June 30, 2010

CONGRESSIONAL RECORD—HOUSE

NAYS—1

NOT VOTING—10

Goemhard
Green, Gene
Higgins
Powell (ME)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

So (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

The vote of the result was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GENE GREEN of Texas. Mr. Speaker, on rollcall No. 411, I had been present, I would have voted, "yes."

CONFERENCE REPORT ON H.R. 4173, DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

Mr. FRANK of Massachusetts. Mr. Speaker, pursuant to House Resolution 1490, I call up the conference report on the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The gentleman from Massachusetts. Mr. Frank.

Mr. FRANK. I'm grateful for the leadership that he has shown in trying to make sure that there is a fair and effective debate on this bill.

The SPEAKER pro tempore. Pursuant to House Resolution 1490, the conference report is considered read.

(For conference report and statement, see proceedings of the House of June 29, 2010, book II.)

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. FRANK) and the gentleman from Alabama (Mr. BACHUS) each will control 60 minutes.

The Chair recognizes the gentleman from Massachusetts.

Mr. FRANK of Massachusetts.

Mr. FRANK. Mr. Speaker, at the outset I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on this matter.

There is more disclosure and transparency. There are some bipartisan provisions in this bill that add a whistleblower office to the SEC. But the bad and the ugly far outweigh those.

In total, this bill is a massive intrusion of Federal Government into the lives of every American. It is the financial services equivalent of ObamaCare, the government takeover of our health care system.

Mr. BACHUS. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, today I would like to address the good, the bad, and the ugly in this bill.

The good: There is consumer protection. There is more disclosure and transparency. There are some bipartisan provisions in this bill that add a whistleblower office to the SEC.

The bad: There was no objection.

Mr. FRANK of Massachusetts. Mr. Speaker, to begin, I want to yield for a colloquy 3 minutes to one of the leaders in the House and certainly in our committee in forging this particular legislation and in fighting to make sure that fairness is done throughout all of our efforts, to the gentlewoman from California (Ms. WATERS).
in the hands of individuals and private businesses.

For instance, it will make the compensation of every employee of a financial firm subject to rules set by a government overseer. Can you imagine anything as bad as what an employer pays a secretary controlled by a liberal bureaucrat in Washington? It will even apply to clerical employees. Government regulators will be empowered to seize and break up even healthy firms they decide are systemic risks and put new management to run these private companies.

As I said on the floor earlier today, this bill will institutionalize AIG-type bailouts of creditors and counterparties, and it will saddle taxpayers with the losses resulting from out-of-control risk-taking by Wall Street institutions—gamblers. My colleagues on the other side of the aisle will tell you this bill does not include a bailout fund. They are wrong.

As I explained earlier, here it is, laid out. You can lend money to a failing company. Now, how do you get money back from a failing company? You can purchase their assets. You can guarantee their obligations. You can sell or transfer their assets. It is there.

What does this cost?

As I explained earlier, the FDIC can borrow up to 90 percent of a firm’s assets. That’s $2 trillion in the case of Bank of America alone. They could borrow $2.1 trillion in that case alone. That is a bailout fund, period.

Not only will it make bailouts permanent, but it will empower government employees to go around settled bankruptcy law in so-called ‘resolutions,’ done behind closed doors, with unequal treatment of creditors at the whim of politically influenced government officials. This has already happened. A financial firm’s ability to survive a crisis like the one we went through will depend, as it did then, on whether its CEO can get the President of the New York Fed on the phone on a Saturday night, as one firm did. Friendships and being well-connected should not determine the success or failure of private enterprises.

Finally, it imposes an $11 billion tax disguised as an FDIC assessment. To fund this new government spending, they tax Main Street banks and financial institutions. They raise their FDIC premiums even though those premiums would go to bail out Wall Street firms and not to save depositors, as the system was designed to do.

Mr. Speaker, if you voted against this bill on the floor, if you voted against it in committee, that you can’t vote against it again, because it is even worse than when it came out of the House.

We have seen the anger and frustration generated by the injustice of one big-to-fail hedge fund. We have seen the folly of implied guarantees as with Fannie and Freddie. We have seen, time after time, the failure of government-run schemes to create jobs and to grow the real economy. Nevertheless, here the majority party is again, doing the same thing over and over, blindly hoping that, suddenly, this time, they will get a different result. Well, you’re right. The American people are determined to do something about a series of recent elections, they have told incumbents to go home and to spend their own money, not theirs—not the taxpayers.

In conclusion, if you choose to bail out the creditors and counterparties of the big Wall Street firms or to loan them money when they get in trouble, don’t expect the voters to bail you out come November.

I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume to correct a very incomplete picture that was just given.

The gentleman keeps quoting that one section. I’m astonished—astonished at how blatantly out of context. Yes, there are powers that are given. Clearly, in the bill, it is only once the entity has been put into receivership on its way to liquidation.

The gentleman from Alabama has seven times today talked about the powers if as if they were just randomly given. I will be distributing the entirety of this, and it is the most distorted picture of a bill I have seen. The title, by the way, is headed: Orderly Liquidation of Current Financial Companies. The purpose of this title is to provide the necessary authority to liquidate failing financial companies. Again, I am astonished that he would not give the Members the full picture that comes as part of a subtitle that reads: Funding for Orderly Liquidation.

Mr. BACHUS. Will the gentleman yield?

Mr. FRANK of Massachusetts. Yes.

Mr. BACHUS. When I say they should put the creditors and counterparties, I don’t care whether they are in receivership or not. They should not bail them out, period.

Mr. FRANK of Massachusetts. Reclaiming my time, Mr. Speaker, please, let’s get this started on the right point. Instruct the gentleman as to the rules. I thought he was going to ask me about what I said.

He has consistently read a part of this section, leaving out the part that reads, ‘if they are in receivership or not,’ which everyone knows. He didn’t say what he just said. He said he read these as if they were there in general. The powers he talked about come in the subsets of the section: Funding for Orderly Liquidation.

Those powers are just upon the appointment of a receiver. So this is not to keep an institution going. This is not AIG. Yes, he can be critical about the Bush administration on its own, without Congress, with regard to AIG.

We repeal in this bill the powers under which AIG was kept alive. This cannot be kept alive. This happens only as the death of the institution comes. He may think the Bush administration determined by the corporation determines by mandatory terms and conditions for all orderly liquidation actions.

AIG was kept alive. This cannot be kept alive. This happens only as the death of the institution comes. He may think the Bush administration determined by the corporation determines by mandatory terms and conditions for all orderly liquidation actions.

First, they would have to determine that such action is necessary for purposes of the financial stability and not for the purpose of preserving the covered company.

Two, they would have to ensure that the shareholders do not receive payment until the claims are paid.

They would have to ensure that uninsured creditors bear losses in accordance with the priority of claims in section 210. That is the FDIC.

They would have to ensure that the management is removed, and they would have to ensure that the members of the board of directors are removed.

It is quite the opposite of what the gentleman talked about. It says that, if an institution has gotten so indebted that it should not be able to pay its debts, we would step in, and we would put it out of business. It is totally different from what happened with AIG. It does then say, yes, in some circumstances, there may be an ability to do these things but only after the institution has been liquidated.

The gentleman never mentioned that. The gentleman talks about it and talks about it, and he never mentions that this is only as the institution is being put out of business. It is also very unfair when any funds expended will come from the financial institutions, not from the taxpayers.

Now, we had a good piece of legislation that we had adopted in conference in order to try to do that here. Unfortunately, to get the Republican votes necessary in the Senate for an otherwise very good bill, we had to back that down, but it didn’t change in here.

So, yes, there are provisions that the gentleman read, but unlike the way he presented them, they don’t stand by themselves. They come only after it has been determined by the administration in power that the financial stability of the company requires, first, that the company be liquidated and, second, that some attention be given to its debts, but it will be funding out of the other financial institutions, not from the taxpayers.

I reserve the balance of my time.

Mr. BACHUS. At this time, I yield 3 minutes to the gentleman from Texas (Mr. SMITH), the ranking member of the Judiciary.

Again, I don’t know why the gentleman—I guess I do know why they would want to read this, but let me read it because it corrects entirely the wholly inaccurate picture he gave people. The actions that he read can be taken by the corporation, it determines by mandatory terms and conditions for all orderly liquidation actions.

June 30, 2010
Mr. SMITH of Texas. I thank the ranking member, the gentleman from Alabama, for yielding.

Mr. Speaker, over a long history rooted in our Constitution, we have relied on the rule of law and on impartial bankruptcy courts to resolve the debts of failed enterprises. History has proven us correct.

Exhibit 1, for the benefits of the bankruptcy system, is the recent case of Lehman Brothers. As the peak of the 2008 financial crisis approached, Lehman declared bankruptcy. Within a week, it had sold its core business. Within 6 weeks, its third-party credit default swaps had been dissolved. That sealed off risk to other firms.

Experts have shown that the Lehman case didn’t cause the financial system to melt down. This bill discards our proven bankruptcy system for something the American people forcefully reject: government-sponsored bailouts. The roller coaster bailout ride of 2008 is what caused the financial meltdown. Yet this bill just builds a bigger, faster bailout roller coaster. The bill’s sponsors openly admit that they don’t know if it will work, but they urge us to build it anyway.

The question is why, and the answer is simple: When government picks the winners and losers, government becomes more powerful. So do the Wall Street winners that government picks. Meanwhile, Main Street and free enterprise lose.

This administration and its congressional allies embrace what the Founders fought against, ever-expanding government power over the lives of free men and women. The Founders rejected this approach, the American people reject it, and so should we.

Mr. FRANK of Massachusetts. Mr. Speaker, producing this legislation has been one of the most impressive team efforts in which I have ever participated. The intellectual leadership of the team going back to the early part of this century and his concern for mortgage lending and fairness in the rules is the gentleman from North Carolina (Mr. WATT) to whom I yield 3 minutes.

Mr. WATT. Mr. Speaker, I want to thank my colleague for the time and for his leadership in this tremendous effort. I would like to spend some time just challenging a notion that is out there that this whole meltdown was unforeseeable by anybody, that nobody could have foreseen it, and dispel that notion by understanding that on March 16, 2004, the first anti-predatory lending bill was introduced in this House of Representatives by BRAD MILLER of North Carolina and myself. We saw forthcoming the possibility of this substantial meltdown, because we knew that predatory loans were out there being made to people who could not afford to pay them back.

Again, on March 9, 2005, in the 109th Congress we reintroduced the bill, the anti-predatory lending bill. On October 22, 2007, we reintroduced the anti-predatory lending bill in the 110th Congress. Finally, finally, in this term of Congress, on March 26, 2009, we reintroduced it for a fourth time, and finally it is incorporated into this legislation.

Mr. FRANK. Mr. Speaker, I yield the gentleman 1 additional minute.

Mr. WATT. All of that is in this bill. If we had had this kind of legislation in effect when we first started introducing it back in 2004, we could have avoided this.

Don’t let anybody say that this was an unforeseeable chain of events that led to this meltdown. We need to correct it and make sure that going forward those kind of predatory practices never, never, never, never occur again in our country.

Mr. BACHUS. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. I thank the gentleman for yielding and for the hard work he has done on this.

Mr. Speaker, clearly the country would like to see the right things done for the economy. I think this bill fails to do many of the basic things it should have done and does the things that we shouldn’t have done.

It doesn’t end too-big-to-fail. Mr. Speaker, in fact, it institutionalizes too-big-to-fail. Treasury will be able to front money to wind down these failing firms, but also Treasury can decide if they are at risk of failure. There is way too much involvement with the taxpayers in coming in and doing exactly what the American taxpayers are tired of seeing us doing.

The government-sponsored entities, Fannie Mae and Freddie Mac, that we have talked about and will talk about more on this floor today and have talked about for months as one of the prime causes for the economic problems we face, as far as I can tell, they are not mentioned, and if they are mentioned, Mr. Speaker, there is no reform.

Mr. Speaker, by the Federal Reserve of more things and more regulation. There is a new agency under the Federal Reserve that will be in charge of setting new rules for the banking sector of the country in its entirety.

Credit, Mr. Speaker, will not be more available. It will be less available. People who are in the job-creating business will be under pressure to make decisions about what they will do as they respond to this. Why is that? Because this bill steps further into managing the economy. The government may be able to do lots of things, but making business decisions is not one of them.

Utility companies, food processors, others who routinely try to protect themselves in a volatile marketplace will not be able to do this.

Mr. Speaker, this bill will cost jobs at the very time we ought to be figuring out how to increase jobs. I hope our colleagues will turn it down and go back and do the right thing.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself 15 seconds to correct the gentleman.

We have not created a consumer bureau under the Federal Reserve. It will be housed in the Federal Reserve. The Federal Reserve will have no ability to interfere. Some on the other side wish it would. But it will be a fully independent consumer bureau. It will get its mail at the Federal Reserve, but nobody there will be able to open it.

I now yield 4 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI), one of the leaders in putting together this bill in the area specifically of investor protection.

Mr. KANJORSKI. Mr. Speaker, this bill is a darn good bill. I know we are going to hear objections on both sides of the aisle, but if you have a chance to look at it, and it is a lengthy bill, the 2,600 pages that are presented to both the House today and within a week or so to the Senate constitutes the first revolutionary change of securities laws in the United States since the Great Depression. At that time we had a tremendous collapse, and our forefathers and presidents to the occasion by establishing a regulatory platform within the United States that made us the envy of the world.
We had in 2008 a collapse and a failure of that system. It primarily grew out of the failure of the regulatory system to use all the powers it had and to keep track with our highly speculative and greedful nature at the time to allow things to go into the tremendous credit crisis that we faced in 2008.

To now make an argument that we need do nothing and we will recover and we will prosper is pure ludicrousness. The fact of the matter is there are holes, there are loopholes, there are fail-safes that are not in place. We have to cleanse that system and fix that system, and that is exactly what this bill does.

I am pleased to say that I had a part in doing that. I helped prepare one amendment, the too-big-to-fail amendment. What we can say to our successors and to our constituents is that never again in the future will there be an unlimited power for financial institutions to grow either in size, interconnectedness or other negative factors that they can remain and put in jeopardy systemically the economy of the United States and the world.

We have the authority vested in our regulators to see that that doesn’t happen. If our regulators are able and will use those powers, never again will we face the too-big-to-fail concept of having the too-big-to-fail of the largest institutions in the world.

Secondly, a large part of this was devoted to investor protection. I can’t go through all the elements, but for the first time in history we’re going to allow there to be putting together with rules and regulations that allow for a fiduciary relationship between broker-dealers, investment advisers, and their clients—their customers. Most people in this country think that already exists. It doesn’t. After this bill and those new regulations, it will. You can then trust that the advice being given by the broker-dealer or the investment counselor is in your best interest as a customer and not in theirs.

We also call for the largest comprehensive study of the Securities and Exchange Commission in the history of the commission. It will put into place the tools necessary to revise the entire SEC in the future. It also will be the predicate for that type of a comprehensive study to be used in other agencies and commissions of government to allow us the long road of reform in the American government. These things are in the bill. Beside that, we have the capacity to make sure that no one in the future need worry about the responsibility of the companies they’re dealing with as to whether or not they will have counterparty, whether they are relying on representations that are true or false, because we’re going to have transparency within the system.

In the other areas dealing with derivatives, we’re going to have disclosures. Never has that happened in the history of the United States. Over the years, the last two decades, we have made attempts and have always failed. This time we have succeeded.

Mr. Speaker, without reservation, I recommend to my colleagues a vote of ‘yes’ on this bill.

Mr. Speaker, after nearly two years of study, discussion, hearings, and intense legislative negotiations, we have produced a final bill that will comprehensively reform our financial services infrastructure. A system that not only underpins the American economy but one that also serves as a cornerstone of our global markets. This bill also represents the most significant overhaul of our Nation’s financial services regulatory framework since the reforms put in place during the Great Depression.

This landmark agreement touches upon nearly every corner of our financial markets. Among other things, this bill ends the era in which financial institutions can become too big to fail in all financial distress. In my provision, several new powers are given to the SEC to allow regulators to preemptively break up healthy financial firms that pose a grave threat to the U.S. economy. Additionally, the bill regulates financial derivatives for the first time, establishes procedures for shutting down failing financial institutions in an orderly manner, forces the registration of hedge fund advisers, and holds credit rating agencies accountable through greater liability. This bill also greatly expands investor protections by setting up a fiduciary standard for broker-dealers offering personalized investment advice, allowing whistleblowers to receive rewards for tips to corporate boards, and creating a bounty program to reward whistleblowers whose tips lead to successful enforcement actions.

Moreover, this legislation enhances the powers and resources of the U.S. Securities and Exchange Commission, SEC. The pending conference agreement also forces a comprehensive study of the way that the SEC operates which will lead to much needed management reforms. Furthermore, the conference agreement creates for the first time a Federal office to monitor large financial institutions. Finally, this bill will comprehensively modify mortgage lending practices—including escrow procedures, mortgage servicing, and appraisal activities.

In short, the conference report on H.R. 4173 is a very good package that will restructure the foundations of the U.S. financial system. It will enhance regulation over more products and actors, create additional investor protections and consumer safeguards, and promote greater accountability for those who work in or have influence over our capital markets. For these reasons, I urge my colleagues to vote in favor of this momentous agreement.

Mr. Speaker, this afternoon the Senate passed the final conference report on the financial reform bill. This is a monumental piece of legislation.

Historians will likely long argue about the causes of the 2008 credit crunch, but one cannot deny that one huge contributing factor was the failure of government regulators to rein in dangerous financial institutions. Giant firms like American International Group, AIG, as well as many smaller firms, engaged in recklessly risky behavior that rewarded them with huge profits during the build-up of the housing bubble and then saw those profits evaporate as the bubble burst. Actually, AIG and other firms would have collapsed and our economy would have been sent back to the Dark Ages, except for the request of the Bush Administration to establish the $700 billion Troubled Asset Relief Program to prop up our country’s teetering financial system.

One of the important provisions in this bill is the establishment of a Federal Reserve tasked with protecting our nation from the next financial crisis. It also includes provisions to require that every financial institution have more capital. This bill also establishes a consumer financial protection bureau, which will consolidate financial services regulation, and it also requires that the Federal Reserve have a specified amount of capital on hand to support the healthy financial firms that pose the greatest threat to the stability of our financial system.

This time we have succeeded. The last two years, my top priority has been to avoid having any future Congress face the same dilemma that we faced in 2008: “bail out” Wall Street to save Main Street or risk the collapse of the American economy. Our Nation can’t afford that. Therefore, I am pleased to say that I had a part in producing this legislation which will ensure that the most important element of any reform of the financial system needed to ensure that no financial firm could be allowed to become so big, interconnected, or risky that its failure would endanger the whole economy.

In this regard, I am pleased that this legislation helps bring an end to the era of too-big-to-fail financial institutions in at least three significant ways. First, it achieves this end by establishing new regulatory authorities to dissolve and liquidate failing financial institutions when necessary. Second, the conference agreement incorporates my amendment vesting regulators with the power to limit the activities of and even disband seemingly healthy financial services firms. Specifically, the Kanjorski amendment permits regulators to preemptively break up and take other actions against financial institutions that pose a threat to our economic stability. For these reasons, I urge my colleagues to vote in favor of this momentous agreement.

Secondly, the conference agreement incorporates my amendment vesting regulators with the power to limit the activities of and even disband seemingly healthy financial services firms. Specifically, the Kanjorski amendment permits regulators to preemptively break up and take other actions against financial institutions that pose a threat to our economic stability. For these reasons, I urge my colleagues to vote in favor of this momentous agreement.

Third, the final agreement contains a fairly strong Volcker rule that will limit the activities of financial institutions going forward and prevent them from becoming too big to fail. Inspired by the legendary former Federal Reserve Chairman, Paul Volcker, this rule will bar proprietary trading by banks, significantly curtail bank investments in private equity funds, require hedge funds to hold lower levels of big banks. As a result, the Volcker rule will prohibit banks from engaging in highly speculative activities that in good times produce enormous profits but in bad times can lead to collapse.

