

113TH CONGRESS  
1ST SESSION

# H. R. 3711

To reduce risks to the financial system by limiting banks' ability to engage in certain risky activities and limiting conflicts of interest, to reinstate certain Glass-Steagall Act protections that were repealed by the Gramm-Leach-Bliley Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 11, 2013

Mr. TIERNEY (for himself and Mr. JONES) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To reduce risks to the financial system by limiting banks' ability to engage in certain risky activities and limiting conflicts of interest, to reinstate certain Glass-Steagall Act protections that were repealed by the Gramm-Leach-Bliley Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “21st Century Glass-  
5 Steagall Act of 2013”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—Congress finds that—

3 (1) in response to a financial crisis and the en-  
4 suing Great Depression, Congress enacted the Bank-  
5 ing Act of 1933, known as the “Glass-Steagall Act”,  
6 to prohibit commercial banks from offering invest-  
7 ment banking and insurance services;

8 (2) a series of deregulatory decisions by the  
9 Board of Governors of the Federal Reserve System  
10 and the Office of the Comptroller of the Currency,  
11 in addition to decisions by Federal courts, permitted  
12 commercial banks to engage in an increasing num-  
13 ber of risky financial activities that had previously  
14 been restricted under the Glass-Steagall Act, and  
15 also vastly expanded the meaning of the “business of  
16 banking” and “closely related activities” in banking  
17 law;

18 (3) in 1999, Congress enacted the “Gramm-  
19 Leach-Bliley Act”, which repealed the Glass-Steagall  
20 Act separation between commercial and investment  
21 banking and allowed for complex cross-subsidies and  
22 interconnections between commercial and investment  
23 banks;

24 (4) former Kansas City Federal Reserve Presi-  
25 dent Thomas Hoenig observed that “with the elimi-  
26 nation of Glass-Steagall, the largest institutions with

1 the greatest ability to leverage their balance sheets  
2 increased their risk profile by getting into trading,  
3 market making, and hedge fund activities, adding  
4 ever greater complexity to their balance sheets.”;

5 (5) the Financial Crisis Inquiry Report issued  
6 by the Financial Crisis Inquiry Commission con-  
7 cluded that, in the years between the passage of  
8 Gramm-Leach Bliley and the global financial crisis,  
9 “regulation and supervision of traditional banking  
10 had been weakened significantly, allowing commer-  
11 cial banks and thrifts to operate with fewer con-  
12 straints and to engage in a wider range of financial  
13 activities, including activities in the shadow banking  
14 system.”. The Commission also concluded that  
15 “[t]his deregulation made the financial system espe-  
16 cially vulnerable to the financial crisis and exacer-  
17 bated its effects.”;

18 (6) a report by the Financial Stability Over-  
19 sight Council pursuant to section 123 of the Dodd-  
20 Frank Wall Street Reform and Consumer Protection  
21 Act states that increased complexity and diversity of  
22 financial activities at financial institutions may  
23 “shift institutions towards more risk-taking, increase  
24 the level of interconnectedness among financial  
25 firms, and therefore may increase systemic default

1 risk. These potential costs may be exacerbated in  
2 cases where the market perceives diverse and com-  
3 plex financial institutions as ‘too big to fail,’ which  
4 may lead to excessive risk taking and concerns about  
5 moral hazard.”;

6 (7) the Senate Permanent Subcommittee on In-  
7 vestigations report, “Wall Street and the Financial  
8 Crisis: Anatomy of a Financial Collapse”, states that  
9 repeal of Glass-Steagall “made it more difficult for  
10 regulators to distinguish between activities intended  
11 to benefit customers versus the financial institution  
12 itself. The expanded set of financial services invest-  
13 ment banks were allowed to offer also contributed to  
14 the multiple and significant conflicts of interest that  
15 arose between some investment banks and their cli-  
16 ents during the financial crisis.”;

17 (8) the Senate Permanent Subcommittee on In-  
18 vestigations report, “JPMorgan Chase Whale  
19 Trades: A Case History of Derivatives Risks and  
20 Abuses”, describes how traders at JPMorgan Chase  
21 made risky bets using excess deposits that were  
22 partly insured by the Federal Government;

