DERIVATIVE INSTRUMENTS.—The bank issues, buys, or sells any derivative instrument to which the bank is a party—

''(I) to or from a qualified investor, except that if the instrument provides for the delivery of one or more securities (other than a derivative instrument or government security), the transaction shall be effected with or through a registered broker or dealer; or

''(II) to or from other persons, except that if the derivative instrument provides for the delivery of one or more securities (other than a derivative instrument or government security), or is a security (other than a government security), the transaction shall be effected with or through a registered broker or dealer; or

''(III) to or from any person if the instrument is neither a security nor provides for the delivery of one or more securities (other than a derivative instrument).''.

SEC. 203. REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.

Section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3) is amended by inserting after subsection (i) the following new subsection:

''(j) REGISTRATION FOR SALES OF PRIVATE SECURITIES OFFERINGS.—A registered securities association shall create a limited qualification category for any associated person of a member who effects sales as part of a primary offering of securities not involving a public offering, pursuant to section 3(b), 4(2), or 4(6) of the Securities Act of 1933 and the rules and regulations thereunder, and shall deem qualified in such limited qualification category, without testing, any bank employee who, in the six month period preceding the date of enactment of this Act, engaged in effecting such sales.''.

SEC. 204. INFORMATION SHARING.

Section 18 of the Federal Deposit Insurance Act is amended by adding at the end the following new subsection:

''(t) RECORDKEEPING REQUIREMENTS.—

''(1) REQUIREMENTS.—Each appropriate Federal banking agency, after consultation with and consideration of the views of the Commission, shall establish recordkeeping requirements for banks relying on exceptions contained in paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934. Such recordkeeping requirements shall be sufficient to demonstrate compliance with the terms of such exceptions and be designed to facilitate compliance with such exceptions. Each appropriate Federal banking agency shall make any such information available to the Commission upon request.

''(2) DEFINITIONS.—As used in this subsection the term 'Commission' means the Securities and Exchange Commission.''.

SEC. 205. TREATMENT OF NEW HYBRID PRODUCTS.

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

''(i) RULEMAKING TO EXTEND REQUIREMENTS TO NEW HYBRID PRODUCTS.—

''(1) LIMITATION.—The Commission shall not—

''(A) require a bank to register as a broker or dealer under this section because the bank engages in any transaction in, or buys or sells, a new hybrid product; or

''(B) bring an action against a bank for a failure to comply with a requirement described in subparagraph (A);

unless the Commission has imposed such requirement by rule or regulation issued in accordance with this section.

''(2) CRITERIA FOR RULEMAKING.—The Commission shall not impose a requirement under paragraph (1) of this subsection with respect to any new hybrid product unless the Commission determines that—

''(A) the new hybrid product is a security; and

''(B) imposing such requirement is necessary or appropriate in the public interest and for the protection of investors, consistent with the requirements of section 3(f).

''(3) CONSIDERATIONS.—In making a determination under paragraph (2), the Commission shall consider—

''(A) the nature of the new hybrid product; and

''(B) the history, purpose, extent, and appropriateness of the regulation of the new hybrid product under the Federal securities laws and under the Federal banking laws.

''(4) CONSULTATION.—In promulgating rules under this subsection, the Commission shall consult with and consider the views of the Board of Governors of the Federal Reserve System regarding the nature of the new hybrid product, the history, purpose, extent, and appropriateness of the regulation of the new product under the Federal banking laws, and the impact of the proposed rule on the banking industry.

''(5) NEW HYBRID PRODUCT.—For purposes of this subsection, the term 'new hybrid product' means a product that—

''(A) was not subjected to regulation by the Commission as a security prior to the date of enactment of this subsection; and

''(B) is not an excepted banking product, as such term is defined in section 206 of the Financial Services Act of 1999.''.

SEC. 206. DEFINITION OF EXCEPTED BANKING PRODUCT.

(a) DEFINITION OF EXCEPTED BANKING PRODUCT.—For purposes of paragraphs (4) and (5) of section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a) (4), (5)), the term ''excepted banking product'' means—

(1) a deposit account, savings account, certificate of deposit, or other deposit instrument issued by a bank;

(2) a banker's acceptance;

(3) a letter of credit issued or loan made by a bank;

(4) a debit account at a bank arising from a credit card or similar arrangement;

(5) a participation in a loan which the bank or an affiliate of the bank (other than a broker or dealer) funds, participates in, or owns that is sold—

(A) to qualified investors; or

(B) to other persons that—

(i) have the opportunity to review and assess any material information, including information regarding the borrower's creditworthiness; and

(ii) based on such factors as financial sophistication, net worth, and knowledge and experience in financial matters, have the capability to evaluate the information available, as determined under generally applicable banking standards or guidelines; or

(6) a derivative instrument that involves or relates to—

(A) currencies, except options on currencies that trade on a national securities exchange;

(B) interest rates, except interest rate derivative instruments that—

(i) 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) provide for the delivery of one or more securities (other than government securities); or

(iii) trade on a national securities exchange; or

(C) commodities, other rates, indices, or other assets, except derivative instruments that—

(i) 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) provide for the delivery of one or more securities (other than government securities); or

(iii) trade on a national securities exchange.

(b) CLASSIFICATION LIMITED.—Classification of a particular product as an excepted banking product pursuant to this section shall not be construed as finding or implying that such product is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

(c) INCORPORATED DEFINITIONS.—For purposes of this section—

(1) the terms ''bank'', ''qualified investor'', and ''securities laws'' have the same meanings given in section 3(a) of the Securities Exchange Act of 1934, as amended by this Act; and

(2) the term ''government securities'' has the meaning given in section 3(a)(42) of such Act (as amended by this Act), and, for purposes of this section, commercial paper, bankers acceptances, and commercial bills shall be treated in the same manner as government securities.

SEC. 207. ADDITIONAL DEFINITIONS.

Section 3(a) of the Securities Exchange Act of 1934 is amended by adding at the end the following new paragraphs:

''(54) DERIVATIVE INSTRUMENT.—

''(A) DEFINITION.—The term 'derivative instrument' means any individually negotiated contract, agreement, warrant, note, or option that is based, in whole or in part, on the value of, any interest in, or any quantitative measure or the occurrence of any event relating to, one or more commodities, securities, currencies, interest or other rates, indices, or other assets, but does not include an excepted banking product, as defined in paragraphs (1) through (5) of section 206(a) of the Financial Services Act of 1999.

''(B) CLASSIFICATION LIMITED.—Classification of a particular contract as a derivative instrument pursuant to this paragraph shall not be construed as finding or implying that such instrument is or is not a security for any purpose under the securities laws, or is or is not an account, agreement, contract, or transaction for any purpose under the Commodity Exchange Act.

''(55) QUALIFIED INVESTOR.—

''(A) DEFINITION.—For purposes of this title, the term 'qualified investor' means—

''(i) any investment company registered with the Commission under section 8 of the Investment Company Act of 1940;

''(ii) any issuer eligible for an exclusion from the definition of investment company pursuant to section 3(c)(7) of the Investment Company Act of 1940;

''(iii) any bank (as defined in paragraph (6) of this subsection), savings association (as defined in section 3(b) of the Federal Deposit Insurance Act), broker, dealer, insurance company (as defined in section 2(a)(13) of the Securities Act of 1933), or business development company (as defined in section 2(a)(48) of the Investment Company Act of 1940);

''(iv) any small business investment company licensed by the United States Small Business Administration under section 301 (c) or (d) of the Small Business Investment Act of 1958;

''(v) any State sponsored employee benefit plan, or any other employee benefit plan, within the meaning of the Employee Retirement Income Security Act of 1974, other than an individual retirement account, if the investment decisions are made by a plan fiduciary, as defined in section 3(21) of that Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser;

''(vi) any trust whose purchases of securities are directed by a person described in clauses (i) through (v) of this subparagraph;

''(vii) any market intermediary exempt under section 3(c)(2) of the Investment Company Act of 1940;

''(viii) any associated person of a broker or dealer other than a natural person;

''(ix) any foreign bank (as defined in section 1(b)(7) of the International Banking Act of 1978);

''(x) the government of any foreign country;

''(xi) any corporation, company, or partnership that owns and invests on a discretionary basis, not less than $10,000,000 in investments;

''(xii) any natural person who owns and invests on a discretionary basis, not less than $10,000,000 in investments;

''(xiii) any government or political subdivision, agency, or instrumentality of a government who owns and invests on a discretionary basis not less than $50,000,000 in investments; or

''(xiv) any multinational or supranational entity or any agency or instrumentality thereof.

''(B) ADDITIONAL AUTHORITY.—The Commission may, by rule or order, define a 'qualified investor' as any other person, taking into consideration such factors as the financial sophistication of the person, net worth, and knowledge and experience in financial matters.''.

SEC. 208. GOVERNMENT SECURITIES DEFINED.

Section 3(a)(42) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(42)) is amended—

(1) by striking ''or'' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting ''; or''; and

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

''(E) for purposes of sections 15, 15C, and 17A as applied to a bank, a qualified Canadian government obligation as defined in section 5136 of the Revised Statutes of the United States.''.

SEC. 209. EFFECTIVE DATE.

This subtitle shall take effect at the end of the 270-day period beginning on the date of the enactment of this Act.

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.).

Subtitle B—Bank Investment Company Activities

SEC. 211. CUSTODY OF INVESTMENT COMPANY ASSETS BY AFFILIATED BANK.

(a) MANAGEMENT COMPANIES.—Section 17(f) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(f)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by striking ''(f) Every registered'' and inserting the following:

''(f) CUSTODY OF SECURITIES.—

''(1) Every registered'';

(3) by redesignating the second, third, fourth, and fifth sentences of such subsection as paragraphs (2) through (5), respectively, and indenting the left margin of such paragraphs appropriately; and

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

''(6) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person, promoter, organizer, or sponsor of, or principal underwriter for, a registered management company may serve as custodian of that registered management company.''.

(b) UNIT INVESTMENT TRUSTS.—Section 26 of the Investment Company Act of 1940 (15 U.S.C. 80a–26) is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively; and

(2) by inserting after subsection (a) the following new subsection:

''(b) The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the conditions under which a bank, or an affiliated person of a bank, either of which is an affiliated person of a principal underwriter for, or depositor of, a registered unit investment trust, may serve as trustee or custodian under subsection (a)(1).''.

(c) FIDUCIARY DUTY OF CUSTODIAN.—Section 36(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–35(a)) is amended—

(1) in paragraph (1), by striking ''or'' at the end;

(2) in paragraph (2), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (2) the following:

''(3) as custodian.''.

SEC. 212. LENDING TO AN AFFILIATED INVESTMENT COMPANY.

Section 17(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–17(a)) is amended—

(1) by striking ''or'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting ''; or''; and

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

''(4) to loan money or other property to such registered company, or to any company controlled by such registered company, in contravention of such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.''.

SEC. 213. INDEPENDENT DIRECTORS.

(a) IN GENERAL.—Section 2(a)(19)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(A)) is amended—

(1) by striking clause (v) and inserting the following new clause:

''(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

''(I) the investment company;

''(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services; or

''(III) any account over which the investment company's investment adviser has brokerage placement discretion,'';

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

''(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

''(I) the investment company;

''(II) any other investment company having the same investment adviser as such investment company or holding itself out to investors as a related company for purposes of investment or investor services; or

''(III) any account for which the investment company's investment adviser has borrowing authority,''.

(b) CONFORMING AMENDMENT.—Section 2(a)(19)(B) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)(B)) is amended—

(1) by striking clause (v) and inserting the following new clause:

''(v) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has executed any portfolio transactions for, engaged in any principal transactions with, or distributed shares for—

''(I) any investment company for which the investment adviser or principal underwriter serves as such;

''(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

''(III) any account over which the investment adviser has brokerage placement discretion,'';

(2) by redesignating clause (vi) as clause (vii); and

(3) by inserting after clause (v) the following new clause:

''(vi) any person or any affiliated person of a person (other than a registered investment company) that, at any time during the 6-month period preceding the date of the determination of whether that person or affiliated person is an interested person, has loaned money or other property to—

''(I) any investment company for which the investment adviser or principal underwriter serves as such;

''(II) any investment company holding itself out to investors, for purposes of investment or investor services, as a company related to any investment company for which the investment adviser or principal underwriter serves as such; or

''(III) any account for which the investment adviser has borrowing authority,''.

(c) AFFILIATION OF DIRECTORS.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–10(c)) is amended by striking ''bank, except'' and inserting ''bank (together with its affiliates and subsidiaries) or any one bank holding company (together with its affiliates and subsidiaries) (as such terms are defined in section 2 of the Bank Holding Company Act of 1956), except''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect at the end of the 1-year period beginning on the date of enactment of this subtitle.

SEC. 214. ADDITIONAL SEC DISCLOSURE AUTHORITY.

Section 35(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–34(a)) is amended to read as follows:

''(a) MISREPRESENTATION OF GUARANTEES.—

''(1) IN GENERAL.—It shall be unlawful for any person, issuing or selling any security of which a registered investment company is the issuer, to represent or imply in any manner whatsoever that such security or company—

''(A) has been guaranteed, sponsored, recommended, or approved by the United States, or any agency, instrumentality or officer of the United States;

''(B) has been insured by the Federal Deposit Insurance Corporation; or

''(C) is guaranteed by or is otherwise an obligation of any bank or insured depository institution.

''(2) DISCLOSURES.—Any person issuing or selling the securities of a registered investment company that is advised by, or sold through, a bank shall prominently disclose that an investment in the company is not insured by the Federal Deposit Insurance Corporation or any other government agency. The Commission may adopt rules and regulations, and issue orders, consistent with the protection of investors, prescribing the manner in which the disclosure under this paragraph shall be provided.

''(3) DEFINITIONS.—The terms 'insured depository institution' and 'appropriate Federal banking agency' have the same meanings given in section 3 of the Federal Deposit Insurance Act.''.

SEC. 215. DEFINITION OF BROKER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(6) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(6)) is amended to read as follows:

''(6) The term 'broker' has the same meaning given in section 3 of the Securities Exchange Act of 1934, except that such term does not include any person solely by reason of the fact that such person is an underwriter for one or more investment companies.''.

SEC. 216. DEFINITION OF DEALER UNDER THE INVESTMENT COMPANY ACT OF 1940.

Section 2(a)(11) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(11)) is amended to read as follows:

''(11) The term 'dealer' has the same meaning given in the Securities Exchange Act of 1934, but does not include an insurance company or investment company.''.

SEC. 217. REMOVAL OF THE EXCLUSION FROM THE DEFINITION OF INVESTMENT ADVISER FOR BANKS THAT ADVISE INVESTMENT COMPANIES.

(a) INVESTMENT ADVISER.—Section 202(a)(11)(A) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(11)(A)) is amended by striking ''investment company'' and inserting ''investment company, except that the term 'investment adviser' includes any bank or bank holding company to the extent that such bank or bank holding company serves or acts as an investment adviser to a registered investment company, but if, in the case of a bank, such services or actions are performed through a separately identifiable department or division, the department or division, and not the bank itself, shall be deemed to be the investment adviser''.

(b) SEPARATELY IDENTIFIABLE DEPARTMENT OR DIVISION.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)) is amended by adding at the end the following:

''(26) The term 'separately identifiable department or division' of a bank means a unit—

''(A) that is under the direct supervision of an officer or officers designated by the board of directors of the bank as responsible for the day-to-day conduct of the bank's investment adviser activities for one or more investment companies, including the supervision of all bank employees engaged in the performance of such activities; and

''(B) for which all of the records relating to its investment adviser activities are separately maintained in or extractable from such unit's own facilities or the facilities of the bank, and such records are so maintained or otherwise accessible as to permit independent examination and enforcement by the Commission of this Act or the Investment Company Act of 1940 and rules and regulations promulgated under this Act or the Investment Company Act of 1940.''.

SEC. 218. DEFINITION OF BROKER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(3) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(3)) is amended to read as follows:

''(3) The term 'broker' has the same meaning given in section 3 of the Securities Exchange Act of 1934.''.

SEC. 219. DEFINITION OF DEALER UNDER THE INVESTMENT ADVISERS ACT OF 1940.

Section 202(a)(7) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(7)) is amended to read as follows:

''(7) The term 'dealer' has the same meaning given in section 3 of the Securities Exchange Act of 1934, but does not include an insurance company or investment company.''.

