

FED OVERSIGHT REFORM AND MODERNIZATION ACT OF
2015

NOVEMBER 16, 2015.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

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

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3189]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3189) to amend the Federal Reserve Act to establish requirements for policy rules and blackout periods of the Federal Open Market Committee, to establish requirements for certain activities of the Board of Governors of the Federal Reserve System, and to amend title 31, United States Code, to reform the manner in which the Board of Governors of the Federal Reserve System is audited, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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 “Fed Oversight Reform and Modernization Act of 2015” or the “FORM Act of 2015”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Requirements for policy rules of the Federal Open Market Committee.
- Sec. 3. Federal Open Market Committee blackout period.
- Sec. 4. Membership of Federal Open Market Committee.
- Sec. 5. Requirements for stress tests and supervisory letters for the Board of Governors of the Federal Reserve System.
- Sec. 6. Frequency of testimony of the Chairman of the Board of Governors of the Federal Reserve System to Congress.
- Sec. 7. Vice Chairman for Supervision report requirement.

- Sec. 8. Economic analysis of regulations of the Board of Governors of the Federal Reserve System.
 Sec. 9. Salaries, financial disclosures, and office staff of the Board of Governors of the Federal Reserve System.
 Sec. 10. Requirements for international processes.
 Sec. 11. Amendments to powers of the Board of Governors of the Federal Reserve System.
 Sec. 12. Interest rates on balances maintained at a Federal Reserve bank by depository institutions established by Federal Open Market Committee.
 Sec. 13. Audit reform and transparency for the Board of Governors of the Federal Reserve System.

SEC. 2. REQUIREMENTS FOR POLICY RULES OF THE FEDERAL OPEN MARKET COMMITTEE.

The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 2B the following new section:

“SEC. 2C. DIRECTIVE POLICY RULES OF THE FEDERAL OPEN MARKET COMMITTEE.

“(a) DEFINITIONS.—In this section the following definitions shall apply:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

“(2) DIRECTIVE POLICY RULE.—The term ‘Directive Policy Rule’ means a policy rule developed by the Federal Open Market Committee that meets the requirements of subsection (c) and that provides the basis for the Open Market Operations Directive.

“(3) GDP.—The term ‘GDP’ means the gross domestic product of the United States as computed and published by the Department of Commerce.

“(4) INTERMEDIATE POLICY INPUT.—The term ‘Intermediate Policy Input’—

“(A) may include any variable determined by the Federal Open Market Committee as a necessary input to guide open-market operations;

“(B) shall include an estimate of, and the method of calculation for, the current rate of inflation or current inflation expectations; and

“(C) shall include, specifying whether the variable or estimate is historical, current, or a forecast and the method of calculation, at least one of—

“(i) an estimate of real GDP, nominal GDP, or potential GDP;

“(ii) an estimate of the monetary aggregate compiled by the Board of Governors of the Federal Reserve System and Federal reserve banks;

or

“(iii) an interactive variable or a net estimate composed of the estimates described in clauses (i) and (ii).

“(5) LEGISLATIVE DAY.—The term ‘legislative day’ means a day on which either House of Congress is in session.

“(6) OPEN MARKET OPERATIONS DIRECTIVE.—The term ‘Open Market Operations Directive’ means an order to achieve a specified Policy Instrument Target provided to the Federal Reserve Bank of New York by the Federal Open Market Committee pursuant to powers authorized under section 14 of this Act that guide open-market operations.

“(7) POLICY INSTRUMENT.—The term ‘Policy Instrument’ means—

“(A) the nominal Federal funds rate;

“(B) the nominal rate of interest paid on nonborrowed reserves; or

“(C) the discount window primary credit interest rate most recently published on the Federal Reserve Statistical Release on selected interest rates (daily or weekly), commonly referred to as the H.15 release.

“(8) POLICY INSTRUMENT TARGET.—The term ‘Policy Instrument Target’ means the target for the Policy Instrument specified in the Open Market Operations Directive.

“(9) REFERENCE POLICY RULE.—The term ‘Reference Policy Rule’ means a calculation of the nominal Federal funds rate as equal to the sum of the following:

“(A) The rate of inflation over the previous four quarters.

“(B) One-half of the percentage deviation of the real GDP from an estimate of potential GDP.

“(C) One-half of the difference between the rate of inflation over the previous four quarters and two percent.

“(D) Two percent.

“(b) SUBMITTING A DIRECTIVE POLICY RULE.—Not later than 48 hours after the end of a meeting of the Federal Open Market Committee, the Chairman of the Federal Open Market Committee shall submit to the appropriate congressional committees and the Comptroller General of the United States a Directive Policy Rule and a statement that identifies the members of the Federal Open Market Committee who voted in favor of the Rule.

“(c) REQUIREMENTS FOR A DIRECTIVE POLICY RULE.—A Directive Policy Rule shall—

“(1) identify the Policy Instrument the Directive Policy Rule is designed to target;

“(2) describe the strategy or rule of the Federal Open Market Committee for the systematic quantitative adjustment of the Policy Instrument Target to respond to a change in the Intermediate Policy Inputs;

“(3) include a function that comprehensively models the interactive relationship between the Intermediate Policy Inputs;

“(4) include the coefficients of the Directive Policy Rule that generate the current Policy Instrument Target and a range of predicted future values for the Policy Instrument Target if changes occur in any Intermediate Policy Input;

“(5) describe the procedure for adjusting the supply of bank reserves to achieve the Policy Instrument Target;

“(6) include a statement as to whether the Directive Policy Rule substantially conforms to the Reference Policy Rule and, if applicable—

“(A) an explanation of the extent to which it departs from the Reference Policy Rule;

“(B) a detailed justification for that departure; and

“(C) a description of the circumstances under which the Directive Policy Rule may be amended in the future;

“(7) include a certification that such Rule is expected to support the economy in achieving stable prices and maximum natural employment over the long term; and

“(8) include a calculation that describes with mathematical precision the expected annual inflation rate over a 5-year period.

“(d) GAO REPORT.—The Comptroller General of the United States shall compare the Directive Policy Rule submitted under subsection (b) with the rule that was most recently submitted to determine whether the Directive Policy Rule has materially changed. If the Directive Policy Rule has materially changed, the Comptroller General shall, not later than 7 days after each meeting of the Federal Open Market Committee, prepare and submit a compliance report to the appropriate congressional committees specifying whether the Directive Policy Rule submitted after that meeting and the Federal Open Market Committee are in compliance with this section.

“(e) CHANGING MARKET CONDITIONS.—

“(1) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require that the plans with respect to the systematic quantitative adjustment of the Policy Instrument Target described under subsection (c)(2) be implemented if the Federal Open Market Committee determines that such plans cannot or should not be achieved due to changing market conditions.

“(2) GAO APPROVAL OF UPDATE.—Upon determining that plans described in paragraph (1) cannot or should not be achieved, the Federal Open Market Committee shall submit an explanation for that determination and an updated version of the Directive Policy Rule to the Comptroller General of the United States and the appropriate congressional committees not later than 48 hours after making the determination. The Comptroller General shall, not later than 48 hours after receiving such updated version, prepare and submit to the appropriate congressional committees a compliance report determining whether such updated version and the Federal Open Market Committee are in compliance with this section.

“(f) DIRECTIVE POLICY RULE AND FEDERAL OPEN MARKET COMMITTEE NOT IN COMPLIANCE.—

“(1) IN GENERAL.—If the Comptroller General of the United States determines that the Directive Policy Rule and the Federal Open Market Committee are not in compliance with this section in the report submitted pursuant to subsection (d), or that the updated version of the Directive Policy Rule and the Federal Open Market Committee are not in compliance with this section in the report submitted pursuant to subsection (e)(2), the Chairman of the Board of Governors of the Federal Reserve System shall, if requested by the chairman of either of the appropriate congressional committees, not later than 7 legislative days after such request, testify before such committee as to why the Directive Policy Rule, the updated version, or the Federal Open Market Committee is not in compliance.

“(2) GAO AUDIT.—Notwithstanding subsection (b) of section 714 of title 31, United States Code, upon submitting a report of noncompliance pursuant to subsection (d) or subsection (e)(2) and after the period of 7 legislative days described in paragraph (1), the Comptroller General shall audit the conduct of monetary policy by the Board of Governors of the Federal Reserve System and the Federal Open Market Committee upon request of the appropriate congressional committee. Such committee may specify the parameters of such audit.

“(g) CONGRESSIONAL HEARINGS.—The Chairman of the Board of Governors of the Federal Reserve System shall, if requested by the chairman of either of the appro-

appropriate congressional committees and not later than 7 legislative days after such request, appear before such committee to explain any change to the Directive Policy Rule.”.

SEC. 3. FEDERAL OPEN MARKET COMMITTEE BLACKOUT PERIOD.

Section 12A of the Federal Reserve Act (12 U.S.C. 263) is amended by adding at the end the following new subsection:

“(d) BLACKOUT PERIOD.—

“(1) IN GENERAL.—During a blackout period, the only public communications that may be made by members and staff of the Committee with respect to macroeconomic or financial developments or about current or prospective monetary policy issues are the following:

“(A) The dissemination of published data, surveys, and reports that have been cleared for publication by the Board of Governors of the Federal Reserve System.

“(B) Answers to technical questions specific to a data release.

“(C) Communications with respect to the prudential or supervisory functions of the Board of Governors.

“(2) BLACKOUT PERIOD DEFINED.—For purposes of this subsection, and with respect to a meeting of the Committee described under subsection (a), the term ‘blackout period’ means the time period that—

“(A) begins immediately after midnight on the day that is one week prior to the date on which such meeting takes place; and

“(B) ends at midnight on the day after the date on which such meeting takes place.

“(3) EXEMPTION FOR CHAIRMAN OF THE BOARD OF GOVERNORS.—Nothing in this section shall prohibit the Chairman of the Board of Governors of the Federal Reserve System from participating in or issuing public communications.”.

SEC. 4. MEMBERSHIP OF FEDERAL OPEN MARKET COMMITTEE.

Section 12A(a) of the Federal Reserve Act (12 U.S.C. 263(a)) is amended—

(1) in the first sentence, by striking “five” and inserting “six”;

(2) in the second sentence, by striking “One by the board of directors” and all that follows through the period at the end and inserting the following: “One by the boards of directors of the Federal Reserve Banks of New York and Boston; one by the boards of directors of the Federal Reserve Banks of Philadelphia and Cleveland; one by the boards of directors of the Federal Reserve Banks of Richmond and Atlanta; one by the boards of directors of the Federal Reserve Banks of Chicago and St. Louis; one by the boards of directors of the Federal Reserve Banks of Minneapolis and Kansas City; and one by the boards of directors of the Federal Reserve Banks of Dallas and San Francisco.”; and

(3) by inserting after the second sentence the following: “In odd numbered calendar years, one representative shall be elected from each of the Federal Reserve Banks of Boston, Philadelphia, Richmond, Chicago, Minneapolis, and Dallas. In even-numbered calendar years, one representative shall be elected from each of the Federal Reserve Banks of New York, Cleveland, Atlanta, St. Louis, Kansas City, and San Francisco.”.

SEC. 5. REQUIREMENTS FOR STRESS TESTS AND SUPERVISORY LETTERS FOR THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

(a) STRESS TEST RULEMAKING, GAO REVIEW, AND PUBLICATION OF RESULTS.—Section 165(i)(1)(B) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5365(i)(1)(B)) is amended—

(1) by amending clause (i) to read as follows:

“(i) shall—

“(I) issue regulations, after providing for public notice and comment, that provide for at least 3 different sets of conditions under which the evaluation required by this subsection shall be conducted, including baseline, adverse, and severely adverse, and methodologies, including models used to estimate losses on certain assets; and

“(II) provide copies of such regulations to the Comptroller General of the United States and the Panel of Economic Advisors of the Congressional Budget Office before publishing such regulations;”;

(2) in clause (v), by inserting before the period the following: “, including any results of a resubmitted test”.

(b) APPLICATION OF CCAR.—Section 165(i)(1) of such Act is further amended by adding at the end the following new subparagraph:

“(C) APPLICATION TO CCAR.—The requirements of subparagraph (B) shall apply to all stress tests performed under the Comprehensive Capital Analysis and Review exercise established by the Board of Governors.”.

(c) PUBLICATION OF THE NUMBER OF SUPERVISORY LETTERS SENT TO THE LARGEST BANK HOLDING COMPANIES.—Section 165 of such Act is further amended by adding at the end the following new subsection:

“(1) PUBLICATION OF SUPERVISORY LETTER INFORMATION.—The Board of Governors shall publicly disclose—

“(1) the aggregate number of supervisory letters sent to bank holding companies described in subsection (a) since the date of the enactment of this section, and keep such number updated; and

“(2) the aggregate number of such letters that are designated as ‘Matters Requiring Attention’ and the aggregate number of such letters that are designated as ‘Matters Requiring Immediate Attention’.”.

SEC. 6. FREQUENCY OF TESTIMONY OF THE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM TO CONGRESS.

(a) IN GENERAL.—Section 2B of the Federal Reserve Act (12 U.S.C. 225b) is amended—

(1) by striking “semi-annual” each place it appears and inserting “quarterly”; and

(2) in subsection (a)(2)—

(A) by inserting “and October 20” after “July 20” each place it appears; and

(B) by inserting “and May 20” after “February 20” each place it appears.

(b) CONFORMING AMENDMENT.—Paragraph (12) of section 10 of the Federal Reserve Act (12 U.S.C. 247b(12)) is amended by striking “semi-annual” and inserting “quarterly”.

SEC. 7. VICE CHAIRMAN FOR SUPERVISION REPORT REQUIREMENT.

Paragraph (12) of section 10 of the Federal Reserve Act (12 U.S.C. 247(b)) is amended—

(1) by redesignating such paragraph as paragraph (11); and

(2) in such paragraph, by adding at the end the following: “In each such appearance, the Vice Chairman for Supervision shall provide written testimony that includes the status of all pending and anticipated rulemakings that are being made by the Board of Governors of the Federal Reserve System. If, at the time of any appearance described in this paragraph, the position of Vice Chairman for Supervision is vacant, the Vice Chairman for the Board of Governors of the Federal Reserve System (who has the responsibility to serve in the absence of the Chairman) shall appear instead and provide the required written testimony. If, at the time of any appearance described in this paragraph, both Vice Chairman positions are vacant, the Chairman of the Board of Governors of the Federal Reserve System shall appear instead and provide the required written testimony.”.

SEC. 8. ECONOMIC ANALYSIS OF REGULATIONS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

(a) AMENDMENT TO FEDERAL RESERVE ACT.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by inserting after subsection (l) the following new subsection:

“(m) CONSIDERATION OF ECONOMIC IMPACTS.—

“(1) IN GENERAL.—Before issuing any regulation, the Board of Governors of the Federal Reserve System shall—

“(A) clearly identify the nature and source of the problem that the proposed regulation is designed to address and assess the significance of that problem;

“(B) assess whether any new regulation is warranted or, with respect to a proposed regulation that the Board of Governors is required to issue by statute and with respect to which the Board has the authority to exempt certain persons from the application of such regulation, compare—

“(i) the costs and benefits of the proposed regulation; and

“(ii) the costs and benefits of a regulation under which the Board exempts all persons from the application of the proposed regulation, to the extent the Board is able;

“(C) assess the qualitative and quantitative costs and benefits of the proposed regulation and propose or adopt a regulation only on a reasoned determination that the benefits of the proposed regulation outweigh the costs of the regulation;

“(D) identify and assess available alternatives to the proposed regulation that were considered, including any alternative offered by a member of the Board of Governors of the Federal Reserve System or the Federal Open Market Committee and including any modification of an existing regulation, together with an explanation of why the regulation meets the regulatory objectives more effectively than the alternatives; and

“(E) ensure that any proposed regulation is accessible, consistent, written in plain language, and easy to understand and shall measure, and seek to improve, the actual results of regulatory requirements.

“(2) CONSIDERATIONS AND ACTIONS.—

“(A) REQUIRED ACTIONS.—In deciding whether and how to regulate, the Board shall assess the costs and benefits of available regulatory alternatives, including the alternative of not regulating, and choose the approach that maximizes net benefits. Specifically, the Board shall—

“(i) evaluate whether, consistent with achieving regulatory objectives, the regulation is tailored to impose the least impact on the availability of credit and economic growth and to impose the least burden on society, including market participants, individuals, businesses of different sizes, and other entities (including State and local governmental entities), taking into account, to the extent practicable, the cumulative costs of regulations;

“(ii) evaluate whether the regulation is inconsistent, incompatible, or duplicative of other Federal regulations; and

“(iii) with respect to a proposed regulation that the Board is required to issue by statute and with respect to which the Board has the authority to exempt certain persons from the application of such regulation, compare—

“(I) the costs and benefits of the proposed regulation; and

“(II) the costs and benefits of a regulation under which the Board exempts all persons from the application of the proposed regulation, to the extent the Board is able.

“(B) ADDITIONAL CONSIDERATIONS.—In addition, in making a reasoned determination of the costs and benefits of a proposed regulation, the Board shall, to the extent that each is relevant to the particular proposed regulation, take into consideration the impact of the regulation, including secondary costs such as an increase in the cost or a reduction in the availability of credit or investment services or products, on—

“(i) the safety and soundness of the United States banking system;

“(ii) market liquidity in securities markets;

“(iii) small businesses;

“(iv) community banks;

“(v) economic growth;

“(vi) cost and access to capital;

“(vii) market stability;

“(viii) global competitiveness;

“(ix) job creation;

“(x) the effectiveness of the monetary policy transmission mechanism;

and

“(xi) employment levels.

“(3) EXPLANATION AND COMMENTS.—The Board shall explain in its final rule the nature of comments that it received and shall provide a response to those comments in its final rule, including an explanation of any changes that were made in response to those comments and the reasons that the Board did not incorporate concerns related to the potential costs or benefits in the final rule.

“(4) POSTADOPTION IMPACT ASSESSMENT.—

“(A) IN GENERAL.—Whenever the Board adopts or amends a regulation designated as a ‘major rule’ within the meaning of section 804(2) of title 5, United States Code, it shall state, in its adopting release, the following:

“(i) The purposes and intended consequences of the regulation.

“(ii) The assessment plan that will be used, consistent with the requirements of subparagraph (B), to assess whether the regulation has achieved the stated purposes.

“(iii) Appropriate postimplementation quantitative and qualitative metrics to measure the economic impact of the regulation and the extent to which the regulation has accomplished the stated purpose of the regulation.

“(iv) Any reasonably foreseeable indirect effects that may result from the regulation.

“(B) REQUIREMENTS OF ASSESSMENT PLAN AND REPORT.—

“(i) REQUIREMENTS OF PLAN.—The assessment plan required under this paragraph shall consider the costs, benefits, and intended and unintended consequences of the regulation. The plan shall specify the data to be collected, the methods for collection and analysis of the data, and a date for completion of the assessment. The assessment plan shall include an analysis of any jobs added or lost as a result of the regulation, differentiating between public and private sector jobs.

“(ii) SUBMISSION AND PUBLICATION OF REPORT.—The Board shall, not later than 2 years after the publication of the adopting release, publish the assessment plan in the Federal Register for notice and comment. If the Board determines, at least 90 days before the deadline for publication of the assessment plan, that an extension is necessary, the Board shall publish a notice of such extension and the specific reasons why the extension is necessary in the Federal Register. Any material modification of the assessment plan, as necessary to assess unforeseen aspects or consequences of the regulation, shall be promptly published in the Federal Register for notice and comment.

“(iii) DATA COLLECTION NOT SUBJECT TO NOTICE AND COMMENT REQUIREMENTS.—If the Board has published the assessment plan for notice and comment at least 30 days before the adoption of a regulation designated as a major rule, the collection of data under the assessment plan shall not be subject to the notice and comment requirements in section 3506(c) of title 44, United States Code (commonly referred to as the Paperwork Reduction Act). Any material modification of the plan that requires collection of data not previously published for notice and comment shall also be exempt from such requirements if the Board has published notice in the Federal Register for comment on the additional data to be collected, at least 30 days before the initiation of data collection.

“(iv) FINAL ACTION.—Not later than 180 days after publication of the assessment plan in the Federal Register, the Board shall issue for notice and comment a proposal to amend or rescind the regulation, or shall publish a notice that the Board has determined that no action will be taken on the regulation. Such a notice will be deemed a final agency action.

“(5) COVERED REGULATIONS AND OTHER ACTIONS.—Solely as used in this subsection, the term ‘regulation’—

“(A) means a statement of general applicability and future effect that is designed to implement, interpret, or prescribe law or policy, or to describe the procedure or practice requirements of the Board of Governors, including rules, orders of general applicability, interpretive releases, and other statements of general applicability that the Board of Governors intends to have the force and effect of law; and

“(B) does not include—

“(i) a regulation issued in accordance with the formal rulemaking provisions of section 556 or 557 of title 5, United States Code;

“(ii) a regulation that is limited to the organization, management, or personnel matters of the Board of Governors;

“(iii) a regulation promulgated pursuant to statutory authority that expressly prohibits compliance with this provision; or

“(iv) a regulation that is certified by the Board of Governors to be an emergency action, if such certification is published in the Federal Register.”

(b) RULE OF CONSTRUCTION.—Nothing in this section shall apply to the requirements regarding the conduct of monetary policy described in section 2.

SEC. 9. SALARIES, FINANCIAL DISCLOSURES, AND OFFICE STAFF OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

(a) IN GENERAL.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended—

(1) by redesignating the second subsection (s) (relating to “Assessments, Fees, and Other Charges for Certain Companies”) as subsection (t); and

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

“(u) ETHICS STANDARDS FOR MEMBERS AND EMPLOYEES.—

“(1) PROHIBITED AND RESTRICTED FINANCIAL INTERESTS AND TRANSACTIONS.—The members and employees of the Board of Governors of the Federal Reserve System shall be subject to the provisions under section 4401.102 of title 5, Code of Federal Regulations, to the same extent as such provisions apply to an employee of the Securities and Exchange Commission.

“(2) TREATMENT OF BROKERAGE ACCOUNTS AND AVAILABILITY OF ACCOUNT STATEMENTS.—The members and employees of the Board of Governors of the Federal Reserve System shall—

“(A) disclose all brokerage accounts that they maintain, as well as those in which they control trading or have a financial interest (including managed accounts, trust accounts, investment club accounts, and the accounts of spouses or minor children who live with the member or employee); and

“(B) with respect to any securities account that the member or employee is required to disclose to the Board of Governors, authorize their brokers and dealers to send duplicate account statements directly to Board of Governors.

“(3) PROHIBITIONS RELATED TO OUTSIDE EMPLOYMENT AND ACTIVITIES.—The members and employees of the Board of Governors of the Federal Reserve System shall be subject to the prohibitions related to outside employment and activities described under section 4401.103(c) of title 5, Code of Federal Regulations, to the same extent as such prohibitions apply to an employee of the Securities and Exchange Commission.

“(4) ADDITIONAL ETHICS STANDARDS.—The members and employees of the Board of Governors of the Federal Reserve System shall be subject to—

“(A) the employee responsibilities and conduct regulations of the Office of Personnel Management under part 735 of title 5, Code of Federal Regulations;

“(B) the canons of ethics contained in subpart C of part 200 of title 17, Code of Federal Regulations, to the same extent as such subpart applies to the employees of the Securities and Exchange Commission; and

“(C) the regulations concerning the conduct of members and employees and former members and employees contained in subpart M of part 200 of title 17, Code of Federal Regulations, to the same extent as such subpart applies to the employees of the Securities and Exchange Commission.

“(v) DISCLOSURE OF STAFF SALARIES AND FINANCIAL INFORMATION.—The Board of Governors of the Federal Reserve System shall make publicly available, on the website of the Board of Governors, a searchable database that contains the names of all members, officers, and employees of the Board of Governors who receive an annual salary in excess of the annual rate of basic pay for GS-15 of the General Schedule, and—

“(1) the yearly salary information for such individuals, along with any non-salary compensation received by such individuals; and

“(2) any financial disclosures required to be made by such individuals.”.

(b) OFFICE STAFF FOR EACH MEMBER OF THE BOARD OF GOVERNORS.—Subsection (1) of section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following: “Each member of the Board of Governors of the Federal Reserve System may employ, at a minimum, 2 individuals, with such individuals selected by such member and the salaries of such individuals set by such member. A member may employ additional individuals as determined necessary by the Board of Governors.”.

SEC. 10. REQUIREMENTS FOR INTERNATIONAL PROCESSES.

(a) BOARD OF GOVERNORS REQUIREMENTS.—Section 11 of the Federal Reserve Act (12 U.S.C. 248), as amended by section 9 of this Act, is further amended by adding at the end the following new subsection:

“(w) INTERNATIONAL PROCESSES.—

“(1) NOTICE OF PROCESS; CONSULTATION.—At least 30 calendar days before any member or employee of the Board of Governors of the Federal Reserve System participates in a process of setting financial standards as a part of any foreign or multinational entity, the Board of Governors shall—

“(A) issue a notice of the process, including the subject matter, scope, and goals of the process, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(B) make such notice available to the public, including on the website of the Board of Governors; and

“(C) solicit public comment, and consult with the committees described under subparagraph (A), with respect to the subject matter, scope, and goals of the process.

“(2) PUBLIC REPORTS ON PROCESS.—After the end of any process described under paragraph (1), the Board of Governors shall issue a public report on the topics that were discussed during the process and any new or revised rulemakings or policy changes that the Board of Governors believes should be implemented as a result of the process.

“(3) NOTICE OF AGREEMENTS; CONSULTATION.—At least 90 calendar days before any member or employee of the Board of Governors of the Federal Reserve System participates in a process of setting financial standards as a part of any foreign or multinational entity, the Board of Governors shall—

“(A) issue a notice of agreement to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(B) make such notice available to the public, including on the website of the Board of Governors; and

“(C) consult with the committees described under subparagraph (A) with respect to the nature of the agreement and any anticipated effects such agreement will have on the economy.

“(4) DEFINITION.—For purposes of this subsection, the term ‘process’ shall include any official proceeding or meeting on financial regulation of a recognized international organization with authority to set financial standards on a global or regional level, including the Financial Stability Board, the Basel Committee on Banking Supervision (or a similar organization), and the International Association of Insurance Supervisors (or a similar organization).”.

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

“SEC. 51. INTERNATIONAL PROCESSES.

“(a) NOTICE OF PROCESS; CONSULTATION.—At least 30 calendar days before the Board of Directors participates in a process of setting financial standards as a part of any foreign or multinational entity, the Board of Directors shall—

“(1) issue a notice of the process, including the subject matter, scope, and goals of the process, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(2) make such notice available to the public, including on the website of the Corporation; and

“(3) solicit public comment, and consult with the committees described under paragraph (1), with respect to the subject matter, scope, and goals of the process.

“(b) PUBLIC REPORTS ON PROCESS.—After the end of any process described under subsection (a), the Board of Directors shall issue a public report on the topics that were discussed at the process and any new or revised rulemakings or policy changes that the Board of Directors believes should be implemented as a result of the process.

“(c) NOTICE OF AGREEMENTS; CONSULTATION.—At least 90 calendar days before the Board of Directors participates in a process of setting financial standards as a part of any foreign or multinational entity, the Board of Directors shall—

“(1) issue a notice of agreement to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(2) make such notice available to the public, including on the website of the Corporation; and

“(3) consult with the committees described under paragraph (1) with respect to the nature of the agreement and any anticipated effects such agreement will have on the economy.

“(d) DEFINITION.—For purposes of this section, the term ‘process’ shall include any official proceeding or meeting on financial regulation of a recognized international organization with authority to set financial standards on a global or regional level, including the Financial Stability Board, the Basel Committee on Banking Supervision (or a similar organization), and the International Association of Insurance Supervisors (or a similar organization).”.

(c) TREASURY REQUIREMENTS.—Section 325 of title 31, United States Code, is amended by adding at the end the following new subsection:

“(d) INTERNATIONAL PROCESSES.—

“(1) NOTICE OF PROCESS; CONSULTATION.—At least 30 calendar days before the Secretary participates in a process of setting financial standards as a part of any foreign or multinational entity, the Secretary shall—

“(A) issue a notice of the process, including the subject matter, scope, and goals of the process, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(B) make such notice available to the public, including on the website of the Department of the Treasury; and

“(C) solicit public comment, and consult with the committees described under subparagraph (A), with respect to the subject matter, scope, and goals of the process.

