

106TH CONGRESS
1ST SESSION

H. R. 871

To provide for investment in private sector securities markets of amounts held in the Federal Old-Age and Survivors Insurance Trust Fund for payment of benefits under title II of the Social Security Act.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1999

Mr. MARKEY (for himself, Mr. BARTLETT of Maryland, and Mr. POMEROY) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To provide for investment in private sector securities markets of amounts held in the Federal Old-Age and Survivors Insurance Trust Fund for payment of benefits under title II of the Social Security Act.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Social Security Invest-
5 ment Fund Act of 1999”.

1 **SEC. 2. ESTABLISHMENT OF THE SOCIAL SECURITY IN-**
2 **VESTMENT BOARD AND EXECUTIVE DIREC-**
3 **TOR.**

4 (a) IN GENERAL.—Title VII of the Social Security
5 Act is amended by adding after section 712 (42 U.S.C.
6 913) the following new section:

7 “SOCIAL SECURITY INVESTMENT BOARD; EXECUTIVE
8 DIRECTOR

9 “Social Security Investment Board

10 “SEC. 713. (a)(1) There is established in the execu-
11 tive branch of the Government an independent agency to
12 be known as the Social Security Investment Board.

13 “(2) The Board shall be composed of—

14 “(A) 3 members appointed by the President, of
15 whom 1 shall be designated by the President as
16 Chairman; and

17 “(B) 2 members appointed by the President, of
18 whom—

19 “(i) 1 shall be appointed by the President
20 after taking into consideration the recommenda-
21 tion made by the Speaker of the House of Rep-
22 resentatives in consultation with the minority
23 leader of the House of Representatives; and

24 “(ii) 1 shall be appointed by the President
25 after taking into consideration the recommenda-
26 tion made by the majority leader of the Senate

1 in consultation with the minority leader of the
2 Senate.

3 “(3) Appointments under paragraph (2) shall be
4 made by and with the advice and consent of the Senate.

5 “(4) Members of the Board shall have substantial ex-
6 perience, training, and expertise in the management of fi-
7 nancial investments and the exercise of fiduciary duties.

8 “(5)(A) A member of the Board shall be appointed
9 for a term of 10 years, subject only to removal by the
10 President for cause, except that of the members first
11 appointed—

12 “(i) the Chairman shall be appointed for a term
13 of 4 years;

14 “(ii) one of the members appointed under para-
15 graph (2)(B) shall be appointed for a term of 2
16 years;

17 “(iii) the remaining member appointed under
18 paragraph (2)(B) shall be appointed for a term of
19 6 years;

20 “(iv) one of the members appointed under para-
21 graph (2)(A) shall be appointed for a term of 8
22 years; and

23 “(v) the remaining member appointed under
24 paragraph (2)(A) shall be appointed for a term of
25 10 years.

1 “(B)(i) A vacancy on the Board shall be filled in the
2 manner in which the original appointment was made and
3 shall be subject to any conditions which applied with re-
4 spect to the original appointment.

5 “(ii) An individual chosen to fill a vacancy shall be
6 appointed for the unexpired term of the member replaced.

7 “(iii) The term of any member shall not expire before
8 the date on which the member’s successor takes office.

9 “(6) The Board shall—

10 “(A) establish policies for investments under
11 part B of title II of amounts in the Social Security
12 Investment Fund in the Common Stock Index Fund
13 established pursuant to section 252 and policies for
14 the selection and retention of investment managers
15 to manage such investments;

16 “(B) review the performance of investments of
17 amounts in the Social Security Investment Fund;
18 and

19 “(C) review and approve the budget of the
20 Board.

21 “(7) The Board shall develop investment policies
22 under paragraph (6)(A) which provide for—

23 “(A) prudent investments suitable for accumu-
24 lating funds for payment of benefits under title II;
25 and

1 “(B) low administrative costs.

2 “(8)(A) The Board may—

3 “(i) adopt, alter, and use a seal;

4 “(ii) except as provided in subparagraph (B),
5 establish policies with which the Executive Director
6 is required to comply under section 252; and

7 “(iii) take such other actions as may be nec-
8 essary to carry out the functions of the Board.