SEC. 220. INTERAGENCY CONSULTATION.

The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 210 the following new section:

''SEC. 210A. CONSULTATION.

''(a) EXAMINATION RESULTS AND OTHER INFORMATION.—

''(1) The appropriate Federal banking agency shall provide the Commission upon request the results of any examination, reports, records, or other information to which such agency may have access with respect to the investment advisory activities—

''(A) of any—

''(i) bank holding company;

''(ii) bank; or

''(iii) separately identifiable department or division of a bank,

that is registered under section 203 of this title; and

''(B) in the case of a bank holding company or bank that has a subsidiary or a separately identifiable department or division registered under that section, of such bank or bank holding company.

''(2) The Commission shall provide to the appropriate Federal banking agency upon request the results of any examination, reports, records, or other information with respect to the investment advisory activities of any bank holding company, bank, or separately identifiable department or division of a bank, which is registered under section 203 of this title.

''(b) EFFECT ON OTHER AUTHORITY.—Nothing in this section shall limit in any respect the authority of the appropriate Federal banking agency with respect to such bank holding company, bank, or department or division under any other provision of law.

''(c) DEFINITION.—For purposes of this section, the term 'appropriate Federal banking agency' shall have the same meaning given in section 3 of the Federal Deposit Insurance Act.''.

SEC. 221. TREATMENT OF BANK COMMON TRUST FUNDS.

(a) SECURITIES ACT OF 1933.—Section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. 77c(a)(2)) is amended by striking ''or any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustee, executor, administrator, or guardian'' and inserting ''or any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a)(12)(A)(iii) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)(A)(iii)) is amended to read as follows:

''(iii) any interest or participation in any common trust fund or similar fund that is excluded from the definition of the term 'investment company' under section 3(c)(3) of the Investment Company Act of 1940;''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 3(c)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(3)) is amended by inserting before the period the following: '', if—

''(A) such fund is employed by the bank solely as an aid to the administration of trusts, estates, or other accounts created and maintained for a fiduciary purpose;

''(B) except in connection with the ordinary advertising of the bank's fiduciary services, interests in such fund are not—

''(i) advertised; or

''(ii) offered for sale to the general public; and

''(C) fees and expenses charged by such fund are not in contravention of fiduciary principles established under applicable Federal or State law''.

SEC. 222. INVESTMENT ADVISERS PROHIBITED FROM HAVING CONTROLLING INTEREST IN REGISTERED INVESTMENT COMPANY.

Section 15 of the Investment Company Act of 1940 (15 U.S.C. 80a–15) is amended by adding at the end the following new subsection:

''(g) CONTROLLING INTEREST IN INVESTMENT COMPANY PROHIBITED.—

''(1) IN GENERAL.—If an investment adviser to a registered investment company, or an affiliated person of that investment adviser, holds a controlling interest in that registered investment company in a trustee or fiduciary capacity, such person shall—

''(A) if it holds the shares in a trustee or fiduciary capacity with respect to any employee benefit plan subject to the Employee Retirement Income Security Act of 1974, transfer the power to vote the shares of the investment company through to another person acting in a fiduciary capacity with respect to the plan who is not an affiliated person of that investment adviser or any affiliated person thereof; or

''(B) if it holds the shares in a trustee or fiduciary capacity with respect to any person or entity other than an employee benefit plan subject to the Employee Retirement Income Security Act of 1974—

''(i) transfer the power to vote the shares of the investment company through to—

''(I) the beneficial owners of the shares;

''(II) another person acting in a fiduciary capacity who is not an affiliated person of that investment adviser or any affiliated person thereof; or

''(III) any person authorized to receive statements and information with respect to the trust who is not an affiliated person of that investment adviser or any affiliated person thereof;

''(ii) vote the shares of the investment company held by it in the same proportion as shares held by all other shareholders of the investment company; or

''(iii) vote the shares of the investment company as otherwise permitted under such rules, regulations, or orders as the Commission may prescribe or issue consistent with the protection of investors.

''(2) EXEMPTION.—Paragraph (1) shall not apply to any investment adviser to a registered investment company, or any affiliated person of that investment adviser, that holds shares of the investment company in a trustee or fiduciary capacity if that registered investment company consists solely of assets held in such capacities.

''(3) SAFE HARBOR.—No investment adviser to a registered investment company or any affiliated person of such investment adviser shall be deemed to have acted unlawfully or to have breached a fiduciary duty under State or Federal law solely by reason of acting in accordance with clause (i), (ii), or (iii) of paragraph (1)(B).''.

SEC. 223. STATUTORY DISQUALIFICATION FOR BANK WRONGDOING.

Section 9(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)) is amended in paragraphs (1) and (2) by striking ''securities dealer, transfer agent,'' and inserting ''securities dealer, bank, transfer agent,''.

SEC. 224. CONFORMING CHANGE IN DEFINITION.

Section 2(a)(5) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(5)) is amended by striking ''(A) a banking institution organized under the laws of the United States'' and inserting ''(A) a depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or a branch or agency of a foreign bank (as such terms are defined in section 1(b) of the International Banking Act of 1978)''.

SEC. 225. CONFORMING AMENDMENT.

Section 202 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2) is amended by adding at the end the following new subsection:

''(c) CONSIDERATION OF PROMOTION OF EFFICIENCY, COMPETITION, AND CAPITAL FORMATION.—Whenever pursuant to this title the Commission is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.''.

SEC. 226. CHURCH PLAN EXCLUSION.

Section 3(c)(14) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)(14)) is amended—

(1) by redesignating clauses (i) and (ii) of subparagraph (B) as subclauses (I) and (II), respectively;

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by inserting ''(A)'' after ''(14)''; and

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

''(B) If a registered investment company would be excluded from the definition of investment company under this subsection but for the fact that some of the company's assets do not satisfy the condition of subparagraph (A)(ii) of this paragraph, then any investment adviser to the company or affiliated person of such investment adviser shall not be subject to the requirements of section 15(g)(1)(B) with respect to shares of the investment company.''.

SEC. 227. EFFECTIVE DATE.

This subtitle shall take effect 90 days after the date of the enactment of this Act.

Subtitle C—Securities and Exchange Commission Supervision of Investment Bank Holding Companies

SEC. 231. SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES BY THE SECURITIES AND EXCHANGE COMMISSION.

(a) AMENDMENT.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended—

(1) by redesignating subsection (i) as subsection (k); and

(2) by inserting after subsection (h) the following new subsection:

''(i) INVESTMENT BANK HOLDING COMPANIES.—

''(1) ELECTIVE SUPERVISION OF AN INVESTMENT BANK HOLDING COMPANY NOT HAVING A BANK OR SAVINGS ASSOCIATION AFFILIATE.—

''(A) IN GENERAL.—An investment bank holding company that is not—

''(i) an affiliate of a wholesale financial institution, an insured bank (other than an 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), or a savings association;

''(ii) a foreign bank, foreign company, or company that is described in section 8(a) of the International Banking Act of 1978; or

''(iii) a foreign bank that controls, directly or indirectly, a corporation chartered under section 25A of the Federal Reserve Act,

may elect to become supervised by filing with the Commission a notice of intention to become supervised, pursuant to subparagraph (B) of this paragraph. Any investment bank holding company filing such a notice shall be supervised in accordance with this section and comply with the rules promulgated by the Commission applicable to supervised investment bank holding companies.

''(B) NOTIFICATION OF STATUS AS A SUPERVISED INVESTMENT BANK HOLDING COMPANY.—An investment bank holding company that elects under subparagraph (A) to become supervised by the Commission shall file with the Commission a written notice of intention to become supervised by the Commission in such form and containing such information and documents concerning such investment bank holding company as the Commission, by rule, may prescribe as necessary or appropriate in furtherance of the purposes of this section. Unless the Commission finds that such supervision is not necessary or appropriate in furtherance of the purposes of this section, such supervision shall become effective 45 days after the date of receipt of such written notice by the Commission or within such shorter time period as the Commission, by rule or order, may determine.

''(2) ELECTION NOT TO BE SUPERVISED BY THE COMMISSION AS AN INVESTMENT BANK HOLDING COMPANY.—

''(A) VOLUNTARY WITHDRAWAL.—A supervised investment bank holding company that is supervised pursuant to paragraph (1) may, upon such terms and conditions as the Commission deems necessary or appropriate, elect not to be supervised by the Commission by filing a written notice of withdrawal from Commission supervision. Such notice shall not become effective until one year after receipt by the Commission, or such shorter or longer period as the Commission deems necessary or appropriate to ensure effective supervision of the material risks to the supervised investment bank holding company and to the affiliated broker or dealer, or to prevent evasion of the purposes of this section.

''(B) DISCONTINUATION OF COMMISSION SUPERVISION.—If the Commission finds that any supervised investment bank holding company that is supervised pursuant to paragraph (1) is no longer in existence or has ceased to be an investment bank holding company, or if the Commission finds that continued supervision of such a supervised investment bank holding company is not consistent with the purposes of this section, the Commission may discontinue the supervision pursuant to a rule or order, if any, promulgated by the Commission under this section.

''(3) SUPERVISION OF INVESTMENT BANK HOLDING COMPANIES.—

''(A) RECORDKEEPING AND REPORTING.—

''(i) IN GENERAL.—Every supervised investment bank holding company and each affiliate thereof shall make and keep for prescribed periods such records, furnish copies thereof, and make such reports, as the Commission may require by rule, in order to keep the Commission informed as to—

''(I) the company's or affiliate's activities, financial condition, policies, systems for monitoring and controlling financial and operational risks, and transactions and relationships between any broker or dealer affiliate of the supervised investment bank holding company; and

''(II) the extent to which the company or affiliate has complied with the provisions of this Act and regulations prescribed and orders issued under this Act.

''(ii) FORM AND CONTENTS.—Such records and reports shall be prepared in such form and according to such specifications (including certification by an independent public accountant), as the Commission may require and shall be provided promptly at any time upon request by the Commission. Such records and reports may include—

''(I) a balance sheet and income statement;

''(II) an assessment of the consolidated capital of the supervised investment bank holding company;

''(III) an independent auditor's report attesting to the supervised investment bank holding company's compliance with its internal risk management and internal control objectives; and

''(IV) reports concerning the extent to which the company or affiliate has complied with the provisions of this title and any regulations prescribed and orders issued under this title.

''(B) USE OF EXISTING REPORTS.—

''(i) IN GENERAL.—The Commission shall, to the fullest extent possible, accept reports in fulfillment of the requirements under this paragraph that the supervised investment bank holding company or its affiliates have been required to provide to another appropriate regulatory agency or self-regulatory organization.

''(ii) AVAILABILITY.—A supervised investment bank holding company or an affiliate of such company shall provide to the Commission, at the request of the Commission, any report referred to in clause (i).

''(C) EXAMINATION AUTHORITY.—

''(i) FOCUS OF EXAMINATION AUTHORITY.—The Commission may make examinations of any supervised investment bank holding company and any affiliate of such company in order to—

''(I) inform the Commission regarding—

''(aa) the nature of the operations and financial condition of the supervised investment bank holding company and its affiliates;

''(bb) the financial and operational risks within the supervised investment bank holding company that may affect any broker or dealer controlled by such supervised investment bank holding company; and

''(cc) the systems of the supervised investment bank holding company and its affiliates for monitoring and controlling those risks; and

''(II) monitor compliance with the provisions of this subsection, provisions governing transactions and relationships between any broker or dealer affiliated with the supervised investment bank holding company and any of the company's other affiliates, and applicable provisions of subchapter II of chapter 53, title 31, United States Code (commonly referred to as the 'Bank Secrecy Act') and regulations thereunder.

''(ii) RESTRICTED FOCUS OF EXAMINATIONS.—The Commission shall limit the focus and scope of any examination of a supervised investment bank holding company to—

''(I) the company; and

''(II) any affiliate of the company that, because of its size, condition, or activities, the nature or size of the transactions between such affiliate and any affiliated broker or dealer, or the centralization of functions within the holding company system, could, in the discretion of the Commission, have a materially adverse effect on the operational or financial condition of the broker or dealer.

''(iii) DEFERENCE TO OTHER EXAMINATIONS.—For purposes of this subparagraph, the Commission shall, to the fullest extent possible, use the reports of examination of an 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 made by the appropriate regulatory agency, or of a licensed insurance company made by the appropriate State insurance regulator.

''(4) HOLDING COMPANY CAPITAL.—

''(A) AUTHORITY.—If the Commission finds that it is necessary to adequately supervise investment bank holding companies and their broker or dealer affiliates consistent with the purposes of this subsection, the Commission may adopt capital adequacy rules for supervised investment bank holding companies.

''(B) METHOD OF CALCULATION.—In developing rules under this paragraph:

''(i) DOUBLE LEVERAGE.—The Commission shall consider the use by the supervised investment bank holding company of debt and other liabilities to fund capital investments in affiliates.

''(ii) NO UNWEIGHTED CAPITAL RATIO.—The Commission shall not impose under this section a capital ratio that is not based on appropriate risk-weighting considerations.

''(iii) NO CAPITAL REQUIREMENT ON REGULATED ENTITIES.—The Commission shall not, by rule, regulation, guideline, order or otherwise, impose any capital adequacy provision on a nonbanking affiliate (other than a broker or dealer) that is in compliance with applicable capital requirements of another Federal regulatory authority or State insurance authority.

''(iv) APPROPRIATE EXCLUSIONS.—The Commission shall take full account of the applicable capital requirements of another Federal regulatory authority or State insurance regulator.

''(C) INTERNAL RISK MANAGEMENT MODELS.—The Commission may incorporate internal risk management models into its capital adequacy rules for supervised investment bank holding companies.

''(5) FUNCTIONAL REGULATION OF BANKING AND INSURANCE ACTIVITIES OF SUPERVISED INVESTMENT BANK HOLDING COMPANIES.—The Commission shall defer to—

''(A) the appropriate regulatory agency with regard to all interpretations of, and the enforcement of, applicable banking laws relating to the activities, conduct, ownership, and operations of banks, and institutions described in subparagraph (D), (F), and (G) of section 2(c)(2), or held under section 4(f), of the Bank Holding Company Act of 1956; and

''(B) the appropriate State insurance regulators with regard to all interpretations of, and the enforcement of, applicable State insurance laws relating to the activities, conduct, and operations of insurance companies and insurance agents.

''(6) DEFINITIONS.—For purposes of this subsection:

''(A) The term 'investment bank holding company' means—

''(i) any person other than a natural person that owns or controls one or more brokers or dealers; and

''(ii) the associated persons of the investment bank holding company.

''(B) The term 'supervised investment bank holding company' means any investment bank holding company that is supervised by the Commission pursuant to this subsection.

''(C) The terms 'affiliate', 'bank', 'bank holding company', 'company', 'control', 'savings association', and 'wholesale financial institution' have the same meanings given in section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841).

''(D) The term 'insured bank' has the same meaning given in section 3 of the Federal Deposit Insurance Act.

''(E) The term 'foreign bank' has the same meaning given in section 1(b)(7) of the International Banking Act of 1978.

''(F) The terms 'person associated with an investment bank holding company' and 'associated person of an investment bank holding company' mean any person directly or indirectly controlling, controlled by, or under common control with, an investment bank holding company.''.

''(j) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under subsection (h) or (i) or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a broker or dealer, investment bank holding company, or any affiliate of an investment bank holding company. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency or any self-regulatory organization requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraphs (A), (B), and (C) of subsection (i)(5) as confidential information for purposes of section 24(b)(2) of this title.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended by adding at the end the following new subparagraph:

''(H) When used with respect to an 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—

''(i) the Comptroller of the Currency, in the case of a national bank or a bank in the District of Columbia examined by the Comptroller of the Currency;

''(ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System or any corporation chartered under section 25A of the Federal Reserve Act;

''(iii) the Federal Deposit Insurance Corporation, in the case of any other bank the deposits of which are insured in accordance with the Federal Deposit Insurance Act; or

''(iv) the Commission in the case of all other such institutions.''.

(2) Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended—

(A) by striking ''this title'' and inserting ''law''; and

(B) by inserting '', examination reports'' after ''financial records''.

Subtitle D—Disclosure of Customer Costs of Acquiring Financial Products

SEC. 241. 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, 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.