“(2) PUBLIC REPORTS ON PROCESS.—After the end of any process described under paragraph (1), the Secretary shall issue a public report on the topics that were discussed at the process and any new or revised rulemakings or policy changes that the Secretary believes should be implemented as a result of the process.

“(3) NOTICE OF AGREEMENTS; CONSULTATION.—At least 90 calendar days before the Secretary participates in a process of setting financial standards as a part of any foreign or multinational entity, the Secretary shall—

“(A) issue a notice of agreement to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(B) make such notice available to the public, including on the website of the Department of the Treasury; and

“(C) consult with the committees described under subparagraph (A) with respect to the nature of the agreement and any anticipated effects such agreement will have on the economy.

“(4) DEFINITION.—For purposes of this subsection, the term ‘process’ shall include any official proceeding or meeting on financial regulation of a recognized international organization with authority to set financial standards on a global or regional level, including the Financial Stability Board, the Basel Committee on Banking Supervision (or a similar organization), and the International Association of Insurance Supervisors (or a similar organization).”.

(d) OCC REQUIREMENTS.—Chapter 1 of title LXII of the Revised Statutes of the United States (12 U.S.C. 21 et seq.) is amended—

(1) by adding at the end the following new section:

“SEC. 5156B. INTERNATIONAL PROCESSES.

“(a) NOTICE OF PROCESS; CONSULTATION.—At least 30 calendar days before the Comptroller of the Currency participates in a process of setting financial standards as a part of any foreign or multinational entity, the Comptroller of the Currency shall—

“(1) issue a notice of the process, including the subject matter, scope, and goals of the process, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(2) make such notice available to the public, including on the website of the Office of the Comptroller of the Currency; and

“(3) solicit public comment, and consult with the committees described under paragraph (1), with respect to the subject matter, scope, and goals of the process.

“(b) PUBLIC REPORTS ON PROCESS.—After the end of any process described under subsection (a), the Comptroller of the Currency shall issue a public report on the topics that were discussed at the process and any new or revised rulemakings or policy changes that the Comptroller of the Currency believes should be implemented as a result of the process.

“(c) NOTICE OF AGREEMENTS; CONSULTATION.—At least 90 calendar days before the Comptroller of the Currency participates in a process of setting financial standards as a part of any foreign or multinational entity, the Board of Directors shall—

“(1) issue a notice of agreement to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(2) make such notice available to the public, including on the website of the Office of the Comptroller of the Currency; and

“(3) consult with the committees described under paragraph (1) with respect to the nature of the agreement and any anticipated effects such agreement will have on the economy.

“(d) DEFINITION.—For purposes of this section, the term ‘process’ shall include any official proceeding or meeting on financial regulation of a recognized international organization with authority to set financial standards on a global or regional level, including the Financial Stability Board, the Basel Committee on Banking Supervision (or a similar organization), and the International Association of Insurance Supervisors (or a similar organization).”; and

(2) in the table of contents for such chapter, by adding at the end the following new item:

“5156B. International processes.”.

(e) SECURITIES AND EXCHANGE COMMISSION REQUIREMENTS.—Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end the following new subsection:

“(j) INTERNATIONAL PROCESSES.—

“(1) NOTICE OF PROCESS; CONSULTATION.—At least 30 calendar days before the Commission participates in a process of setting financial standards as a part of any foreign or multinational entity, the Commission shall—

“(A) issue a notice of the process, including the subject matter, scope, and goals of the process, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(B) make such notice available to the public, including on the website of the Commission; and

“(C) solicit public comment, and consult with the committees described under subparagraph (A), with respect to the subject matter, scope, and goals of the process.

“(2) PUBLIC REPORTS ON PROCESS.—After the end of any process described under paragraph (1), the Commission shall issue a public report on the topics that were discussed at the process and any new or revised rulemakings or policy changes that the Commission believes should be implemented as a result of the process.

“(3) NOTICE OF AGREEMENTS; CONSULTATION.—At least 90 calendar days before the Commission participates in a process of setting financial standards as a part of any foreign or multinational entity, the Commission shall—

“(A) issue a notice of agreement to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

“(B) make such notice available to the public, including on the website of the Commission; and

“(C) consult with the committees described under subparagraph (A) with respect to the nature of the agreement and any anticipated effects such agreement will have on the economy.

“(4) DEFINITION.—For purposes of this subsection, the term ‘process’ shall include any official proceeding or meeting on financial regulation of a recognized international organization with authority to set financial standards on a global or regional level, including the Financial Stability Board, the Basel Committee on Banking Supervision (or a similar organization), and the International Association of Insurance Supervisors (or a similar organization).”.

SEC. 11. AMENDMENTS TO POWERS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

(a) IN GENERAL.—Section 13(3) of the Federal Reserve Act (12 U.S.C. 343(3)) is amended—

(1) in subparagraph (A)—

(A) by inserting “that pose a threat to the financial stability of the United States” after “unusual and exigent circumstances”; and

(B) by inserting “and by the affirmative vote of not less than nine presidents of the Federal reserve banks” after “five members”;

(2) in subparagraph (B)—

(A) in clause (i), by inserting at the end the following: “Federal reserve banks may not accept equity securities issued by the recipient of any loan or other financial assistance under this paragraph as collateral. Not later than 6 months after the date of enactment of this sentence, the Board shall, by rule, establish—

“(I) a method for determining the sufficiency of the collateral required under this paragraph;

“(II) acceptable classes of collateral;

“(III) the amount of any discount of such value that the Federal reserve banks will apply for purposes of calculating the sufficiency of collateral under this paragraph; and

“(IV) a method for obtaining independent appraisals of the value of collateral the Federal reserve banks receive.”; and

(B) in clause (ii)—

(i) by striking the second sentence; and

(ii) by inserting after the first sentence the following: “A borrower shall not be eligible to borrow from any emergency lending program or facility unless the Board and all federal banking regulators with jurisdiction over the borrower certify that, at the time the borrower initially borrows under the program or facility, the borrower is not insolvent.”;

- (3) by inserting “financial institution” before “participant” each place such term appears;
- (4) in subparagraph (D)(i), by inserting “financial institution” before “participants”; and
- (5) by adding at the end the following new subparagraphs:

“(F) PENALTY RATE.—

“(i) IN GENERAL.—Not later than 6 months after the date of enactment of this subparagraph, the Board shall, with respect to a recipient of any loan or other financial assistance under this paragraph, establish by rule a minimum interest rate on the principal amount of any loan or other financial assistance.

“(ii) MINIMUM INTEREST RATE DEFINED.—In this subparagraph, the term ‘minimum interest rate’ shall mean the sum of—

“(I) the average of the secondary discount rate of all Federal Reserve banks over the most recent 90-day period; and

“(II) the average of the difference between a distressed corporate bond yield index (as defined by rule of the Board) and a bond yield index of debt issued by the United States (as defined by rule of the Board) over the most recent 90-day period.

“(G) FINANCIAL INSTITUTION PARTICIPANT DEFINED.—For purposes of this paragraph, the term ‘financial institution participant’—

“(i) means a company that is predominantly engaged in financial activities (as defined in section 102(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5311(a))); and

“(ii) does not include an agency described in subparagraph (W) of section 5312(a)(2) of title 31, United States Code, or an entity controlled or sponsored by such an agency.”

(b) CONFORMING AMENDMENT.—Section 11(r)(2)(A) of such Act is amended—

(1) in clause (ii)(IV), by striking “; and” and inserting a semicolon;

(2) in clause (iii), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new clause:

“(iv) the available members secure the affirmative vote of not less than nine presidents of the Federal reserve banks.”

SEC. 12. INTEREST RATES ON BALANCES MAINTAINED AT A FEDERAL RESERVE BANK BY DEPOSITORY INSTITUTIONS ESTABLISHED BY FEDERAL OPEN MARKET COMMITTEE.

Subparagraph (A) of section 19(b)(12) of the Federal Reserve Act (12 U.S.C. 461(b)(12)(A)) is amended by inserting “established by the Federal Open Market Committee” after “rate or rates”.

SEC. 13. AUDIT REFORM AND TRANSPARENCY FOR THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

(a) IN GENERAL.—Notwithstanding section 714 of title 31, United States Code, or any other provision of law, the Comptroller General of the United States shall complete an audit of the Board of Governors of the Federal Reserve System and the Federal reserve banks under subsection (b) of such section 714 within 12 months after the date of the enactment of this Act.

(b) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the audit required pursuant to subsection (a) is completed, the Comptroller General—

(A) shall submit to Congress a report on such audit; and

(B) shall make such report available to the Speaker of the House, the majority and minority leaders of the House of Representatives, the majority and minority leaders of the Senate, the Chairman and Ranking Member of the committee and each subcommittee of jurisdiction in the House of Representatives and the Senate, and any other Member of Congress who requests the report.

(2) CONTENTS.—The report under paragraph (1) shall include a detailed description of the findings and conclusion of the Comptroller General with respect to the audit that is the subject of the report, together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

(c) REPEAL OF CERTAIN LIMITATIONS.—Subsection (b) of section 714 of title 31, United States Code, is amended by striking the second sentence.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 714 of title 31, United States Code, is amended—

(A) in subsection (d)(3), by striking “or (f)” each place such term appears;

(B) in subsection (e), by striking “the third undesignated paragraph of section 13” and inserting “section 13(3)”; and

(C) by striking subsection (f).

(2) FEDERAL RESERVE ACT.—Subsection (s) (relating to “Federal Reserve Transparency and Release of Information”) of section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended—

(A) in paragraph (4)(A), by striking “has the same meaning as in section 714(f)(1)(A) of title 31, United States Code” and inserting “means a program or facility, including any special purpose vehicle or other entity established by or on behalf of the Board of Governors of the Federal Reserve System or a Federal reserve bank, authorized by the Board of Governors under section 13(3), that is not subject to audit under section 714(e) of title 31, United States Code”;

(B) in paragraph (6), by striking “or in section 714(f)(3)(C) of title 31, United States Code, the information described in paragraph (1) and information concerning the transactions described in section 714(f) of such title,” and inserting “the information described in paragraph (1)”;

(C) in paragraph (7), by striking “and section 13(3)(C), section 714(f)(3)(C) of title 31, United States Code, and” and inserting “, section 13(3)(C), and”.

SEC. 14. REPORTING REQUIREMENT FOR EXPORT-IMPORT BANK.

The Board of Governors of the Federal Reserve System shall include, as part of the monthly Federal Reserve statistical release titled “Industrial Production or Capacity Utilization” (or any successor release), an analysis of—

(1) the impact on the index described in the statistical release due to the operation of the Export-Import Bank; and

(2) the amount of foreign industrial production supported by foreign export credit agencies, using the same method used to measure industrial production in the statistical release and scaled to be comparable to the industrial production measurement for the United States.

SEC. 15. MEMBERSHIP OF BOARD OF DIRECTORS OF THE FEDERAL RESERVE BANKS.

Section 4 of the Federal Reserve Act (12 U.S.C. 302) is amended—

(1) in the eleventh undesignated paragraph (relating to Class B), by striking “and consumers” and inserting “consumers, and traditionally underserved communities and populations”;

(2) in the twelfth undesignated paragraph (relating to Class C), by striking “and consumers” and inserting “consumers, and traditionally underserved communities and populations”.

PURPOSE AND SUMMARY

Introduced by Representative Huizenga, H.R. 3189, the “Fed Oversight Reform and Modernization Act of 2015,” requires the Federal Reserve to clearly explain differences between the actual course of monetary policy and a reference policy rule.

H.R. 3189 also requires the Federal Reserve to conduct cost-benefit analysis when it adopts new rules. The bill enhances the Federal Reserve’s accountability to Congress in the conduct of regulatory policy and requires transparency about the Federal Reserve’s bank stress tests and about international financial regulatory negotiations conducted by the Federal Reserve, the Treasury Department, the Office of the Comptroller of the Currency (OCC), the Securities and Exchange Commission (SEC), and the Federal Deposit Insurance Corporation (FDIC). The bill further requires the Federal Reserve to disclose the salaries of highly paid employees, provides for at least two staff positions to advise each member of the Board of Governors, and requires Fed employees to abide by the same ethical requirements as other federal financial regulators.

H.R. 3189 reforms the “blackout period” governing when Federal Reserve Governors and employees may publicly speak on certain matters; alters the voting membership of the Federal Open Market Committee (FOMC); and reforms the Federal Reserve’s emergency lending powers under Section 13(3) of the Federal Reserve Act. Finally, the bill requires that the FOMC set interest rates on balances maintained at a Federal Reserve Bank by a depository insti-

tution and enhances the Government Accountability Office's (GAO's) authority to audit Federal Reserve operations.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3189 strengthens the Fed's ability to achieve monetary policy outcomes consistent with its statutory mandates; enhances the ability of Congress and others to assess the Fed's fidelity to those mandates; and protects the Fed from undue influence by the Executive Branch in setting monetary policy. The following provides background concerning each of the substantive sections of the bill.

Sec. 2. Requirements for policy rules of the Federal Open Market Committee

This section requires the Fed to generate a monetary policy rule to provide added transparency about the factors leading to a future rate recommendation, requires that the Fed compare its rule to the "Taylor Rule" and explain any differences, and requires that the GAO audit the Fed's rule to determine if it complies with the criteria set forth in the bill.

A monetary policy rule is an equation that shows exactly why the Fed recommends a particular monetary policy course and allows the public to predict how the Fed will change course in the future depending on how the economy shifts. The Taylor Rule, developed by Professor John Taylor, a Stanford economist and former Undersecretary of the Treasury, is a popular example of a monetary policy rule. The Taylor Rule gives a precise interest rate recommendation based on changes in inflation and on the deviation of GDP growth from historical trends.

If the Fed's submission does not meet the bill's requirements for a valid rule, the bill allows the Financial Services Committee or the Senate Banking Committee to instruct the GAO to conduct a one-time audit of the Fed's conduct of monetary policy along parameters specified by the requesting committee. Any time the Fed updates its rule, or if the GAO determines at any time that the rule does not comply with the statute, the bill requires the Fed Chairman to testify upon request of the Financial Services Committee or the Senate Banking Committee.

In summary, this section establishes rules governing how the Fed communicates monetary policy in order to make such policy more transparent, but does not legislate any particular monetary policy course.

Transparency

For some time, Fed Chair Janet Yellen has characterized monetary policy decisions as being "data dependent" and, in recent testimony before the Financial Services Committee, she observed that "transparency is desirable" and insisted that the Fed is operating in a transparent manner.

Despite acknowledging that monetary policy is "data dependent," the Fed has continued to operate in an opaque manner because it publicly communicates economic outlooks that are so general that almost no economic possibility can be dismissed. The Fed's monetary policy operations would be rendered significantly more transparent if the public knew how the Fed translated economic data into monetary policy.

Economic opportunity deeply depends on how well the United States manages its monetary services. Investors and consumers are constantly looking for information about the integrity of those services. Understandably, they want to know whether dollar-prices of goods and services accurately reflect the real economic value of those goods and services. When that information is incomplete or biased, people have to guess about what is the best way to spend or invest their money. That guessing compromises consumption and investment decisions, and ultimately reduces economic opportunity.

In recent testimony before the Committee, Chair Yellen affirmed the importance of transparent communication about monetary policy, stating that:

Transparency concerning the Federal Reserve’s conduct of monetary policy is desirable, because better public understanding enhances the effectiveness of policy.

And in a Senate Banking Committee hearing earlier in 2015, the prominent Federal Reserve historian, Dr. Allan Meltzer, described how a monetary policy strategy (like that in Section 2 of H.R. 3189) would effectively address Chair Yellen’s desire for a “better public understanding” and thus more effective monetary policy:

Congress has to fulfill its obligation to monitor the Fed, and it cannot do that now because the Chairman of the Fed can come in here, as Alan Greenspan has said on occasion, Paul Volcker has said on occasion, and they can tell you whatever it is they wish, and it is very hard for you to contradict them. So you need a rule which says, look, you said you were going to do this, and you have not done it. That requires an answer, and that I think is one of the most important reasons why we need some kind of a rule.¹

The economist Alan Blinder has also advocated for more transparency, stating at an FOMC meeting during his tenure as Fed Vice Chairman in the mid-1990s, “The public has a right to know more about what the Federal Reserve is doing and why it is doing it.”²

Under the FORM Act, the Fed may still determine whatever monetary policy course it deems appropriate, but it must give the public a greater accounting of its actions and, in Professor Blinder’s words, explain “why it is doing it.” Put another way, the legislation requires the Fed to use a clear map of its own choosing to set the course of monetary policy, and share that map with the public. And as University of Chicago economist John Cochrane recently testified before the Subcommittee on Monetary Policy and Trade, this requirement would actually strengthen the Fed’s independence:

The Fed worries a lot about Congress looking over its shoulder. So I think by establishing a structure, a set of rules, what you expect from the Fed . . . that is the kind of deal that allows them to exercise the needed independ-

¹Senate Banking Committee Hearing Entitled “Federal Reserve Accountability and Reform,” March 3, 2015. Available at: http://www.banking.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=fbfdd8bb-2545-4243-b4c4-0524b9ecdafd.

²Meeting of the Federal Open Market Committee (Minutes), January 31–February 1, 1995. Available at: <http://www.federalreserve.gov/monetarypolicy/files/FOMC19950201meeting.pdf>.

ence on some things and limits them from going onto other things.³

Requiring the Fed to transparently explain differences between actual policy directives and a rigorously studied reference rule, according to Dr. Meltzer and others, would improve the public's understanding of monetary policy. That improvement can, in turn, help people get goods and services to those who value them the most. Section 2 of H.R. 3189 is intended to facilitate such enhanced transparency.

Sec. 3. Federal Open Market Committee blackout period

This section clarifies that the blackout period associated with meetings of the FOMC—a Federal Reserve policy that prohibits Fed Governors and officials from speaking in public on any matter during the week prior to an FOMC meeting and immediately following an FOMC meeting—begins immediately after midnight on the day that is one week before the meeting and ends at midnight on the day after the meeting takes place. It also clarifies that the blackout period does not apply to answering technical questions specific to data releases or to testimony regarding the Fed's supervisory and prudential functions.

Fed staff and employees have historically refused to testify or provide briefings and documents on matters unrelated to monetary policy during the blackout period. By clarifying that the Fed's blackout period does not apply to supervisory and regulatory activities, H.R. 3189 ensures that Congress may continue to conduct appropriate and timely oversight of such matters.

Sec. 4. Membership of Federal Open Market Committee

This section reforms the FOMC's voting membership. Under the bill, voting members consist of the seven members of the Fed's Board of Governors and six of the twelve Fed District Bank Presidents on a rotating basis. Thus, each District Bank president would be a voting member of the FOMC every other year.

Enhancing the representation of district bank presidents on the FOMC would promote a monetary policy that more strongly supports price stability. District presidents are nominated by their respective boards of directors, the members of which are in part elected by member bankers. These directors, as business leaders who make fixed rate loans, have a relatively strong interest in price stability.⁴

³Quoted from Dr. Cochrane's spoken testimony before the House Subcommittee on Monetary Policy and Trade, Committee on Financial Services, Washington, DC, Jul 22, 2015.

⁴To succeed as a foundation for economic opportunity, money must serve as a store of value. Fortunately, our monetary authority's dual mandate includes the objective of long-run price stability. Unfortunately, the FOMC's judgment that two percent inflation is consistent with this mandate can put price stability and thus economic opportunity at risk.

Savers appreciate the power of compounding interest—that is, setting aside a dollar today not only can earn interest, doing so can earn interest on interest and thus quicken the pace at which savings goals can be fulfilled. But individuals saving for a child's college education may be relatively worse off under the FOMC's two percent inflation goal. A dollar set aside today for education in the future will be worth only \$0.70 by the time a newborn enters college. That represents a 30% loss in purchasing power, which appears inconsistent with the Fed's statutory mandate to maintain price stability over the long term.

Sec. 5. Requirements for stress tests and supervisory letters for the Board of Governors of the Federal Reserve System

This section requires the Fed to issue regulations, after providing for public notice and comment, for stress tests conducted under Section 165 of the Dodd-Frank Act. This section also requires the publication of the aggregate number of supervisory letters sent to large bank holding companies subject to Fed supervision pursuant to Section 165.

Under the Dodd-Frank Act, certain large bank holding companies, state member banks, savings and loan holding companies, and nonbank financial companies designated as systemically significant undergo regular stress tests. Fed Governor Daniel Tarullo has described these exercises as a “key tool to ensure that financial companies have enough capital to weather a severe economic downturn without posing a risk to their communities, other financial institutions, or to the general economy.”⁵ Thus, stress tests are intended to “describe hypothetical baseline, adverse, and severely adverse conditions, with paths for key macroeconomic and financial variables.”⁶ The historical data on which the Fed bases its stress testing scenarios runs from 1976 to the present day.

Recent reports indicate that the Fed’s stress test process has become increasingly arbitrary, where a focus on unpredictable “qualitative factors” has been replacing the quantitative process, where Fed Board staff in Washington are arbitrarily overruling the Fed District bank examiners who conduct the initial tests, and where stress tests are replacing capital standards and other prudential measures as the primary tool of large bank supervision. In testimony before the Financial Services Committee on July 23, 2015, Columbia University Professor Charles Calomiris described the stress testing process as a “Kafkaesque Kabuki drama in which regulators punish banks for failing to meet standards that are never stated.”⁷ By requiring the Fed to undertake a rulemaking relating to stress tests, H.R. 3189 will facilitate greater transparency regarding such stress tests.

Sec. 6. Frequency of testimony of the Chairman of the Board of Governors of the Federal Reserve System to Congress

This section requires the Fed Chairman to testify before the Financial Services Committee and the Senate Banking Committee on a quarterly basis (rather than semi-annually as provided under current law). By increasing the Chair’s testimonial requirement, Congress may better ensure that the Fed is implementing monetary policy consistent with its statutory mandates. In addition, more frequent testimony will ensure that Congress remains on an equal footing with the Executive Branch for purposes of overseeing Fed operations. Currently, the Fed Chair meets with the Treasury

⁵ Press Release, Fed. Reserve Sys., Federal Reserve Board Publishes Two Final Rules with Stress Testing Requirements for Certain Bank Holding Companies, State Member Banks, and Savings and Loan Holding Companies (Oct. 9, 2012), available at <http://www.federalreserve.gov/newsevents/press/bcreg/20121009a.htm>.

⁶ Press Release, Fed. Reserve Sys., Federal Reserve Board Publishes Two Final Rules with Stress Testing Requirements for Certain Bank Holding Companies, State Member Banks, and Savings and Loan Holding Companies (Oct. 9, 2012), available at <http://www.federalreserve.gov/newsevents/press/bcreg/20121009a.htm>.

⁷ <http://financialservices.house.gov/uploadedfiles/hhrg-114-ba00-wstate-ccalomiris-20150723.pdf>.

Secretary on a frequent basis; those meetings far outnumber her formal appearances before the committees of jurisdiction and her informal discussions with Members of Congress.

Sec. 7. Vice Chairman for Supervision report requirement

This section requires the Fed Vice Chairman for Supervision to provide, as part of his statutorily required semi-annual testimony to the Financial Services and Senate Banking Committees, a report on the status of proposed and anticipated rulemakings. This section also requires that if the Vice Chairman for Supervision position is vacant, the Vice Chairman of the Board of Governors must fulfill the statutory requirement for semi-annual testimony.

Sec. 8. Economic analysis of regulations of the Board of Governors of the Federal Reserve System

This section requires cost-benefit analysis for all regulations promulgated by the Fed. Specifically, it identifies particular costs the Fed must take into account, such as the cost impact of new rules on the safety and soundness of the banking system, on market liquidity in securities markets, on small businesses, on community banks, on economic growth, on cost and access to capital, on market stability, on global competitiveness, on job creation, on the effectiveness of the monetary policy transmission mechanism, and on employment levels. This section also requires that major new rules must be accompanied by metrics which would indicate their success and requires a post-adoption study based on those metrics.

Cost-benefit analysis can force agencies to consider the full consequences of their actions while increasing agencies' accountability to elected officials and the courts. The Fed does not have a statutory economic cost-benefit analysis requirement to guide its rulemaking. The Fed issued guidance in 1979 that suggested it would follow cost-benefit analysis principles similar to those promulgated by the White House Office of Management and Budget.⁸ The Fed has not done so, however, and its rulemaking cannot be challenged on the grounds that the Fed failed to carry out a cost-benefit analysis in promulgating the rule.

Sec. 9. Salaries, financial disclosures, and office staff of the Board of Governors of the Federal Reserve System

This section promotes transparency by requiring the Fed to post on a public website the annual salary and the benefits of any employee whose salary exceeds that of a GS-15 federal employee. It also ensures that Fed Governors have access to sound, unbiased expert counsel by providing for at least two staff positions to advise each Board member independent of the Chairman's influence. This section also promotes adherence to appropriate ethical requirements by subjecting Fed employees to the same ethical standards as SEC employees.

⁸See Hester Peirce, *Economic Analysis by Federal Financial Regulators*, Mercatus Center Working Paper No. 12-31, October 2012, at FN 125, citing Board of Governors of the Federal Reserve System, *Statement of Policy Regarding Expanded Rulemaking Procedures*, 44 Fed. Reg. 3957 (1979).

Sec. 10. Requirements for international processes

This section requires the Fed, the FDIC, the Treasury Department, the OCC, and the SEC to release for notice and comment a public disclosure of any positions the regulators plan to take as part of international regulatory negotiations and to provide a public report on the negotiations at their conclusion. This section also requires a similar process for final agreements made pursuant to international negotiations.

Recent Committee hearings suggest that the Fed and the Treasury Department have allowed decisions reached at the Financial Stability Board (FSB), an international group of central banks, government finance ministers, and financial regulators established by the G-20 after the financial crisis, to dictate domestic decision-making, including at the Financial Stability Oversight Council (on which both the Fed Chair and Treasury Secretary are voting members).

To take one example, in July 2013, the FSB designated nine large insurance groups as Systemically Important Financial Institutions (SIFIs), including three from the United States—American International Group (AIG), Inc.; MetLife, Inc.; and Prudential Financial, Inc.⁹ Also in July, the FSOC designated AIG and GE Capital Corporation as SIFIs, and followed the FSB's lead again in September by designating Prudential as a SIFI. MetLife's designation followed a year later.

The Treasury Department, the Fed, and the SEC are members of the FSB. AEI scholar Peter Wallison has remarked, "It is inconceivable that the designations of three U.S. insurers would have gotten through the FSB without the express approval of the Fed and the Treasury." In testimony before the Committee's Oversight and Investigations Subcommittee in March 2014, Mr. Wallison elaborated that:

The decision on Prudential seems to have been baked in the cake before it was made by the FSOC. The fact that the FSB, in the preceding in July, had already determined that Prudential was a SIFI—with the concurrence of the Treasury and the Fed—made it inevitable that the FSOC would come to the same conclusion.¹⁰

To the extent that international negotiations have any influence at all in the formulation of domestic policy, such negotiations should be subject to increased scrutiny by Congress and the public. Accordingly, H.R. 3189 provides for greater transparency with respect to such negotiations.

Sec. 11. Amendments to the powers of the Board of Governors of the Federal Reserve System

This section amends Section 13(3) of the Federal Reserve Act to allow the Fed to invoke its emergency lending powers only upon a finding that "unusual and exigent circumstances exist that pose a

⁹Technically, the FSB designated these nine insurers as "Global Systemically Important Insurers," or G-SIIs. Like SIFIs, however, G-SIIs are subject to heightened prudential requirements and enhanced supervision.

¹⁰Peter J. Wallison, Statement before the House Financial Services Subcommittee on Oversight and Investigations, Hearing on "The Growth of Financial Regulation and its Impact on International Competitiveness," March 5, 2014, available at <http://financialservices.house.gov/uploadedfiles/hhrg-113-ba09-wstate-pwallison-20140305.pdf>.

threat to the financial stability of the United States.” In so doing, the bill creates a more stringent standard for the invocation of the Fed’s emergency lending authorities; under current law, Section 13(3) powers may be utilized in “unusual and exigent circumstances.” This section also mandates that, in addition to the current requirement that five of seven Fed Board Governors approve of a 13(3) facility, nine of the 12 District Fed Bank Presidents must also approve of such a facility. Further, this section limits eligible recipients of 13(3) assistance to financial institutions, defined as those entities that derive 85 percent or more of their annual gross revenues from activities that are “financial in nature.” Finally, this section places further limitations on discretionary lending under Section 13(3) by imposing requirements relating to collateral, solvency, and penalty lending rates.