9 “(B) The policies of the Board may not require the
10 Executive Director to invest or to cause to be invested any
11 sums in the Social Security Investment Fund in a specific
12 asset or to dispose of or cause to be disposed of any spe-
13 cific asset of the Fund.

14 “(9)(A) The Board shall meet—

15 “(i) not less than once during each month; and

16 “(ii) at additional times at the call of the Chair-
17 man.

18 “(B)(i) The Board shall perform the functions and
19 exercise the powers of the Board on a majority vote of
20 a quorum of the Board.

21 “(ii) A vacancy on the Board shall not impair the
22 authority of a quorum of the Board to perform the func-
23 tions and exercise the powers of the Board.

24 “(C) Three members of the Board shall constitute a
25 quorum for the transaction of business.

1 “(D)(i) Each member of the Board who is not an offi-
2 cer or employee of the Federal Government shall be com-
3 pensated at the daily rate of basic pay for level IV of the
4 Executive Schedule for each day during which such mem-
5 ber is engaged in performing a function of the Board.

6 “(ii) A member of the Board shall be paid travel, per
7 diem, and other necessary expenses under subchapter I of
8 chapter 57 of title 5, United States Code, while traveling
9 away from such member’s home or regular place of busi-
10 ness in the performance of the duties of the Board.

11 “(iii) Payments authorized under this paragraph
12 shall be paid from the Social Security Investment Fund.

13 “(E) The accrued annual leave of any officer or em-
14 ployee of the Federal Government who is a member of the
15 Board shall not be charged for any time used in perform-
16 ing services for the Board.

17 “(10) The members of the Board shall discharge
18 their responsibilities solely in the interest of the Social Se-
19 curity Investment Fund.

20 “(11) The Board shall prepare and submit to the
21 President, and, at the same time, to the appropriate com-
22 mittees of Congress, an annual budget of the expenses and
23 other items relating to the Board which shall be included
24 as a separate item in the budget required to be transmit-

1 ted to the Congress under section 1105 of title 31, United
2 States Code.

3 “(12) The Board shall submit an annual report to
4 the President and to each House of the Congress regard-
5 ing the financial and operating condition of the Social Se-
6 curity Investment Fund. Such report may include legisla-
7 tive recommendations of the Board relating to any of its
8 functions under this section, part B of title II, or any
9 other provision of law.

10 “Executive Director

11 “(b)(1) The Board shall appoint, without regard to
12 the provisions of law governing appointments in the com-
13 petitive service, an Executive Director of the Social Secu-
14 rity Investment Board, by action agreed to by a majority
15 of the members of the Board.

16 “(2) The Executive Director shall have substantial
17 experience, training, and expertise in the management of
18 financial investments and the exercise of fiduciary duties.

19 “(3) The Executive Director shall—

20 “(A) carry out the policies established by the
21 Board;

22 “(B) carry out the provisions of section 252, re-
23 lating to investment of the Social Security Invest-
24 ment Fund in common stock;

1 “(C) administer the provisions of part B of title
2 II;

3 “(D) prescribe such regulations (other than
4 regulations relating to fiduciary responsibilities) as
5 may be necessary for the administration of part B
6 of title II; and

7 “(E) meet from time to time with, and provide
8 information to, the Board of Trustees of the Federal
9 Old-Age and Survivors Insurance Trust Fund upon
10 request of the Board of Trustees regarding matters
11 relating to the Social Security Investment Fund.

12 “(4) The Executive Director may—

13 “(A) prescribe such regulations as may be nec-
14 essary to carry out the responsibilities of the Execu-
15 tive Director under this subsection, other than regu-
16 lations relating to fiduciary responsibilities;

17 “(B) appoint such personnel as may be nec-
18 essary to carry out the provisions of part B of title
19 II;

20 “(C) in accordance with the policies of the
21 Board, procure the services of experts and consult-
22 ants under section 3109 of title 5, United States
23 Code;

24 “(D) secure directly from any agency or instru-
25 mentality of the Federal Government any informa-

1 tion necessary to carry out the provisions of part B
2 of title II and policies of the Board;

3 “(E) make such payments out of sums in the
4 Social Security Investment Fund as the Executive
5 Director determines are necessary to carry out the
6 provisions of part B of title II and the policies of the
7 Board;