TITLE III—INSURANCE

Subtitle A—State Regulation of Insurance

SEC. 301. STATE REGULATION OF THE BUSINESS OF INSURANCE.

The Act entitled ''An Act to express the intent of the Congress with reference to the regulation of the business of insurance'' and approved March 9, 1945 (15 U.S.C. 1011 et seq.), commonly referred to as the ''McCarran-Ferguson Act'' remains the law of the United States.

SEC. 302. MANDATORY INSURANCE LICENSING REQUIREMENTS.

No person shall engage in the business of insurance in a State as principal or agent unless such person is licensed as required by the appropriate insurance regulator of such State in accordance with the relevant State insurance law, subject to section 104.

SEC. 303. FUNCTIONAL REGULATION OF INSURANCE.

The insurance activities of any person (including a national bank exercising its power to act as agent under the 11th undesignated paragraph of section 13 of the Federal Reserve Act) shall be functionally regulated by the States, subject to section 104.

SEC. 304. INSURANCE UNDERWRITING IN NATIONAL BANKS.

(a) IN GENERAL.—Except as provided in section 305, a national bank and the subsidiaries of a national bank may not provide insurance in a State as principal except that this prohibition shall not apply to authorized products.

(b) AUTHORIZED PRODUCTS.—For the purposes of this section, a product is authorized if—

(1) as of January 1, 1999, the Comptroller of the Currency had determined in writing that national banks may provide such product as principal, or national banks were in fact lawfully providing such product as principal;

(2) no court of relevant jurisdiction had, by final judgment, overturned a determination of the Comptroller of the Currency that national banks may provide such product as principal; and

(3) the product is not title insurance, or an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

(c) DEFINITION.—For purposes of this section, the term ''insurance'' means—

(1) any product regulated as insurance as of January 1, 1999, in accordance with the relevant State insurance law, in the State in which the product is provided;

(2) any product first offered after January 1, 1999, which—

(A) a State insurance regulator determines shall be regulated as insurance in the State in which the product is provided because the product insures, guarantees, or indemnifies against liability, loss of life, loss of health, or loss through damage to or destruction of property, including, but not limited to, surety bonds, life insurance, health insurance, title insurance, and property and casualty insurance (such as private passenger or commercial automobile, homeowners, mortgage, commercial multiperil, general liability, professional liability, workers' compensation, fire and allied lines, farm owners multiperil, aircraft, fidelity, surety, medical malpractice, ocean marine, inland marine, and boiler and machinery insurance); and

(B) is not a product or service of a bank that is—

(i) a deposit product;

(ii) a loan, discount, letter of credit, or other extension of credit;

(iii) a trust or other fiduciary service;

(iv) a qualified financial contract (as defined in or determined pursuant to section 11(e)(8)(D)(i) of the Federal Deposit Insurance Act); or

(v) a financial guaranty, except that this subparagraph (B) shall not apply to a product that includes an insurance component such that if the product is offered or proposed to be offered by the bank as principal—

(I) it would be treated as a life insurance contract under section 7702 of the Internal Revenue Code of 1986; or

(II) in the event that the product is not a letter of credit or other similar extension of credit, a qualified financial contract, or a financial guaranty, it would qualify for treatment for losses incurred with respect to such product under section 832(b)(5) of the Internal Revenue Code of 1986, if the bank were subject to tax as an insurance company under section 831 of that Code; or

(3) any annuity contract, the income on which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.

SEC. 305. TITLE INSURANCE ACTIVITIES OF NATIONAL BANKS AND THEIR AFFILIATES.

(a) GENERAL PROHIBITION.—No national bank, and no subsidiary of a national bank, may engage in any activity involving the underwriting or sale of title insurance.

(b) NONDISCRIMINATION PARITY EXCEPTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law (including section 104 of this Act), in the case of any State in which banks organized under the laws of such State are authorized to sell title insurance as agency, a national bank and a subsidiary of a national bank may sell title insurance as agent in such State, but only in the same manner, to the same extent, and under the same restrictions as such State banks are authorized to sell title insurance as agent in such State.

(2) COORDINATION WITH ''WILDCARD'' PROVISION.—A State law which authorizes State banks to engage in any activities in such State in which a national bank may engage shall not be treated as a statute which authorizes State banks to sell title insurance as agent, for purposes of paragraph (1).

(c) GRANDFATHERING WITH CONSISTENT REGULATION.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) and notwithstanding subsections (a) and (b), a national bank, and a subsidiary of a national bank, may conduct title insurance activities which such national bank or subsidiary was actively and lawfully conducting before the date of the enactment of this Act.

(2) INSURANCE AFFILIATE.—In the case of a national bank which has an affiliate which provides insurance as principal and is not a subsidiary of the bank, the national bank and any subsidiary of the national bank may not engage in the underwriting of title insurance pursuant to paragraph (1).

(3) INSURANCE SUBSIDIARY.—In the case of a national bank which has a subsidiary which provides insurance as principal and has no affiliate other than a subsidiary which provides insurance as principal, the national bank may not directly engage in any activity involving the underwriting of title insurance.

(d) ''AFFILIATE'' AND ''SUBSIDIARY'' DEFINED.—For purposes of this section, the terms ''affiliate'' and ''subsidiary'' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

(e) RULE OF CONSTRUCTION.—No provision of this Act or any other Federal law shall be construed as superseding or affecting a State law which was in effect before the date of the enactment of this Act and which prohibits title insurance from being offered, provided, or sold in such State, or from being underwritten with respect to real property in such State, by any person whatsoever.

SEC. 306. EXPEDITED AND EQUALIZED DISPUTE RESOLUTION FOR FEDERAL REGULATORS.

(a) FILING IN COURT OF APPEALS.—In the case of a regulatory conflict between a State insurance regulator and a Federal regulator as to whether any product is or is not insurance, as defined in section 304(c) of this Act, or whether a State statute, regulation, order, or interpretation regarding any insurance sales or solicitation activity is properly treated as preempted under Federal law, either regulator may seek expedited judicial review of such determination by the United States Court of Appeals for the circuit in which the State is located or in the United States Court of Appeals for the District of Columbia Circuit by filing a petition for review in such court.

(b) EXPEDITED REVIEW.—The United States Court of Appeals in which a petition for review is filed in accordance with subsection (a) shall complete all action on such petition, including rendering a judgment, before the end of the 60-day period beginning on the date on which such petition is filed, unless all parties to such proceeding agree to any extension of such period.

(c) SUPREME COURT REVIEW.—Any request for certiorari to the Supreme Court of the United States of any judgment of a United States Court of Appeals with respect to a petition for review under this section shall be filed with the Supreme Court of the United States as soon as practicable after such judgment is issued.

(d) STATUTE OF LIMITATION.—No petition may be filed under this section challenging an order, ruling, determination, or other action of a Federal regulator or State insurance regulator after the later of—

(1) the end of the 12-month period beginning on the date on which the first public notice is made of such order, ruling, determination or other action in its final form; or

(2) the end of the 6-month period beginning on the date on which such order, ruling, determination, or other action takes effect.

(e) STANDARD OF REVIEW.—The court shall decide a petition filed under this section based on its review on the merits of all questions presented under State and Federal law, including the nature of the product or activity and the history and purpose of its regulation under State and Federal law, without unequal deference.

SEC. 307. CONSUMER PROTECTION REGULATIONS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 46 (as added by section 122(b) of this Act) the following new section:

''SEC. 47. CONSUMER PROTECTION REGULATIONS.

''(a) REGULATIONS REQUIRED.—

''(1) IN GENERAL.—The Federal banking agencies shall prescribe and publish in final form, before the end of the 1-year period beginning on the date of the enactment of the Financial Services Act of 1999, consumer protection regulations (which the agencies jointly determine to be appropriate) that—

''(A) apply to retail sales practices, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or any person who is engaged in such activities at an office of the institution or on behalf of the institution; and

''(B) are consistent with the requirements of this Act and provide such additional protections for consumers to whom such sales, solicitations, advertising, or offers are directed as the agency determines to be appropriate.

''(2) APPLICABILITY TO SUBSIDIARIES.—The regulations prescribed pursuant to paragraph (1) shall extend such protections to any subsidiaries of an insured depository institution, as deemed appropriate by the regulators referred to in paragraph (3), where such extension is determined to be necessary to ensure the consumer protections provided by this section.

''(3) CONSULTATION AND JOINT REGULATIONS.—The Federal banking agencies shall consult with each other and prescribe joint regulations pursuant to paragraph (1), after consultation with the State insurance regulators, as appropriate.

''(b) SALES PRACTICES.—The regulations prescribed pursuant to subsection (a) shall include anticoercion rules applicable to the sale of insurance products which prohibit an insured depository institution from engaging in any practice that would lead a consumer to believe an extension of credit, in violation of section 106(b) of the Bank Holding Company Act Amendments of 1970, is conditional upon—

''(1) the purchase of an insurance product from the institution or any of its affiliates; or

''(2) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

''(c) DISCLOSURES AND ADVERTISING.—The regulations prescribed pursuant to subsection (a) shall include the following provisions relating to disclosures and advertising in connection with the initial purchase of an insurance product:

''(1) DISCLOSURES.—

''(A) IN GENERAL.—Requirements that the following disclosures be made orally and in writing before the completion of the initial sale and, in the case of clause (iv), at the time of application for an extension of credit:

''(i) UNINSURED STATUS.—As appropriate, the product is not insured by the Federal Deposit Insurance Corporation, the United States Government, or the insured depository institution.

''(ii) INVESTMENT RISK.—In the case of a variable annuity or other insurance product which involves an investment risk, that there is an investment risk associated with the product, including possible loss of value.

''(iv) COERCION.—The approval of an extension of credit may not be conditioned on—

''(I) the purchase of an insurance product from the institution in which the application for credit is pending or any of its affiliates or subsidiaries; or

''(II) an agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product from an unaffiliated entity.

''(B) MAKING DISCLOSURE READILY UNDERSTANDABLE.—Regulations prescribed under subparagraph (A) shall encourage the use of disclosure that is conspicuous, simple, direct, and readily understandable, such as the following:

''(i) 'NOT FDIC–INSURED'.

''(ii) 'NOT GUARANTEED BY THE BANK'.

''(iii) 'MAY GO DOWN IN VALUE'.

''(iv) 'NOT INSURED BY ANY GOVERNMENT AGENCY'.

''(C) ADJUSTMENTS FOR ALTERNATIVE METHODS OF PURCHASE.—In prescribing the requirements under subparagraphs (A) and (D), necessary adjustments shall be made for purchase in person, by telephone, or by electronic media to provide for the most appropriate and complete form of disclosure and acknowledgments.

''(D) CONSUMER ACKNOWLEDGMENT.—A requirement that an insured depository institution shall require any person selling an insurance product at any office of, or on behalf of, the institution to obtain, at the time a consumer receives the disclosures required under this paragraph or at the time of the initial purchase by the consumer of such product, an acknowledgment by such consumer of the receipt of the disclosure required under this subsection with respect to such product.

''(2) PROHIBITION ON MISREPRESENTATIONS.—A prohibition on any practice, or any advertising, at any office of, or on behalf of, the insured depository institution, or any subsidiary as appropriate, which could mislead any person or otherwise cause a reasonable person to reach an erroneous belief with respect to—

''(A) the uninsured nature of any insurance product sold, or offered for sale, by the institution or any subsidiary of the institution; or

''(B) in the case of a variable annuity or other insurance product that involves an investment risk, the investment risk associated with any such product.

''(d) SEPARATION OF BANKING AND NONBANKING ACTIVITIES.—

''(1) REGULATIONS REQUIRED.—The regulations prescribed pursuant to subsection (a) shall include such provisions as the Federal banking agencies consider appropriate to ensure that the routine acceptance of deposits is kept, to the extent practicable, physically segregated from insurance product activity.

''(2) REQUIREMENTS.—Regulations prescribed pursuant to paragraph (1) shall include the following:

''(A) SEPARATE SETTING.—A clear delineation of the setting in which, and the circumstances under which, transactions involving insurance products should be conducted in a location physically segregated from an area where retail deposits are routinely accepted.

''(B) REFERRALS.—Standards which permit any person accepting deposits from the public in an area where such transactions are routinely conducted in an insured depository institution to refer a customer who seeks to purchase any insurance product to a qualified person who sells such product, only if the person making the referral receives no more than a one-time nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a transaction.

''(C) QUALIFICATION AND LICENSING REQUIREMENTS.—Standards prohibiting any insured depository institution from permitting any person to sell or offer for sale any insurance product in any part of any office of the institution, or on behalf of the institution, unless such person is appropriately qualified and licensed.

''(e) CONSUMER GRIEVANCE PROCESS.—The Federal banking agencies shall jointly establish a consumer complaint mechanism, for receiving and expeditiously addressing consumer complaints alleging a violation of regulations issued under the section, which shall—

''(1) establish a group within each regulatory agency to receive such complaints;

''(2) develop procedures for investigating such complaints;

''(3) develop procedures for informing consumers of rights they may have in connection with such complaints; and

''(4) develop procedures for addressing concerns raised by such complaints, as appropriate, including procedures for the recovery of losses to the extent appropriate.

''(f) EFFECT ON OTHER AUTHORITY.—

''(1) IN GENERAL.—No provision of this section shall be construed as granting, limiting, or otherwise affecting—

''(A) any authority of the Securities and Exchange Commission, any self-regulatory organization, the Municipal Securities Rulemaking Board, or the Secretary of the Treasury under any Federal securities law; or

''(B) except as provided in paragraph (2), any authority of any State insurance commissioner or other State authority under any State law.

''(2) COORDINATION WITH STATE LAW.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), regulations prescribed by a Federal banking agency under this section shall not apply to retail sales, solicitations, advertising, or offers of any insurance product by any insured depository institution or wholesale financial institution or to any person who is engaged in such activities at an office of such institution or on behalf of the institution, in a State where the State has in effect statutes, regulations, orders, or interpretations, that are inconsistent with or contrary to the regulations prescribed by the Federal banking agencies.

''(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.

''(h) INSURANCE PRODUCT DEFINED.—For purposes of this section, the term 'insurance product' includes an annuity contract the income of which is subject to tax treatment under section 72 of the Internal Revenue Code of 1986.''.

SEC. 308. CERTAIN STATE AFFILIATION LAWS PREEMPTED FOR INSURANCE COMPANIES AND AFFILIATES.

Except as provided in section 104(a)(2), no State may, by law, regulation, order, interpretation, or otherwise—

(1) prevent or significantly interfere with the ability of any insurer, or any affiliate of an insurer (whether such affiliate is organized as a stock company, mutual holding company, or otherwise), to become a financial holding company or to acquire control of an insured depository institution;

(2) limit the amount of an insurer's assets that may be invested in the voting securities of an insured depository institution (or any company which controls such institution), except that the laws of an insurer's State of domicile may limit the amount of such investment to an amount that is not less than 5 percent of the insurer's admitted assets; or

(3) prevent, significantly interfere with, or have the authority to review, approve, or disapprove a plan of reorganization by which

an insurer proposes to reorganize from mutual form to become a stock insurer (whether as a direct or indirect subsidiary of a mutual holding company or otherwise) unless such State is the State of domicile of the insurer.

SEC. 309. 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'' 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'' have the same meanings as in section 2 of the Bank Holding Company Act of 1956.

SEC. 310. DEFINITION OF STATE.

For purposes of this subtitle, the term ''State'' means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

Subtitle B—National Association of Registered Agents and Brokers

SEC. 321. STATE FLEXIBILITY IN MULTISTATE LICENSING REFORMS.

(a) IN GENERAL.—The provisions of this subtitle shall take effect unless, not later than 3 years after the date of enactment of this Act, at least a majority of the States—

(1) have enacted uniform laws and regulations governing the licensure of individuals and entities authorized to sell and solicit the purchase of insurance within the State; or

(2) have enacted reciprocity laws and regulations governing the licensure of nonresident individuals and entities authorized to sell and solicit insurance within those States.