Together, these three reforms will better protect our financial system and mitigate the problem of too big to fail. The Kanjorski amendment and the Volcker rule will also substantially resurrect the barrier between commercial and investment banking that resulted in a stable financial system for more than 70 years after the Great Depression.

As the Wall Street Journal on Saturday reported, “... the bill gives regulators power to constrain the activities of big banks, including forcing them to divest certain operations and to hold more capital to protect against losses. If those buffers don’t work, the government would have the power to seize and liquidate a failing financial company that poses a threat to the broader economy.” I wholeheartedly agree with this independent assessment.

In sum, the conference agreement on H.R. 4173 represents an historic achievement. By addressing the problem of too big to fail, this legislation will lead to a new era of American prosperity and financial stability for decades to
come. For this reason alone, this bill deserves to become law.

**INVESTOR PROTECTION AND SECURITIES REFORMS**

As the House developed this legislation, I played a key role in drafting the title concerning investor protection and securities reform. The Administration’s proposal and the Senate bill both provided important improvements, but the initial House plan had many, many more. I am pleased that the final package more closely resembles the initial House legislation rather than the original Administration and Senate plans.

Among the many reforms in the area of investor protection, the conference agreement provides that the SEC, after it conducts a study, may issue new rules establishing that every financial intermediary who provides personalized investment advice to retail customers will have a fiduciary duty to the investor. A traditional fiduciary duty includes an affirmative duty of care, loyalty and honesty; an affirmative duty to act in good faith; and a duty to act in the best interests of the client. Through this harmonized standard of care, both broker-dealers and investment advisers will place customers’ interests first.

Regulators, practitioners, and investor advocates have become increasingly concerned that investors are confused by the legal distinction between broker-dealers and investment advisers. In many cases, these two professions currently owe investors different standards of care, even though their services and marketing have become increasingly indistinguishable to retail investors. The issuance of new rules will fix this long-standing problem.

Additionally, the conference agreement adopts recommendations made by SEC Chairman Mary Schapiro, SEC Inspector General David Kotz, and Harry Markopolos, the whistleblower who sought for many years to get regulators to shut down the $65 billion Ponzi scheme perpetrated by Bernard Madoff. Specifically, the conference agreement provides the SEC with the authority to establish an Investor Protection Fund to pay whistleblowers whose tips lead to successful enforcement actions. The SEC currently has such authority to compensate whistleblowers under trading case law, but the whistleblower provision in this bill would extend the SEC’s power to compensate other tipsters who bring substantial evidence of other securities law violations.

The conference agreement also responds to other issues raised by the Madoff fraud. These changes include increasing the line of credit at the U.S. Treasury from $1 billion to $2.5 billion to support the work of the Securities Investor Protection Corporation, SIPC, and raising SIPC’s maximum cash advance amount to $250,000 in order to bring the program in accordance with trading case law. The SEC whistleblower provision in this bill would extend the SEC’s power to compensate other tipsters who bring evidence of other securities law violations.

The conference agreement also responds to other problems raised by the Madoff fraud. These changes include increasing the line of credit at the U.S. Treasury from $1 billion to $2.5 billion to support the work of the Securities Investor Protection Corporation, SIPC, and raising SIPC’s maximum cash advance amount to $250,000 in order to bring this program in line with the protection provided by the Federal Deposit Insurance Corporation.

This bill additionally increases the minimum assessments paid by SIPC members from $150 per year, regardless of the size of the SIPC member, to 2 basis points of a SIPC member’s equity; revenues from this fix will help to ensure that SIPC has the reserves it needs in the future to meet its obligations. Finally, in response to the Madoff fraud, the final product includes my legislation to allow the Public Company Accounting Oversight Board to examine the内部控制 and capital reserves of broker-dealers.

For too long, securities industry practices have deprived investors of a choice when seeking dispute settlement, too. In particular, pre-dispute mandatory arbitration clauses inserted into contracts have limited the ability of defrauded investors to seek redress. Brokerage firms contend that arbitration is fair and efficient as a dispute resolution mechanism. Critics of mandatory arbitration clauses, however, maintain that the brokerage firms hold all the cards and hide mandatory arbitration clauses in dense contract language.

If arbitration truly offers investors the opportunity to efficiently and fairly settle disputes, then investors will have their option. But law enforcement should also have the chance to pursue remedies in court, should they view that option as superior to arbitration. For these reasons, the final package provides the SEC with the authority to limit, prohibit or place conditions on mandatory arbitration clauses in securities contracts.

Another significant investor protection provision in this conference agreement concerns proxy access. In particular, H.R. 4173 clarifies the authority of the SEC to issue rules regarding the nomination by shareholders of individuals to serve on the public company’s board. These provisions regarding proxy access will enhance democratic participation in corporate governance and give investors a greater voice in the companies that they own.

A myriad of problems presently confronts the SEC, hindrances not insurmountable if the need for adequate resources. Chairman Schapiro and others have repeatedly stressed the need to increase the funding to ensure that the agency has the ability to keep pace with technological advances in the securities world. The investment adviser expertise, and fulfill one of its core missions: the protection of investors. In response, this agreement slightly increases the independence of the SEC in the appropriations process, doubles the authorized SEC budgets over 5 years, and creates a new reserve fund to support technology improvements and address emergency situations, like the flash crash that occurred in May 2010.

Moreover, H.R. 4173 modifies the SEC’s structure by creating a number of new units and positions, like an Office of the Investor Advocate and a new whistleblower bounty program, and an Office of Credit Ratings. However, the SEC’s systemic failures to effectively police the markets in recent years required Congress to do even more to shake up the agency’s daily operations. As such, the legislation includes my provision mandating an expedient, independent, comprehensive study of the securities regulatory regime by a high caliber body with expertise in organizational restructuring to identify deficiencies and reforms, and ensure that the SEC regulatory structure is in place further improvements designed to provide superior investor protection. My hope is that this study will ultimately become the model for reforming other agencies. The final bill also includes my deadlines generally forcing the SEC to complete enforcement, compliance, and adjudicatory inspections within 180 days, with some limited exemptions for complex cases.

The conference agreement on H.R. 4173 additionally modifies, enhances and streamlines the powers and authorities of the SEC to hold securities fraudsters accountable and better protect investors. For example, the SEC will have the authority to impose collateral bars on individuals in order to prevent wrongdoers in one sector of the securities industry from entering another sector. The SEC will also gain the ability to make nationwide service of process available in civil actions filed in Federal courts, consistent with its powers in administrative proceedings.

The bill further facilitates the ability of the SEC to bring civil and criminal actions against those individuals who aid and abet securities fraud. The Securities Exchange Act of 1934 and the Investment Advisers Act of 1940 presently permit the SEC to bring actions for aiding and abetting violations of those statutes in civil enforcement actions. This bill allows the SEC, with the power to bring similar actions for aiding and abetting violations of the Securities Act of 1933 and the Investment Company Act of 1940. In addition, the bill not only clarifies that the knowledge requirement to bring a civil aiding and abetting claim can be satisfied by recklessness, but it also makes clear that the Investment Advisers Act of 1940 expressly permits the imposition of penalties on those individuals who aid and abet securities fraud.

One final investor protection reform that I drafted and want to highlight concerns the need for a more powerful SEC. The Authority of the SEC Department to bring civil or criminal law enforcement proceedings involving transnational securities frauds. These are securities frauds in which not all of the fraudulent conduct occurs within the United States or not all of the wrongdoers are located domestically. The bill creates a single national standard for protecting investors affected by transnational frauds by codifying the authority to bring proceedings under both conduct and the effects tests developed by the courts regardless of the jurisdiction of the proceedings.

In the case of Morrison v. National Australia Bank, the Supreme Court last week held that section 10(b) of the Exchange Act applies only to transactions in securities listed on United States exchanges and transactions in other securities that occur in the United States. In this case, the Court also said that it was applying a presumption against extraterritoriality. This bill’s provisions concerning extraterritoriality, however, are intended to rebut that presumption by clearly indicating that Congress intends extraterritorial application in cases brought by the SEC or the Justice Department.

Thus, the purpose of the language of section 929P(b) of the bill is to make clear that in actions and proceedings brought by the SEC or the Justice Department, the specified provisions of the Securities Act, the Exchange Act and the Investment Advisers Act may have extraterritorial application, and that extraterritorial application is appropriate, irrespective of whether the securities are traded on a domestic exchange or the transactions occur in the United States, when the conduct within the United States is significant or when conduct within the United States has a substantial effect upon the United States securities market or any other domestic securities market.

The bill that we are considering today contains a number of other worthwhile elements that should become law, and I want to highlight several issues that I personally worked on or in which I have a deep, long-standing interest.

First, the bill creates a Federal Insurance Office within the Treasury Department. A key
component of our financial services industry, insurance is too often misunderstood or left behind in decisions made by the Federal government. As a result, I have long worked on the creation of this new office that will effectively monitor this industry sector for potential risks going forward. As a result of this new office, the United States will for the first time speak with a uniform voice on insurance matters on the international stage and have the authority to stand behind its words. I am therefore pleased that the Federal Insurance Office is finally becoming law.

Second, I have worked diligently on the title concerning the registration of hedge fund managers and private equity fund advisers. To promote market integrity, we need those individuals who handle large sums of money and assets to register with the SEC and provide information about their trades and portfolios. While I remain concerned about the registration exemptions put in place by others during the legislative process, I believe that these reforms are necessary to improve the quality of regulation and protect against systemic risk. Although they may not have directly caused this latest financial crisis, we do know that these investment vehicles have previously contributed to significant market instability, as was the case in the collapse of Long-Telin Capital Management in 1998. Thus, this reform is an important step in understanding and controlling systemic risk.

Third, this legislation greatly increases the accountability of credit rating agencies. The overly optimistic assessments by Moody’s, Fitch, and Standard and Poor’s about the quality of structured financial products contributed to the global financial crisis. By imposing structural, regulatory, and liability reforms on rating agencies, this agreement will change the way nationally recognized statistical rating organizations behave and ensure that they effectively perform their functions as market gatekeepers going forward.

Fourth, I am very pleased that this agreement will modify escrow agreements, mortgage servicing, and appraisal activities. A broker who works 9 years ago on these issues after identifying predatory practices, faulty appraisals, and other problems in the Poncoson housing markets. These reforms are long overdue.

Among other things, these new mortgage lending standards will include a requirement that all borrowers with higher-cost mortgages have an escrow account established in order to pay for property taxes and homeowners insurance. Studies have shown that at the height of the crisis, borrowers with higher-cost mortgages paid substantially less than borrowers with good credit scores to have an escrow account. Borrowers with less than perfect credit records, however, need more help in budgeting for these sizable expenses. This bill fixes this problem.

Title XIV of the bill also has reforms with respect to force-placed insurance. Predatory lenders often impose costly force-placed insurance, even though the homeowner may already have a hazard insurance policy. This legislation will clarify the procedures for when a servicer can force place insurance. The bill’s bona fide and reasonable cost requirements will also ensure that mortgage servicers shop around for the best rates for the force-placed insurance that they impose. Moreover, the bill’s force-placed insurance reforms will ensure that consumers who are erroneously billed for such premiums will have the monies refunded within 15 business days.

Additionally, the bill’s appraisal reforms will update Federal appraisal laws for the first time in a generation. We now know that inflated appraisals and appraiser coercion and collusion contributed greatly to the creation of the housing bubble. We must respond by putting in place a strong national appraisal independence standard that applies to all loans. We must also comprehensively reform the appraisal regulatory system. This bill does both things.

Fifth, I am extremely pleased that this bill provides $1 billion for a national program to offer emergency bridge loans to help unemployed workers with reasonable prospects for reemployment to keep their homes. This new national initiative is based on Pennsylvania’s successful Homeowners’ Emergency Mortgage Assistance Program, HEMAP. Since 1983, HEMAP has saved 43,000 homes from foreclosure by helping to cover mortgage payments. Other states have new programs in place. In the last nine months, unemployment rates still unacceptably too high and far too many homeowners experiencing problems in paying their mortgages through no fault of their own, the time has come to replicate HEMAP at the national level.

Finally, the failure of the over-the-counter derivatives market has been a serious concern of mine for many years. In 1994, for example, I introduced a bill to regulate derivatives and other complex financial instruments. This conference agreement finally addresses the unregulated international market in this enormous market by mandating the clearing of most derivative contracts on exchanges so that we have more transparency. For those derivatives that are not cleared, the bill reporting and disclosure requirements ensure that information on the transaction is maintained.

LONG-TERM CONCERNS

A sweeping, industry-wide regulatory reform bill like this one rarely comes along. As has been the case after the enactment of other overhauls, we can expect problems to manifest themselves and unintended consequences to occur.

While this bill incorporates the major goals of the Volcker rule, I had hoped for an even stronger version. Unfortunately, the ban on investments in or sponsorship of hedge funds and private equity is not as robust as I would have liked. The Volcker rule could have been stronger had the conference accepted my amendment to provide for a de minimis exemption of tangible common equity, as opposed to Tier 1 capital, and a dollar cap on the investment that would have tightened the bill and better protected our financial markets from systemic risk.

Regrettably, the legislation also permanently exempts small public companies from the Sarbanes-Oxley Act’s requirement to obtain an external audit on the effectiveness of internal financial reporting controls. This exemption disregards the significant concerns of investors—that those that provide capital and bear the risk of losing their retirement savings.

External audits of internal control compliance costs have dramatically decreased in recent years. The stock prices of those companies that have complied with this law have significantly outperformed the stock prices of those that have not complied. Additionally, evidence suggests that 60 percent of all financial restatements have occurred at companies that will never be required to comply with the law’s external audit requirements.

Together, these facts certainly suggest that the Sarbanes-Oxley Act’s provision has no place in a reform bill that is supposed to strengthen investor protections. Moreover, I am worried about the investors at the more than 5,000 public companies now exempted who may one day wake up to discover their hard-earned savings possibly affected by accounting misdeeds as was the case in Enron, WorldCom, and Tyco.

As previously mentioned, I have additional worries about the exemptions granted to the registration of private fund advisers. There are many other types of exemptions embedded throughout this bill, including exemptions in the derivatives title and in the powers of the new Consumer Financial Protection Bureau. While I hope that regulators and the entities that we get the balance right, and that these exemptions, I have apprehensions that in the long term the exemptions will swallow the rules. We must remain vigilant against such an outcome.

Similarly, the success of this landmark reform effort will ultimately depend on the individuals who become the regulators. The key lesson of the last decade is that financial regulators must use their powers, rather than coddle industry interests. In this regard, I hope that regulators will judiciously use the new powers that I have drafted regarding the break up of too-big-to-fail firms. If just one regulator uses these extraordinary powers just once, it will send a powerful message to industry and significantly reform how all financial services firms behave forever more.

Additionally, I continue to have apprehensions about the interchange provisions inserted into this legislation by the Senate. This issue, without question, would have benefitted from additional time and study. I am hopeful that regulators and the entities that we get the balance right, and that these new limitations do not ultimately impair the performance of credit unions and community banks. If necessary, I stand ready to change the new law in this area.

There are several other lingering concerns that I have about this bill, as well. For example, it grants the Federal Reserve far more new powers than I would have liked. The bill also sets a very high bar of a two-thirds super-majority vote of the Financial Stability Oversight Council to take action under my too-big-to-fail amendment. There is some wisdom in this requirement, but if too many individuals with an anti-regulatory bias serve on the Council they will neglect to use the powers that Congress gave them in order to protect our financial system.

Finally, our work today is only a beginning, not an end. Going forward, Congress needs to attentively watch our changing financial marketplace and carefully monitor our regulators in order to protect against systemic risk, foster potential abuses, provide safety, safeguard taxpayers, and defend the interests of consumers and investors. Moreover, the United States must continue to encourage its allies abroad to adopt strong financial services regulatory reforms so that we will have a strong, unified global financial system.
Before closing, Mr. Speaker, I wish to con-
gratulate the gentleman from Massachusetts,
Financial Services Committee Chairman Bar-
ney Frank, and Fredrick Preczewski. By reform-
ing this extremely complex bill through the
legislative process. This conference marks the
culmination of a long, thoughtful series of
hearings, markups, floor debates, and con-
ference negotiations. Chairman Frank per-
formed diligently at every stage of the
process, and his name deserves to be at-
tached to this landmark agreement. Senate
Banking Committee Chairman Christopher
Dodd deserves similar praise for his hard
work. This is why I offered the amendment in
conference to name this law the Dodd-Frank
Wall Street Reform and Consumer Protection
Act.

Additionally, I want to counter the comments
of those who have myopically criticized this
package because it does not abolish Fannie Mae
and Freddie Mac. By reforming the
securitization process, risk retention require-
ments, and rating agency accountability, this
bill lays the foundation for our upcoming work
to address the future of these two institutions
and, more broadly, the entire housing finance
system. The reform of Fannie Mae, Freddie
Mac, and the housing finance system is the
next big legislative mountain that the Financial
Services Committee must climb, and when the
Congress returns after Independence Day, I
will convene additional hearings to advance
work on legislation to achieve this objective.
Mr. Speaker, while I may have some lin-
gering doubts about this legislative package, it
is overall a very good agreement. In short, the
conference report represents a reasoned, mid-
dle ground that strikes an appropriate balance and
does what we need it to do. It ends the problem of	too-big-to-fail financial institutions, effec-
tively regulates the derivatives products
which some have referred to as financial
weapons of mass destruction, and it greatly
strengthens investor protections. It also regu-
lates many more actors in our financial mar-
kets, establishes a Federal reserve center for
insurance issues, and holds rating agencies
accountable for their actions. In sum, Mr.
Speaker, I support this bill and urge my col-
leagues to vote for it.

Mr. BACHUS. At this time I yield 3
minutes to the gentleman from Indiana
(Mr. Pence).

(Mr. Pence asked and was given per-
mission to revise and extend his re-
marks.)

Mr. PENCE. I thank the gentleman
for yielding.

Mr. Speaker, I rise in opposition to the
conference report for H.R. 4173, the
so-called “Restoring American Finan-
cial Stability Act.” We’re used to cre-
avtive titles around here, but I’ve got to
tell you, during a time of extraor-
dinary economic duress, millions of
Americans unemployed, failed eco-
nomic policies, it is darkly ironic that a
bill that will do anything but restore
financial stability is named for that
purpose.

The truth of the matter is, when you
look at this legislation, it’s proof posi-
tive again that this majority just
doesn’t get it. The American people are
not looking at Washington, D.C., and
clamoring for more spending, more
taxes, and more bailouts. They’re look-
ing at Washington, D.C., and saying,
When are you going to focus on cre-
grating jobs? When are you going to set
priorities, differences aside, and in
favor of yielding.

Under the guise of financial reform,
Democrats today are pushing yet an-
other bill that will kill jobs, raise
taxes, and make bailouts permanent.
Let me say that again. This legislation
will kill jobs by restricting access to
credit, it will kill jobs by raising taxes
on those that would provide loans and
credit, it will kill jobs by raising taxes
and opportunity to small business owners
and family farmers, and it makes the
bad ideas of the Wall Street bailout
permanent.

Free market economics depends on
the careful application of a set of ideas—traditional American ideals and
principles. Chief among them is
the notion that the freedom to succeed
must include the freedom to fail.
Personal responsibility is at the very
center of Americanism from an
economic standpoint. It is that cen-
ter from which we have become not
only the freest, but the most pros-
erous Nation in the history of the
world.

As my colleagues on the other side of
the aisle know, I vigorously opposed the
Wall Street bailout because I
thought it departed from that funda-
mental principle of personal responsi-
bility and limited government. And I
rise today to vigorously oppose this
legislation that takes the bad ideas of
the Wall Street bailout and makes them
permanent.