8 “(F) pay the compensation, per diem, and trav-
9 el expenses of individuals appointed under subpara-
10 graphs (B), (C), and (G) of this paragraph from
11 amounts otherwise available in the Social Security
12 Investment Fund;

13 “(G) accept and use the services of individuals
14 employed intermittently in the Government service
15 and reimburse such individuals for travel expenses,
16 as authorized by section 5703 of title 5, United
17 States Code, including per diem as authorized by
18 section 5702 of such title; and

19 “(H) take such other actions as are appropriate
20 to carry out the functions of the Executive Director
21 under part B of title II.

22 “(5) The Executive Director shall discharge his or
23 her responsibilities solely in the interest of the Social Se-
24 curity Investment Fund.

1 “Inspector General

2 “(c) There shall be in the Office of the Board an In-
3 spector General appointed by the President, by and with
4 the advice and consent of the Senate, in accordance with
5 section 3(a) of the Inspector General Act of 1978.”.

6 (b) CONFORMING AMENDMENTS.—Section 11 of the
7 Inspector General Act of 1978 (5 U.S.C. App.) is
8 amended—

9 (1) in paragraph (1), by striking the second of
10 the two semicolons following “Community Service”,
11 by striking “and” before “the chief executive”, by
12 striking “and” before “the Chairperson”, by striking
13 “or” before “the Commissioner”, and by inserting
14 “or the Chairman of the Social Security Investment
15 Board;” before “as the case may be”; and

16 (2) in paragraph (2), by striking “or” before
17 “the Veterans’ Administration”, by striking “or” be-
18 fore “the Social Security Administration”, and by
19 inserting “, or the Social Security Investment
20 Board” after “the Social Security Administration”.

21 **SEC. 3. SOCIAL SECURITY INVESTMENT PROGRAM.**

22 (a) IN GENERAL.—Title II of the Social Security Act
23 is amended—

24 (1) by inserting before section 201 (42 U.S.C.
25 401) the following:

1 “PART A—OLD-AGE, SURVIVORS, AND DISABILITY
2 INSURANCE BENEFITS”;

3 and

4 (2) by adding after section 233 (42 U.S.C. 433)
5 the following new part:

6 “PART B—SOCIAL SECURITY INVESTMENT PROGRAM

7 “SOCIAL SECURITY INVESTMENT FUND

8 “SEC. 251. (a) IN GENERAL.—There is hereby cre-
9 ated on the books of the Treasury of the United States
10 a trust fund to be known as the ‘Social Security Invest-
11 ment Fund’. The Social Security Investment Fund shall
12 consist of such amounts as may be appropriated to, or
13 deposited in, the Social Security Investment Fund as pro-
14 vided in this part. Such Fund shall be available—

15 “(1) for investment in accordance with this
16 part,

17 “(2) to be transferred to the Managing Trustee
18 of the Federal Old-Age and Survivors Insurance
19 Trust Fund in accordance with this part, and

20 “(3) subject to subsection (c), to pay the ad-
21 ministrative expenses of the Social Security Invest-
22 ment Board and the Executive Director of the
23 Board (including compensation for the officers and
24 employees of the Board).

1 “(b) MAINTENANCE OF BALANCE WITH FEDERAL
2 OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—

3 “(1) IN GENERAL.—The Managing Trustee of
4 the Federal Old-Age and Survivors Insurance Trust
5 Fund shall make determinations during each fiscal
6 year of amounts necessary to be transferred between
7 the Social Security Investment Fund and the Fed-
8 eral Old-Age and Survivors Insurance Trust Fund
9 so as to ensure that, to the maximum extent prac-
10 ticable, the amount transferred is equal to the pre-
11 scribed amount for such fiscal year.

12 “(2) MAINTENANCE OF BENEFIT CUSHION.—In
13 determining the extent to which any amount is to be
14 transferred from the Federal Old-Age and Survivors
15 Insurance Trust Fund pursuant to paragraph (1)
16 during any fiscal year, the Managing Trustee of the
17 Trust Fund shall first, not later than the beginning
18 of such fiscal year, determine the amount which is
19 necessary for the fiscal year to meet current with-
20 draws from the Trust Fund under part A. Solely
21 for purposes of making determinations under para-
22 graph (1), the balance in the Trust Fund shall be
23 deemed during such fiscal year not to include such
24 amount. Any transfer pursuant to this subsection
25 shall not include such amount, and such amount

1 shall be invested or applied to current withdrawals
 2 as described in section 201(d).

