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FEDERAL DEPOSIT INSURANCE REFORM ACT OF 2003

MARCH 27, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. OXLEY, from the Committee on Financial Services, submitted the following

R E P O R T

together with

SUPPLEMENTAL AND DISSENTING VIEWS

[To accompany H.R. 522]

The Committee on Financial Services, to whom was referred the bill (H.R. 522) to reform the Federal deposit insurance system, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Deposit Insurance Reform Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Merging the BIF and SAIF.
Sec. 3. Increase in deposit insurance coverage.
Sec. 4. Setting assessments and repeal of special rules relating to minimum assessments and free deposit insurance.
Sec. 5. Replacement of fixed designated reserve ratio with reserve range.
Sec. 6. Requirements applicable to the risk-based assessment system.
Sec. 7. Refunds, dividends, and credits from Deposit Insurance Fund.
Sec. 8. Deposit Insurance Fund restoration plans.
Sec. 9. Regulations required.
Sec. 10. Studies of FDIC structure and expenses and certain activities and further possible changes to deposit insurance system.
Sec. 11. Bi-annual FDIC survey and report on increasing the deposit base by encouraging use of depository institutions by the unbanked.
Sec. 12. Technical and conforming amendments to the Federal Deposit Insurance Act relating to the merger of the BIF and SAIF.
Sec. 13. Other technical and conforming amendments relating to the merger of the BIF and SAIF.

SEC. 2. MERGING THE BIF AND SAIF.

(a) IN GENERAL.—

(1) MERGER.—The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund.

(2) DISPOSITION OF ASSETS AND LIABILITIES.—All assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund.

(3) NO SEPARATE EXISTENCE.—The separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease on the effective date of the merger thereof under this section.

(b) REPEAL OF OUTDATED MERGER PROVISION.—Section 2704 of the Deposit Insurance Funds Act of 1996 (12 U.S.C. 1821 note) is repealed.

(c) EFFECTIVE DATE.—This section shall take effect on the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 3. INCREASE IN DEPOSIT INSURANCE COVERAGE.

(a) IN GENERAL.—Section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)) is amended—

(1) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed the standard maximum deposit insurance amount as determined in accordance with subparagraphs (C), (D), (E) and (F) and paragraph (3)."; and

(2) by adding at the end the following new subparagraphs:

"(E) STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT DEFINED.—For purposes of this Act, the term 'standard maximum deposit insurance amount' means—

"(i) until the effective date of final regulations prescribed pursuant to section 9(a)(2) of the Federal Deposit Insurance Reform Act of 2003, $100,000; and

"(ii) on and after such effective date, $130,000, adjusted as provided under subparagraph (F).

"(F) INFLATION ADJUSTMENT.—

"(i) IN GENERAL.—By April 1 of 2005, and the 1st day of each subsequent 5-year period, the Board of Directors and the National Credit Union Administration Board shall jointly prescribe the amount by which the standard maximum deposit insurance amount and the standard maximum share insurance amount (as defined in section 207(k) of the Federal Credit Union Act) applicable to any depositor at an insured depository institution shall be increased by calculating the product of—

"(I) $130,000; and

"(II) the ratio of the value of the Personal Consumption Expenditures Chain-Type Index (or any successor index thereto), published by the Department of Commerce, as of December 31 of the year preceding the year in which the adjustment is calculated under this clause, to the value of such index as of the date this subparagraph takes effect.

"(ii) ROUNDING.—If the amount determined under clause (ii) for any period is not a multiple of $10,000, the amount so determined shall be rounded to the nearest $10,000.

"(iii) PUBLICATION AND REPORT TO THE CONGRESS.—Not later than April 5 of any calendar year in which an adjustment is required to be calculated under clause (i) to the standard maximum deposit insurance amount and the standard maximum share insurance amount under such clause, the Board of Directors and the National Credit Union Administration Board shall—

"(I) publish in the Federal Register the standard maximum deposit insurance amount, the standard maximum share insurance amount, and the amount of coverage under paragraph (3)(A) and section 207(k)(3) of the Federal Credit Union Act, as so calculated; and

"(II) jointly submit a report to the Congress containing the amounts described in subclause (I).

"(iv) 6-MONTH IMPLEMENTATION PERIOD.—Unless an Act of Congress enacted before July 1 of the calendar year in which an adjustment is required to be calculated under clause (i) provides otherwise, the increase in the standard maximum deposit insurance amount and the standard maximum share insurance amount shall take effect on January 1 of the year immediately succeeding such calendar year.".

(b) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—Section 11(a)(1)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(D)) is amended to read as follows:

"(D) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—

"(i) PASS-THROUGH INSURANCE.—The Corporation shall provide pass-through deposit insurance for the deposits of any employee benefit plan.

"(ii) PROHIBITION ON ACCEPTANCE OF BENEFIT PLAN DEPOSITS.—An insured depository institution that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

"(iii) DEFINITIONS.—For purposes of this subparagraph, the following definitions shall apply:

"(I) CAPITAL STANDARDS.—The terms 'well capitalized' and 'adequately capitalized' have the same meanings as in section 38.

"(II) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan' has the same meaning as in paragraph (8)(B)(ii), and includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(III) PASS-THROUGH DEPOSIT INSURANCE.—The term 'pass-through deposit insurance' means, with respect to an employee benefit plan, deposit insurance coverage provided on a pro rata basis to the participants in the plan, in accordance with the interest of each participant.".

(c) DOUBLING OF DEPOSIT INSURANCE FOR CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)(A)) is amended by striking "$100,000" and inserting "2 times the standard maximum deposit insurance amount (as determined under paragraph (1))".

(d) INCREASED INSURANCE COVERAGE FOR MUNICIPAL DEPOSITS.—Section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended—

(1) in subparagraph (A)—

(A) by moving the margins of clauses (i) through (v) 4 ems to the right;

(B) by striking, in the matter following clause (v), "such depositor shall" and all that follows through the period; and

(C) by striking the semicolon at the end of clause (v) and inserting a period;

(2) by striking "(2)(A) Notwithstanding" and all that follows through "a depositor who is—" and inserting the following:

"(2) MUNICIPAL DEPOSITORS.—

"(A) IN GENERAL.—Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available to any 1 depositor—

"(i) a municipal depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed to be a depositor separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in subparagraph (E); and

"(ii) except as provided in subparagraph (B), the deposits of a municipal depositor shall be insured in an amount equal to the standard maximum deposit insurance amount (as determined under paragraph (1)).

"(B) IN-STATE MUNICIPAL DEPOSITORS.—In the case of the deposits of an in-State municipal depositor described in clause (ii), (iii), (iv), or (v) of subparagraph (E) at an insured depository institution, such deposits shall be insured in an amount not to exceed the lesser of—

"(i) $2,000,000; or

"(ii) the sum of the standard maximum deposit insurance amount and 80 percent of the amount of any deposits in excess of the standard maximum deposit insurance amount.

"(C) MUNICIPAL DEPOSIT PARITY.—No State may deny to insured depository institutions within its jurisdiction the authority to accept deposits insured under this paragraph, or prohibit the making of such deposits in such institutions by any in-State municipal depositor.

"(D) IN-STATE MUNICIPAL DEPOSITOR DEFINED.—For purposes of this paragraph, the term 'in-State municipal depositor' means a municipal depositor that is located in the same State as the office or branch of the insured depository institution at which the deposits of that depositor are held.

"(E) MUNICIPAL DEPOSITOR.—In this paragraph, the term 'municipal depositor' means a depositor that is—";

(3) by striking "(B) The" and inserting the following:

"(F) AUTHORITY TO LIMIT DEPOSITS.—The"; and

(4) by striking "depositor referred to in subparagraph (A) of this paragraph" each place such term appears and inserting "municipal depositor".

(e) TECHNICAL AND CONFORMING AMENDMENT RELATING TO INSURANCE OF TRUST FUNDS.—Paragraphs (1) and (3) of section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) are each amended by striking "$100,000" and inserting "the standard maximum deposit insurance amount (as determined under section 11(a)(1))".

(f) OTHER TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 11(m)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1821(m)(6)) is amended by striking "$100,000" and inserting "an amount equal to the standard maximum deposit insurance amount".

(2) Subsection (a) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(a)) is amended to read as follows:

"(a) INSURANCE LOGO.—

"(1) INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—Each insured depository institution shall display at each place of business maintained by that institution a sign or signs relating to the insurance of the deposits of the institution, in accordance with regulations to be prescribed by the Corporation.

"(B) STATEMENT TO BE INCLUDED.—Each sign required under subparagraph (A) shall include a statement that insured deposits are backed by the full faith and credit of the United States Government.

"(2) REGULATIONS.—The Corporation shall prescribe regulations to carry out this subsection, including regulations governing the substance of signs required by paragraph (1) and the manner of display or use of such signs.

"(3) PENALTIES.—For each day that an insured depository institution continues to violate this subsection or any regulation issued under this subsection, it shall be subject to a penalty of not more than $100, which the Corporation may recover for its use.".

(3) Section 43(d) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(d)) is amended by striking "$100,000" and inserting "an amount equal to the standard maximum deposit insurance amount".

(4) Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(A) by striking "$100,000" each place such term appears and inserting "an amount equal to the standard maximum deposit insurance amount"; and

(B) by adding at the end the following new subsection:

"(e) STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT DEFINED.—For purposes of this section, the term 'standard maximum deposit insurance amount' means the amount of the maximum amount of deposit insurance as determined under section 11(a)(1) of the Federal Deposit Insurance Act.".

(g) CONFORMING CHANGE TO CREDIT UNION SHARE INSURANCE FUND.—

(1) IN GENERAL.—Section 207(k) of the Federal Credit Union Act (12 U.S.C. 1787(k)) is amended—

(A) by striking "(k)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(k) INSURED AMOUNTS PAYABLE.—

"(1) NET INSURED AMOUNT.—

"(A) IN GENERAL.—Subject to the provisions of paragraph (2), the net amount of share insurance payable to any member at an insured credit union shall not exceed the total amount of the shares or deposits in the name of the member (after deducting offsets), less any part thereof which is in excess of the standard maximum share insurance amount, as determined in accordance with this paragraph and paragraphs (5) and (6), and consistently with actions taken by the Federal Deposit Insurance Corporation under section 11(a) of the Federal Deposit Insurance Act.

"(B) AGGREGATION.—Determination of the net amount of share insurance under subparagraph (A), shall be in accordance with such regulations as the Board may prescribe, and, in determining the amount payable to any member, there shall be added together all accounts in the credit union maintained by that member for that member's own benefit, either in the member's own name or in the names of others.

"(C) AUTHORITY TO DEFINE THE EXTENT OF COVERAGE.—The Board may define, with such classifications and exceptions as it may prescribe, the extent of the share insurance coverage provided for member accounts, including member accounts in the name of a minor, in trust, or in joint tenancy.";

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in clauses (i) through (v), by moving the margins 4 ems to the right;

(II) in the matter following clause (v), by striking "his account" and all that follows through the period; and

(III) by striking the semicolon at the end of clause (v) and inserting a period;

(ii) by striking "(2)(A) Notwithstanding" and all that follows through "a depositor or member who is—" and inserting the following:

"(2) MUNICIPAL DEPOSITORS OR MEMBERS.—

"(A) IN GENERAL.—Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of insurance available to any 1 depositor or member, deposits or shares of a municipal depositor or member shall be insured in an amount equal to the standard maximum share insurance amount (as determined under paragraph (5)), except as provided in subparagraph (B).

"(B) IN-STATE MUNICIPAL DEPOSITORS.—In the case of the deposits of an in-State municipal depositor described in clause (ii), (iii), (iv), or (v) of subparagraph (E) at an insured credit union, such deposits shall be insured in an amount equal to the lesser of—

"(i) $2,000,000; or

"(ii) the sum of the standard maximum deposit insurance amount and 80 percent of the amount of any deposits in excess of the standard maximum deposit insurance amount.

"(C) RULE OF CONSTRUCTION.—No provision of this paragraph shall be construed as authorizing an insured credit union to accept the deposits of a municipal depositor in an amount greater than such credit union is authorized to accept under any other provision of Federal or State law.

"(D) IN-STATE MUNICIPAL DEPOSITOR DEFINED.—For purposes of this paragraph, the term 'in-State municipal depositor' means a municipal depositor that is located in the same State as the office or branch of the insured credit union at which the deposits of that depositor are held.

"(E) MUNICIPAL DEPOSITOR.—In this paragraph, the term 'municipal depositor' means a depositor that is—";

(iii) by striking "(B) The" and inserting the following:

"(F) AUTHORITY TO LIMIT DEPOSITS.—The"; and

(iv) by striking "depositor or member referred to in subparagraph (A)" and inserting "municipal depositor or member"; and

(C) by adding at the end the following new paragraphs:

"(4) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—

"(A) PASS-THROUGH INSURANCE.—The Administration shall provide pass-through share insurance for the deposits or shares of any employee benefit plan.

"(B) PROHIBITION ON ACCEPTANCE OF DEPOSITS.—An insured credit union that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

"(C) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

"(i) CAPITAL STANDARDS.—The terms 'well capitalized' and 'adequately capitalized' have the same meanings as in section 216(c).

"(ii) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan'—

"(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974;

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986; and

"(III) includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(iii) PASS-THROUGH SHARE INSURANCE.—The term 'pass-through share insurance' means, with respect to an employee benefit plan, insurance coverage provided on a pro rata basis to the participants in the plan, in accordance with the interest of each participant.

"(D) RULE OF CONSTRUCTION.—No provision of this paragraph shall be construed as authorizing an insured credit union to accept the deposits of an employee benefit plan in an amount greater than such credit union is authorized to accept under any other provision of Federal or State law.

"(5) STANDARD MAXIMUM SHARE INSURANCE AMOUNT DEFINED.—For purposes of this Act, the term 'standard maximum share insurance amount' means—

"(A) until the effective date of final regulations prescribed pursuant to section 9(a)(2) of the Federal Deposit Insurance Reform Act of 2003, $100,000; and

"(B) on and after such effective date, $130,000, adjusted as provided under section 11(a)(1)(F) of the Federal Deposit Insurance Act.".

(2) DOUBLING OF SHARE INSURANCE FOR CERTAIN RETIREMENT ACCOUNTS.—Section 207(k)(3) of the Federal Credit Union Act (12 U.S.C. 1787(k)(3)) is amended by striking "$100,000" and inserting "2 times the standard maximum share insurance amount (as determined under paragraph (1))".

(h) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date the final regulations required under section 9(a)(2) take effect.

SEC. 4. SETTING ASSESSMENTS AND REPEAL OF SPECIAL RULES RELATING TO MINIMUM ASSESSMENTS AND FREE DEPOSIT INSURANCE.

(a) SETTING ASSESSMENTS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(1) by striking subparagraphs (A) and (B) and inserting the following new subparagraphs:

"(A) IN GENERAL.—The Board of Directors shall set assessments for insured depository institutions in such amounts as the Board of Directors may determine to be necessary or appropriate, subject to subparagraph (D).

"(B) FACTORS TO BE CONSIDERED.—In setting assessments under subparagraph (A), the Board of Directors shall consider the following factors:

"(i) The estimated operating expenses of the Deposit Insurance Fund.

"(ii) The estimated case resolution expenses and income of the Deposit Insurance Fund.

"(iii) The projected effects of the payment of assessments on the capital and earnings of insured depository institutions.

"(iv) the risk factors and other factors taken into account pursuant to paragraph (1) under the risk-based assessment system, including the requirement under such paragraph to maintain a risk-based system.

"(v) Any other factors the Board of Directors may determine to be appropriate."; and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) BASE RATE FOR ASSESSMENTS.—

"(i) IN GENERAL.—In setting assessment rates pursuant to subparagraph (A), the Board of Directors shall establish a base rate of not more than 1 basis point (exclusive of any credit or dividend) for those insured depository institutions in the lowest-risk category under the risk-based assessment system established pursuant to paragraph (1). No insured depository institution shall be barred from the lowest-risk category solely because of size.

"(ii) SUSPENSION.—Clause (i) shall not apply during any period in which the reserve ratio of the Deposit Insurance Fund is less than the amount which is equal to 1.15 percent of the aggregate estimated insured deposits.".

(b) ASSESSMENT RECORDKEEPING PERIOD SHORTENED.—Paragraph (5) of section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

"(5) DEPOSITORY INSTITUTION REQUIRED TO MAINTAIN ASSESSMENT-RELATED RECORDS.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of any assessment on the insured depository institution under this subsection until the later of—

"(A) the end of the 3-year period beginning on the due date of the assessment; or

"(B) in the case of a dispute between the insured depository institution and the Corporation with respect to such assessment, the date of a final determination of any such dispute.".

(c) INCREASE IN FEES FOR LATE ASSESSMENT PAYMENTS.—Subsection (h) of section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828(h)) is amended to read as follows:

"(h) PENALTY FOR FAILURE TO TIMELY PAY ASSESSMENTS.—

"(1) IN GENERAL.—Any insured depository institution which fails or refuses to pay any assessment shall be subject to a penalty in an amount not more than 1 percent of the amount of the assessment due for each day that such violation continues.

"(2) EXCEPTION IN CASE OF DISPUTE.—Paragraph (1) shall not apply if—

"(A) the failure to pay an assessment is due to a dispute between the insured depository institution and the Corporation over the amount of such assessment; and

"(B) the insured depository institution deposits security satisfactory to the Corporation for payment upon final determination of the issue.

"(3) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Corporation, in the sole discretion of the Corporation, may compromise, modify or remit any penalty which the Corporation may assess or has already assessed under paragraph (1) upon a finding that good cause prevented the timely payment of an assessment.".

(d) ASSESSMENTS FOR LIFELINE ACCOUNTS.—

(1) IN GENERAL.—Section 232 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834) is amended by striking subsection (c).

(2) CLARIFICATION OF RATE APPLICABLE TO DEPOSITS ATTRIBUTABLE TO LIFELINE ACCOUNTS.—Section 7(b)(2)(H) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(H)) is amended by striking "at a rate determined in accordance with such Act" and inserting "at ½ the assessment rate otherwise applicable for such insured depository institution".

(3) REGULATIONS.—Section 232(a)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by striking "Board of Governors of the Federal Reserve System, and the".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended by striking the 3d sentence and inserting the following: "Such reports of condition shall be the basis for the certified statements to be filed pursuant to subsection (c).".

(2) Subparagraphs (B)(ii) and (C) of section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) are each amended by striking "semiannual" where such term appears in each such subparagraph.

(3) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended—

(A) by striking subparagraphs (E), (F), and (G);

(B) in subparagraph (C), by striking "semiannual"; and

(C) by redesignating subparagraph (H) (as amended by subsection (e)(2) of this section) as subparagraph (E).

(4) Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by striking paragraph (4) and redesignating paragraphs (5) (as amended by subsection (b) of this section), (6), and (7) as paragraphs (4), (5), and (6) respectively.

(5) Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended—

(A) in paragraph (1)(A), by striking "semiannual";

(B) in paragraph (2)(A), by striking "semiannual"; and

(C) in paragraph (3), by striking "semiannual period" and inserting "initial assessment period".

(6) Section 8(p) of the Federal Deposit Insurance Act (12 U.S.C. 1818(p)) is amended by striking "semiannual".

(7) Section 8(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended by striking "semiannual period" and inserting "assessment period".

(8) Section 13(c)(4)(G)(ii)(II) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)(II)) is amended by striking "semiannual period" and inserting "assessment period".

(9) Section 232(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834(a)) is amended—

(A) in the matter preceding subparagraph (A) of paragraph (2), by striking "the Board and";

(B) in subparagraph (J) of paragraph (2), by striking "the Board" and inserting "the Corporation";

(C) by striking subparagraph (A) of paragraph (3) and inserting the following new subparagraph:

"(A) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation."; and

(D) in subparagraph (C) of paragraph (3), by striking "Board" and inserting "Corporation".

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that the final regulations required under section 9(a)(5) take effect.

SEC. 5. REPLACEMENT OF FIXED DESIGNATED RESERVE RATIO WITH RESERVE RANGE.

(a) IN GENERAL.—Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) is amended to read as follows:

"(3) DESIGNATED RESERVE RATIO.—

"(A) ESTABLISHMENT.—

"(i) IN GENERAL.—The Board of Directors shall designate, by regulation after notice and opportunity for comment, the reserve ratio applicable with respect to the Deposit Insurance Fund.

"(ii) NOT LESS THAN ANNUAL REDETERMINATION.—A determination under clause (i) shall be made by the Board of Directors at least before the beginning of each calendar year, for such calendar year, and at such other times as the Board of Directors may determine to be appropriate.

"(B) RANGE.—The reserve ratio designated by the Board of Directors for any year—

"(i) may not exceed 1.4 percent of estimated insured deposits; and

"(ii) may not be less than 1.15 percent of estimated insured deposits.

"(C) FACTORS.—In designating a reserve ratio for any year, the Board of Directors shall—

"(i) take into account the risk of losses to the Deposit Insurance Fund in such year and future years, including historic experience and potential and estimated losses from insured depository institutions;

"(ii) take into account economic conditions generally affecting insured depository institutions so as to allow the designated reserve ratio to increase during more favorable economic conditions and to decrease during less favorable economic conditions, notwithstanding the increased risks of loss that may exist during such less favorable conditions, as determined to be appropriate by the Board of Directors;

"(iii) seek to prevent sharp swings in the assessment rates for insured depository institutions; and

"(iv) take into account such other factors as the Board of Directors may determine to be appropriate, consistent with the requirements of this subparagraph.

"(D) PUBLICATION OF PROPOSED CHANGE IN RATIO.—In soliciting comment on any proposed change in the designated reserve ratio in accordance with subparagraph (A), the Board of Directors shall include in the published proposal a thorough analysis of the data and projections on which the proposal is based.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) is amended—

(1) by striking "(y) The term" and inserting "(y) DEFINITIONS RELATING TO DEPOSIT INSURANCE FUND.—

"(1) DEPOSIT INSURANCE FUND.—The term"; and

(2) by inserting after paragraph (1) (as so designated by paragraph (1) of this subsection) the following new paragraph:

"(2) DESIGNATED RESERVE RATIO.—The term 'designated reserve ratio' means the reserve ratio designated by the Board of Directors in accordance with section 7(b)(3).".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date that the final regulations required under section 9(a)(1) take effect.

SEC. 6. REQUIREMENTS APPLICABLE TO THE RISK-BASED ASSESSMENT SYSTEM.

Section 7(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)) is amended by adding at the end the following new subparagraphs:

"(E) INFORMATION CONCERNING RISK OF LOSS AND ECONOMIC CONDITIONS.—

"(i) SOURCES OF INFORMATION.—For purposes of determining risk of losses at insured depository institutions and economic conditions generally affecting depository institutions, the Corporation shall collect information, as appropriate, from all sources the Board of Directors considers appropriate, such as reports of condition, inspection reports, and other information from all Federal banking agencies, any information available from State bank supervisors, State insurance and securities regulators, the Securities and Exchange Commission (including information described in section 35), the Secretary of the Treasury, the Commodity Futures Trading Commission, the Farm Credit Administration, the Federal Trade Commission, any Federal reserve bank or Federal home loan bank, and other regulators of financial institutions, and any information available from credit rating entities, and other private economic or business analysts.

"(ii) CONSULTATION WITH FEDERAL BANKING AGENCIES.—

"(I) IN GENERAL.—Except as provided in subclause (II), in assessing the risk of loss to the Deposit Insurance Fund with respect to any insured depository institution, the Corporation shall consult with the appropriate Federal banking agency of such institution.

"(II) TREATMENT ON AGGREGATE BASIS.—In the case of insured depository institutions that are well capitalized (as defined in section 38) and, in the most recent examination, were found to be well managed, the consultation under subclause (I) concerning the assessment of the risk of loss posed by such institutions may be made on an aggregate basis.

"(iii) RULE OF CONSTRUCTION.—No provision of this paragraph shall be construed as providing any new authority for the Corporation to require submission of information by insured depository institutions to the Corporation.

"(F) MODIFICATIONS TO THE RISK-BASED ASSESSMENT SYSTEM ALLOWED ONLY AFTER NOTICE AND COMMENT.—In revising or modifying the risk-based assessment system at any time after the date of the enactment of the Federal Deposit Insurance Reform Act of 2003, the Board of Directors may implement such revisions or modification in final form only after notice and opportunity for comment.".

SEC. 7. REFUNDS, DIVIDENDS, AND CREDITS FROM DEPOSIT INSURANCE FUND.

(a) IN GENERAL.—Subsection (e) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(e)) is amended to read as follows:

"(e) REFUNDS, DIVIDENDS, AND CREDITS.—

"(1) REFUNDS OF OVERPAYMENTS.—In the case of any payment of an assessment by an insured depository institution in excess of the amount due to the Corporation, the Corporation may—

"(A) refund the amount of the excess payment to the insured depository institution; or

"(B) credit such excess amount toward the payment of subsequent assessments until such credit is exhausted.

"(2) DIVIDENDS FROM EXCESS AMOUNTS IN DEPOSIT INSURANCE FUND.—

"(A) RESERVE RATIO IN EXCESS OF 1.4 PERCENT OF ESTIMATED INSURED DEPOSITS.—Whenever the reserve ratio of the Deposit Insurance Fund exceeds 1.4 percent of estimated insured deposits, the Corporation shall declare the amount in the Fund in excess of the amount required to maintain the reserve ratio at 1.4 percent of estimated insured deposits, as dividends to be paid to insured depository institutions.

"(B) RESERVE RATIO EQUAL TO OR IN EXCESS OF 1.35 PERCENT OF ESTIMATED INSURED DEPOSITS AND NOT MORE THAN 1.4 PERCENT.—Whenever the reserve ratio of the Deposit Insurance Fund equals or exceeds 1.35 percent of estimated insured deposits and is not more than 1.4 percent of such deposits, the Corporation shall declare the amount in the Fund that is equal to 50 percent of the amount in excess of the amount required to maintain

the reserve ratio at 1.35 percent of the estimated insured deposits as dividends to be paid to insured depository institutions.

"(C) BASIS FOR DISTRIBUTION OF DIVIDENDS.—

"(i) IN GENERAL.—Solely for the purposes of dividend distribution under this paragraph and credit distribution under paragraph (3)(B), the Corporation shall determine each insured depository institution's relative contribution to the Deposit Insurance Fund (or any predecessor deposit insurance fund) for calculating such institution's share of any dividend or credit declared under this paragraph or paragraph (3)(B), taking into account the factors described in clause (ii).

"(ii) FACTORS FOR DISTRIBUTION.—In implementing this paragraph and paragraph (3)(B) in accordance with regulations, the Corporation shall take into account the following factors:

"(I) The ratio of the assessment base of an insured depository institution (including any predecessor) on December 31, 1996, to the assessment base of all eligible insured depository institutions on that date.

"(II) The total amount of assessments paid on or after January 1, 1997, by an insured depository institution (including any predecessor) to the Deposit Insurance Fund (and any predecessor deposit insurance fund).

"(III) That portion of assessments paid by an insured depository institution (including any predecessor) that reflects higher levels of risk assumed by such institution.

"(IV) Such other factors as the Corporation may determine to be appropriate.

"(D) NOTICE AND OPPORTUNITY FOR COMMENT.—The Corporation shall prescribe by regulation, after notice and opportunity for comment, the method for the calculation, declaration, and payment of dividends under this paragraph.

"(3) CREDIT POOL.—

"(A) ONE-TIME CREDIT BASED ON TOTAL ASSESSMENT BASE AT YEAR-END 1996.—

"(i) IN GENERAL.—Before the end of the 270-day period beginning on the date of the enactment of the Federal Deposit Insurance Reform Act of 2003, the Board of Directors shall, by regulation, provide for a credit to each eligible insured depository institution, based on the assessment base of the institution (including any predecessor institution) on December 31, 1996, as compared to the combined aggregate assessment base of all eligible insured depository institutions, taking into account such factors as the Board of Directors may determine to be appropriate.

"(ii) CREDIT LIMIT.—The aggregate amount of credits available under clause (i) to all eligible insured depository institutions shall equal the amount that the Corporation could collect if the Corporation imposed an assessment of 12 basis points on the combined assessment base of the Bank Insurance Fund and the Savings Association Insurance Fund as of December 31, 2001.

"(iii) ELIGIBLE INSURED DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'eligible insured depository institution' means any insured depository institution that—

"(I) was in existence on December 31, 1996, and paid a deposit insurance assessment prior to that date; or

"(II) is a successor to any insured depository institution described in subclause (II).

"(iv) APPLICATION OF CREDITS.—

"(I) IN GENERAL.—The amount of a credit to any eligible insured depository institution under this paragraph shall be applied by the Corporation, subject to subsection (b)(3)(e), to the assessments imposed on such institution under subsection (b) that become due for assessment periods beginning after the effective date of regulations prescribed under clause (i).

"(II) REGULATIONS.—The regulations prescribed under clause (i) shall establish the qualifications and procedures governing the application of assessment credits pursuant to subclause (I).

"(v) LIMITATION ON AMOUNT OF CREDIT FOR CERTAIN DEPOSITORY INSTITUTIONS.—In the case of an insured depository institution that exhibits financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or is not adequately capitalized (as defined in section 38) at the beginning of an assessment period, the

amount of any credit allowed under this paragraph against the assessment on that depository institution for such period may not exceed the amount calculated by applying to that depository institution the average assessment rate on all insured depository institutions for such assessment period.

"(vi) PREDECESSOR DEFINED.—For purposes of this paragraph, the term 'predecessor', when used with respect to any insured depository institution, includes any other insured depository institution acquired by or merged with such insured depository institution.

"(B) ON-GOING CREDIT POOL.—

"(i) IN GENERAL.—In addition to the credit provided pursuant to subparagraph (A) and subject to the limitation contained in clause (v) of such subparagraph, the Corporation shall, by regulation, establish an on-going system of credits to be applied against future assessments under subsection (b)(1) on the same basis as the dividends provided under paragraph (2)(C).

"(ii) LIMITATION ON CREDITS UNDER CERTAIN CIRCUMSTANCES.—No credits may be awarded by the Corporation under this subparagraph during any period in which—

"(I) the reserve ratio of the Deposit Insurance Fund is less than the designated reserve ratio of such Fund; or

"(II) the reserve ratio of the Fund is less than 1.25 percent of the amount of estimated insured deposits.

"(iii) CRITERIA FOR DETERMINATION.—In determining the amounts of any assessment credits under this subparagraph, the Board of Directors shall take into account the factors for designating the reserve ratio under subsection (b)(3) and the factors for setting assessments under subsection (b)(2)(B).

"(4) ADMINISTRATIVE REVIEW.—

"(A) IN GENERAL.—The regulations prescribed under paragraph (2)(D) and subparagraphs (A) and (B) of paragraph (3) shall include provisions allowing an insured depository institution a reasonable opportunity to challenge administratively the amount of the credit or dividend determined under paragraph (2) or (3) for such institution.

"(B) ADMINISTRATIVE REVIEW.—Any review under subparagraph (A) of any determination of the Corporation under paragraph (2) or (3) shall be final and not subject to judicial review.".

(b) DEFINITION OF RESERVE RATIO.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) (as amended by section 5(b) of this Act) is amended by adding at the end the following new paragraph:

"(3) RESERVE RATIO.—The term 'reserve ratio', when used with regard to the Deposit Insurance Fund other than in connection with a reference to the designated reserve ratio, means the ratio of the net worth of the Deposit Insurance Fund to the value of the aggregate estimated insured deposits.".

SEC. 8. DEPOSIT INSURANCE FUND RESTORATION PLANS.

Section 7(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)) (as amended by section 5(a) of this Act) is amended by adding at the end the following new subparagraph:

"(E) DIF RESTORATION PLANS.—

"(i) IN GENERAL.—Whenever—

"(I) the Corporation projects that the reserve ratio of the Deposit Insurance Fund will, within 6 months of such determination, fall below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio; or

"(II) the reserve ratio of the Deposit Insurance Fund actually falls below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio without any determination under subclause (I) having been made,

the Corporation shall establish and implement a Deposit Insurance Fund restoration plan within 90 days that meets the requirements of clause (ii) and such other conditions as the Corporation determines to be appropriate.

"(ii) REQUIREMENTS OF RESTORATION PLAN.—A Deposit Insurance Fund restoration plan meets the requirements of this clause if the plan provides that the reserve ratio of the Fund will meet or exceed the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio before the end of the 10-year period beginning upon the implementation of the plan.