(b) UNIFORMITY REQUIRED.—States shall be deemed to have established the uniformity necessary to satisfy subsection (a)(1) if the States—

(1) establish uniform criteria regarding the integrity, personal qualifications, education, training, and experience of licensed insurance producers, including the qualification and training of sales personnel in ascertaining the appropriateness of a particular insurance product for a prospective customer;

(2) establish uniform continuing education requirements for licensed insurance producers;

(3) establish uniform ethics course requirements for licensed insurance producers in conjunction with the continuing education requirements under paragraph (2);

(4) establish uniform criteria to ensure that an insurance product, including any annuity contract, sold to a consumer is suitable and appropriate for the consumer based on financial information disclosed by the consumer; and

(5) do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that counter-signature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(c) RECIPROCITY REQUIRED.—States shall be deemed to have established the reciprocity required to satisfy subsection (a)(2) if the following conditions are met:

(1) ADMINISTRATIVE LICENSING PROCEDURES.—At least a majority of the States permit a producer that has a resident license for selling or soliciting the purchase of insurance in its home State to receive a license to sell or solicit the purchase of insurance in such majority of States as a nonresident to the same extent that such producer is permitted to sell or solicit the purchase of insurance in its State, if the producer's home State also awards such licenses on such a reciprocal basis, without satisfying any additional requirements other than submitting—

(A) a request for licensure;

(B) the application for licensure that the producer submitted to its home State;

(C) proof that the producer is licensed and in good standing in its home State; and

(D) the payment of any requisite fee to the appropriate authority.

(2) CONTINUING EDUCATION REQUIREMENTS.—A majority of the States accept an insurance producer's satisfaction of its home State's continuing education requirements for licensed insurance producers to satisfy the States' own continuing education requirements if the producer's home State also recognizes the satisfaction of continuing education requirements on such a reciprocal basis.

(3) NO LIMITING NONRESIDENT REQUIREMENTS.—A majority of the States do not impose any requirement upon any insurance producer to be licensed or otherwise qualified to do business as a nonresident that has the effect of limiting or conditioning that producer's activities because of its residence or place of operations, except that countersignature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section.

(4) RECIPROCAL RECIPROCITY.—Each of the States that satisfies paragraphs (1), (2), and (3) grants reciprocity to residents of all of the other States that satisfy such paragraphs.

(d) DETERMINATION.—

(1) NAIC DETERMINATION.—At the end of the 3-year period beginning on the date of the enactment of this Act, the National Association of Insurance Commissioners shall determine, in consultation with the insurance commissioners or chief insurance regulatory officials of the States, whether the uniformity or reciprocity required by subsections (b) and (c) has been achieved.

(2) JUDICIAL REVIEW.—The appropriate United States district court shall have exclusive jurisdiction over any challenge to the National Association of Insurance Commissioners' determination under this section and such court shall apply the standards set forth in section 706 of title 5, United States Code, when reviewing any such challenge.

(e) CONTINUED APPLICATION.—If, at any time, the uniformity or reciprocity required by subsections (b) and (c) no longer exists, the provisions of this subtitle shall take effect 2 years after the date on which such uniformity or reciprocity ceases to exist, unless the uniformity or reciprocity required by those provisions is satisfied before the expiration of that 2-year period.

(f) SAVINGS PROVISION.—No provision of this section shall be construed as requiring that any law, regulation, provision, or action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws, be altered or amended in order to satisfy the uniformity or reciprocity required by subsections (b) and (c), unless any such law, regulation, provision, or action is inconsistent with a specific requirement of any such subsection and then only to the extent of such inconsistency.

(g) UNIFORM LICENSING.—Nothing in this section shall be construed to require any State to adopt new or additional licensing requirements to achieve the uniformity necessary to satisfy subsection (a)(1).

SEC. 322. NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS.

(a) ESTABLISHMENT.—There is established the National Association of Registered Agents and Brokers (hereafter in this subtitle referred to as the ''Association'').

(b) STATUS.—The Association shall—

(1) be a nonprofit corporation;

(2) have succession until dissolved by an Act of Congress;

(3) not be an agent or instrumentality of the United States Government; and

(4) except as otherwise provided in this Act, be subject to, and have all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29y–1001 et seq.).

SEC. 323. PURPOSE.

The purpose of the Association shall be to provide a mechanism through which uniform licensing, appointment, continuing education, and other insurance producer sales qualification requirements and conditions can be adopted and applied on a multistate basis, while preserving the right of States to license, supervise, and discipline insurance producers and to prescribe and enforce laws and regulations with regard to insurance-related consumer protection and unfair trade practices.

SEC. 324. RELATIONSHIP TO THE FEDERAL GOVERNMENT.

The Association shall be subject to the supervision and oversight of the National Association of Insurance Commissioners (hereafter in this subtitle referred to as the ''NAIC'').

SEC. 325. MEMBERSHIP.

(a) ELIGIBILITY.—

(1) IN GENERAL.—Any State-licensed insurance producer shall be eligible to become a member in the Association.

(2) INELIGIBILITY FOR SUSPENSION OR REVOCATION OF LICENSE.—Notwithstanding paragraph (1), a State-licensed insurance producer shall not be eligible to become a member if a State insurance regulator has suspended or revoked such producer's license in that State during the 3-year period preceding the date on which such producer applies for membership.

(3) RESUMPTION OF ELIGIBILITY.—Paragraph (2) shall cease to apply to any insurance producer if—

(A) the State insurance regulator renews the license of such producer in the State in which the license was suspended or revoked; or

(B) the suspension or revocation is subsequently overturned.

(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRITERIA.—The Association shall have the authority to establish membership criteria that—

(1) bear a reasonable relationship to the purposes for which the Association was established; and

(2) do not unfairly limit the access of smaller agencies to the Association membership.

(c) ESTABLISHMENT OF CLASSES AND CATEGORIES.—

(1) CLASSES OF MEMBERSHIP.—The Association may establish separate classes of membership, with separate criteria, if the Association reasonably determines that performance of different duties requires different levels of education, training, or experience.

(2) CATEGORIES.—The Association may establish separate categories of membership for individuals and for other persons. The establishment of any such categories of membership shall be based either on the types of licensing categories that exist under State laws or on the aggregate amount of business handled by an insurance producer. No special categories of membership, and no distinct membership criteria, shall be established for members which are insured depository institutions or wholesale financial institutions or for their employees, agents, or affiliates.

(d) MEMBERSHIP CRITERIA.—

(1) IN GENERAL.—The Association may establish criteria for membership which shall include standards for integrity, personal qualifications, education, training, and experience.

(2) MINIMUM STANDARD.—In establishing criteria under paragraph (1), the Association shall consider the highest levels of insurance producer qualifications established under the licensing laws of the States.

(e) EFFECT OF MEMBERSHIP.—Membership in the Association shall entitle the member to licensure in each State for which the member pays the requisite fees, including licensing fees and, where applicable, bonding requirements, set by such State.

(f) ANNUAL RENEWAL.—Membership in the Association shall be renewed on an annual basis.

(g) CONTINUING EDUCATION.—The Association shall establish, as a condition of membership, continuing education requirements which shall be comparable to or greater than the continuing education requirements under the licensing laws of a majority of the States.

(h) SUSPENSION AND REVOCATION.—The Association may—

(1) inspect and examine the records and offices of the members of the Association to determine compliance with the criteria for membership established by the Association; and

(2) suspend or revoke the membership of an insurance producer if—

(A) the producer fails to meet the applicable membership criteria of the Association; or

(B) the producer has been subject to disciplinary action pursuant to a final adjudicatory proceeding under the jurisdiction of a State insurance regulator, and the Association concludes that retention of membership in the Association would not be in the public interest.

(i) OFFICE OF CONSUMER COMPLAINTS.—

(1) IN GENERAL.—The Association shall establish an office of consumer complaints that shall—

(A) receive and investigate complaints from both consumers and State insurance regulators related to members of the Association; and

(B) recommend to the Association any disciplinary actions that the office considers appropriate, to the extent that any such recommendation is not inconsistent with State law.

(2) RECORDS AND REFERRALS.—The office of consumer complaints of the Association shall—

(A) maintain records of all complaints received in accordance with paragraph (1) and make such records available to the NAIC and to each State insurance regulator for the State of residence of the consumer who filed the complaint; and

(B) refer, when appropriate, any such complaint to any appropriate State insurance regulator.

(3) TELEPHONE AND OTHER ACCESS.—The office of consumer complaints shall maintain a toll-free telephone number for the purpose of this subsection and, as practicable, other alternative means of communication with consumers, such as an Internet home page.

SEC. 326. BOARD OF DIRECTORS.

(a) ESTABLISHMENT.—There is established the board of directors of the Association (hereafter in this subtitle referred to as the ''Board'') for the purpose of governing and supervising the activities of the Association and the members of the Association.

(b) POWERS.—The Board shall have such powers and authority as may be specified in the bylaws of the Association.

(c) COMPOSITION.—

(1) MEMBERS.—The Board shall be composed of 7 members appointed by the NAIC.

(2) REQUIREMENT.—At least 4 of the members of the Board shall have significant experience with the regulation of commercial lines of insurance in at least 1 of the 20 States in which the greatest total dollar amount of commercial-lines insurance is placed in the United States.

(3) INITIAL BOARD MEMBERSHIP.—

(A) IN GENERAL.—If, by the end of the 2-year period beginning on the date of enactment of this Act, the NAIC has not appointed the initial 7 members of the Board of the Association, the initial Board shall consist of the 7 State insurance regulators of the 7 States with the greatest total dollar amount of commercial-lines insurance in place as of the end of such period.

(B) ALTERNATE COMPOSITION.—If any of the State insurance regulators described in subparagraph (A) declines to serve on the Board, the State insurance regulator with the next greatest total dollar amount of commercial-lines insurance in place, as determined by the NAIC as of the end of such period, shall serve as a member of the Board.

(C) INOPERABILITY.—If fewer than 7 State insurance regulators accept appointment to

the Board, the Association shall be established without NAIC oversight pursuant to section 332.

(d) TERMS.—The term of each director shall, after the initial appointment of the members of the Board, be for 3 years, with ⅓ of the directors to be appointed each year.

(e) BOARD VACANCIES.—A vacancy on the Board shall be filled in the same manner as the original appointment of the initial Board for the remainder of the term of the vacating member.

(f) MEETINGS.—The Board shall meet at the call of the chairperson, or as otherwise provided by the bylaws of the Association.

SEC. 327. OFFICERS.

(a) IN GENERAL.—

(1) POSITIONS.—The officers of the Association shall consist of a chairperson and a vice chairperson of the Board, a president, secretary, and treasurer of the Association, and such other officers and assistant officers as may be deemed necessary.

(2) MANNER OF SELECTION.—Each officer of the Board and the Association shall be elected or appointed at such time and in such manner and for such terms not exceeding 3 years as may be prescribed in the bylaws of the Association.

(b) CRITERIA FOR CHAIRPERSON.—Only individuals who are members of the NAIC shall be eligible to serve as the chairperson of the board of directors.

SEC. 328. BYLAWS, RULES, AND DISCIPLINARY ACTION.

(a) ADOPTION AND AMENDMENT OF BYLAWS.—

(1) COPY REQUIRED TO BE FILED WITH THE NAIC.—The board of directors of the Association shall file with the NAIC a copy of the proposed bylaws or any proposed amendment to the bylaws, accompanied by a concise general statement of the basis and purpose of such proposal.

(2) EFFECTIVE DATE.—Except as provided in paragraph (3), any proposed bylaw or proposed amendment shall take effect—

(A) 30 days after the date of the filing of a copy with the NAIC;

(B) upon such later date as the Association may designate; or

(C) upon such earlier date as the NAIC may determine.

(3) DISAPPROVAL BY THE NAIC.—Notwithstanding paragraph (2), a proposed bylaw or amendment shall not take effect if, after public notice and opportunity to participate in a public hearing—

(A) the NAIC disapproves such proposal as being contrary to the public interest or contrary to the purposes of this subtitle and provides notice to the Association setting forth the reasons for such disapproval; or

(B) the NAIC finds that such proposal involves a matter of such significant public interest that public comment should be obtained, in which case it may, after notifying the Association in writing of such finding, require that the procedures set forth in subsection (b) be followed with respect to such proposal, in the same manner as if such proposed bylaw change were a proposed rule change within the meaning of such subsection.

(b) ADOPTION AND AMENDMENT OF RULES.—

(1) FILING PROPOSED REGULATIONS WITH THE NAIC.—

(A) IN GENERAL.—The board of directors of the Association shall file with the NAIC a copy of any proposed rule or any proposed amendment to a rule of the Association which shall be accompanied by a concise general statement of the basis and purpose of such proposal.

(B) OTHER RULES AND AMENDMENTS INEFFECTIVE.—No proposed rule or amendment shall take effect unless approved by the NAIC or otherwise permitted in accordance with this paragraph.

(2) INITIAL CONSIDERATION BY THE NAIC.—Not later than 35 days after the date of publication of notice of filing of a proposal, or before the end of such longer period not to exceed 90 days as the NAIC may designate after such date, if the NAIC finds such longer period to be appropriate and sets forth its reasons for so finding, or as to which the Association consents, the NAIC shall—

(A) by order approve such proposed rule or amendment; or

(B) institute proceedings to determine whether such proposed rule or amendment should be modified or disapproved.

(3) NAIC PROCEEDINGS.—

(A) IN GENERAL.—Proceedings instituted by the NAIC with respect to a proposed rule or amendment pursuant to paragraph (2) shall—

(i) include notice of the grounds for disapproval under consideration;

(ii) provide opportunity for hearing; and

(iii) be concluded not later than 180 days after the date of the Association's filing of such proposed rule or amendment.

(B) DISPOSITION OF PROPOSAL.—At the conclusion of any proceeding under subparagraph (A), the NAIC shall, by order, approve or disapprove the proposed rule or amendment.

(C) EXTENSION OF TIME FOR CONSIDERATION.—The NAIC may extend the time for concluding any proceeding under subparagraph (A) for—

(i) not more than 60 days if the NAIC finds good cause for such extension and sets forth its reasons for so finding; or

(ii) for such longer period as to which the Association consents.

(4) STANDARDS FOR REVIEW.—

(A) GROUNDS FOR APPROVAL.—The NAIC shall approve a proposed rule or amendment if the NAIC finds that the rule or amendment is in the public interest and is consistent with the purposes of this Act.

(B) APPROVAL BEFORE END OF NOTICE PERIOD.—The NAIC shall not approve any proposed rule before the end of the 30-day period beginning on the date on which the Association files proposed rules or amendments in accordance with paragraph (1), unless the NAIC finds good cause for so doing and sets forth the reasons for so finding.

(5) ALTERNATE PROCEDURE.—

(A) IN GENERAL.—Notwithstanding any provision of this subsection other than subparagraph (B), a proposed rule or amendment relating to the administration or organization of the Association shall take effect—

(i) upon the date of filing with the NAIC, if such proposed rule or amendment is designated by the Association as relating solely to matters which the NAIC, consistent with the public interest and the purposes of this subsection, determines by rule do not require the procedures set forth in this paragraph; or

(ii) upon such date as the NAIC shall for good cause determine.

(B) ABROGATION BY THE NAIC.—

(i) IN GENERAL.—At any time within 60 days after the date of filing of any proposed rule or amendment under subparagraph (A)(i) or clause (ii) of this subparagraph, the NAIC may repeal such rule or amendment and require that the rule or amendment be refiled and reviewed in accordance with this paragraph, if the NAIC finds that such action is necessary or appropriate in the public interest, for the protection of insurance producers or policyholders, or otherwise in furtherance of the purposes of this subtitle.

(ii) EFFECT OF RECONSIDERATION BY THE NAIC.—Any action of the NAIC pursuant to clause (i) shall—

(I) not affect the validity or force of a rule change during the period such rule or amendment was in effect; and

(II) not be considered to be a final action.

(c) ACTION REQUIRED BY THE NAIC.—The NAIC may, in accordance with such rules as the NAIC determines to be necessary or appropriate to the public interest or to carry out the purposes of this subtitle, require the Association to adopt, amend, or repeal any bylaw, rule or amendment of the Association, whenever adopted.

(d) DISCIPLINARY ACTION BY THE ASSOCIATION.—

(1) SPECIFICATION OF CHARGES.—In any proceeding to determine whether membership shall be denied, suspended, revoked, or not renewed (hereafter in this section referred to as a ''disciplinary action''), the Association shall bring specific charges, notify such member of such charges, give the member an opportunity to defend against the charges, and keep a record.