This legislation codifies the notion
of too big to fail, a policy and an ap-
proach the American people have
roundly rejected. It will give govern-
ment bureaucrats more power to pick
winners and losers. When a financial
firm is failing, the Treasury Secretary
will have a seat at the table of the Over-
sight Council. Continuity and over-
sight of our financial system will con-
sider not only safety and soundness but
also the best interests of the American
consumer, the American taxpayer, the
American citizen.

I am particularly pleased that two
items that I offered were included that
will give consumers direct access to the
CFPB through a consumer hotline
and consumer ombudsperson. The bill
also addresses the challenge of inter-
change fees. Working with Senator
DURBIN and Representative MEeks, we
were able to craft a balanced com-
promise that addressed both the con-
cerns of merchants about high inter-
change fees and the concerns of the fi-
nancial sector to be fairly compensated
for their services. This bill ensures
transparency, establishes account-
ability, and protects consumers and
investors.

America has long been the world
leader in financial services. With this
landmark bill, we can set an example
and take the lead in global financial
reform. I urge a “yes” vote.

Mr. BACHUS. At this time, Mr.
Speaker, I yield 2 minutes to the rank-
ning member of the Financial Stability
Over-

Mr. GARY G. MILLER of California.

Mr. Speaker, I rise today in opposition
to this bill. This country is going
through a period of great economic distress; and ultimately, this bill would only serve to heighten uncertainty in the marketplace, restrict access to credit, and place more and more undue burdens on the backs of American small businesses.

This bill eliminates consumer options in housing markets. This bill includes language that alters ways consumers choose to pay their mortgage origination fees. Currently, consumers have the option of paying origination fees up front, partially finance costs through the rate, or some combination of the two. This bill eliminates the consumer’s ability to partially pay up front and partially finance costs through the rate, ultimately leading to higher costs and fewer options available to home buyers.

This bill favors the Federal Government over the private market. This bill places several new onerous restrictions on private mortgage bankers and specifically exempts the Federal Government from these same restrictions. The effect of these new restrictions is that consumers will be steered toward the government when seeking financing options. This bill is not encouraging a greater competition to the American people. And that’s clearly “no.”

The fundamental question we’ve got to answer is, If this law were in place, would it have prevented the crisis? The answer to that question is clearly “no.” More oppressive job-killing regulation isn’t the answer. What we need is flexible and accountable and nimble regulation. This bill does not do it.

What will it do? It will ensure bailouts. It puts bailouts in place forever. It doesn’t address it at all. It kills American jobs with oppressive regulation, and it will decrease the availability of credit and increase the cost of credit to all the American people. And that’s even more angering to Americans because they know that there are positive solutions.

H.R. 3310 is the bill that we put forward nearly a year ago now that would make certain that we address the issue of regulatory reform in a positive way and end bailouts. That bill, Mr. Speaker, will ensure that bailouts continue. The American people are urging us to vote “no” on this bill.

Mr. FRANK of Massachusetts. I yield 2 minutes to the gentleman from New York (Mr. MEEKS), a very important member of the committee who was helpful in forging some of the pieces of this bill.

Mr. MEEKS of New York. I thank the chairman for yielding.

Today is truly a historic day largely because of the great, magnificent job of our chairman, Barney Frank, who we are so proud of. Very few people could have marshaled this way the leadership that he did. And because of him and that leadership, today we end too big to fail. We implement unprecedented consumer protections, and we issue rules that will prevent taxpayers from footing the bill for the irresponsible behavior of others while still—because I’m a New Yorker—maintain New York’s standing as the world’s financial capital.

As Chairman Frank is fond of noting, this bill has death panels for the government. It’s down there held by Senator Dodd in the other 2,000-page monstrosity. Look at it, Mr. Speaker. It’s down there held by Senator Dodd. It’s down there held by Senator Dodd. Here’s just part of this bill, another 2,000-page monstrosity. Look at it, Mr. Speaker. It’s down there held by Senator Dodd. What we should do instead, we need to give community banks and small businesses the ability to make their own financial decisions. It also gets banks out of the business of making good loans instead of gambling with our money. I look forward to passage of this legislation, and I urge my colleagues to lend their support as well.

Mr. PRICE of Georgia. Mr. Speaker, at this time I yield 2 minutes to the gentleman from Georgia (Mr. PRICE), the chairman of the Republican Study Committee.

Mr. PRICE of Georgia. Mr. Speaker, look, this ought to sound pretty familiar. Here’s just part of this bill, another 2,000-page monstrosity. Look at it, Mr. Speaker. It’s down there held together by rubber bands. It is called the Dodd-Frank Wall Street reform in 2009. Would it have prevented the crisis? “No one will know until this is actually in place how it works.” That’s no way to do business.

The fundamental assumption of this bill is that some people regulating banks let us down, we should just hire really, really smart people to prevent it from happening again. That assumption is not only false, it’s dangerous. When the government picks winners and losers, the Nation loses. If my colleagues on the other side of the aisle believe that the same regulators who failed to see the housing crisis are now going to see the next crisis thanks to heavy-handed government regulation, then they should say to the Democrats in charge that they put too much faith in the power of Washington to see the future.

The fundamental question we’ve got to answer is, If this law were in place, would it have prevented the crisis? The answer to that question is clearly “no.” More oppressive job-killing regulation isn’t the answer. What we need is flexible and accountable and nimble regulation. This bill does not do it.

What will it do? It will ensure bailouts. It puts bailouts in place forever. It doesn’t address Fannie and Freddie, at the epicenter of the problem. It doesn’t address it at all. It kills American jobs with oppressive regulation, and it will decrease the availability of credit and increase the cost of credit to all the American people. And that’s even more angering to Americans because they know that there are positive solutions.

H.R. 3310 is the bill that we put forward nearly a year ago now that would make certain that we address the issue of regulatory reform in a positive way and end bailouts. That bill, Mr. Speaker, will ensure that bailouts continue. The American people are urging us to vote “no” on this bill.
regulates the former to ensure the vitality of the latter.

Mr. BACHUS. I yield 2 minutes to the gentleman from California (Mr. McCArTHY).

Mr. McCArTHY of California. I thank the chairman for yielding.

Mr. Speaker, I rise today in opposition to this conference report. You know, at a time when California has 12.4 percent unemployment, and my district’s even higher at 16.5 in my home county of Kern County, my constituents are telling me, What is being done to create jobs?

For the folks that have been following this debate today, this is just another example of Washington not listening to their concerns. Instead of policies that promote private sector job growth, this bill would create more government. This bill before us today would create a new bureau at the Federal Reserve with sweeping authority and a budget to create plenty of new government jobs in Washington, D.C. It also creates a new office of Financial research, empowered to collect personal information about all of our international transactions. This office can actually issue subpoenas to get the information these unelected bureaucrats want to have about us.

But aside from the personal concerns we may have about this, what is being done to help create a private sector job? Well, this is not job creation for families in my district. This is just part of the majority’s continuation of an overreach and expansion of government. First, it was the $787 billion stimulus that failed to keep unemployment down, then a national energy tax, then a $1 trillion government takeover of health care, and now another expansion of government that will raise costs for consumers and small businesses.

Well, Mr. Speaker, Republicans offered an alternative to this report that would have not had bailouts, would have addressed too big to fail and the failures of Fannie Mae and Freddie Mac; but that was rejected. Congress needs to be focusing on pro-small business policies, policies that make it easier for banks to lend to job creators that are at the heart of our communities, job creators that are at the heart of what we all want, a job-filled recovery instead of a jobless recovery. Unfortunately, this conference report will do none of these things, and I urge a “no” vote.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. PUTNAM).

Mr. PUTNAM. Mr. Speaker, I rise in opposition to the Frank-Dodd bill that would not reform Wall Street but, instead, create a permanent taxpayer backstop and failure to provide consumer protection and doesn’t prevent a future crisis.

The permanent bailout would ensure that the Federal Government, through the FDIC and the Treasury, maintains the ability to use taxpayer funds to bail out financial institutions deemed too big to fail. That may be what’s important to the D.C. bureaucrats, but to the community banks and credit unions back home and the communities they serve, I can assure you it’s not. They’re treated as too small to save.

Our community banks, our credit unions, our small businesses don’t receive the special treatment accorded to the big guys in this bill. Instead, they go through the bankruptcy process. Why the double standard? Why the double standard for our communities?

They didn’t cause Wall Street’s collapse, and yet they’re held to a different standard. This is harmful to Main Street’s small businesses.

The legislation creates an Office of Financial Research to “monitor, record, and report on any financial institution engaged in ‘transactions,’” without the consent of the consumer. That’s right. Monitor, record, and report any transaction without your approval.

This new “Big Brother Bureaucracy” will be funded through assessments on financial institutions down to consumers through higher fees. According to the CBO, “The cost of the proposed fee would ultimately be borne to . . . customers, employees, and investors.”

The legislation welcomes a new “Washington Knows Best” bureau. Housed within the Federal Reserve, the credit czar will dictate which financial products can and cannot be made available to consumers and will have broad authority to set sales practices, limit products, and mandate compensation. The bureau misses its mark to actually protect consumers and will, instead, create more barriers to consumers’ ability to obtain credit, to pursue their dreams, to buy a home, to refinance, or to expand or save their small business.

This conference report, totaling over 2,300 pages, is bad for small business, and I urge its defeat.

Mr. FAiTTAH. Mr. Speaker, the American people, as always, almost always, get it right. When they wanted a party that would rein in the abuses of Wall Street, they gave the majority in the House and the Senate to the Democrats. And you can hear from the other side that they obviously made the right choice because there’s no willingness to deal with some of these challenges from my colleagues on the other side.

I want to congratulate Chairman BARNIE FRANK. I met with him over a year ago about some of the challenges in terms of foreclosures in our country. In this bill is the result of language that I authored which replicated a very successful program in Pennsylvania that we believe will help others throughout the country.

I want to thank my great colleague from California, Congresswoman WA-TErs, for her efforts to make sure that this was fully engaged by the committee.

But beyond my proposal that is included in terms of homeowners assistance, in terms of foreclosures, this is a very good bill in terms of its regulation of Wall Street, and mandate consumer protection. This House, I urge and encourage that we vote in favor of the Wall Street reform bill.
Mr. BACHUS. I yield 2 minutes to the gentleman from Virginia (Mr. CANTOR), the Republican whip.

Mr. CANTOR. I rise in opposition to this conference report.

Mr. Speaker, the flow of credit and capital throughout the financial system is the building block of American prosperity. It has enabled entrepreneurs to pursue their ideas. It has enabled people to balance their budgets, to achieve a better standard of living. But when businesses and families cannot access capital from banks, consumers don't spend, small businesses hunker down, and investment dries up. The economy simply can't grow jobs.

This legislation is a clear attack on capital formation in America. It purports to prevent the next financial crisis, but it does so by vastly expanding the power of the same regulators who failed to stop the last one.

Dodd-Frank is the product of a tired and discredited philosophy. It is the notion that you can solve a problem by reflexively piling vast new layers of bureaucracy, regulatory costs, and taxes on it. And who'll pay the price? It won't merely be the big banks who the bill's supporters rail against. Smaller, less-liquidity banks will have a more difficult time surviving the regulatory costs. And most alarming, costs will be passed on to consumers and businesses in the form of higher prices for credit. We know this because last year's Credit Card Act is already having just that effect.

Before it was passed, Republicans warned that more government expansion and more Washington prescription would create additional costs borne by the consumer. It was common sense, and sure enough, we were right. In response to that legislation, lending rates were reset higher as credit became less available. Meanwhile, free checking accounts are becoming a relic of the past for all but the wealthiest bank customers.

Republicans agree that the financial system needs a shake-up to bring transparency and stability. But the fact is, Mr. Speaker, this legislation does not accomplish this goal. It’s bad for private business. It’s bad for families, and I urge my colleagues to vote “no” before we do any more damage.

Mr. FRANK of Massachusetts. I yield 4 minutes to the gentleman from California (Ms. WATERS), one of the leaders in housing and community development, communities impacted by foreclosures and other step toward addressing the foreclosure crisis. But more needs to be done. That is why I am pleased that the Treasury has committed to providing another $2 billion for unemployed homeowners in addition to the amounts provided under this bill. And this is why I will continue to fight for both additional funding and for loss mitigation legislation, which would make it mandatory for banks to offer real sustainable loan modification offers.

Chairman FRANK, thank you for your assistance, thank you for your support, thank you for your leadership. I am proud to be a part of this Congress, so proud to have been a part of the conference committee. And I think we are doing all Americans justice in this bill as we pay attention to needs that have been so long overlooked.

Mr. BACHUS. Mr. Speaker, at this time I yield 4 minutes to the gentleman from California (Mr. Issa), the ranking member of Oversight and Government Reform.

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

Mr. ISSA. Mr. Speaker, others will rise and they will talk about the underlying bill. Although I was on the conference committee, and for 2 weeks Chairman FRANK, Ranking Member BACHUS and the rest of us were together, I do not claim and will not claim to be an expert in all the things that led to the financial meltdown or all the things which will preclude the next.

I do rise to oppose the Dodd-Frank bill, and I do so because I don’t believe that it will preclude another meltdown and another crisis. I don’t do that because I am an expert on the financial system. I am not. The people I served with on conference, many of them are. I am not concerned that the process was not open. I think Chairman FRANK and the rest of the members did an excellent job of time to be heard. But I am disappointed that at the end of the day so many things were left out.
I appreciate Chairman Frank’s offering for a separate bill to make up for the fact that the transparency and data issues that I worked for 2 weeks to put in this bill, because they were rejected by the Senate, we will have to send this back to the Senate and hope the Senate is more benevolent when we simply ask these agencies to have data standards that allow for the kinds of transparency among the regulators that will in fact see reckless behavior ahead. You will at least allow us to know the underlying value of assets when the markets begin to melt.

The reckless behavior that led to the meltdown will be debated for years, but the absence of transparency at the time of the meltdown, an inability for our regulators, our banks, or anyone else to actually tell us what the underlying value of various assets were, were in no small part the result of arcane systems that undermine these very modern instruments. You cannot have paper copies sitting in banks to tell you the details about a loan and then cut it into thousands of pieces, spread it around the world, and hope the regulators can have confidence in the document when things start going wrong.

Technology transparency is the most important thing missing from this bill. I hope to work with the majority and the minority to bring that in the coming days. I don’t do it for my committee. I do it because the next time there is a hiccup anywhere in the world, even if that’s simply a massive power outage leading to a confidence in the document when things start going wrong.

Mr. FRANK of Massachusetts. I yield 2 minutes to the gentleman from Florida (Mr. HASTINGS).

Mr. HASTINGS of Florida. Chairman Frank, I first want to commend you on an extraordinary effort and your dedicated leadership in bringing this bill to the floor. I am forward to supporting this legislation.

Before that, however, I would like to clarify a few points as they pertain to the intent of the bill. It’s my understanding that certain provisions which are intended to assist mainstream financial institutions are not intended to further limit access to credit and other financial services to the very consumers who are already undereeswed by traditional banking institutions.

As you know, each year over 20 million working American families with depository account relationships at federally insured financial institutions actively choose alternative sources and lenders to meet their emergency and short-term credit needs.

These alternative sources and lenders often offer convenient and less expensive products and services than the banks where these consumers have relationships.

Further, as the demands for short-term, small-dollar loans continues to increase as a result of the current economic environment, nontraditional lenders have filled the void left by mainstream financial institutions in many of our Nation’s underbanked communities.

Mr. Chairman, I have a longer statement, and with your permission would include my full statement in the Record in the interest of time.

Rather, I feel that the financial services should be well-balanced and carried out in a manner that encourages consumer choice, market competitions, and strong protections. It is my sincere hope that this legislation is designed to carefully and fairly police the financial services industry treating similar products in the short-term credit market equally while encouraging lending practices that are fair to consumers.

Is this the intent?

Mr. Frank of Massachusetts. If the gentleman would yield, first, let me say that anybody who asks has my permission to skip any statement. That is an example I am going to try to follow myself sometimes.

Beyond that, I completely agree with the gentleman. The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield an additional 15 seconds to the gentleman.

Mr. HASTINGS of Florida. I yield to the chairman.

Mr. FRANK of Massachusetts. We do want to make sure it’s an informed choice, and we’re going to work on financial literacy. But, no, it is not our intention to deny anybody that choice.

Mr. HASTINGS of Florida. Thank you very much, Mr. Chairman, and I really commend you for your efforts to pass meaningful financial regulation reform in this Congress. I deeply thank you.

Mr. BACHUS. Mr. Speaker, at this time I yield 3 minutes to the gentleman from Texas (Mr. PAUL), the ranking member of the House Financial Services Committee.

Mr. PAUL. Thank the gentleman from Alabama for yielding.

Mr. Speaker, I rise in opposition to this piece of legislation. I’m afraid it is not going to do much to solve our problems. I know it’s very well intended, market’s were pleased with what we’re going to do here today and the discussion of the last several weeks, they wouldn’t be reeling as they are at this very moment.

So I would say that we should be very cautious in expanding the role of the regulatory agencies, which does not solve the problem. At the same time, giving more power to the Federal Reserve doesn’t make much sense if the theory is right that the Federal Reserve is the source of much of our problems.

Now, some object to the transparency bill of the Federal Reserve and said that that was too much information that the Federal Reserve had to be totally independent. The Federal Reserve Transparency Act doesn’t do anything about removing transparency. It doesn’t change monetary policy. It just says that the American people and the Congress have a right to know what they do.

After the crisis hit, the Federal Reserve injected $1.7 trillion and guaranteed many more trillions of dollars, and it was very hard to get any information, whatsoever. So an ongoing effort to find out exactly what they do and why they do it, I think, would be a first step to finding out the relationship of the Federal Reserve system to
Transparency is something the American people have been asking for and they want. They didn’t like the lack of transparency with the TARP fund, and once the American people found out about what goes on at the Fed, they want transparency of the Fed.

So fortunately today we will have a chance to fix this because it will be in the recommitment motion, and it will give us a chance to put the language back in, the H.R. 1207, the Federal Reserve Transparency Act, a chance to audit the Fed. So this will be a perfect opportunity to emphasize the importance of the Fed and to say that we do need a full audit.

Mr. FRANK of Massachusetts. I yield 3 minutes to the gentleman from Illinois (Mr. GUTIERREZ), who’s the chairman of the Financial Services Oversight Committee and has done a great deal of work to improve our financial situation through this bill.

Mr. GUTIERREZ. Chairman FRANK, I want to commend you, first of all, for your work in getting this legislation through Congress and your dedication to reforming our financial system.

The legislation we have before us takes a multi-pronged approach to ending the problem of “too big to fail” by giving regulators the tools, only when it is necessary, to decrease the size of financial institutions, limit their risky behaviors, and wind down systematically significant firms if they threaten the health of our financial system.

The most direct way to end “too big to fail” is to stop firms from growing too big in the first place. To limit their size and complexity, this legislation would impose increasingly strict rules on capital levels and leverage ratios which would limit a firm’s risky behavior and diminish its potential threat to the stability of our financial system. By implementing a strong Volcker rule and limiting proprietary trading by insured dealers, institutions, we minimize a bank’s ability to use subsidized funds for risky trading practices.

Additionally, the Dodd-Frank bill will create a financial stability oversight council that will be able to force a company, as a last resort, to divest some of its holdings and shrink its size if the council determines it poses a risk to the stability of the financial system. It has tools.

The most important part of this legislation that will help to end “too big to fail” is the resolution authority we create to safely wind down a failed, significant firm and to prevent any further bank bailouts. This legislation ends individual open-bank assistance. Let me repeat: this legislation ends individual open-bank assistance, meaning that if the resolution authority, the death panel, the burial panel, is applied to a bank, it will not be bailed out but will be allowed to safely fail and prevent contamination from spreading to the markets. Let me repeat this: no more bailout. We have a funeral fund.