"(iii) RESTRICTION ON ASSESSMENT CREDITS.—As part of any restoration plan under this subparagraph, the Corporation may elect to restrict the application of assessment credits provided under subsection (e)(3) for any period that the plan is in effect.

"(iv) LIMITATION ON RESTRICTION.—Notwithstanding clause (iii), while any restoration plan under this subparagraph is in effect, the Corporation shall apply credits provided to an insured depository institution under subsection (e)(3) against any assessment imposed on the institution for any assessment period in an amount equal to the lesser of—

"(I) the amount of the assessment; or

"(II) the amount equal to 3 basis points of the institution's assessment base.

"(v) TRANSPARENCY.—Not more than 30 days after the Corporation establishes and implements a restoration plan under clause (i), the Corporation shall publish in the Federal Register a detailed analysis of the factors considered and the basis for the actions taken with regard to the plan.".

SEC. 9. REGULATIONS REQUIRED.

(a) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation shall prescribe final regulations, after notice and opportunity for comment—

(1) designating the reserve ratio for the Deposit Insurance Fund in accordance with section 7(b)(3) of the Federal Deposit Insurance Act (as amended by section 5 of this Act);

(2) implementing increases in deposit insurance coverage in accordance with the amendments made by section 3 of this Act;

(3) implementing the dividend requirement under section 7(e)(2) of the Federal Deposit Insurance Act (as amended by section 7 of this Act).

(4) implementing the 1-time assessment credit to certain insured depository institutions in accordance with section 7(e)(3) of the Federal Deposit Insurance Act, as amended by section 7 of this Act, including the qualifications and procedures under which the Corporation would apply assessment credits; and

(5) providing for assessments under section 7(b) of the Federal Deposit Insurance Act, as amended by this Act.

(b) RULE OF CONSTRUCTION.—No provision of this Act or any amendment made by this Act shall be construed as affecting the authority of the Corporation to set or collect deposit insurance assessments before the effective date of the final regulations prescribed under subsection (a).

SEC. 10. STUDIES OF FDIC STRUCTURE AND EXPENSES AND CERTAIN ACTIVITIES AND FURTHER POSSIBLE CHANGES TO DEPOSIT INSURANCE SYSTEM.

(a) STUDY BY COMPTROLLER GENERAL.—

(1) STUDY REQUIRED.—The Comptroller General shall conduct a study of the following issues:

(A) The efficiency and effectiveness of the administration of the prompt corrective action program under section 38 of the Federal Deposit Insurance Act by the Federal banking agencies (as defined in section 3 of such Act), including the degree of effectiveness of such agencies in identifying troubled depository institutions and taking effective action with respect to such institutions, and the degree of accuracy of the risk assessments made by the Corporation.

(B) The appropriateness of the organizational structure of the Federal Deposit Insurance Corporation for the mission of the Corporation taking into account—

(i) the current size and complexity of the business of insured depository institutions (as such term is defined in section 3 of the Federal Deposit Insurance Act);

(ii) the extent to which the organizational structure contributes to or reduces operational inefficiencies that increase operational costs; and

(iii) the effectiveness of internal controls.

(2) REPORT TO THE CONGRESS.—The Comptroller General shall submit a report to the Congress before the end of the 1-year period beginning on the date of the enactment of this Act containing the findings and conclusions of the Comptroller General with respect to the study required under paragraph (1) together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

(b) INTERNAL STUDY BY THE FDIC.—

(1) STUDY REQUIRED.—Concurrently with the study required to be conducted by the Comptroller General under subsection (a), the Federal Deposit Insurance

Corporation shall conduct an internal study of the same conditions and factors included in the study under subsection (a).

(2) REPORT TO THE CONGRESS.—The Federal Deposit Insurance Corporation shall submit a report to the Congress before the end of the 1-year period beginning on the date of the enactment of this Act containing the findings and conclusions of the Corporation with respect to the study required under paragraph (1) together with such recommendations for legislative or administrative action as the Board of Directors of the Corporation may determine to be appropriate.

(c) STUDY OF FURTHER POSSIBLE CHANGES TO DEPOSIT INSURANCE SYSTEM.—

(1) STUDY REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation and the National Credit Union Administration Board shall each conduct a study of the following:

(A) The feasibility of establishing a voluntary deposit insurance system for deposits in excess of the maximum amount of deposit insurance for any depositor and the potential benefits and the potential adverse consequences that may result from the establishment of any such system.

(B) The feasibility of privatizing all deposit insurance at insured depository institutions and insured credit unions.

(2) REPORT.—Before the end of the 1-year period beginning on the date of the enactment of this Act, the Board of Directors of the Federal Deposit Insurance Corporation and the National Credit Union Administration Board shall each submit a report to the Congress on the study required under paragraph (1) containing the findings and conclusions of the reporting agency together with such recommendations for legislative or administrative changes as the agency may determine to be appropriate.

(d) STUDY REGARDING APPROPRIATE DEPOSIT BASE IN DESIGNATING RESERVE RATIO.—

(1) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall conduct a study of the feasibility of using actual domestic deposits rather than estimated insured deposits in calculating the reserve ratio of the Deposit Insurance Fund and designating a reserve ratio for such Fund.

(2) REPORT.—The Federal Deposit Insurance Corporation shall submit a report to the Congress before the end of the 1-year period beginning on the date of the enactment of this Act containing the findings and conclusions of the Corporation with respect to the study required under paragraph (1) together with such recommendations for legislative or administrative action as the Board of Directors of the Corporation may determine to be appropriate.

(e) STUDY OF RESERVE METHODOLOGY AND ACCOUNTING FOR LOSS.—

(1) STUDY REQUIRED.—The Federal Deposit Insurance Corporation, in consultation with the Comptroller General, shall conduct a study of the reserve methodology and loss accounting used by the Corporation during the period beginning on January 1, 1992, and ending December 31, 2002, with respect to insured depository institutions in a troubled condition (as defined in the regulations prescribed pursuant to section 32(f) of the Federal Deposit Insurance Act).

(2) FACTORS TO BE INCLUDED.—In conducting the study pursuant to paragraph (1), the Federal Deposit Insurance Corporation shall—

(A) consider the overall effectiveness and accuracy of the methodology used by the Corporation for establishing and maintaining reserves and estimating and accounting for losses at insured depository institutions, during the period described in such paragraph;

(B) consider the appropriateness and reliability of information and criteria used by the Corporation in determining—

(i) whether an insured depository institution was in a troubled condition; and

(ii) the amount of any loss anticipated at such institution;

(C) analyze the actual historical loss experience over the period described in paragraph (1) and the causes of the exceptionally high rate of losses experienced by the Corporation in the final 3 years of that period; and

(D) rate the efforts of the Corporation to reduce losses in such 3-year period to minimally acceptable levels and to historical levels.

(3) REPORT REQUIRED.—The Board of Directors of the Federal Deposit Insurance Corporation shall submit a report to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act, containing the findings and conclusions of the Corporation, in consultation with the Comptroller General, with respect to the study required under paragraph (1), together with such recommendations for legislative or administrative action as the Board of Directors may determine to be appropriate.

SEC. 11. BI-ANNUAL FDIC SURVEY AND REPORT ON INCREASING THE DEPOSIT BASE BY ENCOURAGING USE OF DEPOSITORY INSTITUTIONS BY THE UNBANKED.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

"SEC. 49. BI-ANNUAL FDIC SURVEY AND REPORT ON ENCOURAGING USE OF DEPOSITORY INSTITUTIONS BY THE UNBANKED.

"(a) SURVEY REQUIRED.—

"(1) IN GENERAL.—The Corporation shall conduct a bi-annual survey on efforts by insured depository institutions to bring those individuals and families who have rarely, if ever, held a checking account, a savings account or other type of transaction or check cashing account at an insured depository institution (hereafter in this section referred to as the 'unbanked') into the conventional finance system.

"(2) FACTORS AND QUESTIONS TO CONSIDER.—In conducting the survey, the Corporation shall take the following factors and questions into account:

"(A) To what extent do insured depository institutions promote financial education and financial literacy outreach?

"(B) Which financial education efforts appear to be the most effective in bringing 'unbanked' individuals and families into the conventional finance system?

"(C) What efforts are insured institutions making at converting 'unbanked' money order, wire transfer, and international remittance customers into conventional account holders?

"(D) What cultural, language and identification issues as well as transaction costs appear to most prevent 'unbanked' individuals from establishing conventional accounts?

"(E) What is a fair estimate of the size and worth of the 'unbanked' market in the United States?

"(b) REPORTS.—The Chairperson of the Board of Directors shall submit a bi-annual report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the Corporation's findings and conclusions with respect to the survey conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Chairperson may determine to be appropriate.".

SEC. 12. TECHNICAL AND CONFORMING AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT RELATING TO THE MERGER OF THE BIF AND SAIF.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 3 (12 U.S.C. 1813)—

(A) by striking subparagraph (B) of subsection (a)(1) and inserting the following new subparagraph:

"(B) includes any former savings association."; and

(B) by striking paragraph (1) of subsection (y) (as so designated by section 5(b) of this Act) and inserting the following new paragraph:

"(1) DEPOSIT INSURANCE FUND.—The term 'Deposit Insurance Fund' means the Deposit Insurance Fund established under section 11(a)(4).";

(2) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund,";

(3) in section 5(c)(4), by striking "deposit insurance fund" and inserting "Deposit Insurance Fund";

(4) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3) (and any funds resulting from the application of such paragraph (2) prior to its repeal shall be deposited into the general fund of the Deposit Insurance Fund);

(5) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

(A) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund as required by section 7" and inserting "the reserve ratio of the Deposit Insurance Fund";

(B) by striking subparagraph (B) and inserting the following:

"(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

(C) by striking "(1) UNINSURED INSTITUTIONS.—"; and

(D) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively, and moving the left margins 2 ems to the left;

(6) in section 5(e) (12 U.S.C. 1815(e))—

(A) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(B) by striking paragraph (6); and

(C) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

(7) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(8) in section 7(b) (12 U.S.C. 1817(b))—

(A) in paragraph (1)(C), by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

(C) in paragraph (5) (as so redesignated by section 4(e)(4) of this Act)—

(i) by striking "any such assessment" and inserting "any such assessment is necessary";

(ii) by striking subparagraph (B);

(iii) in subparagraph (A)—

(I) by striking "(A) is necessary—";

(II) by striking "Bank Insurance Fund members" and inserting "insured depository institutions"; and

(III) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and

(iv) in subparagraph (C) (as so redesignated)—

(I) by inserting "that" before "the Corporation"; and

(II) by striking "; and" and inserting a period;

(9) in section 7(j)(7)(F) (12 U.S.C. 1817(j)(7)(F)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(10) in section 8(t)(2)(C) (12 U.S.C. 1818(t)(2)(C)), by striking "deposit insurance fund" and inserting "Deposit Insurance Fund";

(11) in section 11 (12 U.S.C. 1821)—

(A) by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) by striking paragraph (4) of subsection (a) and inserting the following new paragraph:

"(4) DEPOSIT INSURANCE FUND.—

"(A) ESTABLISHMENT.—There is established the Deposit Insurance Fund, which the Corporation shall—

"(i) maintain and administer;

"(ii) use to carry out its insurance purposes, in the manner provided by this subsection; and

"(iii) invest in accordance with section 13(a).

"(B) USES.—The Deposit Insurance Fund shall be available to the Corporation for use with respect to insured depository institutions the deposits of which are insured by the Deposit Insurance Fund.

"(C) LIMITATION ON USE.—Notwithstanding any provision of law other than section 13(c)(4)(G), the Deposit Insurance Fund shall not be used in any manner to benefit any shareholder or affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act) of—

"(i) any insured depository institution for which the Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation;

"(ii) any other insured depository institution in default or in danger of default, in connection with any type of resolution by the Corporation; or

"(iii) any insured depository institution, in connection with the provision of assistance under this section or section 13 with respect to such institution, except that this clause shall not prohibit any assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 13(f)(8)(B)) another insured depository institution.

"(D) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited into the Deposit Insurance Fund.";

(C) by striking paragraphs (5), (6), and (7) of subsection (a); and

(D) by redesignating paragraph (8) of subsection (a) as paragraph (5);

(12) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking ", except that—" and all that follows through the end of the paragraph and inserting a period;

(13) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

(A) by striking subparagraph (B);

(B) by redesignating subparagraph (C) as subparagraph (B); and

(C) in subparagraph (B) (as so redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";

(14) in section 11(p)(2)(B) (12 U.S.C. 1821(p)(2)(B)), by striking "institution, any" and inserting "institution, the";

(15) in section 11A(a) (12 U.S.C. 1821a(a))—

(A) in paragraph (2), by striking "LIABILITIES.—" and all that follows through "Except" and inserting "LIABILITIES.—Except";

(B) by striking paragraph (2)(B); and

(C) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";

(16) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

(17) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(18) in section 12(f)(4)(E)(iv) (12 U.S.C. 1822(f)(4)(E)(iv)), by striking "Federal deposit insurance funds" and inserting "the Deposit Insurance Fund (or any predecessor deposit insurance fund)";

(19) in section 13 (12 U.S.C. 1823)—

(A) by striking "deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund";

(C) in subsection (c)(4)(E)—

(i) in the subparagraph heading, by striking "FUNDS" and inserting "FUND"; and

(ii) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";

(D) in subsection (c)(4)(G)(ii)—

(i) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";

(ii) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";

(iii) by striking "each member's" and inserting "each insured depository institution's"; and

(iv) by striking "the member's" each place that term appears and inserting "the institution's";

(E) in subsection (c), by striking paragraph (11);

(F) in subsection (h), by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(G) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund member" and inserting "savings association"; and

(H) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund members" and inserting "savings associations";

(20) in section 14(a) (12 U.S.C. 1824(a)), in the 5th sentence—

(A) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(B) by striking "each such fund" and inserting "the Deposit Insurance Fund";

(21) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(22) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

(23) in section 14(d) (12 U.S.C. 1824(d))—

(A) by striking "Bank Insurance Fund member" each place that term appears and inserting "insured depository institution";

(B) by striking "Bank Insurance Fund members" each place that term appears and inserting "insured depository institutions";

(C) by striking "Bank Insurance Fund" each place that term appears (other than in connection with a reference to a term amended by subparagraph (A) or (B) of this paragraph) and inserting "Deposit Insurance Fund";

(D) by striking the subsection heading and inserting the following:

"(d) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM INSURED DEPOSITORY INSTITUTIONS.—";

(E) in paragraph (3), in the paragraph heading, by striking "BIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(F) in paragraph (5), in the paragraph heading, by striking "BIF MEMBERS" and inserting "INSURED DEPOSITORY INSTITUTIONS";

(24) in section 14 (12 U.S.C. 1824), by adding at the end the following new subsection:

"(e) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM FEDERAL HOME LOAN BANKS.—

"(1) IN GENERAL.—The Corporation may borrow from the Federal home loan banks, with the concurrence of the Federal Housing Finance Board, such funds as the Corporation considers necessary for the use of the Deposit Insurance Fund.

"(2) TERMS AND CONDITIONS.—Any loan from any Federal home loan bank under paragraph (1) to the Deposit Insurance Fund shall—

"(A) bear a rate of interest of not less than the current marginal cost of funds to that bank, taking into account the maturities involved;

"(B) be adequately secured, as determined by the Federal Housing Finance Board;

"(C) be a direct liability of the Deposit Insurance Fund; and

"(D) be subject to the limitations of section 15(c).";

(25) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

(A) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place that term appears and inserting "the Deposit Insurance Fund"; and

(B) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" and inserting "the Deposit Insurance Fund";

(26) in section 17(a) (12 U.S.C. 1827(a))—

(A) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and

(B) in paragraph (1)—

(i) by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place that term appears and inserting "the Deposit Insurance Fund"; and

(ii) in subparagraph (D), by striking "each insurance fund" and inserting "the Deposit Insurance Fund";

(27) in section 17(d) (12 U.S.C. 1827(d)), by striking ", the Bank Insurance Fund, the Savings Association Insurance Fund," each place that term appears and inserting "the Deposit Insurance Fund";

(28) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

(A) by striking "Savings Association Insurance Fund" in the 1st sentence of subparagraph (A) and inserting "Deposit Insurance Fund";

(B) by striking "Savings Association Insurance Fund member" in the last sentence of subparagraph (A) and inserting "savings association"; and

(C) by striking "Savings Association Insurance Fund or the Bank Insurance Fund" in subparagraph (C) and inserting "Deposit Insurance Fund";

(29) in section 18(o) (12 U.S.C. 1828(o)), by striking "deposit insurance funds" and "deposit insurance fund" each place those terms appear and inserting "Deposit Insurance Fund";

(30) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";

(31) in section 24 (12 U.S.C. 1831a)—

(A) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(B) in subsection (e)(2)(A), by striking "risk to" and all that follows through the period and inserting "risk to the Deposit Insurance Fund."; and

(C) in subsections (e)(2)(B)(ii) and (f)(6)(B), by striking "the insurance fund of which such bank is a member" each place that term appears and inserting "the Deposit Insurance Fund";

(32) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place that term appears and inserting "Deposit Insurance Fund";

(33) by striking section 31 (12 U.S.C. 1831h);

(34) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(35) in section 37(a)(1)(C) (12 U.S.C. 1831n(a)(1)(C)), by striking "insurance funds" and inserting "Deposit Insurance Fund";

(36) in section 38 (12 U.S.C. 1831o), by striking "the deposit insurance fund" each place that term appears and inserting "the Deposit Insurance Fund";

(37) in section 38(a) (12 U.S.C. 1831o(a)), in the subsection heading, by striking "FUNDS" and inserting "FUND";

(38) in section 38(k) (12 U.S.C. 1831o(k))—

(A) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

(B) in paragraph (2), by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and

(C) in paragraphs (2)(A) and (3)(B), by striking "the deposit insurance fund's outlays" each place that term appears and inserting "the outlays of the Deposit Insurance Fund"; and

(39) in section 38(o) (12 U.S.C. 1831o(o))—

(A) by striking "ASSOCIATIONS.—" and all that follows through "Subsections (e)(2)" and inserting "ASSOCIATIONS.—Subsections (e)(2)";

(B) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and moving the margins 2 ems to the left; and

(C) in paragraph (1) (as so redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the left.

(b) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 13. OTHER TECHNICAL AND CONFORMING AMENDMENTS RELATING TO THE MERGER OF THE BIF AND SAIF.

(a) SECTION 5136 OF THE REVISED STATUTES.—The paragraph designated the "Eleventh" of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended in the 5th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(b) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the 4th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

(c) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking "any deposit insurance fund in" and inserting "the Deposit Insurance Fund of".

(d) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

(1) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

(2) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund (51–4066–0–3–373);".

(e) AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

(1) in section 11(k) (12 U.S.C. 1431(k))—

(A) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

(B) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

(2) in section 21 (12 U.S.C. 1441)—

(A) in subsection (f)(2), by striking ", except that" and all that follows through the end of the paragraph and inserting a period; and

(B) in subsection (k), by striking paragraph (4);

(3) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(4) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

(A) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

(B) by striking "Savings Association Insurance Fund member" and inserting "savings association";

(5) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

(6) in section 21A(n)(6)(E)(iv) (12 U.S.C. 1441(n)(6)(E)(iv)), by striking "Federal deposit insurance funds" and inserting "the Deposit Insurance Fund";

(7) in section 21B(e) (12 U.S.C. 1441b(e))—

(A) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place that term appears; and

(B) by striking paragraphs (7) and (8); and

(8) in section 21B(k) (12 U.S.C. 1441b(k))—

(A) by inserting before the colon ", the following definitions shall apply";

(B) by striking paragraph (8); and

(C) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

(f) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

(1) in section 5 (12 U.S.C. 1464)—

(A) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund";

(B) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";

(C) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

(D) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

(E) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

(F) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

(G) in subsection (v)(2)(A)(i), by striking "the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

(2) in section 10 (12 U.S.C. 1467a)—

(A) in subsection (c)(6)(D), by striking "this title" and inserting "this Act";

(B) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(C) in subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund";

(D) in subsection (e)(4)(B), by striking "subsection (1)" and inserting "subsection (l)";

(E) in subsection (g)(3)(A), by striking "(5) of this section" and inserting "(5) of this subsection";

(F) in subsection (i), by redesignating paragraph (5) as paragraph (4);

(G) in subsection (m)(3), by striking subparagraph (E) and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively;

(H) in subsection (m)(7)(A), by striking "during period" and inserting "during the period"; and

(I) in subsection (o)(3)(D), by striking "sections 5(s) and (t) of this Act" and inserting "subsections (s) and (t) of section 5".

(g) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

(1) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund"; and

(2) in section 536(b)(1)(B)(ii) (12 U.S.C. 1735f–14(b)(1)(B)(ii)), by striking "Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".

(h) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1811 note) is amended—

(1) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by inserting "and after the merger of such funds, the Deposit Insurance Fund," after "the Savings Association Insurance Fund,"; and

(2) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".

(i) AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956.—The Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.) is amended—

(1) in section 2(j)(2) (12 U.S.C. 1841(j)(2)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

(2) in section 3(d)(1)(D)(iii) (12 U.S.C. 1842(d)(1)(D)(iii)), by striking "appropriate deposit insurance fund" and inserting "Deposit Insurance Fund".

(j) AMENDMENTS TO THE GRAMM-LEACH-BLILEY ACT.—Section 114 of the Gramm-Leach-Bliley Act (12 U.S.C. 1828a) is amended by striking "any Federal deposit insurance fund" in subsection (a)(1)(B), paragraphs (2)(B) and (4)(B) of subsection (b), and subsection (c)(1)(B), each place that term appears and inserting "the Deposit Insurance Fund".

(k) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the first day of the first calendar quarter that begins after the end of the 90-day period beginning on the date of the enactment of this Act.

PURPOSE AND SUMMARY

H.R. 522, the Federal Deposit Insurance Reform Act of 2003, will preserve the value of insured deposits at insured depository institutions, advance the national priority of enhancing retirement security for all Americans, and ensure that the value, benefit and costs of deposit insurance are allocated equitably and fairly.

The bill merges the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF); increases the standard maximum deposit insurance limit from $100,000 to $130,000, and indexes it every 5 years for inflation; doubles the new coverage level for certain retirement accounts; and increases the coverage amount for in-State municipal deposits. Federally chartered credit unions are provided with parity in general standard maximum deposit insurance coverage, coverage for retirement accounts and municipal deposits.

H.R. 522 removes legal constraints on the authority of the Federal Deposit Insurance Corporation (FDIC) to charge risk-based premium assessments, so that all insured depository institutions pay for the value and benefit of deposit insurance fairly and equitably.

The legislation authorizes the FDIC to set the ratio of reserves to estimated insured deposits within a range of 1.15 to 1.40 percent, replacing the 1.25 percent "hard target" mandated by current law.

The bill also returns assessments in the form of refunds, credits, and dividends to insured depository institutions. Dividends are provided to qualified insured depository institutions whenever specified reserve ratios are exceeded.

Finally, the legislation directs the FDIC to study its administrative and managerial processes and alternative means for administering the deposit insurance system. These studies will ensure that the deposit insurance fund and the overall deposit insurance system are managed and operated as efficiently and as effectively as possible.

BACKGROUND AND NEED FOR LEGISLATION

Federal deposit insurance was created by Congress in 1934 and significantly modified in 1989 and 1991 in response to the savings and loan and bank crises. All banks and savings associations are required to carry Federal deposit insurance.

The National Credit Union Share Insurance Fund (NCUSIF) was created in 1970. This fund insures "share" accounts at credit unions and is administered by the National Credit Union Administration (NCUA). All Federally chartered credit unions must belong to NCUSIF; membership is optional for State chartered credit unions.

Deposit insurance makes deposits safe by assuring depositors that up to $100,000 will be available to them to cover their deposits even if their insured depository institution fails. It protects depositors from a sudden and unforeseen loss of wealth. It also protects

the economy due to a loss of liquidity in the financial services system.

Currently, the FDIC provides deposit insurance through two funds, the BIF and the SAIF. These funds are maintained in the U.S. Treasury and both earn interest income from investment in non-marketable Treasury securities.

The Federal deposit insurance system has served the Nation well for the last 69 years—public confidence and stability in the Nation's banking system were preserved through one of the largest banking crises since the Federally insured deposit system originated. During the crisis of the 1980's and the 1990's, the FDIC and the Resolution Trust Corporation (RTC) resolved 2,362 failures of insured depository institutions involving more than $700 billion in assets, with no bank runs, no panics, no disruptions to the financial markets, and no debilitating impact on overall economic activity.

After conducting a comprehensive study of the overall deposit insurance system, the FDIC published a report in April 2001 (Keeping the Promise: Recommendations for Deposit Insurance Reform, April 2001), that identified 4 structural deficiencies that warranted legislative consideration:

(1) Deposit insurance is provided by two insurance funds at potentially different prices;

(2) Under current law, deposit insurance cannot be priced effectively to reflect risk;

(3) Deposit insurance premiums are highest at the wrong point in the business cycle; and

(4) The value of insurance coverage does not keep pace with inflation.

Hearings before the Subcommittee on Financial Institutions and Consumer Credit during the 107th Congress yielded a broad consensus among the Bush Administration, the Federal and State banking and thrift regulators, and industry and consumer groups that the deposit insurance system could be improved and strengthened to make it more responsive to the cyclical nature of lending and deposit taking activities and the post-Gramm-Leach-Bliley financial and economic environment.

Merging the BIF and the SAIF eliminates potential disparities in bank and thrift risk-based premium assessments and the administrative burden of maintaining and operating two separate funds.

Current law limits the ability of the FDIC to assess premiums on depository institutions above amounts needed to achieve and maintain the existing ratio of reserves to estimated insured deposits at 1.25 percent. Currently over 90 percent of the industry does not pay for deposit insurance, and more than 900 institutions that were chartered within the last 6 years have never paid any premiums. Current law also limits the FDIC's ability to charge riskier institutions, new entrants, and institutions growing at excessive rates appropriate premiums based on the risks they present to the fund. The current premium restrictions require safer institutions to subsidize riskier institutions unnecessarily, and new entrants and institutions that undergo significant growth are allowed to avoid paying premiums.

Further, the current system's "pro-cyclical" bias results in sharply higher premiums being assessed at "down" points in the eco-

nomic cycle, when banks can least afford to pay them and the economy could most benefit from additional liquidity in the banking system.

These inequities are addressed in H.R. 522 by giving the FDIC greater discretion to identify the relative risks all institutions present to the deposit insurance fund and set appropriate risk-based premiums. With this authority, the FDIC can better manage the insurance fund relative to industry and economic cyclicality.

The current deposit insurance system's emphasis on maintaining the 1.25 percent designated reserve ratio (DRR) and the requirement that a 23 basis point premium be assessed whenever the DRR drops and remains below this level for a year is pro-cyclical and creates the potential for volatile premium swings. This problem would also more than likely result in the industry paying high premiums when both banks and the economy could least afford it, and it could sustain and deepen an economic downturn.

The legislation gives the FDIC the discretion to set the DRR within a range of 1.15 to 1.40 percent, addressing the system's volatility and avoiding sharp premium swings. This flexibility gives the FDIC better tools with which to manage the deposit insurance fund during various economic environments.

The Committee found that the overall value of basic insurance coverage had eroded over the last 23 years. If coverage had kept pace with inflation since 1980, when levels were last adjusted, it would now be at more than $200,000; and if it were adjusted for the $40,000 coverage level in effect in 1974 and indexed for inflation from that point forward, the level would be more than $140,000. The Committee believes that increasing the maximum standard deposit insurance amount to $130,000 is a modest step and indexing the new amount every 5 years appropriately restores and maintains the value of deposit insurance coverage.

The current deposit insurance scheme provides inadequate protection for in-State municipal deposits and certain retirement account deposits. The legislation doubles the coverage limit for insured retirement account deposits in order to enhance the retirement security of senior citizens and those planning for retirement. Coverage limits for in-State municipal deposits are also significantly expanded to ensure that more municipal deposits can be kept in local financial institutions and used to meet local credit needs.

In sum, this legislation will respond to these issues by:

- preserving the value of insured deposits at insured depository institutions;
- strengthening the Nation's insured depository institutions, especially small banks, thrifts, and credit unions;
- ensuring that the Federal deposit insurance system does not harm the ability of insured depository institutions to meet the Nation's credit needs at all stages of the economic cycle;
- ensuring that the Federal deposit insurance system remains strong and complements the Federal and State regulatory structure that helps to maintain the safety and soundness of the Nation's banks, thrifts, and credit unions;
- advancing the national priority of enhancing retirement security for all Americans;

• ensuring that the value, benefit and costs of deposit insurance are allocated equitably and fairly; and,
• modernizing the Federal deposit insurance system by merging the BIF with the SAIF and reinforcing the risk-based nature of the system.

HEARINGS

The Committee on Financial Services held a legislative hearing on H.R. 522, the Federal Deposit Insurance Reform Act of 2003, on March 4, 2003, at which the Chairman of the Federal Deposit Insurance Corporation, Donald E. Powell, testified.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on March 13, 2003 and ordered H.R. 522 reported to the House with a favorable recommendation, with an amendment, by a voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. No record votes were taken with in conjunction with the consideration of this legislation. A motion by Mr. Oxley to report the bill to the House with a favorable recommendation was agreed to by a voice vote.

The following amendments were considered:

An amendment in the nature of a substitute by Mr. Oxley, no. 1, making technical changes and clarifying several provisions to the bill, was agreed to by a voice vote, as amended.

An amendment to the amendment in the nature of a substitute offered by Mr. Ose, no. 1a, maintaining coverage at $100,000 per account and striking the inflation adjustment, part 1 (consisting of paragraphs 1 and 4), was not agreed to by a voice vote and part 2 (consisting of paragraphs 2, 3, 5, and 6), tripling coverage for retirement account from the base, was not agreed to by a voice vote.

An amendment to the amendment in the nature of a substitute offered by Mr. Meeks of New York, no. 1b, requiring a reduction in dividends and credits for depository institutions that substantially dilute fund reserves, was withdrawn.

An amendment to the amendment in the nature of a substitute offered by Mr. Gonzalez, no. 1c, requiring a biannual FDIC survey and report on the unbanked, was agreed to by a voice vote.

An amendment to the amendment in the nature of a substitute offered by Mr. Royce, no. 1d, striking increase in deposit coverage, was not agreed to by a voice vote.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings that are reflected in this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The bill will improve the deposit insurance system while keeping it well-funded, as well as reflect more accurately the risks to the fund that are imposed by institutions. As a result, the fund will be less susceptible to problems caused by changes in the economy and will better serve depository institutions and depositors.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 for H.R. 3717 in the 107th Congress and reprinted below as the Committee's cost estimate.

COMMITTEE COST ESTIMATE

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 for H.R. 3717 in the 107th Congress and reprinted below as the Committee's cost estimate. The Committee further estimates that the estimated cost to the Federal government for fiscal year 2008 will be the same in both budget authority and outlays as fiscal year 2007.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

H.R. 3717—Federal Deposit Insurance Reform Act of 2002

Summary: H.R. 3717 would amend provisions of banking and credit union law to reform the deposit insurance system. Specifically, the bill would increase insurance coverage for insured accounts from $100,000 per account to $130,000 for most accounts (with higher levels of coverage for retirement accounts and municipal deposits). Over time, the coverage limit for insured deposits would increase to account for inflation. Those provisions of the bill would affect deposits held by banks and thrifts, which are insured by the Federal Deposit Insurance Corporation (FDIC), as well as those held by credit unions, which are insured by the National Credit Union Administration (NCUA). In addition, the bill would merge the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF) to create a new Deposit Insurance Fund (DIF), to pay the claims of depositors of failed banks and thrifts. Finally, H.R. 3717 would amend the conditions under which banks and thrifts would pay insurance premiums to the FDIC, which administers the funds.

CBO estimates that H.R. 3717 would increase both the costs of resolving failed financial institutions and the income from premiums paid by financial institutions. During the 2003–2012 period, the additional premiums that would be collected under the bill would more than offset the added spending. On balance, CBO esti-

mates that H.R. 3717 would reduce net direct spending by $700 million over the 2003–2012 period. Because H.R. 3717 would affect direct spending, pay-as-you-go procedures would apply.

H.R. 3717 contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that the costs, if any, to comply with the requirement would not exceed the threshold established in UMRA ($58 million in 2002, adjusted annually for inflation).