(2) SUPPORTING STATEMENT.—A determination to take disciplinary action shall be supported by a statement setting forth—

(A) any act or practice in which such member has been found to have been engaged;

(B) the specific provision of this subtitle, the rules or regulations under this subtitle, or the rules of the Association which any such act or practice is deemed to violate; and

(C) the sanction imposed and the reason for such sanction.

(e) NAIC REVIEW OF DISCIPLINARY ACTION.—

(1) NOTICE TO THE NAIC.—If the Association orders any disciplinary action, the Association shall promptly notify the NAIC of such action.

(2) REVIEW BY THE NAIC.—Any disciplinary action taken by the Association shall be subject to review by the NAIC—

(A) on the NAIC's own motion; or

(B) upon application by any person aggrieved by such action if such application is filed with the NAIC not more than 30 days after the later of—

(i) the date the notice was filed with the NAIC pursuant to paragraph (1); or

(ii) the date the notice of the disciplinary action was received by such aggrieved person.

(f) EFFECT OF REVIEW.—The filing of an application to the NAIC for review of a disciplinary action, or the institution of review by the NAIC on the NAIC's own motion, shall not operate as a stay of disciplinary action unless the NAIC otherwise orders.

(g) SCOPE OF REVIEW.—

(1) IN GENERAL.—In any proceeding to review such action, after notice and the opportunity for hearing, the NAIC shall—

(A) determine whether the action should be taken;

(B) affirm, modify, or rescind the disciplinary sanction; or

(C) remand to the Association for further proceedings.

(2) DISMISSAL OF REVIEW.—The NAIC may dismiss a proceeding to review disciplinary action if the NAIC finds that—

(A) the specific grounds on which the action is based exist in fact;

(B) the action is in accordance with applicable rules and regulations; and

(C) such rules and regulations are, and were, applied in a manner consistent with the purposes of this subtitle.

SEC. 329. ASSESSMENTS.

(a) INSURANCE PRODUCERS SUBJECT TO ASSESSMENT.—The Association may establish such application and membership fees as the Association finds necessary to cover the costs of its operations, including fees made reimbursable to the NAIC under subsection (b), except that, in setting such fees, the Association may not discriminate against smaller insurance producers.

(b) NAIC ASSESSMENTS.—The NAIC may assess the Association for any costs that the NAIC incurs under this subtitle.

SEC. 330. FUNCTIONS OF THE NAIC.

(a) ADMINISTRATIVE PROCEDURE.—Determinations of the NAIC, for purposes of making rules pursuant to section 328, shall be made after appropriate notice and opportunity for a hearing and for submission of views of interested persons.

(b) EXAMINATIONS AND REPORTS.—

(1) EXAMINATIONS.—The NAIC may make such examinations and inspections of the Association and require the Association to furnish to the NAIC such reports and records or copies thereof as the NAIC may consider necessary or appropriate in the public interest or to effectuate the purposes of this subtitle.

(2) REPORT BY ASSOCIATION.—As soon as practicable after the close of each fiscal year, the Association shall submit to the NAIC a written report regarding the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year. The NAIC shall transmit such report to the President and the Congress with such comment thereon as the NAIC determines to be appropriate.

SEC. 331. LIABILITY OF THE ASSOCIATION AND THE DIRECTORS, OFFICERS, AND EMPLOYEES OF THE ASSOCIATION.

(a) IN GENERAL.—The Association shall not be deemed to be an insurer or insurance producer within the meaning of any State law, rule, regulation, or order regulating or taxing insurers, insurance producers, or other entities engaged in the business of insurance, including provisions imposing premium taxes, regulating insurer solvency or financial condition, establishing guaranty funds and levying assessments, or requiring claims settlement practices.

(b) LIABILITY OF THE ASSOCIATION, ITS DIRECTORS, OFFICERS, AND EMPLOYEES.—Neither the Association nor any of its directors, officers, or employees shall have any liability to any person for any action taken or omitted in good faith under or in connection with any matter subject to this subtitle.

SEC. 332. ELIMINATION OF NAIC OVERSIGHT.

(a) IN GENERAL.—The Association shall be established without NAIC oversight and the provisions set forth in section 324, subsections (a), (b), (c), and (e) of section 328, and sections 329(b) and 330 of this subtitle shall cease to be effective if, at the end of the 2-year period beginning on the date on which the provisions of this subtitle take effect pursuant to section 321—

(1) at least a majority of the States representing at least 50 percent of the total United States commercial-lines insurance premiums have not satisfied the uniformity or reciprocity requirements of subsections (a), (b), and (c) of section 321; and

(2) the NAIC has not approved the Association's bylaws as required by section 328 or is unable to operate or supervise the Association, or the Association is not conducting its activities as required under this Act.

(b) BOARD APPOINTMENTS.—If the repeals required by subsection (a) are implemented, the following shall apply:

(1) GENERAL APPOINTMENT POWER.—The President, with the advice and consent of the Senate, shall appoint the members of the Association's Board established under section 326 from lists of candidates recommended to the President by the National Association of Insurance Commissioners.

(2) PROCEDURES FOR OBTAINING NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS APPOINTMENT RECOMMENDATIONS.—

(A) INITIAL DETERMINATION AND RECOMMENDATIONS.—After the date on which the provisions of subsection (a) take effect, the NAIC shall, not later than 60 days thereafter, provide a list of recommended candidates to the President. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least 14 recommended candidates or comply with the requirements of section 326(c), the President shall, with the advice and consent of the Senate, make the requisite appointments without considering the views of the NAIC.

(B) SUBSEQUENT APPOINTMENTS.—After the initial appointments, the NAIC shall provide a list of at least 6 recommended candidates for the Board to the President by January 15 of each subsequent year. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least 6 recommended candidates or comply with the requirements of section 326(c), the President, with the advice and consent of the Senate, shall make the requisite appointments without considering the views of the NAIC.

(C) PRESIDENTIAL OVERSIGHT.—

(i) REMOVAL.—If the President determines that the Association is not acting in the interests of the public, the President may remove the entire existing Board for the remainder of the term to which the members of the Board were appointed and appoint, with the advice and consent of the Senate, new members to fill the vacancies on the Board for the remainder of such terms.

(ii) SUSPENSION OF RULES OR ACTIONS.—The President, or a person designated by the President for such purpose, may suspend the effectiveness of any rule, or prohibit any action, of the Association which the President or the designee determines is contrary to the public interest.

(c) ANNUAL REPORT.—As soon as practicable after the close of each fiscal year, the Association shall submit to the President and to the Congress a written report relative to the conduct of its business, and the exercise of the other rights and powers granted by this subtitle, during such fiscal year. Such report shall include financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year.

SEC. 333. RELATIONSHIP TO STATE LAW.

(a) PREEMPTION OF STATE LAWS.—State laws, regulations, provisions, or other actions purporting to regulate insurance producers shall be preempted as provided in subsection (b).

(b) PROHIBITED ACTIONS.—No State shall—

(1) impede the activities of, take any action against, or apply any provision of law or regulation to, any insurance producer because that insurance producer or any affiliate plans to become, has applied to become, or is a member of the Association;

(2) impose any requirement upon a member of the Association that it pay different fees to be licensed or otherwise qualified to do business in that State, including bonding requirements, based on its residency;

(3) impose any licensing, appointment, integrity, personal or corporate qualifications, education, training, experience, residency, or continuing education requirement upon a member of the Association that is different from the criteria for membership in the Association or renewal of such membership, except that counter-signature requirements imposed on nonresident producers shall not be deemed to have the effect of limiting or conditioning a producer's activities because of its residence or place of operations under this section; or

(4) implement the procedures of such State's system of licensing or renewing the licenses of insurance producers in a manner different from the authority of the Association under section 325.

(c) SAVINGS PROVISION.—Except as provided in subsections (a) and (b), no provision of this section shall be construed as altering or affecting the continuing effectiveness of any law, regulation, provision, or other action of any State which purports to regulate insurance producers, including any such law, regulation, provision, or action which purports to regulate unfair trade practices or establish consumer protections, including countersignature laws.

SEC. 334. COORDINATION WITH OTHER REGULATORS.

(a) COORDINATION WITH STATE INSURANCE REGULATORS.—The Association shall have the authority to—

(1) issue uniform insurance producer applications and renewal applications that may be used to apply for the issuance or removal of State licenses, while preserving the ability of each State to impose such conditions on the issuance or renewal of a license as are consistent with section 333;

(2) establish a central clearinghouse through which members of the Association may apply for the issuance or renewal of licenses in multiple States; and

(3) establish or utilize a national database for the collection of regulatory information concerning the activities of insurance producers.

(b) COORDINATION WITH THE NATIONAL ASSOCIATION OF SECURITIES DEALERS.—The Association shall coordinate with the National Association of Securities Dealers in order to ease any administrative burdens that fall on persons that are members of both associations, consistent with the purposes of this subtitle and the Federal securities laws.

SEC. 335. JUDICIAL REVIEW.

(a) JURISDICTION.—The appropriate United States district court shall have exclusive jurisdiction over litigation involving the Association, including disputes between the Association and its members that arise under this subtitle. Suits brought in State court involving the Association shall be deemed to have arisen under Federal law and therefore be subject to jurisdiction in the appropriate United States district court.

(b) EXHAUSTION OF REMEDIES.—An aggrieved person shall be required to exhaust all available administrative remedies before the Association and the NAIC before it may seek judicial review of an Association decision.

(c) STANDARDS OF REVIEW.—The standards set forth in section 553 of title 5, United States Code, shall be applied whenever a rule or bylaw of the Association is under judicial review, and the standards set forth in section 554 of title 5, United States Code, shall be applied whenever a disciplinary action of the Association is judicially reviewed.

SEC. 336. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) HOME STATE.—The term ''home State'' means the State in which the insurance producer maintains its principal place of residence and is licensed to act as an insurance producer.

(2) INSURANCE.—The term ''insurance'' means any product, other than title insurance, defined or regulated as insurance by the appropriate State insurance regulatory authority.

(3) INSURANCE PRODUCER.—The term ''insurance producer'' means any insurance agent or broker, surplus lines broker, insurance consultant, limited insurance representative, and any other person that solicits, negotiates, effects, procures, delivers, renews, continues or binds policies of insurance or offers advice, counsel, opinions or services related to insurance.

(4) STATE.—The term ''State'' includes any State, the District of Columbia, American Samoa, Guam, Puerto Rico, and the United States Virgin Islands.

(5) STATE LAW.—The term ''State law'' includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

Subtitle C—Rental Car Agency Insurance Activities

SEC. 341. STANDARD OF REGULATION FOR MOTOR VEHICLE RENTALS.

(a) PROTECTION AGAINST RETROACTIVE APPLICATION OF REGULATORY AND LEGAL ACTION.—Except as provided in subsection (b), during the 3-year period beginning on the date of the enactment of this Act, it shall be a presumption that no State law imposes any licensing, appointment, or education requirements on any person who solicits the purchase of or sells insurance connected with, and incidental to, the lease or rental of a motor vehicle.

(b) PREEMINENCE OF STATE INSURANCE LAW.—No provision of this section shall be construed as altering the validity, interpretation, construction, or effect of—

(1) any State statute;

(2) the prospective application of any court judgment interpreting or applying any State statute; or

(3) the prospective application of any final State regulation, order, bulletin, or other statutorily authorized interpretation or action,

which, by its specific terms, expressly regulates or exempts from regulation any person who solicits the purchase of or sells insurance connected with, and incidental to, the short-term lease or rental of a motor vehicle.

(c) SCOPE OF APPLICATION.—This section shall apply with respect to—

(1) the lease or rental of a motor vehicle for a total period of 90 consecutive days or less; and

(2) insurance which is provided in connection with, and incidentally to, such lease or rental for a period of consecutive days not exceeding the lease or rental period.

(d) MOTOR VEHICLE DEFINED.—For purposes of this section, the term ''motor vehicle'' has the meaning given to such term in section 13102 of title 49, United States Code.

Subtitle D—Confidentiality

SEC. 351. CONFIDENTIALITY OF HEALTH AND MEDICAL INFORMATION.

(a) IN GENERAL.—A company which underwrites or sells annuities contracts or contracts insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death (other than credit-related insurance) and any subsidiary or affiliate thereof shall maintain a practice of protecting the confidentiality of individually identifiable customer health and medical and genetic information and may disclose such information only—

(1) with the consent, or at the direction, of the customer;

(2) for insurance underwriting and reinsuring policies, account administration, reporting, investigating, or preventing fraud or material misrepresentation, processing premium payments, processing insurance claims, administering insurance benefits (including utilization review activities), providing information to the customer's physician or other health care provider, participating in research projects, enabling the purchase, transfer, merger, or sale of any insurance-related business, or as otherwise required or specifically permitted by Federal or State law; or

(3) in connection with—

(A) the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit, or other payment card or account number, or by other payment means;

(B) the transfer of receivables, accounts, or interest therein;

(C) the audit of the debit, credit, or other payment information;

(D) compliance with Federal, State, or local law;

(E) compliance with a properly authorized civil, criminal, or regulatory investigation by Federal, State, or local authorities as governed by the requirements of this section; or

(F) fraud protection, risk control, resolving customer disputes or inquiries, communicating with the person to whom the information relates, or reporting to consumer reporting agencies.

(b) STATE ACTIONS FOR VIOLATIONS.—In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, State insurance regulator, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction.

(c) EFFECTIVE DATE; SUNSET.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), subsection (a) shall take effect on February 1, 2000.

(2) SUNSET.—Subsection (a) shall not take effect if, or shall cease to be effective on and after the date on which, legislation is enacted that satisfies the requirements in section 264(c)(1) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–191; 110 Stat. 2033).

(d) CONSULTATION.—While subsection (a) is in effect, State insurance regulatory authorities, through the National Association of Insurance Commissioners, shall consult with the Secretary of Health and Human Services in connection with the administration of such subsection.

TITLE IV—UNITARY SAVINGS AND LOAN HOLDING COMPANIES

SEC. 401. PROHIBITION ON NEW UNITARY SAVINGS AND LOAN HOLDING COMPANIES.

(a) IN GENERAL.—Section 10(c) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)) is amended by adding at the end the following new paragraph:

''(9) TERMINATION OF EXPANDED POWERS FOR NEW UNITARY HOLDING COMPANY.—

''(A) IN GENERAL.—Subject to subparagraph (B) and notwithstanding paragraph (3), no company may directly or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after March 4, 1999, unless the company is engaged, directly or indirectly (including through a subsidiary other than a savings association), only in activities that are permitted—

''(i) under paragraph (1)(C) or (2); or

''(ii) for financial holding companies under section 6(c) of the Bank Holding Company Act of 1956.

''(B) EXISTING UNITARY HOLDING COMPANIES AND THE SUCCESSORS TO SUCH COMPANIES.—Subparagraph (A) shall not apply, and paragraph (3) shall continue to apply, to a company (or any subsidiary of such company) that—

''(i) either—

''(I) acquired 1 or more savings associations described in paragraph (3) pursuant to applications at least 1 of which was filed on or before March 4, 1999; or

''(II) subject to subparagraph (C), became a savings and loan holding company by acquiring control of the company described in subclause (I); and

''(ii) continues to control the savings association referred to in clause (i)(II) or the successor to any such savings association.

''(C) NOTICE PROCESS FOR NONFINANCIAL ACTIVITIES BY A SUCCESSOR UNITARY HOLDING COMPANY.—

''(i) NOTICE REQUIRED.—Subparagraph (B) shall not apply to any company described in subparagraph (B)(i)(II) which engages, directly or indirectly, in any activity other than activities described in clauses (i) and (ii) of subparagraph (A), unless—

''(I) in addition to an application to the Director under this section to become a savings and loan holding company, the company submits a notice to the Board of Governors of the Federal Reserve System of such nonfinancial activities in the same manner as a notice of nonbanking activities is filed with the Board under section 4(j) of the Bank Holding Company Act of 1956; and

''(II) before the end of the applicable period under such section 4(j), the Board either approves or does not disapprove of the continuation of such activities by such company, directly or indirectly, after becoming a savings and loan holding company.

''(ii) PROCEDURE.—Section 4(j) of the Bank Holding Company Act of 1956, including the standards for review, shall apply to any notice filed with the Board under this subparagraph in the same manner as it applies to notices filed under such section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 10(c)(3) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)(3)) is amended by striking ''Notwithstanding'' and inserting ''Except as provided in paragraph (9) and notwithstanding''.