23 (9) in Europe, the Vickers Independent Com-  
24 mission on Banking (for the United Kingdom) and  
25 the Liikanen Report (for the Euro area) have both

1 found that there is no inherent reason to bundle “re-  
2 tail banking” with “investment banking” or other  
3 forms of relatively high risk securities trading, and  
4 European countries are set on a path of separating  
5 various activities that are currently bundled together  
6 in the business of banking;

7 (10) private sector actors prefer having access  
8 to underpriced public sector insurance, whether ex-  
9 plicit (for insured deposits) or implicit (for “too big  
10 to fail” financial institutions), to subsidize dan-  
11 gerous levels of risk-taking, which, from a broader  
12 social perspective, is not an advantageous arrange-  
13 ment; and

14 (11) the financial crisis, and the regulatory re-  
15 sponse to the crisis, has led to more mergers be-  
16 tween financial institutions, creating greater finan-  
17 cial sector consolidation and increasing the domi-  
18 nance of a few large, complex financial institutions  
19 that are generally considered to be “too big to fail”,  
20 and therefore are perceived by the markets as hav-  
21 ing an implicit guarantee from the Federal Govern-  
22 ment to bail them out in the event of their failure.

23 (b) PURPOSE.—The purposes of this Act are—

1           (1) to reduce risks to the financial system by  
2 limiting banks' ability to engage in activities other  
3 than socially valuable core banking activities;

4           (2) to protect taxpayers and reduce moral haz-  
5 ard by removing explicit and implicit government  
6 guarantees for high-risk activities outside of the core  
7 business of banking; and

8           (3) to eliminate conflicts of interest that arise  
9 from banks engaging in activities from which their  
10 profits are earned at the expense of their customers  
11 or clients.

12 **SEC. 3. SAFE AND SOUND BANKING.**

13       (a) INSURED DEPOSITORY INSTITUTIONS.—Section  
14 18(s) of the Federal Deposit Insurance Act (12 U.S.C.  
15 1828(s)) is amended by adding at the end the following:

16           “(6) LIMITATIONS ON BANKING AFFILI-  
17 ATIONS.—

18                   “(A) PROHIBITION ON AFFILIATIONS WITH  
19 NONDEPOSITORY ENTITIES.—An insured depos-  
20 itory institution may not—

21                           “(i) be or become an affiliate of any  
22 insurance company, securities entity, or  
23 swaps entity;

1           “(ii) be in common ownership or con-  
2           trol with any insurance company, securities  
3           entity, or swaps entity; or

4           “(iii) engage in any activity that  
5           would cause the insured depository institu-  
6           tion to qualify as an insurance company,  
7           securities entity, or swaps entity.

8           “(B) INDIVIDUALS ELIGIBLE TO SERVE ON  
9           BOARDS OF DEPOSITORY INSTITUTIONS.—

10           “(i) IN GENERAL.—An individual who  
11           is an officer, director, partner, or employee  
12           of any securities entity, insurance com-  
13           pany, or swaps entity may not serve at the  
14           same time as an officer, director, employee,  
15           or other institution-affiliated party of any  
16           insured depository institution.

17           “(ii) EXCEPTION.—Clause (i) does not  
18           apply with respect to service by any indi-  
19           vidual which is otherwise prohibited under  
20           clause (i), if the appropriate Federal bank-  
21           ing agency determines, by regulation with  
22           respect to a limited number of cases, that  
23           service by such an individual as an officer,  
24           director, employee, or other institution-af-  
25           filiated party of an insured depository in-

1           stitution would not unduly influence the in-  
2           vestment policies of the depository institu-  
3           tion or the advice that the institution pro-  
4           vides to customers.

5           “(iii) TERMINATION OF SERVICE.—

6           Subject to a determination under clause  
7           (i), any individual described in clause (i)  
8           who, as of the date of enactment of the  
9           21st Century Glass-Steagall Act of 2013,  
10          is serving as an officer, director, employee,  
11          or other institution-affiliated party of any  
12          insured depository institution shall termi-  
13          nate such service as soon as is practicable  
14          after such date of enactment, and in no  
15          event, later than the end of the 60-day pe-  
16          riod beginning on that date of enactment.