One thing I want to note, though, at every opportunity Democrats have insisted that banks, the financial institutions, not the taxpayers of America, pay for this resolution authority, and the Republicans have said “no” every single time. In both the House and the Senate, they have rejected a pre-funded funeral fund that would be paid for by the riskiest and biggest banks. No. The big bankers don’t pay. Main Street has to pay.

Opposition from certain Republican Senators—again, won’t mention their names—forced us to strip the bank assistance from the conference report just last night. Republicans have sided with big Wall Street banks at every opportunity. They even opposed an amendment in the conference to increase the FDIC insurance to help protect people’s hard-earned deposits along with community banks and small businesses.

So let’s be clear. Combine this refusal to guarantee that the banks pay to clean up any future messes that they make with open opposition to this legislation and it is obvious where the line has been drawn by Republicans. If it helps Wall Street banks, they favor it; but if it helps Main Street and regular Americans, they won’t vote for it, and we don’t think they will today.

Mr. Speaker, I won’t hold my breath for any Republican support of this historic legislation. But I do urge all of our Members to support this vital bill.

Mr. BACHUS. I yield myself 15 seconds.

Mr. Speaker, I don’t think you would go to a funeral home and lend the corpse money. So I don’t know why you would lend money to a failing firm. You ought to just go ahead and put them in bankruptcy like we want to do.

Mr. Speaker, at this time I yield 3 minutes to the gentlelady from Illinois who’s the chairman of the Financial Services Oversight Committee (Mrs. BIGGERT).

Mrs. BIGGERT. I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to this conference report and the bill.

In the fall of 2008, our entire financial system and economy were on the verge of collapse. The $700 billion TARP program was hastily proposed. I, for one, would never have backed it were it not for the taxpayer protections—a promise that the taxpayers would be repaid.

This bill flat out breaks that promise to taxpayers. It siphons away unspent money from the TARP program. Instead of returning it to the taxpayers or instead of paying down our $13 trillion debt as promised, it uses the money to pay for new Federal spending.

Contrary to my colleagues’ rhetoric, this bill makes bailouts permanent. Look at section 210N(5) and section 210N(6). These provisions authorize bureaucrats to bail out the six largest too-big-to-fail Wall Street firms to the tune of $8 trillion. What you have is taxpayers footing the bill to pay for failed Wall Street firms. That is a bailout.

My colleagues on the other side of the aisle have said that this bill requires the taxpayers to pay back. Yet how in heaven’s name can taxpayers believe that when this very bill breaks the earlier promise that taxpayers would be paid back for TARP? This bill also fails to reform Fannie Mae and Freddie Mac, the two mortgage giants at the center of the housing crisis. Taxpayers have bailed Fannie and Freddie out to the tune of $150 billion and billions more to come, but this bill doesn’t reform them. It merely calls for a study, and it fails to include as part of our Federal budget the trillions in liabilities taxpayers now face because the Federal Government owns and operates both Fannie and Freddie.

Finally, let’s not forget our hidden costs in this bill. Our Midwest manufacturers had nothing to do with the housing crisis or with the financial meltdown. Yet this bill requires them to divert trillions of dollars of working capital to pay for financial transactions, which may stifle job growth and raise the cost of commodities for American families.

What is the cost to small businesses? It is job growth. According to the U.S. Chamber of Commerce, it is taxpayers, small businesses and consumers as they pick up the tab for new Federal bureaucrats, 355 new rules, 47 studies, and 74 reports.

In the name of financial reform, we must not stifle job creation by saddling our small businesses and manufacturers with additional burdens. We need to get financial reform right so that innovators and entrepreneurs can secure credit and can expand and create desperately needed jobs. We need to get reform right, but this bill doesn’t pass the test.

I urge my colleagues to oppose this conference report and bill.

Mr. FRANK of Massachusetts. I yield 1½ minutes to a very diligent member of our committee who has fought hard for the manufacturing interests of this country, the gentleman from Michigan (Mr. PETERS).

Mr. PETERS. I thank the chairman for yielding.

Mr. Speaker, the Dodd-Frank Wall Street Reform bill is an historic piece of legislation that will protect consumers, reduce the risk of future economic failures, and provide for the increased oversight of our entire financial system. However, it also strives to protect job-creating Main Street businesses.

For example, this legislation will, for the first time, bring transparency and oversight to the currently unregulated $600 trillion derivatives markets. However, because commercial end users, who are those who use derivatives to hedge legitimate business risks, do not
pose systemic risk and because they solely use these contracts as a way to provide consumers with lower cost goods, they are exempted from clearing and margin requirements.

I offered an amendment that would permanently extend the entity exclusion for qualifying captive finance companies that use swaps to hedge their interest rate and foreign currency risks arising from their financing activities. The amendment was narrowly tailored to ensure that certain captive finance companies would only qualify for the exemption if 90 percent of its business derives from financing the sale or lease of its parent company’s manufactured goods.

There is another provision of this bill which provides a 2-year transition period for affiliates.

I would like to yield to Chairman FRANK so he can clarify that what these two provisions do is provide a limited exemption from clearing and margin requirements for qualifying captive finance companies and a 2-year transition period for all other captives that would not qualify for the limited exemption created by the Peters amendment.

Mr. FRANK of Massachusetts. If the gentleman would yield, the answer is absolutely. He has crafted this very well with our cooperation, and he has stated this completely accurately.

Mr. BACHUS. Mr. Speaker, I yield 7 minutes to the gentleman from Oklahoma (Mr. LUCAS), who is the ranking member of the Agriculture Committee, to then yield time to his members.

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

Without objection, the gentleman from Oklahoma will control 7 minutes.

There was no objection.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 13 minutes of my time to the gentleman from Minnesota (Mr. PETTERTON), the chairman of the Agriculture Committee, our co-conference, and ask unanimous consent that he control that time.

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

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Minnesota.

Mr. PETTERTON. I thank the gentleman for yielding.

Mr. Speaker, I rise today in support of the conference report on H.R. 4173, The Wall Street Reform and Consumer Protection Act.

I want to start by thanking Chairman FRANK, who has demonstrated his great policymaking skills and leadership on this important issue.

The staffs of both the House Agriculture Committee and the Financial Services Committee have worked closely on this bill for the past year, and it is thanks to our efforts that we have a conference committee report for us today.

One of the bill’s key components is title VII, which brings greater transparency and accountability to derivative markets. When the House considered financial reform in December, derivatives were one area in which we had strong bipartisan support. The Senate had a similar provision in its House counterpart.

The Senate’s efforts on derivatives went in a very different direction. As with any legislation with such stark differences, compromises had to be made.

The comprehensive legislation represents a middle ground between the House and Senate products. While no one got everything they wanted in this bill, I think we got a bill that will help prevent another crisis in the financial markets like the one we experienced in 2008.

The House Agriculture Committee started looking at some of the issues addressed in this legislation even before evidence of the financial crisis started to show. I think that the conference report contains many of the provisions the House Ag Committee endorsed over the course of passing three bills on this topic. Let me briefly talk about some of those provisions.

Our in-depth review of derivative markets began when we experienced significant price volatility in energy futures markets due to excessive speculation—first with natural gas and then with crude oil. We all remember when we had $147 oil. The Ag Committee examined the influx of new traders in these markets, including hedge funds and index funds, and we looked at the relationship between what was occurring on regulated markets and the even larger unregulated over-the-counter market.

This conference report includes the tools we authorized and the direction to the CFTC to mitigate outrageous price spikes we saw 2 years ago.

The House Agriculture Committee also spent a great deal of time considering the role of derivatives in the collapse of the financial markets and debating different approaches to regulating these financial tools.

In the end, it was the Agriculture Committee, on a bipartisan basis, that embraced mandatory clearing well before the idea became popular. Clearing is not only a means to bring greater transparency and regulation to the over-the-counter markets, but it also should reduce the risk that was prevalent throughout the over-the-counter market. The conference report closely follows the House approach to mandatory clearing.

In crafting the House bill and the conference report, we focused on creating a regulatory approach that permits the so-called end users to continue using derivatives to hedge risks associated with their underlying business, whether it is energy exploration or commercial activities. End users did not cause the financial crisis of 2008. They were actually the victims of it.

Now, that has been of some concern and, frankly, a misinterpretation of the conference report’s language regarding capital and margin requirements by some who want to portray these requirements as applying to end users of derivatives. This is patently false.

The section in question governs the regulation of major swap participants and swap dealers, and its provisions apply only to major swap participants and swap dealers. Nowhere in this section do we give regulators any authority to impose capital and margin requirements on end users. What is going on here is that the Wall Street firms want to get out of the margin requirements, and they are playing on the fears of the end users in order to obtain exemptions for themselves.

One of the sources of financial instability in 2008 was that derivative traders like AIG did not have the resources to back up their transactions. If we don’t require these major swap participants and swap dealers to put more backing behind their swap deals, we will only perpetuate this instability. That is not good for these markets, and it is certainly not good for end users.

I am confident that after passing this conference report we can go home to our constituents and say that we have cracked down on Wall Street and the too-big-to-fail firms that caused the financial crisis.

With that, I urge my colleagues to support the passage of this conference report.

I reserve the balance of my time.

Mr. LUCAS. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I rise in opposition to this job-killing conference report. At a time when Congress should be focused on economic expansion, the majority brings us this conference report, which will kill jobs and make financial transactions more expensive.

Last December, this Chamber supported a bipartisan effort to bring transparency and regulation to the over-the-counter derivatives market while allowing for the management of legitimate risk. It recognized that mom-and-pop shops on Main Street were not the villains behind the economic collapse. They did not cause the financial crisis and should not be treated as if they did.

The derivatives title this Chamber passed reflected the need for commercial end users to lay off risk so they could offer their products at reasonable and stable prices. Unfortunately, the Senate decided that only some industries, only some, were worthy of inexpensive risk mitigation.

Despite the overwhelming bipartisan support our derivatives language enjoyed, during a meeting in the dark of night our bipartisan language was stripped out. A title that we passed by voice vote was only going to survive if offered as an amendment. So that is
what my good friend from New Jersey (Mr. GARRETT) and I did. As the con-

cerees from this Chamber, we defended the House position. Unfortunately, at
dawn last Friday, our amendment was defeated on a party-line vote, stripping
away the only remaining protection for end users of small business.

A report released yesterday believes the language change by the majority could cost U.S. companies $1 trillion in capital and liquidity requirements. This isn’t money to pay lavish bonuses; this is money to pay salaries, fund re-

search and development, and pay con-

struction loans.

Further analysis of this language concludes that $400 billion would be

needed for collateral for businesses to post with dealer counterparties to cover the exposure of their existing over-the-

counter derivatives. It is estimated that another $370 billion represents the

additional credit capacity that companies could need to cover future risk.

Despite the majority’s voracious appetite for spending, these are enormous
dollar amounts. Rural America doesn’t have the option of waiving phony PAYGO requirements. These costs are real and the ability to pay them does not exist. Business will now have to cut spending, which, simply put, means job losses or hold on at its very own

risk, thereby further concentrating risk.

You know, once upon a time this bill was supposed to avoid risk concentra-

tion. That was once upon a time.

Mr. Speaker, I reserve the balance of my time.

Mr. PETERSON. Mr. Speaker, I yield such time as he may consume to the
gentleman from Pennsylvania (Mr. HOLDEN).

Mr. HOLDEN. I thank the chairman for yielding.

I rise today in support of H.R. 4173.

I serve as chairman of the House Ag-

culture Subcommittee on Conserva-

tion, Credit, Energy, and Research. As

such, we have jurisdiction over the in-
stitutions of the Farm Credit System that serve agriculture as well as rural communities across the country.

Over 20 years ago, the Agriculture Committee put in place a revised legis-

lative and regulatory regime for the Farm Credit System that has successfully maintained the safety and:

sound.

Farm Credit System institutions are regulated and examined by a fully em-
powered independent regulatory agen-

cy, the Farm Credit Administration, which has the authority to shut down and

liquidate a system institution that is not financially viable. In addition, the Farm Credit System is the only

GSE that has a self-funded insurance pro-

gram in place that was established to

protect taxpayers.

These are just a few of the reasons why the Agriculture Committee in-

sisted that the institutions of the Farm Credit System not be subject to a number of the provisions of this leg-

islation. They were not the cause of the problems that the TARP funds did not engage in abusive

subprime lending. We have believed that this legislation should not do any-

thing to disrupt this record of success.

Mr. Speaker, I now would like to enter into a colloquy with the chair-

man of the Agriculture Committee.

Mr. Chairman, the conference report includes compromise language that re-

quires the Commodity Futures Trading Commission to consider exempting

small banks, Farm Credit System in-

stitutions and credit unions from pro-

visions requiring that all swaps be cleared. We understand that commu-
nity banks, Farm Credit institutions and credit unions did not cause the

financial crisis and that this legislation mandated this legislation. While the legislation places a special emphasis on institutions with less than $10 billion in assets, my read-

ing of the language is that they should not be considered by the Com-

modity Futures Trading Commission as a limit on the size of the institution that should be considered for an

exemption.

Mr. Chairman, would you concur with this assessment?

Mr. PETERSON. Yes, I fully agree.

The language says that institutions to be considered for the exemption shall include those with $10 billion or less in assets. It notes that not all farms with larger assets could qualify, while some with smaller assets may not. The regulators will have maximum flexibility when looking at the risk portfolio of these institutions for consideration of an exemption.

Mr. HOLDEN. I thank the chairman.

Mr. LUCAS. Mr. Chairman, I now yield 2 minutes to the gentleman from Texas (Mr. NEUGEBAUER), who is a very significant participant on both the Fi-

nancial Services Committee and the

Agriculture Committee.

Mr. NEUGEBAUER. Mr. Speaker, I rise in strong opposition to this con-

ference report. Financial regulatory re-

form is needed, but this 2,300 page bill is the wrong solution for the taxpayers, and it won’t help build strong capital markets needed to fuel growth and new jobs for our country.

If you liked the bailouts of the last few years, you are going to love this new financial bill. If you are a con-

sumer who wants fewer choices, higher costs of credit and new fees, this bill has some great deals for you.

This bill will vastly expand the pow-

ers of the government regulators. Those are the same regulators who fell short of the job the first time around, and now they are asking us to trust them and they tell us that the outcome will be different next time. But the outcome will be the same because this bill sets up a permanent bailout regime that puts the government in charge of picking winners and losers.

Under this bill, if the government

says to your company it is too big and not important to fail, your company gets an implied backing and serious ad-

vantages over its competitors, espe-

cially your smallest competitors. If the

government determines a company

should fail, the government gets to decide how everyone that does business with that company is treated, ignoring the rule of law, just like they did with AIG and the automobile com-

panies behind closed doors.

If those problems weren’t serious enough, now the majority is playing fast and footloose with the taxpayers.

In a move that could only make Bernie Madoff and Enron proud, the majority is now taking the unused and paid-back TARP funds that were supposed to pay down the national debt and double-

counting the deposit insurance premi-

ums to pay for the $19 billion cost of this bill.

American families can’t double-count their income from their paychecks. What kind of accounting is Congress using that will let us double-count the money?

Mr. Speaker, bills sometimes have good titles but they don’t accomplish what they are supposed to do. There is no real financial reform in this bill. I wish there was. I want to vote for real financial reform. But the big losers here are the American people. They stay at risk. Their choices are going to be limited, because now we are going to have new credit rules. What kind of financial products that the American people get to look at.

If you want real reform, vote against this bill.

Mr. PETERSON. Mr. Speaker, I yield such time as he may consume to the
gentleman from Iowa (Mr. BOSWELL).

Mr. BOSWELL. Mr. Speaker, I would like to engage the chairman in a col-

loquy.

I would like to briefly clarify an im-

portant point with the chairman re-

garding the intention of one of the ex-

clusions from the definition of "swap." The exclusion from the definition of swap for "any sale of a nonfinancial commodity or security for deferred shipment or delivery, so long as the transaction is intended to be physically settled," is intended to be consistent with the current contract ex-

clusion that is currently in the Com-

modity Exchange Act and CFTC’s es-

tablished policy on this subject. Phys-

ical commodity transactions should not be regulated as swaps as that term is defined in this legislation. This is true even if commercial parties agree to "book-out" their delivery obliga-

tions under a forward contract.

For those who may not be familiar with terminology used in the trade, a book-out is a second agreement be-

tween two commercial parties to a for-

ward contract that find themselves in a
delivery chain or circle at the same de-

livery point. They can agree to settle

between two commercial parties to a for-

ward contract.
their delivery obligations by exchang- ing a net payment if there has been some change arising since the initial forward contract was entered into. Simply put, book-outs reduce transaction costs, and that saves consumers money.

Can the chairman clarify this for me? I yield to the chairman.

Mr. PETERSON. The gentleman is correct. My interpretation of the exclusionary provision from the definition of swap, as he mentioned is that the exclusion would apply to transactions in which the parties later agree to bookout their delivery obligations for commercial convenience are excluded from its jurisdiction. Nothing in this legislation changes that result with respect to commercial transactions. It is not a default rule.

Mr. BACHUS. Mr. Speaker, I yield the gentleman from Missouri, Mr. GRAVES.

Mr. GRAVES of Missouri. Mr. Speaker, everyone agrees it’s critical to restructure the regulatory oversight of our nation’s financial sector to help prevent future crises. Unfortunately, not only does this conference report fail to achieve this most basic goal, it also creates harmful new hurdles for small businesses. As ranking member of the House Small Business Committee, I cannot support this legislation.

Some of my colleagues are quick to state publicly that small businesses are going to bring us out of this economic downturn, yet they turn their backs on small firms and promote policies that severely hinder their growth. Through this legislation, Congress is once again ignoring the voice of the entrepreneur.

The conference report includes a massive new government bureaucracy that supporters claim will protect consumers from overzealous sellers of credit. However, the breadth of the rulemaking authority is astounding and will likely affect millions of credit transactions between small businesses and their customers. Even if the new agency only controls credit offered by regulated financial institutions, the additional burdens will raise the cost of credit for small businesses.

Of further concern is the language in the current bill that makes commercial end users who hedge their exposure and who are not required to meet margin requirements through the use of cash collateral. Forcing sophisticated end users to increase capital set-asides to cover margins will ultimately raise the cost of products purchased by small businesses. Given the state of the economy, raising the cost of small businesses is one of the worst things that can be done.

The adverse long-term consequences of this legislation is nothing short of startling. At a time when American small businesses need it most, this bill may seriously restrict their access to capital. Additionally, this legislation will negatively affect small business investment companies from allowing regulators to decide whether these institutions can obtain capital from banks.

In closing, I strongly urge my colleagues to join me in opposing this ill-conceived conference report. If Congress expects small businesses to help turn around the economy, we have got to focus on developing legislation that helps them do just that.

Mr. BACHUS. Mr. Speaker, can I inquire as to the time left on both sides?

Mr. PETERSON. I have no further requests for time, and I yield back the balance of my time.

Mr. BACHUS. Mr. Speaker, I yield the remaining 5 minutes to the gentleman from New Jersey (Mr. GARRETT), who is the ranking member of the Capital Markets Subcommittee.

Mr. GARRETT of New Jersey. I rise in opposition to this job-killing continuation of a bailout bill. Earlier, Chairman FRANK said he was astonished by the application of this bailout bill. Well, what is even more astonishing is the fact that this is the same chairman who was here last session leading the efforts in our last bailout bill. And here he is, once again, leading the effort on this bill for a continuation of bailout. What is perhaps even more astonishing than that is that here he stands as the author of the bill, with the 2,300 pages in front of him, holding up and actually reading the bill, and he fails to see that this underlying piece of legislation continues to bail out creditors at the expense of U.S. taxpayers.