(c) CONFORMING AMENDMENT.—Section 10(o)(5) of the Home Owners' Loan Act (12 U.S.C. 1467a(o)(5)) is amended—

(1) in subparagraph (E), by striking '', except subparagraph (B)''; and

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

''(F) In the case of a mutual holding company which is a savings and loan holding company described in subsection (c)(3), engaging in the activities permitted for financial holding companies under section 6(c) of the Bank Holding Company Act of 1956.''.

SEC. 402. RETENTION OF "FEDERAL" IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.

Section 2 of the Act entitled ''An Act to enable national banking associations to increase their capital stock and to change their names or locations'', approved May 1, 1886 (12 U.S.C. 30), is amended by adding at the end the following new subsection:

''(d) RETENTION OF 'FEDERAL' IN NAME OF CONVERTED FEDERAL SAVINGS ASSOCIATION.—

''(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, any depository institution the charter of which is converted from that of a Federal savings association to a national bank or a State bank after the date of the enactment of the Financial Services Act of 1999 may retain the term 'Federal' in the name of such institution if such depository institution remains an insured depository institution.

''(2) DEFINITIONS.—For purposes of this subsection, the terms 'depository institution', 'insured depository institution', 'national bank', and 'State bank' have the same meanings as in section 3 of the Federal Deposit Insurance Act.''.

TITLE V—PRIVACY

Subtitle A—Privacy Policy

SEC. 501. DEPOSITORY INSTITUTION PRIVACY POLICIES.

Section 6 of the Bank Holding Company Act of 1956 (as added by section 103 of this title) is amended by adding at the end the following new subsection:

''(h) DEPOSITORY INSTITUTION PRIVACY POLICIES.—

''(1) DISCLOSURE REQUIRED.—In the case of any insured depository institution which becomes affiliated under this section with a financial holding company, the privacy policy of such depository institution shall be clearly and conspicuously disclosed—

''(A) with respect to any person who becomes a customer of the depository institution any time after the depository institution becomes affiliated with such company, to such person at the time at which the business relationship between the customer and the institution is initiated; and

''(B) with respect to any person who already is a customer of the depository institution at the time the depository institution becomes affiliated with such company, to such person within a reasonable time after the affiliation is consummated.

''(2) INFORMATION TO BE INCLUDED.—The privacy policy of an insured depository institution which is disclosed pursuant to paragraph (1) shall include—

''(A) the policy of the institution with respect to disclosing customer information to third parties, other than agents of the depository institution, for marketing purposes; and

''(B) the disclosures required under section 603(d)(2)(A)(iii) of the Fair Credit Reporting Act with regard to the right of the customer, at any time, to direct that information referred to in such section not be shared with affiliates of the depository institution.

''(3) APPLICABILITY.—For purposes of section 10 of the Home Owners' Loan Act, this subsection and subsection (i) shall apply with regard to a savings and loan holding company and any affiliate or insured depository institution subsidiary of such holding company to the same extent and in the same manner this subsection and subsection (i) apply with respect to a financial holding company, affiliate of a financial holding company, or insured depository institution subsidiary of a financial holding company.''.

SEC. 502. STUDY OF CURRENT FINANCIAL PRIVACY LAWS.

(a) IN GENERAL.—The Federal banking agencies shall conduct a study of whether existing laws which regulate the sharing of customer information by insured depository institutions with affiliates of such institutions adequately protect the privacy rights of customers of such institutions.

(b) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Federal banking agencies shall submit a report to the Congress containing the findings and conclusions of the agency with respect to the study required under subsection (a), together with such recommendations for legislative or administrative action as the agencies may determine to be appropriate.

(c) DEFINITIONS.—For purposes of this section, the terms ''affiliate'', ''Federal banking agency'', and ''insured depository institution'' have the meanings given to such terms in section 3 of the Federal Deposit Insurance Act.

Subtitle B—Fraudulent Access to Financial Information

SEC. 521. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.

(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE PRETENSES.—It shall be a violation of this subtitle for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person—

(1) by making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution;

(2) by making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution; or

(3) by providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation.

(b) PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES.—It shall be a violation of this subtitle to request a person to obtain customer information of a financial institution, knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a).

(c) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, to obtain customer information of a financial institution in connection with the performance of the official duties of the agency.

(d) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS IN CERTAIN CASES.—No provision of this section shall be construed so as to prevent any financial institution, or any officer, employee, or agent of a financial institution, from obtaining customer information of such financial institution in the course of—

(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information;

(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b).

(e) NONAPPLICABILITY TO INSURANCE INSTITUTIONS FOR INVESTIGATION OF INSURANCE FRAUD.—No provision of this section shall be construed so as to prevent any insurance institution, or any officer, employee, or agency of an insurance institution, from obtaining information as part of an insurance investigation into criminal activity, fraud, material misrepresentation, or material nondisclosure that is authorized for such institution under State law, regulation, interpretation, or order.

(f) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed so as to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

(g) NONAPPLICABILITY TO COLLECTION OF CHILD SUPPORT JUDGMENTS.—No provision of this section shall be construed to prevent any State-licensed private investigator, or any officer, employee, or agent of such private investigator, from obtaining customer information of a financial institution, to the extent reasonably necessary to collect child support from a person adjudged to have been delinquent in his or her obligations by a Federal or State court, and to the extent that such action by a State-licensed private investigator is not unlawful under any other Federal or State law or regulation, and has been authorized by an order or judgment of a court of competent jurisdiction.

SEC. 522. ADMINISTRATIVE ENFORCEMENT.

(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Compliance with this subtitle shall be enforced by the Federal Trade Commission in the same manner and with the same power and authority as the Commission has under the title VIII, the Fair Debt Collection Practices Act, to enforce compliance with such title.

(b) NOTICE OF ACTIONS.—The Federal Trade Commission shall—

(1) notify the Securities and Exchange Commission whenever the Federal Trade Commission initiates an investigation with respect to a financial institution subject to regulation by the Securities and Exchange Commission;

(2) notify the Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) whenever the Commission initiates an investigation with respect to a financial institution subject to regulation by such Federal banking agency; and

(3) notify the appropriate State insurance regulator whenever the Commission initiates an investigation with respect to a financial institution subject to regulation by such regulator.

SEC. 523. CRIMINAL PENALTY.

(a) IN GENERAL.—Whoever knowingly and intentionally violates, or knowingly and intentionally attempts to violate, section 521 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

(b) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, section 521 while violating another law of the United States or as part of a pattern of any illegal activity involving more than $100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

SEC. 524. RELATION TO STATE LAWS.

(a) IN GENERAL.—This subtitle 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 provisions of this subtitle, and then only to the extent of the inconsistency.

(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this subtitle if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this subtitle as determined by the Commission, on its own motion or upon the petition of any interested party.

SEC. 525. AGENCY GUIDANCE.

In furtherance of the objectives of this subtitle, each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) and the Securities and Exchange Commission or self-regulatory organizations, as appropriate, shall review regulations and guidelines applicable to financial institutions under their respective jurisdictions and shall prescribe such revisions to such regulations and guidelines as may be necessary to ensure that such financial institutions have policies, procedures, and controls in place to prevent the unauthorized disclosure of customer financial information and to deter and detect activities proscribed under section 521.

SEC. 526. REPORTS.

(a) REPORT TO THE CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Comptroller General, in consultation with the Federal Trade Commission, Federal banking agencies, the Securities and Exchange Commission, appropriate Federal law enforcement agencies, and appropriate State insurance regulators, shall submit to the Congress a report on the following:

(1) The efficacy and adequacy of the remedies provided in this subtitle in addressing attempts to obtain financial information by fraudulent means or by false pretenses.

(2) Any recommendations for additional legislative or regulatory action to address threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.

(b) ANNUAL REPORT BY ADMINISTERING AGENCIES.—The Federal Trade Commission and the Attorney General shall submit to Congress an annual report on number and disposition of all enforcement actions taken pursuant to this subtitle.

SEC. 527. DEFINITIONS.

For purposes of this subtitle, the following definitions shall apply:

(1) CUSTOMER.—The term ''customer'' means, with respect to a financial institution, any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

(2) CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION.—The term ''customer information of a financial institution'' means any information maintained by or for a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.

(3) DOCUMENT.—The term ''document'' means any information in any form.

(4) FINANCIAL INSTITUTION.—

(A) IN GENERAL.—The term ''financial institution'' means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term ''financial institution'' includes any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any broker or dealer, any investment adviser or investment company, any insurance company, any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p)).

(C) SECURITIES INSTITUTIONS.—For purposes of subparagraph (B)—

(i) the terms ''broker'' and ''dealer'' have the meanings provided in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(ii) the term ''investment adviser'' has the meaning provided in section 202(a)(11) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)); and

(iii) the term ''investment company'' has the meaning provided in section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a–3).

(D) FURTHER DEFINITION BY REGULATION.—The Federal Trade Commission, after consultation with Federal banking agencies and the Securities and Exchange Commission, may prescribe regulations clarifying or describing the types of institutions which shall be treated as financial institutions for purposes of this subtitle.

The CHAIRMAN. No amendment to that amendment shall be in order except those printed in House Report 106–214. 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 read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider Amendment No. 1 printed in House Report 106–214.

AMENDMENT NO. 1 OFFERED BY MR. BURR OF NORTH CAROLINA

Mr. BURR of North Carolina. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. BURR of North Carolina:

Page 29, line 24, before the period insert '', except this paragraph shall not apply with respect to a company that owns a broadcasting station licensed under title III of the Communications Act of 1934 and the shares of which have been controlled by an insurance company since January 1, 1998''.

The CHAIRMAN. Pursuant to House Resolution 235, the gentleman from North Carolina (Mr. BURR) and the gentleman from Michigan (Mr. DINGELL) each will control 5 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. BURR).

Mr. BURR of North Carolina. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, let me say that this is a very narrow amendment for a unique situation. As a matter of fact, this amendment only applies to the Jefferson Pilot Insurance Corporation of Greensboro, North Carolina.

Their principal business is life insurance. But in the past 40 years they have been in the broadcast business as well under Raycom Sports, that great ACC delivery system. According to the Federal Reserve, Jefferson Pilot is the only insurance company in the United States in the broadcast business.

This amendment simply gives Jefferson Pilot the option of increasing their broadcast interest in order to maximize the value of their asset divestiture. They would still be required to stay under the 15-percent gross revenue limitation and to divest any non-bank and financial institution assets in the 10-year period if they were purchased by a bank.

The Federal Reserve and the Treasury have no objection to this amendment. I urge my colleagues on both sides of the aisle to support this very common sense amendment.

Madam Chairman, I reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I ask unanimous consent to yield the entirety of my time to the gentleman from New York (Mr. LAFALCE) to dispense as he pleases.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. LAFALCE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I oppose this amendment on two basic grounds. Number one, it is special-interest legislation. It should not be on the floor today.

Secondly, how can we give 10 minutes' time for special-interest legislation when we could not give 10 minutes' time for an insurance redlining amendment, when we could not give 10 minutes' time so that we could satisfy the desires of those would want a basic life-line banking, we could not give 10 minutes' time to those who wanted to add to the privacy protections that we have come to consensually in the Pryce-Oxley-Frost-Menendez-LaFalce amendment?

For those reasons, I oppose the bill.

Madam Chairman, I ask unanimous consent to yield the balance of my time for the purpose of control to the gentleman from Texas (Mr. BENTSEN).

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BENTSEN. Madam Chairman, I yield to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I rise in support of the Burr-Myrick amendment.

It is true that this amendment will impact on the one company in the Nation, because this is a unique company. The company happens to be in the insurance business and it currently happens to be in the communications business.

The underlying bill restricts income from nonfinancial activities to 15 percent and limits ownership before divestiture to 10 years. All this company is asking to do is to go up to those limits by acquisition. They are not at those limits now.

There may be other companies that are grandfathered under this provision that are already at those limits. They are not asking to go beyond those limits. They are simply asking to be able to conduct their business within the confines of the limits of divestiture and time that are applicable to other companies.

I certainly think this is reasonable. We should not restrict companies from growing as long as they are not restricting commerce and unduly exposing financial activities to risks that are not foreseen. Obviously, the risks

are foreseen by this bill because the 15-percent, 10-year limit continues to apply.

Mr. BURR of North Carolina. Madam Chairman, I yield to the gentlewoman from Charlotte, North Carolina (Mrs. MYRICK) a member of the Committee on Rules.

Mrs. MYRICK. Madam Chairman, I rise in support of the amendment of the gentleman from North Carolina (Mr. BURR).

I would just like to reiterate what the gentleman from North Carolina (Mr. BURR) has already said. This amendment does not harm the delicate compromises of this bill. Jefferson Pilot has been in the insurance business and the communications business for 40 years. The amendment is narrowly crafted, and it maintains the 15-percent gross revenue limitation on nonfinancial activities. They also are subjected to the 10-year divestiture requirement.

Madam Chairman, a vote for this amendment is a vote for ACC basketball.

Mr. BENTSEN. Madam Chairman, I reserve the balance of my time.

Mr. BURR of North Carolina. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, in most cases we would criticize on this House floor for a very specific tailored amendment for a specific company. But, as has been pointed out, this is a unique company because they are the only ones that will get caught in the catch-22 of what we created, which was an atmosphere in the Telecommunications Act of 1996 where we go through a different calculation as to how we value assets in the communications business today.

In fact, it has been official to have a pool of companies in a particular market to achieve the true asset value of a communications business. As this company agrees to divest themselves of the nonfinancial assets, I think that it is only fair to look at that 1996 Act, to look at what we are getting ready to do, and to say we will allow this company who is caught in the middle to, under their divestiture of this broadcast business, to at least achieve the asset value that it is worth.

Unfortunately, that means that we have to create this one amendment that says, during this 10-year period, we will allow them possibly to add a radio station in a market because it raises the value of the sale in that market to where it should be.

I do not think that it is out of line to allow companies, and specifically this one, who are affected by changes that we make to in fact be excluded from the specific language that we are here to do today.

I appreciate the concerns expressed by my dear friends on the other side. I hope that in the end they will support this, because I believe it is the right thing to do.

Mr. BENTSEN. Madam Chairman, I yield myself the remaining time.

(Mr. BENTSEN asked and was given permission to revise and extend his remarks.)

Mr. BENTSEN. Madam Chairman, first of all, I do not have any problem with this particular company, and I do not have any problem with the ACC, and I do not have any problem with North Carolina. I think it is a great State. Not as great as the State of Texas, but I think it is a pretty good State. But the problem I have is that this is a specific carve-out that apparently affects one company in the United States.

Now, the bill that is before us sets some pretty strict rules for companies. And we had long debates in the Committee on Banking and Financial Services, and I am assuming the Committee on Commerce as well, on the issues of banking and commerce.

□ 1845

This bill also sets limits on a number of companies called unitary thrifts. There are about 75 of those who because of the way they are valued, their value is going to change because of this bill. We could not debate that on the floor because apparently we are not capable of doing that, but nonetheless, we made those decisions, and we made strict rules.

I am sorry that this company is affected by it, but they are just going to have to make a choice under the rules that are provided for in this bill of either being a broadcast company and insurance company or an insurance company and a banking company, but they want to have it all three ways, and they would be the only one in the United States that could do that. I do not think that is appropriate. That is not given to anybody else.

For that reason, I have to oppose the amendment. I would hope that our colleagues would oppose the amendment as well.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. BURR).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. BENTSEN. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentleman from North Carolina (Mr. BURR) will be postponed.

It is now in order to consider amendment No. 2 printed in House Report 106–214.

AMENDMENT NO. 2 OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Ms. SCHAKOWSKY:

Page 72, after line 13, insert the following new section (and amend the table of contents accordingly):

SEC. 110A. STUDY OF FINANCIAL MODERNIZATION'S AFFECT ON THE ACCESSIBILITY OF SMALL BUSINESS AND FARM LOANS.

(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), shall conduct a study of the extent to which credit is being provided to and for small business and farms, as a result of this Act.

(b) REPORT.—Before the end of the 5-year period beginning on the date of the enactment of this Act, the Secretary, in consultation with the Federal banking agencies, 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.

The CHAIRMAN. Pursuant to House Resolution 235, the gentlewoman from Illinois (Ms. SCHAKOWSKY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Madam Chairman, I yield myself 2 minutes.