Section 13(3) of the Federal Reserve Act authorizes the Fed to lend to “any individual, partnership or corporation” in “unusual and exigent circumstances,” provided the borrower “is unable to secure adequate credit accommodations from other banking institutions.” The Fed utilized this emergency authority to bail out the creditors and counter-parties of non-banks like Bear Stearns and AIG during the recent financial crisis. The Dodd-Frank Act purported to limit future bailouts under Section 13(3) by prohibiting the Fed from lending to insolvent institutions and requiring that any program under this section be broadly available to a number of institutions, but most commentators have concluded that the Dodd-Frank Act’s constraints are largely illusory and will be easily circumvented in a future crisis.

The Dodd-Frank Act required the Fed to adopt regulations “as soon as is practical” to implement the restrictions on its 13(3) authority. It took three years before the Fed, at the Financial Services Committee’s urging, published its proposed rules for public comment in December 2013. The text of the Fed’s proposed rule, however, merely parrots that of the Dodd-Frank Act and preserves maximum flexibility for the Fed to utilize Section 13(3) to bail out large financial institutions, which in turn promotes moral hazard and undermines market discipline. H.R. 3189 places substantive limits on this discretion and therefore reduces the likelihood of bailouts, helping to ensure that firms compete without some benefiting from the unfair advantage of an implicit government backstop.

Sec. 12. Interest rates on balances maintained at a Federal Reserve Bank by depository institutions established by the Federal Open Market Committee

This section amends Section 19(b)(12)(A) of the Federal Reserve Act to specify that the FOMC, not the Fed Board of Governors, shall be responsible for setting the rate of interest paid on excess reserves.

The Financial Services Regulatory Relief Act of 2006 authorized the Federal Reserve Banks to pay interest on excess balances held by or on behalf of depository institutions at Reserve Banks, subject to regulations issued by the Board of Governors. This interest rate is determined by the Board of Governors and gives the Fed an additional tool for the conduct of monetary policy. According to the Policy Normalization Principles and Plans adopted by the FOMC

on September 17, 2014,¹¹ during monetary policy normalization the Fed intends to move the federal funds rate into the target range set by the FOMC primarily by adjusting the interest rate it pays on excess reserve balances.

Because the interest rate on excess reserves can be used as a tool of monetary policy, H.R. 3189 shifts responsibility for setting the rate from the Board of Governors to the FOMC, where the Federal District Bank Presidents are voting members and participate in the deliberations.

Sec. 13. Audit reform and transparency for the Board of Governors of the Federal Reserve System

This section directs the GAO to conduct an audit within 12 months of the date of enactment of H.R. 3189, with a report to be delivered to Congress within 90 days of completion of the audit. The audit must include a detailed description of the findings of the audit with GAO's recommendations for legislative and administrative action. This section also removes the restrictions placed on the GAO's ability to audit the Fed contained in 31 U.S.C. section 714. Finally, it makes a technical correction to 31 U.S.C. 714 by removing language, included in the Dodd-Frank Act, which explicitly provided for the GAO's audit of the Fed's use of certain emergency authorities, because this language would be rendered redundant by passage of the H.R. 3189.

Congress has, on several occasions, increased the scope of allowable GAO audits of Fed activities. From 1933 to 1978, GAO audits were restricted to examining how the Fed handles cash from the U.S. Treasury. In 1978, the Federal Banking Agency Audit Act (31 U.S.C 714) expanded the audit scope to include regulatory and payment system duties.

The 1978 Act exempted from the scope of the GAO's authority the following matters related to monetary policy:

- (1) transactions for or with a foreign central bank, government of a foreign country, or nonprivate international financing organization;
- (2) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;
- (3) transactions made under the direction of the FOMC; or
- (4) a part of a discussion or communication among or between members of the Federal Reserve Board and officers and employees of the Federal Reserve System related to the above clauses.

The Dodd-Frank Act permitted the GAO to review the Fed's internal controls, policies on collateral, and use of contractors. The Dodd-Frank Act also provided for an audit of loans made under the Fed's Section 13(3) emergency lending authority during the financial crisis, as well as the identification of recipients of Section 13(3) assistance. It stopped short, however, of lifting or relaxing the prohibition on the GAO reviewing or evaluating monetary policy decisions (that is, it left undisturbed the exemptions imposed by the 1978 Act).

¹¹ See <http://www.federalreserve.gov/monetarypolicy/policy-normalization.htm>.

In the 112th Congress, the House passed H.R. 459, the “Federal Reserve Transparency Act of 2012,” on a bipartisan basis. Introduced by Representative Paul, H.R. 459 would have permitted the GAO to audit matters related to the Fed’s monetary policymaking. In the 113th Congress, the House again approved legislation on a bipartisan basis (H.R. 24) to remove constraints on the GAO’s authority to audit monetary policy matters.

Markets can impose more productive discipline on the Fed’s decision-making, and consumers and investors can make better choices, when monetary policy processes are more transparent. Market prices could better reflect true value as a consequence, and thus fundamentally support both an increase and expansion of economic opportunity. A full audit of the Fed, such as that provided for under H.R. 3189, is intended to promote such transparency.

Sec. 14. Reporting requirement for Export-Import Bank

This section provides that, in connection with preparing the monthly “Industrial Production or Capacity Utilization” statistical release, the Fed Board of Governors shall assess the impact on the index described in the release due to the operation of the U.S. Export-Import Bank as well as the amount of foreign industrial production supported by non-U.S. export credit agencies.

Sec. 15. Membership of Board of Directors of the Federal Reserve Banks

This section amends Section 4 of the Federal Reserve Act to require, with respect to the selection of certain directors of the Federal Reserve Banks, that due consideration be given to the interests of traditionally underserved communities and populations.

HEARINGS

The Subcommittee on Monetary Policy and Trade held a hearing examining matters relating to H.R. 3189 titled “Examining Federal Reserve Reform Proposals” on July 22, 2015.

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on July 28, 2015 and July 29, 2015, and ordered H.R. 3189 as amended to be reported to the House with a favorable recommendation by a recorded vote of 33–25 (FC–53), a quorum being present. Amendments offered by Mr. Huizenga, Mr. Heck, and Ms. Waters were each agreed to by voice votes.

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. The sole record vote in committee was a motion by Chairman Hensarling to report the bill favorably to the House as amended. The motion was agreed to by a recorded vote of 33–25 (FC–53), a quorum being present.

Record vote no. FC-53

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Hensarling	X			Ms. Waters (CA)		X	
Mr. King (NY)		X		Mrs. Maloney (NY)		X	
Mr. Royce	X			Ms. Velázquez		X	
Mr. Lucas	X			Mr. Sherman		X	
Mr. Garrett	X			Mr. Meeks		X	
Mr. Neugebauer	X			Mr. Capuano		X	
Mr. McHenry	X			Mr. Hinojosa		X	
Mr. Pearce	X			Mr. Clay		X	
Mr. Posey	X			Mr. Lynch		X	
Mr. Fitzpatrick	X			Mr. David Scott (GA)		X	
Mr. Westmoreland	X			Mr. Al Green (TX)		X	
Mr. Luetkemeyer	X			Mr. Cleaver			
Mr. Huizenga (MI)	X			Ms. Moore		X	
Mr. Duffy	X			Mr. Ellison		X	
Mr. Hurt (VA)	X			Mr. Perlmutter		X	
Mr. Stivers	X			Mr. Himes		X	
Mr. Fincher	X			Mr. Carney			
Mr. Stutzman	X			Ms. Sewell (AL)		X	
Mr. Mulvaney	X			Mr. Foster		X	
Mr. Hultgren	X			Mr. Kildee		X	
Mr. Ross	X			Mr. Murphy (FL)		X	
Mr. Pittenger	X			Mr. Delaney		X	
Mrs. Wagner	X			Ms. Sinema		X	
Mr. Barr	X			Mrs. Beatty		X	
Mr. Rothfus	X			Mr. Heck (WA)		X	
Mr. Messer	X			Mr. Vargas		X	
Mr. Schweikert	X						
Mr. Guinta	X						
Mr. Tipton	X						
Mr. Williams	X						
Mr. Poliquin	X						
Mrs. Love	X						
Mr. Hill	X						
Mr. Emmer	X						

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the committee based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of 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 states that H.R. 3189 will make the Federal Reserves' monetary policy and financial regulatory decisions easier to anticipate and understand so that households and businesses can make better choices about how to spend and invest their earnings; provide for a more equal representation of regional economic perspectives in monetary policy decisions; strengthen assurances that financial regulations and supervisory activities benefit households in general instead of favoring some at a greater expense to others; restrict the Fed's lender of last resort authority to legitimate emergencies while preventing "backdoor bailouts"; and establish a framework for institutionalizing a monetary policy that consistently supports the robust expansion of economic opportunities.

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 new 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.

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.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 13, 2015.

Hon. JEB HENSARLING,
*Chairman, Committee on Financial Services,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3189, the Fed Oversight Reform and Modernization Act of 2015.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Nate Frentz.

Sincerely,

KEITH HALL.

Enclosure.

H.R. 3189—Fed Oversight Reform and Modernization Act of 2015

Summary: H.R. 3189 would make a number of changes to the operations of the Federal Reserve System. The changes would include requiring new regulations issued by the Board of Governors of the Federal Reserve to include a cost-benefit analysis that takes into account specified factors; requiring employees of the Board of Governors to follow a system of ethics standards currently applied to employees of the Securities and Exchange Commission; requiring the Federal Open Market Committee to generate and provide to the Congress a monetary policy rule that meets certain requirements, and requiring the Government Accountability Office (GAO) to assess any changes to the rule for compliance with those requirements; restricting the powers of the Board of Governors to conduct emergency lending to firms other than banks; requiring a GAO audit of the Federal Reserve; and requiring the Federal Reserve to include an analysis of the Export-Import Bank in a regularly published statistical release.

CBO estimates that enacting H.R. 3189 would reduce revenues by \$109 million over the 2016–2025 period. CBO also estimates that the bill would result in an insignificant increase in direct spending. Because the bill affects revenues and direct spending, pay-as-you-go procedures apply. Further, CBO estimates that the bill would increase discretionary spending by \$7 million over the 2016–2020 period, assuming appropriation of the necessary amounts.

CBO estimates that enacting H.R. 3189 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2026.

H.R. 3189 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of H.R. 3189 is shown in the following table.

	By fiscal year, in millions of dollars—											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016–2020	2016–2025
CHANGES IN REVENUES ^a												
Regulatory Cost-Benefit												
Analysis	-3	-5	-6	-6	-6	-6	-7	-7	-7	-8	-26	-61
Ethics Standards	-1	-2	-2	-2	-3	-3	-3	-3	-3	-3	-11	-25
Monetary Policy Rule	-1	-1	-1	-1	-1	-1	-2	-2	-2	-2	-6	-14
Analysis of Export-Import												
Bank	*	*	*	-1	-1	-1	-1	-1	-1	-1	-2	-5
GAO Audit	*	*	*	*	*	*	*	*	*	*	-1	-3
Total Change in Revenues	-6	-10	-10	-11	-11	-11	-12	-12	-13	-13	-48	-109

Source: Congressional Budget Office.
 Notes: The bill would also have discretionary costs of \$7 million over the 2016–2020 period for administrative expenses at GAO, the Department of the Treasury, and the Securities and Exchange Commission. The bill would also result in insignificant increases in mandatory spending for the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency.
 * Amounts may not sum to totals because of rounding.
 * = between -\$500,000 and \$500,000.
^a Negative numbers indicate a reduction in revenues.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted in the first part of calendar year 2016.

Revenues

The bill would directly affect revenues through the operations of the Federal Reserve System, which remits its net earnings to the Treasury; those remittances are classified as revenues in the federal budget. Based on information provided by the Board of Governors of the Federal Reserve System, CBO estimates that enacting the bill would increase the costs of Federal Reserve operations and thus reduce its remittances by \$48 million over the 2016–2020 period, and by \$109 million over the 2016–2025 period.

The provisions with the most significant effects on revenues would:

- Require the Federal Reserve, before issuing many new regulations, to undertake a cost-benefit analysis that would take into account factors such as the effects on economic growth and availability of credit. The Federal Reserve would also be required to compare the costs and benefits of each proposed regulation with certain alternatives. In addition, for regulations it issues in which the effect on the economy exceeds a certain threshold, the Federal Reserve would be required to undertake a post-adoption assessment of the actual effects.

- Make the employees and members of the Board of Governors subject to additional ethics standards and financial disclosure rules. The ethics standards would follow those that apply to employees of the Securities and Exchange Commission.

- Require the Federal Open Market Committee to develop a monetary policy rule that specifies an interest rate target and how that target rate would be adjusted for changes in certain economic variables. The rule would be provided to both GAO, which would assess any changes to the rule for compliance with the requirements of the bill, and to the Congress.

- Restrict the authority of the Board of Governors to conduct emergency lending under Section 13(3) of the Federal Reserve Act, which provides the Federal Reserve with broad discretion to make loans to banks and nonbanks under unusual and exigent circumstances. The changes would include limiting eligibility to firms predominantly engaged in financial activities, requiring that a minimum interest rate be charged, disallowing equity securities to be pledged as collateral, and requiring independent appraisals of collateral.

- Make a number of other changes, including requiring the Federal Reserve to regularly analyze certain economic effects of the Export-Import Bank; requiring GAO to prepare, within 12 months of enactment, an audit of the Board of Governors of the Federal Reserve System and the Federal Reserve banks, including the conduct of monetary policy; restricting certain public communications by the Federal Open Market Committee (FOMC); changing the membership of the FOMC; and requiring the Board of Governors to issue certain regulations on stress testing of financial institutions.

The largest component of the estimated effects on remittances would result from the additional Federal Reserve staff required for the additional regulatory cost-benefit analyses. CBO estimates that those analyses would reduce remittances by \$61 million over the 2016–2025 period. In addition, CBO estimates that the additional ethics requirements would require additional Federal Reserve staff and reduce remittances by \$25 million over the 2016–2025 period.

Smaller reductions in revenues over the 2016–2025 period would result from the requirements of the bill related to the monetary policy rule (\$14 million), from the analysis of the Export-Import Bank (\$5 million), and from other provisions (\$3 million).

CBO has no basis for estimating the effects on revenues from the provisions of the bill that would restrict the Federal Reserve's emergency lending authority. Based on its own analysis of historical lending and information provided by the Federal Reserve, CBO estimates that the amount of any emergency lending that would occur in the future would likely be reduced by the bill, partly due to restrictions on eligible firms, but mostly as a result of the new required minimum interest rate. That lower amount of lending, at a higher rate, could either increase or decrease the Federal Reserve's earnings and thereby its remittances. Any such effects would be significantly discounted given the low probability of any emergency lending occurring over the next 10 years. To the extent that Federal Reserve emergency lending has effects on the broader economy, a reduction in the amount or types of emergency lending could have budgetary effects that are much larger than any effect on Federal Reserve remittances.

Direct Spending

The bill would require the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency to provide advance notice and solicit comment before it participates in a process of setting financial standards as part of any multinational entity. CBO estimates that those requirements would result in an insignificant increase in direct spending; those agencies can eventually recover additional costs through assessments.

Spending Subject to Appropriation

CBO estimates that the bill would increase spending subject to appropriation by \$7 million over the 2016–2020 period. The largest costs would result from the requirement that GAO prepare, within 12 months of enactment, an audit of the Board of Governors of the Federal Reserve System and the Federal Reserve banks, including the conduct of monetary policy. Based on information from GAO regarding the amount of effort required for its previous audit of the Federal Reserve, which was required by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203), CBO estimates a new audit would increase spending by \$5 million over the 2016–2020 period, assuming appropriation of the necessary amounts. That cost would cover the full-time and part-time GAO employees plus administrative expenses necessary to prepare the audit required by the bill as well as future oversight and analysis that CBO expects would result from the enactment of the requirement.

In addition, the bill would require GAO to prepare a compliance report on any changes in the monetary policy rule initiated by the Federal Open Market Committee. CBO expects that implementing the provision would cost less than \$500,000 annually and about \$2 million over the 2016–2020 period, assuming the availability of appropriated funds. Furthermore, CBO estimates that requirements on the Department of the Treasury and the Securities and Exchange Commission (SEC) for notice and comments related to mul-

tinational entities would cost less than \$500,000 over the 2016–2020 period, assuming the availability of appropriated funds. Under current law, the SEC is authorized to collect fees sufficient to offset its annual appropriation; therefore, we estimate that the net cost to the SEC would be negligible.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 3189, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON JULY 29, 2015

	By fiscal year, in millions of dollars—											
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2015–2020	2015–2025
	INCREASE IN THE DEFICIT											
Statutory Pay-As-You-Go Effects	6	10	10	11	11	11	12	12	13	13	48	109

Increase in long term direct spending and deficits: CBO estimates that enacting H.R. 3189 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2026.

Intergovernmental and private-sector impact: H.R. 3189 contains no intergovernmental or private-sector mandates as defined in UMRA, and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal revenues: Nathaniel Frenztz; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Logan Smith.

Estimate approved by: David Weiner, Assistant Director for Tax Analysis; Theresa Gullo, Assistant Director for Budget Analysis.

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.

ADVISORY COMMITTEE STATEMENT

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

APPLICABILITY TO LEGISLATIVE BRANCH

H.R. 3189 specifies the ethical duties that apply to Federal Reserve employees; the bill does not apply such duties to congressional employees because such employees are subject to independent ethical standards administered by the House Committee on Ethics. Otherwise, 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 the section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

H.R. 3189 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee states that no provision of H.R. 3189 establishes or re-authorizes a program of the Federal Government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULEMAKING

Pursuant to section 3(k) of H. Res. 5, 113th Cong. (2013), the Committee estimates that H.R. 3189 requires one directed rule-making as defined by H. Res. 5.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Sec. 1. Short title; Table of contents

This section cites H.R. 3189 as “The Fed Oversight Reform and Modernization Act of 2015” or the “FORM Act of 2015”

Sec. 2 Requirements for policy rules of the Federal Open Market Committee

This section requires the Fed to generate a monetary policy rule to provide added transparency about the factors leading to a future rate recommendation, requires the Fed to compare its rule to the “Taylor Rule” and explain any differences between the two, and requires the Government Accountability Office (GAO) to audit the rule to determine if it complies with the statute. The section further provides that, if the Fed’s submission does not meet the statute’s requirements for a valid rule, the Financial Services or Senate Banking Committees may instruct the GAO to conduct a one-time audit of the Fed’s conduct of monetary policy. Finally, under this section, any time the Fed updates its rule, or if the GAO determines at any time that the rule does not comply with the statute, the Fed Chairman must testify upon request of the Financial Services Committee or the Senate Banking Committee.

Sec. 3. Federal Open Market Committee blackout period

This section provides that the Federal Open Market Committee (FOMC) blackout period begins immediately after midnight on the day that is one week before an FOMC meeting and ends at midnight on the day after the meeting takes place. This section also establishes that the blackout period does not apply to answering technical questions specific to data releases or to testimony regarding the Fed’s supervisory and prudential functions.

Sec. 4. Membership of Federal Open Market Committee

This section provides that the membership of the FOMC will consist of the seven members of the Federal Reserve Board of Governors and six representatives of the District Federal Reserve Bank Presidents, with each president rotating onto the FOMC every other year.

Sec. 5. Requirements for stress tests and supervisory letters for the Board of Governors of the Federal Reserve System

This section requires the Federal Reserve to issue regulations, after providing for public notice and comment, relating to stress test scenarios required under Section 165 of the Dodd-Frank Act. This section further requires the publication of aggregate data relating to supervisory letters sent by the Federal Reserve.

Sec. 6. Frequency of testimony of the Chairman of the Board of Governors of the Federal Reserve System

This section requires the Federal Reserve Chairman to testify before the Financial Services Committee and the Senate Banking Committee concerning the conduct of monetary policy on a quarterly basis in place of the current semi-annual requirement.

Sec. 7. Vice Chairman for Supervision Report requirement

This section requires the Federal Reserve's Vice Chairman for Supervision to provide, as part of their testimony before the Financial Services and Senate Banking Committees, a report on the status of proposed and anticipated rulemakings. This section further requires that if the Vice Chairman for Supervision position is vacant, the Vice Chairman of the Board of Governors must fulfill the statutory requirement for semi-annual testimony.

Sec. 8. Economic analysis of regulations of the Board of Governors of the Federal Reserve System

This section requires cost-benefit analysis for all regulations issued by the Federal Reserve and further provides that major new rules must be accompanied by metrics which would indicate their success and requires a post-adoption study based on those metrics.

Sec. 9. Salaries, financial disclosures, and office staff of the Board of Governors of the Federal Reserve System

This section requires the Federal Reserve to post on a public website the annual salary and the benefits of any employees whose salary exceeds that of a GS-15 federal employee. The section further provides for at least two staff positions to advise each member of the Board of Governors. Finally, this section subjects Fed employees to the same ethical standards as Securities and Exchange Commission employees.

Sec. 10. Requirements for international processes

This section requires the Federal Reserve, Federal Deposit Insurance Corporation (FDIC), the Treasury Department, the Office of the Comptroller of the Currency (OCC), and the SEC to release for notice and comment a public disclosure of any positions the regulators intend to take as part of international regulatory negotiations and to provide a public report on the negotiations at their

conclusion. This section additionally requires that the regulators undertake a similar process for final agreements made pursuant to international negotiations.

Sec. 11. Amendments to powers of the Board of Governors of the Federal Reserve System

This section amends Section 13(3) of the Federal Reserve Act to allow the Federal Reserve to invoke its emergency lending powers under such section only upon a finding that “unusual and exigent circumstances exist that pose a threat to the financial stability of the United States.” This section additionally mandates that, in addition to the current requirement that five of seven Federal Reserve Board Governors approve of any facility under Section 13(3), nine of the 12 Federal Reserve District Bank Presidents must also approve the facility. This section limits eligible recipients of Section 13(3) assistance to financial institutions that derive 85 percent or more of their annual gross revenues from activities that are financial in nature. Finally, this section further discourages discretionary lending through the following amendments to Section 13(3):

Adequate collateral. Directs the Federal Reserve to adopt a rule, within 6 months of the date of enactment, specifying the method it will use to determine the sufficiency of collateral pledged to secure 13(3) lending, including which classes of collateral it will accept, as well as a “method for obtaining independent appraisals of the collateral [the Fed] receives.” In no event may the Federal Reserve accept equity securities issued by the recipient of 13(3) assistance as collateral.

Solvent borrower. Requires that for any entity regulated by the OCC, SEC, Commodity Futures Trading Commission, or FDIC, that regulator must certify in writing to the Federal Reserve that the entity is not insolvent before it can be eligible for assistance under Section 13(3).

At penalty rates. Directs the Federal Reserve to adopt a rule, within 6 months of the date of enactment, establishing a minimum interest rate on the principal amount of any loan or financial assistance extended pursuant to Section 13(3). The applicable minimum interest rate shall be calculated as a trailing 90-day average of all Federal Reserve banks’ secondary discount rate plus a 90-day trailing average of the spread between a distressed corporate bond yield index specified by this rule and a bond yield index of debt issued by the United States specified by this rule.

Sec. 12. Interest rates on balances maintained at a Federal Reserve bank by depository institutions established by Federal Open Market Committee

This section amends the Federal Reserve Act to require that the FOMC shall be responsible for setting the rate of interest paid on excess reserves.

Sec. 13. Audit reform and transparency for the Board of Governors of the Federal Reserve System

This section directs the GAO to conduct an audit of the Fed and report the audit’s findings and recommendations for legislative and administrative action to Congress. This section also removes cer-

tain restrictions relating to the GAO's ability to audit the Federal Reserve.

Sec. 14. Reporting requirement for Ex-Im Bank

This section requires the Federal Reserve to report monthly on how the U.S. Export-Import Bank affected American industrial production, as well as how foreign industrial production has been affected by non-U.S. export credit agencies.

Sec. 15. Board Membership for Fed District Banks

This section requires that, with respect to the election or designation of Class B and C directors of Federal Reserve District Banks, due consideration be given to the interests of traditionally underserved communities and populations.

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, and existing law in which no change is proposed is shown in roman):

FEDERAL RESERVE ACT

* * * * *

SEC. 2B. APPEARANCES BEFORE AND REPORTS TO THE CONGRESS.

(a) APPEARANCES BEFORE THE CONGRESS.—

(1) IN GENERAL.—The Chairman of the Board shall appear before the Congress at **[semi-annual]** *quarterly* hearings, as specified in paragraph (2), regarding—

(A) the efforts, activities, objectives and plans of the Board and the Federal Open Market Committee with respect to the conduct of monetary policy; and

(B) economic developments and prospects for the future described in the report required in subsection (b).

(2) SCHEDULE.—The Chairman of the Board shall appear—

(A) before the Committee on Banking and Financial Services of the House of Representatives on or about February 20 *and May 20* of even numbered calendar years and on or about July 20 *and October 20* of odd numbered calendar years;

(B) before the Committee on Banking, Housing, and Urban Affairs of the Senate on or about July 20 *and October 20* of even numbered calendar years and on or about February 20 *and May 20* of odd numbered calendar years; and

(C) before either Committee referred to in subparagraph (A) or (B), upon request, following the scheduled appearance of the Chairman before the other Committee under subparagraph (A) or (B).

(b) CONGRESSIONAL REPORT.—The Board shall, concurrent with each **[semi-annual]** *quarterly* hearing required by this section, submit a written report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Fi-

financial Services of the House of Representatives, containing a discussion of the conduct of monetary policy and economic developments and prospects for the future, taking into account past and prospective developments in employment, unemployment, production, investment, real income, productivity, exchange rates, international trade and payments, and prices.

(c) PUBLIC ACCESS TO INFORMATION.—The Board shall place on its home Internet website, a link entitled “Audit”, which shall link to a webpage that shall serve as a repository of information made available to the public for a reasonable period of time, not less than 6 months following the date of release of the relevant information, including—

(1) the reports prepared by the Comptroller General under section 714 of title 31, United States Code;

(2) the annual financial statements prepared by an independent auditor for the Board in accordance with section 11B;

(3) the reports to the Committee on Banking, Housing, and Urban Affairs of the Senate required under section 13(3) (relating to emergency lending authority); and

(4) such other information as the Board reasonably believes is necessary or helpful to the public in understanding the accounting, financial reporting, and internal controls of the Board and the Federal reserve banks.

SEC. 2C. DIRECTIVE POLICY RULES OF THE FEDERAL OPEN MARKET COMMITTEE.

(a) DEFINITIONS.—*In this section the following definitions shall apply:*

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—*The term “appropriate congressional committees” means the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.*

(2) DIRECTIVE POLICY RULE.—*The term “Directive Policy Rule” means a policy rule developed by the Federal Open Market Committee that meets the requirements of subsection (c) and that provides the basis for the Open Market Operations Directive.*

(3) GDP.—*The term “GDP” means the gross domestic product of the United States as computed and published by the Department of Commerce.*

(4) INTERMEDIATE POLICY INPUT.—*The term “Intermediate Policy Input”—*

(A) may include any variable determined by the Federal Open Market Committee as a necessary input to guide open-market operations;

(B) shall include an estimate of, and the method of calculation for, the current rate of inflation or current inflation expectations; and

(C) shall include, specifying whether the variable or estimate is historical, current, or a forecast and the method of calculation, at least one of—

(i) an estimate of real GDP, nominal GDP, or potential GDP;

(ii) an estimate of the monetary aggregate compiled by the Board of Governors of the Federal Reserve System and Federal reserve banks; or

(iii) an interactive variable or a net estimate composed of the estimates described in clauses (i) and (ii).

(5) **LEGISLATIVE DAY.**—The term “legislative day” means a day on which either House of Congress is in session.

(6) **OPEN MARKET OPERATIONS DIRECTIVE.**—The term “Open Market Operations Directive” means an order to achieve a specified Policy Instrument Target provided to the Federal Reserve Bank of New York by the Federal Open Market Committee pursuant to powers authorized under section 14 of this Act that guide open-market operations.

(7) **POLICY INSTRUMENT.**—The term “Policy Instrument” means—

(A) the nominal Federal funds rate;

(B) the nominal rate of interest paid on nonborrowed reserves; or

(C) the discount window primary credit interest rate most recently published on the Federal Reserve Statistical Release on selected interest rates (daily or weekly), commonly referred to as the H.15 release.

(8) **POLICY INSTRUMENT TARGET.**—The term “Policy Instrument Target” means the target for the Policy Instrument specified in the Open Market Operations Directive.