17          “(C) TERMINATION OF EXISTING AFFILI-  
18          ATIONS AND ACTIVITIES.—

19                 “(i) ORDERLY TERMINATION OF EX-  
20                 ISTING AFFILIATIONS AND ACTIVITIES.—

21                 Any affiliation, common ownership or con-  
22                 trol, or activity of an insured depository in-  
23                 stitution with any securities entity, insur-  
24                 ance company, or swaps entity, or any  
25                 other person, as of the date of enactment



1 of the 21st Century Glass-Steagall Act of  
2 2013, which is prohibited under subpara-  
3 graph (A) shall be terminated as soon as  
4 is practicable, and in no event later than  
5 the end of the 5-year period beginning on  
6 that date of enactment.

7 “(ii) EARLY TERMINATION.—The ap-  
8 propriate Federal banking agency, after  
9 opportunity for hearing, at any time, may  
10 order termination of an affiliation, common  
11 ownership or control, or activity prohibited  
12 by clause (i) before the end of the 5-year  
13 period described in clause (i), if the agency  
14 determines that—

15 “(I) such action is necessary to  
16 prevent undue concentration of re-  
17 sources, decreased or unfair competi-  
18 tion, conflicts of interest, or unsound  
19 banking practices; and

20 “(II) is in the public interest.

21 “(iii) EXTENSION.—Subject to a de-  
22 termination under clause (ii), an appro-  
23 priate Federal banking agency may extend  
24 the 5-year period described in clause (i) as  
25 to any particular insured depository insti-

1                   tution for not more than an additional 6  
2                   months at a time, if—

3                   “(I) the agency certifies that  
4                   such extension would promote the  
5                   public interest and would not pose a  
6                   significant threat to the stability of  
7                   the banking system or financial mar-  
8                   kets in the United States; and

9                   “(II) such extension, in the ag-  
10                  gregate, does not exceed 1 year for  
11                  any one insured depository institution.

12                  “(iv) REQUIREMENTS FOR ENTITIES  
13                  RECEIVING AN EXTENSION.—Upon receipt  
14                  of an extension under clause (iii), the in-  
15                  sured depository institution shall notify its  
16                  shareholders and the general public that it  
17                  has failed to comply with the requirements  
18                  of clause (i).

19                  “(D) DEFINITIONS.—For purposes of this  
20                  paragraph, the following definitions shall apply:

21                  “(i) INSURANCE COMPANY.—The term  
22                  ‘insurance company’ has the same meaning  
23                  as in section 2(q) of the Bank Holding  
24                  Company Act of 1956 (12 U.S.C.  
25                  1841(q)).

1           “(ii) SECURITIES ENTITY.—Except as  
2 provided in clause (iii), the term ‘securities  
3 entity’—

4           “(I) includes any entity engaged  
5 in—

6           “(aa) the issue, flotation,  
7 underwriting, public sale, or dis-  
8 tribution of stocks, bonds, deben-  
9 tures, notes, or other securities;

10           “(bb) market making;

11           “(cc) activities of a broker  
12 or dealer, as those terms are de-  
13 fined in section 3(a) of the Secu-  
14 rities Exchange Act of 1934;

15           “(dd) activities of a futures  
16 commission merchant;

17           “(ee) activities of an invest-  
18 ment adviser or investment com-  
19 pany, as those terms are defined  
20 in the Investment Advisers Act of  
21 1940 and the Investment Com-  
22 pany Act of 1940, respectively; or

23           “(ff) hedge fund or private  
24 equity investments in the securi-

1 ties of either privately or publicly  
2 held companies; and

3 “(II) does not include a bank  
4 that, pursuant to its authorized trust  
5 and fiduciary activities, purchases and  
6 sells investments for the account of its  
7 customers or provides financial or in-  
8 vestment advice to its customers.

9 “(iii) SWAPS ENTITY.—The term  
10 ‘swaps entity’ means any swap dealer, se-  
11 curity-based swap dealer, major swap par-  
12 ticipant, or major security-based swap par-  
13 ticipant, that is registered under—

14 “(I) the Commodity Exchange  
15 Act (7 U.S.C. 1 et seq.); or

16 “(II) the Securities Exchange  
17 Act of 1934 (15 U.S.C. 78a et seq.).