Just as we saw with the situation of AIG, where the creditors on Wall Street and the creditors over in China and such areas as that were bailed out at a hundred percent, we see the same thing possibly going forward here in this legislation as well. Perhaps that explains to us all why Wall Street is doing the same thing as well. So we have got to look at the underlying principle of legislation continues to bail out creditors at the expense of U.S. taxpayers. Now, I know the chairman will say, well, this is not going to happen because there is the opportunity for receivership. But the chairmen well knows if he looks into the bill that that receivership is not for a day or two—it’s for a year or 2 or 3 or 4 or 5 years that we can continue to see American taxpayers putting out their money to bail out these failed, risky institutions.

It seems that at every turn the Democrats who wrote this bill chose to endow the same failed regulators who failed to foresee the last crisis with more and more power. At every single turn the Democrats chose more government bureaucracy and more government outreach into our economy. And at every turn the Democrats threw up policies that will kill jobs and restrict credit.

Now, on the one hand, this isn’t surprising. We’ve seen this all before, when you think about it, whether it was in the area of cap-and-trade or in health care proposals, among others we saw before.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BACHUS. Mr. Speaker, I yield the gentleman 1½ additional minutes.

Mr. GARRETT of New Jersey. On the other hand, it is disappointing when you consider the history of the failed efforts in the area of health care or the failed efforts on the other side in the area of cap-and-tax that they haven’t learned by now from their past mistakes. Think about it for a moment. Think about what we’ve gone back to our districts. That the American people are delivering a strong message to those of us in Washington willing to listen, a message saying that they do not want a continuation, Mr. Speaker, of the failed policies that you brought to the floor in the past with your bailouts of Wall Street. The American people say that they do not want to be on the hook for the tens of thousands of dollars to bail out institutions on Wall Street that made bad risks. They want it to end now. And they want to end it today. They want less failed government overage into their lives and into the economy. They do not want institutions yet again created that can look at every single transaction that they make, whether it’s at the ATM that the government can now look down into those transactions, whether it’s opening up a credit homeplace that the Federal Government can now look into those transactions, whether it’s any transaction whatsoever that you or I make or anyone listening to this speech tonight will be able to make, because bureaucrats, unelected, unaccountable bureaucrats, will be able to look into those transactions.

They want less failed government overage into their lives and into the economy. They want less intrusions into the economy. What, you ask them, do they want? They simply want more opportunities—opportunities to work and to provide for their
families. And they want those opportunities without pushing our country into greater debt. Unfortunately, this bill fails on all accounts.

Mr. FRANK of Massachusetts. I yield 1 minute to my colleague, the gentleman from Minnesota (Mr. PETERSON), the chairman of the Agriculture Committee.

Mr. PETERSON. Mr. Speaker, I would like to enter into the RECORD a letter that Chairman FRANK and I received from Chairman LINCOLN and DODD on the treatment of end users under the derivatives title of the bill. As the letter makes clear, we have given the regulators no authority to impose margin requirements on anyone who is not a swap dealer or a major swap participant.

While the regulators do have authority over the dealer or MSP side of a transaction, we expect the level of margin required will be minimal, in keeping with the greater capital that such dealers and MSPs will be required to hold. That margin will be important, and it is the job of the regulator or major stock participant will be capable of meeting their obligations to the end users. We need to make sure that they have that backing.

I would also note that few, if any, end users will be swap dealers or swap participants, as we have excluded “positions held for hedging or mitigating commercial risk” from being considered as a “substantial position” under that definition.

I would ask Chairman FRANK whether he concurs with my view of the bill.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield the gentleman 15 additional seconds.

And the gentleman is absolutely right. We do differentiate between end users and others. The marginal requirements are not on end users. They are on the financial and major swap participants. And they are permissive. They are not mandatory. And they are going to be done, I think, with an appropriate touch.

CONGRESSIONAL RECORD — HOUSE

June 30, 2010

H5248

Hon. Chairman BARNEY FRANK.

Financial Services Committee, House of Representa-
tives, Rayburn House Office Build-
ing, Washington, DC.

Hon. Chairman PETERSON, Committee on Agriculture, House of Representa-
tives, Longworth House Office Building, Wash-
ington, DC:

DEAR CHAIRMEN FRANK AND PETERSON: Whether swaps are used by an airline hedg-
ing its fuel costs or a global manufacturing company hedging its interest rate risk, derivat-
es are an important tool businesses use to manage costs and market volatility. This legislation will preserve that tool. Regu-
lators, namely the Commodity Futures Trading Commission (CFTC), the Securities and Exchange Commission (SEC), and the pru-
ential regulators, must not make hedging as costly it becomes prohibitively expensive for everyone. These risk managers need to be able to manage and trans-
fer the risks properly. The proposal seeks to provide some additional background on legislative intent on some, but not all, of the various sections of Title VII of H.R. 4173, the Dodd-Frank Act.

The legislation does not authorize the regu-
lators to impose margin on end users, those exempt entities that use swaps to hedge or mitigate commercial risk. If regulators raise the costs of end user transactions, they may actually make swaps even less useful. The regulators do not unnecessarily divert working capital from our economy into margin accounts, in a way that would discourage hedging by end users or impair economic growth.

Again, Congress clearly stated in this bill that the margin and capital requirements on end users are not to be set in such a way as to require the regulators to establish margin requirements for such swaps or security-based swaps in a way that would discourage the use of swaps, and to impose on end users burdensome costs.

In harmonizing the different approaches taken by different titles of their respective derivatives titles, a number of provisions were deleted by the Committee Conference to avoid redundancy and to streamline the regulatory framework. However, the consistent Congressional directive throughout all drafts of this legislation, and in Congress, has been to protect end users from the risks associated with margin requirements and mandatory clearing. Accordingly, changes made in Congress to the section of the bill regulating capital and margin requirements for Swap Dealers and Major Swap Participants should not be construed as changing this important Congressional interest in protecting end users. In fact, the House offers amending the capital and margin provisions of Sections 731 and 764 expressly stated that the strike to the base text was made “to eliminate redund-
ancy,” that those provisions should not be set to mitigate risk in our financial sys-
tem, not punish those who are trying to hedge their own commercial risk.

Congress determined that clearing is at the heart of reform—bringing transactions and counterparty risk into a robust, conservative and transparent risk management framework. Congress also acknowledged that clearing may not be suitable for every transaction or every counterparty. End users who hedge their own risk in the energy market to hedge or mitigate commercial risk. Congress expects the regulators to maintain appropriate standards relative to the risks associated with its business. Congress incor-
porporated a de minimis exemption to the Swap Dealer definition to ensure that smaller in-
tsitutions that are responsibly managing their commercial risk are not inadvertently pulled into additional regulation.

Just as Congress has heard the end user community, regulators must carefully take into consider-
ation and capital and margin on these entities. It is also imperative that regulators do not assume that all over-the-counter transactions share the same risk profile. While uncleared swaps should be looked at closely, regulators must carefully analyze the risks associated with cleared and uncleared swaps and apply that analysis when setting capital standards for Swap Dealers and Major Swap Participants. As regulators set capital and margin standards on Swap Dealers or Major Swap Participants, they must set the appro-
riate standards relative to the risks associ-
ated with trading. Regulators must carefully analyze the use of swaps by end users or harm eco-

nomic growth. Regulators should seek to im-
pose margins to the extent they are nec-
ecessary to ensure the safety and soundness of the Swap Dealers and Major Swap Par-

Participants.

Congress determined that end users must be empowered in their counterparty rela-
tions and to segregate margin with an independent 3rd party custodian.
Mr. BACHUS. At this time I yield 4 minutes to the gentleman from California (Mr. ROYCE), a senior member of the committee.

Mr. ROYCE. Mr. Speaker, yesterday a small community banker in Ohio by the name of Sarah Wallace wrote a letter. She wrote about what she believed to be the end of community banking as we know it. And Sarah Wallace notes, in her words: “Going forward, we will no longer be able to evaluate loan applications based solely on the credit-worthiness of the borrower. We will be making regulatory compliance decisions instead of credit decisions.”

And this gets to the heart of the issue with the underlying legislation that we’re discussing. Despite the fact that every failed financial firm had some type of Federal regulator overseeing it, the answer put forward in this bill is to give broad, largely undefined powers to those regulators and not, by the way, in the interest of safety and soundness. If the objective was safety and soundness, the amendment that would allow the safety and soundness regulator to overrule the Consumer Financial Protection Bureau in cases where safety and soundness was at stake, that would have been upheld. No, that’s not the goal here.

And to get back to the point that Sarah Wallace makes, her observation is that instead of focusing on providing credit and providing the most possible certainty to those small towns that need that credit, these institutions will instead focus their efforts on appeasing the Federal Government and on appeasing their allies in Congress.

Why should that give us concern? It should worry us because whether it is striving toward another altruistic goal, such as Congress’ interest in subsidizing housing—and by the way, that’s what happened during the housing crisis—or whether it’s funneling cash into friendly community activist organizations, like ACORN, the fact is, the closer big government gets to business, the more likely these favors will become the rule instead of the exception.

What I don’t like about this is the political pull that comes out of it. What I don’t like about it is the market discipline being replaced. And I think on a massive scale, this bill relaxes objectives of risk and liquidity. It replaces the market discipline on Main Street with political pull in Washington, and regulators will now decide which firms will be treated differently and, therefore, moved through the resolution process and which firms should be left to the bankruptcy courts.

Why would we care about that in terms of these big firms having this ability now to have this alternative means of resolution? Well, once in the resolution process, the government will have the authority to provide a 100 percent bailout to whichever creditor it favors while imposing severe losses on other institutions who bought the exact same bonds. Should we be concerned about that? I think so, because this type of bureaucratic discretion has led to abuse in the past.

We have already seen that abuse in the Obama administration’s handling of the Chrysler bankruptcy last year. Secured creditors, typically entitled to first priority payment under the absolute priority rule, ended up receiving less than the union allies of the administration who held junior creditor claims. The fact that the regulatory restructure approach injects politics into the process ensures this kind of favoritism in the future.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. HOYER), the majority leader.

Mr. HOYER. I thank the chairman for yielding, and I congratulate the chairman for the extraordinary work he has done. I thank Mr. BACHUS too, who is, I think, one of the really responsible leaders in the minority in terms of issues of substance. And when there are differences, they are honest differences.

Mr. Speaker, I come to the floor, and when I do, I hear portions of the debate, sometimes not all of the debate. I want to make an observation, though. I listened to the gentleman from New Jersey, and he remarked on what the people were saying. And I think that, frankly, his remarks reflected the difference in the perspective between the two parties.

Indeed, that perspective has been reflected in my three decades here, under Mr. Reagan and others who have served President and lastly with the difference in the perspective between the two parties.

Unfortunately, I voted for that bill that Mr. Gramm was for. I made a mistake. Brooksley Born was correct. The mistake did not cost us. In fact, the market took extraordinarily irresponsible steps. What I hear, I tell my friend from New Jersey, the people saying is, “Don’t let the big guys trample on us.” Don’t let the big guys put us at great risk. Don’t let the big guys make decisions that they take the risk and we take the loss. That’s what I hear the people saying, and that’s what I think this bill is designed to respond to.

This week Mr. REINER compared re-forming Wall Street to killing an ant with a nuclear weapon. Well, that may sound colorful, but this is the greatest economic crisis that any of us—I’m looking around on this floor—have experienced in our lifetimes. And I am closer to experiencing the last one than any of you, I think, on the floor are. But none of us, even at my advanced age, were alive during the Great Depression. So this is the first time that we have experienced such a deep, deep recession.

But I will tell you, the 8 million Americans whose jobs it took away think it was a mighty big ant that squashed them and their families, or the millions more who saw their savings devastated or the families in every one of our districts who have lost their homes. They’re thinking to themselves, Mr. Boehner, that was a mighty big ant that came my way. And not to more than half of the Nation’s working adults who report that they have been pushed by the recession into “unemployment, pay cuts, reduced hours at work or part-time jobs,” according to a Pew Research Center Survey reported in today’s Washington Post.

□ 1730

Now, some of you may think that was an ant that walked through here, but some think it was a pretty big elephant. It squashed them and hurt them. I don’t mean an elephant in the symbol of your party, a respected animal with a long memory.
But we have differences, and the differences are, as I’ve said before, that you perceive regulation as harmful. My analogy is, if you take the referee off the football field, I guarantee the split end’s going to leave early. He’s going to be an advantage. I know the little guys on the field are going to get trampled on by the big guys because there’s no referee to say, Time out. You broke the rules. This bill is about putting the referee back on the field and saying, Obey the rules. Do not trample on the little people. Don’t take risks that you will expect them to pay for.

More than half, Mr. Speaker, of today’s families have been affected. There is no way to overstate what happened to them, and there is no mistake taking the cause of the crisis: The Wall Street culture of reckless gambling, and a culture of regulatory neglect that the last administration wants to perpetuate it, and some want to return to.

I simply think that would be a mistake. I tell my friend from New Jersey, the people I talk to think it would be a mistake as well. They don’t like what’s happened. They don’t want it to happen. This is an effort to make sure that’s the case.

Never again. Never again should Wall Street greed bring such suffering to our country. And never again should Washington stand by as that greed manifests itself in highly risky deals where a few share the profits, but Main Street bears the brunt of Wall Street’s lost bets.

Now, let me say that I voted for that bill—I was wrong—the Gramm bill that said Brooksley Born was wrong, we didn’t need to regulate derivatives. And by the way, there were a number of Democrat leaders who said that as well, that we didn’t need to, and Mr. Greenspan said it as well. He’s admitted he was wrong, and he was distressed by that mistake.

Now, we can’t erase that crisis, but we can work to rebuild what we lost. As Democrats have done every time, we’ve supported job creation, from the Recovery Act to “Cash for Clunkers” to the HIRE Act to the additional tax relief for small businesses, that’s, frankly, been obstructed by the minority party in the other body who have made a high-stakes political bet on recovery’s failure. That would be a shame.

We can also, just as any responsible family would, ensure ourselves against a repeat crisis and protect America’s jobs from another devastating collapse. The Wall Street Reform and Consumer Protection Act, which Mr. Frank and Mr. Dodd have led to this point, means an end to the irresponsible practices of the big banks.

And I want to say the community banks, which my friend Mr. Royce referred to, he’s absolutely right. They were not the problem, none of our community banks. They, frankly, cared that people could pay their money back, and they were careful in giving loans and careful in making sure that people to whom they gave loans could pay them back.

It was those who securitized them, that put them in these big, fancy documents, not that they were taken, they could pay them back because, for the most part, they made their money on the transaction, not on the long-term responsibility of the debtor.

I’m happy that among our financial institutions there are responsible actors who appreciate effective oversight and understand that it stimulates investment, enterprise, entrepreneurship, and job creation. Why? Because people can trust the system because they know the referee is on the field watching, and they know, therefore, the game will be honest.

No bill, of course, can create an economy without risk, nor should it. But this bill will bring accountability to Wall Street and Washington, protect and empower consumers, forestall future financial meltdowns, and prevent taxpayer money from being put on the line again to bail out Wall Street excess.

I want to say to my friend who mentioned that we bailed out Wall Street, how quickly you forget that it was President Bush and Secretary Paulson and Ben Bernanke, appointed as Chair of the Federal Reserve by President Bush, that asked for that bill; and that your leadership, for the most part, supported and urged its adoption. So, with all due respect, it was President Bush’s administration that asked for that bailout, not Democrats.

What Democrats did, when they said there was a crisis, acted in a bipartisan way to respond to that crisis. And, very frankly, I think we precluded a depression.

Americans have an obligation of responsible borrowing, but financial companies also had responsibilities to make loans fair and transparent. By creating a Consumer Financial Protection Bureau, we can make sure that both sides live up to that bargain.

The Consumer Financial Protection Bureau will strengthen and modernize oversight of Wall Street by putting the functions of seven different agencies in one accountable place. It seems to me that that would appeal to people who want not so much proliferation of various agencies, another.

In addition, corporations like AIG and Lehman Brothers will no longer be able to make the kind of gambles that risk the health of our entire economy and, indeed, the world’s. Institutions that place the biggest economic bets will be required to keep capital on hand to meet their obligations, should those bets fail, and not expect the taxpayer to do that.

This bill also reduces the conflicts of interest that allow the very same agencies to happily declare such institutions in good health long after they were dangerously overloaded. Of course, the regulators weren’t watching. There was a philosophy, of course, that regulation got in the way.

And it prudently regulates the inherently dangerous derivatives that Warren Buffett called, and I quote, "weapons of financial mass destruction“ for their ability to bring down entire economies when bets go bad.

Should a major firm still find itself on the verge of collapse, this bill insulates the rest of the economy and keeps taxpayers of the hook, the hook for future bailouts.

Mr. Speaker, a tremendous amount of irresponsibility in Washington and on Wall Street went into the crisis from which we are still struggling to recover. That crisis, of course, started in December 2007. Actually, it started long before that, as I said, in the late nineties. Middle class families who worked hard and played by the rules overwhelmingly paid the price.

But there’s a kind of irresponsibility even worse, failure to learn. We know what greed and neglect can do. None of us can plead ignorance.

Let’s show, Mr. Speaker, ladies and gentlemen of this body--let’s show that we’ve learned something from the crisis. Let’s keep it from happening again. That is, I tell my friend, what I hear from my constituents. They want to have us stop it from happening again. They’re angry about it. I’m sure that the ladies and gentlemen on both sides of the aisle are angry about it. This is an opportunity to ensure, to the extent we possibly can, that this tragedy to so many millions of families does not happen again.

Mr. GARRETT of New Jersey. Will the gentleman yield for a question?

Mr. HOYER. I yield to my friend.

Mr. GARRETT of New Jersey. I thank the gentleman, and I appreciate the gentleman’s comments.

Would the gentleman just agree with this statement, though, that neither I nor, I think, anyone on our side of the aisle take the view that we want no regulation, that we want no reform; that, actually, we have presented a proposal for reform, prior, to the administration, that we do believe we need some reform differing in approach and an approach that we and some believe would end the perpetual bailouts? Would you agree that we just come from a different perspective and just want to have a different proposal?

Mr. HOYER. Reclaiming my time. I thank the gentleman for his question, as I said at the time. I believe we come from a different place. And I do believe it is accurate to state that all of the Republican Presidents who have served during the time that I have served have advanced the proposition that regulation at the Federal level was overburdensome and it ought to be reduced.

Certainly, we ought to reduce regulations that is neither effective and is in trust. The growth of our economy and to the effectiveness of businesses. But with respect to that, I say to my friend, I think what we saw during the last decade was an excessive
commitment, as Mr. Greenspan pointed out, to the proposition, as Mr. Royce stated, Just get out of the way; they will discipline themselves.

Mr. HOYER. Reclaiming my time, and I will now leave the stage after a minute, I say to my friend that the chairman’s amendment, and I will now leave the stage after a minute.

And I yield to my friend the chairman.

Mr. FRANK of Massachusetts. I would just say to the gentleman from New Jersey, I can only judge by what I see. When the House voted on this bill last December, the minority had certain amendments made in order by the rules. They would have liked or as I would have liked, but in the end they had the motion to recommit, over which they had complete editorial control. The motion to recommit on this version of this bill that passed the House last December from the minority said no regulation, no reform of regulation.

It had one provision. It said kill everything in the bill. It didn’t say do it differently. It didn’t amend it. It didn’t change it. It said do not change anything. Do not reform anything except end the TARP, which thanks to the Senate we are now doing in this bill.

So I can only judge by what I see. When the gentleman says that, when the minority had a chance to offer their own version of this, they offered a version that said no, no reform, no change, no regulation, leave the status quo.

Mr. HOYER. Mr. Speaker, at this time I yield 5 minutes to the gentleman from Texas (Mr. HENSARLING), the ranking member on the Financial Institutions Subcommittee.

Mr. HENSARLING. I thank the gentleman for yielding.