The bill also contains private-sector mandates as defined by UMRA. CBO estimates that the direct cost of those mandates would be well above the annual threshold specified in UMRA ($115 million in 2002, adjusted annually for inflation), but we do not have sufficient information to provide a precise estimate of the aggregate cost.

Estimated cost to the Federal Government: The estimate budgetary impact of H.R. 3717 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal year in millions of dollars—				
	2003	2004	2005	2006	2007
DIRECT SPENDING					
FDIC and NCUA spending under current law:					
Estimated budget authority	−31	−33	−34	−35	−36
Estimated outlays	1,662	1,337	1,544	1,746	1,694
Proposed changes to FDIC spending:					
Estimated budget authority	0	0	0	0	0
Estimated outlays	−1,000	−400	0	−50	200
Proposed changes to NCUA spending:					
Estimated budget authority	0	0	0	0	0
Estimated outlays	−500	25	25	−125	25
Total changes under H.R. 3717:					
Estimated budget authority	0	0	0	0	0
Estimated outlays	−1,500	−375	25	−175	225
FDIC and NCUA spending under H.R. 3717:					
Estimated budget authority	−31	−33	−34	−35	−36
Estimated outlays	162	962	1,569	1,571	1,919

Basis of estimate

Two federal agencies are primarily responsible for the deposit insurance system. The FDIC insures the deposits in banks with the BIF and the deposits of thrifts with the SAIF. The National Credit Union Administration insures the deposits in credit unions (referred to as shares) with the Share Insurance Fund. When a financial institution fails, the FDIC and the NCUA use the insurance funds to reimburse the insured depositors of the failed institution. These agencies then sell the assets of the failed institution and deposit any money recovered into the insurance funds. CBO estimates that H.R. 3717 would increase both the cost of resolving failed banks and the premiums paid by financial institutions. Over the 2003–2012 period, we estimate that the added premiums paid by financial institutions would more than offset the increase in outlays to resolve failed financial institutions. Adding these effects together, we estimate that enacting H.R. 3717 would result in a net decrease in direct spending of about $700 million over the 2003–2012 period. The major components of this estimate are explained below.

Increase in the cost of resolving failed financial institutions

H.R. 3717 would increase deposit insurance coverage from $100,000 to $130,000 for most accounts, and to $260,000 for employee benefit plans. Coverage for in-state municipal deposits would be the lesser of $5 million or 80 percent of any deposits above $130,000. Such increases would apply to deposits held by credit unions as well as banks and thrifts. In addition, the bill would require the FDIC and NCUA to increase deposit insurance coverage every five years beginning January 1, 2006, to account for inflation. (According to committee staff, the intent of section 3 of H.R. 3717 is to increase deposit insurance coverage in 2006 and 2011 to account for inflation. Despite a drafting error in this section, CBO assumes that such increases would occur.)

By 2003, we expect that insured deposits will total more than $3.2 trillion under current law. Based on information from the FDIC and the experience of past increases in deposit insurance coverage, CBO estimates that H.R. 3717 would increase the deposits insured by the FDIC by about $325 billion—or around 10 percent. CBO estimates that about $33 billion of that amount would result from new deposits attracted to banks and thrifts as a result of the expanded coverage, an increase of about 1 percent. We expect that the assets of failed banks and thrifts would increase correspondingly—by about 1 percent. In 2003, we expect assets of failed banks and thrifts to be $3.65 billion under current law; such assets would increase slightly under the bill.

By insuring deposits that are currently uninsured, the bill would increase the liability of the FDIC and NCUA without significantly increasing the assets of institutions that will fail in the future. Under current law, we expect the FDIC's net losses on failed institutions to total about $12.6 billion over the 2003–2012 period. (We project that gross losses of $51.0 billion would be offset, in part, by recoveries of $38.4 billion from disposition of the institutions' assets.) Based on historical patterns of losses from failed institutions, CBO estimates that increasing insured deposits by about 10 percent would increase losses by about 10 percent over the long term. But over the next 10 years outlays would grow more rapidly because disposal of the assets of failed banks often takes many years. As a result, CBO estimates H.R. 3717 would increase the FDIC's net outlays to resolve failed banks and thrifts by about $2.7 billion over the 2003–2012 period. Similarly, we estimate that enacting H.R. 3717 would increase NCUA's net outlays to resolve failed credit unions by about $100 million over the 2003–2012 period.

By increasing deposit insurance coverage, H.R. 3717 could reduce incentives of depositors to monitor the behavior of financial institutions. Over the long term, this could lead to increased risk-taking by those institutions and ultimately to higher losses. On the other hand, if the DIF incurs larger losses to resolve failed banks and thrifts, H.R. 3717 would give the FDIC the flexibility to set premiums so as to restore the balances in the fund over a few years, thus allowing the agency to recover from large losses without imperiling other institutions. This new authority could reduce future losses. CBO has no basis for estimating the magnitude of either of these effects. We expect, however, that any changes in the costs of resolving failed institutions would eventually be borne by banks and thrifts through premiums.

Increase in premiums paid to the FDIC by financial institutions

Several provisions of H.R. 3717 would affect the total amount of premiums collected by the FDIC. Increasing the size of insured accounts would lead to increased collections. Considered separately, merging the BIF and SAIF and providing the FDIC with increased discretion to set regulations for premium assessments would tend to reduce collections relative to CBO's baseline assumptions. Finally, establishing credits that certain institutions could use to pay the FDIC assessments in lieu of cash would also reduce collections.

The amount of additional premiums that banks and thrifts would pay through the combined effects of all these provisions of H.R. 3717 would depend on the DIF's balance in each year, which in turn would depend on the costs of resolving failed institutions. To estimate the effects of the bill's provisions on premium collections, CBO considered several thousand scenarios of the magnitude and timing of possible losses to the FDIC and resulting premiums collected under the bill. Because the fund balance in any given year depends on the losses of all prior years, each scenario included an estimate of losses over the entire 2003–2012 period. Applying a probability distribution to those loss scenarios, CBO estimated premium income to the government under H.R. 3717 reflecting the wide range of uncertainty about future costs of resolving failed financial institutions.

Overall, CBO estimates that the net effect of these provisions on deposit insurance premiums would be an increase in collections of about $2.8 billion over the next 10 years, slightly more than our projected increase in the FDIC's costs to resolve failed financial institutions. (We estimate that the FDIC will collect about $12 billion in premiums from members over the 2003–2012 period under current law.) Each of the bill's provisions that would have an impact on premium assessments is described below.

Increasing Deposit Insurance Coverage. Expanding deposit insurance coverage would result in increased premiums for the FDIC because premiums are based on the amount of insured deposits. CBO estimates that the increase in coverage would raise the amount of insured deposits by about 10 percent. But the bill would also give the FDIC more discretion in assessing premiums, which CBO expects would offset part of the impact of the increased coverage.

Increasing the FDIC's Regulatory Discretion. Under current law, the FDIC determines when to assess insurance premiums by calculating a figure known as the designated reserve ratio (DRR) for the BIF and SAIF. The DRR represents the ratio of the fund's balances to total insured deposits. Under current law, the FDIC is required to assess premiums so as to maintain the DRR at all times, but under the bill, the agency would be authorized to establish a restoration plan of up to three years to gradually collect sufficient premiums to maintain the DRR at the desired level.

Designated Reserve Ratio (DRR). The DRR is statutorily set at 1.25 percent of insured deposits. If the reserve ratio of either fund falls below that point, the FDIC assesses institutions that are covered by that fund until the reserve ratio reaches at least 1.25 percent. H.R. 3717 would eliminate the requirement that the DRR be 1.25 percent for the FDIC's insurance funds and, instead, allow the FDIC the discretion to set the DRR between 1.15 percent and 1.4

percent, inclusive. The bill would require the FDIC to set the DRR at least annually and at other times as it deems appropriate. The bill also would require the board of directors of the FDIC to consider increasing the DRR during more favorable economic conditions and reducing the DRR during less favorable economic conditions, notwithstanding the risk of loss that may occur under such conditions.

Based on the actions of the NCUA when it was given discretion to set such a ratio, CBO expects that the FDIC would set the DRR at 1.25 percent for 2003 and adjust it annually as conditions warrant. To maintain stability in the banking system, we expect the FDIC would set the DRR within a relatively narrow range around 1.25 percent, except under extreme conditions. In fact, the bill would require the FDIC to return some collections (referred to in the bill as dividends) if the reserve ratio of the DIF exceeds 1.35 percent. In this event, the FDIC would be required to refund half of the amount in the fund that is above the amount necessary to maintain 1.35 percent. If the DRR were to exceed 1.4 percent, the FDIC would be required to refund enough to institutions to reduce the ratio below 1.4 percent.

Restoration Plans. Under current law, the FDIC must charge assessments to return the funds to a level above the DRR within one year. H.R. 3717 could delay some of those assessments by allowing the FDIC to return the fund to a level above the DRR within three years.

If the FDIC projects that the reserve ratio of the DIF will fall below the DRR, H.R. 3717 would require it to establish a restoration plan to return the reserve ratio to the DRR within three years. If the FDIC projects that the reserve ratio of the DIF will fall below 1 percent, H.R. 3717 would require the FDIC to establish a restoration plan to return the reserve ratio to 1 percent within two years and return the reserve ratio to the DRR within three years thereafter. The flexibility to set restoration plans would reduce the assessment income of the FDIC because it could take up to five years to return to the DRR, and government collections would be below baseline levels during this period. On the other hand, this provision of H.R. 3717 might provide the FDIC the discretion necessary to recover from a large loss in the fund without imperiling other institutions.

Allowing the FDIC discretion over when premiums are charged would reduce total collections below the level that would be experienced without that discretion. However, CBO estimates that such reductions would be more than offset by the premium increases resulting from the increase in deposit insurance coverage.

Merging BIF and SAIF. H.R. 3717 would require the FDIC to merge the Bank Insurance Fund and the Savings Association Insurance Fund and create a new Deposit Insurance Fund. By 2003, CBO expects the net worth of the combined fund will be about $42 billion. By itself, merging the funds would delay the collection of premiums on institutions insured by the BIF. Although the BIF is much larger than the SAIF, the reserve ratio of the BIF is lower—1.26 percent—due to rapid growth in insured deposits and the costs of recent bank failures. Under current law, we expect the FDIC to begin charging fees to institutions insured by the BIF in 2003. The reserve ratio of the combined fund would be about 1.3 percent, and

in the absence of other changes made by the bill, the FDIC would not have to assess higher premiums in 2003 to maintain the reserve ratio at the designated level.

Credits for Future Assessments. The bill would require the FDIC to provide certain banks and thrifts with credits against future assessments, based on their payments to the BIF or SAIF prior to 1997. CBO expects that the use of those credits would reduce the amount of future collections by the DIF.

Under the bill, credits would equal 12 basis points (0.12 percent) of the combined assessment base of the BIF and SAIF as of December 31, 2001. Based on information from the FDIC, CBO estimates that the credits would total nearly $5.4 billion. The credits would be allocated to each institution based on their market share as of December 31, 1996. Institutions established after that date would be ineligible for credits against their future assessments. The bill would prohibit institutions from using credits whenever the reserve ratio of the fund is less that the DRR or when the DRR is less than 1.25 percent.

H.R. 3717 also would limit the use of credits by institutions that are not well capitalized, or that exhibit financial, operational, or compliance weaknesses that range from moderately severe to unsatisfactory. Under the bill, such institutions could use no more in credits than the average assessment on all depository institutions for that period. In addition, because the least risky institutions (i.e., those that are well capitalized and do not exhibit those weaknesses) would be assessed no more than one basis point, their use of credits would be effectively constrained. Hence, CBO estimates that more than half of the credits would not be used during the 2003–2012 period and would be available to reduce collections by the FDIC in subsequent years.

Increase in premiums paid to NCUA by financial institutions

Under current law, credit unions must pay the NCUA 1 percent of their net change in deposits each year. The NCUA provides rebates to credit unions if the balance in the share insurance fund exceeds 1.3 percent of insured deposits. CBO estimates that the NCUA will collect net premiums of about $2.4 billion from its members over the 2003–2012 period.

Based on information from the NCUA, CBO expects that H.R. 3717 would extend insurance coverage to about $38 billion in currently uninsured deposits in 2003 and that the higher insurance levels would attract another $4 billion in new deposits that year. Because these added amounts would reduce the ratio of insured deposits to fund balances below 1.3 percent in 2003, H.R. 3717 would reduce the amount of the rebate that the NCUA would otherwise provide that year.

CBO estimates that, under the bill, the net premiums collected by the NCUA would increase by $700 million over the 2003–2012 period. About $500 million of that amount would be realized in 2003. The premiums collected for the expanded insurance coverage would more than offset the estimated additional costs to the NCUA of $100 million over the next 10 years.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in

outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects through fiscal year 2006 are counted.

Section 252 of the Balanced Budget and Emergency Deficit Control Act exempts from pay-as-you-go procedures any changes in outlays resulting from the "full funding of, and continuation of, the deposit insurance guarantee commitment in effect under current estimates." Increasing deposit insurance coverage is not part of the current guarantee commitment, and changing the premiums paid by banks and thrifts is not the type of change necessary for the continuation of the current guarantee commitment. Hence, CBO believes that the pay-as-you-go exemption for deposit insurance would not apply to H.R. 3717.

	By fiscal year, in millions of dollars—										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in outlays	0	−1,500	−375	25	−175	225	325	325	275	−50	225
Changes in receipts	Not applicable										

Estimated impact on state, local, and tribal governments: H.R. 3717 would preempt certain state laws regarding statutes of limitations by shortening the time allowed for insured depository institutions or the FDIC to file claims related to overpayments or late payments of assessments. Such a preemption would be an intergovernmental mandate as defined in UMRA. Because the mandate imposes no duty on states that would result in additional spending, CBO estimates that the costs of complying with the mandate would not exceed the threshold established in UMRA ($58 million in 2002, adjusted annually for inflation).

Estimated impact on the private sector: H.R. 3717 contains private-sector mandates as defined by UMRA. CBO estimates that the direct cost of those mandates would be well above the annual threshold established by UMRA for private-sector mandates ($115 million in 2002, adjusted annually for inflation). We do not have sufficient information to provide a precise estimate of the aggregate cost because of uncertainties about how certain regulations would be implemented.

Banks and savings associations

Commercial banks and savings associations must have federal deposit insurance. CBO, therefore, considers changes in the federal deposit insurance system that increase requirements on those institutions to be private-sector mandates under UMRA. Specifically, the bill would increase federal insurance coverage for insured depository accounts. That increase in coverage would require banks and savings associations to pay more in deposit insurance premiums.

H.R. 3717 also would change the conditions under which banks and savings associations would pay insurance premiums to the FDIC. Under current law, banks and savings associations in the lowest risk category do not have to pay any deposit insurance premiums when their deposit insurance fund (BIF or SAIF) is above the designated reserve ratio of 1.25 percent of insured deposits. The bill would require that all banks and savings associations pay premiums for deposit insurance regardless of the reserve ratio. In

addition, the bill would authorize the FDIC to charge fees to banks and thrifts that increase their net deposits more rapidly than the FDIC determines to be appropriate. The FDIC has indicated that determining the criteria for deciding whether growth is inappropriate would be difficult. At this time, CBO has no basis for estimating the amount of such fees.

CBO estimates that, as a result of the increased deposit insurance coverage and the requirement that all banks and savings associations pay deposit insurance premiums regardless of the reserve ratio, those institutions would have to pay an additional $1 billion in premiums in fiscal year 2003. The additional premium payments would total about $2.1 billion over the first five years the mandate is in effect.

Credit unions

Because the bill would increase the coverage of insured accounts for federally insured credit unions, those credit unions would pay higher premiums. CBO estimates that those institutions would pay an additional $500 million in fiscal year 2003. The additional premium payments would total about $600 million for the first five years the increased coverage is in effect.

Estimate prepared by: Federal costs: Mark Hadley and Judith Ruud; impact on state, local, and tribal governments: Susan Sieg Tompkins; impact on the private sector: Judith Ruud.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not timely submitted to the Committee. The Chairman of the Committee will cause such estimate to be printed in the Congressional Record when it is available.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act for H.R. 3717 in the 107th Congress and reprinted as the Committee's cost estimate.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the Constitutional Authority of Congress to enact this legislation is provided by Article 1, section 8, clause 1 (relating to the defense and general welfare of the United States), and clause 3 (relating to the power to regulate foreign and interstate commerce).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short Title; Table of contents

This section establishes the short title of the bill, the "Federal Deposit Insurance Reform Act of 2003," and provides a table of contents.

Section 2. Merging the BIF and SAIF

This section amends provisions of the Federal Deposit Insurance Act to merge the Bank Insurance Fund and the Savings Association Insurance Fund. The section transfers each fund's respective assets and liabilities into a newly created Deposit Insurance Fund (DIF).

The section gives the FDIC at least 90 days after the bill is enacted to complete the merger of the BIF and SAIF. The effective date of the merger would be the first day of the next calendar quarter after the grace period elapses. For example, assuming the bill is enacted on March 10 the FDIC would have until June 8 to complete the merger, and all transactions would become operationally effective as of July 1.

Section 3. Increase in deposit insurance coverage

This section provides for a higher level of deposit insurance coverage and an inflation index for general depositors, individual retirement accounts, and municipalities. Further, it expands coverage to employee benefit plans. Credit unions are provided with complete parity in coverage with other insured depository institutions.

The section also eliminates the $100,000 deposit insurance limit on accounts at insured depository institutions and replaces it with a new standard maximum deposit insurance limit of $130,000.

The section further provides that, beginning January 1, 2006, the new standard maximum deposit insurance limit would be subject to a 5 year cost of living adjustment, calculated according to the Personal Consumption Expenditures Chain-Type Index (PCE) published by the Department of Commerce and rounded to the nearest $10,000. The FDIC and National Credit Union Administration (NCUA) Boards of Directors are required to publish the new standard maximum deposit insurance amount in the Federal Register and provide a corresponding report to Congress within 6 months of the new calculation. Also, the five year inflation-adjusted standard maximum amount would automatically increase unless a Congressional act provides otherwise. The new standard amount would take effect on January 1 of the year immediately succeeding the calendar year in which the new amount is calculated.

The section also requires institutions to provide pass through coverage for employee benefit plans. However, institutions that are not well-capitalized or adequately-capitalized may not accept employee benefit plan deposits.

The section also doubles the new standard maximum deposit insurance limit for certain retirement accounts to $260,000.

Finally, this section increases coverage for in-State municipal deposits to the lesser of $2 million or the sum of the new standard coverage amount plus 80 percent of the amount of deposits in excess of the new standard, and provides that no State may deny to insured depository institutions within its jurisdiction the authority to accept insured in-State municipal deposits, or prohibit the making of such deposits in such institutions by any in-State municipal depositor.

Section 4. Setting assessments and repeal of special rules relating to minimum assessments and free deposit insurance

This section allows the FDIC Board to set assessments in such amounts as it may determine to be necessary or appropriate in order to maintain the reserve ratio at the designated reserve ratio. This provision also eliminates the existing restrictions on the FDIC's authority to levy assessments on any institution above amounts needed to achieve and maintain the existing DRR of 1.25 percent. In effect, the minimum statutory rate (23 basis point cliff rate) is eliminated.

This section establishes a rate of not more than 1 basis point (exclusive of any credit or dividend) for those insured depository institutions in the lowest-risk category under the FDIC's risk-based assessment system. This section also provides that no depository institution will be barred from the lowest-risk category solely because of size. The one basis point rate does not apply during any period in which the DIF's reserve ratio is less than 1.15 percent of aggregate insured deposits.

In testimony before the Subcommittee on Financial Institutions, FDIC Chairman Donald Powell stated that:

> Using the current system as a starting point, I believe that the FDIC should consider additional objective financial indicators, based upon the kinds of information that banks and thrifts already report, to distinguish and price for risk more accurately within the existing least-risk (1A) category. The sample "scorecard" included in the FDIC's April 2001 report represents the right kind of approach. (Hearing before the Subcommittee on Financial Institutions and Consumer Credit, Viewpoints of the FDIC and Select Industry Experts on Deposit Insurance Reform, Oct. 17, 2001, Serial no. 107–47, p. 5.)

This scorecard example showed the lowest-risk category, 1A+, contained approximately 42 percent of all banks. The Committee looked to these examples, and the distribution of banks (including size, charter, and governance) within each of the 1A subcategories, as a basis for this provision. This section provides a necessary balance between the expanded authority and discretion of the FDIC to charge all institutions premiums and assuring that top-rated institutions are not excessively charged.

The Committee envisions that this rate will be the starting point or base premium for the risk-based assessment schedule to be developed by the FDIC (with higher premiums associated with higher risk categories being set relative to this base rate). Nothing in this

provision precludes the FDIC from providing credits or dividends should the fund be at sufficient levels to warrant such an action.

The section also requires insured depository institutions to maintain all records that the FDIC may require for verifying the accuracy of any assessment for 3 years or, in the case of disputed assessments, until the dispute has been resolved, and increases fees for late assessment payments from $100 to 1 percent of assessments per day.

This section also provides for a 50 percent discount in the assessment rate for deposits attributable to "lifeline" deposit accounts and repeals section 232 of the Federal Deposit Insurance Corporation Improvement Act of 1991 that required that credits for such accounts be funded from congressional appropriations.

The bill repeals a number of provisions requiring the FDIC to set premiums on a semi-annual basis, replacing them with a provision granting the FDIC greater flexibility in the timing of those evaluations, so long as they are done at least once in a 12 month period. In granting this flexibility, the Committee intends that the FDIC should make these changes, absent extraordinary circumstances, in a manner that provides insured depository institutions with sufficient lead time to make reasonable budget preparations.

Section 5. Replacement of fixed designated reserve ratio with reserve range

This section eliminates the current 1.25 percent "hard target" DRR and provides the FDIC Board with the discretion to set the DRR within a range of 1.15 to 1.40 percent for any given year, using the following criteria as a basis for making these determinations:

(1) Present and future risk of losses to the deposit insurance fund;

(2) Economic conditions; and

(3) Any other factors the Board may determine to be appropriate.

The more flexible range for setting the DRR is designed to prevent sharp swings in the assessment rates for insured depository institutions. In designating the reserve ratio, the FDIC must follow notice-and-comment rulemaking procedures, and is required to publish a thorough analysis of the data and projections on which the proposed DRR is based.

Section 6. Requirements applicable to the risk-based assessment system

This section directs the FDIC to collect information from all appropriate sources in determining risk of losses to the DIF. This provision does not authorize the FDIC to impose additional record-keeping requirements on insured depository institutions.

The FDIC is required to consult with the appropriate Federal banking agency in assessing the risk of loss to the DIF with respect to any insured depository institution. This risk of loss evaluation may be done on an aggregate basis for institutions that are determined to be well-capitalized and well-managed.

The FDIC is also required to provide notice and opportunity for comment prior to revising or modifying the risk-based assessment system.

Section 7. Refunds, dividends, and credits from Deposit Insurance Fund

This section provides for refunds or credits of any assessment payment that was made by an insured depository institution in excess of the amount due the FDIC.

The section specifies two circumstances under which the FDIC is required to pay dividends to insured depository institutions: (1) whenever the reserve ratio of the DIF equals or exceeds 1.35 percent of estimated insured deposits and is less than or equal to 1.4 percent of such deposits, the FDIC is required to pay dividends equal to 50 percent of the amount in excess of what is required to maintain the reserve ratio at 1.35 percent; and (2) whenever the reserve ratio of the DIF exceeds 1.4 percent of estimated insured deposits, the FDIC is required to pay dividends in the amount of the excess of what is necessary to maintain the ratio at 1.4 percent.

The requirement that when the DIF exceeds 1.35 percent and is less than or equal to 1.4 percent, the FDIC must provide a cash dividend equal to one-half the difference between the actual fund balance and the fund balance required to maintain a reserve ratio of 1.35 percent is intended to slow the fund's growth automatically as it approaches its upper limit and return dividends to institutions that could be used for lending and to provide other financial services in their communities.

The section also provides for a transitional credit of 12 basis points of the total assessment base as of December 31, 2001 (or about $5.4 billion) to eligible insured depository institutions based on their respective share or percentage of total industry insured deposits held as of December 31, 1996. Eligible insured depository institutions had to be in existence at December 31, 1996, or be a successor to such an institution, and paid a deposit insurance assessment prior to that date.

In addition to the transitional credit, this section directs the FDIC to promulgate regulations establishing an ongoing system of credits to be applied against future premium assessments. Such credits will not be awarded, however, during any period in which (1) the reserve ratio of the DIF is less than the DRR; or (2) the reserve ratio is less than 1.25 percent of estimated insured deposits. In determining the amount of any ongoing assessment credits, the FDIC is required to consider the factors for designating the reserve ratio and setting assessments outlined elsewhere in the statute.

For purposes of allocating dividends and credits, the FDIC is required to determine each insured depository institution's relative contribution to the DIF (or any predecessor deposit insurance fund), taking into account the institution's share of the assessment base as of December 31, 1996; the total amount of deposit insurance assessments paid by the institution after December 31, 1996; that portion of assessments paid by an institution that reflects higher levels of risk assumed by the institution; and such other factors as the FDIC deems appropriate. The FDIC's calculation, declaration and payment of dividends are made subject to notice-and-comment rulemaking.

For any insured depository institution that exhibits financial, operational or compliance weaknesses ranging from moderately severe to unsatisfactory at the beginning of the assessment period,

credits may not exceed the amount equal to the average assessment on all insured depository institutions.

In promulgating regulations establishing a system for dividends and credits, the FDIC is required to include provisions allowing insured depository institutions a reasonable opportunity to challenge administratively the amount of their dividends or credits.

Nothing in this section precludes the FDIC from providing credits, over and above the mandated dividend requirement, should it so choose.

The Committee intends that the FDIC, in determining the appropriate distribution of dividends or ongoing credits, weigh a number of factors in its rulemaking process. The calculation should recognize past contributions to the deposit insurance funds by incorporating the ratio determined for an institution in the calculation of the institution's one-time credit based on total assessment base at year-end 1996, as well as the actual assessments paid since that time. In establishing the dividend and credit systems, the FDIC should also take into account and make adjustments that reflect the higher risk profiles of some institutions so that they are not rewarded for riskier behavior. The FDIC is given the discretion to incorporate additional factors, through the rulemaking process, as it deems appropriate.

Initially, the Committee anticipates that the FDIC will establish a dividend account or similar mechanism for each insured depository institution. It is contemplated that when a dividend is declared, each institution would receive the same proportion of the total dividend declared as its dividend account bears to the sum of all institutions' dividend accounts for that declaration. As an example of how this might work under such a scenario, the calculation of an institution's dividend account could be based on the balance in the fund multiplied by the institution's 1996 assessment base ratio (described above). In addition, after reducing the amount of assessments paid to account for an institution's higher risk profile, and after considering other factors, the Corporation would incorporate the remainder in the calculation of the dividend account. In sum, it is the Committee's intent that the FDIC create and implement a robust system of dividends and ongoing credits based upon the various factors set forth in the bill.

Section 8. Deposit Insurance Fund restoration plans

Whenever the reserve ratio falls or is projected to fall below the low end of the range within which the FDIC is authorized to set the DRR, the FDIC is required, within 90 days, to establish and implement a plan for restoring the DIF to that level within ten years. While such a restoration plan is in effect, the FDIC has the authority to restrict the use of assessment credits by insured depository institutions, but is required to apply to an institution's assessment an amount that is the lesser of the institution's assessment or 3 basis points of an institution's assessment base. The FDIC must publish the details of its restoration plan in the Federal Register within 30 days of its implementation.

Section 9. Regulations required

This section provides that the FDIC has 270 days after the date of enactment to prescribe final regulations, after notice and oppor-

tunity for public comment, establishing the DRR, implementing increases in deposit insurance coverage, implementing the dividend requirement and the one time assessment credit, and providing for premium assessments under the amended Act.

Section 10. Studies of FDIC structure and expenses and certain activities and further possible changes to deposit insurance system

This section provides that within one year of enactment, reports must be submitted to Congress on the following issues:

(1) The efficiency and effectiveness of the administration of the prompt corrective action (PCA) program, including the degree of effectiveness of the Federal banking agencies in identifying troubled depository institutions and the degree of accuracy of the risk assessments made by the FDIC;

(2) The appropriateness of the FDIC's organizational structure for the mission of the FDIC, to take into account the current size and complexity of the business of insured depository institutions; the extent to which the organizational structure contributes to or reduces operational inefficiencies that increase operational costs; and the effectiveness of internal controls;

(3) The feasibility of establishing a voluntary deposit insurance system for deposits in excess of the maximum amount of deposit insurance for any depositor;

(4) The feasibility of privatizing all deposit insurance at insured depository institutions and insured credit unions; and,

(5) The feasibility of using actual domestic deposits rather than estimated insured deposits in calculating the DIF's reserve ratio and the DRR.

Finally, the section directs the FDIC (in consultation with the GAO) to conduct a study of the reserve methodology and loss accounting for insured depository institutions in a troubled condition over the period January 1, 1992 through December 31, 2002, and report its findings and conclusions to Congress within 6 months of the date of enactment.

Section 11. Bi-annual FDIC survey and report on increasing the deposit base by encouraging use of depository institutions by the unbanked

This section requires the FDIC to conduct a bi-annual survey on efforts by insured depository institutions to bring the "unbanked" into the conventional finance system, and report its findings and conclusions to the House Committee on Financial Services and the Senate Committee on Banking, Housing and Urban Affairs, together with any recommendations for legislative or administrative action.

Section 12. Technical and Conforming Amendments to the Federal Deposit Insurance Act relating to the merger of the BIF and SAIF

This section makes numerous amendments to ensure the technical conformity of the Federal Deposit Insurance Reform Act to various provisions in the Federal Deposit Insurance Act and other banking laws, to include the authority of the DIF to borrow from insured depository institutions and the Federal Home Loan Banks.

In particular, this section repeals section 5(d)(2) of the Federal Deposit Insurance Act, dealing with exit fees collected from institutions leaving the Savings Association Insurance Fund (SAIF). The Committee intends that those funds be returned to the DIF upon the repeal of this provision.

Section 13. Other Technical and Conforming Amendments relating to the merger of the BIF and SAIF

This section ensures the technical conformity of the Federal Deposit Insurance Reform Act to various provisions in the Federal Deposit Insurance Act and other banking laws. Most notably, amendments conform the Federal Deposit Insurance Reform Act to the Balanced Budget and Emergency Control Act of 1985.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 2704 OF THE DEPOSIT INSURANCE FUNDS ACT OF 1996

[SEC. 2704. MERGER OF BIF AND SAIF.

[(a) IN GENERAL.—

[(1) MERGER.—The Bank Insurance Fund and the Savings Association Insurance Fund shall be merged into the Deposit Insurance Fund established by section 11(a)(4) of the Federal Deposit Insurance Act, as amended by this section.

[(2) DISPOSITION OF ASSETS AND LIABILITIES.—All assets and liabilities of the Bank Insurance Fund and the Savings Association Insurance Fund shall be transferred to the Deposit Insurance Fund.

[(3) NO SEPARATE EXISTENCE.—The separate existence of the Bank Insurance Fund and the Savings Association Insurance Fund shall cease.

[(c) EFFECTIVE DATE.—This section and the amendments made by this section shall become effective on January 1, 1999, if no insured depository institution is a savings association on that date.

[(d) TECHNICAL AND CONFORMING AMENDMENTS.—

[(1) DEPOSIT INSURANCE FUND.—Section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is amended—

[(A) by redesignating subparagraph (B) as subparagraph (C);

[(B) by striking subparagraph (A) and inserting the following:

[“(A) ESTABLISHMENT.—There is established the Deposit Insurance Fund, which the Corporation shall—

[“(i) maintain and administer;

[“(ii) use to carry out its insurance purposes in the manner provided by this subsection; and

[“(iii) invest in accordance with section 13(a).

[“(B) USES.—The Deposit Insurance Fund shall be available to the Corporation for use with respect to Deposit Insurance Fund members.”; and

[(C) by striking “(4) GENERAL PROVISIONS RELATING TO FUNDS.—” and inserting the following:

[“(4) ESTABLISHMENT OF THE DEPOSIT INSURANCE FUND.—”.

[(2) OTHER REFERENCES.—Section 11(a)(4)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)(C), as redesignated by paragraph (1) of this subsection) is amended by striking “Bank Insurance Fund and the Savings Association Insurance Fund” and inserting “Deposit Insurance Fund”.