18 “(iv) INSURED DEPOSITORY INSTITU-  
19 TION.—The term ‘insured depository insti-  
20 tution’—

21 “(I) has the same meaning as in  
22 section 3(c)(2); and

23 “(II) does not include a savings  
24 association controlled by a savings  
25 and loan holding company, as de-

1 scribed in section 10(c)(9)(C) of the  
2 Home Owners' Loan Act (12 U.S.C.  
3 1467a(c)(9)(C)).”.

4 (b) LIMITATION ON BANKING ACTIVITIES.—Section  
5 21 of the Banking Act of 1933 (12 U.S.C. 378) is amend-  
6 ed by adding at the end the following:

7 “(c) BUSINESS OF RECEIVING DEPOSITS.—For pur-  
8 poses of this section, the term ‘business of receiving depos-  
9 its’ includes the establishment and maintenance of any  
10 transaction account (as defined in section 19(b)(1)(C) of  
11 the Federal Reserve Act).”.

12 (c) PERMITTED ACTIVITIES OF NATIONAL BANKS.—  
13 Section 24 (Seventh) of the Revised Statutes of the United  
14 States (12 U.S.C. 24 (Seventh)) is amended to read as  
15 follows:

16 “Seventh. (A) To exercise by its board of direc-  
17 tors or duly authorized officers or agents, subject to  
18 law, all such powers as are necessary to carry on the  
19 business of banking.

20 “(B) As used in this paragraph, the term ‘busi-  
21 ness of banking’ shall be limited to the following  
22 core banking services:

23 “(i) RECEIVING DEPOSITS.—A national  
24 banking association may engage in the business  
25 of receiving deposits.

1           “(ii) EXTENSIONS OF CREDIT.—A national  
2 banking association may—

3           “(I) extend credit to individuals, busi-  
4 nesses, not for profit organizations, and  
5 other entities;

6           “(II) discount and negotiate promis-  
7 sory notes, drafts, bills of exchange, and  
8 other evidences of debt; and

9           “(III) loan money on personal secu-  
10 rity.

11          “(iii) PAYMENT SYSTEMS.—A national  
12 banking association may participate in payment  
13 systems, defined as instruments, banking proce-  
14 dures, and interbank funds transfer systems  
15 that ensure the circulation of money.

16          “(iv) COIN AND BULLION.—A national  
17 banking association may buy, sell, and exchange  
18 coin and bullion.

19          “(v) INVESTMENTS IN SECURITIES.—

20           “(I) IN GENERAL.—A national bank-  
21 ing association may invest in investment  
22 securities, defined as marketable obliga-  
23 tions evidencing indebtedness of any per-  
24 son, copartnership, association, or corpora-  
25 tion in the form of bonds, notes, or deben-

1           tures (commonly known as ‘investment se-  
2           curities’), obligations of the Federal Gov-  
3           ernment, or any State or subdivision there-  
4           of, under such further definition of the  
5           term ‘investment securities’ as the Comp-  
6           troller of the Currency, the Federal De-  
7           posit Insurance Corporation, and the  
8           Board of Governors of the Federal Reserve  
9           System may jointly prescribe, by regula-  
10          tion.

11           “(II) LIMITATIONS.—The business of  
12          dealing in securities and stock by the asso-  
13          ciation shall be limited to purchasing and  
14          selling such securities and stock without  
15          recourse, solely upon the order, and for the  
16          account of, customers, and in no case for  
17          its own account, and the association shall  
18          not underwrite any issue of securities or  
19          stock. The association may purchase for its  
20          own account investment securities under  
21          such limitations and restrictions as the  
22          Comptroller of the Currency, the Federal  
23          Deposit Insurance Corporation, and the  
24          Board of Governors of the Federal Reserve  
25          System may jointly prescribe, by regula-

1           tion. In no event shall the total amount of  
2           the investment securities of any one obligor  
3           or maker, held by the association for its  
4           own account, exceed at any time 10 per-  
5           cent of its capital stock actually paid in  
6           and unimpaired and 10 percent of its  
7           unimpaired surplus fund, except that such  
8           limitation shall not require any association  
9           to dispose of any securities lawfully held by  
10          it on August 23, 1935.