Mr. Speaker, the cause of our financial crisis is Federal policy that the lion’s share of troubled mortgages, and ended up buying housing mission, and gave them an affordable housing mission, and ended up buying the lion’s share of troubled mortgages, or insuring the troubled mortgages in the system. Again, it wasn’t deregulation; it was dumb regulation. And all this bill before us does is perpetuate the same dumb regulations that got us into this financial pickle in the first place.

Mr. Speaker, the best way to end taxpay or in danger of becoming insolvent.

Mr. HOYER. Mr. Secretary, as I listened to the debate here, I can’t help but remember, and I have a vivid memory of it, a couple of years ago, almost 2 years ago, September 18, a Thursday afternoon, we were gathered in our office, and had just seen in the week and a half preceding, a week and a half to 2 weeks preceding the Lehman Brothers, Merrill Lynch, and then AIG and the Fed bailout of AIG.

I called the Secretary of the Treasury and said, We are meeting here in our office, and had just seen the week and a half preceding, a week and a half to 2 weeks preceding the Lehman Brothers, Merrill Lynch, and then AIG and the Fed bailout of AIG.

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I called the Secretary of the Treasury and said, We are meeting here in our office, and had just seen the week and a half preceding, a week and a half to 2 weeks preceding the Lehman Brothers, Merrill Lynch, and then AIG and the Fed bailout of AIG.
Secretary, who had told us that we couldn't even wait until the next morning, described a very, very grim situation.

□ 1750

The chairman of the Fed, who was an expert on the Great Depression, told us that the situation was so grim that if we did not act immediately, there would be no economy by Monday. This is Thursday night. There would be no economy by Monday. How could it be? We, the greatest country in the world with the strongest economy, yet we needed to act immediately.

The rescue from the Bush administration was a bailout of the banks. And at a 24-hour/48-hour period they produced a bill, $700 billion, that they asked the Congress to pass to bail out the banks. It was necessary to do because the chairman said there wouldn't be an economy by Monday.

Told us into deep recession where 8½ million jobs were lost. People lost their jobs, therefore in many cases their health insurance. They lost their pensions, they lost their savings, they had to live off savings, and they lost their investments for their children's education. Because of recklessness on Wall Street, joblessness was rampant on Main Street.

One of the reasons was there was no risk. It's interesting to hear my colleagues talk about the importance of credit to Main Street, but not one of them voted for the Small Business Credit Protection Act. The riskless administration's economic policy, because of the lack of supervision, discipline, regulation. The recklessness on Wall Street had taken us to the brink of a financial crisis of such magnitude that the party is now over. In doing so, bringing this legislation before the Congress, Chairman FRANK and Chairman DODD are making history. For decades to come their names will be identified with historic reforms to protect the economy of our country and the financial and economic security of the American people.

I also want to acknowledge Chairman COLLIN PETERSON who carefully negotiated the administration's economic policy, because of the lack of supervision, discipline, regulation. The recklessness on Wall Street had taken us to the brink of a financial crisis of such magnitude that the party is now over. In doing so, bringing this legislation before the Congress, Chairman FRANK and Chairman DODD are making history. For decades to come their names will be identified with historic reforms to protect the economy of our country and the financial and economic security of the American people.

Today, we will follow the lead of those on the committee enacting historic legislation to bring transparency to our financial markets, lowering the leverage that got us into trouble in the first place, bringing tough oversight to Wall Street, and bringing consumer protection to Main Street and to the American people.

By voting ‘aye’ you will pass the toughest set of Wall Street reforms in generations. This comprehensive and far-reaching legislation injects transparency and accountability as it lowers leverage and to the financial system run amok under the Republicans' reckless economic policies.

This legislation makes commonsense reforms that end the era of taxpayer bailouts and “too big to fail” financial firms. It establishes a new independent agency to protect Americans from anticonsumer abuses. The bill closes the door on predatory lending and regulates payday lenders. It includes provisions to allow us to conduct oversight over the Fed, establishes tough rules for risky financial practices, enhances oversight for credit rating agencies, and reins in egregious CEO bonuses by giving shareholders a say on executive pay.

It sheds light on the darkest corners of the derivatives market and is fully paid for. And how is it paid for? By shutting down the Bush-era bailout fund known as the TARP and using the savings for financial reform.

As we vote today, each Member of this body faces a choice. We have had these choices before. Democrats wanted to rein in health insurance companies; the Republicans said no. Democrats wanted to rein in Big Oil; the Republicans said no. Democrats want to rein in the recklessness of some on Wall Street; the Republicans are saying no.

Each Member of this body will have a choice. We can place our bet on the side of those on Wall Street who have gambled with our savings and lost, or we can stand with Main Street and the middle class. Will we preserve a status quo? And if this bill were to fail, we be preserving or that has left our economy in a wretched state. Or will we guarantee the American people strong reforms and effective vigilance to prevent another financial crisis?

How can we possibly resist the change that must happen? How can we forget that the chairman of the Fed said if we do not act, we will not have an economy by Monday—4 days from when we were having the conversation? How can we let the status quo that created that condition to continue?

I urge my colleagues to choose on the side of Main Street. I urge you to build a future of stability and security for America's families, consumers, and small businesses. I'll vote “aye” on the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Mr. BACHUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I hear two people that I know leaders of the majority side and they each, Mr. HOYER and Ms. PELOSI, I know they appear to be sincere when they say that never again will the American people be asked to bail out those on Wall Street who made reckless deals; no longer will the taxpayer be put on the hook.

Yet there is an inconvenient truth here for my Democratic friends, and that is the clear wording of the bill. I mean I think it is elementary that before we pass legislation that we read it. I would not repeat this except that my colleagues in the majority continue to say time after time after time that there is no bailout. There is. There is an AIG-style bailout. Now, AIG cannot be saved under this legislation. In fact, we changed that, and we both insisted in a bipartisan way that the AIGs of today will not survive. They will not survive under this bill. AIG, under this bill—and in bipartisan way we agree—failed. We say we put the AIGs into bankruptcy, and they are re-solved in that way. My Democrat colleagues say that an AIG-like failing company will be put in an FDIC supervised resolution authority.

Now, Mr. FRANK is correct when he says, Wait a minute. Wait a minute. This only occurs when these firms are being placed in liquidation. They are losing their liquidation.

Well, now. I agree with him, but is there no bailout of anyone on Wall Street? Well, of course there is. It is a very expensive bailout.

In the Dodd-Frank bill, it is section 203. I mean, go write this down. Good and read. It says that the FDIC can, one, lend to a failing firm; two, purchase the assets of a failing firm; three, guarantee the obligation of a
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failing firm; four, take a security interest in the assets of a failing firm; five, and/or sell the assets that the FDIC has acquired from the failing firm.

Why would you lend a failing firm money? I keep asking that. The second thing I ask is: Where is the bailout fund in this bill?

There is no bailout fund in this bill. There is $19 billion that is assessed towards community banks. They are FDIC assessments that are raised, which is a good thing, and there is the TARP program that ended 3 months sooner than it should have. We were told somehow, because we were not going to start any new programs in that 3 months, that somehow—hocus-pocus—it saves us about $10 billion. It is hocus-pocus because you cannot spend the money on the new programs in this bill and then turn around and suddenly pull out of a hat that same money and give it back to the taxpayers. It just doesn’t happen.

Also, Speaker Pelosi may forget that one of the first signs of trouble was not in September of 2008 but in July of 2008 when we suddenly realized that Fannie and Freddie were insolvent and that many of our banks, almost all of our banks, held shares in these companies. Why did they have major positions in the shares of Fannie and Freddie? They lost all of that money because the government had said, If you’ll invest in that, we’ll give you a special rating, and we’ll count it as the same as treasuries. It disappeared overnight.

Now, that was in July, not in September. Banks took a hit on that. The Democrats said at that time—and the Bush administration and Secretary Paulson—we’ve got to get $400 billion to Fannie and Freddie because, in 1999, under the Clinton administration, you said let’s loan to people with poor credit; let’s loan to people without much of a down payment, and we’ll count that as the same as treasuries. It disappeared overnight.

Now, we have a letter that Chairman Peterson, Chairman Peterson, said that there are no requirements that end users post margins. We all agree that, if they had to, it would be $1 trillion out of these companies. $1 trillion, according to Joe Biden, will produce as many as 200,000 jobs a minute. You’re going to reform these companies before you pour taxpayer dollars in the assets of a failing firm; four, take a security interest in the assets of a failing firm; five, and/or sell the assets that the FDIC has acquired from the failing firm. The chairman says we need to liquidate them. What about Fannie and Freddie? Why aren’t we liquidating them? We’re not. The biggest bailout that we’ve had is of Fannie and Freddie. Who did we bail out? Did we bail out the banks that had shares? No, we bailed out the Chinese bondholders. Secretary Paulson said, You know what? The Chinese might not lend us any money.

Let me tell you that we’ll sure need the Chinese to lend us money if this bill passes, because there is a derivatives section in here.

Now, we have a letter that Chairman Peterson produced, which said this doesn’t affect end users, but it’s a letter. The truth is we were in conference last week when we fought this out, and we voted for an exemption for end users. The Democrats voted against one. We’ve been told in the past 48 hours, 72 hours, by groups like the International Swap and Derivatives Association that this bill will cost businesses $1 trillion. $1 trillion. That is capital. It doesn’t matter whether they trade on the derivatives or if someone does it for them. Someone has to post that capital and, therefore, there is an expense for that commercial company.

If you take $1 trillion out of the economy suddenly, sure, you are going to have a crisis like this bill anticipates. This bill says, if there is such a crisis, then a receiver is appointed. Chairman Frank keeps saying, A receiver is appointed. A receiver is appointed.

That’s right. That receiver, after 30 days, is authorized to borrow 90 percent of the fair value of the failing companies.

Chairman Frank, that is $8.5 trillion. That money is not in this bill. There is not even $10 billion in this bill for this type of resolution. So you’re going to go to the banks or you have to go to the financial companies or you’re going to get it after the fact. If they’re failing, how are they going to pay it?

I want to close with a positive. The 320 million Americans this House who took a stand can take a stand in just a few minutes.

Collin Peterson, Chairman Peterson, said that there are no requirements that end users post margins. We all agree that, if they had to, it would be $1 trillion out of these companies. $1 trillion, according to Joe Biden, will produce 700,000 to 1.4 million jobs and will produce as many as 200,000 jobs a month. So that is the hit to this economy if this does apply to end users.

So we have a motion to recommit.

First, it says there is an exemption on end users. Now, you have said that there is one, and you have this letter from Chairman Dodd and Blanche Lincoln saying there is one, so that’s half of it. So you’d vote for that because you’re saying it’s in there.

Secondly, there is the Federal audit. We need the taxpayers to demand—and the voters are demanding—of Mr. Hoypur transparency at the Fed. They are spending trillions of dollars. They are committing trillions of dollars.

Let’s have this audit of the Fed.

Mr. Speaker, the American people are sick and tired of back room deals and secret manipulations of the economy to benefit political cronies at the expense of taxpayers.

The voters and taxpayers are demanding transparency and accountability and they will not be pacified with false promises or misdirection. Calling a bank tax an “assessment” fools no one, especially the voters.

That’s right. That’s right. That’s right. We need a motion to recommit at the conclusion of this debate that will replace the weak Federal Reserve Audit in the conference report with a robust provision patterned after a bill co-sponsored by 320 members of this House when it was offered by Congressman Paul.

Taxpayers want to see for themselves what their government is doing with their money. And that includes specifically the Federal Reserve, an institution that has unfettered power to and has been a contributing cause of the financial crisis.

Monetary policy fueled the credit boom and bust cycle. The Fed needs to be held accountable for any mistakes it has made in the past and any it may be making now. Failing to hold the Fed accountable increases the likelihood of those mistakes being repeated in the future, and exposes taxpayers to an unacceptable level of risk.

The American people support a full audit of the Federal Reserve System to achieve the level of transparency needed to protect taxpayer dollars and ensure accountability.

With each taxpayer dollar it committed during the financial crisis, the Fed assured the American people they would not take losses. American taxpayers deserve more than the central bank’s assurances; they deserve proof.

A full audit of the Federal Reserve System is the only way to create the openness that a democratic society like ours demands.

The second element of the Motion to Recommit attempts to correct one of the most damaging aspects of this bill and that is saying a lot because there are a number of seriously misguided provisions in this legislation.

Several items in the conference report will impact companies’ ability to create jobs.

It has been reported that BP and Enron have been trying to manipulate derivatives but we do not need any new law to regulate that kind of illegal activity. It is already illegal. We do need regulators to enforce the rules.

The lack of an end user exemption for commercial companies in the derivatives title will pull an estimated one trillion dollars of resources from job creation and investment.

Coincidentally, the combined stimulus packages enacted in the last two years also amounts to about one trillion dollars. Vice President Biden told us last week that the Obama stimulus package alone would result in the creation of between 700,000 and 1.4 million jobs in the remainder of 2010. Under the vice president’s logic, diverting one trillion dollars from productive commercial business capital could presumably destroy up to 1.4 million jobs.

Instead of allocating precious resources to hire more people or increase wages, commercial companies will have to post capital every time they enter into a derivatives contract to hedge against legitimate business risk.

If this legislation—supposedly intended to regulate the financial services industry—is enacted, capital requirements will force non-financial companies to abandon legitimate hedging strategies and accept excessive volatility at a cost that will ultimately be borne by their customers and employees.

Margin requirements for “end-users” are not a new issue for Members of the House. Chairman Frank tried to insert an amendment in the House bill last December which would have explicitly allowed regulators to set margin requirements for end-users. Unfortunately, it failed overwhelmingly, by a vote of 150 to 280.

Withdrawing a trillion dollars from the private sector could well sow the seeds of the
next crisis because it could destabilize the financial system, possibly triggering another vicious cycle of government bailouts to correct the results of bad government policy.

The House should ensure that the potential economic harm in these derivative provisions is avoided by adopting this Motion to Reconsider and sending this defective legislation back to the conference to be rewritten.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. DURBIN of Illinois. I yield myself the balance of my time.

The SPEAKER pro tempore. The gentleman has 7½ minutes remaining.

Mr. FRANK of Massachusetts. Mr. Speaker, I want to assure the Members who are concerned that the interchanges amendments will unduly affect smaller financial institutions. The interchange amendment wasn’t part of the bill here. It was put in by a very heavy vote in the Senate, and the conference process means you compromise.

There is in that amendment, as Senator DURBIN put it in, an exemption for card issuers. The amendment says no more, but it affects smaller financial institutions. The interchange amendment wasn’t part of the bill here. It was put in by a very heavy vote in the Senate, and the conference process means you compromise.

There is an antidiscrimination provision that says that merchants and retailers cannot refuse to accept a debit card. That is no discrimination against small banks for their credit cards. The Federal Reserve, the instructions to the Federal Reserve, include making that antidiscrimination work, and we can guarantee people we will do it.

Yes, as the amendment passed the Senate, it said that these smaller institutions were exempt but that they might have suffered discrimination. They are protected in this bill. That’s why, the small banks in Illinois have endorsed this bill.

I also want to talk briefly about what has happened with the TARP. We had the two last Republican speakers. One hailed the CBO as an unassailable authority. Then the final speaker said it was hocus-pocus. It is apparently unassailable hocus-pocus, which I don’t want to get into. It’s too late at this time.

This is how the TARP thing works. There are two parts to the TARP. The bill does say that repayments go to debt relief. There have been substantial repayments from the banks, and those go to debt relief. They are unaffected by the amendment. What the amendment says is there are still tens of billions of dollars of TARP money that could be committed. The amendment we adopted in conference says no more, that they cannot do that. That’s where the savings comes. So the savings comes from not allowing additional TARP spending.

You know about the Republicans with regard to cutting off TARP? They were for it before they were against it. They used to be all for cutting out the TARP until it came up here. Now, let me say I don’t like that way to do it. I prefer what we had in our provision, which was to assess the Goldman Sachs, JPMorgan Chase, Mr. Paulson’s hedge fund. He wanted to do it, but we couldn’t get it through the Republicans in the Senate. So, first, Republicans in the Senate tell us, Don’t do it. Then other Republicans in the Senate say, Why didn’t you do it? So I’ll pledge right now: The committee I chair will. I hope, bring out a bill that revives that assessment on the financial institutions above $50 billion and the hedge funds. So Members who missed it will get a chance to show us they really care. We will bring them there, and we will have that come forward.

Now, I do want to talk a little bit about subprime lending and about the partial history we have.

The fact is that the Republican Party controlled the House and the Senate from 1995 to 2006. During that period, they showed remarkable restraint. As eager as they were to restrain subprime lending and to pass the TARP, they could not do it. That’s a degree of abstinence unparalleled in political history. They were in charge. Whose fault was it? Apparently, it was our fault. It was my fault. As I said before, people of me of being this secret manipulator of Tom DeLay. Well, if that were the case, you wouldn’t have cut taxes for very rich people. You wouldn’t have gone to war in Iraq. As I said, if he were listening to me, he wouldn’t have gotten on the dance show. So I don’t take responsibility for Mr. DeLay. The Republican Party didn’t do it.

Now, the gentleman from California (Mr. ROYCE) said he tried in 2005. He had an amendment of Mr. Oxley. Mr. Oxley, the Republican chairman of the committee, brought out a bill. Mr. ROYCE didn’t like it. He brought up his amendments. If no Democrat had voted either in committee or on the floor of the House on that bill, it would have looked exactly as it looked. The majority was Republican. So, apparently, the gentleman from California (Mr. ROYCE) wasn’t able to persuade even a third of his fellow Republicans to work with him.

I’m sorry he wasn’t able to do better. I’m not an expert in how to get Republicans to vote with you, so I can’t offer him any help. Maybe he can find somebody who can teach him how to get better votes among Republicans, but it’s not our fault that the Republican Party didn’t do it.

By the way, in 2003, I did say I didn’t see a problem with Fannie Mae and Freddie Mac. I proposed an amendment of Mr. Oxley and he used it. He used it to order them to increase their subprime lending purchases. By the way, he wasn’t alone in that. A June 22 article from the Wall Street Journal quotes a Member of Congress, in 2005, at a hearing, saying, “With the advent of subprime lending, countless families have now had their first opportunity to buy a home or perhaps be given a second chance.” Fall out of it, it said.

The American Dream should never be limited to the well-offs or to those consumers fortunate enough to have access to prime rate loans. That is from the gentleman from Texas (Mr. HENSARLING). So George Bush wasn’t alone in that.

Then 2007 came, and the Democrats took power. We passed a bill, for the first time in this House, to regulate Fannie Mae and Freddie Mac. Secretary Paulson liked the bill. He said it didn’t go as far as he would have liked, but it was a good bill. In 2008, it finally passed, and Fannie Mae and Freddie Mac were put in a conservatorship. They were the first major institutions to be reformed.

By the way, in 2007, in this House, we also passed a bill to control subprime lending. Now, the gentleman from Alabama had been the chairman of the subcommittee with jurisdiction over subprime lending during some of those Republican years, and he never produced a bill. He said it was our fault. He wrote us a letter—myself, Mr. WATT of North Carolina, and Mr. MILLER of North Carolina—and we didn’t tell him we’d vote for it.

You know, I wish I could have it back. I wish I knew I was secretly in charge of the Republican agenda. I wish I knew they wouldn’t do anything unless I said they could and that they would do something if I said they should, but no one told me. Where were they when I needed them to be more powerful? He didn’t bring it forward. It wasn’t my fault. The Republicans never checked with me as to what they were supposed to do.

Okay, we did pass such a bill to restrict subprime lending, and The Wall Street Journal attacked us. It said it was a “Sarbanes-Oxley” for housing. Sarbanes-Oxley is about as nasty as you can get in The Wall Street Journal, and here’s what they said about subprime lending in 2007.

So maybe that is why George Bush expanded subprime lending.