(9) **REFERENCE POLICY RULE.**—The term “Reference Policy Rule” means a calculation of the nominal Federal funds rate as equal to the sum of the following:

(A) The rate of inflation over the previous four quarters.

(B) One-half of the percentage deviation of the real GDP from an estimate of potential GDP.

(C) One-half of the difference between the rate of inflation over the previous four quarters and two percent.

(D) Two percent.

(b) **SUBMITTING A DIRECTIVE POLICY RULE.**—Not later than 48 hours after the end of a meeting of the Federal Open Market Committee, the Chairman of the Federal Open Market Committee shall submit to the appropriate congressional committees and the Comptroller General of the United States a Directive Policy Rule and a statement that identifies the members of the Federal Open Market Committee who voted in favor of the Rule.

(c) **REQUIREMENTS FOR A DIRECTIVE POLICY RULE.**—A Directive Policy Rule shall—

(1) identify the Policy Instrument the Directive Policy Rule is designed to target;

(2) describe the strategy or rule of the Federal Open Market Committee for the systematic quantitative adjustment of the Policy Instrument Target to respond to a change in the Intermediate Policy Inputs;

(3) include a function that comprehensively models the interactive relationship between the Intermediate Policy Inputs;

(4) include the coefficients of the Directive Policy Rule that generate the current Policy Instrument Target and a range of predicted future values for the Policy Instrument Target if changes occur in any Intermediate Policy Input;

(5) describe the procedure for adjusting the supply of bank reserves to achieve the Policy Instrument Target;

(6) include a statement as to whether the Directive Policy Rule substantially conforms to the Reference Policy Rule and, if applicable—

(A) an explanation of the extent to which it departs from the Reference Policy Rule;

(B) a detailed justification for that departure; and

(C) a description of the circumstances under which the Directive Policy Rule may be amended in the future;

(7) include a certification that such Rule is expected to support the economy in achieving stable prices and maximum natural employment over the long term; and

(8) include a calculation that describes with mathematical precision the expected annual inflation rate over a 5-year period.

(d) GAO REPORT.—The Comptroller General of the United States shall compare the Directive Policy Rule submitted under subsection (b) with the rule that was most recently submitted to determine whether the Directive Policy Rule has materially changed. If the Directive Policy Rule has materially changed, the Comptroller General shall, not later than 7 days after each meeting of the Federal Open Market Committee, prepare and submit a compliance report to the appropriate congressional committees specifying whether the Directive Policy Rule submitted after that meeting and the Federal Open Market Committee are in compliance with this section.

(e) CHANGING MARKET CONDITIONS.—

(1) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to require that the plans with respect to the systematic quantitative adjustment of the Policy Instrument Target described under subsection (c)(2) be implemented if the Federal Open Market Committee determines that such plans cannot or should not be achieved due to changing market conditions.

(2) GAO APPROVAL OF UPDATE.—Upon determining that plans described in paragraph (1) cannot or should not be achieved, the Federal Open Market Committee shall submit an explanation for that determination and an updated version of the Directive Policy Rule to the Comptroller General of the United States and the appropriate congressional committees not later than 48 hours after making the determination. The Comptroller General shall, not later than 48 hours after receiving such updated version, prepare and submit to the appropriate congressional committees a compliance report determining whether such updated version and the Federal Open Market Committee are in compliance with this section.

(f) DIRECTIVE POLICY RULE AND FEDERAL OPEN MARKET COMMITTEE NOT IN COMPLIANCE.—

(1) IN GENERAL.—If the Comptroller General of the United States determines that the Directive Policy Rule and the Federal Open Market Committee are not in compliance with this section in the report submitted pursuant to subsection (d), or that the updated version of the Directive Policy Rule and the Federal Open Market Committee are not in compliance with this section in the report submitted pursuant to subsection (e)(2), the Chairman of the Board of Governors of the Federal

Reserve System shall, if requested by the chairman of either of the appropriate congressional committees, not later than 7 legislative days after such request, testify before such committee as to why the Directive Policy Rule, the updated version, or the Federal Open Market Committee is not in compliance.

(2) GAO AUDIT.—*Notwithstanding subsection (b) of section 714 of title 31, United States Code, upon submitting a report of noncompliance pursuant to subsection (d) or subsection (e)(2) and after the period of 7 legislative days described in paragraph (1), the Comptroller General shall audit the conduct of monetary policy by the Board of Governors of the Federal Reserve System and the Federal Open Market Committee upon request of the appropriate congressional committee. Such committee may specify the parameters of such audit.*

(g) CONGRESSIONAL HEARINGS.—*The Chairman of the Board of Governors of the Federal Reserve System shall, if requested by the chairman of either of the appropriate congressional committees and not later than 7 legislative days after such request, appear before such committee to explain any change to the Directive Policy Rule.*

* * * * *

FEDERAL RESERVE BANKS.

SEC. 4. When the organization committee shall have established Federal reserve districts as provided in section two of this Act, a certificate shall be filed with the Comptroller of the Currency showing the geographical limits of such districts and the Federal reserve city designated in each of such districts. The Comptroller of the Currency shall thereupon cause to be forwarded to each national bank located in each district, and to such other banks declared to be eligible by the organization committee which may apply therefor, an application blank in form to be approved by the organization committee, which blank shall contain a resolution to be adopted by the board of directors of each bank executing such application, authorizing a subscription to the capital stock of the Federal reserve bank organizing in that district in accordance with the provisions of this Act.

When the minimum amount of capital stock prescribed by this Act for the organization of any Federal reserve bank shall have been subscribed and allotted, the organization committee shall designate any five banks of those whose applications have been received, to execute a certificate of organization, and thereupon the banks so designated shall, under their seals, make an organization certificate which shall specifically state the name of such Federal reserve bank, the territorial extent of the district over which the operations of such Federal reserve bank are to be carried on, the city and State in which said bank is to be located, the amount of capital stock and the number of shares into which the same is divided, the name and place of doing business of each bank executing such certificate, and of all banks which have subscribed to the capital stock of such Federal reserve bank and the number of shares subscribed by each, and the fact that the certificate is made to enable those banks executing same, and all banks which have subscribed or may thereafter subscribe to the capital stock of such

Federal reserve bank, to avail themselves of the advantages of this Act.

The said organization certificate shall be acknowledged before a judge of some court of record or notary public; and shall be, together with the acknowledgment thereof, authenticated by the seal of such court, or notary, transmitted to the Comptroller of the Currency, who shall file, record and carefully preserve the same in his office.

Upon the filing of such certificate with the Comptroller of the Currency as aforesaid, the said Federal reserve bank shall become a body corporate and as such, and in the name designated in such organization certificate, shall have power—

First. To adopt and use a corporate seal.

Second. To have succession after the approval of this Act until dissolved by Act of Congress or until forfeiture of franchise for violation of law.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law or equity.

Fifth. To appoint by its board of directors a president, vice presidents, and such officers and employees as are not otherwise provided for in this Act, to define their duties, require bonds for them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. The president shall be the chief executive officer of the bank and shall be appointed by the Class B and Class C directors of the bank, with the approval of the Board of Governors of the Federal Reserve System, for a term of 5 years; and all other executive officers and all employees of the bank shall be directly responsible to the president. The first vice president of the bank shall be appointed in the same manner and for the same term as the president, and shall, in the absence or disability of the president or during a vacancy in the office of president, serve as chief executive officer of the bank. Whenever a vacancy shall occur in the office of the president or the first vice president, it shall be filled in the manner provided for original appointments; and the person so appointed shall hold office until the expiration of the term of his predecessor.

Sixth. To prescribe by its board of directors, by-laws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

Seventh. To exercise by its board of directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this Act and such incidental powers as shall be necessary to carry on the business of banking within the limitations prescribed by this Act.

Eighth. Upon deposit with the Treasurer of the United States of any bonds of the United States in the manner provided by existing law relating to national banks, to receive from the Secretary of the Treasury circulating notes in blank, registered and countersigned as provided by law, equal in amount to the par value of the bonds so deposited, such notes to be issued under the same conditions and provisions of law as relate to the issue of circulating notes of national banks secured by bonds of the United States bearing the

circulating privilege, except that the issue of such notes shall not be limited to the capital stock of such Federal reserve bank.

But no Federal reserve bank shall transact any business except such as is incidental and necessarily preliminary to its organization until it has been authorized by the Comptroller of the Currency to commence business under the provisions of this Act.

Every Federal reserve bank shall be conducted under the supervision and control of a board of directors.

The board of directors shall perform the duties usually appertaining to the office of directors of banking associations and all such duties as are prescribed by law.

Said board of directors shall administer the affairs of said bank fairly and impartially and without discrimination in favor of or against any member bank or banks and may, subject to the provisions of law and the orders of the Board of Governors of the Federal Reserve System, extend to each member bank such discounts, advancements, and accommodations as may be safely and reasonably made with due regard for the claims and demands of other member banks, the maintenance of sound credit conditions, and the accommodation of commerce, industry, and agriculture. The Board of Governors of the Federal Reserve System may prescribe regulations further defining within the limitations of this Act the conditions under which discounts, advancements, and the accommodations may be extended to member banks. Each Federal reserve bank shall keep itself informed of the general character and amount of the loans and investments of its member banks with a view to ascertaining whether undue use is being made of bank credit for the speculative carrying of or trading in securities, real estate, or commodities, or for any other purpose inconsistent with the maintenance of sound credit conditions; and, in determining whether to grant or refuse advances, rediscounts or other credit accommodations, the Federal reserve bank shall give consideration to such information. The chairman of the Federal reserve bank shall report to the Board of Governors of the Federal Reserve System any such undue use of bank credit by any member bank, together with his recommendation. Whenever, in the judgment of the Board of Governors of the Federal Reserve System, any member bank is making such undue use of bank credit, the Board may, in its discretion, after reasonable notice and an opportunity for a hearing, suspend such bank from the use of the credit facilities of the Federal Reserve System and may terminate such suspension or may renew it from time to time.

Such board of directors shall be selected as hereinafter specified and shall consist of nine members, holding office for three years, and divided into three classes, designated as classes A, B, and C.

Class A shall consist of three members, without discrimination on the basis of race, creed, color, sex, or national origin, who shall be chosen by and be representative of the stock-holding banks.

Class B shall consist of three members, who shall represent the public and shall be elected without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, **[and consumers]** *consumers, and traditionally underserved communities and populations.*

Class C shall consist of three members who shall be designated by the Board of Governors of the Federal Reserve System. They shall be elected to represent the public, without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, [and consumers] *consumers, and traditionally underserved communities and populations*. When the necessary subscriptions to the capital stock have been obtained for the organization of any Federal reserve bank, the Board of Governors of the Federal Reserve System shall appoint the class C directors and shall designate one of such directors as chairman of the board to be selected. Pending the designation of such chairman, the organization committee shall exercise the powers and duties appertaining to the office of chairman in the organization of such Federal reserve bank.

No Senator or Representative in Congress shall be a member of the Board of Governors of the Federal Reserve System or an officer or a director of a Federal reserve bank.

No director of class B shall be an officer, director, or employee of any bank.

No director of class C shall be an officer, director, employee, or stockholder of any bank.

Directors of Class A and Class B shall be chosen in the following manner:

The Board of Governors of the Federal Reserve System shall classify the member banks of the district into three general groups or divisions, designating each group by number. Each group shall consist as nearly as may be of banks of similar capitalization. Each member bank shall be permitted to nominate to the chairman of the board of directors of the Federal reserve bank of the district one candidate for director of Class A and one candidate for director of Class B. The candidates so nominated shall be listed by the chairman, indicating by whom nominated, and a copy of said list shall, within fifteen days after its completion, be furnished by the chairman to each member bank. Each member bank by a resolution of the board or by an amendment to its by-laws shall authorize its president, cashier, or some other to cast the vote of the member bank in the elections of Class A and Class B directors: *Provided*, That whenever any member banks within the same Federal Reserve district are subsidiaries of the same bank holding company within the meaning of the Bank Holding Company Act of 1956, participation in any such nomination or election by such member banks, including such bank holding company if it is also a member bank, shall be confined to one of such banks, which may be designated for the purpose by such holding company.

Within fifteen days after receipt of the list of candidates the duly authorized officer of a member bank shall certify to the chairman his first, second, and other choices for director of Class A and Class B, respectively, upon a preferential ballot upon a form furnished by the Chairman of the Board of directors of the Federal reserve bank of the district. Each such officer shall make a cross opposite the name of the first second, and other choices for a director of Class A and for a director of Class B, but shall not vote more than one choice for any one candidate. No officer or director of a member bank shall be eligible to serve as a Class A director unless nomi-

nated and elected by banks which are members of the same group as the member bank of which he is an officer or director.

Any person who is an officer or director of more than one member bank shall not be eligible for nominations as a Class A director except by banks in the same group as the bank having the largest aggregate resources of any of those of which such person is an officer or director.

Any candidate having a majority of all votes cast in the column of first choice shall be declared elected. If no candidate have a majority of all the votes in the first column, then there shall be added together the votes cast by the electors for such candidates in the second column and the votes cast for the several candidates in the first column. The candidate then having a majority of the electors voting and the highest number of combined votes shall be declared elected. If no candidate have a majority of electors voting and the highest number of votes when the first and second choices shall have been added, then the votes cast in the third column for other choices shall be added together in like manner, and the candidate then having the highest number of votes shall be declared elected. An immediate report of election shall be declared.

Class C directors shall be appointed by the Board of Governors of the Federal Reserve System. They shall have been for at least two years residents of the district for which they are appointed, one of whom shall be designated by said board as chairman of the board of directors of the Federal reserve bank and as "Federal reserve agent." He shall be a person of tested banking experience, and in addition to his duties as chairman of the board of directors of the Federal reserve bank he shall be required to maintain, under regulations to be established by the Board of Governors of the Federal Reserve System, a local office of said board on the premises of the Federal reserve bank. He shall make regular reports to the Board of Governors of the Federal Reserve System and shall act as its official representative for the performance of the functions conferred upon it by this Act. He shall receive an annual compensation to be fixed by the Board of Governors of the Federal Reserve System and paid monthly by the Federal reserve bank to which he is designated. One of the directors of class C shall be appointed by the Board of Governors of the Federal Reserve System as deputy chairman to exercise the powers of the chairman of the board when necessary. In case of the absence of the chairman and deputy chairman, the third class C director shall preside at meetings of the board.

Subject to the approval of the Board of Governors of the Federal Reserve System, the Federal reserve agent shall appoint one or more assistants. Such assistants, who shall be persons of tested banking experience, shall assist the Federal reserve agent in the performance of his duties and shall also have power to act in his name and stead during his absence or disability. The Board of Governors of the Federal Reserve System shall require such bonds of the assistant Federal reserve agents as it may deem necessary for the protection of the United States. Assistants to the Federal reserve agent shall receive an annual compensation, to be fixed and paid in the same manner as that of the Federal reserve agent.

Directors of Federal reserve banks shall receive, in addition to any compensation otherwise provided, a reasonable allowance for

necessary expenses in attending meetings of their respective boards, which amounts shall be paid by the respective Federal reserve banks. Any compensation that may be provided by boards of directors of Federal reserve banks for directors, officers or employees shall be subject to the approval of the Board of Governors of the Federal Reserve System.

The Reserve Bank Organization Committee may, in organizing Federal reserve banks, call such meetings of bank directors in the several districts as may be necessary to carry out the purposes of this Act, and may exercise the functions herein conferred upon the chairman of the board of directors of each Federal reserve bank pending the complete organization of such bank.

At the first meeting of the full board of directors of each Federal reserve bank, it shall be the duty of the directors of classes A, B and C, respectively, to designate one of the members of each class whose term of office shall expire in one year from the first of January nearest to date of such meeting, one whose term of office shall expire at the end of two years from said date, and one whose term of office shall expire at the end of three years from said date. Thereafter every director of a Federal reserve bank chosen as hereinbefore provided shall hold office for a term of three years. Vacancies that may occur in the several classes of directors of Federal reserve banks may be filled in the manner provided for the original selection of such directors, such appointees to hold office for the unexpired terms of their predecessors.

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BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

SEC. 10. The Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board") shall be composed of seven members, to be appointed by the President, by and with the advice and consent of the Senate, after the date of enactment of the Banking Act of 1935, for terms of fourteen years except as hereinafter provided, but each appointive member of the Federal Reserve Board in office on such date shall continue to serve as a member of the Board until February 1, 1936, and the Secretary of the Treasury and the Comptroller of the Currency shall continue to serve as members of the Board until February 1, 1936. In selecting the members of the Board, not more than one of whom shall be selected from any one Federal Reserve district, the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country. In selecting members of the Board, the President shall appoint at least 1 member with demonstrated primary experience working in or supervising community banks having less than \$10,000,000,000 in total assets. The members of the Board shall devote their entire time to the business of the Board and shall each receive an annual salary of \$15,000, payable monthly, together with actual necessary traveling expenses.

The members of the Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any member bank, except that this restriction shall not apply to a member who has served the full term for which he was appointed. Upon the expiration of the term of any

appointive member of the Federal Reserve Board in office on the date of enactment of the Banking Act of 1935, the President shall fix the term of the successor to such member at not to exceed fourteen years, as designated by the President at the time of nomination, but in such manner as to provide for the expiration of the term of not more than one member in any two-year period, and thereafter each member shall hold office for a term of fourteen years from the expiration of the term of his predecessor, unless sooner removed for cause by the President. Of the persons thus appointed, 1 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Chairman of the Board for a term of 4 years, and 2 shall be designated by the President, by and with the advice and consent of the Senate, to serve as Vice Chairmen of the Board, each for a term of 4 years, 1 of whom shall serve in the absence of the Chairman, as provided in the fourth undesignated paragraph of this section, and 1 of whom shall be designated Vice Chairman for Supervision. The Vice Chairman for Supervision shall develop policy recommendations for the Board regarding supervision and regulation of depository institution holding companies and other financial firms supervised by the Board, and shall oversee the supervision and regulation of such firms. The chairman of the Board, subject to its supervision, shall be its active executive officer. Each member of the Board shall within fifteen days after notice of appointment make and subscribe to the oath of office. Upon the expiration of their terms of office, members of the Board shall continue to serve until their successors are appointed and have qualified. Any person appointed as a member of the Board after the date of enactment of the Banking Act of 1935 shall not be eligible for reappointment as such member after he shall have served a full term of fourteen years.

The Board of Governors of the Federal Reserve System shall have power to levy semiannually upon the Federal reserve banks, in proportion to their capital stock and surplus, an assessment sufficient to pay its estimated expenses and the salaries of its members and employees for the half year succeeding the levying of such assessment, together with any deficit carried forward from the preceding half year, and such assessments may include amounts sufficient to provide for the acquisition by the Board in its own name of such site or building in the District of Columbia as in its judgment alone shall be necessary for the purpose of providing suitable and adequate quarters for the performance of its functions. After September 1, 2000, the Board may also use such assessments to acquire, in its own name, a site or building (in addition to the facilities existing on such date) to provide for the performance of the functions of the Board. After approving such plans, estimates, and specifications as it shall have caused to be prepared, the Board may, notwithstanding any other provision of law, cause to be constructed on any site so acquired by it a building or buildings suitable and adequate in its judgment for its purposes and proceed to take all such steps as it may deem necessary or appropriate in connection with the construction, equipment, and furnishing of such building or buildings. The Board may maintain, enlarge, or remodel any building or buildings so acquired or constructed and shall have sole control of such building or buildings and space therein.

The principal offices of the Board shall be in the District of Columbia. At meetings of the Board the chairman shall preside, and, in his absence, the vice chairman shall preside. In the absence of the chairman and the vice chairman, the Board shall elect a member to act as chairman pro tempore. The Board shall determine and prescribe the manner in which its obligations shall be incurred and its disbursements and expenses allowed and paid, and may leave on deposit in the Federal Reserve banks the proceeds of assessments levied upon them to defray its estimated expenses and the salaries of its members and employees, whose employment, compensation, leave, and expenses shall be governed solely by the provisions of this Act, specific amendments thereof, and rules and regulations of the Board not inconsistent therewith; and funds derived from such assessments shall not be construed to be Government funds or appropriated moneys. No member of the Board of Governors of the Federal Reserve System shall be an officer or director of any bank, banking institution, trust company, or Federal Reserve bank or hold stock in any bank, banking institution, or trust company; and before entering upon his duties as a member of the Board of Governors of the Federal Reserve System he shall certify under oath that he has complied with this requirement, and such certification shall be filed with the secretary of the Board. Whenever a vacancy shall occur, other than by expiration of term, among the six members of the Board of Governors of the Federal Reserve System appointed by the President as above provided, a successor shall be appointed by the President, by and with the advice and consent of the Senate, to fill such vacancy, and when appointed he shall hold office for the unexpired term of his predecessor.

The President shall have power to fill all vacancies that may happen on the Board of Governors of the Federal Reserve System during the recess of the Senate by granting commissions which shall expire with the next session of the Senate.

Nothing in this Act contained shall be construed as taking away any powers heretofore vested by law in the Secretary of the Treasury which relate to the supervision, management, and control of the Treasury Department and bureaus under such department, and wherever any power vested by this Act in the Board of Governors of the Federal Reserve System or the Federal reserve agent appears to conflict with the powers of the Secretary of the Treasury, such powers shall be exercised subject to the supervision and control of the Secretary.

The Board of Governors of the Federal Reserve System shall annually make a full report of its operations to the Speaker of the House of Representatives, who shall cause the same to be printed for the information of the Congress. The report required under this paragraph shall include the reports required under section 707 of the Equal Credit Opportunity Act, section 18(f)(7) of the Federal Trade Commission Act, section 114 of the Truth in Lending Act, and the tenth undesignated paragraph of this section.

No Federal Reserve bank may authorize the acquisition or construction of any branch building, or enter into any contract or other obligation for the acquisition or construction of any branch building, without the approval of the Board.

The Board of Governors of the Federal Reserve System shall keep a complete record of the action taken by the Board and by the

Federal Open Market Committee upon all questions of policy relating to open-market operations and shall record therein the votes taken in connection with the determination of open-market policies and the reasons underlying the action of the Board and the Committee in each instance. The Board shall keep a similar record with respect to all questions of policy determined by the Board, and shall include in its annual report to the Congress a full account of the action so taken during the preceding year with respect to open-market policies and operations and with respect to the policies determined by it and shall include in such report a copy of the records required to be kept under the provisions of this paragraph.

[(12)] (11) APPEARANCES BEFORE CONGRESS.—The Vice Chairman for Supervision shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives and at [semi-annual] *quarterly* hearings regarding the efforts, activities, objectives, and plans of the Board with respect to the conduct of supervision and regulation of depository institution holding companies and other financial firms supervised by the Board. *In each such appearance, the Vice Chairman for Supervision shall provide written testimony that includes the status of all pending and anticipated rulemakings that are being made by the Board of Governors of the Federal Reserve System. If, at the time of any appearance described in this paragraph, the position of Vice Chairman for Supervision is vacant, the Vice Chairman for the Board of Governors of the Federal Reserve System (who has the responsibility to serve in the absence of the Chairman) shall appear instead and provide the required written testimony. If, at the time of any appearance described in this paragraph, both Vice Chairman positions are vacant, the Chairman of the Board of Governors of the Federal Reserve System shall appear instead and provide the required written testimony.*

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SEC. 11. The Board of Governors of the Federal Reserve System shall be authorized and empowered:

(a)(1) To examine at its discretion the accounts, books and affairs of each Federal reserve bank and of each member bank and to require such statements and reports as it may deem necessary. The said board shall publish once each week a statement showing the condition of each Federal reserve bank and a consolidated statement for all Federal reserve banks. Such statements shall show in detail the assets and liabilities of the Federal reserve banks, single and combined, and shall furnish full information regarding the character of the money held as reserve and the amount, nature and maturities of the paper and other investments owned or held by Federal reserve banks.

(2) To require any depository institution specified in this paragraph to make, at such intervals as the Board may prescribe, such reports of its liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. Such reports shall be made (A) directly to the Board in the case of member banks and in the case of other depository institutions whose reserve requirements under section 19 of this Act exceed

zero, and (B) for all other reports to the Board through the (i) Federal Deposit Insurance Corporation in the case of insured State savings associations that are insured depository institutions (as defined in section 3 of the Federal Deposit Insurance Act), State non-member banks, savings banks, and mutual savings banks, (ii) National Credit Union Administration Board in the case of insured credit unions, (iii) the Comptroller of the Currency in the case of any Federal savings association which is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act) or which is a member as defined in section 2 of the Federal Home Loan Bank Act, and (iv) such State officer or agency as the Board may designate in the case of any other type of bank, savings association, or credit union. The Board shall endeavor to avoid the imposition of unnecessary burdens on reporting institutions and the duplication of other reporting requirements. Except as otherwise required by law, any data provided to any department, agency, or instrumentality of the United States pursuant to other reporting requirements shall be made available to the Board. The Board may classify depository institutions for the purposes of this paragraph and may impose different requirements on each such class.

(b) To permit, or, on the affirmative vote of at least five members of the Board of Governors of the Federal Reserve System to require Federal reserve banks to rediscount the discounted paper of other Federal reserve banks at rates of interest to be fixed by the Board of Governors of the Federal Reserve System.

(c) To suspend for a period not exceeding thirty days, and from time to time to renew such suspension for periods not exceeding fifteen days, any reserve requirements specified in this Act.

(d) To supervise and regulate through the Secretary of the Treasury the issue and retirement of Federal reserve notes, except for the cancellation and destruction, and accounting with respect to such cancellation and destruction, of notes unfit for circulation, and to prescribe rules and regulations under which such notes may be delivered by the Secretary of the Treasury to the Federal reserve agents applying therefor.

(e) To add to the number of cities classified as Reserve cities under existing law in which national banking associations are subject to the Reserve requirements set forth in section twenty of this Act; or to reclassify existing Reserve cities or to terminate their designation as such.

(f) To suspend or remove any officer or director of any Federal reserve bank, the cause of such removal to be forthwith communicated in writing by the Board of Governors of the Federal Reserve System to the removed officer or director and to said bank.

(g) To require the writing off of doubtful or worthless assets upon the books and balance sheets of Federal reserve banks.

(h) To suspend, for the violation of any of the provisions of this Act, the operations of any Federal reserve bank, to take possession thereof, administer the same during the period of suspension, and, when deemed advisable, to liquidate or reorganize such bank.

(i) To require bonds of Federal reserve agents, to make regulations for the safeguarding of all collateral, bonds, Federal reserve notes, money or property of any kind deposited in the hands of such agents, and said board shall perform the duties, functions, or

services specified in this Act, and make all rules and regulations necessary to enable said board effectively to perform the same.

(j) To exercise general supervision over said Federal reserve banks.

(k) To delegate, by published order or rule and subject to the Administrative Procedure Act, any of its functions, other than those relating to rulemaking or pertaining principally to monetary and credit policies, to one or more administrative law judges, members or employees of the Board, or Federal Reserve banks. The assignment of responsibility for the performance of any function that the Board determines to delegate shall be a function of the Chairman. The Board shall, upon the vote of one member, review action taken at a delegated level within such time and in such manner as the Board shall by rule prescribe. The Board of Governors may not delegate to a Federal reserve bank its functions for the establishment of policies for the supervision and regulation of depository institution holding companies and other financial firms supervised by the Board of Governors.

(l) To employ such attorneys, experts, assistants, clerks, or other employees as may be deemed necessary to conduct the business of the board. All salaries and fees shall be fixed in advance by said board and shall be paid in the same manner as the salaries of the members of said board. All such attorneys, experts, assistants, clerks, and other employees shall be appointed without regard to the provisions of the Act of January sixteenth, eighteen hundred and eighty-three (volume twenty-two, United States Statutes at Large, page four hundred and three), and amendments thereto, or any rule or regulation made in pursuance thereof: *Provided*, That nothing herein shall prevent the President from placing said employees in the classified service. *Each member of the Board of Governors of the Federal Reserve System may employ, at a minimum, 2 individuals, with such individuals selected by such member and the salaries of such individuals set by such member. A member may employ additional individuals as determined necessary by the Board of Governors.*

(m) *CONSIDERATION OF ECONOMIC IMPACTS.—*

(1) *IN GENERAL.—Before issuing any regulation, the Board of Governors of the Federal Reserve System shall—*

(A) *clearly identify the nature and source of the problem that the proposed regulation is designed to address and assess the significance of that problem;*

(B) *assess whether any new regulation is warranted or, with respect to a proposed regulation that the Board of Governors is required to issue by statute and with respect to which the Board has the authority to exempt certain persons from the application of such regulation, compare—*

(i) *the costs and benefits of the proposed regulation; and*

(ii) *the costs and benefits of a regulation under which the Board exempts all persons from the application of the proposed regulation, to the extent the Board is able;*

(C) *assess the qualitative and quantitative costs and benefits of the proposed regulation and propose or adopt a regulation only on a reasoned determination that the benefits*

of the proposed regulation outweigh the costs of the regulation;

(D) identify and assess available alternatives to the proposed regulation that were considered, including any alternative offered by a member of the Board of Governors of the Federal Reserve System or the Federal Open Market Committee and including any modification of an existing regulation, together with an explanation of why the regulation meets the regulatory objectives more effectively than the alternatives; and

(E) ensure that any proposed regulation is accessible, consistent, written in plain language, and easy to understand and shall measure, and seek to improve, the actual results of regulatory requirements.