11           “(C) PROHIBITION AGAINST TRANSACTIONS IN-  
12          VOLVING STRUCTURED OR SYNTHETIC PRODUCTS.—  
13          A national banking association shall not invest in a  
14          structured or synthetic product, a financial instru-  
15          ment in which a return is calculated based on the  
16          value of, or by reference to the performance of, a se-  
17          curity, commodity, swap, other asset, or an entity, or  
18          any index or basket composed of securities, commod-  
19          ities, swaps, other assets, or entities, other than cus-  
20          tomarily determined interest rates, or otherwise en-  
21          gage in the business of receiving deposits or extend-  
22          ing credit for transactions involving structured or  
23          synthetic products.”.

24          (d) PERMITTED ACTIVITIES OF FEDERAL SAVINGS  
25          ASSOCIATIONS.—



1           (1) IN GENERAL.—Section 5(c)(1) of the Home  
2 Owners’ Loan Act (12 U.S.C. 1464(c)(1)) is amend-  
3 ed—

4                   (A) by striking subparagraph (Q); and  
5                   (B) by redesignating subparagraphs (R)  
6 through (U) as subparagraphs (Q) through (T),  
7 respectively.

8           (2) CONFORMING AMENDMENT.—Section  
9 10(c)(9)(A) of the Home Owners’ Loan Act (12  
10 U.S.C. 1467a(c)(9)(A)) is amended by striking “per-  
11 mitted—” and all that follows through clause (ii)  
12 and inserting “permitted under paragraph (1)(C) or  
13 (2).”.

14           (e) CLOSELY RELATED ACTIVITIES.—Section 4(c) of  
15 the Bank Holding Company Act of 1956 (12 U.S.C.  
16 1843(c)) is amended—

17                   (1) in paragraph (8), by striking “had been de-  
18 termined” and all that follows through the end and  
19 inserting the following: “are so closely related to  
20 banking so as to be a proper incident thereto, as  
21 provided under this paragraph or any rule or regula-  
22 tion issued by the Board under this paragraph, pro-  
23 vided that the following shall not be considered  
24 closely related for purposes of this paragraph:

1           “(A) Serving as an investment advisor (as  
2 defined in section 2(a)(20) of the Investment  
3 Company Act of 1940 (15 U.S.C. 80a-  
4 2(a)(20))) to an investment company registered  
5 under that Act, including sponsoring, orga-  
6 nizing, and managing a closed-end investment  
7 company.

8           “(B) Agency transactional services for cus-  
9 tomer investments, except that this subpara-  
10 graph may not be construed as prohibiting pur-  
11 chases and sales of investments for the account  
12 of customers conducted by a bank (or sub-  
13 sidiary thereof) pursuant to the bank’s trust  
14 and fiduciary powers.

15           “(C) Investment transactions as principal,  
16 except for activities specifically allowed by para-  
17 graph (14).

18           “(D) Management consulting and coun-  
19 seling activities.”;

20           (2) in paragraph (13), by striking “or” at the  
21 end;

22           (3) by redesignating paragraph (14) as para-  
23 graph (15); and

24           (4) by inserting after paragraph (13) the fol-  
25 lowing:

1           “(14) purchasing, as an end user, any swap, to  
2           the extent that—

3                   “(A) the purchase of any such swap occurs  
4                   contemporaneously with the underlying hedged  
5                   item or hedged transaction;

6                   “(B) there is formal documentation identi-  
7                   fying the hedging relationship with particularity  
8                   at the inception of the hedge; and

9                   “(C) the swap is being used to hedge  
10                  against exposure to—

11                           “(i) changes in the value of an indi-  
12                           vidual recognized asset or liability or an  
13                           identified portion thereof that is attrib-  
14                           utable to a particular risk;

15                           “(ii) changes in interest rates; or

16                           “(iii) changes in the value of currency;  
17                           or”.