First of all, I would like to thank my cosponsors, the gentlewoman from California (Ms. LEE), the gentleman from Illinois (Mr. GUTIERREZ) and the gentleman from North Carolina (Mr. WATT) for their help on this amendment.

This amendment would call for a 5-year study of financial modernization's effect on small business and farm lending. What it does is direct the U.S. Treasury Department with Federal bank regulators to study the effect of this bill, and the consolidation of the financial services industry into large conglomerates that it will undoubtedly encourage, on small business and farm lending and suggest legislative and regulatory changes as necessary to aid small business and farm lending.

I think our first rule in this House ought to be, first we do no harm. I am not suggesting that this bill will do any harm to small businesses or farms, but we want to make sure that that is the case, because small business certainly does deserve our support. There are 23 million small businesses that employ 53 percent of the workforce and account for 47 percent of all sales. Sixty-seven percent of all small businesses get their credit from banks, and many of these are small banks. We know that smaller businesses often have more difficulty in obtaining loans from banks.

What we want to make sure is that the result of H.R. 10 is not that we see fewer loans going to small banks and to farmers. The data shows, as I said, that small businesses and farmers do rely on small banks for their financing and a world without small banks could negatively affect the businesses and our national economy.

Chairman Greenspan of the Federal Reserve acknowledged before the Committee on Banking and Financial Services during hearings on H.R. 10 that

''small bank lending is inherent in the way small business is effectively financed. If it turns out that a lot of community banks would sort of fade or be absorbed into large institutions, I would be concerned.''

What my amendment does is ensure that regulators and the public will have the necessary information to combat negative effects on small business from this legislation.

Madam Chairman, I yield 1 minute to the gentleman from New York (Mr. LAFALCE), the ranking member of the Committee on Banking and Financial Services.

Mr. LAFALCE. Madam Chairman, I rise in support of the amendment of the gentlewoman from Illinois. It is a very good amendment. We must always be concerned about the effect of any legislation we pass on small business and on farm lending.

But I rise primarily to thank the gentlewoman for being such an outstanding freshman member of the House Committee on Banking and Financial Services. I know of no member who is a greater champion of the consumer and consumer interest, whether it has to do with redlining, whether it has to do with privacy, whether it has to do with housing. She has been a true champion and she is going to be a great leader in the future.

Ms. SCHAKOWSKY. Madam Chairman, I yield 30 seconds to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Madam Chairman, I would like to echo the gentleman from New York's comments about the gentlewoman. She has brought a great contribution to the Committee on Banking and Financial Services. We are all very appreciative.

This particular amendment is common sense, it is reasonable, and the majority has no objection whatsoever.

Ms. SCHAKOWSKY. Madam Chairman, I yield 30 seconds to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chairman, I echo my colleagues' statements about the gentlewoman's efforts as a new Member of Congress. I especially think this is important to those of us that represent States that have a significant rural constituency.

Minnesota, incidentally, is sort of a small bank State. We have 555 banks. Many of them serve the rural constituents in that State. I would like to report to the House the dire problems that we are facing in the western, north and east portions of Minnesota with regards to the farm economy. It is a very stressful time and a time of great concern.

Clearly, the financial engine of these communities are these small town banks that continue to extend credit and to provide the lifeblood that they need. A study of these as the gentlewoman has envisioned as well as for other small businesses which are having a very difficult time in our economy and that we really want to get behind and support with such bills as the PRIME bill and the community financial services programs that we support will be helpful.

I know the gentlewoman supports those efforts. I support this study. It would be good to have the information available so we can plot what the impact is and the profile of the market.

Ms. SCHAKOWSKY. Madam Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Madam Chairman, I thank the gentlewoman for yielding me this time. As a cosponsor of this amendment, I rise in support of the amendment.

One of the concerns that a number of people have had about all of this consolidation and the ability to merge and cross financial lines is the impact that it will have on lending, particularly for minority communities, for small businesses, for farms. That is why we have been so insistent on maintaining the CRA provisions, and that is why I think it is important for us to support this amendment, to make sure that if there is an adverse impact that results from this bill, we know about it immediately and can take whatever steps are appropriate and necessary to respond to it.

I want to applaud the gentlewoman for coming forward with this amendment and strongly encourage my colleagues to support it.

The CHAIRMAN pro tempore (Mrs. MYRICK). Is there any Member who is opposed to this amendment?

If there is no opposition, the question is on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 3 printed in House Report 106–214.

AMENDMENT NO. 3 OFFERED BY MS. VELÁZQUEZ

Ms. VELÁZQUEZ. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Ms. VELÁZQUEZ:

Page 96, line 12, strike ''operations of''.

The CHAIRMAN pro tempore. Pursuant to House Resolution 235, the gentlewoman from New York (Ms. VELÁZQUEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELÁZQUEZ. Madam Chairman, I yield myself such time as I may consume. I rise in support of this bipartisan amendment and urge its immediate adoption. This amendment would slightly modify section 114 to ensure that the banking policies established by Congress are implemented in a fair and consistent manner with respect to all entities, domestic and foreign, conducting a banking business in the United States. The passage of this amendment will enable all banks doing business in the United States to serve the needs of their customers.

The language in H.R. 10 grants the Federal Reserve Board authority regarding the overseas operations of a foreign bank. However, it is not clear what exactly the scope of this particular language means and the Federal Reserve has agreed to delete the words ''operations of'' to clarify that the provision expressly applies to the foreign bank itself and not the bank's parent or sister affiliates. This clarification ensures parity with U.S. law.

Foreign banks have a large and longstanding presence in New York and they are an important part of our economy in New York and throughout the country. For example, many foreign banks have broker-dealers subsidiaries that provide capital and liquidity to the U.S. securities markets, serving to enhance the ability of U.S. businesses to raise capital.

This bipartisan amendment has been cleared by the Federal Reserve Board, is supported by the Conference of State Bank Supervisors, and similar language is included in the version of financial modernization passed by the other body.

I urge my colleagues to adopt this amendment.

Mr. LEACH. Madam Chairman, will the gentlewoman yield?

Ms. VELÁZQUEZ. I yield to the gentleman from Iowa.

Mr. LEACH. We have carefully reviewed this amendment with the Federal Reserve Board of the United States. It is my understanding that they have no objection to the amendment, that it is a very thoughtful and reasonable approach to dealing with a particular problem. Therefore, we have great respect for the gentlewoman's effort and support her amendment.

Ms. VELAZQUEZ. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Is there any Member who is opposed to this amendment?

If not, the question is on the amendment offered by the gentlewoman from New York (Ms. VELÁZQUEZ).

The amendment was agreed to.

The CHAIRMAN pro tempore. It is now in order to consider amendment No. 4 printed in House Report 106–214.

AMENDMENT NO. 4 OFFERED BY MR. BARR OF GEORGIA

Mr. BARR of Georgia. Madam Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. BARR of Georgia:

Page 235, after line 23, insert the following new subsections:

(c) PREVENTION OF FUTURE PRIVACY INVASIONS.—

(1) IN GENERAL.—Section 5318(g) of title 31, United States Code, is amended—

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

''(1) IN GENERAL.—Any financial institution, and any director, officer, employee, or

agent of any financial institution, may report to the Secretary any transaction relevant to a possible violation of a law or regulation.''';

(B) in paragraph (2), by striking ''suspicious'';

(C) in paragraph (4)(A)—

(i) by striking ''requiring'' and inserting ''receiving''; and

(ii) by striking ''suspicious transaction'' and inserting ''transaction relevant to a possible violation of a law or regulation'';

(D) in paragraph (4)(B), by striking ''suspicious transaction'' and inserting ''transaction relevant to a possible violation of a law or regulation''; and

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

''(D) RECORDKEEPING.—The Secretary shall ensure that no report filed under this paragraph is maintained by the Secretary or any Federal or State law enforcement or supervisory agency to whom access to the report (or information therein) has been granted after the earlier of—

''(i) the end of the 4-year period beginning on the date the report was received; or

''(ii) 60 days after the expiration of the longest statute of limitations relating to any possible violation of a law or regulation identified in such report,

unless the report or information contained in the report is being used in an on-going investigation of a possible violation of a law or regulation identified in such report.''.

(2) CLARIFICATION OF PURPOSES OF ANTI-MONEY LAUNDERING PROGRAM.—Section 5318(h) of title 31, United States Code, is amended by adding at the end the following new paragraph:

''(3) LIMITATION.—Notwithstanding paragraphs (1) and (2), the Secretary may not require or encourage an insured depository institution or any affiliate of an insured depository institution to—

''(A) determine the sources of funds used by any customer of the institution or affiliate in any transaction;

''(B) assess the purpose of any transaction or seek from the customer an explanation for the transaction;

''(C) determine what transactions are normal or expected for a customer;

''(D) monitor customer body language or behavior;

''(E) monitor customer transactions and compare them to historical patterns; or

''(F) report to the Secretary transactions that do not conform to a customer's historical transaction patterns.

(3) CLERICAL AMENDMENTS.—

(A) The subsection heading for section 5318(g) is amended to read as follows:

''(g) REPORTING POSSIBLE VIOLATIONS OF LAWS AND REGULATIONS.—''.

(B) The paragraph heading for section 5318(g)(4) of title 31, United States Code, is amended to read as follows:

''(4) SINGLE DESIGNEE FOR REPORTING TRANSACTIONS RELEVANT TO A POSSIBLE VIOLATION OF LAW OR REGULATION.—''.

(d) INCREASE IN TRIGGER AMOUNT FOR CASH TRANSACTION REPORTS.—

(1) DOMESTIC.—Section 5313(a) of title 31, United States Code, is amended by adding at the end the following new sentence: ''In no event may the Secretary require reports under this section for transactions involving less than $25,000.''.

(2) IMPORTING AND EXPORTING.—Section 5316(a) is amended by striking ''$10,000'' each place such term appears and inserting ''$25,000''.

(e) AGENCY REPORTS ON RECONCILING PENALTY AMOUNTS.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) shall submit reports to the Congress containing proposed legislation to conform the penalties imposed on depository institutions (as defined in section 3 of the Federal Deposit Insurance Act) for violations of subchapter II of chapter 53 of title 31, United States Code, to the penalties imposed on such institutions under section 8 of the Federal Deposit Insurance Act.

The CHAIRMAN pro tempore. Pursuant to House Resolution 235, the gentleman from Georgia (Mr. BARR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BARR).

Mr. BARR of Georgia. Madam Chairman, I yield myself 1½ minutes.

Earlier this year, as a matter of fact late last year, the American people were treated to one of the most gross examples of overreaching by the Federal Government, by Federal regulators, that they had ever witnessed, the so-called ''know your customer'' regulations that were proposed by the FDIC. These proposed regulations would have required every financial institution in the country to develop a profile on every one of their customers all over the country and to determine what the financial transaction habits of each individual customer were so that if there was something that occurred out of the ordinary, outside of that profile, the law enforcement authorities would be notified. Thankfully, the American people, through the work of this Congress, stopped the ''know your customer'' regulations dead in their tracks.

Well, they are back. Under the guise of the Bank Secrecy Act, which has some very laudable, important provisions in it, the suspicious activity reports require, in essence, ''know your customer'' regulations mandated on the banks.

The amendment proposed by the gentleman from California, the gentleman from Texas and myself today simply removes the mandatory nature of the suspicious activity reports which in essence are ''know your customer'' regulations. We do not remove the important tool that law enforcement has in working with financial institutions to disclose to the government suspicious activity. We simply tell the government that the millions upon millions of reports that they have accumulated by requirement over the years and have never used and which are rarely used shall no longer be required.

□ 1900

Madam Chairman, I reserve the balance of my time.

Mr. LAFALCE. Madam Chairman, I rise in opposition to the amendment offered by the gentleman from Georgia (Mr. BARR).

Mr. HUTCHINSON. Madam Chairman, I rise in opposition as well. Is there any provision to split the time?

The CHAIRMAN. By unanimous consent each gentleman could split the time if so desired.

Mr. LAFALCE. Madam Chairman, I yield 2½ of my 5 minutes to either the gentleman from Iowa (Mr. LEACH) or his designee.

Mr. LEACH. Madam Chairman, I would be happy to yield that time to my distinguished colleague from Arkansas (Mr. HUTCHINSON).

The CHAIRMAN. Without objection, the gentleman from Arkansas (Mr. HUTCHINSON) will control 2½ minutes.

There was no objection.

Mr. LAFALCE. Madam Chairman, I yield myself such time as I may consume.

Let me say that a number of Republicans are going to be recognized by me:

The gentleman from Iowa (Mr. LEACH), the gentleman from Florida (Mr. MCCOLLUM), the gentlewoman from New Jersey (Mrs. ROUKEMA), the gentleman from Alabama (Mr. BACHUS).

I will only have 30 seconds for myself and no more than 30 seconds for anyone else.

I oppose this amendment strongly. It goes way beyond the repeal of Know Your Customer. It basically would repeal provisions of the Bank Secrecy Act that have been in existence for decades. The FBI strongly opposes this, says it cannot enforce the law, Treasury and Justice strongly oppose it. Based upon my conversation with the administration I think they would be constrained to veto a bill that did not repeal these strong law enforcement provisions.

I strongly urge the defeat of this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. HUTCHINSON. Madam Chairman, I yield 1½ minutes to the gentleman from Florida (Mr. MCCOLLUM) who has been such a leader on this issue.

(Mr. MCCOLLUM asked and was given permission to revise and extend his remarks.)

Mr. MCCOLLUM. Madam Chairman, I thank the gentleman for yielding this time to me. I just want to say with all due respect to my colleagues who are promoting this amendment this is far beyond a Know Your Customer amendment. I am opposed to that too, just like everybody, I suspect, here is. That was a horrible idea the Treasury had, and I am very glad to see that it has disappeared.

But what we are doing in this amendment, if it is passed, it actually guts existing money laundering laws. It would set the drug war back by some estimates that I suspect is true, maybe 20 years. What it really would do would be to allow drug kingpins to launder money undetected. The current laws say that one has to have a currency transaction report if they go to the bank and take cash of $10,000 or more and deposit it in order for us to have the notice that we need to have of that transaction so that law enforcement can get ahold of these drug kingpins

and can have a chain and prove the evidence.

What the gentleman from Georgia (Mr. BARR) and the gentleman from Texas (Mr. PAUL) are offering here would increase that amount to $25,000. There are lots of what we call smurfing transactions for far less than $25,000, and, in addition, the most visceral thing in here, this amendment would actually eliminate the requirement that banks report suspected illegal activity, eliminate the requirement. It is all volunteer in the parts of the bank. The Treasury Department could no longer in their law enforcement hat or in their regulatory hat require banks to report suspected illegal activity of any sort, not just money laundering, but any sort.

I think that the gentleman from Georgia (Mr. BARR) and the gentleman from Texas (Mr. PAUL) and the gentleman from California (Mr. CAMPBELL) have gone further than they may have intended. This is no time to retreat on the effort on the war against drugs or the financial fraud and the money laundering, and that is what this amendment does.

So in the strongest terms I urge this amendment to be defeated.

Mr. BARR of Georgia. Madam Chairman, I yield 1 minute to the distinguished gentleman from Texas (Mr. PAUL).

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Madam Chairman, I thank the gentleman from Georgia (Mr. BARR) for yielding this time to me.

Madam Chairman, if my colleagues are opposed to Know Your Customer regulations they must support this amendment because this does away with Know Your Customer regulations, the profiling of every single customer in this country. This notion that it is going to ruin law enforcement is just not valid. There is estimated $100 million cost for one conviction by the reports that are sent in, and this does not prohibit the banks from sending in reports. If there is a suspicious character, they can still do this.

So it will not hinder law enforcement.

What it does, Madam Chairman: It protects the consumer, it protects the citizen, it protects the right of all Americans. We cannot rationalize and justify the abuse of liberty for the pretense that on occasion we might catch a criminal. But the fact that it could cost $100 million per conviction is sort of what I would call overkill.

What we must do is protect the American citizen. Law enforcement will not be hindered. If my colleagues are opposed to Know Your Customer regulation, they must vote for this amendment.

Mr. LAFALCE. Madam Chairman, I yield 30 seconds to the gentleman from Michigan (Mr. DINGELL), the distinguished past and future chairman of the Committee on Commerce.

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Madam Chairman, I thank my good friend and colleague for yielding me this time.