[(3) DEPOSITS INTO FUND.—Section 11(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(4)) is amended by adding at the end the following new subparagraph:

[“(D) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited in the Deposit Insurance Fund.”.

[(5) FEDERAL HOME LOAN BANK ACT.—Section 21B(f)(2)(C)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(f)(2)(C)(ii)) is amended—

[(A) in subclause (I), by striking “to Savings Associations Insurance Fund members” and inserting “to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995”; and

[(B) in subclause (II), by striking “to Savings Associations Insurance Fund members” and inserting “to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995”.

[(6) REPEALS.—

[(A) SECTION 3.—Section 3(y) of the Federal Deposit Insurance Act (12 U.S.C. 1813(y)) is amended to read as follows:

[“(y) DEFINITIONS RELATING TO THE DEPOSIT INSURANCE FUND.—

[“(1) DEPOSIT INSURANCE FUND.—The term ‘Deposit Insurance Fund’ means the fund established under section 11(a)(4).

[“(2) RESERVE RATIO.—The term ‘reserve ratio’ means the ratio of the net worth of the Deposit Insurance Fund to aggregate estimated insured deposits held in all insured depository institutions.

[“(3) DESIGNATED RESERVE RATIO.—The designated reserve ratio of the Deposit Insurance Fund for each year shall be—

[“(A) 1.25 percent of estimated insured deposits; or

[“(B) a higher percentage of estimated insured deposits that the Board of Directors determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund.”

[(B) SECTION 7.—Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended—

[(i) by striking subsection (*l*);

[(ii) by redesignating subsections (m) and (n) as subsections (*l*) and (m), respectively;

[(iii) in subsection (b)(2), by striking subparagraphs (B) and (F), and by redesignating subparagraphs (C), (E), (G), and (H) as subparagraphs (B) through (E), respectively.

[(C) SECTION 11.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended—

[(i) by striking paragraphs (5), (6), and (7); and

[(ii) by redesignating paragraph (8) as paragraph (5).".

[(7) SECTION 5136 OF THE REVISED STATUTES.—The paragraph designated the "Eleventh" of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended in the 5th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

[(8) INVESTMENTS PROMOTING PUBLIC WELFARE; LIMITATIONS ON AGGREGATE INVESTMENTS.—The 23d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended in the 4th sentence, by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund".

[(9) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—Section 10B(b)(3)(A)(ii) of the Federal Reserve Act (12 U.S.C. 347b(b)(3)(A)(ii)) is amended by striking "any deposit insurance fund in" and inserting "the Deposit Insurance Fund of".

[(10) AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended—

[(A) by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

[(B) by striking "Federal Deposit Insurance Corporation, Savings Association Insurance Fund;".

[(11) FURTHER AMENDMENTS TO THE FEDERAL HOME LOAN BANK ACT.—The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended—

[(A) in section 11(k) (12 U.S.C. 1431(k))—

[(i) in the subsection heading, by striking "SAIF" and inserting "THE DEPOSIT INSURANCE FUND"; and

[(ii) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

[(B) in section 21A(b)(4)(B) (12 U.S.C. 1441a(b)(4)(B)), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

[(C) in section 21A(b)(6)(B) (12 U.S.C. 1441a(b)(6)(B))—

[(i) in the subparagraph heading, by striking "SAIF-INSURED BANKS" and inserting "CHARTER CONVERSIONS"; and

[(ii) by striking "Savings Association Insurance Fund member" and inserting "savings association";

[(D) in section 21A(b)(10)(A)(iv)(II) (12 U.S.C. 1441a(b)(10)(A)(iv)(II)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

[(E) in section 21B(e) (12 U.S.C. 1441b(e))—

[(i) in paragraph (5), by inserting "as of the date of funding" after "Savings Association Insurance Fund members" each place such term appears;

[(ii) by striking paragraph (7); and

[(iii) by redesignating paragraph (8) as paragraph (7); and

[(F) in section 21B(k) (12 U.S.C. 1441b(k))—

[(i) by striking paragraph (8); and

[(ii) by redesignating paragraphs (9) and (10) as paragraphs (8) and (9), respectively.

[(12) AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—The Home Owners' Loan Act (12 U.S.C. 1461 et seq.) is amended—

[(A) in section 5—

[(i) in subsection (c)(5)(A), by striking "that is a member of the Bank Insurance Fund";

[(ii) in subsection (c)(6), by striking "As used in this subsection—" and inserting "For purposes of this subsection, the following definitions shall apply:";

[(iii) in subsection (o)(1), by striking "that is a Bank Insurance Fund member";

[(iv) in subsection (o)(2)(A), by striking "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member" and inserting "insured by the Deposit Insurance Fund";

[(v) in subsection (t)(5)(D)(iii)(II), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

[(vi) in subsection (t)(7)(C)(i)(I), by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund"; and

[(vii) in subsection (v)(2)(A)(i), by striking ", the Savings Association Insurance Fund" and inserting "or the Deposit Insurance Fund"; and

[(B) in section 10—

[(i) in subsection (e)(1)(A)(iii)(VII), by adding "or" at the end;

[(ii) in subsection (e)(1)(A)(iv), by adding "and" at the end;

[(iii) in subsection (e)(1)(B), by striking "Savings Association Insurance Fund or Bank Insurance Fund" and inserting "Deposit Insurance Fund";

[(iv) in subsection (e)(2), by striking "Savings Association Insurance Fund or the Bank Insurance Fund" and inserting "Deposit Insurance Fund"; and

[(v) in subsection (m)(3), by striking subparagraph (E), and by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively.

[(13) AMENDMENTS TO THE NATIONAL HOUSING ACT.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended—

[(A) in section 317(b)(1)(B) (12 U.S.C. 1723i(b)(1)(B)), by striking "Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund"; and

[(B) in section 526(b)(1)(B)(ii) (12 U.S.C. 1735f–14(b)(1)(B)(ii)), by striking "Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations" and inserting "Deposit Insurance Fund".

[(14) FURTHER AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

[(A) in section 3(a)(1) (12 U.S.C. 1813(a)(1)), by striking subparagraph (B) and inserting the following:

["(B) includes any former savings association.";

[(B) in section 5(b)(5) (12 U.S.C. 1815(b)(5)), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund;" and inserting "Deposit Insurance Fund,";

[(C) in section 5(d) (12 U.S.C. 1815(d)), by striking paragraphs (2) and (3);

[(D) in section 5(d)(1) (12 U.S.C. 1815(d)(1))—

[(i) in subparagraph (A), by striking "reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund" and inserting "the reserve ratio of the Deposit Insurance Fund";

[(ii) by striking subparagraph (B) and inserting the following:

["(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.";

[(iii) by striking "(1) UNINSURED INSTITUTIONS.—"; and

[(iv) by redesignating subparagraphs (A) and (C) as paragraphs (1) and (3), respectively, and moving the margins 2 ems to the left;

[(E) in section 5(e) (12 U.S.C. 1815(e))—

[(i) in paragraph (5)(A), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

[(ii) by striking paragraph (6); and

[(iii) by redesignating paragraphs (7), (8), and (9) as paragraphs (6), (7), and (8), respectively;

[(F) in section 6(5) (12 U.S.C. 1816(5)), by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

[(G) in section 7(b) (12 U.S.C. 1817(b))—

[(i) in paragraph (1)(D), by striking "each deposit insurance fund" and inserting "the Deposit Insurance Fund";

[(ii) in clauses (i)(I) and (iv) of paragraph (2)(A), by striking "each deposit insurance fund" each place such term appears and inserting "the Deposit Insurance Fund";

[(iii) in paragraph (2)(A)(iii), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

[(iv) by striking clause (iv) of paragraph (2)(A);

[(v) in paragraph (2)(C) (as redesignated by paragraph (6)(B) of this subsection)—

[(I) by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

[(II) by striking "that fund" each place such term appears and inserting "the Deposit Insurance Fund";

[(vi) in paragraph (2)(D) (as redesignated by paragraph (6)(B) of this subsection)—

[(I) in the subparagraph heading, by striking "FUNDS ACHIEVE" and inserting "FUND ACHIEVES"; and

[(II) by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund";

[(vii) in paragraph (3)—

[(I) in the paragraph heading, by striking "FUNDS" and inserting "FUND";

[(II) by striking "members of that fund" where such term appears in the portion of subparagraph (A) which precedes clause (i) of such subparagraph and inserting "insured depository institutions";

[(III) by striking "that fund" each place such term appears (other than in connection with term amended in subclause (II) of this clause) and inserting "the Deposit Insurance Fund";

[(IV) in subparagraph (A), by striking "Except as provided in paragraph (2)(F), if" and inserting "If";

[(V) in subparagraph (A), by striking "any deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

[(VI) by striking subparagraphs (C) and (D) and inserting the following:

["(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule prescribed under subparagraph (B)."; and

[(viii) in paragraph (6)—

[(I) by striking "any such assessment" and inserting "any such assessment is necessary";

[(II) by striking "(A) is necessary—";

[(III) by striking subparagraph (B);

[(IV) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and moving the margins 2 ems to the left; and

[(V) in subparagraph (C) (as redesignated), by striking "; and" and inserting a period;

[(H) in section 11(f)(1) (12 U.S.C. 1821(f)(1)), by striking ", except that—" and all that follows through the end of the paragraph and inserting a period;

[(I) in section 11(i)(3) (12 U.S.C. 1821(i)(3))—

[(i) by striking subparagraph (B);

[(ii) by redesignating subparagraph (C) as subparagraph (B); and

[(iii) in subparagraph (B) (as redesignated), by striking "subparagraphs (A) and (B)" and inserting "subparagraph (A)";

[(J) in section 11A(a) (12 U.S.C. 1821a(a))—

[(i) in paragraph (2), by striking "LIABILITIES.—" and all that follows through "Except" and inserting "LIABILITIES.—Except";

[(ii) by striking paragraph (2)(B); and

[(iii) in paragraph (3), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "the Deposit Insurance Fund";

[(K) in section 11A(b) (12 U.S.C. 1821a(b)), by striking paragraph (4);

[(L) in section 11A(f) (12 U.S.C. 1821a(f)), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

[(M) in section 13 (12 U.S.C. 1823)—

[(i) in subsection (a)(1), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund, the Special Reserve of the Deposit Insurance Fund,";

[(ii) in subsection (c)(4)(E)—

[(I) in the subparagraph heading, by striking "FUNDS" and inserting "FUND"; and

[(II) in clause (i), by striking "any insurance fund" and inserting "the Deposit Insurance Fund";

[(iii) in subsection (c)(4)(G)(ii)—

[(I) by striking "appropriate insurance fund" and inserting "Deposit Insurance Fund";

[(II) by striking "the members of the insurance fund (of which such institution is a member)" and inserting "insured depository institutions";

[(III) by striking "each member's" and inserting "each insured depository institution's"; and

[(IV) by striking "the member's" each place such term appears and inserting "the institution's";

[(iv) in subsection (c), by striking paragraph (11);

[(v) in subsection (h), by striking "Bank Insurance Fund" and inserting "Deposit Insurance Fund";

[(vi) in subsection (k)(4)(B)(i), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

[(vii) in subsection (k)(5)(A), by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

[(N) in section 14(a) (12 U.S.C. 1824(a)) in the 5th sentence—

[(i) by striking "Bank Insurance Fund or the Savings Association Insurance Fund" and inserting "Deposit Insurance Fund"; and

[(ii) by striking "each such fund" and inserting "the Deposit Insurance Fund";

[(O) in section 14(b) (12 U.S.C. 1824(b)), by striking "Bank Insurance Fund or Savings Association Insurance Fund" and inserting "Deposit Insurance Fund";

[(P) in section 14(c) (12 U.S.C. 1824(c)), by striking paragraph (3);

[(Q) in section 14(d) (12 U.S.C. 1824(d))—

[(i) by striking "BIF" each place such term appears and inserting "DIF"; and

[(ii) by striking "Bank Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund";

[(R) in section 15(c)(5) (12 U.S.C. 1825(c)(5))—

[(i) by striking "the Bank Insurance Fund or Savings Association Insurance Fund, respectively" each place such term appears and inserting "the Deposit Insurance Fund"; and

[(ii) in subparagraph (B), by striking "the Bank Insurance Fund or the Savings Association Insurance Fund, respectively" and inserting "the Deposit Insurance Fund";

[(S) in section 17(a) (12 U.S.C. 1827(a))—

[(i) in the subsection heading, by striking "BIF, SAIF," and inserting "THE DEPOSIT INSURANCE FUND"; and

[(ii) in paragraph (1), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

[(T) in section 17(d) (12 U.S.C. 1827(d)), by striking "the Bank Insurance Fund, the Savings Association Insurance Fund," each place such term appears and inserting "the Deposit Insurance Fund";

[(U) in section 18(m)(3) (12 U.S.C. 1828(m)(3))—

[(i) by striking "Savings Association Insurance Fund" each place such term appears and inserting "Deposit Insurance Fund"; and

[(ii) in subparagraph (C), by striking "or the Bank Insurance Fund";

[(V) in section 18(p) (12 U.S.C. 1828(p)), by striking "deposit insurance funds" and inserting "Deposit Insurance Fund";

[(W) in section 24 (12 U.S.C. 1831a) in subsections (a)(1) and (d)(1)(A), by striking "appropriate deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

[(X) in section 28 (12 U.S.C. 1831e), by striking "affected deposit insurance fund" each place such term appears and inserting "Deposit Insurance Fund";

[(Y) by striking section 31 (12 U.S.C. 1831h);

[(Z) in section 36(i)(3) (12 U.S.C. 1831m(i)(3)) by striking "affected deposit insurance fund" and inserting "Deposit Insurance Fund";

[(AA) in section 38(a) (12 U.S.C. 1831o(a)) in the subsection heading, by striking "FUNDS" and inserting "FUND";

[(BB) in section 38(k) (12 U.S.C. 1831o(k))—

[(i) in paragraph (1), by striking "a deposit insurance fund" and inserting "the Deposit Insurance Fund"; and

[(ii) in paragraph (2)(A)—

[(I) by striking "A deposit insurance fund" and inserting "The Deposit Insurance Fund"; and

[(II) by striking "the deposit insurance fund's outlays" and inserting "the outlays of the Deposit Insurance Fund"; and

[(CC) in section 38(o) (12 U.S.C. 1831o(o))—

[(i) by striking "ASSOCIATIONS.—" and all that follows through "Subsections (e)(2)" and inserting "ASSOCIATIONS.—Subsections (e)(2)";

[(ii) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and moving the margins 2 ems to the left; and

[(iii) in paragraph (1) (as redesignated), by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively, and moving the margins 2 ems to the left.

[(15) AMENDMENTS TO THE FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989.—The Financial Institutions Reform, Recovery, and Enforcement Act is amended—

[(A) in section 951(b)(3)(B) (12 U.S.C. 1833a(b)(3)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund"; and

[(B) in section 1112(c)(1)(B) (12 U.S.C. 3341(c)(1)(B)), by striking "Bank Insurance Fund, the Savings Association Insurance Fund," and inserting "Deposit Insurance Fund".

[(16) AMENDMENT TO THE BANK ENTERPRISE ACT OF 1991.—Section 232(a)(1) of the Bank Enterprise Act of 1991 (12 U.S.C. 1834(a)(1)) is amended by striking "section 7(b)(2)(H)" and inserting "section 7(b)(2)(G)".

[(17) AMENDMENT TO THE BANK HOLDING COMPANY ACT OF 1956.—Section 2(j)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(j)(2)) is amended by striking "Savings Association Insurance Fund" and inserting "Deposit Insurance Fund".]

FEDERAL DEPOSIT INSURANCE ACT

* * * * * * *

SEC. 3. As used in this Act—

(a) DEFINITIONS OF BANK AND RELATED TERMS.—

(1) BANK.—The term "bank"—

(A) * * *

[(B) includes any former savings association that—

[(i) has converted from a savings association charter; and

[(ii) is a Savings Association Insurance Fund member.]

(B) includes any former savings association.

* * * * * * *

[(y) The term "deposit insurance fund" means the Bank Insurance Fund or the Savings Association Insurance Fund, as appropriate.]

(y) DEFINITIONS RELATING TO DEPOSIT INSURANCE FUND.—

(1) DEPOSIT INSURANCE FUND.—The term "Deposit Insurance Fund" means the Deposit Insurance Fund established under section 11(a)(4).

(2) DESIGNATED RESERVE RATIO.—The term "designated reserve ratio" means the reserve ratio designated by the Board of Directors in accordance with section 7(b)(3).

(3) RESERVE RATIO.—The term "reserve ratio", when used with regard to the Deposit Insurance Fund other than in connection with a reference to the designated reserve ratio, means the ratio of the net worth of the Deposit Insurance Fund to the value of the aggregate estimated insured deposits.

* * * * * * *

SEC. 5. DEPOSIT INSURANCE.

(a) * * *

(b) Subject to the provisions of this Act and to such terms and conditions as the Board of Directors may impose, any branch of a foreign bank, upon application by the bank to the Corporation, and examination by the Corporation of the branch, and approval by the Board of Directors, may become an insured branch. Before approving any such application, the Board of Directors shall give consideration to—

(1) * * *

* * * * * * *

(5) the risk presented to [the Bank Insurance Fund or the Savings Association Insurance Fund,] *the Deposit Insurance Fund,*

* * * * * * *

(c)(1) * * *

* * * * * * *

(4) The purpose of the surety bonds and pledges of assets required under this subsection is to provide protection to the [deposit insurance fund] *Deposit Insurance Fund* against the risks entailed in insuring the domestic deposits of a foreign bank whose activities, assets, and personnel are in large part outside the jurisdiction of the United States. In the implementation of its authority under this subsection, however, the Corporation shall endeavor to avoid imposing requirements on such banks which would unnecessarily place them at a competitive disadvantage in relation to domestically incorporated banks.

* * * * * * *

(d) INSURANCE FEES.—

[(1) UNINSURED INSTITUTIONS.—]

[(A)] *(1)* IN GENERAL.—Any institution that becomes insured by the Corporation, and any noninsured branch that becomes insured by the Corporation, shall pay the Corporation any fee which the Corporation may by regulation prescribe, after giving due consideration to the need to establish and maintain [reserve ratios in the Bank Insurance Fund and the Savings Association Insurance Fund as required by section 7] *the reserve ratio of the Deposit Insurance Fund*.

[(B) FEE CREDITED TO APPROPRIATE FUND.—The fee paid by the depository institution shall be credited to the Bank

Insurance Fund if the depository institution becomes a Bank Insurance Fund member, and to the Savings Association Insurance Fund if the depository institution becomes a Savings Association Insurance Fund member.]

(2) FEE CREDITED TO THE DEPOSIT INSURANCE FUND.—The fee paid by the depository institution under paragraph (1) shall be credited to the Deposit Insurance Fund.

[(C)] *(3)* EXCEPTION FOR CERTAIN DEPOSITORY INSTITUTIONS.—Any depository institution that becomes an insured depository institution by operation of section 4(a) shall not pay any fee.

[(2) CONVERSIONS.—

[(A) IN GENERAL.—

[(i) PRIOR APPROVAL REQUIRED.—No insured depository institution may participate in a conversion transaction without the prior approval of the Corporation.

[(ii) 5-YEAR MORATORIUM ON CONVERSIONS.—Except as provided in subparagraph (C), the Corporation may not approve any conversion transaction before the later of the end of the 5-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 or the date on which the Savings Association Insurance Fund first meets or exceeds the designated reserve ratio for such fund.

[(B) CONVERSION DEFINED.—For purposes of this paragraph, the term "conversion transaction" means—

[(i) the change of status of an insured depository institution from a Bank Insurance Fund member to a Savings Association Insurance Fund member or from a Savings Association Insurance Fund member to a Bank Insurance Fund member;

[(ii) the merger or consolidation of a Bank Insurance Fund member with a Savings Association Insurance Fund member;

[(iii) the assumption of any liability by—

[(I) any Bank Insurance Fund member to pay any deposits of a Savings Association Insurance Fund member; or

[(II) any Savings Association Insurance Fund member to pay any deposits of a Bank Insurance Fund member;

[(iv) the transfer of assets of—

[(I) any Bank Insurance Fund member to any Savings Association Insurance Fund member in consideration of the assumption of liabilities for any portion of the deposits of such Bank Insurance Fund member; or

[(II) any Savings Association Insurance Fund member to any Bank Insurance Fund member in consideration of the assumption of liabilities for any portion of the deposits of such Savings Association Insurance Fund member; and

[(v) the transfer of deposits—

[(I) from a Bank Insurance Fund member to a Savings Association Insurance Fund member; or

[(II) from a Savings Association Insurance Fund member to a Bank Insurance Fund member;

in a transaction in which the deposit is received from a depositor at an insured depository institution for which a receiver has been appointed and the receiving insured depository institution is acting as agent for the Corporation in connection with the payment of such deposit to the depositor at the institution for which a receiver has been appointed.

[(C) APPROVAL DURING MORATORIUM.—The Corporation may approve a conversion transaction at any time if—

[(i) the conversion transaction affects an insubstantial portion, as determined by the Corporation, of the total deposits of each depository institution participating in the conversion transaction;

[(ii) the conversion occurs in connection with the acquisition of a Savings Association Insurance Fund member in default or in danger of default, and the Corporation determines that the estimated financial benefits to the Savings Association Insurance Fund or Resolution Trust Corporation equal or exceed the Corporation's estimate of loss of assessment income to such insurance fund over the remaining balance of the moratorium period established by subparagraph (A), and the Resolution Trust Corporation concurs in the Corporation's determination; or

[(iii) the conversion occurs in connection with the acquisition of a Bank Insurance Fund member in default or in danger of default and the Corporation determines that the estimated financial benefits to the Bank Insurance Fund equal or exceed the Corporation's estimate of the loss of assessment income to the insurance fund over the remaining balance of the moratorium period established by subparagraph (A).

[(D) CERTAIN TRANSFERS DEEMED TO AFFECT INSUBSTANTIAL PORTION OF TOTAL DEPOSITS.—For purposes of subparagraph (C)(i), any conversion transaction shall be deemed to affect an insubstantial portion of the total deposits of an insured depository institution, to the extent the aggregate amount of the total deposits transferred in such transaction and in all conversion transactions occurring after the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 does not exceed 35 percent of the lesser of—

[(i) the amount which is equal to the sum of—

[(I) the total deposits of such insured depository institution on May 1, 1989; and

[(II) the total amount of net interest credited to the depository institution's deposits during the period beginning on May 1, 1989, and ending on the date of the transfer of deposits in connection with such transaction; or

[(ii) the amount which is equal to the total deposits of such insured depository institution on the date of the transfer of deposits in connection with such transaction.

[(E) EXIT AND ENTRANCE FEES.—Each insured depository institution participating in a conversion transaction shall pay—

[(i) in the case of a conversion transaction in which the resulting or acquiring depository institution is not a Savings Association Insurance Fund member, an exit fee (in an amount to be determined and assessed in accordance with subparagraph (F)) which—

[(I) shall be deposited in the Savings Association Insurance Fund; or

[(II) shall be paid to the Financing Corporation, if the Secretary of the Treasury determines that the Financing Corporation has exhausted all other sources of funding for interest payments on the obligations of the Financing Corporation and orders that such fees be paid to the Financing Corporation;

[(ii) in the case of a conversion transaction in which the resulting or acquiring depository institution is not a Bank Insurance Fund member, an exit fee in an amount to be determined by the Corporation (and assessed in accordance with subparagraph (F)(ii)) which shall be deposited in the Bank Insurance Fund; and

[(iii) an entrance fee in an amount to be determined by the Corporation (and assessed in accordance with subparagraph (F)(ii)), except that—

[(I) in the case of a conversion transaction in which the resulting or acquiring depository institution is a Bank Insurance Fund member, the fee shall be the approximate amount which the Corporation calculates as necessary to prevent dilution of the Bank Insurance Fund, and shall be paid to the Bank Insurance Fund; and

[(II) in the case of a conversion transaction in which the resulting or acquiring depository institution is a Savings Association Insurance Fund member, the fee shall be the approximate amount which the Corporation calculates as necessary to prevent dilution of the Savings Association Insurance Fund, and shall be paid to the Savings Association Insurance Fund.

[(F) ASSESSMENT OF EXIT AND ENTRANCE FEES.—

[(i) DETERMINATION OF AMOUNT OF EXIT FEES.—

[(I) CONVERSIONS BEFORE JANUARY 1, 1997.—In the case of any exit fee assessed under subparagraph (E)(i) for any conversion transaction consummated before January 1, 1997, the amount of such fee shall be determined jointly by the Corporation and the Secretary of the Treasury.

[(II) ASSESSMENTS AFTER DECEMBER, 31, 1996.—In the case of any exit fee assessed under sub-

paragraph (E)(i) for any conversion transaction consummated after December 31, 1996, the amount of such fee shall be determined by the Corporation.

[(ii) PROCEDURES.—The Corporation shall prescribe, by regulation, procedures for assessing any exit or entrance fee under subparagraph (E).

[(G) CHARTER CONVERSION OF SAIF MEMBERS.—This subsection shall not be construed as prohibiting any savings association which is a Savings Association Insurance Fund member from converting to a bank charter during the period described in subparagraph (A)(ii) if the resulting bank remains a Savings Association Insurance Fund member.

[(3) OPTIONAL CONVERSIONS SUBJECT TO SPECIAL RULES ON DEPOSIT INSURANCE PAYMENTS.—

[(A) CONVERSIONS ALLOWED.—Notwithstanding paragraph (2)(A), and subject to the requirements of this paragraph, any insured depository institution may participate in a transaction described in clause (ii), (iii), or (iv) of paragraph (2)(B) if the transaction is approved by the responsible agency under section 18(c)(2).

[(B) ASSESSMENTS ON DEPOSITS ATTRIBUTABLE TO FORMER DEPOSITORY INSTITUTION.—

[(i) ASSESSMENTS BY SAIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Bank Insurance Fund member, that portion of the deposits of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall be treated as deposits which are insured by the Savings Association Insurance Fund.

[(ii) ASSESSMENTS BY BIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Savings Association Insurance Fund member, that portion of the deposits of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall be treated as deposits which are insured by the Bank Insurance Fund.

[(C) DETERMINATION OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—Except as provided in subparagraph (K), the adjusted attributable deposit amount which shall be taken into account for purposes of determining the amount of the assessment under subparagraph (B) for any semiannual period by any acquiring, assuming, or resulting depository institution in connection with a transaction under subparagraph (A) is the amount which is equal to the sum of—

[(i) the amount of any deposits acquired by the institution in connection with the transaction (as determined at the time of such transaction);

[(ii) the total of the amounts determined under clause (iii) for semiannual periods preceding the semi-

annual period for which the determination is being made under this subparagraph; and

[(iii) the amount by which the sum of the amounts described in clauses (i) and (ii) would have increased during the preceding semiannual period (other than any semiannual period beginning before the date of such transaction) if such increase occurred at a rate equal to the annual rate of growth of deposits of the acquiring, assuming, or resulting depository institution minus the amount of any deposits acquired through the acquisition, in whole or in part, of another insured depository institution.

[(D) DEPOSIT OF ASSESSMENT.—That portion of any assessment under section 7 which—

[(i) is determined in accordance with subparagraph (B)(i) shall be deposited in the Savings Association Insurance Fund; and

[(ii) is determined in accordance with subparagraph (B)(ii) shall be deposited in the Bank Insurance Fund.

[(E) CONDITIONS FOR APPROVAL, GENERALLY.—

[(i) INFORMATION REQUIRED.—An application to engage in any transaction under this paragraph shall contain such information relating to the factors to be considered for approval as the responsible agency may require, by regulation or by specific request, in connection with any particular application.

[(ii) NO TRANSFER OF DEPOSIT INSURANCE PERMITTED.—This paragraph shall not be construed as authorizing transactions which result in the transfer of any insured depository institution's Federal deposit insurance from 1 Federal deposit insurance fund to the other Federal deposit insurance fund.

[(iii) CAPITAL REQUIREMENTS.—A transaction described in this paragraph shall not be approved under section 18(c)(2) unless the acquiring, assuming, or resulting depository institution will meet all applicable capital requirements upon consummation of the transaction.

[(F) CERTAIN INTERSTATE TRANSACTIONS.—A Bank Insurance Fund member which is a subsidiary of a bank holding company may not be the acquiring, assuming, or resulting depository institution in a transaction under subparagraph (A) unless the transaction would comply with the requirements of section 3(d) of the Bank Holding Company Act of 1956 if, at the time of such transaction, the Savings Association Insurance Fund member involved in such transaction was a State bank that the bank holding company was applying to acquire.

[(G) ALLOCATION OF COSTS IN EVENT OF DEFAULT.—If any acquiring, assuming, or resulting depository institution is in default or danger of default at any time before this paragraph ceases to apply, any loss incurred by the Corporation shall be allocated between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the amount of insured deposits of such

acquiring, assuming, or resulting depository institution assessed by the Bank Insurance Fund and the Savings Association Insurance Fund, respectively, under subparagraph (B).

[(H) SUBSEQUENT APPROVAL OF CONVERSION TRANSACTION.—This paragraph shall cease to apply if—

[(i) after the end of the moratorium period established by paragraph (2)(A), the Corporation approves an application by any acquiring, assuming, or resulting depository institution to treat the transaction described in subparagraph (A) as a conversion transaction; and

[(ii) the acquiring, assuming, or resulting depository institution pays the amount of any exit and entrance fee assessed by the Corporation under subparagraph (E) of paragraph (2) with respect to such transaction.

[(I) ACQUIRING, ASSUMING, OR RESULTING DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term "acquiring, assuming, or resulting depository institution" means any insured depository institution which—

[(i) results from any transaction described in paragraph (2)(B)(ii) and approved under this paragraph;

[(ii) in connection with a transaction described in paragraph (2)(B)(iii) and approved under this paragraph, assumes any liability to pay deposits of another insured depository institution; or

[(iii) in connection with a transaction described in paragraph (2)(B)(iv) and approved under this paragraph, acquires assets from any insured depository institution in consideration of the assumption of liability for any deposits of such institution.

[(K) ADJUSTMENT OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The amount determined under subparagraph (C)(i) for deposits acquired by March 31, 1995, shall be reduced by 20 percent for purposes of computing the adjusted attributable deposit amount for the payment of any assessment for any semiannual period that begins after the date of the enactment of the Deposit Insurance Funds Act of 1996 (other than the special assessment imposed under section 2702(a) of such Act), for a Bank Insurance Fund member bank that, as of June 30, 1995—

[(i) had an adjusted attributable deposit amount that was less than 50 percent of the total deposits of that member bank; or

[(ii)(I) had an adjusted attributable deposit amount equal to less than 75 percent of the total assessable deposits of that member bank;

[(II) had total assessable deposits greater than $5,000,000,000; and

[(III) was owned or controlled by a bank holding company that owned or controlled insured depository institutions having an aggregate amount of deposits insured or treated as insured by the Bank Insurance Fund greater than the aggregate amount of deposits

insured or treated as insured by the Savings Association Insurance Fund.]

(e) LIABILITY OF COMMONLY CONTROLLED DEPOSITORY INSTITUTIONS.—

(1) * * *

* * * * * * *

(5) WAIVER AUTHORITY.—

(A) IN GENERAL.—The Corporation, in its discretion, may exempt any insured depository institution from the provisions of this subsection if the Corporation determines that such exemption is in the best interests of the [Bank Insurance Fund or the Savings Association Insurance Fund] *Deposit Insurance Fund*.

* * * * * * *

[(6) 5-YEAR TRANSITION RULE.—During the 5-year period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

[(A) no Savings Association Insurance Fund member shall have any liability to the Corporation under this subsection arising out of assistance provided by the Corporation or any loss incurred by the Corporation as a result of the default of a Bank Insurance Fund member which was acquired by such Savings Association Insurance Fund member or any affiliate of such member before the date of the enactment of such Act; and

[(B) no Bank Insurance Fund member shall have such liability with respect to assistance provided by or loss incurred by the Corporation as a result of the default of a Savings Association Insurance Fund member which was acquired by such Bank Insurance Fund member or any affiliate of such member before the date of the enactment of such Act.]