18           (f) PROHIBITED ACTIVITIES.—Section 4(a) of the  
19 Bank Holding Company Act of 1956 (12 U.S.C. 1843(a))  
20 is amended—

21                   (1) in paragraph (1), by striking “or” at the  
22                   end;

23                   (2) in paragraph (2), by striking the period at  
24                   the end and inserting “; or”; and

1           (3) by inserting before the undesignated matter  
2 following paragraph (2), the following:

3           “(3) with the exception of the activities per-  
4 mitted under subsection (c), engage in the business  
5 of a ‘securities entity’ or a ‘swaps entity’, as those  
6 terms are defined in section 18(s)(6)(D) of the Fed-  
7 eral Deposit Insurance Act (12 U.S.C.  
8 1828(s)(6)(D)), including, without limitation, deal-  
9 ing or making markets in securities, repurchase  
10 agreements, exchange traded and over-the-counter  
11 swaps, as defined by the Commodity Futures Trad-  
12 ing Commission and the Securities and Exchange  
13 Commission, or structured or synthetic products, as  
14 defined in section 24 (Seventh) of the Revised Stat-  
15 utes of the United States (12 U.S.C. 24 (Seventh)),  
16 or any other over-the-counter securities, swaps, con-  
17 tracts, or any other agreement that derives its value  
18 from, or takes on the form of, such securities, de-  
19 rivatives, or contracts;

20           “(4) engage in proprietary trading, as provided  
21 by section 13, or any rule or regulation under that  
22 section;

23           “(5) own, sponsor, or invest in a hedge fund, or  
24 private equity fund, or any other fund, as provided  
25 by section 13, or any rule or regulation under that

1 section, or any other fund which exhibits the charac-  
2 teristics of a fund that takes on proprietary trading  
3 activities or positions;

4 “(6) hold ineligible securities or derivatives;

5 “(7) engage in market-making; or

6 “(8) engage in prime brokerage activities.”.

7 (g) ANTI-EVASION.—

8 (1) IN GENERAL.—Any attempt to structure  
9 any contract, investment, instrument, or product in  
10 such a manner that the purpose or effect of such  
11 contract, investment, instrument, or product is to  
12 evade or attempt to evade the prohibitions described  
13 in section 18(s)(6) of the Federal Deposit Insurance  
14 Act, section 21(c) of the Banking Act of 1933, para-  
15 graph (Seventh) of section 24 of the Revised Stat-  
16 utes of the United States, section 5(c)(1) of the  
17 Home Owners’ Loan Act, or section 4(a) of the  
18 Bank Holding Company Act of 1956, as added or  
19 amended by this section, shall be considered a viola-  
20 tion of the Federal Deposit Insurance Act, the  
21 Banking Act of 1933, section 24 of the Revised  
22 Statutes of the United States, the Home Owners’  
23 Loan Act, and the Bank Holding Company Act of  
24 1956, respectively.

25 (2) TERMINATION.—

1 (A) IN GENERAL.—Notwithstanding any  
2 other provision of law, if a Federal agency has  
3 reasonable cause to believe that an insured de-  
4 pository institution, securities entity, swaps en-  
5 tity, insurance company, bank holding company,  
6 or other entity over which that agency has reg-  
7 ulatory authority has made an investment or  
8 engaged in an activity in a manner that func-  
9 tions as an evasion of the prohibitions described  
10 in paragraph (1) (including through an abuse  
11 of any permitted activity) or otherwise violates  
12 such prohibitions, the agency shall—

13 (i) order, after due notice and oppor-  
14 tunity for hearing, the entity to terminate  
15 the activity and, as relevant, dispose of the  
16 investment;

17 (ii) order, after the procedures de-  
18 scribed in clause (i), the entity to pay a  
19 penalty equal to 10 percent of the entity's  
20 net profits, averaged over the previous 3  
21 years, into the United States Treasury;  
22 and

23 (iii) initiate proceedings described in  
24 12 U.S.C. 1818(e) for individuals involved

1           in evading the prohibitions described in  
2           paragraph (1).

3           (B) CONSTRUCTION.—Nothing in this  
4           paragraph shall be construed to limit the inher-  
5           ent authority of any Federal agency or State  
6           regulatory authority to further restrict any in-  
7           vestments or activities under otherwise applica-  
8           ble provisions of law.