(2) CONSIDERATIONS AND ACTIONS.—

(A) *REQUIRED ACTIONS.*—In deciding whether and how to regulate, the Board shall assess the costs and benefits of available regulatory alternatives, including the alternative of not regulating, and choose the approach that maximizes net benefits. Specifically, the Board shall—

(i) evaluate whether, consistent with achieving regulatory objectives, the regulation is tailored to impose the least impact on the availability of credit and economic growth and to impose the least burden on society, including market participants, individuals, businesses of different sizes, and other entities (including State and local governmental entities), taking into account, to the extent practicable, the cumulative costs of regulations;

(ii) evaluate whether the regulation is inconsistent, incompatible, or duplicative of other Federal regulations; and

(iii) with respect to a proposed regulation that the Board is required to issue by statute and with respect to which the Board has the authority to exempt certain persons from the application of such regulation, compare—

(I) the costs and benefits of the proposed regulation; and

(II) the costs and benefits of a regulation under which the Board exempts all persons from the application of the proposed regulation, to the extent the Board is able.

(B) *ADDITIONAL CONSIDERATIONS.*—In addition, in making a reasoned determination of the costs and benefits of a proposed regulation, the Board shall, to the extent that each is relevant to the particular proposed regulation, take into consideration the impact of the regulation, including secondary costs such as an increase in the cost or a reduction in the availability of credit or investment services or products, on—

(i) the safety and soundness of the United States banking system;

(ii) market liquidity in securities markets;

(iii) small businesses;

- (iv) community banks;
- (v) economic growth;
- (vi) cost and access to capital;
- (vii) market stability;
- (viii) global competitiveness;
- (ix) job creation;
- (x) the effectiveness of the monetary policy transmission mechanism; and
- (xi) employment levels.

(3) *EXPLANATION AND COMMENTS.*—The Board shall explain in its final rule the nature of comments that it received and shall provide a response to those comments in its final rule, including an explanation of any changes that were made in response to those comments and the reasons that the Board did not incorporate concerns related to the potential costs or benefits in the final rule.

(4) *POSTADOPTION IMPACT ASSESSMENT.*—

(A) *IN GENERAL.*—Whenever the Board adopts or amends a regulation designated as a “major rule” within the meaning of section 804(2) of title 5, United States Code, it shall state, in its adopting release, the following:

(i) The purposes and intended consequences of the regulation.

(ii) The assessment plan that will be used, consistent with the requirements of subparagraph (B), to assess whether the regulation has achieved the stated purposes.

(iii) Appropriate postimplementation quantitative and qualitative metrics to measure the economic impact of the regulation and the extent to which the regulation has accomplished the stated purpose of the regulation.

(iv) Any reasonably foreseeable indirect effects that may result from the regulation.

(B) *REQUIREMENTS OF ASSESSMENT PLAN AND REPORT.*—

(i) *REQUIREMENTS OF PLAN.*—The assessment plan required under this paragraph shall consider the costs, benefits, and intended and unintended consequences of the regulation. The plan shall specify the data to be collected, the methods for collection and analysis of the data, and a date for completion of the assessment. The assessment plan shall include an analysis of any jobs added or lost as a result of the regulation, differentiating between public and private sector jobs.

(ii) *SUBMISSION AND PUBLICATION OF REPORT.*—The Board shall, not later than 2 years after the publication of the adopting release, publish the assessment plan in the Federal Register for notice and comment. If the Board determines, at least 90 days before the deadline for publication of the assessment plan, that an extension is necessary, the Board shall publish a notice of such extension and the specific reasons why the extension is necessary in the Federal Register. Any material modification of the assessment plan, as necessary to assess unforeseen aspects or consequences of

the regulation, shall be promptly published in the Federal Register for notice and comment.

(iii) *DATA COLLECTION NOT SUBJECT TO NOTICE AND COMMENT REQUIREMENTS.—If the Board has published the assessment plan for notice and comment at least 30 days before the adoption of a regulation designated as a major rule, the collection of data under the assessment plan shall not be subject to the notice and comment requirements in section 3506(c) of title 44, United States Code (commonly referred to as the Paperwork Reduction Act). Any material modification of the plan that requires collection of data not previously published for notice and comment shall also be exempt from such requirements if the Board has published notice in the Federal Register for comment on the additional data to be collected, at least 30 days before the initiation of data collection.*

(iv) *FINAL ACTION.—Not later than 180 days after publication of the assessment plan in the Federal Register, the Board shall issue for notice and comment a proposal to amend or rescind the regulation, or shall publish a notice that the Board has determined that no action will be taken on the regulation. Such a notice will be deemed a final agency action.*

(5) *COVERED REGULATIONS AND OTHER ACTIONS.—Solely as used in this subsection, the term “regulation”—*

(A) means a statement of general applicability and future effect that is designed to implement, interpret, or prescribe law or policy, or to describe the procedure or practice requirements of the Board of Governors, including rules, orders of general applicability, interpretive releases, and other statements of general applicability that the Board of Governors intends to have the force and effect of law; and

(B) does not include—

(i) a regulation issued in accordance with the formal rulemaking provisions of section 556 or 557 of title 5, United States Code;

(ii) a regulation that is limited to the organization, management, or personnel matters of the Board of Governors;

(iii) a regulation promulgated pursuant to statutory authority that expressly prohibits compliance with this provision; or

(iv) a regulation that is certified by the Board of Governors to be an emergency action, if such certification is published in the Federal Register.

(n) *To examine, at the Board’s discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act.*

(o) *AUTHORITY TO APPOINT CONSERVATOR OR RECEIVER.—The Board may appoint the Federal Deposit Insurance Corporation as conservator or receiver for a State member bank under section 11(c)(9) of the Federal Deposit Insurance Act.*

(p) **AUTHORITY.**—The Board may act in its own name and through its own attorneys in enforcing any provision of this title, regulations promulgated hereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Board is a party and which involves the Board's regulation or supervision of any bank, bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956), or other entity, or the administration of its operations.

(q) **UNIFORM PROTECTION AUTHORITY FOR FEDERAL RESERVE FACILITIES.**—

(1) Notwithstanding any other provision of law, to authorize personnel to act as law enforcement officers to protect and safeguard the premises, grounds, property, personnel, including members of the Board, of the Board, or any Federal reserve bank, and operations conducted by or on behalf of the Board or a reserve bank.

(2) The Board may, subject to the regulations prescribed under paragraph (5), delegate authority to a Federal reserve bank to authorize personnel to act as law enforcement officers to protect and safeguard the bank's premises, grounds, property, personnel, and operations conducted by or on behalf of the bank.

(3) Law enforcement officers designated or authorized by the Board or a reserve bank under paragraph (1) or (2) are authorized while on duty to carry firearms and make arrests without warrants for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States committed or being committed within the buildings and grounds of the Board or a reserve bank if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony. Such officers shall have access to law enforcement information that may be necessary for the protection of the property or personnel of the Board or a reserve bank.

(4) For purposes of this subsection, the term "law enforcement officers" means personnel who have successfully completed law enforcement training and are authorized to carry firearms and make arrests pursuant to this subsection.

(5) The law enforcement authorities provided for in this subsection may be exercised only pursuant to regulations prescribed by the Board and approved by the Attorney General.

(r)(1) Any action that this Act provides may be taken only upon the affirmative vote of 5 members of the Board may be taken upon the unanimous vote of all members then in office if there are fewer than 5 members in office at the time of the action.

(2)(A) Any action that the Board is otherwise authorized to take under section 13(3) may be taken upon the unanimous vote of all available members then in office, if—

(i) at least 2 members are available and all available members participate in the action;

(ii) the available members unanimously determine that—

(I) unusual and exigent circumstances exist and the borrower is unable to secure adequate credit accommodations from other sources;

(II) action on the matter is necessary to prevent, correct, or mitigate serious harm to the economy or the stability of the financial system of the United States;

(III) despite the use of all means available (including all available telephonic, telegraphic, and other electronic means), the other members of the Board have not been able to be contacted on the matter; and

(IV) action on the matter is required before the number of Board members otherwise required to vote on the matter can be contacted through any available means (including all available telephonic, telegraphic, and other electronic means)【; and】;

(iii) any credit extended by a Federal reserve bank pursuant to such action is payable upon demand of the Board【.】; and

(iv) *the available members secure the affirmative vote of not less than nine presidents of the Federal reserve banks.*

(B) The available members of the Board shall document in writing the determinations required by subparagraph (A)(ii), and such written findings shall be included in the record of the action and in the official minutes of the Board, and copies of such record shall be provided as soon as practicable to the members of the Board who were not available to participate in the action and to the Chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate and to the Chairman of the Committee on Financial Services of the House of Representatives.

(s) FEDERAL RESERVE TRANSPARENCY AND RELEASE OF INFORMATION.—

In general.—

(1) In order to ensure the disclosure in a timely manner consistent with the purposes of this Act of information concerning the borrowers and counterparties participating in emergency credit facilities, discount window lending programs, and open market operations authorized or conducted by the Board or a Federal reserve bank, the Board of Governors shall disclose, as provided in paragraph (2)—

(A) the names and identifying details of each borrower, participant, or counterparty in any credit facility or covered transaction;

(B) the amount borrowed by or transferred by or to a specific borrower, participant, or counterparty in any credit facility or covered transaction;

(C) the interest rate or discount paid by each borrower, participant, or counterparty in any credit facility or covered transaction; and

(D) information identifying the types and amounts of collateral pledged or assets transferred in connection with participation in any credit facility or covered transaction.

(2) MANDATORY RELEASE DATE.—In the case of—

(A) a credit facility, the Board shall disclose the information described in paragraph (1) on the date that is 1 year after the effective date of the termination by the Board of the authorization of the credit facility; and

(B) a covered transaction, the Board shall disclose the information described in paragraph (1) on the last day of

the eighth calendar quarter following the calendar quarter in which the covered transaction was conducted.

(3) EARLIER RELEASE DATE AUTHORIZED.—The Chairman of the Board may publicly release the information described in paragraph (1) before the relevant date specified in paragraph (2), if the Chairman determines that such disclosure would be in the public interest and would not harm the effectiveness of the relevant credit facility or the purpose or conduct of covered transactions.

(4) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

Credit facility.—

(A) The term “credit facility” [has the same meaning as in section 714(f)(1)(A) of title 31, United States Code] *means a program or facility, including any special purpose vehicle or other entity established by or on behalf of the Board of Governors of the Federal Reserve System or a Federal reserve bank, authorized by the Board of Governors under section 13(3), that is not subject to audit under section 714(e) of title 31, United States Code.*

(B) COVERED TRANSACTION.—The term “covered transaction” means—

- (i) any open market transaction with a nongovernmental third party conducted under the first undesignated paragraph of section 14 or subparagraph (a), (b), or (c) of the 2nd undesignated paragraph of such section, after the date of enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act; and
- (ii) any advance made under section 10B after the date of enactment of that Act.

(5) TERMINATION OF CREDIT FACILITY BY OPERATION OF LAW.—A credit facility shall be deemed to have terminated as of the end of the 24-month period beginning on the date on which the credit facility ceases to make extensions of credit and loans, unless the credit facility is otherwise terminated by the Board before such date.

(6) CONSISTENT TREATMENT OF INFORMATION.—Except as provided in this subsection or section 13(3)(D), [or in section 714(f)(3)(C) of title 31, United States Code, the information described in paragraph (1) and information concerning the transactions described in section 714(f) of such title,] *the information described in paragraph (1) shall be confidential, including for purposes of section 552(b)(3) of title 5 of such Code, until the relevant mandatory release date described in paragraph (2), unless the Chairman of the Board determines that earlier disclosure of such information would be in the public interest and would not harm the effectiveness of the relevant credit facility or the purpose of conduct of the relevant transactions.*

(7) PROTECTION OF PERSONAL PRIVACY.—This subsection [and section 13(3)(C), section 714(f)(3)(C) of title 31, United States Code, and], *section 13(3)(C), and subsection (a) or (c) of section 1109 of the Dodd-Frank Wall Street Reform and Consumer Protection Act shall not be construed as requiring any disclosure of nonpublic personal information (as defined for*

purposes of section 502 of the Gramm-Leach-Bliley Act (12 U.S.C. 6802)) concerning any individual who is referenced in collateral pledged or assets transferred in connection with a credit facility or covered transaction, unless the person is a borrower, participant, or counterparty under the credit facility or covered transaction.

(8) STUDY OF FOIA EXEMPTION IMPACT.—

(A) STUDY.—The Inspector General of the Board of Governors of the Federal Reserve System shall—

(i) conduct a study on the impact that the exemption from section 552(b)(3) of title 5 (known as the Freedom of Information Act) established under paragraph (6) has had on the ability of the public to access information about the administration by the Board of Governors of emergency credit facilities, discount window lending programs, and open market operations; and

(ii) make any recommendations on whether the exemption described in clause (i) should remain in effect.

(B) REPORT.—Not later than 30 months after the date of enactment of this section, the Inspector General of the Board of Governors of the Federal Reserve System shall submit a report on the findings of the study required under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, and publish the report on the website of the Board.

(9) RULE OF CONSTRUCTION.—Nothing in this section is meant to affect any pending litigation or lawsuit filed under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act), on or before the date of enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

[(s)] (t) ASSESSMENTS, FEES, AND OTHER CHARGES FOR CERTAIN COMPANIES.—

(1) IN GENERAL.—The Board shall collect a total amount of assessments, fees, or other charges from the companies described in paragraph (2) that is equal to the total expenses the Board estimates are necessary or appropriate to carry out the supervisory and regulatory responsibilities of the Board with respect to such companies.

(2) COMPANIES.—The companies described in this paragraph are—

(A) all bank holding companies having total consolidated assets of \$50,000,000,000 or more;

(B) all savings and loan holding companies having total consolidated assets of \$50,000,000,000 or more; and

(C) all nonbank financial companies supervised by the Board under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

(u) ETHICS STANDARDS FOR MEMBERS AND EMPLOYEES.—

(1) PROHIBITED AND RESTRICTED FINANCIAL INTERESTS AND TRANSACTIONS.—*The members and employees of the Board of Governors of the Federal Reserve System shall be subject to the provisions under section 4401.102 of title 5, Code of Federal*

Regulations, to the same extent as such provisions apply to an employee of the Securities and Exchange Commission.

(2) **TREATMENT OF BROKERAGE ACCOUNTS AND AVAILABILITY OF ACCOUNT STATEMENTS.**—*The members and employees of the Board of Governors of the Federal Reserve System shall—*

(A) *disclose all brokerage accounts that they maintain, as well as those in which they control trading or have a financial interest (including managed accounts, trust accounts, investment club accounts, and the accounts of spouses or minor children who live with the member or employee); and*

(B) *with respect to any securities account that the member or employee is required to disclose to the Board of Governors, authorize their brokers and dealers to send duplicate account statements directly to Board of Governors.*

(3) **PROHIBITIONS RELATED TO OUTSIDE EMPLOYMENT AND ACTIVITIES.**—*The members and employees of the Board of Governors of the Federal Reserve System shall be subject to the prohibitions related to outside employment and activities described under section 4401.103(c) of title 5, Code of Federal Regulations, to the same extent as such prohibitions apply to an employee of the Securities and Exchange Commission.*

(4) **ADDITIONAL ETHICS STANDARDS.**—*The members and employees of the Board of Governors of the Federal Reserve System shall be subject to—*

(A) *the employee responsibilities and conduct regulations of the Office of Personnel Management under part 735 of title 5, Code of Federal Regulations;*

(B) *the canons of ethics contained in subpart C of part 200 of title 17, Code of Federal Regulations, to the same extent as such subpart applies to the employees of the Securities and Exchange Commission; and*

(C) *the regulations concerning the conduct of members and employees and former members and employees contained in subpart M of part 200 of title 17, Code of Federal Regulations, to the same extent as such subpart applies to the employees of the Securities and Exchange Commission.*

(v) **DISCLOSURE OF STAFF SALARIES AND FINANCIAL INFORMATION.**—*The Board of Governors of the Federal Reserve System shall make publicly available, on the website of the Board of Governors, a searchable database that contains the names of all members, officers, and employees of the Board of Governors who receive an annual salary in excess of the annual rate of basic pay for GS-15 of the General Schedule, and—*

(1) *the yearly salary information for such individuals, along with any nonsalary compensation received by such individuals; and*

(2) *any financial disclosures required to be made by such individuals.*

(w) **INTERNATIONAL PROCESSES.**—

(1) **NOTICE OF PROCESS; CONSULTATION.**—*At least 30 calendar days before any member or employee of the Board of Governors of the Federal Reserve System participates in a process of setting financial standards as a part of any foreign or multinational entity, the Board of Governors shall—*

(A) issue a notice of the process, including the subject matter, scope, and goals of the process, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

(B) make such notice available to the public, including on the website of the Board of Governors; and

(C) solicit public comment, and consult with the committees described under subparagraph (A), with respect to the subject matter, scope, and goals of the process.

(2) **PUBLIC REPORTS ON PROCESS.**—After the end of any process described under paragraph (1), the Board of Governors shall issue a public report on the topics that were discussed during the process and any new or revised rulemakings or policy changes that the Board of Governors believes should be implemented as a result of the process.

(3) **NOTICE OF AGREEMENTS; CONSULTATION.**—At least 90 calendar days before any member or employee of the Board of Governors of the Federal Reserve System participates in a process of setting financial standards as a part of any foreign or multinational entity, the Board of Governors shall—

(A) issue a notice of agreement to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

(B) make such notice available to the public, including on the website of the Board of Governors; and

(C) consult with the committees described under subparagraph (A) with respect to the nature of the agreement and any anticipated effects such agreement will have on the economy.

(4) **DEFINITION.**—For purposes of this subsection, the term “process” shall include any official proceeding or meeting on financial regulation of a recognized international organization with authority to set financial standards on a global or regional level, including the Financial Stability Board, the Basel Committee on Banking Supervision (or a similar organization), and the International Association of Insurance Supervisors (or a similar organization).

* * * * *

SEC. 12A. (a) There is hereby created a Federal Open Market Committee (hereinafter referred to as the “Committee”), which shall consist of the members of the Board of Governors of the Federal Reserve System and ~~five~~ six representatives of the Federal Reserve banks to be selected as hereinafter provided. Such representatives shall be presidents or first vice presidents of Federal Reserve banks and, beginning with the election for the term commencing March 1, 1943, shall be elected annually as follows: **[One by the board of directors of the Federal Reserve Bank of New York, one by the boards of directors of the Federal Reserve Banks of Boston, Philadelphia, and Richmond, one by the boards of directors of the Federal Reserve Banks of Cleveland and Chicago, one by the boards of directors of the Federal Reserve Banks of Atlanta, Dallas, and St. Louis, and one by the boards of directors of the Federal Reserve Banks of Minneapolis, Kansas City, and San Francisco.] One**

by the boards of directors of the Federal Reserve Banks of New York and Boston; one by the boards of directors of the Federal Reserve Banks of Philadelphia and Cleveland; one by the boards of directors of the Federal Reserve Banks of Richmond and Atlanta; one by the boards of directors of the Federal Reserve Banks of Chicago and St. Louis; one by the boards of directors of the Federal Reserve Banks of Minneapolis and Kansas City; and one by the boards of directors of the Federal Reserve Banks of Dallas and San Francisco. In odd numbered calendar years, one representative shall be elected from each of the Federal Reserve Banks of Boston, Philadelphia, Richmond, Chicago, Minneapolis, and Dallas. In even-numbered calendar years, one representative shall be elected from each of the Federal Reserve Banks of New York, Cleveland, Atlanta, St. Louis, Kansas City, and San Francisco. In such elections each board of directors shall have one vote; and the details of such elections may be governed by regulations prescribed by the committee, which may be amended from time to time. An alternate to serve in the absence of each such representative shall likewise be a president or first vice president of a Federal Reserve bank and shall be elected annually in the same manner. The meetings of said Committee shall be held at Washington, District of Columbia, at least four times each year upon the call of the chairman of the Board of Governors of the Federal Reserve System or at the request of any three members of the Committee.

(b) No Federal Reserve bank shall engage or decline to engage in open-market operations under section 14 of this Act except in accordance with the direction of and regulations adopted by the Committee. The Committee shall consider, adopt, and transmit to the several Federal Reserve banks, regulations relating to the open-market transactions of such banks.

(c) The time, character, and volume of all purchases and sales of paper described in section 14 of this Act as eligible for open-market operations shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.

(d) *BLACKOUT PERIOD.*—

(1) *IN GENERAL.*—*During a blackout period, the only public communications that may be made by members and staff of the Committee with respect to macroeconomic or financial developments or about current or prospective monetary policy issues are the following:*

(A) *The dissemination of published data, surveys, and reports that have been cleared for publication by the Board of Governors of the Federal Reserve System.*

(B) *Answers to technical questions specific to a data release.*

(C) *Communications with respect to the prudential or supervisory functions of the Board of Governors.*

(2) *BLACKOUT PERIOD DEFINED.*—*For purposes of this subsection, and with respect to a meeting of the Committee described under subsection (a), the term “blackout period” means the time period that—*

(A) *begins immediately after midnight on the day that is one week prior to the date on which such meeting takes place; and*

(B) ends at midnight on the day after the date on which such meeting takes place.

(3) EXEMPTION FOR CHAIRMAN OF THE BOARD OF GOVERNORS.—Nothing in this section shall prohibit the Chairman of the Board of Governors of the Federal Reserve System from participating in or issuing public communications.

POWERS OF FEDERAL RESERVE BANKS.

SEC. 13. Any Federal reserve bank may receive from any of its member banks or other depository institutions, and from the United States, deposits of current funds in lawful money, national-bank notes, Federal reserve notes, or checks, and drafts, payable upon presentation or other items, and also, for collection, maturing notes and bills; or, solely for purposes of exchange or of collection, may receive from other Federal reserve banks deposits of current funds in lawful money, national-bank notes, or checks upon other Federal reserve banks, and checks and drafts, payable upon presentation within its district or other items, and maturing notes and bills payable within its district; or, solely for the purposes of exchange or of collection, may receive from any nonmember bank or trust company or other depository institution deposits of current funds in lawful money, national-bank notes, Federal reserve notes, checks and drafts payable upon presentation or other items, or maturing notes and bills: *Provided*, Such nonmember bank or trust company or other depository institution maintains with the Federal reserve bank of its district a balance in such amount as the Board determines taking into account items in transit, services provided by the Federal Reserve bank, and other factors as the Board may deem appropriate: *Provided further*, That nothing in this or any other section of this Act shall be construed as prohibiting a member or nonmember bank or other depository institution from making reasonable charges, to be determined and regulated by the Board of Governors of the Federal Reserve System, but in no case to exceed 10 cents per \$100 or fraction thereof, based on the total of checks and drafts presented at any one time, for collection or payment of checks and drafts and remission therefor by exchange or otherwise; but no such charges shall be made against the Federal reserve banks.

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice and protest by such bank as to its own indorsement exclusively, any Federal reserve bank may discount notes, drafts, and bills of exchange arising out of actual commercial transactions; that is, notes, drafts, and bills of exchange issued or drawn for agricultural, industrial, or commercial purposes, or the proceeds of which have been used, or are to be used, for such purposes, the Board of Governors of the Federal Reserve System to have the right to determine or define the character of the paper thus eligible for discount, within the meaning of this Act. Nothing in this Act contained shall be construed to prohibit such notes, drafts, and bills of exchange, secured by staple agricultural products, or other goods, wares, or merchandise from being eligible for such discount, and the notes, drafts, and bills of exchange of factors issued as such making advances exclusively to producers of staple agricultural products in their raw state shall be eligible for such discount; but such definition shall not include

notes, drafts, or bills covering merely investments or issued or drawn for the purpose of carrying or trading in stocks, bonds, or other investment securities, except bonds and notes of the Government of the United States. Notes, drafts, and bills admitted to discount under the terms of this paragraph must have a maturity at the time of discount of not more than 90 days, exclusive of grace.

(3)(A) In unusual and exigent circumstances *that pose a threat to the financial stability of the United States*, the Board of Governors of the Federal Reserve System, by the affirmative vote of not less than five members *and by the affirmative vote of not less than nine presidents of the Federal reserve banks*, may authorize any Federal reserve bank, during such periods as the said board may determine, at rates established in accordance with the provisions of section 14, subdivision (d), of this Act, to discount for any *financial institution* participant in any program or facility with broad-based eligibility, notes, drafts, and bills of exchange when such notes, drafts, and bills of exchange are indorsed or otherwise secured to the satisfaction of the Federal Reserve bank: *Provided*, That before discounting any such note, draft, or bill of exchange, the Federal reserve bank shall obtain evidence that such *financial institution* participant in any program or facility with broad-based eligibility is unable to secure adequate credit accommodations from other banking institutions. All such discounts for any *financial institution* participant in any program or facility with broad-based eligibility shall be subject to such limitations, restrictions, and regulations as the Board of Governors of the Federal Reserve System may prescribe.

(B)(i) As soon as is practicable after the date of enactment of this subparagraph, the Board shall establish, by regulation, in consultation with the Secretary of the Treasury, the policies and procedures governing emergency lending under this paragraph. Such policies and procedures shall be designed to ensure that any emergency lending program or facility is for the purpose of providing liquidity to the financial system, and not to aid a failing financial company, and that the security for emergency loans is sufficient to protect taxpayers from losses and that any such program is terminated in a timely and orderly fashion. The policies and procedures established by the Board shall require that a Federal reserve bank assign, consistent with sound risk management practices and to ensure protection for the taxpayer, a lendable value to all collateral for a loan executed by a Federal reserve bank under this paragraph in determining whether the loan is secured satisfactorily for purposes of this paragraph. *Federal reserve banks may not accept equity securities issued by the recipient of any loan or other financial assistance under this paragraph as collateral. Not later than 6 months after the date of enactment of this sentence, the Board shall, by rule, establish—*

(I) *a method for determining the sufficiency of the collateral required under this paragraph;*

(II) *acceptable classes of collateral;*

(III) *the amount of any discount of such value that the Federal reserve banks will apply for purposes of*

calculating the sufficiency of collateral under this paragraph; and

(IV) a method for obtaining independent appraisals of the value of collateral the Federal reserve banks receive.

(ii) The Board shall establish procedures to prohibit borrowing from programs and facilities by borrowers that are insolvent. [Such procedures may include a certification from the chief executive officer (or other authorized officer) of the borrower, at the time the borrower initially borrows under the program or facility (with a duty by the borrower to update the certification if the information in the certification materially changes), that the borrower is not insolvent.] *A borrower shall not be eligible to borrow from any emergency lending program or facility unless the Board and all federal banking regulators with jurisdiction over the borrower certify that, at the time the borrower initially borrows under the program or facility, the borrower is not insolvent.* A borrower shall be considered insolvent for purposes of this subparagraph, if the borrower is in bankruptcy, resolution under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or any other Federal or State insolvency proceeding.

(iii) A program or facility that is structured to remove assets from the balance sheet of a single and specific company, or that is established for the purpose of assisting a single and specific company avoid bankruptcy, resolution under title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, or any other Federal or State insolvency proceeding, shall not be considered a program or facility with broad-based eligibility.

(iv) The Board may not establish any program or facility under this paragraph without the prior approval of the Secretary of the Treasury.