[(7)] *(6)* EXCLUSION FOR INSTITUTIONS ACQUIRED IN DEBT COLLECTIONS.—Any depository institution shall not be treated as commonly controlled, for purposes of this subsection, during the 5-year period beginning on the date of an acquisition described in subparagraph (A) or such longer period as the Corporation may determine after written application by the acquirer, if—

(A) * * *

* * * * * * *

[(8)] *(7)* EXCEPTION FOR CERTAIN FSLIC ASSISTED INSTITUTIONS.—No depository institution shall have any liability to the Corporation under this subsection as the result of the default of, or assistance provided with respect to, an insured depository institution which is an affiliate of such depository institution if—

(A) * * *

* * * * * * *

[(9)] *(8)* COMMONLY CONTROLLED DEFINED.—For purposes of this subsection, depository institutions are commonly controlled if—

(A) * * *

* * * * * * *

SEC. 6. FACTORS TO BE CONSIDERED.

The factors that are required, under section 4, to be considered in connection with, and enumerated in, any certificate issued pursuant to section 4 and that are required, under section 5, to be considered by the Board of Directors in connection with any determination by such Board pursuant to section 5 are the following:

(1) * * *

* * * * * * *

(5) The risk presented by such depository institution to the [Bank Insurance Fund or the Savings Association Insurance Fund] *Deposit Insurance Fund*.

* * * * * * *

SEC. 7. (a)(1) * * *

* * * * * * *

(3) Each insured depository institution shall make to the appropriate Federal banking agency 4 reports of condition annually upon dates which shall be selected by the Chairman of the Board of Directors, the Comptroller of the Currency, the Chairman of the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision. The dates selected shall be the same for all insured depository institutions, except that when any of said reporting dates is a nonbusiness day for any depository institution, the preceding business day shall be its reporting date. [Two dates shall be selected within the semiannual period of January to June inclusive, and the reports on such dates shall be the basis for the certified statement to be filed in July pursuant to subsection (c) of this section, and two dates shall be selected within the semiannual period of July to December inclusive, and the reports on such dates shall be the basis for the certified statement to be filed in January pursuant to subsection (c) of this section.] *Such reports of condition shall be the basis for the certified statements to be filed pursuant to subsection (c).* The deposit liabilities shall be reported in said reports of condition in accordance with and pursuant to paragraphs (4) and (5) of this subsection, and such other information shall be reported therein as may be required by the respective agencies. Each said report of condition shall contain a declaration by the president, a vice president, the cashier or the treasurer, or by any other officer designated by the board of directors or trustees of the reporting depository institution to make such declaration, that the report is true and correct to the best of his knowledge and belief. The correctness of said report of conditions shall be attested by the signatures of at least two directors or trustees of the reporting depository institution other than the officer making such declaration, with a declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct. At the time of making said reports of condition each insured depository institution shall furnish to the Corporation a copy thereof containing such signed declaration and attestations. Nothing herein shall preclude any of the foregoing agen-

cies from requiring the banks or savings associations under its jurisdiction to make additional reports of condition at any time.

* * * * * * *

(b) ASSESSMENTS.—

(1) RISK-BASED ASSESSMENT SYSTEM.—

(A) * * *

(B) PRIVATE REINSURANCE AUTHORIZED.—In carrying out this paragraph, the Corporation may—

(i) * * *

(ii) base that institution's [semiannual] assessment (in whole or in part) on the cost of the reinsurance.

(C) RISK-BASED ASSESSMENT SYSTEM DEFINED.—For purposes of this paragraph, the term "risk-based assessment system" means a system for calculating a depository institution's [semiannual] assessment based on—

(i) the probability that the [deposit insurance fund] *Deposit Insurance Fund* will incur a loss with respect to the institution, taking into consideration the risks attributable to—

(I) * * *

* * * * * * *

(iii) the revenue needs of the [deposit insurance fund] *Deposit Insurance Fund*.

(D) SEPARATE ASSESSMENT SYSTEMS.—The Board of Directors may establish separate risk-based assessment systems for large and small members of [each deposit insurance fund] *the Deposit Insurance Fund*.

(E) INFORMATION CONCERNING RISK OF LOSS AND ECONOMIC CONDITIONS.—

(i) SOURCES OF INFORMATION.—For purposes of determining risk of losses at insured depository institutions and economic conditions generally affecting depository institutions, the Corporation shall collect information, as appropriate, from all sources the Board of Directors considers appropriate, such as reports of condition, inspection reports, and other information from all Federal banking agencies, any information available from State bank supervisors, State insurance and securities regulators, the Securities and Exchange Commission (including information described in section 35), the Secretary of the Treasury, the Commodity Futures Trading Commission, the Farm Credit Administration, the Federal Trade Commission, any Federal reserve bank or Federal home loan bank, and other regulators of financial institutions, and any information available from credit rating entities, and other private economic or business analysts.

(ii) CONSULTATION WITH FEDERAL BANKING AGENCIES.—

(I) IN GENERAL.—Except as provided in subclause (II), in assessing the risk of loss to the Deposit Insurance Fund with respect to any insured depository institution, the Corporation shall con-

sult with the appropriate Federal banking agency of such institution.

(II) TREATMENT ON AGGREGATE BASIS.—In the case of insured depository institutions that are well capitalized (as defined in section 38) and, in the most recent examination, were found to be well managed, the consultation under subclause (I) concerning the assessment of the risk of loss posed by such institutions may be made on an aggregate basis.

(iii) RULE OF CONSTRUCTION.—No provision of this paragraph shall be construed as providing any new authority for the Corporation to require submission of information by insured depository institutions to the Corporation.

(F) MODIFICATIONS TO THE RISK-BASED ASSESSMENT SYSTEM ALLOWED ONLY AFTER NOTICE AND COMMENT.—In revising or modifying the risk-based assessment system at any time after the date of the enactment of the Federal Deposit Insurance Reform Act of 2003, the Board of Directors may implement such revisions or modification in final form only after notice and opportunity for comment.

(2) SETTING ASSESSMENTS.—

[(A) ACHIEVING AND MAINTAINING DESIGNATED RESERVE RATIO.—

[(i) IN GENERAL.—The Board of Directors shall set semiannual assessments for insured depository institutions when necessary, and only to the extent necessary—

[(I) to maintain the reserve ratio of each deposit insurance fund at the designated reserve ratio; or

[(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio as provided in paragraph (3).

[(ii) FACTORS TO BE CONSIDERED.—In carrying out clause (i), the Board of Directors shall consider the deposit insurance fund's—

[(I) expected operating expenses,

[(II) case resolution expenditures and income,

[(III) the effect of assessments on members' earnings and capital, and

[(IV) any other factors that the Board of Directors may deem appropriate.

[(iii) LIMITATION ON ASSESSMENT.—Except as provided in clause (v), the Board of Directors shall not set semiannual assessments with respect to a deposit insurance fund in excess of the amount needed—

[(I) to maintain the reserve ratio of the fund at the designated reserve ratio; or

[(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio.

[(iv) DESIGNATED RESERVE RATIO DEFINED.—The designated reserve ratio of each deposit insurance fund for each year shall be—

[(I) 1.25 percent of estimated insured deposits; or

[(II) a higher percentage of estimated insured deposits that the Board of Directors determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund.

[(v) EXCEPTION TO LIMITATION ON ASSESSMENTS.—The Board of Directors may set semiannual assessments in excess of the amount permitted under clauses (i) and (iii) with respect to insured depository institutions that exhibit financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or are not well capitalized, as that term is defined in section 38.

[(B) INDEPENDENT TREATMENT OF FUNDS.—The Board of Directors shall—

[(i) set semiannual assessments for members of each deposit insurance fund independently from semiannual assessments for members of any other deposit insurance fund; and

[(ii) set the designated reserve ratio of each deposit insurance fund independently from the designated reserve ratio of any other deposit insurance fund.]

(A) IN GENERAL.—The Board of Directors shall set assessments for insured depository institutions in such amounts as the Board of Directors may determine to be necessary or appropriate, subject to subparagraph (D).

(B) FACTORS TO BE CONSIDERED.—In setting assessments under subparagraph (A), the Board of Directors shall consider the following factors:

(i) The estimated operating expenses of the Deposit Insurance Fund.

(ii) The estimated case resolution expenses and income of the Deposit Insurance Fund.

(iii) The projected effects of the payment of assessments on the capital and earnings of insured depository institutions.

(iv) the risk factors and other factors taken into account pursuant to paragraph (1) under the risk-based assessment system, including the requirement under such paragraph to maintain a risk-based system.

(v) Any other factors the Board of Directors may determine to be appropriate.

(C) NOTICE OF ASSESSMENTS.—The Corporation shall notify each insured depository institution of that institution's [semiannual] assessment.

(D) BASE RATE FOR ASSESSMENTS.—

(i) IN GENERAL.—In setting assessment rates pursuant to subparagraph (A), the Board of Directors shall establish a base rate of not more than 1 basis point (exclusive of any credit or dividend) for those insured de-

pository institutions in the lowest-risk category under the risk-based assessment system established pursuant to paragraph (1). No insured depository institution shall be barred from the lowest-risk category solely because of size.

(ii) SUSPENSION.—Clause (i) shall not apply during any period in which the reserve ratio of the Deposit Insurance Fund is less than the amount which is equal to 1.15 percent of the aggregate estimated insured deposits.

[(E) MINIMUM ASSESSMENTS.—The Corporation shall design the risk-based assessment system for any deposit insurance fund so that, if the Corporation has borrowings outstanding under section 14 on behalf of that fund or the reserve ratio of that fund remains below the designated reserve ratio, the total amount raised by semiannual assessments on members of that fund shall be not less than the total amount that would have been raised if—

[(i) section 7(b) as in effect on July 15, 1991 remained in effect;

[(ii) the assessment rate in effect on July 15, 1991 remained in effect; and

[(iii) notwithstanding any other provision of this subsection, during the period beginning on the date of enactment of the Deposit Insurance Funds Act of 1996, and ending on December 31, 1998, the assessment rate for a Savings Association Insurance Fund member may not be less than the assessment rate for a Bank Insurance Fund member that poses a comparable risk to the deposit insurance fund.

[(F) TRANSITION RULE FOR SAVINGS ASSOCIATION INSURANCE FUND.—With respect to the Savings Association Insurance Fund, during the period beginning on the effective date of the amendments made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and ending on December 31, 1997—

[(i) subparagraph (A)(i)(II) shall apply as if such subparagraph did not include "as provided in paragraph (3)"; and

[(ii) subparagraph (E) shall be applied by substituting "if section 7(b) as in effect on July 15, 1991 remained in effect." for "if—" and all that follows through clause (ii).

[(G) SPECIAL RULE UNTIL THE INSURANCE FUNDS ACHIEVE THE DESIGNATED RESERVE RATIO.—Until a deposit insurance fund achieves the designated reserve ratio, the Corporation may limit the maximum assessment on insured depository institutions under the risk-based assessment system authorized under paragraph (1) to not less than 10 basis points above the average assessment on insured depository institutions under that system.]

[(H)] *(E)* BANK ENTERPRISE ACT REQUIREMENT.—The Corporation shall design the risk-based assessment system so that, insofar as the system bases assessments, directly or indirectly, on deposits, the portion of the deposits of any

insured depository institution which are attributable to lifeline accounts established in accordance with the Bank Enterprise Act of 1991 shall be subject to assessment [at a rate determined in accordance with such Act] *at ½ the assessment rate otherwise applicable for such insured depository institution*.

[(3) SPECIAL RULE FOR RECAPITALIZING UNDERCAPITALIZED FUNDS.—

[(A) IN GENERAL.—Except as provided in paragraph (2)(F), if the reserve ratio of any deposit insurance fund is less than the designated reserve ratio under paragraph (2)(A)(iv), the Board of Directors shall set semiannual assessment rates for members of that fund—

[(i) that are sufficient to increase the reserve ratio for that fund to the designated reserve ratio not later than 1 year after such rates are set; or

[(ii) in accordance with a schedule promulgated by the Corporation under subparagraph (B).

[(B) RECAPITALIZATION SCHEDULES.—For purposes of subparagraph (A)(ii), the Corporation shall by regulation promulgate a schedule that specifies, at semiannual intervals, target reserve ratios for that fund, culminating in a reserve ratio that is equal to the designated reserve ratio not later than 15 years after the date on which the schedule is implemented.

[(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B) and such amendment may extend the date specified in subparagraph (B) to such later date as the Corporation determines will, over time, maximize the amount of semiannual assessments received by the Savings Association Insurance Fund, net of insurance losses incurred by the Fund.

[(D) APPLICATION TO SAIF MEMBERS.—This paragraph shall become applicable to Savings Association Insurance Fund members on January 1, 1998.

[(4) SEMIANNUAL PERIOD DEFINED.—For purposes of this section, the term "semiannual period" means a period beginning on January 1 of any calendar year and ending on June 30 of the same year, or a period beginning on July 1 of any calendar year and ending on December 31 of the same year.

[(5) RECORDS TO BE MAINTAINED.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of the institution's semiannual assessments. No insured depository institution shall be required to retain those records for that purpose for a period of more than 5 years from the date of the filing of any certified statement, except that when there is a dispute between the insured depository institution and the Corporation over the amount of any assessment, the depository institution shall retain the records until final determination of the issue.]

(3) DESIGNATED RESERVE RATIO.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—The Board of Directors shall designate, by regulation after notice and opportunity for

comment, the reserve ratio applicable with respect to the Deposit Insurance Fund.

(ii) NOT LESS THAN ANNUAL REDETERMINATION.—A determination under clause (i) shall be made by the Board of Directors at least before the beginning of each calendar year, for such calendar year, and at such other times as the Board of Directors may determine to be appropriate.

(B) RANGE.—The reserve ratio designated by the Board of Directors for any year—

(i) may not exceed 1.4 percent of estimated insured deposits; and

(ii) may not be less than 1.15 percent of estimated insured deposits.

(C) FACTORS.—In designating a reserve ratio for any year, the Board of Directors shall—

(i) take into account the risk of losses to the Deposit Insurance Fund in such year and future years, including historic experience and potential and estimated losses from insured depository institutions;

(ii) take into account economic conditions generally affecting insured depository institutions so as to allow the designated reserve ratio to increase during more favorable economic conditions and to decrease during less favorable economic conditions, notwithstanding the increased risks of loss that may exist during such less favorable conditions, as determined to be appropriate by the Board of Directors;

(iii) seek to prevent sharp swings in the assessment rates for insured depository institutions; and

(iv) take into account such other factors as the Board of Directors may determine to be appropriate, consistent with the requirements of this subparagraph.

(D) PUBLICATION OF PROPOSED CHANGE IN RATIO.—In soliciting comment on any proposed change in the designated reserve ratio in accordance with subparagraph (A), the Board of Directors shall include in the published proposal a thorough analysis of the data and projections on which the proposal is based.

(E) DIF RESTORATION PLANS.—

(i) IN GENERAL.—Whenever—

(I) the Corporation projects that the reserve ratio of the Deposit Insurance Fund will, within 6 months of such determination, fall below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio; or

(II) the reserve ratio of the Deposit Insurance Fund actually falls below the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio without any determination under subclause (I) having been made,

the Corporation shall establish and implement a Deposit Insurance Fund restoration plan within 90 days that meets the requirements of clause (ii) and such

other conditions as the Corporation determines to be appropriate.

(ii) REQUIREMENTS OF RESTORATION PLAN.—A Deposit Insurance Fund restoration plan meets the requirements of this clause if the plan provides that the reserve ratio of the Fund will meet or exceed the minimum amount specified in subparagraph (B)(ii) for the designated reserve ratio before the end of the 10-year period beginning upon the implementation of the plan.

(iii) RESTRICTION ON ASSESSMENT CREDITS.—As part of any restoration plan under this subparagraph, the Corporation may elect to restrict the application of assessment credits provided under subsection (e)(3) for any period that the plan is in effect.

(iv) LIMITATION ON RESTRICTION.—Notwithstanding clause (iii), while any restoration plan under this subparagraph is in effect, the Corporation shall apply credits provided to an insured depository institution under subsection (e)(3) against any assessment imposed on the institution for any assessment period in an amount equal to the lesser of—

(I) the amount of the assessment; or

(II) the amount equal to 3 basis points of the institution's assessment base.

(v) TRANSPARENCY.—Not more than 30 days after the Corporation establishes and implements a restoration plan under clause (i), the Corporation shall publish in the Federal Register a detailed analysis of the factors considered and the basis for the actions taken with regard to the plan.

(4) DEPOSITORY INSTITUTION REQUIRED TO MAINTAIN ASSESSMENT-RELATED RECORDS.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of any assessment on the insured depository institution under this subsection until the later of—

(A) the end of the 3-year period beginning on the due date of the assessment; or

(B) in the case of a dispute between the insured depository institution and the Corporation with respect to such assessment, the date of a final determination of any such dispute.

[(6)**]** *(5)* EMERGENCY SPECIAL ASSESSMENTS.—In addition to the other assessments imposed on insured depository institutions under this subsection, the Corporation may impose 1 or more special assessments on insured depository institutions in an amount determined by the Corporation if the amount of **[**any such assessment**]** *any such assessment is necessary—*

[(A) is necessary—**]**

[(i)**]** *(A)* to provide sufficient assessment income to repay amounts borrowed from the Secretary of the Treasury under section 14(a) in accordance with the repayment schedule in effect under section 14(c) during the period with respect to which such assessment is imposed;

[(ii)**]** *(B)* to provide sufficient assessment income to repay obligations issued to and other amounts borrowed

from [Bank Insurance Fund members] *insured depository institutions* under section 14(d); or

[(iii)] *(C)* for any other purpose *that* the Corporation may deem necessary[; and].

[(B) is allocated between Bank Insurance Fund members and Savings Association Insurance Fund members in amounts which reflect the degree to which the proceeds of the amounts borrowed are to be used for the benefit of the respective insurance funds.]

[(7)] *(6)* COMMUNITY ENTERPRISE CREDITS.—The Corporation shall allow a credit against any semiannual assessment to any insured depository institution which satisfies the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board by regulation.

(c) CERTIFIED STATEMENTS; PAYMENTS.—

(1) CERTIFIED STATEMENTS REQUIRED.—

(A) IN GENERAL.—Each insured depository institution shall file with the Corporation a certified statement containing such information as the Corporation may require for determining the institution's [semiannual] assessment.

* * * * * * *

(2) PAYMENTS REQUIRED.—

(A) IN GENERAL.—Each insured depository institution shall pay to the Corporation the [semiannual] assessment imposed under subsection (b).

* * * * * * *

(3) NEWLY INSURED INSTITUTIONS.—To facilitate the administration of this section, the Board of Directors may waive the requirements of paragraphs (1) and (2) for the [semiannual period] *initial assessment period* in which a depository institution becomes insured.

* * * * * * *

[(e) REFUNDS.—

[(1) OVERPAYMENTS.—In the case of any payment of an assessment by an insured depository institution in excess of the amount due to the Corporation, the Corporation may—

[(A) refund the amount of the excess payment to the insured depository institution; or

[(B) credit such excess amount toward the payment of subsequent semiannual assessments until such credit is exhausted.

[(2) BALANCE IN INSURANCE FUND IN EXCESS OF DESIGNATED RESERVE.—

[(A) IN GENERAL.—Subject to subparagraphs (B) and (C), if, as of the end of any semiannual assessment period beginning after the date of the enactment of the Deposit Insurance Funds Act of 1996, the amount of the actual reserves in—

[(i) the Bank Insurance Fund (until the merger of such fund into the Deposit Insurance Fund pursuant to section 2704 of the Deposit Insurance Funds Act of 1996); or

[(ii) the Deposit Insurance Fund (after the establishment of such fund),

exceeds the balance required to meet the designated reserve ratio applicable with respect to such fund, such excess amount shall be refunded to insured depository institutions by the Corporation on such basis as the Board of Directors determines to be appropriate, taking into account the factors considered under the risk-based assessment system.

[(B) REFUND NOT TO EXCEED PREVIOUS SEMIANNUAL ASSESSMENT.—The amount of any refund under this paragraph to any member of a deposit insurance fund for any semiannual assessment period may not exceed the total amount of assessments paid by such member to the insurance fund with respect to such period.

[(C) REFUND LIMITATION FOR CERTAIN INSTITUTIONS.—No refund may be made under this paragraph with respect to the amount of any assessment paid for any semiannual assessment period by any insured depository institution described in clause (v) of subsection (b)(2)(A).]

(e) REFUNDS, DIVIDENDS, AND CREDITS.—

(1) REFUNDS OF OVERPAYMENTS.—In the case of any payment of an assessment by an insured depository institution in excess of the amount due to the Corporation, the Corporation may—

(A) refund the amount of the excess payment to the insured depository institution; or

(B) credit such excess amount toward the payment of subsequent assessments until such credit is exhausted.

(2) DIVIDENDS FROM EXCESS AMOUNTS IN DEPOSIT INSURANCE FUND.—

(A) RESERVE RATIO IN EXCESS OF 1.4 PERCENT OF ESTIMATED INSURED DEPOSITS.—Whenever the reserve ratio of the Deposit Insurance Fund exceeds 1.4 percent of estimated insured deposits, the Corporation shall declare the amount in the Fund in excess of the amount required to maintain the reserve ratio at 1.4 percent of estimated insured deposits, as dividends to be paid to insured depository institutions.

(B) RESERVE RATIO EQUAL TO OR IN EXCESS OF 1.35 PERCENT OF ESTIMATED INSURED DEPOSITS AND NOT MORE THAN 1.4 PERCENT.—Whenever the reserve ratio of the Deposit Insurance Fund equals or exceeds 1.35 percent of estimated insured deposits and is not more than 1.4 percent of such deposits, the Corporation shall declare the amount in the Fund that is equal to 50 percent of the amount in excess of the amount required to maintain the reserve ratio at 1.35 percent of the estimated insured deposits as dividends to be paid to insured depository institutions.

(C) BASIS FOR DISTRIBUTION OF DIVIDENDS.—

(i) IN GENERAL.—Solely for the purposes of dividend distribution under this paragraph and credit distribution under paragraph (3)(B), the Corporation shall determine each insured depository institution's relative contribution to the Deposit Insurance Fund (or any predecessor deposit insurance fund) for calculating

such institution's share of any dividend or credit declared under this paragraph or paragraph (3)(B), taking into account the factors described in clause (ii).

(ii) FACTORS FOR DISTRIBUTION.—In implementing this paragraph and paragraph (3)(B) in accordance with regulations, the Corporation shall take into account the following factors:

(I) The ratio of the assessment base of an insured depository institution (including any predecessor) on December 31, 1996, to the assessment base of all eligible insured depository institutions on that date.

(II) The total amount of assessments paid on or after January 1, 1997, by an insured depository institution (including any predecessor) to the Deposit Insurance Fund (and any predecessor deposit insurance fund).

(III) That portion of assessments paid by an insured depository institution (including any predecessor) that reflects higher levels of risk assumed by such institution.

(IV) Such other factors as the Corporation may determine to be appropriate.

(D) NOTICE AND OPPORTUNITY FOR COMMENT.—The Corporation shall prescribe by regulation, after notice and opportunity for comment, the method for the calculation, declaration, and payment of dividends under this paragraph.

(3) CREDIT POOL.—

(A) ONE-TIME CREDIT BASED ON TOTAL ASSESSMENT BASE AT YEAR-END 1996.—

(i) IN GENERAL.—Before the end of the 270-day period beginning on the date of the enactment of the Federal Deposit Insurance Reform Act of 2003, the Board of Directors shall, by regulation, provide for a credit to each eligible insured depository institution, based on the assessment base of the institution (including any predecessor institution) on December 31, 1996, as compared to the combined aggregate assessment base of all eligible insured depository institutions, taking into account such factors as the Board of Directors may determine to be appropriate.

(ii) CREDIT LIMIT.—The aggregate amount of credits available under clause (i) to all eligible insured depository institutions shall equal the amount that the Corporation could collect if the Corporation imposed an assessment of 12 basis points on the combined assessment base of the Bank Insurance Fund and the Savings Association Insurance Fund as of December 31, 2001.

(iii) ELIGIBLE INSURED DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term "eligible insured depository institution" means any insured depository institution that—

(I) was in existence on December 31, 1996, and paid a deposit insurance assessment prior to that date; or

(II) is a successor to any insured depository institution described in subclause (II).

(iv) APPLICATION OF CREDITS.—

(I) IN GENERAL.—The amount of a credit to any eligible insured depository institution under this paragraph shall be applied by the Corporation, subject to subsection (b)(3)(e), to the assessments imposed on such institution under subsection (b) that become due for assessment periods beginning after the effective date of regulations prescribed under clause (i).

(II) REGULATIONS.—The regulations prescribed under clause (i) shall establish the qualifications and procedures governing the application of assessment credits pursuant to subclause (I).

(v) LIMITATION ON AMOUNT OF CREDIT FOR CERTAIN DEPOSITORY INSTITUTIONS.—In the case of an insured depository institution that exhibits financial, operational, or compliance weaknesses ranging from moderately severe to unsatisfactory, or is not adequately capitalized (as defined in section 38) at the beginning of an assessment period, the amount of any credit allowed under this paragraph against the assessment on that depository institution for such period may not exceed the amount calculated by applying to that depository institution the average assessment rate on all insured depository institutions for such assessment period.

(vi) PREDECESSOR DEFINED.—For purposes of this paragraph, the term "predecessor", when used with respect to any insured depository institution, includes any other insured depository institution acquired by or merged with such insured depository institution.

(B) ON-GOING CREDIT POOL.—

(i) IN GENERAL.—In addition to the credit provided pursuant to subparagraph (A) and subject to the limitation contained in clause (v) of such subparagraph, the Corporation shall, by regulation, establish an on-going system of credits to be applied against future assessments under subsection (b)(1) on the same basis as the dividends provided under paragraph (2)(C).

(ii) LIMITATION ON CREDITS UNDER CERTAIN CIRCUMSTANCES.—No credits may be awarded by the Corporation under this subparagraph during any period in which—

(I) the reserve ratio of the Deposit Insurance Fund is less than the designated reserve ratio of such Fund; or

(II) the reserve ratio of the Fund is less than 1.25 percent of the amount of estimated insured deposits.

(iii) CRITERIA FOR DETERMINATION.—In determining the amounts of any assessment credits under this subparagraph, the Board of Directors shall take into account the factors for designating the reserve ratio under subsection (b)(3) and the factors for setting assessments under subsection (b)(2)(B).

(4) ADMINISTRATIVE REVIEW.—

(A) IN GENERAL.—The regulations prescribed under paragraph (2)(D) and subparagraphs (A) and (B) of paragraph (3) shall include provisions allowing an insured depository institution a reasonable opportunity to challenge administratively the amount of the credit or dividend determined under paragraph (2) or (3) for such institution.

(B) ADMINISTRATIVE REVIEW.—Any review under subparagraph (A) of any determination of the Corporation under paragraph (2) or (3) shall be final and not subject to judicial review.

* * * * * * *

(i) INSURANCE OF TRUST FUNDS.—

(1) IN GENERAL.—Trust funds held on deposit by an insured depository institution in a fiduciary capacity as trustee pursuant to any irrevocable trust established pursuant to any statute or written trust agreement shall be insured in an amount not to exceed [$100,000] *the standard maximum deposit insurance amount (as determined under section 11(a)(1))* for each trust estate.

* * * * * * *

(3) BANK DEPOSIT FINANCIAL ASSISTANCE PROGRAM.—Notwithstanding paragraph (1), funds deposited by an insured depository institution pursuant to the Bank Deposit Financial Assistance Program of the Department of Energy shall be separately insured in an amount not to exceed [$100,000] *the standard maximum deposit insurance amount (as determined under section 11(a)(1))* for each insured depository institution depositing such funds.

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(j)(1) * * *

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(7) The appropriate Federal banking agency may disapprove any proposed acquisition if—

(A) * * *

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(F) the appropriate Federal banking agency determines that the proposed transaction would result in an adverse effect on the [Bank Insurance Fund or the Savings Association Insurance Fund] *Deposit Insurance Fund*.

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SEC. 8. (a) * * *

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(p) Notwithstanding any other provision of law, whenever the Board of Directors shall determine that an insured depository insti-

tution is not engaged in the business of receiving deposits, other than trust funds as herein defined, the Corporation shall notify the depository institution that its insured status will terminate at the expiration of the first full [semiannual] assessment period following such notice. A finding by the Board of Directors that a depository institution is not engaged in the business of receiving deposits, other than such trust funds, shall be conclusive. The Board of Directors shall prescribe the notice to be given by the depository institution of such termination and the Corporation may publish notice thereof. Upon the termination of the insured status of any such depository institution, its deposits shall thereupon cease to be insured and the depository institution shall thereafter be relieved of all future obligations to the Corporation, including the obligation to pay future assessments.

(q) Whenever the liabilities of an insured depository institution for deposits shall have been assumed by another insured depository institution or depository institutions, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract (1) the insured status of the depository institution whose liabilities are so assumed shall terminate on the date of receipt by the Corporation of satisfactory evidence of such assumption; (2) the separate insurance of all deposits so assumed shall terminate at the end of six months from the date such assumption takes effect or, in the case of any time deposit, the earliest maturity date after the six-month period. Where the deposits of an insured depository institution are assumed by a newly insured depository institution, the depository institution whose deposits are assumed shall not be required to pay any assessment with respect to the deposits which have been so assumed after the [semiannual period] *assessment period* in which the assumption takes effect.

* * * * * * *

(t) AUTHORITY OF FDIC TO TAKE ENFORCEMENT ACTION AGAINST INSURED DEPOSITORY INSTITUTIONS AND INSTITUTION-AFFILIATED PARTIES.—

(1) * * *

(2) FDIC'S AUTHORITY TO ACT IF APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—If the appropriate Federal banking agency does not, before the end of the 60-day period beginning on the date on which the agency receives the recommendation under paragraph (1), take the enforcement action recommended by the Corporation or provide a plan acceptable to the Corporation for responding to the Corporation's concerns, the Corporation may take the recommended enforcement action if the Board of Directors determines, upon a vote of its members, that—

(A) * * *

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(C) the conduct or threatened conduct (including any acts or omissions) poses a risk to the [deposit insurance fund] *Deposit Insurance Fund*, or may prejudice the interests of the institution's depositors.

* * * * * * *

SEC. 11. (a) DEPOSIT INSURANCE.—

(1) INSURED AMOUNTS PAYABLE.—

(A) * * *

[(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed $100,000 as determined in accordance with subparagraphs (C) and (D).]

(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed the standard maximum deposit insurance amount as determined in accordance with subparagraphs (C), (D), (E) and (F) and paragraph (3).

* * * * * * *

[(D) COVERAGE ON PRO RATA OR "PASS-THROUGH" BASIS.—

[(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of insurance due under subparagraph (B), the Corporation shall provide deposit insurance coverage with respect to deposits accepted by any insured depository institution on a pro rata or "pass-through" basis to a participant in or beneficiary of an employee benefit plan (as defined in section 11(a)(8)(B)(ii)), including any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

[(ii) EXCEPTION.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall not provide insurance coverage on a pro rata or "pass-through" basis pursuant to clause (i) with respect to deposits accepted by any insured depository institution which, at the time such deposits are accepted, may not accept brokered deposits under section 29.

[(iii) COVERAGE UNDER CERTAIN CIRCUMSTANCES.—Clause (ii) shall not apply with respect to any deposit accepted by an insured depository institution described in such clause if, at the time the deposit is accepted—

[(I) the institution meets each applicable capital standard; and

[(II) the depositor receives a written statement from the institution that such deposits at such institution are eligible for insurance coverage on a pro rata or "pass-through" basis.]

(D) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—

(i) PASS-THROUGH INSURANCE.—The Corporation shall provide pass-through deposit insurance for the deposits of any employee benefit plan.

(ii) PROHIBITION ON ACCEPTANCE OF BENEFIT PLAN DEPOSITS.—An insured depository institution that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

(iii) DEFINITIONS.—For purposes of this subparagraph, the following definitions shall apply:

(I) CAPITAL STANDARDS.—The terms "well capitalized" and "adequately capitalized" have the same meanings as in section 38.

(II) EMPLOYEE BENEFIT PLAN.—The term "employee benefit plan" has the same meaning as in paragraph (8)(B)(ii), and includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

(III) PASS-THROUGH DEPOSIT INSURANCE.—The term "pass-through deposit insurance" means, with respect to an employee benefit plan, deposit insurance coverage provided on a pro rata basis to the participants in the plan, in accordance with the interest of each participant.

(E) STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT DEFINED.—For purposes of this Act, the term "standard maximum deposit insurance amount" means—

(i) until the effective date of final regulations prescribed pursuant to section 9(a)(2) of the Federal Deposit Insurance Reform Act of 2003, $100,000; and

(ii) on and after such effective date, $130,000, adjusted as provided under subparagraph (F).