9           (3) REPORTING REQUIREMENT.—Each year,  
10          each Federal agency having regulatory authority  
11          over any entity described in paragraph (2)(A) shall  
12          issue a report to the Committee on Banking, Hous-  
13          ing, and Urban Affairs of the Senate and the Com-  
14          mittee on Financial Services of the House of Rep-  
15          resentatives, and shall make such report available to  
16          the public. The report shall identify the number and  
17          character of any activities that took place in the pre-  
18          ceding year that function as an evasion of the prohi-  
19          bitions described in paragraph (1), the names of the  
20          particular entities engaged in those activities, and  
21          the actions of the agency taken under paragraph  
22          (2).

23          (h) ATTESTATION.—Section 4 of the Bank Holding  
24          Company Act of 1956 (12 U.S.C. 1843), as amended by

1 section 3(a)(1) of this Act, is amended by adding at the  
2 end the following:

3 “(k) ATTESTATION.—Executives of any bank holding  
4 company or its affiliate shall attest in writing, under pen-  
5 alty of perjury, that the bank holding company or affiliate  
6 is not engaged in any activity that is prohibited under sub-  
7 section (a), except to the extent that such activity is per-  
8 mitted under subsection (e).”.

9 **SEC. 4. REPEAL OF GRAMM-LEACH-BLILEY ACT PROVI-**  
10 **SIONS.**

11 (a) **TERMINATION OF FINANCIAL HOLDING COM-**  
12 **PANY DESIGNATION.—**

13 (1) **IN GENERAL.—**Section 4 of the Bank Hold-  
14 ing Company Act of 1956 (12 U.S.C. 1843) is  
15 amended by striking subsections (k), (l), (m), (n),  
16 and (o).

17 (2) **TRANSITION.—**

18 (A) **ORDERLY TERMINATION OF EXISTING**  
19 **AFFILIATION.—**In the case of a bank holding  
20 company which, pursuant to the amendments  
21 made by paragraph (1), is no longer authorized  
22 to control or be affiliated with any entity that  
23 was permissible for a financial holding company  
24 on the day before the date of enactment of this  
25 Act, any affiliation, ownership or control, or ac-



1           tivity by the bank holding company which is not  
2           permitted for a bank holding company shall be  
3           terminated as soon as is practicable, and in no  
4           event later than the end of the 5-year period  
5           beginning on the date of enactment of this Act.

6           (B) EARLY TERMINATION.—The Board of  
7           Governors of the Federal Reserve System (in  
8           this section referred to as the “Board”), after  
9           opportunity for hearing, at any time, may ter-  
10          minate an affiliation prohibited by subpara-  
11          graph (A) before the end of the 5-year period  
12          described in subparagraph (A), if the Board de-  
13          termines that such action—

14                 (i) is necessary to prevent undue con-  
15                 centration of resources, decreased or unfair  
16                 competition, conflicts of interest, or un-  
17                 sound banking practices; and

18                 (ii) is in the public interest.

19          (C) EXTENSION.—Subject to a determina-  
20          tion under subparagraph (B), the Board may  
21          extend the 5-year period described in subpara-  
22          graph (A), as to any particular bank holding  
23          company, for not more than an additional 6  
24          months at a time, if—

1 (i) the Board certifies that such ex-  
2 tension would promote the public interest  
3 and would not pose a significant risk to  
4 the stability of the banking system or fi-  
5 nancial markets of the United States; and

6 (ii) such extension, in the aggregate,  
7 does not exceed 1 year for any one bank  
8 holding company.

9 (D) REQUIREMENTS FOR ENTITIES RE-  
10 CEIVING AN EXTENSION.—Upon receipt of an  
11 extension under subparagraph (C), the bank  
12 holding company shall notify its shareholders  
13 and the general public that it has failed to com-  
14 ply with the requirements of subparagraph (A).