The Wall Street Journal said in 2007, complaining about our bill, “But for all the demonizing, about 80 percent of even subprime loans are being repaid on time and another 10 percent are only 30 days behind. Many new homeowners are low-income families, often minorities, who would otherwise not have qualified for a mortgage. In the name of consumer protection, Mr. FRANK’s legislation will ensure that far fewer of these loans are issued in the future.”

Yeah. Unfortunately, a couple of years too late, because we couldn’t get that through. But the Wall Street...
Journal was right, we would limit them, but wrong, along with the gentleman from Texas (Mr. HENSARLING) about the subprime loans. And I also wanted to do affordable rental housing, which that administration opposed. This bill has the biggest package of increased consumer protections in the history of America. And it doesn’t ban products or ration products. It says there is going to have to be fair dealing. This bill says that there is a fiduciary responsibility on people selling products to individual investors for the first time. It gives the SEC the power to do it, and they are going to do it. This bill reforms the system, and I hope it is enacted.

This conference report would not have been possible without the hard work of staff on both sides of the Capitol. I thank them for their efforts and submit the following list:

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Mr. LEVIN. Mr. Speaker, I rise in strong support of H.R. 4173, the Wall Street Reform and Consumer Protection Act.

Almost two years ago, this House was faced with painful dilemma: risk the collapse of our financial system and a second Great Depression, or take action to stabilize financial markets. The comprehensive financial regulatory reform before us will help to ensure that we are never again forced to choose between bailing out banks and saving our economy.

In the run up to the financial crisis, rampant speculation, and in some cases fraud, in the residential housing and mortgage markets combined with an explosion of complexity in our financial markets to create a bubble that when it burst, rippled through our entire economy. The financial crisis that began in 2008 was the worst since the Great Depression and was enabled and made worse by a lax regulatory environment that for many years failed to properly supervise financial markets and control the risks Wall Street was creating. Under the bill before us, for the first time, there will be a federal regulatory body with the responsibility to identify and address systemic risks to our economy. Transparency will be brought to derivatives markets so that these complex financial instruments cannot transmit shockwaves through our financial system. Consumers will be able to get the accurate information they need to shop for credit cards, mortgages and other financial products, rather than being sold products that are too good to be true by unregulated lenders who know they are unaffordable.

Mr. Speaker, the Wall Street Reform and Consumer Protection Act will restore responsibility, accountability and transparency to our financial markets. I urge all of my colleagues to stand with the working Americans who have been the victims of the financial crisis rather than defend a discredit ideology that says government is always wrong and markets are always right. We have seen in the last two years that markets can get out of control, and we need appropriate structures in place to ensure that our financial markets work for all Americans.

Mr. BACHUS. Mr. Speaker, I want to add these comments regarding Section 913 of the Report calling for a review by the Securities and Exchange Commission, SEC, of the current regulation of investment advisers and broker-dealers.

The Conference Report on H.R. 4173 directs the SEC to conduct a study to evaluate the effectiveness of current standards—both at the state and federal levels—with respect to investment advisers and broker-dealers when providing personalized investment advice and recommendations about securities to retail customers.

Before the SEC proceeds with any new rules and regulations in this area, it is critically important that the unique roles of different financial professionals, their distinct relationships with their customers, and the nature of the services and disclosures they provide be fully examined and well understood. These definitive factors should provide information to guide the SEC in determining if any new rules and regulations are needed and defining the details of any such measures that might be proposed.

The conference included the requirement for a comprehensive study for these purposes, and I anticipate that the SEC will follow the intent of Congress with a thorough and objective analysis in this regard.

Mr. DAVIS of Illinois. Mr. Speaker, we are gathered today with the opportunity to implement Wall Street reform, and help make our financial markets safer for everyday American consumers, investors, and small businesses. At the center of our efforts today is the concept of power, and what it means to those who have it, and those who don’t. Baltasar Gracian, a renowned Spanish Jesuit writer, once said that “The sole advantage of power is that you can do more good.” I think we will all agree with me that the corporations and executives on Wall Street have considerable power. The question remains, however, whether they are using that power for the benefit of all Americans.
power to do good things. People will point out, and I agree, that they are making many people very wealthy, but at what cost? For too long corporate interests have been allowed to dominate decision making in America's financial capital, and many times, this has meant unfair and predatory practices. As lawmakers, we should make our markets a more evenhanded place for our citizens, and the consumers that put their trust and money on the line.

One of the key things that H.R. 4173 will do is to provide the Federal Financial Protection Bureau, tasked with the responsibility of making sure consumer lending practices are fair. Also, under the Volcker rule, large financial institutions would no longer be allowed to engage in risky trading using federal dollars, supported by taxpayers. Throughout the many various initiatives and stipulations in the bill, one theme is clear: protecting American citizens, and maintaining a fair market that allows both informed consumers and powerful financial markets to thrive in tandem.

H.R. 4173 does not set out to take power away from Wall Street, but to make sure they use their many strengths and abilities for the benefit of the average American investor and small business owner. I rise in support of H.R. 4173, the Restoring American Financial Stability Act of 2010, knowing that the benefits of the bill far outweigh the few that should not come at the cost of the many.

Mr. PETERSON. Mr. Speaker, I rise today to discuss some of the jurisdictional issues that arise out of Title VII of H.R. 4173. The bill brings a new regulatory regime to swaps as it will bring under the Commodity Futures Trading Commission's, CFTC's, exclusive jurisdiction under the CEA to also include swaps, except as otherwise provided elsewhere in Title VII. Also included in Title VII are two savings clauses for the Securities and Exchange Commission, SEC, and one for the Federal Energy Regulatory Commission, FERC.

Title VII allocates over $70 billion in swap and security-based swaps as follows. First, the CFTC maintains its jurisdiction over swaps including swaps on broad-based security indexes. Within the swap definition is a category of swaps called security-based swap agreements. For this specific category of swaps, the CFTC will continue to exercise its full jurisdictional authority, while the SEC may exercise certain specific authorities over these products, as outlined in Title VII. Title VII also clarifies that the SEC has jurisdiction over security-based swaps, which are swaps on narrow-based security indexes and single securities, and that the two agencies share authority over mixed swaps.

Nothing in the SEC savings clauses, or any other provision of Title VII, alters the existing jurisdictional divide between the CFTC and SEC established by the Johnson-Shad Accord which, among other things, provides the CFTC exclusive jurisdiction over futures (and options on futures) on broad-based security indexes. Nor do these savings clauses, or any other provision of Title VII, divest or limit the authority that the CFTC shares with the SEC over security futures products as authorized by the Commodity Futures Modernization Act of 2000.

This bill also clarifies the authorities of the CFTC and FERC over financial instruments—both swaps and futures—traded pursuant to FERC or state approved tariffs or rate schedules.

Section 722 preserves FERC's existing authorities over financial instruments traded pursuant to a FERC or state approved tariff or rate schedule, which is the current law does not extend to CFTC-regulated exchanges and clearinghouses, because these are within CFTC's exclusive jurisdiction. The CFTC's authorities over futures and swaps traded pursuant to FERC or state approved tariffs or rate schedules are also fully preserved. The bill further specifies that jurisdiction of regional transmission organizations/independent system operators (RTOs/ISOs) markets, the CFTC shall continue to have exclusive jurisdiction over financial instruments traded on CFTC-regulated exchanges, such as NYMEX or ICE, traded through swap execution facilities, or cleared on CFTC-regulated clearinghouses.

To avoid the potential for overlapping or duplicative FERC and CFTC authority, the bill provides the CFTC with the authority to exempt financial instruments traded within an RTO or ISO a brighter light if the CFTC determines the exemption would be consistent with the public interest and the purposes of the Commodity Exchange Act.

Section 722 also preserves FERC's anti-manipulation authority as it currently exists under the Federal Power and Natural Gas Act prior to enactment of this legislation.

Mr. SKELTON. Mr. Speaker, thriving capital markets depend upon innovation to grow the economy and to generate jobs. Yet, market innovation must be conducted responsibly and must be monitored and regulated by public regulators to ensure Wall Street's complex financial transactions do not put at risk the savings of average American families or the national economy as a whole. The famous quote by U.S. Supreme Court Justice Louis Brandeis indicating that "sunlight is the best disinfectant" certainly applies to Wall Street.

In recent years, market innovation ran afoul of public regulators as financial giants gambled with the savings of working families and placed irresponsible bets that put in jeopardy America's financial system. Early this year, the financial industry acted not to promote the general welfare of the United States, as is outlined in the preamble to our Constitution, but against the well-being of the American public. And, as all of us know, broken regulations, greed, and incessant risk taking on Wall Street cost each one of us—the American taxpayers—who helped to save our economy from ruin in the fall of 2008.

From the beginning of this crisis, I have felt strongly that Congress ought to consider authorizing tough new regulations on Wall Street that would shine a brighter light on extremely complex financial transactions.

In my view, writing into law mechanisms that prevent financial institutions from getting "too big to fail," that reform the Federal Reserve, that better regulate hedge funds, securities exchanges and broker-dealing agencies; and that give shareholders a greater say in the compensation of financial company executives makes good sense and, if done properly, would help to ensure American taxpayers are never again put on the hook for Wall Street's misbehavior while creating an environment for responsible market innovation.

But, as important as new regulations are for our country, Congress must be careful in authorizing them. We must direct regulations at Wall Street and other bad actors while not wrapping America's home town financial institutions into costly and complex sets of new rules, such as those associated with the new Consumer Financial Protection Bureau. Community banks and credit unions are the heart of our local economies. For years, they have been conservative with their money and played by the rules. They ought not be forced to pay the price for Wall Street's transgressions.

The Dodd-Frank Wall Street Reform and Consumer Protection Act is well-intentioned, and I support much of the legislation. But the measure falls short in my goal to target Wall Street without disrupting Main Street banks and credit unions and their customers. Home town financial institutions help to generate jobs and economic development in rural America by lending to families, small businesses, and farmers. They will be key to our nation's economic recovery and should be guaranteed more, not less, economic certainty by Congress. The uncertainty associated with the Dodd-Frank bill is why it is opposed by Missouri's small town banks and credit unions and by many in our nation's business community.

Creating more economic certainty for Missouri's business community and improving rural economic development have been priorities for me during the 111th Congress. It is why I have sought to cut small business taxes and to cut red tape associated with government backed small business loans, opposed a massive health insurance overhaul bill, urged bank regulators to consider easing restrictive capital requirements on small banks that want to issue loans, and supported a $30 billion small business lending fund program to allow community banks to lend money to healthy small businesses that want to expand and hire workers.

Wall Street reform is badly needed and the Dodd-Frank bill is a step in the right direction. However, I cannot lend my support to a bill that places costly new regulations on Missouri's home town banks and credit unions at a time when the government ought to be encouraging them to lend money to create jobs in the private sector.

I urge the conference committee to return to work on the Dodd-Frank bill so it can fine tune the bill's new regulatory authority in a way that cracks down on Wall Street financial firms and irresponsible mortgage lenders without unduly targeting America's community banks. This action would be in the best interest of financial system reform and of the overall economic well being of small town America.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise today to speak about H.R. 4173, the Wall Street Reform and Consumer Protection Act.

Credit unions have been good stewards of our money. I say our money, not be for years they have not been eligible for any of the TARP funds, they have not been involved in the subprime loan situation many have blamed as causing this economic crisis. When the stimulus went into effect, Credit Unions were the ones trying to help.

I have been hearing a lot from the credit unions and community banks in my district regarding the debit interchange provision. I am very concerned that the interchange provision

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May have the unintended consequence of adversely affecting these small financial institutions. I know they are intended to be carved-out of this provision and I hope that my colleagues will join me in encouraging the Federal Reserve and the card payment networks to make sure that the carve-out envisioned under this provision is meaningful and effective.

I was pleased to read the statement from Chairman Frank restating his views of the interchange amendment included in the Conference Committee to change him to work with the Credit Union National Association as it works from the Fed interchange changes. Chairman Frank’s statement gives the Fed strong guidance to follow when this bill becomes law.

In conclusion, the Interchange language exempts all community banks and credit unions with under $10 billion in assets. To achieve this, we included language that explicitly prohibits them from interchange rate setting. This, if the Federal Reserve issues rules regulating interchange fees, it is directed, in Chairman Frank’s words, “to ensure that community banks and credit unions remain exempt from the requirements and are able to continue to issue their debit cards without any market penalty.”

This exempts all but three credit unions nationwide.

Beyond this, there are additional measures in the Interchange amendment that more broadly benefit working families: fixed states’ concerns by removing government-administered pay programs from interchange fee regulation. Fixed concerns of pre-paid folks who offer services to the under-banked by removing the interchange rates from these cards. Ensured that USDA’s SNAP, food stamps, would not be affected.

I look forward to passage of this bill and the fair treatment of Credit Unions by the Federal Reserve.

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to support the Conference Report on H.R. 4173—the Dodd-Frank Act of 2010. This legislation will strengthen our financial system by providing new rules that bar big banks and Wall Street investment houses from the risky practices that badly damaged our economy. The legislation creates consumer protections to block predatory lending practices and financial gimmickry.

It was famously remarked by Professor Elizabeth Warren that it is “impossible to buy a toaster that has a one-in-five chance of bursting into flames and burning down your house.” But it is possible to refinance an existing home with a mortgage that has the same one-in-five chance of putting the family out on the street.’’ With passage of this bill, Congress has ensured stronger protections for families and small businesses by ensuring that bank loans, mortgages, and credit cards are fair, affordable, understandable, and transparent. The bill has been called the “strongest set of Wall Street reforms in three generations” by Professor Warren. I am proud of my work with Professor Warren and I commend her efforts in strengthening this bill.

The financial crisis cost us 8 million jobs and $17 trillion in retirement savings. It was the worst financial crisis since the Great Depression. The financial crisis limited investment job opportunities and the ability of families to save, and has ushered in a sense of financial anxiety that limits American imagination and opportunity.

The Dodd-Frank Act establishes a strong set of consumer protections, including a Consumer Financial Protection Bureau that will be led by an independent director appointed by the President and confirmed by the Senate, with a dedicated budget in the Federal Reserve. The Bureau would be responsible for consumer protections governing all financial institutions—banks and non-banks—offering consumer financial services or products and oversee the enforcement of federal laws intended to ensure the fair, equitable and nondiscriminatory treatment of consumers and communities. The Bureau will roll together responsibilities that are now spread across seven different government entities, providing consumers with a single, accountable, and powerful advocate.

The legislation also establishes strong mortgage protections. The bill requires that lenders ensure that their borrowers can repay their loans by establishing a simple federal standard for all home loans. Lenders also are required by law and interest rates that are affordable to consumers about their loans and will be prohibited from unfair lending practices, such as steering consumers to higher cost loans. Lenders and mortgage brokers who fail to comply with new standards can be held accountable by consumers for as much as three-years of interest payments, any damages, and any attorney’s fees.

The Dodd-Frank Act also disciplines Wall Street. It imposes tough new rules on banks to prevent the risky financial practices that led to the financial meltdown. Taxpayers will no longer pay the price for Wall Street’s irresponsibility. The bill creates a process to shut down large failing firms whose collapse would put the entire economy at risk. After exhausting all the company’s assets, additional costs would be covered by a “dissolution fund,” to which all large financial firms would contribute.

The dissolution of a failing firm will be paid for first by shareholders and creditors, followed by the sale or liquidation of the assets of the failed company. Any shortfall that results is paid for by the financial industry. The bill requires big banks and other financial institutions, those with $50 billion in assets, to foot the bill for the failure of any large, interconnected financial institution. The bill establishes a “resolution fund,” to which all large financial firms would contribute.

The President and confirmed by the Senate, the Bureau will write rules for consumer financial products and services than the banks or credit unions where these consumers have relationships.

Further, as the demand for short-term, small dollar loans continues to increase as a result of the current economic environment, non-traditional lenders have filled the void left by mainstream financial institutions in many of our nation’s underbanked communities.

I agree with the Chairman that lenders should meet this demand responsibly with clear, well-disclosed product terms and conditions that do not encourage consumer dependence and indebtedness.

I would also stress that regulation of this sector of the market should ensure strong consumer protections while encouraging a broad range of product offerings without discriminating as to the type of lender.

Therefore, regulation of short-term credit products and of the lenders who offer them, whether they be traditional financial institutions or non-traditional lenders, should not be used to single out an entire sector.

Rather, it should be well-balanced and carried out in a manner that encourages consumer choice, market competition, and strong protections.

It is my sincere hope that this legislation is designed to carefully and fairly police the financial services industry, treating similar products in the short-term credit market equally while encouraging lending practices that are fair to consumers. Is this the intent of the legislation?

I thank the Chairman, commend his continued efforts to pass meaningful financial regulatory reform this Congress, and thank him for his previous efforts to ensure we responsibly address the real financial needs of our institutions. I look forward to continuing our work together in this matter and as we further our efforts to put our nation back on solid financial footing.

Mr. BLUMENAUER, Mr. Speaker. I rise today to support the Conference Report on H.R. 4173—the Dodd-Frank Act of 2010. This legislation will strengthen our financial system by providing new rules that bar big banks and Wall Street investment houses from the risky practices that badly damaged our economy.

The legislation creates consumer protections to block predatory lending practices and financial gimmickry.

It has been remarked that the markets will discipline themselves. The fact that stands between poverty and wealth is some mythical regulatory barrier. But that is not what we found in the financial world and not what recent history illustrated. Instead, the market allowed participants to take wild reckless risks.
out private financial institutions and brings overdue oversight to our financial markets.

We learned the hard way that when private financial institutions grow too large, their failure will put our entire financial system and economy in peril. Mammoth companies like AIG, Citigroup, and Bear Stearns may now find themselves holding risks and invested in risky financial products. When the economy turned, it was taxpayers that bailed them out.

This bill imposes new requirements to discourage companies from becoming too large and unstable. Financial institutions will be prohibited from taking on excessive debt. The new Volcker Rule will limit the amount of money a bank can invest in hedge funds and otherwise use for gambling for its own benefit. Risky derivatives contracts owned by the banks will be subject to regulatory oversight and approval by government agencies. The bill also arms regulators to dismantle failing financial companies at the expense of the financial industry, not taxpayers.

This bill does more than just rein in the financial industry. It will also protect families. I strongly support the provision that will create a new Bureau of Consumer Financial Protection. This independent bureau within the Federal Reserve will be on the front lines protecting taxpayers from predatory lenders and other unfair practices by mortgage brokers, banks, student lenders, and credit card companies.

The bill goes a long way to prevent another foreclosure crisis by reforming the mortgage industry. The bill prohibits pre-payment penalties and trap borrowers into unaffordable loans. It outlawed the incentive that encouraged lenders to steer borrowers into complicated high-interest loans. There will be penalties for lenders and mortgage brokers who do not comply with these new standards. If a bad credit score negatively impacts someone in a hiring decision or a financial transaction, the consumer will have free access to their score.

This bill could be better. Breaking up the big banks would be the most effective tool to bring reform to Wall Street. This financial reform bill will only help for both financial institutions and consumers. Banks will have to learn to operate under increased scrutiny and face immediate consequences when they don't play by the rules. I support the Wall Street Reform and Consumer Protection Act and urge my colleagues to do the same.

Mr. LANGEVIN. Mr. Speaker, I rise in strong support of the conference report to H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act, which closes frequently exploited loopholes in our regulation system, puts an end to rewarding reckless behavior, and demands responsibility and accountability from Wall Street to prevent another economic collapse.

Over the past few years, the irresponsible actions of financial institutions and corporations have provided countless illustrations of the need to fix our broken system. As a result of the financial crisis, our country shed eight million jobs and Americans lost $17 trillion in retirement savings and net worth. My home state of Rhode Island was on the front lines of abusive and predatory lending practices, which damaged the credit of the state’s highest unemployment area. We have seen the rising consumer debt, and has endured devastating job loss, now suffering the fourth highest unemployment rate in the nation at 12.3 percent.