(F) INFLATION ADJUSTMENT.—

(i) IN GENERAL.—By April 1 of 2005, and the 1st day of each subsequent 5-year period, the Board of Directors and the National Credit Union Administration Board shall jointly prescribe the amount by which the standard maximum deposit insurance amount and the standard maximum share insurance amount (as defined in section 207(k) of the Federal Credit Union Act) applicable to any depositor at an insured depository institution shall be increased by calculating the product of—

(I) $130,000; and

(II) the ratio of the value of the Personal Consumption Expenditures Chain-Type Index (or any successor index thereto), published by the Department of Commerce, as of December 31 of the year preceding the year in which the adjustment is calculated under this clause, to the value of such index as of the date this subparagraph takes effect.

(ii) ROUNDING.—If the amount determined under clause (ii) for any period is not a multiple of $10,000, the amount so determined shall be rounded to the nearest $10,000.

(iii) PUBLICATION AND REPORT TO THE CONGRESS.—Not later than April 5 of any calendar year in which an adjustment is required to be calculated under clause (i) to the standard maximum deposit insurance amount and the standard maximum share insurance amount under such clause, the Board of Directors and the National Credit Union Administration Board shall—

(I) publish in the Federal Register the standard maximum deposit insurance amount, the standard

maximum share insurance amount, and the amount of coverage under paragraph (3)(A) and section 207(k)(3) of the Federal Credit Union Act, as so calculated; and

(II) jointly submit a report to the Congress containing the amounts described in subclause (I).

(iv) 6-MONTH IMPLEMENTATION PERIOD.—Unless an Act of Congress enacted before July 1 of the calendar year in which an adjustment is required to be calculated under clause (i) provides otherwise, the increase in the standard maximum deposit insurance amount and the standard maximum share insurance amount shall take effect on January 1 of the year immediately succeeding such calendar year.

[(2)(A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, in the case of a depositor who is—**]**

(2) MUNICIPAL DEPOSITORS.—

(A) IN GENERAL.—Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available to any 1 depositor—

(i) a municipal depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed to be a depositor separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in subparagraph (E); and

(ii) except as provided in subparagraph (B), the deposits of a municipal depositor shall be insured in an amount equal to the standard maximum deposit insurance amount (as determined under paragraph (1)).

(B) IN-STATE MUNICIPAL DEPOSITORS.—In the case of the deposits of an in-State municipal depositor described in clause (ii), (iii), (iv), or (v) of subparagraph (E) at an insured depository institution, such deposits shall be insured in an amount not to exceed the lesser of—

(i) $2,000,000; or

(ii) the sum of the standard maximum deposit insurance amount and 80 percent of the amount of any deposits in excess of the standard maximum deposit insurance amount.

(C) MUNICIPAL DEPOSIT PARITY.—No State may deny to insured depository institutions within its jurisdiction the authority to accept deposits insured under this paragraph, or prohibit the making of such deposits in such institutions by any in-State municipal depositor.

(D) IN-STATE MUNICIPAL DEPOSITOR DEFINED.—For purposes of this paragraph, the term "in-State municipal depositor" means a municipal depositor that is located in the same State as the office or branch of the insured depository institution at which the deposits of that depositor are held.

(E) MUNICIPAL DEPOSITOR.—In this paragraph, the term "municipal depositor" means a depositor that is—

(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured depository institution;

(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured depository institution in such State;

(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured depository institution in the District of Columbia;

(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Virgin Islands, of American Samoa, of the Trust Territory of the Pacific Islands, or of Guam, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured depository institution in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam, respectively; or

(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing or depositing the same in time and savings deposits in an insured depository institution[;].

[such depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in clause (ii), (iii), (iv), or (v) and the deposit of any such depositor shall be insured in an amount not to exceed $100,000 per account in an amount not to exceed $100,000 per account.]

[(B) The]

(F) AUTHORITY TO LIMIT DEPOSITS.—The Corporation may limit the aggregate amount of funds that may be invested or deposited in deposits in any insured depository institution by any [depositor referred to in subparagraph (A) of this paragraph] *municipal depositor* on the basis of the size of any such bank in terms of its assets: *Provided, however,* such limitation may be exceeded by the pledging of acceptable securities to the [depositor referred to in subparagraph (A) of this paragraph] *municipal depositor* when and where required.

(3) CERTAIN RETIREMENT ACCOUNTS.—

(A) IN GENERAL.—Notwithstanding any limitation in this Act relating to the amount of deposit insurance available for the account of any 1 depositor, deposits in an insured depository institution made in connection with—

(i) * * *

* * * * * * *

shall be aggregated and insured in an amount not to exceed [$100,000] *2 times the standard maximum deposit insurance amount (as determined under paragraph (1))* per participant per insured depository institution.

* * * * * * *

[(4) GENERAL PROVISIONS RELATING TO FUNDS.—

[(A) MAINTENANCE AND USE OF FUNDS.—The Bank Insurance Fund established under paragraph (5) and the Savings Association Insurance Fund established under paragraph (6) shall each be—

[(i) maintained and administered by the Corporation;

[(ii) maintained separately and not commingled; and

[(iii) used by the Corporation to carry out its insurance purposes in the manner provided in this subsection.

[(B) LIMITATION ON USE.—Notwithstanding any provision of law other than section 13(c)(4)(G), the Bank Insurance Fund and the Savings Association Insurance Fund shall not be used in any manner to benefit any shareholder or affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act) of—

[(i) any insured depository institution for which the Corporation or the Resolution Trust Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation or the Resolution Trust Corporation;

[(ii) any other insured depository institution in default or in danger of default, in connection with any type of resolution by the Corporation or the Resolution Trust Corporation; or

[(iii) any insured depository institution, in connection with the provision of assistance under this section or section 13 with respect to such institution, except that this clause shall not prohibit any assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 13(f)(8)(B)) another insured depository institution.

[(5) BANK INSURANCE FUND.—

[(A) ESTABLISHMENT.—There is established a fund to be known as the Bank Insurance Fund.

[(B) TRANSFER TO FUND.—On the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Permanent Insurance Fund shall be dissolved and all assets and liabilities of the Permanent Insurance Fund shall be transferred to the Bank Insurance Fund.

[(C) USES.—The Bank Insurance Fund shall be available to the Corporation for use with respect to Bank Insurance Fund members.

[(D) DEPOSITS.—All amounts assessed against Bank Insurance Fund members by the Corporation shall be deposited into the Bank Insurance Fund.

[(6) SAVINGS ASSOCIATION INSURANCE FUND.—

[(A) ESTABLISHMENT.—There is established a fund to be known as the Savings Association Insurance Fund.

[(B) USES.—The Savings Association Insurance Fund shall be available to the Corporation for use with respect to Savings Association Insurance Fund members.

[(C) DEPOSITS.—All amounts assessed against Savings Association Insurance Fund members which are not required for the Financing Corporation, the Resolution Funding Corporation, or the FSLIC Resolution Fund shall be deposited in the Savings Association Insurance Fund.

[(D) TREASURY PAYMENTS TO FUND.—To the extent of the availability of amounts provided in appropriation Acts and subject to subparagraphs (E) and (G), the Secretary of the Treasury shall pay to the Savings Association Insurance Fund such amounts as may be needed to pay losses incurred by the Fund in fiscal years 1994 through 1998.

[(E) CERTIFICATION CONDITIONS ON AVAILABILITY OF FUNDING.—No amount appropriated for payments by the Secretary of the Treasury in accordance with subparagraph (D) for any fiscal year may be expended unless the Chairperson of the Board of Directors certifies to the Congress, at any time before the beginning of or during such fiscal year, that—

[(i) such amount is needed to pay for losses which have been incurred or can reasonably be expected to be incurred by the Savings Association Insurance Fund;

[(ii) the Board of Directors has determined that—

[(I) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) at the assessment rates which would be required in order to cover, from such additional assessments, losses which have been incurred or can reasonably be expected to be incurred by the Fund without adversely affecting the ability of such members to raise and maintain capital or to maintain the members' assessment base; and

[(II) an increase in the assessment rates for Savings Association Insurance Fund members to cover such losses could reasonably be expected to result in greater losses to the Government;

[(iii) the Board of Directors has determined that—

[(I) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) at the assessment rates which would be required in order to meet the repayment schedule required

under section 14(c) for any amount borrowed under section 14(a) to cover losses which have been incurred or can reasonably be expected to be incurred by the Fund without adversely affecting the ability of such members to raise and maintain capital or to maintain the members' assessment base; and

[(II) an increase in the assessment rates for Savings Association Insurance Fund members to meet any such repayment schedule could reasonably be expected to result in greater losses to the Government;

[(iv) as of the date of certification, the Corporation has in effect procedures designed to ensure that the activities of the Savings Association Insurance Fund and the affairs of any Savings Association Insurance Fund member for which a conservator or receiver has been appointed are conducted in an efficient manner and the Corporation is in compliance with such procedures;

[(v) with respect to the most recent audit of the Savings Association Insurance Fund by the Comptroller General of the United States before the date of the certification—

[(I) the Corporation has taken or is taking appropriate action to implement any recommendation made by the Comptroller General; or

[(II) no corrective action is necessary or appropriate;

[(vi) the Corporation has provided for the appointment of a chief financial officer who—

[(I) does not have other operating responsibilities;

[(II) will report directly to the Chairperson of the Corporation; and

[(III) will have such authority and duties of chief financial officers under section 902 of title 31, United States Code, as the Board of Directors of the Corporation determines to be appropriate with respect to the Corporation;

[(vii) the Corporation has provided for the appointment of a senior officer whose responsibilities shall include setting uniform standards for contracting and contracting enforcement in connection with the administration of the Fund;

[(viii) the Corporation is implementing the minority outreach provisions mandated by section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

[(ix) the Corporation has provided for the appointment of a senior attorney, at the assistant general counsel level or above, responsible for professional liability cases; and

[(x) the Corporation has improved the management of legal services by—

[(I) utilizing staff counsel when such utilization would provide the same level of quality in legal services as the use of outside counsel at the same or a lower estimated cost; and

[(II) employing outside counsel only if the use of outside counsel would provide the most practicable, efficient, and cost-effective resolution to the action and only under a negotiated fee, contingent fee, or competitively bid fee agreement.

[(F) AVAILABILITY OF RTC FUNDING.—At any time before the end of the 2-year period beginning on the date of the termination of the Resolution Trust Corporation, the Secretary of the Treasury shall provide, out of funds appropriated to the Resolution Trust Corporation pursuant to section 21A(i)(3) of the Federal Home Loan Bank Act and not expended by the Resolution Trust Corporation, to the Savings Association Insurance Fund, for any year such amounts as are needed by the Fund and are not needed by the Resolution Trust Corporation, if the Chairperson of the Board of Directors has certified to the Congress that—

[(i) such amount is needed to pay for losses which have been incurred or can reasonably be expected to be incurred by the Savings Association Insurance Fund;

[(ii) the Board of Directors has determined that—

[(I) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) at the assessment rates which would be required in order to cover, from such additional assessments, losses which have been incurred or can reasonably be expected to be incurred by the Savings Association Insurance Fund without adversely affecting the ability of such members to raise and maintain capital or to maintain the members' assessment base; and

[(II) an increase in the assessment rates for Savings Association Insurance Fund members to cover such losses could reasonably be expected to result in greater losses to the Government;

[(iii) the Board of Directors has determined that—

[(I) Savings Association Insurance Fund members, in the aggregate, are unable to pay additional semiannual assessments under section 7(b) at the assessment rates which would be required in order to meet the repayment schedule required under section 14(c) for any amount borrowed under section 14(a) to cover losses which have been incurred or can reasonably be expected to be incurred by the Savings Association Insurance Fund without adversely affecting the ability of such members to raise and maintain capital or to maintain such members' assessment base; and

[(II) an increase in the assessment rates for Savings Association Insurance Fund members to

meet any such repayment schedule could reasonably be expected to result in greater losses to the Government;

[(iv) the Corporation has provided for the appointment of a chief financial officer who—

[(I) does not have other operating responsibilities;

[(II) will report directly to the Chairperson of the Corporation; and

[(III) will have such authority and duties of chief financial officers under section 902 of title 31, United States Code, as the Board of Directors of the Corporation determines to be appropriate with respect to the Corporation;

[(v) the Corporation has provided for the appointment of a senior officer whose responsibilities shall include setting uniform standards for contracting and contracting enforcement in connection with the administration of the Fund;

[(vi) the Corporation is implementing the minority outreach provisions mandated by section 1216 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

[(vii) the Corporation has provided for the appointment of a senior attorney, at the assistant general counsel level or above, responsible for professional liability cases; and

[(viii) the Corporation has improved the management of legal services by—

[(I) utilizing staff counsel when such utilization would provide the same level of quality in legal services as the use of outside counsel at the same or a lower estimated cost; and

[(II) employing outside counsel only if the use of outside counsel would provide the most practicable, efficient, and cost-effective resolution to the action and only under a negotiated fee, contingent fee, or competitively bid fee agreement.

[(G) EXCEPTION TO SUBPARAGRAPH (D).—Notwithstanding subparagraph (D), no payment may be made pursuant to such subparagraphs after the Savings Association Insurance Fund achieves a reserve ratio of 1.25 percent.

[(H) APPEARANCE UPON REQUEST.—The Secretary of the Treasury and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation shall appear before the Committee on Banking, Finance and Urban Affairs of the House of Representatives or the Committee on Banking, Housing, and Urban Affairs of the Senate, upon the request of the chairman of the committee, to report on any certification made to the Congress under subparagraph (E) or (F).

[(I) BORROWING AUTHORITY.—

[(i) IN GENERAL.—The Corporation may borrow from the Federal home loan banks, with the concurrence of the Federal Housing Finance Board, such funds as the

Corporation considers necessary for the use of the Savings Association Insurance Fund.

[(ii) TERMS AND CONDITIONS.—Any loan from any Federal home loan bank under clause (i) to the Savings Association Insurance Fund shall—

[(I) bear a rate of interest of not less than such bank's current marginal cost of funds, taking into account the maturities involved;

[(II) be adequately secured, as determined by the Federal Housing Finance Board;

[(III) be a direct liability of such Fund; and

[(IV) be subject to the limitations of section 15(c).

[(J) AUTHORIZATION OF APPROPRIATIONS.—Subject to subparagraph (E), there are authorized to be appropriated to the Secretary of the Treasury, such sums as may be necessary to carry out the provisions of subparagraph (D) for fiscal years 1994 through 1998, except that the aggregate amount appropriated pursuant to this authorization may not exceed $8,000,000,000.

[(K) RETURN TO TREASURY.—If the aggregate amount of funds transferred to the Savings Association Insurance Fund under subparagraph (D) or (F) exceeds the amount needed to cover losses incurred by the Fund, such excess amount shall be deposited in the general fund of the Treasury.

[(7) PROVISIONS APPLICABLE TO MAINTENANCE OF ACCOUNTS.—

[(A) CORPORATION'S AUTHORITY.—Any provision of this Act forbidding the commingling of the Bank Insurance Fund with the Savings Association Insurance Fund, or requiring the separate maintenance of the Bank Insurance Fund and the Savings Association Insurance Fund, is not intended—

[(i) to limit or impair the authority of the Corporation to use the same facilities and resources in the course of conducting supervisory, regulatory, conservatorship, receivership, or liquidation functions with respect to banks and savings associations, or to integrate such functions; or

[(ii) to limit or impair the Corporation's power to combine assets or liabilities belonging to banks and savings associations in conservatorship or receivership for managerial purposes, or to limit or impair the Corporation's power to dispose of such assets or liabilities on an aggregate basis.

[(B) ACCOUNTING REQUIREMENTS.—

[(i) ACCOUNTING FOR USE OF FACILITIES AND RESOURCES.—The Corporation shall keep a full and complete accounting of all costs and expenses associated with the use of any facility or resource used in the course of any function specified in subparagraph (A)(i) and shall allocate, in the manner provided in subparagraph (C), any such costs and expenses incurred by the Corporation—

[(I) with respect to Bank Insurance Fund members to the Bank Insurance Fund; and

[(II) with respect to Savings Association Insurance Fund members to the Savings Association Insurance Fund.

[(ii) ACCOUNTING FOR HOLDING AND MANAGING ASSETS AND LIABILITIES.—The Corporation shall keep a full and complete accounting of all costs and expenses associated with the holding and management of any asset or liability specified in subparagraph (A)(ii).

[(iii) ACCOUNTING FOR DISPOSITION OF ASSETS AND LIABILITIES.—The Corporation shall keep a full and complete accounting of all expenses and receipts associated with the disposition of any asset or liability specified in subparagraph (A)(ii).

[(iv) ALLOCATION OF COST, EXPENSES AND RECEIPTS.—The Corporation shall allocate any cost, expense, and receipt described in clause (ii) or clause (iii) which is associated with any asset or liability belonging to—

[(I) any Bank Insurance Fund member to the Bank Insurance Fund; and

[(II) any Savings Association Insurance Fund member to the Savings Association Insurance Fund.

[(C) ALLOCATION OF ADMINISTRATIVE EXPENSES.—Any personnel, administrative, or other overhead expense of the Corporation shall be allocated—

[(i) fully to the Bank Insurance Fund, if the expense was incurred directly as a result of the Corporation's responsibilities solely with respect to Bank Insurance Fund members;

[(ii) fully to the Savings Association Insurance Fund, if the expense was incurred directly as a result of the Corporation's responsibilities solely with respect to Savings Association Insurance Fund members;

[(iii) between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the relative degree to which the expense was incurred as a result of the activities of Bank Insurance Fund and Savings Association Insurance Fund members; or

[(iv) between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the relative total assets as of the end of the preceding calendar year of Bank Insurance Fund members and Savings Association Insurance Fund members, to the extent that the Board of Directors is unable to make a determination under clause (i), (ii), or (iii).]

(4) DEPOSIT INSURANCE FUND.—

(A) ESTABLISHMENT.—There is established the Deposit Insurance Fund, which the Corporation shall—

(i) maintain and administer;

(ii) use to carry out its insurance purposes, in the manner provided by this subsection; and

(iii) invest in accordance with section 13(a).

(B) USES.—The Deposit Insurance Fund shall be available to the Corporation for use with respect to insured depository institutions the deposits of which are insured by the Deposit Insurance Fund.

(C) LIMITATION ON USE.—Notwithstanding any provision of law other than section 13(c)(4)(G), the Deposit Insurance Fund shall not be used in any manner to benefit any shareholder or affiliate (other than an insured depository institution that receives assistance in accordance with the provisions of this Act) of—

(i) any insured depository institution for which the Corporation has been appointed conservator or receiver, in connection with any type of resolution by the Corporation;

(ii) any other insured depository institution in default or in danger of default, in connection with any type of resolution by the Corporation; or

(iii) any insured depository institution, in connection with the provision of assistance under this section or section 13 with respect to such institution, except that this clause shall not prohibit any assistance to any insured depository institution that is not in default, or that is not in danger of default, that is acquiring (as defined in section 13(f)(8)(B)) another insured depository institution.

(D) DEPOSITS.—All amounts assessed against insured depository institutions by the Corporation shall be deposited into the Deposit Insurance Fund.

[(8)**]** *(5)* CERTAIN INVESTMENT CONTRACTS NOT TREATED AS INSURED DEPOSITS.—

(A) * * *

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(c) APPOINTMENT OF CORPORATION AS CONSERVATOR OR RECEIVER.—

(1) * * *

* * * * * * *

(5) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER.—The grounds for appointing a conservator or receiver (which may be the Corporation) for any insured depository institution are as follows:

(A) * * *

* * * * * * *

(H) VIOLATIONS OF LAW.—Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to—

(i) * * *

* * * * * * *

(iii) otherwise seriously prejudice the interests of the institution's depositors or the [deposit insurance fund] *Deposit Insurance Fund*.

* * * * * * *

(10) CORPORATION MAY APPOINT ITSELF AS CONSERVATOR OR RECEIVER FOR INSURED DEPOSITORY INSTITUTION TO PREVENT LOSS TO [DEPOSIT INSURANCE FUND] *DEPOSIT INSURANCE FUND*.—The Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State supervisor (if any), if the Board of Directors determines that—

(A) * * *

(B) the appointment is necessary to reduce—

(i) the risk that the [deposit insurance fund] *Deposit Insurance Fund* would incur a loss with respect to the insured depository institution, or

(ii) any loss that the [deposit insurance fund] *Deposit Insurance Fund* is expected to incur with respect to that institution.

* * * * * * *

(e) PROVISIONS RELATING TO CONTRACTS ENTERED INTO BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

(1) * * *

* * * * * * *

(14) SELLING CREDIT CARD ACCOUNTS RECEIVABLE.—

(A) * * *

(B) WAIVER BY CORPORATION.—The Corporation may at any time, in its sole discretion and upon such terms as it may prescribe, waive its right to repudiate an agreement to sell credit card accounts receivable if the Corporation—

(i) determines that the waiver is in the best interests of the [deposit insurance fund] *Deposit Insurance Fund*; and

(ii) provides a written waiver to the selling institution.

* * * * * * *

(f) PAYMENT OF INSURED DEPOSITS.—

(1) IN GENERAL.—In case of the liquidation of, or other closing or winding up of the affairs of, any insured depository institution, payment of the insured deposits in such institution shall be made by the Corporation as soon as possible, subject to the provisions of subsection (g), either by cash or by making available to each depositor a transferred deposit in a new insured depository institution in the same community or in another insured depository institution in an amount equal to the insured deposit of such depositor, [except that—

[(A) all payments made pursuant to this section on account of a closed Bank Insurance Fund member shall be made only from the Bank Insurance Fund, and

[(B) all payments made pursuant to this section on account of a closed Savings Association Insurance Fund

member shall be made only from the Savings Association Insurance Fund.[].

* * * * * * *

(i) VALUATION OF CLAIMS IN DEFAULT.—
(1) * * *

* * * * * * *

(3) ADDITIONAL PAYMENTS AUTHORIZED.—
(A) * * *

[(B) SOURCE OF FUNDS.—If the depository institution in default is a Bank Insurance Fund member, the Corporation may only make such payments out of funds held in the Bank Insurance Fund. If the depository institution in default is a Savings Association Insurance Fund member, the Corporation may only make such payments out of funds held in the Savings Association Insurance Fund.]

[(C)] *(B)* MANNER OF PAYMENT.—The Corporation may make the payments or credit the amounts specified in [subparagraphs (A) and (B)] *subparagraph (A)* directly to the claimants or may make such payments or credit such amounts to an open insured depository institution to induce such institution to accept liability for such claims.

* * * * * * *

(m) NEW BANKS.—
(1) * * *

* * * * * * *

(6) NEW DEPOSITS.—The new bank may, with the approval of the Corporation, accept new deposits which shall be subject to withdrawal on demand and which, except where the new bank is the only bank in the community, shall not exceed [$100,000] *an amount equal to the standard maximum deposit insurance amount* from any depositor.

* * * * * * *

(p) CERTAIN SALES OF ASSETS PROHIBITED.—
(1) * * *
(2) CONVICTED DEBTORS.—Except as provided in paragraph (3), any person who—
(A) * * *
(B) is in default on any loan or other extension of credit from such insured depository institution which, if not paid, will cause substantial loss to the [institution, any deposit insurance fund] *institution, the Deposit Insurance Fund*, the Corporation, the FSLIC Resolution Fund, or the Resolution Trust Corporation,

* * * * * * *

SEC. 11A. FSLIC RESOLUTION FUND.

(a) ESTABLISHED.—
(1) * * *
(2) TRANSFER OF FSLIC ASSETS AND [LIABILITIES.—
[(A) IN GENERAL.—Except] *LIABILITIES.—Except* as provided in section 21A of the Federal Home Loan Bank Act, all assets and liabilities of the Federal Savings and Loan

Insurance Corporation on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall be transferred to the FSLIC Resolution Fund.

[(B) ADDITIONAL CLAIMS ON ASSETS.—The FSLIC Resolution Fund shall pay to the Savings Association Insurance Fund such amounts as are needed for administrative and supervisory expenses from the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 through September 30, 1992.]

(3) SEPARATE HOLDING.—Assets and liabilities transferred to the FSLIC Resolution Fund shall be the assets and liabilities of the Fund and not of the Corporation and shall not be consolidated with the assets and liabilities of [the Bank Insurance Fund, the Savings Association Insurance Fund,] *the Deposit Insurance Fund* or the Corporation for accounting, reporting, or any other purpose.

* * * * * * *

(b) SOURCE OF FUNDS.—The FSLIC Resolution Fund shall be funded from the following sources to the extent funds are needed in the listed priority:

(1) * * *

* * * * * * *

[(4) During the period beginning on the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and ending on December 31, 1992, amounts assessed against Savings Association Insurance Fund members by the Corporation pursuant to section 7 which are not required by the Financing Corporation pursuant to section 21 of the Federal Home Loan Bank Act or by the Resolution Funding Corporation pursuant to section 21B of the Federal Home Loan Bank Act.]

* * * * * * *

(f) DISSOLUTION.—The FSLIC Resolution Fund shall be dissolved upon satisfaction of all debts and liabilities and sale of all assets. Upon dissolution any remaining funds shall be paid into the Treasury. Any administrative facilities and supplies, including offices and office supplies, shall be transferred to the Corporation for use by and to be held as assets of the [Savings Association Insurance Fund] *Deposit Insurance Fund*.

* * * * * * *

SEC. 12. (a) * * *

* * * * * * *

(f) CONFLICT OF INTEREST.—

(1) * * *

* * * * * * *

(4) DISAPPROVAL OF CONTRACTORS.—

(A) * * *

* * * * * * *

(E) PROHIBITION REQUIRED IN CERTAIN CASES.—The standards established under subparagraph (A) shall require the Corporation to prohibit any person who has—

(i) * * *

* * * * * * *

(iv) caused a substantial loss to [Federal deposit insurance funds] *the Deposit Insurance Fund (or any predecessor deposit insurance fund)*;

from performing any service on behalf of the Corporation.

* * * * * * *

SEC. 13. (a) INVESTMENT OF CORPORATION'S FUNDS.—

(1) AUTHORITY.—Funds held in the [Bank Insurance Fund, the Savings Association Insurance Fund,] *Deposit Insurance Fund* or the FSLIC Resolution Fund, that are not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

* * * * * * *

(c)(1) * * *

* * * * * * *

(4) LEAST-COST RESOLUTION REQUIRED.—

(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Corporation may not exercise any authority under this subsection or subsection (d), (f), (h), (i), or (k) with respect to any insured depository institution unless—

(i) * * *

(ii) the total amount of the expenditures by the Corporation and obligations incurred by the Corporation (including any immediate and long-term obligation of the Corporation and any direct or contingent liability for future payment by the Corporation) in connection with the exercise of any such authority with respect to such institution is the least costly to the [deposit insurance fund] *Deposit Insurance Fund* of all possible methods for meeting the Corporation's obligation under this section.

(B) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible cost to the [deposit insurance fund] *Deposit Insurance Fund*, the Corporation shall comply with the following provisions:

(i) * * *

(ii) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the [deposit insurance fund] *Deposit Insurance Fund*.

* * * * * * *

(E) DEPOSIT INSURANCE [FUNDS] *FUND* AVAILABLE FOR INTENDED PURPOSE ONLY.—

(i) IN GENERAL.—After December 31, 1994, or at such earlier time as the Corporation determines to be appropriate, the Corporation may not take any action, directly or indirectly, with respect to any insured depository institution that would have the effect of increasing losses to [any insurance fund] *the Deposit Insurance Fund* by protecting—

(I) * * *

* * * * * * *

(G) SYSTEMIC RISK.—

(i) * * *

(ii) REPAYMENT OF LOSS.—The Corporation shall recover the loss to the [appropriate insurance fund] *Deposit Insurance Fund* arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) expeditiously from 1 or more emergency special assessments on [the members of the insurance fund (of which such institution is a member)] *insured depository institutions* equal to the product of—

(I) an assessment rate established by the Corporation; and

(II) the amount of [each member's] *each insured depository institution's* average total assets during the [semiannual period] *assessment period*, minus the sum of the amount of the [member's] *institution's* average total tangible equity and the amount of the [member's] *institution's* average total subordinated debt.

* * * * * * *

[(11) Payments made under this subsection shall be made—

[(A) from the Bank Insurance Fund in the case of payments to or on behalf of a member of such Fund; or

[(B) from the Savings Association Insurance Fund or from funds made available by the Resolution Trust Corporation in the case of payments to or on behalf of any Savings Association Insurance Fund member.]

* * * * * * *

(h) The powers conferred on the Board of Directors and the Corporation by this section to take action to reopen an insured depository institution in default or to avert the default of an insured depository institution may be used with respect to an insured branch of a foreign bank if, in the judgment of the Board of Directors, the public interest in avoiding the closing of such branch substantially outweighs any additional risk of loss to the [Bank Insurance Fund] *Deposit Insurance Fund* which the exercise of such powers would entail.

* * * * * * *

(k) EMERGENCY ACQUISITIONS.—

(1) * * *

* * * * * * *

(4) BRANCHING PROVISIONS.—

(A) * * *
(B) RESTRICTIONS.—
(i) IN GENERAL.—Notwithstanding subparagraph (A), if—
(I) * * *

* * * * * * *

such savings association shall be subject to the conditions upon which a bank may retain, operate, and establish branches in the State in which the [Savings Association Insurance Fund member] *savings association* is located.

* * * * * * *

(5) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—
(A) ASSISTANCE PROPOSALS.—The Corporation shall consider proposals by [Savings Association Insurance Fund members] *savings associations* for assistance pursuant to subsection (c) before grounds exist for appointment of a conservator or receiver for such member under the following circumstances:
(i) * * *

* * * * * * *

SEC. 14. BORROWING AUTHORITY.

(a) BORROWING FROM TREASURY.—The Corporation is authorized to borrow from the Treasury, and the Secretary of the Treasury is authorized and directed to loan to the Corporation on such terms as may be fixed by the Corporation and the Secretary, such funds as in the judgment of the Board of Directors of the Corporation are from time to time required for insurance purposes, not exceeding in the aggregate $30,000,000,000 outstanding at any one time, subject to the approval of the Secretary of the Treasury: *Provided,* That the rate of interest to be charged in connection with any loan made pursuant to this subsection shall not be less than an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. For such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include such loans. Any such loan shall be used by the Corporation solely in carrying out its functions with respect to such insurance. All loans and repayments under this subsection shall be treated as public-debt transactions of the United States. The Corporation may employ any funds obtained under this section for purposes of the [Bank Insurance Fund or the Savings Association Insurance Fund] *Deposit Insurance Fund* and the borrowing shall become a liability of [each such fund] *the Deposit Insurance Fund* to the extent funds are employed therefor. There are hereby appropriated to the Secretary, for fiscal year 1989 and each fiscal year thereafter, such sums as may be necessary to carry out this subsection.

(b) BORROWING FROM FEDERAL FINANCING BANK.—The Corporation is authorized to issue and sell the Corporation's obligations, on behalf of the [Bank Insurance Fund or Savings Association Insurance Fund] *Deposit Insurance Fund*, to the Federal Financing Bank established by the Federal Financing Bank Act of 1973. The Federal Financing Bank is authorized to purchase and sell the Corporation's obligations on terms and conditions determined by the Federal Financing Bank. Any such borrowings shall be obligations subject to the obligation limitation of section 15(c) of this Act. This subsection does not affect the eligibility of any other entity to borrow from the Federal Financing Bank.

(c) REPAYMENT SCHEDULES REQUIRED FOR ANY BORROWING.—

(1) * * *

* * * * * * *

[(3) INDUSTRY REPAYMENT.—

[(A) BIF MEMBER PAYMENTS.—No agreement or repayment schedule under paragraph (1) shall require any payment by a Bank Insurance Fund member for funds obtained under subsection (a) for purposes of the Savings Association Fund.

[(B) SAIF MEMBER PAYMENTS.—No agreement or repayment schedule under paragraph (1) shall require any payment by a Savings Association Insurance Fund member for funds obtained under subsection (a) for purposes of the Bank Insurance Fund.]