3 “(3) PRESCRIBED AMOUNT.—For purposes of
 4 paragraph (1), the ‘prescribed amount’ for a fiscal
 5 year shall be:

“For the fiscal year—	The prescribed amount is—
2001	\$81.5 billion.
2002	\$67.5 billion.
2003	\$88.5 billion.
2004	\$87.4 billion.
2005	\$106.0 billion.
2006	\$117.7 billion.
2007	\$148.9 billion.
2008	\$175.1 billion.
2009	\$203.4 billion.
2010	\$232.6 billion.
2011	\$256.5 billion.
2012	\$280.1 billion.
2013	\$299.9 billion.
2014	\$316.5 billion.
2015 or thereafter	\$324.5 billion.

6 “(4) TRANSFERS BETWEEN FUNDS TO MAIN-
 7 TAIN PRESCRIBED AMOUNT.—

8 “(A) TRANSFERS TO THE SOCIAL SECU-
 9 RITY INVESTMENT FUND.—Upon any deter-
 10 mination under paragraph (1) made by the
 11 Managing Trustee that a transfer of any
 12 amount from the Federal Old-Age and Sur-
 13 vivors Insurance Trust Fund to the Social Se-
 14 curity Investment Fund is necessary, the Man-
 15 aging Trustee shall transfer such amount from
 16 the Trust Fund to the Social Security Invest-
 17 ment Fund.

1 “(B) TRANSFERS FROM THE SOCIAL SECUR-
2 RITY INVESTMENT FUND.—Upon any deter-
3 mination under paragraph (1) made by the
4 Managing Trustee that a transfer of any
5 amount from the Social Security Investment
6 Fund to the Federal Old-Age and Survivors In-
7 surance Trust Fund is necessary, the Managing
8 Trustee shall certify such determination to the
9 Executive Director and, upon receipt of such
10 certification, the Executive Director shall trans-
11 fer such amount from the Social Security In-
12 vestment Fund to the Trust Fund.

13 “(c) TERMINATION OF TRANSFERS UPON DEPLE-
14 TION OF FEDERAL OLD-AGE AND SURVIVORS INSURANCE
15 TRUST FUND.—

16 “(1) ISSUANCE OF CERTIFICATION UPON DE-
17 TERMINATION OF IMPENDING DEPLETION OF TRUST
18 FUND.—Not later than July 1 of each fiscal year,
19 the Managing Trustee of the Federal Old-Age and
20 Survivors Insurance Trust Fund shall determine,
21 using reasonable assumptions, whether, by reason of
22 transfers from the Trust Fund to the Social Secu-
23 rity Investment Fund necessary to provide for pay-
24 ment from the Social Security Investment Fund dur-
25 ing the following fiscal year of administrative ex-

1 penses of the Social Security Investment Board and
2 the Executive Director of the Board, the balance in
3 the Trust Fund would, but for the provisions of this
4 subsection, be reduced under this section during
5 such following fiscal year to the amount to be deter-
6 mined for such following fiscal year under subsection
7 (b)(2). Upon so determining that such balance would
8 be reduced to such an amount during such following
9 fiscal year, the Managing Trustee shall certify such
10 determination to the Social Security Investment
11 Board, the Comptroller General of the United
12 States, and each House of the Congress.

13 “(2) TERMINATION OF TRANSFERS UPON CER-
14 TIFICATION.—In any case in which the Managing
15 Trustee issues a certification under paragraph (1),
16 effective October 1 of the following fiscal year, sub-
17 section (b) shall cease to be effective.