Madam Chairman, I know the authors of this amendment are Members of great decency and goodness, and I think they are accomplishing something that they really do not want. This is opposed by the Department of Justice, the FBI, the Department of Treasury.

Banks have been involved in money laundering, too, I would remind my colleagues, and when we make the action of the bank voluntary with regard to reporting, we subject ourselves to a real probability that the banks are simply not going to report. The money launderers, the Cali Cartel, the drug merchants and the Mafia will love this amendment.

If my colleagues like that, if they want crime, this is a good amendment to support; if my colleagues want to clean up the situation, I would urge them to oppose the amendment.

Mr. HUTCHINSON. Madam Chairman, I yield such time as she may consume to the gentlewoman from New Jersey (Mrs. ROUKEMA).

(Mrs. ROUKEMA asked and was given permission to revise and extend her remarks.)

Mrs. ROUKEMA. Madam Chairman, I rise in strong opposition to this position, and it is an open invitation to drug dealers, and that is why, as has been stated, every law enforcement and every banking group is opposed to it.

I rise in strong opposition.

This amendment guts our money laundering laws and helps drug dealers. I oppose strongly. What we have learned through hearings is that we need to tighten up, not loosen.

1. Making suspicious activity reports voluntary plays into the hands of the drug dealers. This will only make money laundering easier.

2. Raising the cash transaction reporting level to $25,000 from $10,000 is not justified. How many legitimate cash transactions are there over $10,000?

3. Purging Suspicious Activities Report (SAR) records after 4 years would undermine crime fighting efforts.

Money laundering involves complex financial transactions. Law enforcement sometimes needs several years to put together cases. This will hurt.

The Banking agencies oppose Barr/Campbell.

Law enforcement uniformly opposes Barr/Campbell.

N.J. Governor Whitman opposes Barr/Campbell.

The ABA Fraud Prevention Oversight Council opposes Barr/Campbell.

Mr. HUTCHINSON. Madam Chairman, I yield 30 seconds to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Madam Chairman, I like to quote from the President of the Organization of Police Chiefs of the United States. He says this amendment will have a significant detrimental impact on the ability of law enforcement agencies nationwide to effectively investigate and prosecute cases involving money laundering, fraud, and other financial crimes. If this amendment had been in effect in 1997, it would have stopped 2,536 Federal investigations resulting in convictions for financial institution fraud matters.

And finally, what does the FBI say about this? A vote for this amendment will send a signal to criminal organizations worldwide that the U.S. is a money laundering haven.

Clearly this is a no vote.

Madam Chairman, I include for the RECORD the following letter:

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE,
Alexandria, VA, July 1, 1999.

Hon. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On behalf of the International Association of Chiefs of Police (IACP), I am writing to express our profound concern over the Barr/Paul/Campbell Amendment to H.R. 10, the Financial Services Act. This amendment will have a significant detrimental impact on the ability of law enforcement agencies to effectively investigate and prosecute cases involving money laundering, fraud and other financial crimes. I urge you to oppose this amendment.

The Barr/Paul/Campbell amendment, by eliminating the requirement that financial institutions file Suspicious Activity Reports (SARs), will deprive law enforcement of an invaluable investigative tool which, according to the FBI, was used in 98% of the cases filed by its Fraud Investigation Squad in 1998. These 1998 investigations resulted in the convictions of more than 2600 individuals and the restoration of more than $490 million to the victims of fraud.

In addition, by elevating the threshold limit of the Currency Transaction Report (CTR) from $10,000 to $25,000, the Barr/Paul/Campbell amendment would severely undermine the anti-drug efforts of law enforcement agencies. Since there are few legitimate cash transactions exceeding the $10,000 limit, the CTR often provides law enforcement with valuable information on the money laundering operations of drug dealers. Raising the CTR threshold to $25,000 will only assist criminals in their efforts to hide their illegal profits.

Once again, I urge you to protect the ability of law enforcement to combat fraud, money laundering and financial crimes by opposing the Barr/Paul/Campbell amendment to H.R. 10.

Thank you for your attention in this matter.

Sincerely,

RONALD S. NEUBAUER,
President.

Mr. BARR of Georgia. Madam Chairman, I yield 1 minute to the distinguished gentleman from California (Mr. CAMPBELL).

(Mr. CAMPBELL asked and was given permission to revise and extend his remarks.)

Mr. CAMPBELL. Madam Chairman, the cost to every bank that has to comply is huge, but the cost of individual liberty is much more important. What business does the Federal Government have ordering a bank to tell them about my bank account?

What we are dealing with today is a function of invasion of individual liberty in the guise of law enforcement.

This argument that we will lose so many prosecutions is absurd. The number of $25,000 does not even adjust for inflation from the original $10,000 established in 1970. So when we hear these arguments that we will suddenly be a haven for money laundering, recognize that we are not even adjusting for inflation from the $10,000 requirement established in 1970 to a $25,000 requirement today. It ought to be $40,000 if we adjusted for inflation.

But let us say that just for a moment there may be one prosecution that does not happen, but in return, in return, we do not have the Federal Government ordering banks to profile me, to find out what my activities are when I depart from normal activity, to define what is normal activity, to condemn me if I do not behave in a normal manner. For that price of freedom I think we are sacrificing very, very little, if anything, on law enforcement.

I conclude by saying if we were to repeal the Fourth Amendment, if we were to repeal the Fifth Amendment, we could improve law enforcement, but it would not be worth it.

Mr. LAFALCE. Madam Chairman, I yield 30 seconds to the distinguished gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Madam Chairman, I rise in strong opposition to this amendment. This is really a privacy gone crazy. It would gut the Bank Secrecy Act and the provisions dealing with the suspicious activities reports as well as the cash transaction reports. It is under the guise of privacy, a 30-year law that has been effective in terms of protecting and help us deal with the emerging types of networks of crime that exist in our society. Just raising the cash transaction itself, we should subject this to deliberate hearings and considerations, and I do not think that we should shove it out under the basis of the unpopularity of Know Your Customer, which, in fact, this bill has stopped in its tracks.

Mr. HUTCHINSON. Madam Chairman, I yield 30 seconds to the distinguished chairman from Iowa (Mr. LEACH).

(Mr. LEACH asked and was given permission to revise and extend his remarks.)

Mr. LEACH. Madam Chairman, first let me just stress section 191 of this bill repeals the Know Your Customer regulation. Secondly, the committee would be happy to deal with further modifications in this area. But thirdly, it has to be understood by everybody here that money laundering is the Achilles heel of drug traffickers, and many are able to separate themselves from their illegal activities, but they cannot from their money, and just like Al Capone was convicted for tax evasion, drug traffickers today are convicted more than anything else of money laundering. To throw this out would be an absolute assault on law enforcement. We must not allow it to happen.

Madam Chairman, I yield to the gentleman from Ohio (Mr. OXLEY).

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Madam Chairman, I rise in opposition to the amendment. It is antilaw enforcement, and I plan to vote no on the amendment.

Mr. BARR of Georgia. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, just a little over a week ago we heard that the sky was going to fall if asset forfeiture laws of this country were brought in line with normal standards of fairness, due process and other constitutional safeguards. Today we hear that the sky will fall if we simply require law enforcement to do its job and not mandate that banks do its job for them.

The fact that there have been tens of millions of suspicious activity reports filed and virtually no prosecutions initiated based on those suspicious activity reports clearly illustrates that what we are hearing today is hyperbole based on the unwillingness of law enforcement to make any changes whatsoever in the way they are accustomed to operating.

If my colleagues are opposed to Know Your Customer, then they must be opposed to these provisions of the suspicious activity report requirement which does not gut the Bank Secrecy Act. This amendment addresses just one small portion of the Bank Secrecy Act. It is simply one of a number of tools that are provided for law enforcement under the Bank Secrecy Act. It is not an essential tool. It takes nothing away from law enforcement that it might otherwise get through legitimate law enforcement means. All, virtually all, money laundering cases of any significance are prosecuted, investigated and convictions obtained thereon not based on mandated secrecy reports, but on other provisions of the Bank Secrecy Act and other provisions of the money laundering statutes.

To say that law enforcement will be gutted by this amendment is a red herring. If colleagues oppose Know Your Customer, then they must support the Barr-Paul-Campbell amendment.

Mr. LAFALCE. Madam Chairman, I yield 30 seconds to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Madam Chairman, what a contradiction for so-called law and order Members of this House to be advocating this amendment. The Paul-Barr-Campbell amendment should be entitled: The Drug Dealers' Improvement Act of 1999 because the amendment will increase the ability of drug dealers to launder drug profits.

There are few legitimate cash transactions in excess of $10,000. It is unusual to have someone walking around with $25,000 of cash in their wallet or their purse. Therefore, it is inappropriate to raise the reporting requirement to $25,000. It indeed guts the Bank Secrecy Act.

I would ask every Member of this House to say no to the dope dealers and those that would support their ability to launder money.

Mr. LAFALCE. Madam Chairman, I yield myself such time as I may consume.

Again I strongly oppose this, but I want to point out to those who have not spoken that we have had individuals from the Republican party and the Democratic party strongly oppose this from the right, from the left, the gentleman from Arkansas (Mr. HUTCHINSON), the gentleman from Florida (Mr. MCCOLLUM), the gentleman from Alabama (Mr. BACHUS), the gentleman from Iowa (Mr. LEACH), the gentlewoman from New Jersey (Mrs. ROUKEMA). On the Democratic side, my colleagues heard from the gentlewoman from California (Ms. WATERS), the gentleman from Minnesota (Mr. VENTO), the gentleman from Michigan (Mr. DINGELL). The administration believes that this would shred their ability to enforce antimoney laundering and bank secrecy provisions.

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I strongly urge everyone to defeat this amendment. I am sorry that it was permitted. We could have used this 10 minutes to discuss something like redlining, something that would have brought about bipartisan support.

Mrs. MALONEY of New York. Madam Chairman, I am certainly sympathetic to the privacy concerns being raised during this debate. And I voted for the amendment during the Banking Committee mark-up of H.R. 10 which eliminated the newly proposed "Know Your Customer" rules.

This amendment, however, will seriously curtail the efforts of law enforcement in curbing fraud and stopping drug traffickers.

The Bank Secrecy Act requires certain forms . . . the Suspicious Activities Report and the Currency Transactions Report to be filed when certain triggers are met. This amendment would make this system voluntary . . . not basing these reports on any of the triggers which may be hit, and probably resulting in banks becoming the favored launderers of fraudulent funds and drug money.

Yet these reports have been crucial to uncovering all sorts of fraud and drug rings. In New York City last year, the FBI's office received a Suspicious Activity Report which indicated that a former vice president of a large bank had embezzled funds. The investigation discovered that the embezzlement reached $20 million.

Another New York City case in July 1997 used these reports to uncover a fraudulent loan scheme worth $20 million in losses to area banks. These cases most likely would not have been discovered without the triggers in the Bank Secrecy Act.

Join with the Justice Department, the Treasury Department and the Customs Service in helping law enforcement fight fraud and the drug trade.

This amendment is anti-law enforcement.

Oppose this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. BARR).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BARR of Georgia. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 235, further proceedings on the amendment offered by the gentleman from Georgia (Mr. BARR) will be postponed.

The CHAIRMAN. The Committee will rise informally.

The Speaker pro tempore (Mr. LEWIS of Kentucky) assumed the chair.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate agrees to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 775) ''An Act to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes.''.

The message also announced that the Senate has passed a concurrent resolution of the following title in which concurrence of the House is requested:

S. Con. Res. 43. Concurrent resolution providing for a conditional adjournment or recess of the Senate and a conditional adjournment of the House of Representatives.

The SPEAKER pro tempore. The Committee will resume its sitting.

FINANCIAL SERVICES ACT OF 1999

The Committee resumed its sitting.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 106–214.

AMENDMENT NO. 5 OFFERED BY MR. FOLEY

Mr. FOLEY. Madam Chairman, I offer amendment No. 5.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. FOLEY:

Page 244, after line 18, insert the following new section (and amend the table of contents accordingly):

SEC. 198A. INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS.

Section 5(a)(7) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(7)), is amended to read as follows:

''(7) ADDITIONAL AUTHORITY FOR INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS, UPGRADES OF CERTAIN FOREIGN BANK AGENCIES AND BRANCHES.—Notwithstanding paragraphs (1) and (2), a foreign bank may—

''(A) with the approval of the Board and the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank's home State if—

''(i) the establishment and operation of such branch or agency is permitted by the State in which the branch or agency is to be established, and

''(ii) in the case of a Federal or State branch, the branch receives only such deposits as would be permitted for a corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 et seq.), or

''(B) with the approval of the Board and the relevant licensing authority (the Comptroller in the case of a Federal branch or the appropriate State supervisor in the case of a State branch), upgrade an agency, or a branch of the type referred to in subparagraph (A)(ii), located in a State outside the foreign bank's home State, into a Federal or State branch if—

''(i) the establishment and operation of such branch is permitted by such State; and

''(ii) such agency or branch—

''(I) was in operation in such State on the day before September 29, 1994; or

''(II) has been in operation in such State for a period of time that meets the State's minimum age requirement permitted under section 44(a)(5) of the Federal Deposit Insurance Act.''.

The CHAIRMAN. Pursuant to House Resolution 235, the gentleman from Florida (Mr. FOLEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the amendment I am offering today is a States' rights issue. It is noncontroversial, we hope, an amendment that will fix an anomaly in Federal interstate banking laws. It will also help the flow of trade from the U.S. to countries all over the world.

This amendment would allow foreign banks currently operating in the United States to expand their operations as was intended by the Riegle-Neal Banking and Branching Act by allowing agencies to upgrade to branches.

In 1994, when the Riegle-Neal Interstate Banking and Branching bill was passed. Congress sought to allow foreign banks to open additional branches just like domestic banks. This amendment would conform with the intent of the original act.

Unfortunately, not one foreign bank has been able to open additional branches under the Riegle-Neal Federal law provision. While the intention of the act was to allow expansion of foreign banks, the provision in current law has proved to be unworkable.

This amendment would allow foreign bank agencies to upgrade to a branch with the approval of the appropriate chartering agency, the OCC or the State bank supervisor, and the Federal Reserve Board.

In order to accomplish this upgrade, the agency would have to meet the State's minimum age requirement for entry, just like domestic banks. In addition, the agency must meet the requirements for consolidated home country supervision.

This change in Federal law that I am proposing today is a States' rights amendment. If passed, it would remove a Federal limitation that interferes with State law.

The amendment is supported by the Florida Banking Department, the New York Banking Department, the Texas Banking Department and the California Banking Department, as well as the Florida International Bankers Association and Conference of State Bank Supervisors. This amendment has been fully vetted with the Federal Reserve Board, and they have indicated that they have no objection to it.

Madam Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Madam Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I should note that under the rules someone is entitled to 5 minutes in opposition. I would describe myself for these purposes as leaning against but open to persuasion, I would reassure my friend, the gentleman from Florida (Mr. FOLEY). I am not firmly committed on the subject.

I was interested in what the gentleman said and will listen some more, but I also wanted to use this occasion to address the general bill, Madam Chairman. It is a somewhat constricted debate situation.

What I wanted to do was to explain why I would be voting against this bill, although I think on the subjects that it deals with it does a good job. That is, I think this is a bill which suffers from incompleteness.

I think with regard to the regulation of the financial services industry, this is as good a product as we can expect from a broad representative body. I think the Committee on Banking and Financial Services on both sides worked seriously and well under the leadership of the chairman and the ranking member.

The problem is, in my mind, it carries out a pattern that is too much present in America today and that I think threatens great harm even as it makes some specific progress, and that is a pattern in which we do a good job of fostering conditions in which the capitalist system can flourish. It is in our interest that the capitalist system flourish.

Capitalism clearly has established itself as the superior way for a society to generate wealth, and the generation of wealth is very important. It is important in and of itself because it provides resources for individuals to enjoy themselves, and it is important as a way to provide the resources which help us deal with other problems.

On the other hand, we have learned that capitalism, as great an engine as it is in generating wealth, can have some downsides. In particular, the era of capitalism in which we now are, a kind of globally competitive world, is one where increased wealth is unfortunately accompanied by increased inequality in many cases and by an undermining of society's capacity to deal with some of the social problems that the market does not take care of.

This bill should have been an opportunity to deal with both aspects of