(C) The Board shall provide to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives—

(i) not later than 7 days after the Board authorizes any loan or other financial assistance under this paragraph, a report that includes—

(I) the justification for the exercise of authority to provide such assistance;

(II) the identity of the recipients of such assistance;

(III) the date and amount of the assistance, and form in which the assistance was provided; and

(IV) the material terms of the assistance, including—

(aa) duration;

(bb) collateral pledged and the value thereof;

(cc) all interest, fees, and other revenue or items of value to be received in exchange for the assistance;

(dd) any requirements imposed on the recipient with respect to employee compensation, distribu-

tion of dividends, or any other corporate decision in exchange for the assistance; and

(ee) the expected costs to the taxpayers of such assistance; and

(ii) once every 30 days, with respect to any outstanding loan or other financial assistance under this paragraph, written updates on—

(I) the value of collateral;

(II) the amount of interest, fees, and other revenue or items of value received in exchange for the assistance; and

(III) the expected or final cost to the taxpayers of such assistance.

(D) The information required to be submitted to Congress under subparagraph (C) related to—

(i) the identity of the *financial institution* participants in an emergency lending program or facility commenced under this paragraph;

(ii) the amounts borrowed by each *financial institution* participant in any such program or facility;

(iii) identifying details concerning the assets or collateral held by, under, or in connection with such a program or facility,

shall be kept confidential, upon the written request of the Chairman of the Board, in which case such information shall be made available only to the Chairpersons or Ranking Members of the Committees described in subparagraph (C).

(E) If an entity to which a Federal reserve bank has provided a loan under this paragraph becomes a covered financial company, as defined in section 201 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, at any time while such loan is outstanding, and the Federal reserve bank incurs a realized net loss on the loan, then the Federal reserve bank shall have a claim equal to the amount of the net realized loss against the covered entity, with the same priority as an obligation to the Secretary of the Treasury under section 210(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

(F) *PENALTY RATE.*—

(i) *IN GENERAL.*—*Not later than 6 months after the date of enactment of this subparagraph, the Board shall, with respect to a recipient of any loan or other financial assistance under this paragraph, establish by rule a minimum interest rate on the principal amount of any loan or other financial assistance.*

(ii) *MINIMUM INTEREST RATE DEFINED.*—*In this subparagraph, the term “minimum interest rate” shall mean the sum of—*

(I) *the average of the secondary discount rate of all Federal Reserve banks over the most recent 90-day period; and*

(II) *the average of the difference between a distressed corporate bond yield index (as defined by rule of the Board) and a bond yield index of debt issued by the*

United States (as defined by rule of the Board) over the most recent 90-day period.

(G) *FINANCIAL INSTITUTION PARTICIPANT DEFINED.—For purposes of this paragraph, the term “financial institution participant”—*

(i) means a company that is predominantly engaged in financial activities (as defined in section 102(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5311(a))); and

(ii) does not include an agency described in subparagraph (W) of section 5312(a)(2) of title 31, United States Code, or an entity controlled or sponsored by such an agency.

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice, and protest by such bank as to its own indorsement exclusively, and subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, any Federal reserve bank may discount or purchase bills of exchange payable at sight or on demand which grow out of the domestic shipment or the exportation of nonperishable, readily marketable agricultural and other staples and are secured by bills of lading or other shipping documents conveying or securing title to such staples: *Provided*, That all such bills of exchange shall be forwarded promptly for collection, and demand for payment shall be made with reasonable promptness after the arrival of such staples at their destination: *Provided further*, That no such bill shall in any event be held by or for the account of a Federal reserve bank for a period in excess of ninety days. In discounting such bills Federal reserve banks may compute the interest to be deducted on the basis of the estimated life of each bill and adjust the discount after payment of such bills to conform to the actual life thereof.

The aggregate of notes, drafts, and bills upon which any person, copartnership, association, or corporation is liable as maker, acceptor, indorser, drawer, or guarantor, rediscounted for any member bank, shall at no time exceed the amount for which such person, copartnership, association, or corporation may lawfully become liable to a national banking association under the terms of section 5200 of the Revised Statutes, as amended: *Provided, however*, That nothing in this paragraph shall be construed to change the character or class of paper now eligible for rediscount by Federal reserve banks.

Any Federal reserve bank may discount acceptances of the kinds hereinafter described, which have a maturity at the time of discount of not more than 90 days' sight, exclusive of days of grace, and which are indorsed by at least one member bank: *Provided*, That such acceptances if drawn for an agricultural purpose and secured at the time of acceptance by warehouse receipts or other such documents conveying or securing title covering readily marketable staples may be discounted with a maturity at the time of discount of not more than six months' sight exclusive of days of grace.

(7)(A) Any member bank and any Federal or State branch or agency of a foreign bank subject to reserve requirements under section 7 of the International Banking Act of 1978 (hereinafter in this paragraph referred to as “institutions”), may accept drafts or bills

of exchange drawn upon it having not more than six months' sight to run, exclusive of days of grace—

(i) which grow out of transactions involving the importation or exportation of goods;

(ii) which grow out of transactions involving the domestic shipment of goods; or

(iii) which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title covering readily marketable staples.

(B) Except as provided in subparagraph (C), no institution shall accept such bills, or be obligated for a participation share in such bills, in an amount equal at any time in the aggregate to more than 150 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H).

(C) The Board, under such conditions as it may prescribe, may authorize, by regulation or order, any institution to accept such bills, or be obligated for a participation share in such bills, in an amount not exceeding at any time in the aggregate 200 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H).

(D) Notwithstanding subparagraphs (B) and (C), with respect to any institution, the aggregate acceptances, including obligations for a participation share in such acceptances, growing out of domestic transactions shall not exceed 50 per centum of the aggregate of all acceptances, including obligations for a participation share in such acceptances, authorized for such institution under this paragraph.

(E) No institution shall accept bills, or be obligated for a participation share in such bills, whether in a foreign or domestic transaction, for any one person, partnership, corporation, association or other entity in an amount equal at any time in the aggregate to more than 10 per centum of its paid up and unimpaired capital stock and surplus, or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H), unless the institution is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance.

(F) With respect to an institution which issues an acceptance, the limitations contained in this paragraph shall not apply to that portion of an acceptance which is issued by such institution and which is covered by a participation agreement sold to another institution.

(G) In order to carry out the purposes of this paragraph, the Board may define any of the terms used in this paragraph, and, with respect to institutions which do not have capital or capital stock, the Board shall define an equivalent measure to which the limitations contained in this paragraph shall apply.

(H) Any limitation or restriction in this paragraph based on paid-up and unimpaired capital stock and surplus of an institution shall be deemed to refer, with respect to a United States branch or agency of a foreign bank, to the dollar equivalent of the paid-up capital stock and surplus of the foreign bank, as determined by the Board, and if the foreign bank has more than one United States branch

or agency, the business transacted by all such branches and agencies shall be aggregated in determining compliance with the limitation or restriction.

Any Federal reserve bank may make advances for periods not exceeding fifteen days to its member banks on their promissory notes secured by the deposit or pledge of bonds, notes, certificates of indebtedness or Treasury bills of the United States, or by the deposit or pledge of debentures or other such obligations of Federal intermediate credit banks which are eligible for purchase by Federal reserve banks under section 13 (a) of this Act, or by the deposit or pledge of bonds issued under the provisions of subsection (c) of section 4 of the Home Owners' Loan Act of 1933, as amended; and any Federal reserve bank may make advances for periods not exceeding ninety days to its member banks on their promissory notes secured by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible for rediscount or for purchase by Federal reserve banks under the provisions of this Act, or secured by such obligations as are eligible for purchase under section 14(b) of this Act. All such advances shall be made at rates to be established by such Federal reserve banks, such rates to be subject to the review and determination of the Board of Governors of the Federal Reserve System. If any member bank to which any such advance has been made shall, during the life or continuance of such advance, and despite an official warning of the reserve bank of the district or of the Board of Governors of the Federal Reserve System to the contrary, increase its outstanding loans secured by collateral in the form of stocks, bonds, debentures, or other such obligations, or loans made to members of any organized stock exchange, investment house, or dealer in securities, upon any obligation, note, or bill, secured or unsecured, for the purpose of purchasing and/or carrying stocks, bonds, or other investment securities (except obligations of the United States) such advance shall be deemed immediately due and payable, and such member bank shall be ineligible as a borrower at the reserve bank of the district under the provisions of this paragraph for such period as the Board of Governors of the Federal Reserve System shall determine: *Provided*, That no temporary carrying or clearance loans made solely for the purpose of facilitating the purchase or delivery of securities offered for public subscription shall be included in the loans referred to in this paragraph.

The discount and rediscount and the purchase and sale by any Federal reserve bank of any bills receivable and of domestic and foreign bills of exchange, and of acceptances authorized by this Act, shall be subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System.

That in addition to the powers not vested by law in national banking associations organized under the laws of the United States any such association located and doing business in any place the population of which does not exceed five thousand inhabitants, as shown by the last preceding decennial census, may, under such rules and regulations as may be prescribed by the Comptroller of the Currency, act as the agent for any fire, life, or other insurance company authorized by the authorities of the State in which said bank is located to do business in said State, by soliciting and selling insurance and collecting premiums on policies issued by such

company; and may receive for services so rendered such fees or commissions as may be agreed upon between the said association and the insurance company for which it may act as agent: *Provided, however,* That no such bank shall in any case assume or guarantee the payment of any premium on insurance policies issued through its agency by its principal: *And provided further,* That the bank shall not guarantee the truth of any statement made by an assured in filing his application for insurance.

Any member bank may accept drafts or bills of exchange drawn upon it having not more than three months' sight to run, exclusive of days of grace, drawn under regulations to be prescribed by the Board of Governors of the Federal Reserve System by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies, or insular possessions. Such drafts or bills may be acquired by Federal reserve banks in such amounts and subject to such regulations, restrictions, and limitations as may be prescribed by the Board of Governors of the Federal Reserve System: *Provided, however,* That no member bank shall accept such drafts or bills of exchange referred to this paragraph for any one bank to an amount exceeding in the aggregate ten per centum of the paid-up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security: *Provided further,* That no member bank shall accept such drafts or bills in an amount exceeding at any time the aggregate of one-half of its paid-up and unimpaired capital and surplus.

Subject to such limitations, restrictions and regulations as the Board of Governors of the Federal Reserve System may prescribe, any Federal reserve bank may make advances to any individual, partnership or corporation on the promissory notes of such individual, partnership or corporation secured by direct obligations of the United States or by any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by, any agency of the United States. Such advances shall be made for periods not exceeding 90 days and shall bear interest at rates fixed from time to time by the Federal reserve bank, subject to the review and determination of the Board of Governors of the Federal Reserve System.

Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch or agency is maintaining reserves with such Reserve bank pursuant to section 7 of the International Banking Act of 1978. In exercising any such powers with respect to any such branch or agency, each Federal Reserve bank shall give due regard to account balances being maintained by such branch or agency with such Reserve bank and the proportion of the assets of such branch or agency being held as reserves under section 7 of the International Banking Act of 1978. For the purposes of this paragraph, the terms "branch," "agency," and "foreign bank" shall have

the same meanings assigned to them in section 1 of the International Banking Act of 1978.

* * * * *

SEC. 19. (a) The Board is authorized for the purposes of this section to define the terms used in this section, to determine what shall be deemed a payment of interest, to determine what types of obligations, whether issued directly by a member bank or indirectly by an affiliate of a member bank or by other means, and regardless of the use of the proceeds, shall be deemed a deposit, and to prescribe such regulations as it may deem necessary to effectuate the purposes of this section and to prevent evasions thereof.

(b) RESERVE REQUIREMENTS.—

(1) DEFINITIONS.—The following definitions and rules apply to this subsection, subsection (c), section 11A, the first paragraph of section 13, and the second, thirteenth, and fourteenth paragraphs of section 16:

(A) The term “depository institution” means—

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

(iv) any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act;

(v) any member as defined in section 2 of the Federal Home Loan Bank Act;

(vi) any savings association (as defined in section 3 of the Federal Deposit Insurance Act) which is an insured depository institution (as defined in such Act) or is eligible to apply to become an insured depository institution under the Federal Deposit Insurance Act; and

(vii) for the purpose of section 13 and the fourteenth paragraph of section 16, any association or entity which is wholly owned by or which consists only of institutions referred to in clauses (i) through (vi).

(B) The term “bank” means any insured or noninsured bank, as defined in section 3 of the Federal Deposit Insurance Act, other than a mutual savings bank or a savings bank as defined in such section.

(C) The term “transaction account” means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making

payments or transfers to third persons or others. Such term includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.

(D) The term “nonpersonal time deposits” means a transferable time deposit or account or a time deposit or account representing funds deposited to the credit of, or in which any beneficial interest is held by, a depositor who is not a natural person.

(E) The term “reservable liabilities” means transaction accounts, nonpersonal time deposits, and all net balances, loans, assets, and obligations which are, or may be, subject to reserve requirements under paragraph (5).

(F) In order to prevent evasions of the reserve requirements imposed by this subsection, after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board, the Board of Governors of the Federal Reserve System is authorized to determine, by regulation or order, that an account or deposit is a transaction account if such account or deposit may be used to provide funds directly or indirectly for the purpose of making payments or transfers to third persons or others.

(2) RESERVE REQUIREMENTS.—(A) Each depository institution shall maintain reserves against its transaction accounts as the Board may prescribe by regulation solely for the purpose of implementing monetary policy—

(i) in a ratio of not greater than 3 percent (and which may be zero) for that portion of its total transaction accounts of \$25,000,000 or less, subject to subparagraph (C); and

(ii) in the ratio of 12 per centum, or in such other ratio as the Board may prescribe not greater than 14 per centum (and which may be zero), for that portion of its total transaction accounts in excess of \$25,000,000, subject to subparagraph (C).

(B) Each depository institution shall maintain reserves against its nonpersonal time deposits in the ratio of 3 per centum, or in such other ratio not greater than 9 per centum and not less than zero per centum as the Board may prescribe by regulation solely for the purpose of implementing monetary policy.

(C) Beginning in 1981, not later than December 31 of each year the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount which is contained in subparagraph (A) or which was last determined pursuant to this subparagraph for the purpose of such subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total transaction accounts of all depository institutions. The increase in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the preceding calendar year from the amount of such accounts on June 30 of the calendar year involved. In the case of any such 12-month period

in which there has been a decrease in the total transaction accounts of all depository institutions, the Board shall issue such a regulation decreasing for the next succeeding calendar year such dollar amount by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage decrease in the total transaction accounts of all depository institutions. The decrease in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the calendar year involved from the amount of such accounts on June 30 of the previous calendar year.

(D) Any reserve requirement imposed under this subsection shall be uniformly applied to all transaction accounts at all depository institutions. Reserve requirements imposed under this subsection shall be uniformly applied to nonpersonal time deposits at all depository institutions, except that such requirements may vary by the maturity of such deposits.

(3) WAIVER OF RATIO LIMITS IN EXTRAORDINARY CIRCUMSTANCES.—Upon a finding by at least 5 members of the Board that extraordinary circumstances require such action, the Board, after consultation with the appropriate committees of the Congress, may impose, with respect to any liability of depository institutions, reserve requirements outside the limitations as to ratios and as to types of liabilities otherwise prescribed by paragraph (2) for a period not exceeding 180 days, and for further periods not exceeding 180 days each by affirmative action by at least 5 members of the Board in each instance. The Board shall promptly transmit to the Congress a report of any exercise of its authority under this paragraph and the reasons for such exercise of authority.

(4) SUPPLEMENTAL RESERVES.—(A) The Board may, upon the affirmative vote of not less than 5 members, impose a supplemental reserve requirement on every depository institution of not more than 4 per centum of its total transaction accounts. Such supplemental reserve requirement may be imposed only if—

(i) the sole purpose of such requirement is to increase the amount of reserves maintained to a level essential for the conduct of monetary policy;

(ii) such requirement is not imposed for the purpose of reducing the cost burdens resulting from the imposition of the reserve requirements pursuant to paragraph (2);

(iii) such requirement is not imposed for the purpose of increasing the amount of balances needed for clearing purposes; and

(iv) on the date on which the supplemental reserve requirement is imposed, except as provided in paragraph (11), the total amount of reserves required pursuant to paragraph (2) is not less than the amount of reserves that would be required if the initial ratios specified in paragraph (2) were in effect.

(B) The Board may require the supplemental reserve authorized under subparagraph (A) only after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board. The Board shall promptly trans-

mit to the Congress a report with respect to any exercise of its authority to require supplemental reserves under subparagraph (A) and such report shall state the basis for the determination to exercise such authority.

(C) If a supplemental reserve under subparagraph (A) has been required of depository institutions for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need, if any, for continuing the supplemental reserve.

(D) Any supplemental reserve imposed under subparagraph (A) shall terminate at the close of the first 90-day period after such requirement is imposed during which the average amount of reserves required under paragraph (2) are less than the amount of reserves which would be required during such period if the initial ratios specified in paragraph (2) were in effect.

(5) RESERVES RELATED TO FOREIGN OBLIGATIONS OR ASSETS.—Foreign branches, subsidiaries, and international banking facilities of nonmember depository institutions shall maintain reserves to the same extent required by the Board of foreign branches, subsidiaries, and international banking facilities of member banks. In addition to any reserves otherwise required to be maintained pursuant to this subsection, any depository institution shall maintain reserves in such ratios as the Board may prescribe against—

(A) net balances owed by domestic offices of such depository institution in the United States to its directly related foreign offices and to foreign offices of nonrelated depository institutions;

(B) loans to United States residents made by overseas offices of such depository institution if such depository institution has one or more offices in the United States; and

(C) assets (including participations) held by foreign offices of a depository institution in the United States which were acquired from its domestic offices.

(6) EXEMPTION FOR CERTAIN DEPOSITS.—The requirements imposed under paragraph (2) shall not apply to deposits payable only outside the States of the United States and the District of Columbia, except that nothing in this subsection limits the authority of the Board to impose conditions and requirements on member banks under section 25 of this Act or the authority of the Board under section 7 of the International Banking Act of 1978

(7) DISCOUNT AND BORROWING.—Any depository institution in which transaction accounts or nonpersonal time deposits are held shall be entitled to the same discount and borrowing privileges as member banks. In the administration of discount and borrowing privileges, the Board and the Federal Reserve banks shall take into consideration the special needs of savings and other depository institutions for access to discount and borrowing facilities consistent with their long-term asset portfolios and the sensitivity of such institutions to trends in the national money markets.

(8) TRANSITIONAL ADJUSTMENTS.—

(A) Any depository institution required to maintain reserves under this subsection which was engaged in business on July 1, 1979, but was not a member of the Federal Reserve System on or after that date, shall maintain reserves against its deposits during the first twelve-month period following the effective date of this paragraph in amounts equal to one-eighth of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to one-fourth of those otherwise required, during the third such twelve-month period in amounts equal to three-eighths of those otherwise required, during the fourth twelve-month period in amounts equal to one-half of those otherwise required, and during the fifth twelve-month period in amounts equal to five-eighths of those otherwise required, during the sixth twelve-month period in amounts equal to three-fourths of those otherwise required, and during the seventh twelve-month period in amounts equal to seven-eighths of those otherwise required. This subparagraph does not apply to any category of deposits or accounts which are first authorized pursuant to Federal law in any State after April 1, 1980.

(B) With respect to any bank which was a member of the Federal Reserve System during the entire period beginning on July 1, 1979, and ending on the effective date of the Monetary Control Act of 1980, the amount of required reserves imposed pursuant to this subsection on and after the effective date of such Act that exceeds the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied may, at the discretion of the Board and in accordance with such rules and regulations as it may adopt, be reduced by 75 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 25 per centum during the third year.

(C)(i) With respect to any bank which is a member of the Federal Reserve System on the effective date of the Monetary Control Act of 1980, the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied that exceeds the amount of required reserves imposed pursuant to this subsection shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

(ii) If a bank becomes a member bank during the four-year period beginning on the effective date of the Monetary Control Act of 1980, and if the amount of reserves which would have been required of such bank, determined as if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied, and as if such bank had been a member during such

period, exceeds the amount of reserves required pursuant to this subsection, the amount of reserves required to be maintained by such bank beginning on the date on which such bank becomes a member of the Federal Reserve System shall be the amount of reserves which would have been required of such bank if it had been a member on the day before such effective date, except that the amount of such excess shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

(D)(i) Any bank which was a member bank on July 1, 1979, and which withdrew from membership in the Federal Reserve System during the period beginning on July 1, 1979, and ending on March 31, 1980, shall maintain reserves during the first twelve-month period beginning on the date of enactment of this clause in amounts equal to one-half of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to two-thirds of those otherwise required, and during the third such twelve-month period in amounts equal to five-sixths of those otherwise required.

(ii) Any bank which withdraws from membership in the Federal Reserve System on or after the date of enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall maintain reserves in the same amount as member banks are required to maintain under this subsection, pursuant to subparagraphs (B) and (C)(i).

(E) This subparagraph applies to any depository institution that, on August 1, 1978, (i) was engaged in business as a depository institution in a State outside the continental limits of the United States, and (ii) was not a member of the Federal Reserve System at any time on or after such date. Such a depository institution shall not be required to maintain reserves against such deposits held or maintained at its offices located in a State outside the continental limits of the United States until the first day of the sixth calendar year which begins after the effective date of the Monetary Control Act of 1980. Such a depository institution shall maintain reserves against such deposits during the sixth calendar year which begins after such effective date in an amount equal to one-eighth of that otherwise required by paragraph (2), during the seventh such year in an amount equal to one-fourth of that otherwise required, during the eighth such year in an amount equal to three-eighths of that otherwise required, during the ninth such year in an amount equal to one-half of that otherwise required, during the tenth such year in an amount equal to five-eighths of that otherwise required, during the eleventh such year in an amount equal to three-fourths of that otherwise required, and during the twelfth such year in an amount equal to seven-eighths of that otherwise required.

(9) EXEMPTION.—This subsection shall not apply with respect to any financial institution which—

(A) is organized solely to do business with other financial institutions;

(B) is owned primarily by the financial institutions with which it does business; and

(C) does not do business with the general public.

(10) WAIVERS.—In individual cases, where a Federal supervisory authority waives a liquidity requirement, or waives the penalty for failing to satisfy a liquidity requirement, the Board shall waive the reserve requirement, or waive the penalty for failing to satisfy a reserve requirement, imposed pursuant to this subsection for the depository institution involved when requested by the Federal supervisory authority involved.

(11) ADDITIONAL EXEMPTIONS.—(A)(i) Notwithstanding the reserve requirement ratios established under paragraphs (2) and (5) of this subsection, a reserve ratio of zero per centum shall apply to any combination of reservable liabilities, which do not exceed \$2,000,000 (as adjusted under subparagraph (B)), of each depository institution.

(ii) Each depository institution may designate, in accordance with such rules and regulations as the Board shall prescribe, the types and amounts of reservable liabilities to which the reserve ratio of zero per centum shall apply, except that transaction accounts which are designated to be subject to a reserve ratio of zero per centum shall be accounts which would otherwise be subject to a reserve ratio of 3 per centum under paragraph (2).

(iii) The Board shall minimize the reporting necessary to determine whether depository institutions have total reservable liabilities of less than \$2,000,000 (as adjusted under subparagraph (B)). Consistent with the Board's responsibility to monitor and control monetary and credit aggregates, depository institutions which have reserve requirements under this subsection equal to zero per centum shall be subject to less overall reporting requirements than depository institutions which have a reserve requirement under this subsection that exceeds zero per centum.

(B)(i) Beginning in 1982, not later than December 31 of each year, the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount specified in subparagraph (A), as previously adjusted under this subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total reservable liabilities of all depository institutions.

(ii) The increase in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30 of the preceding calendar year from the amount of total reservable liabilities on June 30 of the calendar year involved. In the case of any such twelve-month period in which there has been a decrease in the total reservable liabilities of all depository institutions, no adjustment shall be made. A decrease in total reservable liabilities shall be determined by subtracting the amount of total reservable liabilities on June 30

of the calendar year involved from the amount of total reservable liabilities on June 30 of the previous calendar year.

(12) EARNINGS ON BALANCES.—

(A) IN GENERAL.—Balances maintained at a Federal Reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal Reserve bank at least once each calendar quarter, at a rate or rates *established by the Federal Open Market Committee* not to exceed the general level of short-term interest rates.

(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTIONS.—The Board may prescribe regulations concerning—

(i) the payment of earnings in accordance with this paragraph;

(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks, or on whose behalf such balances are maintained; and

(iii) the responsibilities of depository institutions, Federal Home Loan Banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal Reserve bank by any such entity on behalf of depository institutions.

(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term “depository institution”, in addition to the institutions described in paragraph (1)(A), includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).

(c)(1) Reserves held by a depository institution to meet the requirements imposed pursuant to subsection (b) shall, subject to such rules and regulations as the Board shall prescribe, be in the form of—

(A) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account, except that (i) the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves in the form of vault cash, except that any portion so permitted shall be identical for all depository institutions, and (ii) vault cash may be used to satisfy any supplemental reserve requirement imposed pursuant to subsection (b)(4), except that all such vault cash shall be excluded from any computation of earnings pursuant to subsection (b); and

(B) balances maintained by a depository institution in a depository institution which maintains required reserve balances at a Federal Reserve bank, in a Federal Home Loan Bank, or in the National Credit Union Administration Central Liquidity Facility, if such depository institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which

it maintains an account. Balances received by a depository institution from a second depository institution and used to satisfy the reserve requirement imposed on such second depository institution by this section shall not be subject to the reserve requirements of this section imposed on such first depository institution, and shall not be subject to assessments or reserves imposed on such first depository institution pursuant to section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817), section 404 of the National Housing Act (12 U.S.C. 1727), or section 202 of the Federal Credit Union Act (12 U.S.C. 1782).

(2) The balances maintained to meet the reserve requirements of subsection (b) by a depository institution in a Federal Reserve bank or passed through a Federal Home Loan Bank or the National Credit Union Administration Central Liquidity Facility or another depository institution to a Federal Reserve bank may be used to satisfy liquidity requirements which may be imposed under other provisions of Federal or State law.

(d) No member bank shall act as the medium or agent of any nonbanking corporation, partnership, association, business trust, or individual in making loans on the security of stocks, bonds, and other investment securities to brokers or dealers in stocks, bonds, and other investment securities. Every violation of this provision by any member bank shall be punishable by a fine of not more than \$100 per day during the continuance of such violation; and such fine may be collected, by suit or otherwise, by the Federal reserve bank of the district in which such member bank is located.

(e) No member bank shall keep on deposit with any depository institution which is not authorized to have access to Federal Reserve advances under section 10(b) of this Act a sum in excess of 10 per centum of its own paid-up capital and surplus. No member bank shall act as the medium or agent of a nonmember bank in applying for or receiving discounts from a Federal reserve bank under the provisions of this Act, except by permission of the Board of Governors of the Federal Reserve System.

(f) The required balance carried by a member bank with a Federal reserve bank may, under the regulations and subject to such penalties as may be prescribed by the Board of Governors of the Federal Reserve System, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities.

(g) In estimating the reserve balances required by this Act, member banks may deduct from the amount of their gross demand deposits the amounts of balances due from other banks (except Federal Reserve banks and foreign banks) and cash items in process of collection payable immediately upon presentation in the United States, within the meaning of these terms as defined by the Board of Governors of the Federal Reserve System.

(h) National banks, or banks organized under local laws, located in a dependency or insular possession or any part of the United States outside the continental United States may remain nonmember banks, and shall in that event maintain reserves and comply with all the conditions now provided by law regulating them; or said banks may, with the consent of the Board of Governors of the Federal Reserve System, become member banks of any one of

the reserve districts, and shall in that event take stock, maintain reserves, and be subject to all the other provisions of this Act.

(j) The Board may from time to time, after consulting with the Board of Directors of the Federal Deposit Insurance Corporation and the Director of the Office of Thrift Supervision, prescribe rules governing the payment and advertisement of interest on deposits, including limitations on the rates of interest which may be paid by member banks on time and savings deposits. The Board may prescribe different rate limitations for different classes of deposits, for deposits of different amounts or with different maturities or subject to different conditions regarding withdrawal or repayment, according to the nature or location of member banks or their depositors, or according to such other reasonable bases as the Board may deem desirable in the public interest. No member bank shall pay any time deposit before its maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the said Board, or waive any requirement of notice before payment of any savings deposit except as to all savings deposits having the same requirement: *Provided*, That the provisions of this paragraph shall not apply to any deposit which is payable only at an office of a member bank located outside of the States of the United States and the District of Columbia. During the period commencing on October 15, 1962, and ending on October 15, 1968, the provisions of this paragraph shall not apply to the rate of interest which may be paid by member banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.

