

105TH CONGRESS  
1ST SESSION

# H. R. 1442

To amend the Federal Reserve Act to expand the opportunity for private enterprise to compete with the Board of Governors of the Federal Reserve System in the provision of check-clearing and other services, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 1997

Mr. GONZALEZ (for himself and Mrs. MALONEY of New York) introduced the following bill; which was referred to the Committee on Banking and Financial Services

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## A BILL

To amend the Federal Reserve Act to expand the opportunity for private enterprise to compete with the Board of Governors of the Federal Reserve System in the provision of check-clearing and other services, and for other purposes.

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

3       **SECTION 1. SHORT TITLE; PURPOSES.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Federal Reserve Free Enterprise Act”.

6       (b) PURPOSES.—The purposes of this Act are as  
7       follows:

1           (1) To facilitate the development of private en-  
2       terprise and jobs by promoting competition with the  
3       Board of Governors of the Federal Reserve System  
4       (hereafter in this section referred to as the “Board”)  
5       in the provision of check-clearing and other services.

6           (2) To further promote such competition by  
7       having the Board fairly and accurately price the  
8       services provided by the Board or any Federal re-  
9       serve bank.

10          (3) To save taxpayer funds by eliminating the  
11       subsidy the Board provides through the maintenance  
12       of a pricing system for check-clearing and other  
13       services which does not fully recover the cost of pro-  
14       viding such services.

15          (4) To end the practice of the Board of bun-  
16       dling together all the costs and revenue from all  
17       check-clearing and other services provided by the  
18       Board or any Federal reserve bank and require the  
19       Board to price each readily identifiable component of  
20       each such service in a way that ensures that the full  
21       amount of the costs incurred which are allocable to  
22       the provision of such component is fully recovered.

23          (5) To stimulate innovation and provide a wider  
24       range of check-clearing and other services through  
25       market competition and the free flow of information.

1 **SEC. 2. COMPETITIVE PRICING OF SERVICES.**

2 (a) CLARIFICATION OF FEE SCHEDULE REQUIRE-  
3 MENTS.—

4 (1) IN GENERAL.—Section 11A(b) of the Fed-  
5 eral Reserve Act (12 U.S.C. 248a(b)) is amended by  
6 striking paragraph (2) and all that follows through  
7 paragraph (8) and inserting the following new para-  
8 graphs:

9 “(2) check processing involving sorting and  
10 routing paper checks, and settlement services;

11 “(3) electronic funds transfer services;

12 “(4) automated clearinghouse services;

13 “(5) electronic cashletter services;

14 “(6) securities safekeeping services;

15 “(7) check image capture services;

16 “(8) check truncation services;

17 “(9) image archive warehousing services;

18 “(10) electronic check presentation services;

19 “(11) adjustment of incorrect debits or credits  
20 services;

21 “(12) return of ‘bad’ checks services;

22 “(13) transportation of paper checks services in  
23 the clearing process;

24 “(14) presentation point services;

25 “(15) payor bank service or controlled disburse-  
26 ments services;

1           “(16) any other service which the Board offers,  
2           directly or through a Federal reserve bank; and

3           “(17) each readily identifiable component of  
4           any service described in a preceding paragraph.”.

5           (2) PUBLICATION WITHIN 60 DAYS.—Before the  
6           end of the 60-day period beginning on the date of  
7           the enactment of this Act, the Board of Governors  
8           of the Federal Reserve System shall publish a revi-  
9           sion of the schedule of fees required under section  
10          11A of the Federal Reserve Act which reflects the  
11          changes required in the schedule because of the  
12          amendment made by paragraph (1).

13          (b) PRICING OF SERVICE COMPONENTS.—Section  
14          11A of the Federal Reserve Act (12 U.S.C. 248a) is  
15          amended—

16               (1) by redesignating subsections (d) and (e) as  
17               subsections (e) and (f), respectively; and

18               (2) by inserting after subsection (c) the follow-  
19               ing new subsection:

20           “(d) PRICING OF SERVICE COMPONENTS.—

21               “(1) REQUEST FOR SEPARATE PRICING OF  
22               COMPONENT.—If—

23                       “(A) any person seeks to compete with the  
24               Board or any Federal reserve bank in the provi-

1           sion of any component of any service referred to  
2           in subsection (b); and

3           “(B) the Board has not provided an ex-  
4           plicit price for such component in the fee sched-  
5           ule maintained by the Board under this section,  
6           such person may submit a description of the service  
7           to be provided and a request for a statement of an  
8           explicit price for the provision of such component by  
9           the Board or bank.

10          “(2) ACTION ON REQUEST.—Except as provided  
11          under paragraph (3), the Board shall—

12               “(A) comply with any request submitted  
13               under paragraph (1); and

14               “(B) include the price in the schedule of  
15               fees maintained by the Board before the end of  
16               the 60-day period beginning on the date the  
17               Board receives such request.

18          “(3) FRIVOLOUS AND MERITLESS REQUEST.—  
19          The Board may decline any request under paragraph  
20          (1) which the Board determines, in accordance with  
21          regulations which the Board shall prescribe, is frivo-  
22          lous and without any merit whatsoever if the Board  
23          publishes a notice of the findings and conclusions of  
24          the Board with regard to such determination.”.

1       (c) DOCUMENTATION.—Section 714 of title 31,  
2 United States Code, is amended by adding at the end the  
3 following new subsection:

4       “(e) REVIEW OF PRICING OF SERVICES PROVIDED  
5 BY THE FEDERAL RESERVE SYSTEM.—

6           “(1) IN GENERAL.—The Comptroller General  
7 shall conduct an annual audit of the Board of Gov-  
8 ernors of the Federal Reserve System and the Fed-  
9 eral reserve banks to determine whether the require-  
10 ments of subsection (c)(3) of section 11A of the  
11 Federal Reserve Act are being met with respect to  
12 each component of any service referred to in sub-  
13 section (b) of such section.

14       “(2) DOCUMENTATION.—Notwithstanding any  
15 restriction in this section or any other provision of  
16 law relating to the scope of any audit of the Board  
17 of Governors of the Federal Reserve System or any  
18 Federal reserve bank by the Comptroller General—

19           “(A) the Board and each Federal reserve  
20 bank shall maintain such documents and infor-  
21 mation as the Comptroller General determines  
22 may be useful for purposes of any audit under  
23 paragraph (1) for such reasonable period of  
24 time as the Comptroller General determines to  
25 be appropriate; and

1                   “(B) the Comptroller General shall have  
2                   full access to such documents for purposes of  
3                   any audit under paragraph (1).

4                   “(3) REPORT.—A report on each audit con-  
5                   ducted under paragraph (1) shall be submitted an-  
6                   nually to the Congress.”.

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