18 “(3) AUTHORIZATION OF APPROPRIATIONS FOR
19 ADMINISTRATIVE EXPENSES UPON TERMINATION OF
20 TRANSFERS.—There is authorized to be appro-
21 priated, for the fiscal year referred to in paragraph
22 (2) and subsequent fiscal years, from amounts in the
23 general fund of the Treasury which are not other-
24 wise appropriated, such sums as are necessary to
25 pay the administrative expenses of the Social Secu-

3 “INVESTMENT OF SOCIAL SECURITY INVESTMENT FUND
4 IN COMMON STOCK

5 “SEC. 252. (a) IN GENERAL.—The Social Security
6 Investment Board shall establish for the Social Security
7 Investment Fund a Common Stock Index Fund under
8 which sums shall be invested as provided in subsection (b).
9 Any interest or dividends earned on such investments, and
10 the proceeds from any liquidation of such investments, in-
11 cluding capital gain derived from such liquidation, shall
12 be credited to and form a part of the Social Security In-
13 vestment Fund.

15 “(1) IN GENERAL.—The Common Stock Index
16 Fund shall consist of amounts invested in common
17 stock which is selected by qualified professional asset
18 managers as provided in this subsection.

19 “(2) SELECTION OF INDEX AND PORTFOLIO
20 DESIGN.—

21 “(A) SELECTION OF INDEX.—The Social
22 Security Investment Board shall select for pur-
23 poses of this subsection one or more indices
24 each of which is comprised of common stock the
25 aggregate market value of which is a reasonably
26 complete representation of all publicly held

1 companies whose shares are traded on the
2 United States equity markets.

3 “(B) PORTFOLIO DESIGN.—Amounts held
4 in the Common Stock Index Fund shall be in-
5 vested in portfolios designed to replicate the
6 performance of the indices selected under sub-
7 paragraph (A). Each portfolio shall consist sole-
8 ly of stock purchased in a registered public of-
9 fering or in a secondary market transaction and
10 shall be designed such that, to the extent prac-
11 ticable and consistent with the effective man-
12 agement of such Fund, the percentage of the
13 amount of such Fund in each portfolio that is
14 invested in each stock is the same as the per-
15 centage determined by dividing the aggregate
16 market value of all shares of that stock by the
17 aggregate market value of all shares of all
18 stocks included in the corresponding index. The
19 shares of any company shall not be included or
20 excluded from investments under this sub-
21 section because of political, social, or religious
22 considerations.

23 “(3) NO VOTING RIGHTS IN SECURITIES.—The
24 Social Security Investment Board and the Executive
25 Director may not—

1 “(A) exercise voting rights associated with
2 the ownership of securities by the Social Secu-
3 rity Investment Fund, or

4 “(B) direct the manner in which any vot-
5 ing rights are exercised on behalf of the Social
6 Security Investment Fund by any qualified pro-
7 fessional asset manager pursuant to this sec-
8 tion.

9 “(c) QUALIFIED PROFESSIONAL ASSET MAN-
10 AGERS.—

11 “(1) SELECTION.—The services of qualified
12 professional asset managers shall be procured by the
13 Executive Director for purposes of this section in a
14 competitive bidding process which shall be estab-
15 lished in regulations which shall be prescribed by the
16 Social Security Investment Board.

17 “(2) DEFINITION.—For purposes of this sec-
18 tion, the term ‘qualified professional asset manager’
19 means—

20 “(A) a bank, as defined in section
21 202(a)(2) of the Investment Advisers Act of
22 1940 (15 U.S.C. 80b–2(a)(2)) which—

23 “(i) has the power to manage, ac-
24 quire, or dispose of assets of a plan;

1 “(ii) has, as of the last day of its lat-
2 est fiscal year ending before the date of a
3 determination for the purpose of this sub-
4 paragraph, equity capital in excess of
5 \$10,000,000; and

6 “(iii) has, on the last day of its latest
7 fiscal year ending before the date of a de-
8 termination for the purpose of this sub-
9 paragraph, total client assets under its dis-
10 cretionary management and control for in-
11 vestment in excess of \$100,000,000;

12 “(B) a savings association, the accounts of
13 which are insured by the Federal Deposit In-
14 surance Corporation, which—

15 “(i) has applied for and been granted
16 trust powers to manage, acquire, or dis-
17 pose of assets of a plan by a State or Gov-
18 ernment authority having supervision over
19 savings associations;