[(d) BORROWING FOR BIF FROM BIF MEMBERS.—]

(d) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM INSURED DEPOSITORY INSTITUTIONS.—

(1) BORROWING AUTHORITY.—The Corporation may issue obligations to [Bank Insurance Fund members] *insured depository institutions*, and may borrow from [Bank Insurance Fund members] *insured depository institutions* and give security for any amount borrowed, and may pay interest on (and any redemption premium with respect to) any such obligation or amount to the extent—

(A) the proceeds of any such obligation or amount are used by the Corporation solely for purposes of carrying out the Corporation's functions with respect to the [Bank Insurance Fund] *Deposit Insurance Fund*; and

(B) the terms of the obligation or instrument limit the liability of the Corporation or the [Bank Insurance Fund] *Deposit Insurance Fund* for the payment of interest and the repayment of principal to the amount which is equal to the amount of assessment income received by the Fund from assessments under section 7.

(2) LIMITATIONS ON BORROWING.—

(A) APPLICABILITY OF PUBLIC DEBT LIMIT.—For purposes of the public debt limit established in section 3101(b) of title 31, United States Code, any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an obligation to which such limit applies.

(B) APPLICABILITY OF FDIC BORROWING LIMIT.—For purposes of the dollar amount limitation established in section 14(a) of the Federal Deposit Insurance Act (12 U.S.C.

1824(a)), any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an amount borrowed from the Treasury under such section.

(C) INTEREST RATE LIMIT.—The rate of interest payable in connection with any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall not exceed an amount determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

(D) OBLIGATIONS TO BE HELD ONLY BY BIF MEMBERS.—The terms of any obligation issued by the Corporation under paragraph (1) shall provide that the obligation will be valid only if held by a [Bank Insurance Fund member] *insured depository institution*.

(3) LIABILITY OF [BIF] *THE DEPOSIT INSURANCE FUND*.—Any obligation issued or amount borrowed under paragraph (1) shall be a liability of the [Bank Insurance Fund] *Deposit Insurance Fund*.

(4) TERMS AND CONDITIONS.—Subject to paragraphs (1) and (2), the Corporation shall establish the terms and conditions for obligations issued or amounts borrowed under paragraph (1), including interest rates and terms to maturity.

(5) INVESTMENT BY [BIF MEMBERS] *INSURED DEPOSITORY INSTITUTIONS*.—

(A) AUTHORITY TO INVEST.—Subject to subparagraph (B) and notwithstanding any other provision of Federal law or the law of any State, any [Bank Insurance Fund member] *insured depository institution* may purchase and hold for investment any obligation issued by the Corporation under paragraph (1) without limitation, other than any limitation the appropriate Federal banking agency may impose specifically with respect to such obligations.

(B) INVESTMENT ONLY FROM CAPITAL AND RETAINED EARNINGS.—Any [Bank Insurance Fund member] *insured depository institution* may purchase obligations or make loans to the Corporation under paragraph (1) only to the extent the purchase money or the money loaned is derived from the member's capital or retained earnings.

(6) ACCOUNTING TREATMENT.—In accounting for any investment in an obligation purchased from, or any loan made to, the Corporation for purposes of determining compliance with any capital standard and preparing any report required pursuant to section 7(a), the amount of such investment or loan shall be treated as an asset.

(e) BORROWING FOR THE DEPOSIT INSURANCE FUND FROM FEDERAL HOME LOAN BANKS.—

(1) IN GENERAL.—The Corporation may borrow from the Federal home loan banks, with the concurrence of the Federal Housing Finance Board, such funds as the Corporation considers necessary for the use of the Deposit Insurance Fund.

(2) TERMS AND CONDITIONS.—Any loan from any Federal home loan bank under paragraph (1) to the Deposit Insurance Fund shall—

(A) bear a rate of interest of not less than the current marginal cost of funds to that bank, taking into account the maturities involved;

(B) be adequately secured, as determined by the Federal Housing Finance Board;

(C) be a direct liability of the Deposit Insurance Fund; and

(D) be subject to the limitations of section 15(c).

SEC. 15. (a) * * *

* * * * * * *

(c) LIMITATION ON BORROWING.—

(1) * * *

* * * * * * *

(5) MAXIMUM AMOUNT LIMITATION ON OUTSTANDING OBLIGATIONS.—Notwithstanding any other provisions of this Act, the Corporation may not issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of obligations of [the Bank Insurance Fund or Savings Association Insurance Fund, respectively] *the Deposit Insurance Fund*, outstanding would exceed the sum of—

(A) the amount of cash or the equivalent of cash held by [the Bank Insurance Fund or Savings Association Insurance Fund, respectively] *the Deposit Insurance Fund*;

(B) the amount which is equal to 90 percent of the Corporation's estimate of the fair market value of assets held by [the Bank Insurance Fund or the Savings Association Insurance Fund, respectively] *the Deposit Insurance Fund*, other than assets described in subparagraph (A); and

(C) the total of the amounts authorized to be borrowed from the Secretary of the Treasury pursuant to section 14(a).

* * * * * * *

SEC. 17. (a) ANNUAL REPORTS ON [BIF, SAIF,] *THE DEPOSIT INSURANCE FUND* AND THE FSLIC RESOLUTION FUND.—

(1) IN GENERAL.—The Corporation shall annually submit a full report of its operations, activities, budget, receipts, and expenditures for the preceding 12-month period. The report shall include, with respect to [the Bank Insurance Fund, the Savings Association Insurance Fund,] *the Deposit Insurance Fund* and the FSLIC Resolution Fund, an analysis by the Corporation of—

(A) * * *

* * * * * * *

(D) the exposure of [each insurance fund] *the Deposit Insurance Fund* to changes in those economic factors most likely to affect the condition of that fund;

(E) a current estimate of the resources needed for [the Bank Insurance Fund, the Savings Association Insurance Fund,] *the Deposit Insurance Fund* or the FSLIC Resolution Fund to achieve the purposes of this Act; and

(F) any findings, conclusions, and recommendations for legislative and administrative actions considered appropriate to future resolution activities by the Corporation.

* * * * * * *

(d) AUDIT.—

(1) AUDIT REQUIRED.—The Comptroller General shall audit annually the financial transactions of the Corporation, [the Bank Insurance Fund, the Savings Association Insurance Fund,] *the Deposit Insurance Fund* and the FSLIC Resolution Fund in accordance with generally accepted government auditing standards.

(2) ACCESS TO BOOKS AND RECORDS.—All books, records, accounts, reports, files, and property belonging to or used by the Corporation, [the Bank Insurance Fund, the Savings Association Insurance Fund,] *the Deposit Insurance Fund* and the FSLIC Resolution Fund, or by an independent certified public accountant retained to audit the Fund's financial statements, shall be made available to the Comptroller General.

* * * * * * *

SEC. 18. [(a) INSURANCE LOGO.—

[(1) INSURED SAVINGS ASSOCIATIONS.—Each insured savings association shall display at each place of business maintained by such association a sign containing only the following items:

[(A) A statement that insured deposits are backed by the full faith and credit of the United States Government.

[(B) A statement that deposits are federally insured to $100,000.

[(C) The symbol of an eagle.

The sign shall not contain any reference to a Government agency and shall accord each item substantially equal prominence.

[(2) INSURED BANKS.—Not later than 30 days after the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, each insured bank shall display at each place of business maintained by such bank one of the following:

[(A) The sign required to be displayed by insured banks under regulations prescribed by the Corporation in effect on January 1, 1989.

[(B) The sign prescribed under paragraph (1).

[(3) REGULATIONS.—The Corporation shall prescribe regulations to carry out the purposes of this subsection, including regulations governing the manner of display or use of such signs, except that the size of the sign prescribed under paragraph (1) shall be similar to that prescribed under paragraph (2)(A). Initial regulations under this subsection shall be prescribed on the date of enactment of the Financial Institutions Recovery, Reform, and Enforcement Act of 1989. For each day an insured depository institution continues to violate any provisions of this subsection or any lawful provisions of said regulations, it shall be subject to a penalty of not more than $100, which the Corporation may recover for its use.]

(a) INSURANCE LOGO.—

(1) INSURED DEPOSITORY INSTITUTIONS.—

(A) IN GENERAL.—Each insured depository institution shall display at each place of business maintained by that institution a sign or signs relating to the insurance of the deposits of the institution, in accordance with regulations to be prescribed by the Corporation.

(B) STATEMENT TO BE INCLUDED.—Each sign required under subparagraph (A) shall include a statement that insured deposits are backed by the full faith and credit of the United States Government.

(2) REGULATIONS.—The Corporation shall prescribe regulations to carry out this subsection, including regulations governing the substance of signs required by paragraph (1) and the manner of display or use of such signs.

(3) PENALTIES.—For each day that an insured depository institution continues to violate this subsection or any regulation issued under this subsection, it shall be subject to a penalty of not more than $100, which the Corporation may recover for its use.

* * * * * * *

[(h) Any insured depository institution which willfully fails or refuses to file any certified statement or pay any assessment required under this Act shall be subject to a penalty of not more than $100 for each day that such violations continue, which penalty the Corporation may recover for its use: *Provided,* That this subsection shall not be applicable under the circumstances stated in the proviso of subsection (b) of this section.]

(h) PENALTY FOR FAILURE TO TIMELY PAY ASSESSMENTS.—

(1) IN GENERAL.—Any insured depository institution which fails or refuses to pay any assessment shall be subject to a penalty in an amount not more than 1 percent of the amount of the assessment due for each day that such violation continues.

(2) EXCEPTION IN CASE OF DISPUTE.—Paragraph (1) shall not apply if—

(A) the failure to pay an assessment is due to a dispute between the insured depository institution and the Corporation over the amount of such assessment; and

(B) the insured depository institution deposits security satisfactory to the Corporation for payment upon final determination of the issue.

(3) AUTHORITY TO MODIFY OR REMIT PENALTY.—The Corporation, in the sole discretion of the Corporation, may compromise, modify or remit any penalty which the Corporation may assess or has already assessed under paragraph (1) upon a finding that good cause prevented the timely payment of an assessment.

* * * * * * *

(m) ACTIVITIES OF SAVINGS ASSOCIATIONS AND THEIR SUBSIDIARIES.—

(1) * * *

* * * * * * *

(3) ACTIVITIES INCOMPATIBLE WITH DEPOSIT INSURANCE.—

(A) IN GENERAL.—The Corporation may determine by regulation or order that any specific activity poses a serious threat to the [Savings Association Insurance Fund]

Deposit Insurance Fund. Prior to adopting any such regulation, the Corporation shall consult with the Director of the Office of Thrift Supervision and shall provide appropriate State supervisors the opportunity to comment thereon, and the Corporation shall specifically take such comments into consideration. Any such regulation shall be issued in accordance with section 553 of title 5, United States Code. If the Board of Directors makes such a determination with respect to an activity, the Corporation shall have authority to order that no [Savings Association Insurance Fund member] *savings association* may engage in the activity directly.

* * * * * * *

(C) ADDITIONAL AUTHORITY OF FDIC TO PREVENT SERIOUS RISKS TO INSURANCE FUND.—Notwithstanding subparagraph (A), the Corporation may prescribe and enforce such regulations and issue such orders as the Corporation determines to be necessary to prevent actions or practices of savings associations that pose a serious threat to the [Savings Association Insurance Fund or the Bank Insurance Fund] *Deposit Insurance Fund*.

* * * * * * *

(o) REAL ESTATE LENDING.—

(1) * * *

(2) STANDARDS.—

(A) CRITERIA.—In prescribing standards under paragraph (1), the agencies shall consider—

(i) the risk posed to the [deposit insurance funds] *Deposit Insurance Fund* by such extensions of credit;

* * * * * * *

(B) VARIATIONS PERMITTED.—In prescribing standards under paragraph (1), the appropriate Federal banking agencies may differentiate among types of loans—

(i) as may be required by Federal statute;

(ii) as may be warranted, based on the risk to the [deposit insurance fund] *Deposit Insurance Fund*; or

* * * * * * *

(p) PERIODIC REVIEW OF CAPITAL STANDARDS.—Each appropriate Federal banking agency shall, in consultation with the other Federal banking agencies, biennially review its capital standards for insured depository institutions to determine whether those standards require sufficient capital to facilitate prompt corrective action to prevent or minimize loss to the [deposit insurance funds] *Deposit Insurance Fund*, consistent with section 38.

* * * * * * *

SEC. 24. ACTIVITIES OF INSURED STATE BANKS.

(a) PERMISSIBLE ACTIVITIES.—

(1) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, an insured State bank may not engage as principal in any type of activity that is not permissible for a national bank unless—

(A) the Corporation has determined that the activity would pose no significant risk to the [appropriate deposit insurance fund] *Deposit Insurance Fund*; and

(B) the State bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

* * * * * * *

(d) SUBSIDIARIES OF INSURED STATE BANKS.—

(1) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, a subsidiary of an insured State bank may not engage as principal in any type of activity that is not permissible for a subsidiary of a national bank unless—

(A) the Corporation has determined that the activity poses no significant risk to the [appropriate deposit insurance fund] *Deposit Insurance Fund*; and

* * * * * * *

(e) SAVINGS BANK LIFE INSURANCE.—

(1) * * *

(2) FDIC FINDING AND ACTION REGARDING RISK.—

(A) FINDING.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall make a finding whether savings bank life insurance activities of insured banks pose or may pose any significant [risk to the insurance fund of which such banks are members.] *risk to the Deposit Insurance Fund.*

(B) ACTIONS.—

(i) * * *

(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of insurance activities conducted by any insured bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1)(A) or to [the insurance fund of which such bank is a member] *the Deposit Insurance Fund*.

(f) COMMON AND PREFERRED STOCK INVESTMENT.—

(1) * * *

* * * * * * *

(6) NOTICE AND APPROVAL.—An insured State bank may only engage in any investment pursuant to paragraph (2) if—

(A) the bank has filed a 1-time notice of the bank's intention to acquire and retain investments described in paragraph (1); and

(B) the Corporation has determined, within 60 days of receiving such notice, that acquiring or retaining such investments does not pose a significant risk to [the insurance fund of which such bank is a member] *the Deposit Insurance Fund*.

* * * * * * *

SEC. 28. ACTIVITIES OF SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—On and after January 1, 1990, a savings association chartered under State law may not engage as principal in any type of activity, or in any activity in an amount, that is not permissible for a Federal savings association unless—

(1) the Corporation has determined that the activity would pose no significant risk to the **[**affected deposit insurance fund**]** *Deposit Insurance Fund*; and

* * * * * * *

(b) DIFFERENCES OF MAGNITUDE BETWEEN STATE AND FEDERAL POWERS.—Notwithstanding subsection (a)(1), if an activity (other than an activity described in section 5(c)(2)(B) of the Home Owners' Loan Act) is permissible for a Federal savings association, a savings association chartered under State law may engage as principal in that activity in an amount greater than the amount permissible for a Federal savings association if—

(1) the Corporation has not determined that engaging in that amount of the activity poses any significant risk to the **[**affected deposit insurance fund**]** *Deposit Insurance Fund*; and

* * * * * * *

(c) EQUITY INVESTMENTS BY STATE SAVINGS ASSOCIATIONS.—

(1) * * *

(2) EXCEPTION FOR SERVICE CORPORATIONS.—Paragraph (1) does not prohibit a savings association from acquiring or retaining shares of one or more service corporations if—

(A) the Corporation has determined that no significant risk to the **[**affected deposit insurance fund**]** *Deposit Insurance Fund* is posed by—

(i) * * *

* * * * * * *

[SEC. 31. SAVINGS ASSOCIATION INSURANCE FUND INDUSTRY ADVISORY COMMITTEE.

[(a) ESTABLISHMENT.—There is hereby established the Savings Association Insurance Fund Industry Advisory Committee (hereinafter referred to in this section as the "Committee").

[(b) MEMBERSHIP.—The Committee shall consist of 18 members, appointed as follows:

[(1) 1 member elected from each Federal home loan bank district (by the members of the board of directors of each such bank who were elected by the members of such bank) from among individuals residing therein who are officers of insured depository institutions that are Savings Association Insurance Fund members.

[(2) 6 members appointed by the Corporation from among individuals who shall represent the public interest.

[(c) VACANCIES.—Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made.

[(d) PAY AND EXPENSES.—Members of the Committee shall serve without pay, but each member shall be reimbursed, in such manner as the Corporation shall prescribe by regulation, for expenses incurred in connection with attendance of such members at meetings of the Committee.

[(e) TERMS.—Members shall be appointed or elected for terms of 1 year.

[(f) AUTHORITY OF THE COMMITTEE.—The Committee may select its Chairperson, Vice Chairperson, and Secretary, and adopt methods of procedure, and shall have power—

[(1) to confer with the Board of Directors on general and special business conditions and regulatory and other matters affecting insured financial institutions that are members of the Savings Association Insurance Fund; and

[(2) to request information, and to make recommendations, with respect to matters within the jurisdiction of the Corporation.

[(g) MEETINGS.—The Committee shall meet 4 times each year, and more frequently if requested by the Corporation.

[(h) REPORTS.—The Committee shall submit a semiannual written report to the Committee on Banking, Finance and Urban Affairs of the House and to the Committee on Banking, Housing, and Urban Affairs of the Senate. Such report shall describe the activities of the Committee for such semiannual period and contain such recommendations as the Committee considers appropriate.

[(i) PROVISION OF STAFF AND OTHER RESOURCES.—The Corporation shall provide the Committee with the use of such resources, including staff, as the Committee reasonably shall require to carry out its duties, including the preparation and submission of reports to Congress, under this section.

[(j) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply to the Committee.

[(k) SUNSET.—The Committee shall cease to exist 10 years after the enactment of this section.]

* * * * * * *

SEC. 36. EARLY IDENTIFICATION OF NEEDED IMPROVEMENTS IN FINANCIAL MANAGEMENT.

(a) * * *

* * * * * * *

(i) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—

(1) * * *

* * * * * * *

(3) APPLICABILITY BASED ON RISK TO FUND.—The appropriate Federal banking agency may require an institution with total assets in excess of $9,000,000,000 to comply with this section, notwithstanding the exemption provided by this subsection, if it determines that such exemption would create a significant risk to the [affected deposit insurance fund] *Deposit Insurance Fund* if applied to that institution.

* * * * * * *

SEC. 37. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

(a) IN GENERAL.—

(1) OBJECTIVES.—Accounting principles applicable to reports or statements required to be filed with Federal banking agencies by insured depository institutions should—

(A) * * *

* * * * * * *

(C) facilitate prompt corrective action to resolve the institutions at the least cost to the [insurance funds] *Deposit Insurance Fund*.

* * * * * * *

SEC. 38. PROMPT CORRECTIVE ACTION.

(a) RESOLVING PROBLEMS TO PROTECT DEPOSIT INSURANCE [FUNDS] *FUND*.—

(1) PURPOSE.—The purpose of this section is to resolve the problems of insured depository institutions at the least possible long-term loss to [the deposit insurance fund] *the Deposit Insurance Fund*.

* * * * * * *

(k) REVIEW REQUIRED WHEN DEPOSIT INSURANCE FUND INCURS MATERIAL LOSS.—

(1) IN GENERAL.—If [a deposit insurance fund] *the Deposit Insurance Fund* incurs a material loss with respect to an insured depository institution on or after July 1, 1993, the inspector general of the appropriate Federal banking agency shall—

(A) make a written report to that agency reviewing the agency's supervision of the institution (including the agency's implementation of this section), which shall—

(i) ascertain why the institution's problems resulted in a material loss to [the deposit insurance fund] *the Deposit Insurance Fund*; and

(ii) make recommendations for preventing any such loss in the future; and

* * * * * * *

(2) MATERIAL LOSS INCURRED.—For purposes of this subsection:

(A) LOSS INCURRED.—[A deposit insurance fund] *The Deposit Insurance Fund* incurs a loss with respect to an insured depository institution—

(i) if the Corporation provides any assistance under section 13(c) with respect to that institution; and—

(I) * * *

* * * * * * *

(ii) if the Corporation is appointed receiver of the institution, and it is or becomes apparent that the present value of [the deposit insurance fund's outlays] *the outlays of the Deposit Insurance Fund* with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

* * * * * * *

(3) DEADLINE FOR REPORT.—The inspector general of the appropriate Federal banking agency shall comply with paragraph (1) expeditiously, and in any event (except with respect to paragraph (1)(B)(iv)) as follows:

(A) * * *

(B) If the institution is described in paragraph (2)(A)(ii), during the 6-month period beginning on the date on which it becomes apparent that the present value of [the deposit insurance fund's outlays] *the outlays of the Deposit Insurance Fund* with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

* * * * * * *

(o) TRANSITION RULES FOR SAVINGS [ASSOCIATIONS.—

[(1) RTC'S ROLE DOES NOT DIMINISH CARE REQUIRED OF OTS.—

[(A) IN GENERAL.—In implementing this section, the appropriate Federal banking agency (and, to the extent applicable, the Corporation) shall exercise the same care as if the Savings Association Insurance Fund (rather than the Resolution Trust Corporation) bore the cost of resolving the problems of insured savings associations described in clauses (i) and (ii)(II) of section 21A(b)(3)(A) of the Federal Home Loan Bank Act.

[(B) REPORTS.—Subparagraph (A) does not require reports under subsection (k).

[(2) ADDITIONAL FLEXIBILITY FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e)(2)] *ASSOCIATIONS.—Subsections (e)(2)*, (f), and (h) shall not apply before July 1, 1994, to any insured savings association if—

[(A)] *(1)* before the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991—

[(i)] *(A)* the savings association had submitted a plan meeting the requirements of section 5(t)(6)(A)(ii) of the Home Owners' Loan Act; and

[(ii)] *(B)* the Director of the Office of Thrift Supervision had accepted the plan;

[(B)] *(2)* the plan remains in effect; and

[(C)] *(3)* the savings association remains in compliance with the plan or is operating under a written agreement with the appropriate Federal banking agency.

* * * * * * *

SEC. 43. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

(a) * * *

* * * * * * *

(d) EXCEPTIONS FOR INSTITUTIONS NOT RECEIVING RETAIL DEPOSITS.—The Federal Trade Commission may, by regulation or order, make exceptions to subsection (b) for any depository institution that, within the United States, does not receive initial deposits of less than [$100,000] *an amount equal to the standard maximum deposit insurance amount* from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

* * * * * * *

SEC. 49. BI-ANNUAL FDIC SURVEY AND REPORT ON ENCOURAGING USE OF DEPOSITORY INSTITUTIONS BY THE UNBANKED.

(a) SURVEY REQUIRED.—

(1) IN GENERAL.—The Corporation shall conduct a bi-annual survey on efforts by insured depository institutions to bring those individuals and families who have rarely, if ever, held a checking account, a savings account or other type of transaction or check cashing account at an insured depository institution (hereafter in this section referred to as the "unbanked") into the conventional finance system.

(2) FACTORS AND QUESTIONS TO CONSIDER.—In conducting the survey, the Corporation shall take the following factors and questions into account:

(A) To what extent do insured depository institutions promote financial education and financial literacy outreach?

(B) Which financial education efforts appear to be the most effective in bringing "unbanked" individuals and families into the conventional finance system?

(C) What efforts are insured institutions making at converting "unbanked" money order, wire transfer, and international remittance customers into conventional account holders?

(D) What cultural, language and identification issues as well as transaction costs appear to most prevent "unbanked" individuals from establishing conventional accounts?

(E) What is a fair estimate of the size and worth of the "unbanked" market in the United States?

(b) REPORTS.—The Chairperson of the Board of Directors shall submit a bi-annual report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing the Corporation's findings and conclusions with respect to the survey conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Chairperson may determine to be appropriate.

SECTION 6 OF THE INTERNATIONAL BANKING ACT OF 1978

INSURANCE OF DEPOSITS

SEC. 6. (a) * * *

(b) No foreign bank may establish or operate a Federal branch which receives deposits of less than **[**$100,000**]** *an amount equal to the standard maximum deposit insurance amount* unless the branch is an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act, or unless the Comptroller determines by order or regulation that the branch is not engaged in domestic retail deposit activities requiring deposit insurance protection, taking account of the size and nature of depositors and deposit accounts.

(c)(1) After the date of enactment of this Act no foreign bank may establish a branch, and after one year following such date no foreign bank may operate a branch, in any State in which the deposits of a bank organized and existing under the laws of that State

would be required to be insured, unless the branch is an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act, or unless the branch will not thereafter accept deposits of less than [$100,000] *an amount equal to the standard maximum deposit insurance amount* or unless the Federal Deposit Insurance Corporation determines by order or regulation that the branch is not engaged in domestic retail deposit activities requiring deposit insurance protection, taking account of the size and nature of depositors and deposit accounts.

* * * * * * *

(d) RETAIL DEPOSIT-TAKING BY FOREIGN BANKS.—

(1) IN GENERAL.—After the date of enactment of this subsection, notwithstanding any other provision of this Act or any provision of the Federal Deposit Insurance Act, in order to accept or maintain domestic retail deposit accounts having balances of less than [$100,000] *an amount equal to the standard maximum deposit insurance amount*, and requiring deposit insurance protection, a foreign bank shall—

(A) * * *

* * * * * * *

(2) EXCEPTION.—Domestic retail deposit accounts with balances of less than [$100,000] *an amount equal to the standard maximum deposit insurance amount* that require deposit insurance protection may be accepted or maintained in a branch of a foreign bank only if such branch was an insured branch on the date of the enactment of this subsection.

* * * * * * *

(e) STANDARD MAXIMUM DEPOSIT INSURANCE AMOUNT DEFINED.—For purposes of this section, the term "standard maximum deposit insurance amount" means the amount of the maximum amount of deposit insurance as determined under section 11(a)(1) of the Federal Deposit Insurance Act.

SECTION 207 OF THE FEDERAL CREDIT UNION ACT

PAYMENT OF INSURANCE

SEC. 207. (a) * * *

* * * * * * *

[(k)(1) Subject to the provisions of paragraph (2), for the purposes of this subsection, the term "insured account" means the total amount of the account in the member's name (after deducting offsets) less any part thereof which is in excess of $100,000. Such amount shall be determined according to such regulations as the Board may prescribe, and, in determining the amount due to any member, there shall be added together all accounts in the credit union maintained by him for his own benefit either in his own name or in the names of others. The Board may define, with such classifications and exceptions as it may prescribe, the extent of the insurance coverage provided for member accounts, including member accounts in the name of a minor, in trust, or in joint tenancy.]

(k) INSURED AMOUNTS PAYABLE.—

(1) NET INSURED AMOUNT.—

(A) IN GENERAL.—Subject to the provisions of paragraph (2), the net amount of share insurance payable to any member at an insured credit union shall not exceed the total amount of the shares or deposits in the name of the member (after deducting offsets), less any part thereof which is in excess of the standard maximum share insurance amount, as determined in accordance with this paragraph and paragraphs (5) and (6), and consistently with actions taken by the Federal Deposit Insurance Corporation under section 11(a) of the Federal Deposit Insurance Act.

(B) AGGREGATION.—Determination of the net amount of share insurance under subparagraph (A), shall be in accordance with such regulations as the Board may prescribe, and, in determining the amount payable to any member, there shall be added together all accounts in the credit union maintained by that member for that member's own benefit, either in the member's own name or in the names of others.

(C) AUTHORITY TO DEFINE THE EXTENT OF COVERAGE.—The Board may define, with such classifications and exceptions as it may prescribe, the extent of the share insurance coverage provided for member accounts, including member accounts in the name of a minor, in trust, or in joint tenancy.

[(2)(A) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of insurance available for the account of any one depositor or member, in the case of a depositor or member who is—**]**

(2) MUNICIPAL DEPOSITORS OR MEMBERS.—

(A) IN GENERAL.—Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of insurance available to any 1 depositor or member, deposits or shares of a municipal depositor or member shall be insured in an amount equal to the standard maximum share insurance amount (as determined under paragraph (5)), except as provided in subparagraph (B).

(B) IN-STATE MUNICIPAL DEPOSITORS.—In the case of the deposits of an in-State municipal depositor described in clause (ii), (iii), (iv), or (v) of subparagraph (E) at an insured credit union, such deposits shall be insured in an amount equal to the lesser of—

(i) $2,000,000; or

(ii) the sum of the standard maximum deposit insurance amount and 80 percent of the amount of any deposits in excess of the standard maximum deposit insurance amount.

(C) RULE OF CONSTRUCTION.—No provision of this paragraph shall be construed as authorizing an insured credit union to accept the deposits of a municipal depositor in an amount greater than such credit union is authorized to accept under any other provision of Federal or State law.

(D) IN-STATE MUNICIPAL DEPOSITOR DEFINED.—For purposes of this paragraph, the term "in-State municipal depositor" means a municipal depositor that is located in the

same State as the office or branch of the insured credit union at which the deposits of that depositor are held.

(E) MUNICIPAL DEPOSITOR.—In this paragraph, the term "municipal depositor" means a depositor that is—

(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title;

(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in such State;

(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in the District of Columbia;

(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Panama Canal Zone, or of any territory or possession of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this title in the Commonwealth of Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively; or

(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing the same in a credit union insured in accordance with this title**[**;**]**.

[his account shall be insured in an amount not to exceed $100,000 per account.**]**

[(B) The**]**

(F) AUTHORITY TO LIMIT DEPOSITS.—The Board may limit the aggregate amount of funds that may be invested or deposited in any credit union insured in accordance with this title by any **[**depositor or member referred to in subparagraph (A)**]** *municipal depositor or member* on the basis of the size of any such credit union in terms of its assets.

(3) Notwithstanding any limitation in this title or in any other provision of law relating to the amount of insurance available for the account of any one depositor or member, funds invested in a credit union insured in accordance with this title pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, and funds invested in such an insured credit union in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of **[**$100,000**]** *2 times the standard maximum share insurance amount (as determined under paragraph (1))* per account. As to any plan qualifying under section 401(d) or section 408(a) of the Inter-

nal Revenue Code of 1954, the term "per account" means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.

(4) COVERAGE FOR CERTAIN EMPLOYEE BENEFIT PLAN DEPOSITS.—

(A) PASS-THROUGH INSURANCE.—The Administration shall provide pass-through share insurance for the deposits or shares of any employee benefit plan.

(B) PROHIBITION ON ACCEPTANCE OF DEPOSITS.—An insured credit union that is not well capitalized or adequately capitalized may not accept employee benefit plan deposits.

(C) DEFINITIONS.—For purposes of this paragraph, the following definitions shall apply:

(i) CAPITAL STANDARDS.—The terms "well capitalized" and "adequately capitalized" have the same meanings as in section 216(c).

(ii) EMPLOYEE BENEFIT PLAN.—The term "employee benefit plan"—

(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974;

(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986; and

(III) includes any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

(iii) PASS-THROUGH SHARE INSURANCE.—The term "pass-through share insurance" means, with respect to an employee benefit plan, insurance coverage provided on a pro rata basis to the participants in the plan, in accordance with the interest of each participant.

(D) RULE OF CONSTRUCTION.—No provision of this paragraph shall be construed as authorizing an insured credit union to accept the deposits of an employee benefit plan in an amount greater than such credit union is authorized to accept under any other provision of Federal or State law.

(5) STANDARD MAXIMUM SHARE INSURANCE AMOUNT DEFINED.—For purposes of this Act, the term "standard maximum share insurance amount" means—

(A) until the effective date of final regulations prescribed pursuant to section 9(a)(2) of the Federal Deposit Insurance Reform Act of 2003, $100,000; and

(B) on and after such effective date, $130,000, adjusted as provided under section 11(a)(1)(F) of the Federal Deposit Insurance Act.

* * * * * * *

SECTION 232 OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991

SEC. 232. REDUCED ASSESSMENT RATE FOR DEPOSITS ATTRIBUTABLE TO LIFELINE ACCOUNTS.

(a) QUALIFICATION OF LIFELINE ACCOUNTS BY FEDERAL RESERVE BOARD.—

(1) IN GENERAL.—The [Board of Governors of the Federal Reserve System, and the] Federal Deposit Insurance Corporation shall establish minimum requirements for accounts providing basic transaction services for consumers at insured depository institutions in order for such accounts to qualify as lifeline accounts for purposes of this section and section 7(b)(2)(G) of the Federal Deposit Insurance Act.

(2) FACTORS TO BE CONSIDERED.—In determining the minimum requirements under paragraph (1) for lifeline accounts at insured depository institutions, [the Board and] the Corporation shall consider the following factors:

(A) * * *

* * * * * * *

(J) Such other factors as [the Board] *the Corporation* may determine to be appropriate.

(3) DEFINITIONS.—For purposes of this subsection—

[(A) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.]

(A) CORPORATION.—The term "Corporation" means the Federal Deposit Insurance Corporation.

* * * * * * *

(C) LIFELINE ACCOUNT.—The term "lifeline account" means any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) which meets the minimum requirements established by the [Board] *Corporation* under this subsection.