15 (3) TECHNICAL AND CONFORMING AMEND-  
16 MENTS.—

17 (A) BANK HOLDING COMPANY ACT OF  
18 1956.—The Bank Holding Company Act of  
19 1956 (12 U.S.C. 1841 et seq.) is amended—

20 (i) in section 2 (12 U.S.C. 1841)—

21 (I) by striking subsection (p);

22 and

23 (II) by redesignating subsection

24 (q) as subsection (p);

1 (ii) in section 5(c) (12 U.S.C.  
2 1844(c)), by striking paragraphs (3), (4),  
3 and (5); and

4 (iii) in section 5 (12 U.S.C. 1844), by  
5 striking subsection (g).

6 (4) FDIA.—The Federal Deposit Insurance Act  
7 (12 U.S.C. 1811 et seq.) is amended—

8 (A) by striking sections 45 and 46 (12  
9 U.S.C. 1831v, 1831w); and

10 (B) by redesignating sections 47 through  
11 50 as sections 45 through 48, respectively.

12 (5) GRAMM-LEACH-BLILEY.—Subtitle B of title  
13 I of the Gramm-Leach-Bliley Act is amended by  
14 striking section 115 (12 U.S.C. 1820a).

15 (b) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS  
16 DISALLOWED.—

17 (1) IN GENERAL.—Section 5136A of the Re-  
18 vised Statutes of the United States (12 U.S.C. 24a)  
19 is repealed.

20 (2) TRANSITION.—

21 (A) ORDERLY TERMINATION OF EXISTING  
22 AFFILIATION.—In the case of a national bank  
23 which, pursuant to the amendment made by  
24 paragraph (1), is no longer authorized to con-  
25 trol or be affiliated with a financial subsidiary

1 as of the date of enactment of this Act, such af-  
2 filiation, ownership or control, or activity shall  
3 be terminated as soon as is practicable, and in  
4 no event later than the end of the 5-year period  
5 beginning on the date of enactment of this Act.

6 (B) EARLY TERMINATION.—The Comp-  
7 troller of the Currency (in this section referred  
8 to as the “Comptroller”), after opportunity for  
9 hearing, at any time, may terminate an affili-  
10 ation prohibited by subparagraph (A) before the  
11 end of the 5-year period described in subpara-  
12 graph (A), if the Comptroller determines, hav-  
13 ing due regard for the purposes of this Act,  
14 that—

15 (i) such action is necessary to prevent  
16 undue concentration of resources, de-  
17 creased or unfair competition, conflicts of  
18 interest, or unsound banking practices; and

19 (ii) is in the public interest.

20 (C) EXTENSION.—Subject to a determina-  
21 tion under subparagraph (B), the Comptroller  
22 may extend the 5-year period described in sub-  
23 paragraph (A) as to any particular national  
24 bank for not more than an additional 6 months,  
25 if—

1 (i) the Comptroller certifies that such  
2 extension would promote the public inter-  
3 est and would not pose a significant risk to  
4 the stability of the banking system or fi-  
5 nancial markets of the United States; and

6 (ii) such extension, in the aggregate,  
7 does not exceed 1 year for any single na-  
8 tional bank.

9 (D) REQUIREMENTS FOR ENTITIES RE-  
10 CEIVING AN EXTENSION.—Upon receipt of an  
11 extension under subparagraph (C), the national  
12 bank shall notify its shareholders and the gen-  
13 eral public that it has failed to comply with the  
14 requirements described in subparagraph (A).

15 (3) TECHNICAL AND CONFORMING AMEND-  
16 MENT.—The 20th undesignated paragraph of section  
17 9 of the Federal Reserve Act (12 U.S.C. 335) is  
18 amended by striking the last sentence.

19 (4) CLERICAL AMENDMENT.—The table of sec-  
20 tions for chapter one of title LXII of the Revised  
21 Statutes of the United States is amended by striking  
22 the item relating to section 5136A.

23 (e) REPEAL OF PROVISION RELATING TO FOREIGN  
24 BANKS FILING AS FINANCIAL HOLDING COMPANIES.—

1 Section 8(c) of the International Banking Act of 1978 (12

2 U.S.C. 3106(c)) is amended by striking paragraph (3).

3 **SEC. 5. REPEAL OF BANKRUPTCY PROVISIONS.**

4 Title 11, United States Code, is amended by striking

5 sections 555, 559, 560, 561, and 562.

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