(l) CIVIL MONEY PENALTY.—

(1) FIRST TIER.—Any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who, violates any provision of this section, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than \$5,000 for each day during which such violation continues.

(2) SECOND TIER.—Notwithstanding paragraph (1), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who—

(A)(i) commits any violation described in paragraph (1);

(ii) recklessly engages in an unsafe or unsound practice in conducting the affairs of such member bank; or

- (iii) breaches any fiduciary duty;
- (B) which violation, practice, or breach—
 - (i) is part of a pattern of misconduct;
 - (ii) causes or is likely to cause more than a minimal loss to such member bank; or
 - (iii) results in pecuniary gain or other benefit to such party,

shall forfeit and pay a civil penalty of not more than \$25,000 for each day during which such violation, practice, or breach continues.

(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), any member bank which, and any institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to such member bank who—

- (A) knowingly—
 - (i) commits any violation described in paragraph (1);
 - (ii) engages in any unsafe or unsound practice in conducting the affairs of such member bank; or
 - (iii) breaches any fiduciary duty; and

(B) knowingly or recklessly causes a substantial loss to such member bank or a substantial pecuniary gain or other benefit to such party by reason of such violation, practice, or breach,

shall forfeit and pay a civil penalty in an amount not to exceed the applicable maximum amount determined under paragraph (4) for each day during which such violation, practice, or breach continues.

(4) MAXIMUM AMOUNTS OF PENALTIES FOR ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—The maximum daily amount of any civil penalty which may be assessed pursuant to paragraph (3) for any violation, practice, or breach described in such paragraph is—

(A) in the case of any person other than a member bank, an amount not to exceed \$1,000,000; and

(B) in the case of a member bank, an amount not to exceed the lesser of—

- (i) \$1,000,000; or
- (ii) 1 percent of the total assets of such member bank.

(5) ASSESSMENT; ETC.—Any penalty imposed under paragraph (1), (2), or (3) may be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

(6) HEARING.—The member bank or other person against whom any penalty is assessed under this subsection shall be afforded an agency hearing if such member bank or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

(7) DISBURSEMENT.—All penalties collected under authority of this subsection shall be deposited into the Treasury.

(8) VIOLATE DEFINED.—For purposes of this section, the term “violate” includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(9) REGULATIONS.—The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this subsection.

(m) 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 member bank (including a separation caused by the closing of such a bank) shall not affect the jurisdiction and authority of the Board 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 bank (whether such date occurs before, on, or after the date of the enactment of this subsection).

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DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

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TITLE I—FINANCIAL STABILITY

* * * * *

Subtitle C—Additional Board of Governors Authority for Certain Nonbank Financial Companies and Bank Holding Companies

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SEC. 165. ENHANCED SUPERVISION AND PRUDENTIAL STANDARDS FOR NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS AND CERTAIN BANK HOLDING COMPANIES.

(a) IN GENERAL.—

(1) PURPOSE.—In order to prevent or mitigate risks to the financial stability of the United States that could arise from the material financial distress or failure, or ongoing activities, of large, interconnected financial institutions, the Board of Governors shall, on its own or pursuant to recommendations by the Council under section 115, establish prudential standards for nonbank financial companies supervised by the Board of Governors and bank holding companies with total consolidated assets equal to or greater than \$50,000,000,000 that—

(A) are more stringent than the standards and requirements applicable to nonbank financial companies and bank

holding companies that do not present similar risks to the financial stability of the United States; and

(B) increase in stringency, based on the considerations identified in subsection (b)(3).

(2) TAILORED APPLICATION.—

(A) IN GENERAL.—In prescribing more stringent prudential standards under this section, the Board of Governors may, on its own or pursuant to a recommendation by the Council in accordance with section 115, differentiate among companies on an individual basis or by category, taking into consideration their capital structure, riskiness, complexity, financial activities (including the financial activities of their subsidiaries), size, and any other risk-related factors that the Board of Governors deems appropriate.

(B) ADJUSTMENT OF THRESHOLD FOR APPLICATION OF CERTAIN STANDARDS.—The Board of Governors may, pursuant to a recommendation by the Council in accordance with section 115, establish an asset threshold above \$50,000,000,000 for the application of any standard established under subsections (c) through (g).

(b) DEVELOPMENT OF PRUDENTIAL STANDARDS.—

(1) IN GENERAL.—

(A) REQUIRED STANDARDS.—The Board of Governors shall establish prudential standards for nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), that shall include—

(i) risk-based capital requirements and leverage limits, unless the Board of Governors, in consultation with the Council, determines that such requirements are not appropriate for a company subject to more stringent prudential standards because of the activities of such company (such as investment company activities or assets under management) or structure, in which case, the Board of Governors shall apply other standards that result in similarly stringent risk controls;

(ii) liquidity requirements;

(iii) overall risk management requirements;

(iv) resolution plan and credit exposure report requirements; and

(v) concentration limits.

(B) ADDITIONAL STANDARDS AUTHORIZED.—The Board of Governors may establish additional prudential standards for nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), that include—

(i) a contingent capital requirement;

(ii) enhanced public disclosures;

(iii) short-term debt limits; and

(iv) such other prudential standards as the Board of Governors, on its own or pursuant to a recommendation made by the Council in accordance with section 115, determines are appropriate.

(2) STANDARDS FOR FOREIGN FINANCIAL COMPANIES.—In applying the standards set forth in paragraph (1) to any foreign nonbank financial company supervised by the Board of Governors or foreign-based bank holding company, the Board of Governors shall—

(A) give due regard to the principle of national treatment and equality of competitive opportunity; and

(B) take into account the extent to which the foreign financial company is subject on a consolidated basis to home country standards that are comparable to those applied to financial companies in the United States.

(3) CONSIDERATIONS.—In prescribing prudential standards under paragraph (1), the Board of Governors shall—

(A) take into account differences among nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a), based on—

(i) the factors described in subsections (a) and (b) of section 113;

(ii) whether the company owns an insured depository institution;

(iii) nonfinancial activities and affiliations of the company; and

(iv) any other risk-related factors that the Board of Governors determines appropriate;

(B) to the extent possible, ensure that small changes in the factors listed in subsections (a) and (b) of section 113 would not result in sharp, discontinuous changes in the prudential standards established under paragraph (1) of this subsection;

(C) take into account any recommendations of the Council under section 115; and

(D) adapt the required standards as appropriate in light of any predominant line of business of such company, including assets under management or other activities for which particular standards may not be appropriate.

(4) CONSULTATION.—Before imposing prudential standards or any other requirements pursuant to this section, including notices of deficiencies in resolution plans and more stringent requirements or divestiture orders resulting from such notices, that are likely to have a significant impact on a functionally regulated subsidiary or depository institution subsidiary of a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), the Board of Governors shall consult with each Council member that primarily supervises any such subsidiary with respect to any such standard or requirement.

(5) REPORT.—The Board of Governors shall submit an annual report to Congress regarding the implementation of the prudential standards required pursuant to paragraph (1), including the use of such standards to mitigate risks to the financial stability of the United States.

(c) CONTINGENT CAPITAL.—

(1) IN GENERAL.—Subsequent to submission by the Council of a report to Congress under section 115(c), the Board of Gov-

ernors may issue regulations that require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to maintain a minimum amount of contingent capital that is convertible to equity in times of financial stress.

(2) FACTORS TO CONSIDER.—In issuing regulations under this subsection, the Board of Governors shall consider—

- (A) the results of the study undertaken by the Council, and any recommendations of the Council, under section 115(c);
- (B) an appropriate transition period for implementation of contingent capital under this subsection;
- (C) the factors described in subsection (b)(3)(A);
- (D) capital requirements applicable to the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), and subsidiaries thereof; and
- (E) any other factor that the Board of Governors deems appropriate.

(d) RESOLUTION PLAN AND CREDIT EXPOSURE REPORTS.—

(1) RESOLUTION PLAN.—The Board of Governors shall require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to report periodically to the Board of Governors, the Council, and the Corporation the plan of such company for rapid and orderly resolution in the event of material financial distress or failure, which shall include—

- (A) information regarding the manner and extent to which any insured depository institution affiliated with the company is adequately protected from risks arising from the activities of any nonbank subsidiaries of the company;
- (B) full descriptions of the ownership structure, assets, liabilities, and contractual obligations of the company;
- (C) identification of the cross-guarantees tied to different securities, identification of major counterparties, and a process for determining to whom the collateral of the company is pledged; and
- (D) any other information that the Board of Governors and the Corporation jointly require by rule or order.

(2) CREDIT EXPOSURE REPORT.—The Board of Governors shall require each nonbank financial company supervised by the Board of Governors and bank holding companies described in subsection (a) to report periodically to the Board of Governors, the Council, and the Corporation on—

- (A) the nature and extent to which the company has credit exposure to other significant nonbank financial companies and significant bank holding companies; and
- (B) the nature and extent to which other significant nonbank financial companies and significant bank holding companies have credit exposure to that company.

(3) REVIEW.—The Board of Governors and the Corporation shall review the information provided in accordance with this subsection by each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a).

(4) NOTICE OF DEFICIENCIES.—If the Board of Governors and the Corporation jointly determine, based on their review under paragraph (3), that the resolution plan of a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) is not credible or would not facilitate an orderly resolution of the company under title 11, United States Code—

(A) the Board of Governors and the Corporation shall notify the company of the deficiencies in the resolution plan; and

(B) the company shall resubmit the resolution plan within a timeframe determined by the Board of Governors and the Corporation, with revisions demonstrating that the plan is credible and would result in an orderly resolution under title 11, United States Code, including any proposed changes in business operations and corporate structure to facilitate implementation of the plan.

(5) FAILURE TO RESUBMIT CREDIBLE PLAN.—

(A) IN GENERAL.—If a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) fails to timely resubmit the resolution plan as required under paragraph (4), with such revisions as are required under subparagraph (B), the Board of Governors and the Corporation may jointly impose more stringent capital, leverage, or liquidity requirements, or restrictions on the growth, activities, or operations of the company, or any subsidiary thereof, until such time as the company resubmits a plan that remedies the deficiencies.

(B) DIVESTITURE.—The Board of Governors and the Corporation, in consultation with the Council, may jointly direct a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), by order, to divest certain assets or operations identified by the Board of Governors and the Corporation, to facilitate an orderly resolution of such company under title 11, United States Code, in the event of the failure of such company, in any case in which—

(i) the Board of Governors and the Corporation have jointly imposed more stringent requirements on the company pursuant to subparagraph (A); and

(ii) the company has failed, within the 2-year period beginning on the date of the imposition of such requirements under subparagraph (A), to resubmit the resolution plan with such revisions as were required under paragraph (4)(B).

(6) NO LIMITING EFFECT.—A resolution plan submitted in accordance with this subsection shall not be binding on a bankruptcy court, a receiver appointed under title II, or any other authority that is authorized or required to resolve the nonbank financial company supervised by the Board, any bank holding company, or any subsidiary or affiliate of the foregoing.

(7) NO PRIVATE RIGHT OF ACTION.—No private right of action may be based on any resolution plan submitted in accordance with this subsection.

(8) RULES.—Not later than 18 months after the date of enactment of this Act, the Board of Governors and the Corporation shall jointly issue final rules implementing this subsection.

(e) CONCENTRATION LIMITS.—

(1) STANDARDS.—In order to limit the risks that the failure of any individual company could pose to a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), the Board of Governors, by regulation, shall prescribe standards that limit such risks.

(2) LIMITATION ON CREDIT EXPOSURE.—The regulations prescribed by the Board of Governors under paragraph (1) shall prohibit each nonbank financial company supervised by the Board of Governors and bank holding company described in subsection (a) from having credit exposure to any unaffiliated company that exceeds 25 percent of the capital stock and surplus (or such lower amount as the Board of Governors may determine by regulation to be necessary to mitigate risks to the financial stability of the United States) of the company.

(3) CREDIT EXPOSURE.—For purposes of paragraph (2), “credit exposure” to a company means—

(A) all extensions of credit to the company, including loans, deposits, and lines of credit;

(B) all repurchase agreements and reverse repurchase agreements with the company, and all securities borrowing and lending transactions with the company, to the extent that such transactions create credit exposure for the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a);

(C) all guarantees, acceptances, or letters of credit (including endorsement or standby letters of credit) issued on behalf of the company;

(D) all purchases of or investment in securities issued by the company;

(E) counterparty credit exposure to the company in connection with a derivative transaction between the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) and the company; and

(F) any other similar transactions that the Board of Governors, by regulation, determines to be a credit exposure for purposes of this section.

(4) ATTRIBUTION RULE.—For purposes of this subsection, any transaction by a nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a) with any person is a transaction with a company, to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that company.

(5) RULEMAKING.—The Board of Governors may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out this subsection.

(6) EXEMPTIONS.—This subsection shall not apply to any Federal home loan bank. The Board of Governors may, by regulation or order, exempt transactions, in whole or in part, from the definition of the term “credit exposure” for purposes of this subsection, if the Board of Governors finds that the exemption is in the public interest and is consistent with the purpose of this subsection.

(7) TRANSITION PERIOD.—

(A) IN GENERAL.—This subsection and any regulations and orders of the Board of Governors under this subsection shall not be effective until 3 years after the date of enactment of this Act.

(B) EXTENSION AUTHORIZED.—The Board of Governors may extend the period specified in subparagraph (A) for not longer than an additional 2 years.

(f) ENHANCED PUBLIC DISCLOSURES.—The Board of Governors may prescribe, by regulation, periodic public disclosures by nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a) in order to support market evaluation of the risk profile, capital adequacy, and risk management capabilities thereof.

(g) SHORT-TERM DEBT LIMITS.—

(1) IN GENERAL.—In order to mitigate the risks that an overaccumulation of short-term debt could pose to financial companies and to the stability of the United States financial system, the Board of Governors may, by regulation, prescribe a limit on the amount of short-term debt, including off-balance sheet exposures, that may be accumulated by any bank holding company described in subsection (a) and any nonbank financial company supervised by the Board of Governors.

(2) BASIS OF LIMIT.—Any limit prescribed under paragraph (1) shall be based on the short-term debt of the company described in paragraph (1) as a percentage of capital stock and surplus of the company or on such other measure as the Board of Governors considers appropriate.

(3) SHORT-TERM DEBT DEFINED.—For purposes of this subsection, the term “short-term debt” means such liabilities with short-dated maturity that the Board of Governors identifies, by regulation, except that such term does not include insured deposits.

(4) RULEMAKING AUTHORITY.—In addition to prescribing regulations under paragraphs (1) and (3), the Board of Governors may prescribe such regulations, including definitions consistent with this subsection, and issue such orders, as may be necessary to carry out this subsection.

(5) AUTHORITY TO ISSUE EXEMPTIONS AND ADJUSTMENTS.—Notwithstanding the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), the Board of Governors may, if it determines such action is necessary to ensure appropriate heightened prudential supervision, with respect to a company described in paragraph (1) that does not control an insured depository institution, issue to such company an exemption from or adjustment to the limit prescribed under paragraph (1).

(h) RISK COMMITTEE.—

(1) NONBANK FINANCIAL COMPANIES SUPERVISED BY THE BOARD OF GOVERNORS.—The Board of Governors shall require each nonbank financial company supervised by the Board of Governors that is a publicly traded company to establish a risk committee, as set forth in paragraph (3), not later than 1 year after the date of receipt of a notice of final determination under section 113(e)(3) with respect to such nonbank financial company supervised by the Board of Governors.

(2) CERTAIN BANK HOLDING COMPANIES.—

(A) MANDATORY REGULATIONS.—The Board of Governors shall issue regulations requiring each bank holding company that is a publicly traded company and that has total consolidated assets of not less than \$10,000,000,000 to establish a risk committee, as set forth in paragraph (3).

(B) PERMISSIVE REGULATIONS.—The Board of Governors may require each bank holding company that is a publicly traded company and that has total consolidated assets of less than \$10,000,000,000 to establish a risk committee, as set forth in paragraph (3), as determined necessary or appropriate by the Board of Governors to promote sound risk management practices.

(3) RISK COMMITTEE.—A risk committee required by this subsection shall—

(A) be responsible for the oversight of the enterprise-wide risk management practices of the nonbank financial company supervised by the Board of Governors or bank holding company described in subsection (a), as applicable;

(B) include such number of independent directors as the Board of Governors may determine appropriate, based on the nature of operations, size of assets, and other appropriate criteria related to the nonbank financial company supervised by the Board of Governors or a bank holding company described in subsection (a), as applicable; and

(C) include at least 1 risk management expert having experience in identifying, assessing, and managing risk exposures of large, complex firms.

(4) RULEMAKING.—The Board of Governors shall issue final rules to carry out this subsection, not later than 1 year after the transfer date, to take effect not later than 15 months after the transfer date.

(i) STRESS TESTS.—

(1) BY THE BOARD OF GOVERNORS.—

(A) ANNUAL TESTS REQUIRED.—The Board of Governors, in coordination with the appropriate primary financial regulatory agencies and the Federal Insurance Office, shall conduct annual analyses in which nonbank financial companies supervised by the Board of Governors and bank holding companies described in subsection (a) are subject to evaluation of whether such companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions.

(B) TEST PARAMETERS AND CONSEQUENCES.—The Board of Governors—

[(i) shall provide for at least 3 different sets of conditions under which the evaluation required by this

subsection shall be conducted, including baseline, adverse, and severely adverse;】

(i) shall—

(I) issue regulations, after providing for public notice and comment, that provide for at least 3 different sets of conditions under which the evaluation required by this subsection shall be conducted, including baseline, adverse, and severely adverse, and methodologies, including models used to estimate losses on certain assets; and

(II) provide copies of such regulations to the Comptroller General of the United States and the Panel of Economic Advisors of the Congressional Budget Office before publishing such regulations;

(ii) may require the tests described in subparagraph (A) at bank holding companies and nonbank financial companies, in addition to those for which annual tests are required under subparagraph (A);

(iii) may develop and apply such other analytic techniques as are necessary to identify, measure, and monitor risks to the financial stability of the United States;

(iv) shall require the companies described in subparagraph (A) to update their resolution plans required under subsection (d)(1), as the Board of Governors determines appropriate, based on the results of the analyses; and

(v) shall publish a summary of the results of the tests required under subparagraph (A) or clause (ii) of this subparagraph, *including any results of a resubmitted test.*

(C) APPLICATION TO CCAR.—*The requirements of subparagraph (B) shall apply to all stress tests performed under the Comprehensive Capital Analysis and Review exercise established by the Board of Governors.*

(2) BY THE COMPANY.—

(A) REQUIREMENT.—A nonbank financial company supervised by the Board of Governors and a bank holding company described in subsection (a) shall conduct semiannual stress tests. All other financial companies that have total consolidated assets of more than \$10,000,000,000 and are regulated by a primary Federal financial regulatory agency shall conduct annual stress tests. The tests required under this subparagraph shall be conducted in accordance with the regulations prescribed under subparagraph (C).

(B) REPORT.—A company required to conduct stress tests under subparagraph (A) shall submit a report to the Board of Governors and to its primary financial regulatory agency at such time, in such form, and containing such information as the primary financial regulatory agency shall require.

(C) REGULATIONS.—Each Federal primary financial regulatory agency, in coordination with the Board of Governors and the Federal Insurance Office, shall issue consistent

and comparable regulations to implement this paragraph that shall—

(i) define the term “stress test” for purposes of this paragraph;

(ii) establish methodologies for the conduct of stress tests required by this paragraph that shall provide for at least 3 different sets of conditions, including baseline, adverse, and severely adverse;

(iii) establish the form and content of the report required by subparagraph (B); and

(iv) require companies subject to this paragraph to publish a summary of the results of the required stress tests.

(j) LEVERAGE LIMITATION.—

(1) REQUIREMENT.—The Board of Governors shall require a bank holding company with total consolidated assets equal to or greater than \$50,000,000,000 or a nonbank financial company supervised by the Board of Governors to maintain a debt to equity ratio of no more than 15 to 1, upon a determination by the Council that such company poses a grave threat to the financial stability of the United States and that the imposition of such requirement is necessary to mitigate the risk that such company poses to the financial stability of the United States. Nothing in this paragraph shall apply to a Federal home loan bank.

(2) CONSIDERATIONS.—In making a determination under this subsection, the Council shall consider the factors described in subsections (a) and (b) of section 113 and any other risk-related factors that the Council deems appropriate.

(3) REGULATIONS.—The Board of Governors shall promulgate regulations to establish procedures and timelines for complying with the requirements of this subsection.

(k) INCLUSION OF OFF-BALANCE-SHEET ACTIVITIES IN COMPUTING CAPITAL REQUIREMENTS.—

(1) IN GENERAL.—In the case of any bank holding company described in subsection (a) or nonbank financial company supervised by the Board of Governors, the computation of capital for purposes of meeting capital requirements shall take into account any off-balance-sheet activities of the company.

(2) EXEMPTIONS.—If the Board of Governors determines that an exemption from the requirement under paragraph (1) is appropriate, the Board of Governors may exempt a company, or any transaction or transactions engaged in by such company, from the requirements of paragraph (1).

(3) OFF-BALANCE-SHEET ACTIVITIES DEFINED.—For purposes of this subsection, the term “off-balance-sheet activities” means an existing liability of a company that is not currently a balance sheet liability, but may become one upon the happening of some future event, including the following transactions, to the extent that they may create a liability:

(A) Direct credit substitutes in which a bank substitutes its own credit for a third party, including standby letters of credit.

(B) Irrevocable letters of credit that guarantee repayment of commercial paper or tax-exempt securities.

- (C) Risk participations in bankers' acceptances.
- (D) Sale and repurchase agreements.
- (E) Asset sales with recourse against the seller.
- (F) Interest rate swaps.
- (G) Credit swaps.
- (H) Commodities contracts.
- (I) Forward contracts.
- (J) Securities contracts.
- (K) Such other activities or transactions as the Board of Governors may, by rule, define.

(l) *PUBLICATION OF SUPERVISORY LETTER INFORMATION.*—The Board of Governors shall publicly disclose—

- (1) the aggregate number of supervisory letters sent to bank holding companies described in subsection (a) since the date of the enactment of this section, and keep such number updated; and
- (2) the aggregate number of such letters that are designated as "Matters Requiring Attention" and the aggregate number of such letters that are designated as "Matters Requiring Immediate Attention".

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FEDERAL DEPOSIT INSURANCE ACT

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SEC. 51. INTERNATIONAL PROCESSES.

(a) *NOTICE OF PROCESS; CONSULTATION.*—At least 30 calendar days before the Board of Directors participates in a process of setting financial standards as a part of any foreign or multinational entity, the Board of Directors shall—

- (1) issue a notice of the process, including the subject matter, scope, and goals of the process, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;
- (2) make such notice available to the public, including on the website of the Corporation; and
- (3) solicit public comment, and consult with the committees described under paragraph (1), with respect to the subject matter, scope, and goals of the process.

(b) *PUBLIC REPORTS ON PROCESS.*—After the end of any process described under subsection (a), the Board of Directors shall issue a public report on the topics that were discussed at the process and any new or revised rulemakings or policy changes that the Board of Directors believes should be implemented as a result of the process.

(c) *NOTICE OF AGREEMENTS; CONSULTATION.*—At least 90 calendar days before the Board of Directors participates in a process of setting financial standards as a part of any foreign or multinational entity, the Board of Directors shall—

- (1) issue a notice of agreement to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;
- (2) make such notice available to the public, including on the website of the Corporation; and

(3) consult with the committees described under paragraph (1) with respect to the nature of the agreement and any anticipated effects such agreement will have on the economy.

(d) *DEFINITION.*—For purposes of this section, the term “process” shall include any official proceeding or meeting on financial regulation of a recognized international organization with authority to set financial standards on a global or regional level, including the Financial Stability Board, the Basel Committee on Banking Supervision (or a similar organization), and the International Association of Insurance Supervisors (or a similar organization).

TITLE 31, UNITED STATES CODE

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SUBTITLE I—GENERAL

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CHAPTER 3—DEPARTMENT OF THE TREASURY

* * * * *

SUBCHAPTER II—ADMINISTRATIVE

* * * * *

§ 325. International affairs authorization

(a) Under regulations prescribed by the Secretary of the Treasury, the Secretary may provide officers and employees of the Department of the Treasury carrying out international affairs duties and powers of the Department with allowances and benefits comparable to those provided under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.).

(b) The following amounts may be appropriated to the Secretary for the fiscal year ending September 30, 1982:

(1) not more than \$22,896,000 to carry out the international affairs duties and powers of the Department (including amounts for official functions and reception and representation expenses).

(2) not more than \$1,000,000 for increases in—

(A) pay, under section 5382(c) and subchapter I of chapter 53 of title 5 (except section 5305, or corresponding prior provision of such title), of officers and employees carrying out the duties and powers referred to in clause (1) of this subsection;

(B) departmental contributions attributable to those pay increases; and

(C) allowances and benefits, because of cost of living increases, provided under subsection (a) of this section.

(c) Necessary amounts may be appropriated to the Secretary for each fiscal year beginning after September 30, 1982—

(1) to carry out the international affairs duties and powers of the Department (including amounts for official functions and reception and representation expenses);

(2) for increases in—

(A) pay, under section 5382(c) and subchapter I of chapter 53 of title 5 (except section 5303), of officers and employees carrying out the duties and powers referred to in clause (1) of this subsection;

(B) departmental contributions attributable to those pay increases; and

(C) allowances and benefits, because of cost of living increases, provided under subsection (a) of this section.

(d) *INTERNATIONAL PROCESSES.*—

(1) *NOTICE OF PROCESS; CONSULTATION.*—*At least 30 calendar days before the Secretary participates in a process of setting financial standards as a part of any foreign or multinational entity, the Secretary shall—*

(A) *issue a notice of the process, including the subject matter, scope, and goals of the process, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;*

(B) *make such notice available to the public, including on the website of the Department of the Treasury; and*

(C) *solicit public comment, and consult with the committees described under subparagraph (A), with respect to the subject matter, scope, and goals of the process.*

(2) *PUBLIC REPORTS ON PROCESS.*—*After the end of any process described under paragraph (1), the Secretary shall issue a public report on the topics that were discussed at the process and any new or revised rulemakings or policy changes that the Secretary believes should be implemented as a result of the process.*

(3) *NOTICE OF AGREEMENTS; CONSULTATION.*—*At least 90 calendar days before the Secretary participates in a process of setting financial standards as a part of any foreign or multinational entity, the Secretary shall—*

(A) *issue a notice of agreement to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;*

(B) *make such notice available to the public, including on the website of the Department of the Treasury; and*

(C) *consult with the committees described under subparagraph (A) with respect to the nature of the agreement and any anticipated effects such agreement will have on the economy.*

(4) *DEFINITION.*—*For purposes of this subsection, the term “process” shall include any official proceeding or meeting on financial regulation of a recognized international organization with authority to set financial standards on a global or regional level, including the Financial Stability Board, the Basel Committee on Banking Supervision (or a similar organization), and the International Association of Insurance Supervisors (or a similar organization).*

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CHAPTER 7—GOVERNMENT ACCOUNTABILITY OFFICE

* * * * *

SUBCHAPTER II—GENERAL DUTIES AND POWERS

* * * * *

**§ 714. Audit of Financial Institutions Examination Council,
Federal Reserve Board, Federal reserve banks,
Federal Deposit Insurance Corporation, and Office
of Comptroller of the Currency**

(a) In this section, “agency” means the Financial Institutions Examination Council, the Board of Governors of the Federal Reserve System (in this section referred to as the “Board”), Federal reserve banks, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

(b) Under regulations of the Comptroller General, the Comptroller General shall audit an agency, but may carry out an onsite examination of an open insured bank or bank holding company only if the appropriate agency has consented in writing. **[Audits of the Board and Federal reserve banks may not include—]**

[(1) transactions for or with a foreign central bank, government of a foreign country, or nonprivate international financing organization;

[(2) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;

[(3) transactions made under the direction of the Federal Open Market Committee; or

[(4) a part of a discussion or communication among or between members of the Board and officers and employees of the Federal Reserve System related to clauses (1)-(3) of this subsection.]

(c)(1) Except as provided in this subsection, an officer or employee of the Government Accountability Office may not disclose information identifying an open bank, an open bank holding company, or a customer of an open or closed bank or bank holding company. The Comptroller General may disclose information related to the affairs of a closed bank or closed bank holding company identifying a customer of the closed bank or closed bank holding company only if the Comptroller General believes the customer had a controlling influence in the management of the closed bank or closed bank holding company or was related to or affiliated with a person or group having a controlling influence.