* * * * * * *

[(c) AVAILABILITY OF FUNDS.—The provisions of this section shall not take effect until appropriations are specifically provided in advance. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.]

SECTION 5136 OF THE REVISED STATUTES OF THE UNITED STATES

SEC. 5136. Upon duly making and filing articles of association and an organization certificate, the association shall become, as from the date of the execution of its organization certificate, a body corporate, and as such, and in the name designated in the organization certificate, it shall have power—

First. To adopt and use a corporate seal.

* * * * * * *

Eleventh. To make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs). A national banking association may

make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the [affected deposit insurance fund] *Deposit Insurance Fund*, and the association is adequately capitalized. In no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the association's capital stock actually paid in and unimpaired and 10 percent of the association's unimpaired surplus fund.

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FEDERAL RESERVE ACT

* * * * * * *

STATE BANKS AS MEMBERS.

SEC. 9. Any bank incorporated by special law of any State, or organized under the general laws of any State or of the United States, including Morris Plan banks and other incorporated banking institutions engaged in similar business, desiring to become a member of the Federal Reserve System, may make application to the Board of Governors of the Federal Reserve System, under such rules and regulations as it may prescribe, for the right to subscribe to the stock of the Federal reserve bank organized within the district in which the applying bank is located. Such application shall be for the same amount of stock that the applying bank would be required to subscribe to as a national bank. For the purposes of membership of any such bank the terms "capital" and "capital stock" shall include the amount of outstanding capital notes and debentures legally issued by the applying bank and purchased by the Reconstruction Finance Corporation. The Board of Governors of the Federal Reserve System, subject to the provisions of this Act and to such conditions as it may prescribe pursuant thereto may permit the applying bank to become a stockholder of such Federal reserve bank.

* * * * * * *

State member banks may make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law, and subject to such restrictions and requirements as the Board of Governors of the Federal Reserve System may prescribe by regulation or order. A bank shall not

make any such investment if the investment would expose the bank to unlimited liability. The Board shall limit a bank's investments in any 1 project and bank's aggregate investments under this paragraph. A bank's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the bank's capital stock actually paid in and unimpaired and 5 percent of the bank's unimpaired surplus fund, unless the Board determines by order that the higher amount will pose no significant risk to the [affected deposit insurance fund] *Deposit Insurance Fund*, and the bank is adequately capitalized. In no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund.

* * * * * * *

SEC. 10B. (a) * * *

(b) LIMITATIONS ON ADVANCES.—

(1) * * *

* * * * * * *

(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

(A) LIABILITY FOR INCREASED LOSS.—Notwithstanding any other provision of this section, if—

(i) * * *

(ii) after the end of that 5-day period, [any deposit insurance fund in] *the Deposit Insurance Fund of* the Federal Deposit Insurance Corporation incurs a loss exceeding the loss that the Corporation would have incurred if it had liquidated that institution as of the end of that period,

* * * * * * *

SECTION 255 OF THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.

(a) * * *

* * * * * * *

(g) OTHER PROGRAMS AND ACTIVITIES.—

(1)(A) The following budget accounts and activities shall be exempt from reduction under any order issued under this part:

Activities resulting from private donations, bequests, or voluntary contributions to the Government;

Activities financed by voluntary payments to the Government for goods or services to be provided for such payments;

* * * * * * *

Federal Deposit Insurance Corporation, [Bank Insurance Fund] *Deposit Insurance Fund* (51–4064–0–3–373);

* * * * * * *

[Federal Deposit Insurance Corporation, Savings Association Insurance Fund (51–4066–0–3–373);]

* * * * * * *

FEDERAL HOME LOAN BANK ACT

* * * * * * *

GENERAL POWERS AND DUTIES OF BANKS

SEC. 11. (a) * * *

* * * * * * *

(k) BANK LOANS TO [SAIF] *THE DEPOSIT INSURANCE FUND*.—

(1) LOANS AUTHORIZED.—Subject to paragraph (3), the Federal Home Loan Banks may, upon the request of the Federal Deposit Insurance Corporation, make loans to such Corporation for the use of the [Savings Association Insurance Fund] *Deposit Insurance Fund*.

(2) LIABILITY OF THE FUND.—Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall be a direct liability of the [Savings Association Insurance Fund] *Deposit Insurance Fund*.

* * * * * * *

SEC. 21. FINANCING CORPORATION.

(a) * * *

* * * * * * *

(f) SOURCES OF FUNDS FOR INTEREST PAYMENTS; FINANCING CORPORATION ASSESSMENT AUTHORITY.—The Financing Corporation shall obtain funds for anticipated interest payments, issuance costs, and custodial fees on obligations issued hereunder from the following sources:

(1) * * *

(2) NEW ASSESSMENT AUTHORITY.—In addition to the amounts obtained pursuant to paragraph (1), the Financing Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, shall assess against each insured depository institution an assessment (in the same manner as assessments are assessed against such institutions by the Federal Deposit Insurance Corporation under section 7 of the Federal Deposit Insurance Act)[, except that—

[(A) the assessments imposed on insured depository institutions with respect to any BIF-assessable deposit shall be assessed at a rate equal to ⅕ of the rate of the assessments imposed on insured depository institutions with respect to any SAIF-assessable deposit; and

[(B) no limitation under clause (i) or (iii) of section 7(b)(2)(A) of the Federal Deposit Insurance Act shall apply for purposes of this paragraph].

* * * * * * *

(k) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) * * *

* * * * * * *

[(4) DEPOSIT TERMS.—

[(A) BIF-ASSESSABLE DEPOSITS.—The term "BIF-assessable deposit" means a deposit that is subject to assessment for purposes of the Bank Insurance Fund under the Federal Deposit Insurance Act (including a deposit that is treated as a deposit insured by the Bank Insurance Fund under section 5(d)(3) of the Federal Deposit Insurance Act).

[(B) SAIF-ASSESSABLE DEPOSIT.—The term "SAIF-assessable deposit" has the meaning given to such term in section 2710 of the Deposit Insurance Funds Act of 1996.]

* * * * * * *

SEC. 21A. THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD AND RESOLUTION TRUST CORPORATION.

(a) * * *

(b) RESOLUTION TRUST CORPORATION ESTABLISHED.—

(1) * * *

* * * * * * *

(4) CONSERVATORSHIP, RECEIVERSHIP, AND ASSISTANCE POWERS.—

(A) * * *

(B) MANNER OF APPLICATION OF LEAST-COST RESOLUTION.—For purposes of applying section 13(c)(4) of the Federal Deposit Insurance Act to the Corporation under subparagraph (A), the Corporation shall be treated as the [affected deposit insurance fund] *Deposit Insurance Fund*.

* * * * * * *

(6) CONTINUATION OF RTC RECEIVERSHIP OR CONSERVATORSHIP.—

(A) * * *

(B) [SAIF-INSURED BANKS] *CHARTER CONVERSIONS*.—Notwithstanding any other provision of Federal or State law, if the Federal Deposit Insurance Corporation is appointed as conservator or receiver for any [Savings Association Insurance Fund member] *savings association* that has converted to a bank charter and otherwise meets the criteria in paragraph (3)(A) or (6)(A), the Federal Deposit Insurance Corporation may tender such appointment to the Corporation, and the Corporation shall accept such appointment, if the Corporation is authorized to accept such appointment under this section.

* * * * * * *

(10) SPECIAL POWERS.—

(A) IN GENERAL.—In addition to the powers of the Corporation described in paragraph (9), the Corporation shall have the following powers:

(i) * * *

* * * * * * *

(iv) ORGANIZATION OF SAVINGS ASSOCIATIONS.—The Corporation may organize 1 or more Federal savings associations—

(I) * * *

(II) the deposits of which, if any, shall be insured by the Federal Deposit Insurance Corporation through the [Savings Association Insurance Fund] *Deposit Insurance Fund*, and

* * * * * * *

(n) CONFLICT OF INTEREST.—

(1) * * *

* * * * * * *

(6) DISAPPROVAL OF CONTRACTORS.—

(A) * * *

* * * * * * *

(E) PROHIBITION REQUIRED IN CERTAIN CASES.—The standards established under subparagraph (A) shall require the Corporation to prohibit any person who has—

(i) * * *

* * * * * * *

(iv) caused a substantial loss to [Federal deposit insurance funds] *the Deposit Insurance Fund*,

* * * * * * *

SEC. 21B. RESOLUTION FUNDING CORPORATION ESTABLISHED.

(a) * * *

* * * * * * *

(e) CAPITALIZATION OF FUNDING CORPORATION, ETC.—

(1) * * *

* * * * * * *

(5) PRO RATA DISTRIBUTION OF AMOUNTS REQUIRED TO BE INVESTED IN EXCESS OF $1,000,000,000.—Of any amount which the Thrift Depositor Protection Oversight Board may require the Federal Home Loan Banks to invest in capital stock of the Funding Corporation under this subsection in excess of the $1,000,000,000 amount referred to in paragraph (4), the amount which each Federal Home Loan Bank (or any successor to such Bank) shall invest shall be determined by the Thrift Depositor Protection Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

(A) the sum of the total assets (as of the most recent December 31) held by all Savings Association Insurance Fund members *as of the date of funding* which are members of such Bank; by

(B) the sum of the total assets (as of such date) held by all Savings Association Insurance Fund members *as of the date of funding* which are members of a Federal Home Loan Bank.

* * * * * * *

[(7) ADDITIONAL SOURCES.—If each Federal Home Loan Bank has exhausted the amount applicable with respect to the

Bank under paragraph (3) after purchases under paragraphs (4), (5), and (6), the amounts necessary to provide additional funding for the Funding Corporation Principal Fund shall be obtained from the following sources:

[(A) ASSESSMENTS.—The Funding Corporation, with the approval of the Board of Directors of the Federal Deposit Insurance Corporation, shall assess against each Savings Association Insurance Fund member an assessment (in the same manner as assessments are assessed against such members by the Federal Deposit Insurance Corporation pursuant to section 7 of the Federal Deposit Insurance Act) except that—

[(i) the maximum amount of the aggregate amount assessed shall be the amount of additional funds necessary to fund the Funding Corporation Principal Fund;

[(ii) the sum of—

[(I) the amount assessed under this subparagraph; and

[(II) the amount assessed by the Financing Corporation under section 21;

shall not exceed the amount authorized to be assessed against Savings Association Insurance Fund members pursuant to section 7 of the Federal Deposit Insurance Act;

[(iii) the Financing Corporation shall have first priority to make the assessment; and

[(iv) the amount of the applicable assessment determined under such section 7 shall be reduced by the sum described in clause (ii) of this subparagraph.

[(B) RECEIVERSHIP PROCEEDS.—To the extent the amounts available pursuant to subparagraph (A) are insufficient to fund the Funding Corporation Principal Fund, the Federal Deposit Insurance Corporation shall transfer amounts to the Funding Corporation from the liquidating dividends and payments made on claims received by the FSLIC Resolution Fund from receiverships.

[(8) TRANSFER TO RTC.—The Funding Corporation shall transfer to the Resolution Trust Corporation $1,200,000,000 in fiscal year 1989.]

* * * * * * *

(k) DEFINITIONS.—For purposes of this section*, the following definitions shall apply*:

(1) * * *

* * * * * * *

[(8) SAVINGS ASSOCIATION INSURANCE FUND MEMBER.—The term "Savings Association Insurance Fund member" means a Savings Association Insurance member as such term is defined by section 7(l) of the Federal Deposit Insurance Act.]

[(9)] *(8)* SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

[(10)] *(9)* UNDIVIDED PROFITS.—The term "undivided profits" means earnings retained after dividends have been paid minus the sum of—

(A) that portion required to be added to reserves maintained pursuant to the first 2 sentences of section 16; and

(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined by the table set forth in section 21(d)(7).

* * * * * * *

HOME OWNERS' LOAN ACT

* * * * * * *

SEC. 5. FEDERAL SAVINGS ASSOCIATIONS.

(a) * * *

* * * * * * *

(c) LOANS AND INVESTMENTS.—To the extent specified in regulations of the Director, a Federal savings association may invest in, sell, or otherwise deal in the following loans and other investments:

(1) * * *

* * * * * * *

(5) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—

(A) IN GENERAL.—If, under section 5(d)(3) of the Federal Deposit Insurance Act, a savings association acquires all or substantially all of the assets of a bank **[**that is a member of the Bank Insurance Fund**]**, the Director may permit the savings association to retain any such asset during the 2-year period beginning on the date of the acquisition.

* * * * * * *

(6) DEFINITIONS.—**[**As used in this subsection—**]** *For purposes of this subsection, the following definitions shall apply:*

(A) * * *

* * * * * * *

(o) CONVERSION OF STATE SAVINGS BANKS.—(1) Subject to the provisions of this subsection and under regulations of the Director, the Director may authorize the conversion of a State-chartered savings bank **[**that is a Bank Insurance Fund member**]** into a Federal savings bank, if such conversion is not in contravention of State law, and provide for the organization, incorporation, operation, examination, and regulation of such institution.

(2)(A) Any Federal savings bank chartered pursuant to this subsection shall continue to be **[**a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member**]** *insured by the Deposit Insurance Fund*.

* * * * * * *

(t) CAPITAL STANDARDS.—

(1) * * *

* * * * * * *

(5) SEPARATE CAPITALIZATION REQUIRED FOR CERTAIN SUBSIDIARIES.—

(A) * * *

* * * * * * *

(D) TRANSITION RULE.—

(i) * * *

* * * * * * *

(iii) AGENCY DISCRETION TO PRESCRIBE GREATER PERCENTAGE.—Subject to clauses (iv), (v), and (vi), the Director may prescribe by order, with respect to a particular qualified savings association, an applicable percentage greater than that provided in clause (ii) if the Director determines, in the Director's sole discretion, that the use of the greater percentage, under the circumstances—

(I) would not constitute an unsafe or unsound practice;

(II) would not increase the risk to the [affected deposit insurance fund] *Deposit Insurance Fund*; and

* * * * * * *

(7) EXEMPTION FROM CERTAIN SANCTIONS.—

(A) * * *

* * * * * * *

(C) STANDARDS FOR APPROVAL OR DISAPPROVAL.—

(i) APPROVAL.—The Director may approve an application for an exemption if the Director determines that—

(I) such exemption would pose no significant risk to the [affected deposit insurance fund] *Deposit Insurance Fund*;

* * * * * * *

(v) REPORTS OF CONDITION.—

(1) * * *

(2) PUBLIC DISCLOSURE.—

(A) Reports required under paragraph (1) and all information contained therein shall be available to the public upon request, unless the Director determines—

(i) that a particular item or classification of information should not be made public in order to protect the safety or soundness of the institution concerned or institutions concerned, [the Savings Association Insurance Fund] *or the Deposit Insurance Fund*; or

* * * * * * *

SEC. 10. REGULATION OF HOLDING COMPANIES.

(a) * * *

* * * * * * *

(c) HOLDING COMPANY ACTIVITIES.—

(1) * * *

* * * * * * *

(6) SPECIAL PROVISIONS RELATING TO CERTAIN COMPANIES AFFECTED BY 1987 AMENDMENTS.—

(A) * * *

* * * * * * *

(D) ORDER BY DIRECTOR TO TERMINATE SUBPARAGRAPH (B) ACTIVITY.—Any activity described in subparagraph (B) may also be terminated by the Director, after opportunity for hearing, if the Director determines, having due regard for the purposes of this [title] *Act*, that such action is necessary to prevent conflicts of interest or unsound practices or is in the public interest.

* * * * * * *

(e) ACQUISITIONS.—

(1) IN GENERAL.—It shall be unlawful for—

(A) * * *

(B) any other company, without the prior written approval of the Director, directly or indirectly, or through one or more subsidiaries or through one or more transactions, to acquire the control of one or more savings associations, except that such approval shall not be required in connection with the control of a savings association, (i) acquired by devise under the terms of a will creating a trust which is excluded from the definition of "savings and loan holding company" under subsection (a) of this section, (ii) acquired in connection with a reorganization in which a person or group of persons, having had control of a savings association for more than 3 years, vests control of that association in a newly formed holding company subject to the control of the same person or group of persons, or (iii) acquired by a bank holding company that is registered under, and subject to, the Bank Holding Company Act of 1956, or any company controlled by such bank holding company. The Director shall approve an acquisition of a savings association under this subparagraph unless the Director finds the financial and managerial resources and future prospects of the company and association involved to be such that the acquisition would be detrimental to the association or the insurance risk of the [Savings Association Insurance Fund or Bank Insurance Fund] *Deposit Insurance Fund*, and shall render a decision within 90 days after submission to the Director of the complete record on the application.

* * * * * * *

(2) FACTORS TO BE CONSIDERED.—The Director shall not approve any acquisition under subparagraph (A)(i) or (A)(ii), or of more than one savings association under subparagraph (B) of paragraph (1) of this subsection, any acquisition of stock in connection with a qualified stock issuance, any acquisition under paragraph (4)(A), or any transaction under section 13(k) of the Federal Deposit Insurance Act, except in accordance with this paragraph. In every case, the Director shall take into consideration the financial and managerial resources and future prospects of the company and association involved, the effect of the acquisition on the association, the insurance risk to the [Savings Association Insurance Fund or the Bank Insur-

ance Fund] *Deposit Insurance Fund*, and the convenience and needs of the community to be served, and shall render a decision within 90 days after submission to the Director of the complete record on the application. Consideration of the managerial resources of a company or savings association shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association. Before approving any such acquisition, except a transaction under section 13(k) of the Federal Deposit Insurance Act, the Director shall request from the Attorney General and consider any report rendered within 30 days on the competitive factors involved. The Director shall not approve any proposed acquisition—

(A) * * *

* * * * * * *

(4) ACQUISITIONS BY CERTAIN INDIVIDUALS.—

(A) * * *

(B) TREATMENT OF CERTAIN HOLDING COMPANIES.—If any individual referred to in subparagraph (A) controls more than 1 savings and loan holding company or more than 1 savings association, any savings and loan holding company controlled by such individual shall be subject to the activities limitations contained in subsection (c) to the same extent such limitations apply to multiple savings and loan holding companies, unless all or all but 1 of the savings associations (including any institution deemed to be a savings association under subsection [(1)] *(l)* of this section) controlled directly or indirectly by such individual was acquired pursuant to an acquisition described in subclause (I) or (II) of subsection (c)(3)(B)(i).

* * * * * * *

(g) ADMINISTRATION AND ENFORCEMENT.—

(1) * * *

* * * * * * *

(3) PROCEEDINGS.—(A) In any proceeding under subsection (a)(2)(D) or under paragraph (5) of this [section] *subsection*, the Director may administer oaths and affirmations, take or cause to be taken depositions, and issue subpenas. The Director may make regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this paragraph may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted. Any party to such proceedings may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this

section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

* * * * * * *

(i) PENALTIES.—

(1) * * *

* * * * * * *

[(5)] *(4)* NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a savings and loan holding company or subsidiary thereof (including a separation caused by the deregistration of such a company or such a subsidiary) shall not affect the jurisdiction and authority of the Director to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such holding company or its subsidiary (whether such date occurs before, on, or after the date of the enactment of this paragraph).

* * * * * * *

(m) QUALIFIED THRIFT LENDER TEST.—

(1) * * *

* * * * * * *

(3) FAILURE TO BECOME AND REMAIN A QUALIFIED THRIFT LENDER.—

(A) * * *

* * * * * * *

[(E) DEPOSIT INSURANCE ASSESSMENTS.—Any bank chartered as a result of the requirements of this section shall be obligated until December 31, 1993, to pay to the Savings Association Insurance Fund the assessments assessed on savings associations under the Federal Deposit Insurance Act. Such association shall also be assessed, on the date of its change of status from a Savings Association Insurance Fund member, the exit fee and entrance fee provided in section 5(d) of the Federal Deposit Insurance Act. Such institution shall not be obligated to pay the assessments assessed on banks under the Federal Deposit Insurance Act until—

[(i) December 31, 1993, or

[(ii) the institution's change of status from a Savings Association Insurance Fund member to a Bank Insurance Fund member,

whichever is later.]

[(F)] *(E)* EXEMPTION FOR SPECIALIZED SAVINGS ASSOCIATIONS SERVING CERTAIN MILITARY PERSONNEL.—Subparagraph (A) shall not apply to a savings association subsidiary of a savings and loan holding company if at least 90 percent of the customers of the savings and loan holding company and its subsidiaries and affiliates are active or former members in the United States military services

or the widows, widowers, divorced spouses, or current or former dependents of such members.

[(G)] *(F)* EXEMPTION FOR CERTAIN FEDERAL SAVINGS ASSOCIATIONS.—This paragraph shall not apply to any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

(i) that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law; or

(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law.

[(H)] *(G)* NO CIRCUMVENTION OF EXIT MORATORIUM.—Subparagraph (A) of this paragraph shall not be construed as permitting any insured depository institution to engage in any conversion transaction prohibited under section 5(d) of the Federal Deposit Insurance Act.

* * * * * * *

(7) TRANSITIONAL RULE FOR CERTAIN SAVINGS ASSOCIATIONS.—

(A) IN GENERAL.—If any Federal savings association in existence as a Federal savings association on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989—

(i) that was chartered as a savings bank or a cooperative bank under State law before October 15, 1982; or

(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law,

meets the requirements of subparagraph (B), such savings association shall be treated as a qualified thrift lender [during period] *during the period* ending on September 30, 1995.

* * * * * * *

(o) MUTUAL HOLDING COMPANIES.—

(1) * * *

* * * * * * *

(3) NOTICE TO THE DIRECTOR; DISAPPROVAL PERIOD.—

(A) * * *

* * * * * * *

(D) RETENTION OF CAPITAL ASSETS.—In connection with the transaction described in paragraph (1), a savings association may, subject to the approval of the Director, retain capital assets at the holding company level to the extent that such capital exceeds the association's capital requirement established by the Director pursuant to [sections 5 (s) and (t) of this Act] *subsections (s) and (t) of section 5*.

* * * * * * *

NATIONAL HOUSING ACT

* * * * * * *

TITLE III—NATIONAL MORTGAGE ASSOCIATIONS

* * * * * * *

CIVIL MONEY PENALTIES AGAINST ISSUERS

SEC. 317. (a) * * *

(b) VIOLATIONS FOR WHICH A PENALTY MAY BE IMPOSED.—

(1) VIOLATIONS.—The violations by an issuer or a custodian for which the Secretary may impose a civil money penalty under subsection (a) are the following:

(A) * * *

(B) Failure to segregate cash flow from pooled mortgages or to deposit either principal and interest funds or escrow funds into special accounts with a depository institution whose accounts are insured by the National Credit Union Administration or by the Federal Deposit Insurance Corporation through the [Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations] *Deposit Insurance Fund*.

* * * * * * *

TITLE V—MISCELLANEOUS

* * * * * * *

SEC. 536. CIVIL MONEY PENALTIES AGAINST MORTGAGEES, LENDERS, AND OTHER PARTICIPANTS IN FHA PROGRAMS.

(a) * * *

(b) VIOLATIONS FOR WHICH A PENALTY MAY BE IMPOSED.—

(1) VIOLATIONS.—The Secretary may impose a civil money penalty under subsection (a) for any knowing and material violation by a mortgagee or lender, as follows:

(A) * * *

(B) Failure of a nonsupervised mortgagee, as defined by the Secretary—

(i) * * *

(ii) to deposit these funds in a special account with a depository institution whose accounts are insured by the Federal Deposit Insurance Corporation through the [Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations] *Deposit Insurance Fund*, or by the National Credit Union Administration.

* * * * * * *

FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989

* * * * * * *

TITLE IX—REGULATORY ENFORCEMENT AUTHORITY AND CRIMINAL ENHANCEMENTS

* * * * * * *

Subtitle E—Civil Penalties For Violations Involving Financial Institutions

SEC. 951. CIVIL PENALTIES.

(a) * * *

(b) MAXIMUM AMOUNT OF PENALTY.—

(1) * * *

* * * * * * *

(3) SPECIAL RULE FOR VIOLATIONS CREATING GAIN OR LOSS.—

(A) * * *

(B) As used in this paragraph, the term "person" includes the Bank Insurance Fund, the Savings Association Insurance Fund, *and after the merger of such funds, the Deposit Insurance Fund,* and the National Credit Union Share Insurance Fund.

* * * * * * *

TITLE XI—REAL ESTATE APPRAISAL REFORM AMENDMENTS

* * * * * * *

SEC. 1112. FUNCTIONS OF THE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES RELATING TO APPRAISER QUALIFICATIONS.

(a) * * *

* * * * * * *

(c) GAO STUDY OF APPRAISALS IN CONNECTION WITH REAL ESTATE RELATED FINANCIAL TRANSACTIONS BELOW THE THRESHOLD LEVEL.—

(1) GAO STUDIES.—The Comptroller General of the United States may conduct, under such conditions as the Comptroller General determines appropriate, studies on the adequacy and quality of appraisals or evaluations conducted in connection with real estate related financial transactions below the threshold level established under subsection (b), taking into account—

(A) * * *

(B) the possibility of losses to the [Bank Insurance Fund, the Savings Association Insurance Fund,] *Deposit Insurance Fund* or the National Credit Union Share Insurance Fund;

* * * * * * *

BANK HOLDING COMPANY ACT OF 1956

* * * * * * *

DEFINITIONS

SEC. 2. (a) * * *

* * * * * * *

(j) DEFINITION OF SAVINGS ASSOCIATIONS AND RELATED TERM.—The term "savings association" or "insured institution" means—

(1) any Federal savings association or Federal savings bank;

(2) any building and loan association, savings and loan association, homestead association, or cooperative bank if such association or cooperative bank is a member of the [Savings Association Insurance Fund] *Deposit Insurance Fund*; and

* * * * * * *

ACQUISITION OF BANK SHARES OR ASSETS

SEC. 3. (a) * * *

* * * * * * *

(d) INTERSTATE BANKING.—

(1) APPROVALS AUTHORIZED.—

(A) * * *

* * * * * * *

(D) EFFECT ON STATE CONTINGENCY LAWS.—No provision of this subsection shall be construed as affecting the applicability of a State law that makes an acquisition of a bank contingent upon a requirement to hold a portion of such bank's assets available for call by a State-sponsored housing entity established pursuant to State law, if—

(i) * * *

* * * * * * *

(iii) the Federal Deposit Insurance Corporation has not determined that compliance with such State law would result in an unacceptable risk to the [appropriate deposit insurance fund] *Deposit Insurance Fund*; and

* * * * * * *

SECTION 114 OF THE GRAMM-LEACH-BLILEY ACT

SEC. 114. PRUDENTIAL SAFEGUARDS.

(a) COMPTROLLER OF THE CURRENCY.—

(1) IN GENERAL.—The Comptroller of the Currency may, by regulation or order, impose restrictions or requirements on relationships or transactions between a national bank and a subsidiary of the national bank that the Comptroller finds are—

(A) * * *

(B) appropriate to avoid any significant risk to the safety and soundness of insured depository institutions or [any Federal deposit insurance fund] *the Deposit Insurance Fund* or other adverse effects, such as undue concentration

of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

* * * * * * *

(b) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—

(1) * * *

(2) FINDING.—The Board of Governors of the Federal Reserve System may exercise authority under paragraph (1) if the Board finds that the exercise of such authority is—

(A) * * *

(B) appropriate to prevent an evasion of any provision of law referred to in subparagraph (A) or to avoid any significant risk to the safety and soundness of depository institutions or [any Federal deposit insurance fund] *the Deposit Insurance Fund* or other adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

* * * * * * *

(4) FOREIGN BANKS.—The Board may, by regulation or order, impose restrictions or requirements on relationships or transactions between a branch, agency, or commercial lending company of a foreign bank in the United States and any affiliate in the United States of such foreign bank that the Board finds are—

(A) * * *

(B) appropriate to prevent an evasion of any provision of law referred to in subparagraph (A) or to avoid any significant risk to the safety and soundness of depository institutions or [any Federal deposit insurance fund] *the Deposit Insurance Fund* or other adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

(c) FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation may, by regulation or order, impose restrictions or requirements on relationships or transactions between a State nonmember bank (as defined in section 3 of the Federal Deposit Insurance Act) and a subsidiary of the State nonmember bank that the Corporation finds are—

(A) * * *

(B) appropriate to avoid any significant risk to the safety and soundness of depository institutions or [any Federal deposit insurance fund] *the Deposit Insurance Fund* or other adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.

* * * * * * *

SUPPLEMENTAL VIEWS

Section 4 of H.R. 522 contains a provision, originally authored by Congresswoman Waters, that gives depository institutions a 50 percent credit toward their premiums for deposits held in lifeline banking accounts. These are accounts intended for persons who might otherwise not be able to afford access to basic banking services, such as free or low-cost checking and savings accounts. This is a vital provision that, for the first time, implements a provision of the Bank Enterprise Act enacted in 1991, giving financial institutions an incentive to provide low-cost basic banking services to consumers who might not otherwise have access to them. The inclusion of the lifeline account credit was critical to our support of the favorable reporting of H.R. 522, and we are strongly committed to do all that is necessary to retain it in the bill throughout the legislative process.

BARNEY FRANK.
MAXINE WATERS.

DISSENTING VIEWS

H.R. 522, the Federal Deposit Insurance Reform Act, expands the Federal government's unconstitutional control over the financial services industry and raises taxes on all financial institutions. Furthermore, this legislation could increase the possibility of future bank failures. Therefore, I must oppose this bill.

I primarily object to the provisions in H.R. 522 which may increase the premiums assessed on participating financial institutions. These "premiums," which are actually taxes, are the premier sources of funds for the Deposit Insurance Fund. This fund is used to bail out banks that experience difficulties meeting their commitments to their depositors. Thus, the deposit insurance system transfers liability for poor management decisions from those who made the decisions, to their competitors. This system punishes those financial institutions which follow sound practices, as they are forced to absorb the losses of their competitors. This also compounds the moral hazard problem created whenever government socializes business losses.

In the event of a severe banking crisis, Congress will likely transfer funds from the general revenue into the Deposit Insurance Fund, which could make all taxpayers liable for the mistakes of a few. Of course, such a bailout would require separate authorization from Congress, but can anyone imagine Congress saying "No" to banking lobbyists pleading for relief from the costs of bailing out their weaker competitors?

Government subsidies lead to government control, as regulations are imposed on the recipients of the subsidies in order to address the moral hazard problem. This is certainly the case in banking, which is one of the most heavily regulated industries in America. However, as George Kaufman, the John Smith Professor of Banking and Finance at Loyola University in Chicago, and co-chair of the Shadow Financial Regulatory Committee, pointed out in a study for the CATO Institute, the FDIC's history of poor management exacerbated the banking crisis of the eighties and nineties. Professor Kaufman properly identifies a key reason for the FDIC's poor track record in protecting individual depositors: regulators have incentives to downplay or even cover-up problems in the financial system such as banking failures. Banking failures are black marks on the regulators' records. In addition, regulators may be subject to political pressure to delay imposing sanctions on failing institutions, thus increasing the magnitude of the loss.

Immediately after a problem in the banking industry comes to light, the media and Congress will inevitably blame it on regulators who were "asleep at the switch." Yet, most politicians continue to believe that giving the very regulators whose incompetence (or worst) either caused or contributed to the problem will somehow prevent future crises!

The presence of deposit insurance and government regulations removes incentives for individuals to act on their own to protect their deposits or even inquire as to the health of their financial institutions. After all, why should individuals be concerned with the health of their financial institutions when the Federal government is insuring banks following sound practices and has insured their deposits?

Finally, I would remind my colleagues that the Federal deposit insurance program lacks constitutional authority. Congress' only mandate in the area of money, and banking is to maintain the value of the money. Unfortunately, Congress abdicated its responsibility over monetary policy with the passage of the Federal Reserve Act of 1913, which allows the Federal government to erode the value of the currency at the will of the central bank. Congress' embrace of fiat money is directly responsible for the instability in the banking system that created the justification for deposit insurance.

In conclusion, H.R. 522 imposes new taxes on financial institutions, forces sound institutions to pay for the mistakes of their reckless competitors, increases the chances of taxpayers being forced to bail out unsound financial institutions, reduces individual depositors' incentives to take action to protect their deposits, and exceeds Congress's constitutional authority. I therefore urge my colleagues to reject this bill. Instead of extending this Federal program, Congress should work to prevent the crises which justify government programs like deposit insurance, by fulfilling our constitutional responsibility to pursue sound monetary.

RON PAUL.

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