Like my constituents, I have been angered by the greed exhibited by Wall Street and other companies that took advantage of their investors, preyed on our citizens, and rewarded executives with outrageous pay packages. With this bill, consumer protection will be the cornerstone of America’s future. These new protections are targeted and fair: Merchants will be excluded from the oversight of the CFPA, and small banks and credit unions will not be subject to undue regulatory burdens. There will also be coordination with regulators and hedge funds to prevent undue regulatory burden.

This measure also establishes an orderly process for dismantling large, failing financial institutions like AIG or Lehman Brothers, which will protect taxpayers and prevent ripple effects throughout the rest of the financial system. This bill also discourages financial institutions from taking too many risks by imposing tough new capital and leverage requirements. Most importantly, there will be no more taxpayer bailouts for “too big to fail” institutions. This legislation will effectively end new lending under the Troubled Asset Relief Program.

Additionally, H.R. 4173 responds to the failure to detect frauds like the Madoff scheme by ordering a study of the entire securities industry. This measure will also increase investor protections by strengthening the Securities and Exchange Commission and boosting its funding level. For the first time ever, the over-the-counter derivatives marketplace will be regulated and hedge funds will have to register with the SEC. And the bill takes steps to reduce market reliance on the credit rating agencies and impose a liability standard on the agencies. This legislation will help create an environment in which financial institutions take care of—rather than are accountable to—their shareholders and customers.

I would like to thank the committees for their work on this bill, and especially want to thank Chairman FRANK for his leadership on this strong reform measure. This legislation represents a tremendous accomplishment for this Congress and this country. It is an urgently needed response to a crisis that should never have been allowed to happen, and its protections and reforms will benefit Americans for generations to come. I encourage all my colleagues to vote for this bill.

Mr. BOEHNER. Mr. Speaker, the legislation before us fails the American people.

Americans have suffered through a financial meltdown. A serious financial meltdown that destroyed millions of jobs and wiped out the savings of millions of American families. A devastating meltdown that slowed our economy, and raised new doubts about whether it’s even possible any longer to pursue the American Dream.

The legislation before us will do nothing—not even to fix those mistakes. The bill is more than 2,000 pages long. That in and of itself is an outrage. Haven’t we learned our lesson yet? Any bill produced by this Congress that is 2,000 pages long can’t possibly be good for jobs, or freedom, or our economy.

In those 2,000 pages, there is not a single reform made to Fannie Mae or Freddie Mac, the government mortgage companies at the heart of the meltdown.

Mr. Speaker, this reform is not reform. It’s more of the same. This is not change. It’s the status quo. It’s a sham.

Things could have been different. We could be here today passing a bipartisan bill to reform government-sponsored enterprises like Fannie Mae and Freddie Mac, Republicans, led by SPENCER BACHUS, offered such a proposal.

Instead of reforming Fannie and Freddie, we’re doing this 2,000 page monstrosity that will destroy jobs.

Mr. SPECTER: What are we thinking? What are we doing?

Today the president of the United States was in Wisconsin. He gave remarks there chastising Republicans for our objections to this bill. He suggested those who oppose the legislation before us “out of touch.”

The American people are tired of the rhetoric. They want solutions.

What’s “out of touch” are politicians who care more about elections and campaign ads than about the American people.

What’s “out of touch” are politicians who pass 2,000 page bills that will destroy jobs, at a time when 2,000 new pages of bigger government, private sector mandates, and unintended consequences.

The American people are sick and tired of it.

Mr. Speaker, when are we going to stop forcing responsible American citizens to subsidize irresponsible behavior?

Under this bill, Americans will have no choice but to keep on subsidizing the irresponsible behavior that got America into this mess.

There is no reform to Fannie Mae and Freddie Mac. There’s just 2,000 new pages of bigger government, private sector mandates, and unintended consequences.

The American people are sick and tired of it.

Mr. Speaker, when are we going to stop forcing responsible American citizens to subsidize irresponsible behavior?

When are we going to stop passing massive bills that destroy jobs?

When are we going to start working on real solutions to the challenges facing this country?

Apprently, not today.

I urge my colleagues—vote “no” on this job-killing bill, and let’s get to work on a real reform bill that will fix the problems that led to the financial meltdown.

Mr. FATTAH. Mr. Speaker, I rise in strong support of the Conference Report to Accompany H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2010. Rectifying the worst economic crisis to impact the financial markets since the Great Depression, the Wall Reform and Consumer Protection Act of 2010 outlawed many of the egregious industry practices that marked the subprime lending boom, ensuring mortgage lenders make loans that benefit the consumer rather than incentivizing self-dealing profit maximization.
In supporting this legislation, Congress corrects the failures of the financial sector, preventing the calamity that transpired after the collapse of the financial markets from reoccurring in the future.

One of the critical components of this legislation is the adoption of a provision that will end the practice of acting on behalf of financial institutions due to the determination that they are “too big to fail.” Taxpayers will no longer be asked to subsidize failing institutions due to negative impact on the economy. The bill creates a new structure in which the orderly dissolution of failed financial firms can occur without fear of financial panic.

The bill also imposes tough new capital and leverage requirements that create a disincentive for financial institutions to get too large without adequate structural support to ensure the financial soundness of the institution. Furthermore, the bill establishes rigorous standards for financial institutions in order to better protect the economy and American consumers, as well as investors and businesses.

Another important component of this legislation is the creation of a new independent watchdog within the Federal Reserve that provides consumers with clear and accurate information, and allows for mortgage, credit cards, and other financial products. The new regulatory structure protects consumers from hidden fees, abusive terms, and deceptive practices that were unfairly used against consumers with disturbing frequency. Furthermore, loopholes that allow financial institutions to engage in risky and abusive practices, including the unregulated exchange of over-the-counter derivatives, asset-backed securities, and hedge funds are eliminated.

More specifically, the Wall Street Reform and Consumer Protection Act includes the Emergency Homeowners’ Relief Fund, which will provide desperately needed assistance to millions of homeowners who now find they are unable to meet their financial obligations due to the severe recession caused by the unbridled greed and recklessness of the financial services industry. The foreclosure rate in the United States has been rising rapidly since the middle of 2006. Losing a home to foreclosure can hurt homeowners in many ways. For example, those who have been through a foreclosure may have difficulty finding a new place to live or obtaining a loan in the future. Furthermore, concentrated foreclosures can drag down nearby home prices, and large numbers of abandoned properties can negatively affect communities.

Finally, the increase in foreclosures may destabilize the housing market, which could in turn negatively impact the economy as a whole.

Although the economic recovery from the worst financial recession since the Great Depression is proceeding steadily under the leadership of the Obama Administration and Democratic Leadership in Congress, the tragic rise of unemployed homeowners threatens a sustained recovery. Unemployment is now the leading cause for delinquency for families facing yet another mortgage payment. The NeighborhoodWorks that examined the reasons why people are falling behind on their mortgage payments found that 58 percent of delinquent homeowners were behind due to job loss. The impact of foreclosures is particularly acute in minority communities due to the disproportionately high rates of joblessness.

Repossessions from housing foreclosures rose to a record high of 92,432 in April 2010, which is up 45 percent from the previous year. Continual rates of high unemployment places additional pressures on a financial system already overburdened with requests to modify loans by mortgage servicers, with many of those requests being unfulfilled. Under the guidance of the Treasury, the Obama Administration created the Home Affordable Modification Program (HAMP) as a part of the Making Home Affordable program to provide desperate relief to unemployed and underemployed homeowners.

HAMP encourages servicers to provide mortgage modifications for troubled borrowers in order to reduce the borrowers’ monthly mortgage payments to no more than 31 percent of their monthly income. In order to qualify, a borrower must have a mortgage on a single-family residence that was originated on or before January 1, 2009, must live in the home as his or her primary residence, and must have an unpaid principal balance on the mortgage that is no greater than the Fannie Mae/Freddie Mac conforming loan limit in high-cost areas ($729,750 for a one-unit property) for the area in which the mortgagor resides. For borrowers currently being paid more than 31 percent of their income toward mortgage payments, and must be experiencing a financial hardship that makes it difficult to current on the mortgage. Borrowers need not already be delinquent in order to qualify.

Though the Obama Administration’s efforts are commendable, the unprecedented scale of the problems facing homeowners demands that more needs be done to prevent homeowners from losing their homes. In Pennsylvania, a major state initiative to combat family-devastating foreclosures has been operating with success for more than a quarter-century, enacted in the wake of the severe recession of 1983. The Homeowners Emergency Mortgage Assistance Program (HEMAP) has provided loans to over 43,000 homeowners since 1964 at a cost to the Keystone State of $236 million. Assisted homeowners have repaid $246 million to date which works out to a $10 million profit for the state after 25 years of helping families keep their homes.

The Pennsylvania model will work nationally. It is with great gratitude that Chairman FRANK and Chairman DODD included my proposed mortgage relief provisions in the conference report that is being considered before the House today. Modeled after the bill I introduced in the House, the Emergency Homeowners’ Relief Fund that is contained in the House-Senate conference bill establishes an emergency mortgage assistance program for qualifying homeowners who are temporarily unable to meet their obligations due to financial hardships.

Under this program, homeowners would have the opportunity to regain financial stability without the immediate pressure of foreclosure. Specifically, a homeowner who indicated that he or she was unemployed would provide verification of unemployment compensation to the servicer and automatically be approved for a loan that would pay any mortgage above 31 percent of their income (the target amount in Making Home Affordable modifications). The Treasury would make payments for the homeowner on the homeowner’s behalf up to about 90 percent of what is payable to the lender. The Emergency Homeowners’ Relief Fund would cut through the disorder of the loan modification program and slow the numbers of foreclosed properties on the market.

Mr. Speaker, I wish to thank my colleagues on the House Financial Services Committee, Chairman BARNEY FRANK, Congresswoman MAXINE WATERS and Congressman PAUL KAGAN, as well as my colleagues in the Senate, Banking, Housing, and Urban Affairs Committee Chairman CHRIS DODD, and Senator BOB CASEY for their strong support of the mortgage foreclosure relief provisions contained in this bill. I also wish to thank the House Financial Services Committee staffers for their hard work in preparing this conference report, including Housing Policy Director Scott Olson and Deputy Chief Counsel Gail Laster. In addition, I would like to thank my Legislative Director, Nuku Ofori, for all of his efforts in getting this critical mortgage relief provisions included in the Wall Street Reform bill.

Ms. ROS-LEHTINEN. Mr. Speaker, It is a great tragedy that the final version of the financial services bill which was approved by a House-Senate conference, contained little or nothing for the hundreds of victims of Ponzi schemes, many of whom reside in my Congressional district.

This bill fell far short of doing everything or even anything, to assure the average American investor in the stock market that we want to protect their interests.

I proposed to the conference certain amendments to the Securities Investor Protection Act (SIPA) in order to protect victims of Ponzi schemes. Unfortunately, these reforms which were designed after extensive discussions with many of the victims, were totally ignored.

My amendments included an “anti-clawback” provision, designed to end the terror of thousands of Ponzi victims, who face years of protracted litigation against the government, unless these proposals are enacted.

Under no circumstances, except complicity with a crooked broker—should these investors be subject to clawback litigation.

The opposition to this amendment has mainly come from the SEC/SIPC and Wall Street who seek to protect SIPC’s right of subrogation, therefore taking money again from the victims and giving it back to SIPC. Not only is this disingenuous, but it shifts the burden of the financial loss to every taxpayer in America.

The importance of this amendment is that SIPA was intended to instill confidence in the capital markets and impose upon the SEC the responsibility to monitor and supervise those markets.

The idea that SIPA or the courts would hold innocent investors, who relied upon the SEC’s endorsement of Madoff, to suffer judgments for amounts they took out of their accounts in good faith, is upsetting.

One proposal suggests that clawbacks be allowed against so-called “negligent” investors. How could they be negligent if the SEC and FINRA never spotted the fraud over a 20 year period? In fact, in 1992, the SEC endorsed Madoff as safe.

Shouldn’t that affirmative statement be enough to shield investors from being accused of “negligence?” At a minimum, a defense against “negligence” requires innocent investors to spend vast amounts of money defending their conduct against a SIPC-funded trustee, who while making $1.4 million in fees per week, has
every incentive to prolong litigation against them.

As a practical matter, the court could say that every Madoff investor was negligent because they never uncovered the crime.

We should be protecting innocent victims of the SEC’s negligence, not protecting Wall Street and its stepchild, SIPC.

Another amendment I proposed would have provided for immediate payment to all Ponzi scheme victims of up to $500,000 in SIPC in- surance. That payment should be based upon the last statement the victims’ received from their broker. This amendment also clarifies that any person who invested in an ERISA-approved retirement plan is a “customer” under SIPA.

Americans have a right to rely upon the statements they receive from SEC-regulated broker/dealers. This was the Congressional purpose of SIPA in 1970 and it remains so today.

Tens of thousands of Americans have lost their life savings because of the inaction of the SEC and its failure to close down the operations of Bernard Madoff, Allen Stanford, and others. Let’s do the right thing for these people.

The President said he does not want BP to nickel and dime the oil spill victims, why is it OK to nickel and dime victims of the SEC? These people lost their life savings because of the greed of Wall Street and the inaction of the SEC.

We should have added these much needed amendments in order to ensure innocent investors that the American financial system is not rigged against them.

Mr. DINGELL. Madam Speaker, I stood before this body in 1999 and gave full-throated opposition to the repeal of the Glass-Steagall Act. My opposition had the merit of being correct a decade ago and, at the very least, prophetic today. Indeed, Graham-Leach-Billye gave rise to the creation of financial jug- phetic today. Indeed, Graham-Leach-Bliley gave rise to the creation of financial jug-

The SPEAKER pro tem. Mr. BACHUS. Mr. Speaker, on that I demand the yeas and nays.

PARLIAMENTARY INQUIRY

Mr. FRANK of Massachusetts. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tem. The gentleman will state his inquiry.

Mr. FRANK of Massachusetts. This is a legitimate parliamentary inquiry, probably the first one I have ever made or heard. But there was a lot of confusion.

Is it the case apparently that there is no debate on a motion to recommit on a conference report?

The SPEAKER pro tem. The gentleman is correct. There is no debate on this motion to recommit.

The yeas and nays have been demanded.

The yeas and nays were ordered.

The SPEAKER pro tem. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on adoption of the conference report, if ordered, and the motion to sus- pend the rules on H.R. 4445, if ordered.

The vote was taken by electronic de- vice, and there were—yeas 198, nays 229, not voting 5, as follows:

**YEAS—198**

- Ackerman (NY)
- Altman
- Andrews
- Raja
- Baird
- Baldwin
- Bean
- Behner
- Boyd
- Bratkovski
- Bright
- Brown, Corrine
- Butterfield
- Yarmuth
- Jones
- Jordan (OH)
- King (IA)
- King (NY)
- Kingston
- Kirk
- Kirkpatrick
- Kline (MN)
- Kratzer
- LaHood
- Lance
- Latham
- Latta
- Lee (NY)
- Lewis (CA)
- Linder
- Lipinski
- LoBiondo
- Lucas
- LaTourette
- Dennis
- Lungren, Daniel
- Foxx
- Frank (AZ)
- Prenghysen
- Gallegly
- Garrett (NJ)
- Giffords
- Gingrey (GA)
- Coehorn
- Granger
- Graves (GA)
- Graves (MO)
- Grayson
- Griffith
- Gutierez
- Hall (TX)
- Miller (AZ)
- Miller (GA)
- Estimates
- Holler
- Moran
- Marburn
- Hodes
- Hodes
- Scott
- Hoekstra
- Hanter
- Ingis
- Issa
- Jenkins
- Johnson (IL)
- Johnson, Sam
- Jones
- Perriello
- Petri
- Pitts
-为什么
- Philosophlyn
- Donnelly (IN)
- Kaptur
- Kaptur
- Kildee
- Kilpatrick (MI)
- Kilroy
- King (TX)
- King (GA)
- Putnam
- Kucinich
- LaHood
- Reichert
- Roe (TN)
- Rogers (Al)
- Rogers (KY)
- Rogers (MI)
- Roe (NH)
- Rosen
- Ross
- Royce
- Ryan (WI)
- Scalise
- Schmidt
- Schock
- Senenbrenner
- Sessions
- Shadegg
- Shimkus
- Shuster
- Simpson
- Skelton
- Smith (NE)
- Smith (TX)
- Spence
- Stearns
- Sullivan
- Teague
- Terry
- Thompson (PA)
- Thune
- Tashoff
- Tiberi
- Titus
- Murphy, Tim
- Turner
- Upton
- Walle
- Westmoreland
- Whittfield
- Wilson (SC)
- Wittman
- Wolf
- Young (FL)

**NAYS—229**

- Ackerman (NY)
- Altman
- Andrews
- Raja
- Baird
- Baldwin
- Bean
- Behner
- Boyd
- Bratkovski
- Bright
- Brown, Corrine
- Butterfield
- Yarmuth
- Jones
- Jordan (OH)
- King (IA)
- King (NY)
- Kingston
- Kirk
- Kink (AZ)
- Kline (MN)
- Kratzer
- LaHood
- Lance
- Latham
- Latta
- Lee (NY)
- Lewis (CA)
- Linder
- Lipinski
- LoBiondo
- Lucas
- LaTourette
- Dennis
- Lungren, Daniel
- Foxx
- Frank (AZ)
- Prenghysen
- Gallegly
- Garrett (NJ)
- Giffords
- Gingrey (GA)
- Coehorn
- Granger
- Graves (GA)
- Graves (MO)
- Grayson
- Griffith
- Gutierez
- Hall (TX)
- Miller (AZ)
- Miller (GA)
- Estimates
- Holler
- Moran
- Marburn
- Hodes
- Hodes
- Scott
- Hoekstra
- Hanter
- Ingis
- Issa
- Jenkins
- Johnson (IL)
- Johnson, Sam
- Jones
- Perriello
- Petri
- Pitts
-为什么
- Philosophlyn
- Donnelly (IN)
- Kaptur
- Kaptur
- Kildee
- Kilpatrick (MI)
- Kilroy
- King (TX)
- King (GA)
- Putnam
- Kucinich
- LaHood
- Reichert
- Roe (TN)
- Rogers (Al)
- Rogers (KY)
- Rogers (MI)
- Roe (NH)
- Rosen
- Ross
- Royce
- Ryan (WI)
- Scalise
- Schmidt
- Schock
- Senenbrenner
- Sessions
- Shadegg
- Shimkus
- Shuster
- Simpson
- Skelton
- Smith (NE)
- Smith (TX)
- Spence
- Stearns
- Sullivan
- Teague
- Terry
- Thompson (PA)
- Thune
- Tashoff
- Tiberi
- Titus
- Murphy, Tim
- Turner
- Upton
- Walle
- Westmoreland
- Whittfield
- Wilson (SC)
- Wittman
- Wolf
- Young (FL)
June 30, 2010
CONGRESSIONAL RECORD—HOUSE

H5261

Mr. GOODLATTE, Mrs. KIRK-PATRICK of Arizona, BACHMANN, Mr. EDWARDS of Texas, Ms. FOXX and Mr. BILBRAY changed their vote from “yea” to “nay.”

So the motion to reconsider was laid aside.

INDIAN PUEBLO CULTURAL CENTER CLARIFICATION ACT

The SPEAKER pro tempore. The Unfinished business is the question on suspending the rules and passing the bill (H.R. 4455) to amend Public Law 95-232 to repeal a restriction on treating as Indian country certain lands held in trust for Indian pueblos in New Mexico, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Mexico (Mr. HEINRICH) that the House suspend the rules and pass the bill, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

RECORDED VOTE

Mr. ANDREWS, Mr. Speaker. I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This bill is a 5-minute vote.