(2) An officer or employee of the Office may discuss a customer, bank, or bank holding company with an official of an agency and may report an apparent criminal violation to an appropriate law enforcement authority of the United States Government or a State.

(3) Except as provided under paragraph (4), an officer or employee of the Government Accountability Office may not disclose to any person outside the Government Accountability Office information obtained in audits or examinations conducted under subsection (e) and maintained as confidential by the Board or the Federal reserve banks.

(4) This subsection shall not—

(A) authorize an officer or employee of an agency to withhold information from any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee; or

(B) limit any disclosure by the Government Accountability Office to any committee or subcommittee of jurisdiction of Congress, or any member of such committee or subcommittee.

(d)(1) To carry out this section, all records and property of or used by an agency, including samples of reports of examinations of a bank or bank holding company the Comptroller General considers statistically meaningful and workpapers and correspondence related to the reports shall be made available to the Comptroller General. The Comptroller General shall have access to the officers, employees, contractors, and other agents and representatives of an agency and any entity established by an agency at any reasonable time as the Comptroller General may request. The Comptroller General may make and retain copies of such books, accounts, and other records as the Comptroller General determines appropriate. The Comptroller General shall give an agency a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out an audit.

(2) The Comptroller General shall prevent unauthorized access to records, copies of any record, or property of or used by an agency or any person or entity described in paragraph (3)(A) that the Comptroller General obtains during an audit.

(3)(A) For purposes of conducting audits and examinations under subsection (e) **【or (f)】**, the Comptroller General shall have access, upon request, to any information, data, schedules, books, accounts, financial records, reports, files, electronic communications, or other papers, things or property belonging to or in use by—

(i) any entity established by any action taken by the Board or the Federal Reserve banks described under subsection (e) **【or (f)】**;

(ii) any entity participating in or receiving assistance from any action taken by the Board or the Federal Reserve banks described under subsection (e) **【or (f)】**, to the extent that the access and request relates to that assistance; and

(iii) the officers, directors, employees, independent public accountants, financial advisors and any and all representatives of any entity described under clause (i) or (ii); to the extent that the access and request relates to that assistance;

(B) The Comptroller General shall have access as provided under subparagraph (A) at such time as the Comptroller General may request. The Comptroller General may make and retain copies of books, accounts, and other records provided under subparagraph (A) as the Comptroller General deems appropriate. The Comptroller General shall provide to any person or entity described in subparagraph (A) a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out a audit or examination under this subsection.

(C) Each contract, term sheet, or other agreement between the Board or any Federal reserve bank (or any entity established by

the Board or any Federal reserve bank) and an entity receiving assistance from any action taken by the Board described under subsection (e) [or (f)] shall provide for access by the Comptroller General in accordance with this paragraph.

(e) Notwithstanding subsection (b), the Comptroller General may conduct audits, including onsite examinations when the Comptroller General determines such audits and examinations are appropriate, of any action taken by the Board under [the third undesignated paragraph of section 13] *section 13(3)* of the Federal Reserve Act (12 U.S.C. 343); with respect to a single and specific partnership or corporation.

[(f) AUDITS OF CREDIT FACILITIES OF THE FEDERAL RESERVE SYSTEM.—

[(1) DEFINITIONS.—In this subsection, the following definitions shall apply:

[(A) CREDIT FACILITY.—The term “credit facility” means a program or facility, including any special purpose vehicle or other entity established by or on behalf of the Board of Governors of the Federal Reserve System or a Federal reserve bank, authorized by the Board of Governors under section 13(3) of the Federal Reserve Act (12 U.S.C. 343), that is not subject to audit under subsection (e).

[(B) COVERED TRANSACTION.—The term “covered transaction” means any open market transaction or discount window advance that meets the definition of “covered transaction” in section 11(s) of the Federal Reserve Act.

[(2) AUTHORITY FOR AUDITS AND EXAMINATIONS.—Subject to paragraph (3), and notwithstanding any limitation in subsection (b) on the auditing and oversight of certain functions of the Board of Governors of the Federal Reserve System or any Federal reserve bank, the Comptroller General of the United States may conduct audits, including onsite examinations, of the Board of Governors, a Federal reserve bank, or a credit facility, if the Comptroller General determines that such audits are appropriate, solely for the purposes of assessing, with respect to a credit facility or a covered transaction—

[(A) the operational integrity, accounting, financial reporting, and internal controls governing the credit facility or covered transaction;

[(B) the effectiveness of the security and collateral policies established for the facility or covered transaction in mitigating risk to the relevant Federal reserve bank and taxpayers;

[(C) whether the credit facility or the conduct of a covered transaction inappropriately favors one or more specific participants over other institutions eligible to utilize the facility; and

[(D) the policies governing the use, selection, or payment of third-party contractors by or for any credit facility or to conduct any covered transaction.

[(3) REPORTS AND DELAYED DISCLOSURE.—

[(A) REPORTS REQUIRED.—A report on each audit conducted under paragraph (2) shall be submitted by the Comptroller General to the Congress before the end of the

90-day period beginning on the date on which such audit is completed.

[(B) CONTENTS.—The report under subparagraph (A) shall include a detailed description of the findings and conclusions of the Comptroller General with respect to the matters described in paragraph (2) that were audited and are the subject of the report, together with such recommendations for legislative or administrative action relating to such matters as the Comptroller General may determine to be appropriate.

[(C) DELAYED RELEASE OF CERTAIN INFORMATION.—

[(i) IN GENERAL.—The Comptroller General shall not disclose to any person or entity, including to Congress, the names or identifying details of specific participants in any credit facility or covered transaction, the amounts borrowed by or transferred by or to specific participants in any credit facility or covered transaction, or identifying details regarding assets or collateral held or transferred by, under, or in connection with any credit facility or covered transaction, and any report provided under subparagraph (A) shall be redacted to ensure that such names and details are not disclosed.

[(ii) DELAYED RELEASE.—The nondisclosure obligation under clause (i) shall expire with respect to any participant on the date on which the Board of Governors, directly or through a Federal reserve bank, publicly discloses the identity of the subject participant or the identifying details of the subject assets, collateral, or transaction.

[(iii) GENERAL RELEASE.—The Comptroller General shall release a nonredacted version of any report on a credit facility 1 year after the effective date of the termination by the Board of Governors of the authorization for the credit facility. For purposes of this clause, a credit facility shall be deemed to have terminated 24 months after the date on which the credit facility ceases to make extensions of credit and loans, unless the credit facility is otherwise terminated by the Board of Governors.

[(iv) EXCEPTIONS.—The nondisclosure obligation under clause (i) shall not apply to the credit facilities Maiden Lane, Maiden Lane II, and Maiden Lane III.

[(v) RELEASE OF COVERED TRANSACTION INFORMATION.—The Comptroller General shall release a nonredacted version of any report regarding covered transactions upon the release of the information regarding such covered transactions by the Board of Governors of the Federal Reserve System, as provided in section 11(s) of the Federal Reserve Act.]

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REVISED STATUTES OF THE UNITED STATES

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TITLE LXII—NATIONAL BANKS.

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Sec.

5133. Formation of national banking associations.

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5156B. International processes.

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SEC. 5156B. INTERNATIONAL PROCESSES.

(a) NOTICE OF PROCESS; CONSULTATION.—At least 30 calendar days before the Comptroller of the Currency participates in a process of setting financial standards as a part of any foreign or multinational entity, the Comptroller of the Currency shall—

(1) issue a notice of the process, including the subject matter, scope, and goals of the process, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

(2) make such notice available to the public, including on the website of the Office of the Comptroller of the Currency; and

(3) solicit public comment, and consult with the committees described under paragraph (1), with respect to the subject matter, scope, and goals of the process.

(b) PUBLIC REPORTS ON PROCESS.—After the end of any process described under subsection (a), the Comptroller of the Currency shall issue a public report on the topics that were discussed at the process and any new or revised rulemakings or policy changes that the Comptroller of the Currency believes should be implemented as a result of the process.

(c) NOTICE OF AGREEMENTS; CONSULTATION.—At least 90 calendar days before the Comptroller of the Currency participates in a process of setting financial standards as a part of any foreign or multinational entity, the Board of Directors shall—

(1) issue a notice of agreement to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;

(2) make such notice available to the public, including on the website of the Office of the Comptroller of the Currency; and

(3) consult with the committees described under paragraph (1) with respect to the nature of the agreement and any anticipated effects such agreement will have on the economy.

(d) DEFINITION.—For purposes of this section, the term “process” shall include any official proceeding or meeting on financial regulation of a recognized international organization with authority to set financial standards on a global or regional level, including the Financial Stability Board, the Basel Committee on Banking Supervision (or a similar organization), and the International Association of Insurance Supervisors (or a similar organization).

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SECURITIES EXCHANGE ACT OF 1934**TITLE I—REGULATION OF SECURITIES EXCHANGES**

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SECURITIES AND EXCHANGE COMMISSION

SEC. 4. (a) There is hereby established a Securities and Exchange Commission (hereinafter referred to as the "Commission") to be composed of five commissioners to be appointed by the President by and with the advice and consent of the Senate. Not more than three of such commissioners shall be members of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable. No commissioner shall engage in any other business, vocation, or employment than that of serving as commissioner, nor shall any commissioner participate, directly or indirectly, in any stock-market operations or transactions of a character subject to regulation by the Commission pursuant to this title. Each commissioner shall hold office for a term of five years and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except (1) any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (2) the terms of office of the commissioners first taking office after the enactment of this title shall expire as designated by the President at the time of nomination, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years, after the date of the enactment of this title.

(b) APPOINTMENT AND COMPENSATION OF STAFF AND LEASING AUTHORITY.—

(1) APPOINTMENT AND COMPENSATION.—The Commission shall appoint and compensate officers, attorneys, economists, examiners, and other employees in accordance with section 4802 of title 5, United States Code.

(2) REPORTING OF INFORMATION.—In establishing and adjusting schedules of compensation and benefits for officers, attorneys, economists, examiners, and other employees of the Commission under applicable provisions of law, the Commission shall inform the heads of the agencies referred to under section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) and Congress of such compensation and benefits and shall seek to maintain comparability with such agencies regarding compensation and benefits.

(3) LEASING AUTHORITY.—Notwithstanding any other provision of law, the Commission is authorized to enter directly into leases for real property for office, meeting, storage, and such other space as is necessary to carry out its functions, and shall be exempt from any General Services Administration space management regulations or directives.

(c) Notwithstanding any other provision of law, in accordance with regulations which the Commission shall prescribe to prevent conflicts of interest, the Commission may accept payment and reimbursement, in cash or in kind, from non-Federal agencies, organizations, and individuals for travel, subsistence, and other necessary expenses incurred by Commission members and employees in attending meetings and conferences concerning the functions or activities of the Commission. Any payment or reimbursement accepted shall be credited to the appropriated funds of the Commission. The amount of travel, subsistence, and other necessary expenses for members and employees paid or reimbursed under this subsection may exceed per diem amounts established in official travel regulations, but the Commission may include in its regulations under this subsection a limitation on such amounts.

(d) Notwithstanding any other provision of law, former employers of participants in the Commission's professional fellows programs may pay such participants their actual expenses for relocation to Washington, District of Columbia, to facilitate their participation in such programs, and program participants may accept such payments.

(e) Notwithstanding any other provision of law, whenever any fee is required to be paid to the Commission pursuant to any provision of the securities laws or any other law, the Commission may provide by rule that such fee shall be paid in a manner other than in cash and the Commission may also specify the time that such fee shall be determined and paid relative to the filing of any statement or document with the Commission.

(f) REIMBURSEMENT OF EXPENSES FOR ASSISTING FOREIGN SECURITIES AUTHORITIES.—Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign securities authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation pursuant to section 21(a)(2) of this title or in providing any other assistance to a foreign securities authority. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.

(g) OFFICE OF THE INVESTOR ADVOCATE.—

(1) OFFICE ESTABLISHED.—There is established within the Commission the Office of the Investor Advocate (in this subsection referred to as the "Office").

(2) INVESTOR ADVOCATE.—

(A) IN GENERAL.—The head of the Office shall be the Investor Advocate, who shall—

- (i) report directly to the Chairman; and
- (ii) be appointed by the Chairman, in consultation with the Commission, from among individuals having experience in advocating for the interests of investors in securities and investor protection issues, from the perspective of investors.

(B) COMPENSATION.—The annual rate of pay for the Investor Advocate shall be equal to the highest rate of annual pay for other senior executives who report to the Chairman of the Commission.

- (C) **LIMITATION ON SERVICE.**—An individual who serves as the Investor Advocate may not be employed by the Commission—
- (i) during the 2-year period ending on the date of appointment as Investor Advocate; or
 - (ii) during the 5-year period beginning on the date on which the person ceases to serve as the Investor Advocate.
- (3) **STAFF OF OFFICE.**—The Investor Advocate, after consultation with the Chairman of the Commission, may retain or employ independent counsel, research staff, and service staff, as the Investor Advocate deems necessary to carry out the functions, powers, and duties of the Office.
- (4) **FUNCTIONS OF THE INVESTOR ADVOCATE.**—The Investor Advocate shall—
- (A) assist retail investors in resolving significant problems such investors may have with the Commission or with self-regulatory organizations;
 - (B) identify areas in which investors would benefit from changes in the regulations of the Commission or the rules of self-regulatory organizations;
 - (C) identify problems that investors have with financial service providers and investment products;
 - (D) analyze the potential impact on investors of—
 - (i) proposed regulations of the Commission; and
 - (ii) proposed rules of self-regulatory organizations registered under this title; and
 - (E) to the extent practicable, propose to the Commission changes in the regulations or orders of the Commission and to Congress any legislative, administrative, or personnel changes that may be appropriate to mitigate problems identified under this paragraph and to promote the interests of investors.
- (5) **ACCESS TO DOCUMENTS.**—The Commission shall ensure that the Investor Advocate has full access to the documents of the Commission and any self-regulatory organization, as necessary to carry out the functions of the Office.
- (6) **ANNUAL REPORTS.**—
- (A) **REPORT ON OBJECTIVES.**—
 - (i) **IN GENERAL.**—Not later than June 30 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report on the objectives of the Investor Advocate for the following fiscal year.
 - (ii) **CONTENTS.**—Each report required under clause (i) shall contain full and substantive analysis and explanation.
 - (B) **REPORT ON ACTIVITIES.**—
 - (i) **IN GENERAL.**—Not later than December 31 of each year after 2010, the Investor Advocate shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a re-

port on the activities of the Investor Advocate during the immediately preceding fiscal year.

(ii) CONTENTS.—Each report required under clause (i) shall include—

(I) appropriate statistical information and full and substantive analysis;

(II) information on steps that the Investor Advocate has taken during the reporting period to improve investor services and the responsiveness of the Commission and self-regulatory organizations to investor concerns;

(III) a summary of the most serious problems encountered by investors during the reporting period;

(IV) an inventory of the items described in subclause (III) that includes—

(aa) identification of any action taken by the Commission or the self-regulatory organization and the result of such action;

(bb) the length of time that each item has remained on such inventory; and

(cc) for items on which no action has been taken, the reasons for inaction, and an identification of any official who is responsible for such action;

(V) recommendations for such administrative and legislative actions as may be appropriate to resolve problems encountered by investors; and

(VI) any other information, as determined appropriate by the Investor Advocate.

(iii) INDEPENDENCE.—Each report required under this paragraph shall be provided directly to the Committees listed in clause (i) without any prior review or comment from the Commission, any commissioner, any other officer or employee of the Commission, or the Office of Management and Budget.

(iv) CONFIDENTIALITY.—No report required under clause (i) may contain confidential information.

(7) REGULATIONS.—The Commission shall, by regulation, establish procedures requiring a formal response to all recommendations submitted to the Commission by the Investor Advocate, not later than 3 months after the date of such submission.

(8) OMBUDSMAN.—

(A) APPOINTMENT.—Not later than 180 days after the date on which the first Investor Advocate is appointed under paragraph (2)(A)(i), the Investor Advocate shall appoint an Ombudsman, who shall report directly to the Investor Advocate.

(B) DUTIES.—The Ombudsman appointed under subparagraph (A) shall—

(i) act as a liaison between the Commission and any retail investor in resolving problems that retail investors may have with the Commission or with self-regulatory organizations;

(ii) review and make recommendations regarding policies and procedures to encourage persons to present questions to the Investor Advocate regarding compliance with the securities laws; and

(iii) establish safeguards to maintain the confidentiality of communications between the persons described in clause (ii) and the Ombudsman.

(C) LIMITATION.—In carrying out the duties of the Ombudsman under subparagraph (B), the Ombudsman shall utilize personnel of the Commission to the extent practicable. Nothing in this paragraph shall be construed as replacing, altering, or diminishing the activities of any ombudsman or similar office of any other agency.

(D) REPORT.—The Ombudsman shall submit a semi-annual report to the Investor Advocate that describes the activities and evaluates the effectiveness of the Ombudsman during the preceding year. The Investor Advocate shall include the reports required under this section in the reports required to be submitted by the Inspector Advocate under paragraph (6).

(h) EXAMINERS.—

(1) DIVISION OF TRADING AND MARKETS.—The Division of Trading and Markets of the Commission, or any successor organizational unit, shall have a staff of examiners who shall—

(A) perform compliance inspections and examinations of entities under the jurisdiction of that Division; and

(B) report to the Director of that Division.

(2) DIVISION OF INVESTMENT MANAGEMENT.—The Division of Investment Management of the Commission, or any successor organizational unit, shall have a staff of examiners who shall—

(A) perform compliance inspections and examinations of entities under the jurisdiction of that Division; and

(B) report to the Director of that Division.

(i) SECURITIES AND EXCHANGE COMMISSION RESERVE FUND.—

(1) RESERVE FUND ESTABLISHED.—There is established in the Treasury of the United States a separate fund, to be known as the “Securities and Exchange Commission Reserve Fund” (referred to in this subsection as the “Reserve Fund”).

(2) RESERVE FUND AMOUNTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any registration fees collected by the Commission under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) or section 24(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(f)) shall be deposited into the Reserve Fund.

(B) LIMITATIONS.—For any 1 fiscal year—

(i) the amount deposited in the Fund may not exceed \$50,000,000; and

(ii) the balance in the Fund may not exceed \$100,000,000.

(C) EXCESS FEES.—Any amounts in excess of the limitations described in subparagraph (B) that the Commission collects from registration fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) or section 24(f) of the Investment Company Act of 1940 (15 U.S.C. 80a-24(f))

shall be deposited in the General Fund of the Treasury of the United States and shall not be available for obligation by the Commission.

(3) USE OF AMOUNTS IN RESERVE FUND.—The Commission may obligate amounts in the Reserve Fund, not to exceed a total of \$100,000,000 in any 1 fiscal year, as the Commission determines is necessary to carry out the functions of the Commission. Any amounts in the reserve fund shall remain available until expended. Not later than 10 days after the date on which the Commission obligates amounts under this paragraph, the Commission shall notify Congress of the date, amount, and purpose of the obligation.

(4) RULE OF CONSTRUCTION.—Amounts collected and deposited in the Reserve Fund shall not be construed to be Government funds or appropriated monies and shall not be subject to apportionment for the purpose of chapter 15 of title 31, United States Code, or under any other authority.

(j) INTERNATIONAL PROCESSES.—

(1) NOTICE OF PROCESS; CONSULTATION.—*At least 30 calendar days before the Commission participates in a process of setting financial standards as a part of any foreign or multinational entity, the Commission shall—*

(A) *issue a notice of the process, including the subject matter, scope, and goals of the process, to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;*

(B) *make such notice available to the public, including on the website of the Commission; and*

(C) *solicit public comment, and consult with the committees described under subparagraph (A), with respect to the subject matter, scope, and goals of the process.*

(2) PUBLIC REPORTS ON PROCESS.—*After the end of any process described under paragraph (1), the Commission shall issue a public report on the topics that were discussed at the process and any new or revised rulemakings or policy changes that the Commission believes should be implemented as a result of the process.*

(3) NOTICE OF AGREEMENTS; CONSULTATION.—*At least 90 calendar days before the Commission participates in a process of setting financial standards as a part of any foreign or multinational entity, the Commission shall—*

(A) *issue a notice of agreement to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate;*

(B) *make such notice available to the public, including on the website of the Commission; and*

(C) *consult with the committees described under subparagraph (A) with respect to the nature of the agreement and any anticipated effects such agreement will have on the economy.*

(4) DEFINITION.—*For purposes of this subsection, the term “process” shall include any official proceeding or meeting on financial regulation of a recognized international organization*

with authority to set financial standards on a global or regional level, including the Financial Stability Board, the Basel Committee on Banking Supervision (or a similar organization), and the International Association of Insurance Supervisors (or a similar organization).

* * * * *

MINORITY VIEWS

H.R. 3189 includes a range of highly controversial and partisan provisions that the Financial Services Committee already marked up and which Democrats objected to, as part of Committee Republicans' "FRAT Act" in the 113th Congress. This includes the requirement for a rules-based monetary policy regime, GAO audits of monetary policy deliberations, and unworkable cost-benefit analysis requirements designed to hamstring agency rulemakings. H.R. 3189 also includes several new provisions, including changes to the membership of the Federal Open Markets Committee (FOMC) that diminish the democratic accountability of the Federal Reserve, and changes that limit the Federal Reserve's ability to provide liquidity to a broad range of solvent institutions during a crisis.

Section 2 of the bill requires the FOMC to issue a "directive policy rule" for determining the course of monetary policy and subjects this rule to a review by the GAO.

This represents a dramatic departure from the current practice where members of the FOMC are afforded substantial discretion and are expected to rely on their best judgment given all available information to achieve the Federal Reserve's objective to promote maximum employment, stable prices and moderate long-term interest rates.

The combination of a strict policy rule and the corresponding GAO compliance reviews and audits would inevitably impair the Federal Reserve's ability to set monetary policy independently and in a manner that accounts for the broadest possible range of dynamic economic indicators. These changes would constrain the Federal Reserve's ability to respond appropriately to unforeseen circumstances, such as the period following the financial crisis of 2008. Federal Reserve Chair Janet Yellen has repeatedly made this point, stating that "simple rules that perform well under ordinary circumstances just won't perform well with persistently strong headwinds restraining recovery and with the federal funds rate constrained by the zero lower bound."

Requiring GAO auditors to investigate and second-guess any change in the status quo would create inappropriate incentives for policy makers to downplay potentially significant changes in market conditions, and would make it substantially more difficult for members of the FOMC, a majority of which are subject to presidential nomination and Senate confirmation, to do their jobs.

Section 4 of the bill increases the power of the regional Federal Reserve banks on the FOMC, and eliminates the FRBNY's permanent voting position. The bill provides that 6 of the 12 Regional Reserve bank presidents would serve a one-year term on the FOMC followed by the other 6 Regional Reserve bank presidents the fol-

lowing year. This would increase influence of the regional banks, which tend to emphasize inflation over employment, by one vote.

Section 5 requires the Board to publicly disclose the methodology for conducting “stress tests” of regulated banks, thereby undermining the purpose of the tests by allowing the large banks to game the system, thus resulting in a false sense of financial stability.

Section 8 of the bill requires the Federal Reserve’s Board to conduct a cost-benefit analysis prior to issuing any regulation. Although in theory such cost-benefit analysis requirements are seemingly common sense, in practice such provisions are problematic for a number of reasons. For example, how should the Federal Reserve value the benefits of preventing a financial crisis, or averting a market failure associated with the absence of a particular regulation? How would the Federal Reserve prove in court that the estimated benefits are reasonable if the crisis the Federal Reserve seeks to prevent through its regulation has never occurred?

Rather than reflect a good faith effort to improve rulemakings and reduce regulatory burden, the heightened cost-benefit analysis requirements included in the bill fail to provide safeguards that would protect the Federal Reserve’s ability to issue critical rules in cases where the precise benefits cannot be identified.

Finally, current law already requires that the Federal Reserve conduct economic analyses pursuant to the Economic Growth and Regulatory Paperwork Reduction Act, the Paperwork Reduction Act, the Congressional Review Act, and the Regulatory Flexibility Act, as other agencies do. In addition, the Board is subject to the Administrative Procedure Act, which provides a formal and standardized process for soliciting and incorporating public feedback. In issuing major rules, the Federal Reserve has made extensive efforts to understand and incorporate the views of all affected parties.

Section 10 requires that the Fed, FDIC, OCC, SEC, and Treasury to notify Congress and the public within at least 30 days of entering into international negotiations on regulatory matters. The bill also requires these agencies to solicit public comments, consult with the relevant committees, and issue a public report covering the topics that were discussed and any revised policy changes that the agencies believe should be implemented as a result of the negotiations. Prior to entering into any agreements as part of an international negotiation, the bill specifies that the agencies must also provide at least 90 days’ notice to both Congress and the public.

These cumbersome requirements would likely impair valuable discussions that U.S. regulators are engaged in to ensure cross border financial regulatory harmonization, a goal which has traditionally been a nonpartisan issue. Such requirements may also politicize the Federal Reserve’s collaborative role in promoting international financial stability.

Finally, section 13 of the bill removes the restrictions that are currently in place that prevent the GAO from second-guessing monetary policy decisions and bringing political pressure to bear on monetary policy decisions, and requires the GAO to conduct an “audit” of the Board and the Federal Reserve Banks within one year of enactment. This provision ignores the fact that the books

of the Federal Reserve are already subject to extensive audits, including an audit of the Federal Reserve's crisis lending facilities. For the foregoing reasons, the Minority opposes H.R. 3189.

MAXINE WATERS.
JUAN VARGAS.
GWEN MOORE.
ED PERLMUTTER.
CAROLYN B. MALONEY.
DENNY HECK.
JOYCE BEATTY.
GREGORY W. MEEKS.
WM. LACY CLAY.

JASON CHAFFETZ, UTAH
CHAIRMAN

ONE HUNDRED FOURTEENTH CONGRESS

ELIJAH E. CUMMINGS, MARYLAND
RANKING MINORITY MEMBER

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
2157 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6143

Mr. CHAFFETZ (202) 225-5074
Mr. CUMMINGS (202) 225-5051
<http://oversight.house.gov>

November 9, 2015

The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
2129 Rayburn HOB
Washington, DC 20515

Dear Mr. Chairman:

I write concerning H.R. 3189, the Fed Oversight Reform and Modernization Act of 2015. As you know, the Committee on Financial Services received an original referral and the Committee on Oversight and Government Reform a secondary referral when the bill was introduced on July 23, 2015. I recognize and appreciate your desire to bring this legislation before the House of Representatives in an expeditious manner, and accordingly, the Committee on Oversight and Government Reform will forego action on the bill.

The Committee takes this action with our mutual understanding that by foregoing consideration of H.R. 3189 at this time, we do not waive any jurisdiction over the subject matter contained in this or similar legislation. Further, I request your support for the appointment of conferees from the Committee on Oversight and Government Reform during any House-Senate conference convened on this or related legislation.

I would ask that a copy of our exchange of letters on H.R. 3189 be included in the bill report filed by the Committee on Financial Services, as well as in the *Congressional Record* during floor consideration, to memorialize our understanding.

Sincerely,



Jason Chaffetz
Chairman

cc: The Honorable John A. Boehner, Speaker
The Honorable Elijah E. Cummings
The Honorable Maxine Waters
The Honorable Thomas J. Wickham, Parliamentarian

JEB HENSARLING, TX, CHAIRMAN

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

MAXINE WATERS, CA, RANKING MEMBER

November 10, 2015

The Honorable Jason Chaffetz
Chairman
Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

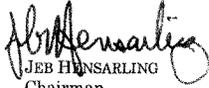
Dear Chairman Chaffetz:

Thank you for your November 9th letter regarding H.R. 3189, the "Fed Oversight Reform and Modernization Act of 2015."

I am most appreciative of your decision to forego action on H.R. 3189 so that it may move expeditiously to the House floor. I acknowledge that although you are waiving action on the bill, the Committee on Oversight and Government Reform is in no way waiving its jurisdictional interest in this or similar legislation. In addition, if a conference is necessary on this legislation, I will support any request that your committee be represented therein.

Finally, I shall be pleased to include your letter and this letter in our committee's report on H.R. 3189 and in the *Congressional Record* during floor consideration of the same.

Sincerely,


JEB HENSARLING
Chairman

cc: The Honorable Paul Ryan
The Honorable Maxine Waters
The Honorable Elijah Cummings
Mr. Thomas J. Wickham, Jr.