20 “(ii) has, as of the last day of its lat-
21 est fiscal year ending before the date of a
22 determination for the purpose of this sub-
23 paragraph, equity capital or net worth in
24 excess of \$10,000,000; and

1 “(iii) has, on the last day of its latest
2 fiscal year ending before the date of a de-
3 termination for the purpose of this sub-
4 paragraph, total client assets under its dis-
5 cretionary management and control for in-
6 vestment in excess of \$100,000,000;

7 “(C) an insurance company which—

8 “(i) is qualified under the laws of
9 more than one State to manage, acquire,
10 or dispose of any assets of a plan;

11 “(ii) has, as of the last day of its lat-
12 est fiscal year ending before the date of a
13 determination for the purpose of this sub-
14 paragraph, net worth in excess of
15 \$10,000,000;

16 “(iii) is subject to supervision and
17 examination by a State authority having
18 supervision over insurance companies; and

19 “(iv) has, on the last day of its latest
20 fiscal year ending before the date of a de-
21 termination for the purpose of this sub-
22 paragraph, total client assets under its dis-
23 cretionary management and control for in-
24 vestment in excess of \$100,000,000; or

1 “(D) an investment adviser registered
2 under section 203 of the Investment Advisers
3 Act of 1940 (15 U.S.C. 80b–3) if the invest-
4 ment adviser has, on the last day of its latest
5 fiscal year ending before the date of a deter-
6 mination for the purpose of this subparagraph,
7 total client assets under its discretionary man-
8 agement and control for investment in excess of
9 \$100,000,000, and—

10 “(i) the investment adviser has, on
11 such day, shareholder’s or partner’s equity
12 in excess of \$10,000,000; or

13 “(ii) payment of all of the investment
14 adviser’s liabilities, including any liabilities
15 which may arise by reason of a breach or
16 violation of a duty described in section
17 254, is unconditionally guaranteed by—

18 “(I) a person who directly or in-
19 directly, through one or more inter-
20 mediaries, controls, is controlled by,
21 or is under common control with the
22 investment adviser and who has, on
23 the last day of the person’s latest fis-
24 cal year ending before the date of a
25 determination for the purpose of this

1 subparagraph, shareholder's or part-
2 ner's equity in an amount which,
3 when added to the amount of the
4 shareholder's or partner's equity of
5 the investment adviser on such day,
6 exceeds \$10,000,000;

7 “(II) a qualified professional
8 asset manager described in paragraph
9 (1), (2), or (3); or

10 “(III) a broker or dealer reg-
11 istered under section 15 of the Securi-
12 ties Exchange Act of 1934 (15 U.S.C.
13 78o) that has, on the last day of the
14 broker's or dealer's latest fiscal year
15 ending before the date of a determina-
16 tion for the purpose of this subpara-
17 graph, **【net worth】** in excess of
18 \$10,000,000.

19 For purposes of subparagraph (D), the term ‘share-
20 holder's or partner's equity’, when used with respect
21 to an investment adviser, or a person who is affili-
22 ated with the investment adviser in a manner de-
23 scribed in clause (ii)(I) of subparagraph (D), means
24 the equity shown in the most recent balance sheet
25 prepared for such investment adviser or affiliated

1 person, in accordance with generally accepted ac-
2 counting principles, within 2 years before the date
3 on which the investment adviser's status as a quali-
4 fied professional asset manager is determined for the
5 purposes of this section.

6 “ENGAGEMENT OF QUALIFIED PUBLIC ACCOUNTANT

7 “SEC. 253. (a) IN GENERAL.—The Social Security
8 Investment Board shall annually engage, on behalf of the
9 Social Security Investment Fund, an independent quali-
10 fied public accountant, who shall conduct an examination
11 of all accounts and other books and records maintained
12 in the administration of this part (including all applicable
13 financial statements) as the public accountant considers
14 necessary to enable the public accountant to make the de-
15 termination required by subsection (b). The examination
16 shall be conducted in accordance with generally accepted
17 auditing standards and shall involve such tests of the ac-
18 counts, books, and records as the public accountant con-
19 siderers necessary.

20 “(b) EXAMINATION AND REPORT.—The public ac-
21 countant conducting an examination under subsection (a)
22 shall determine whether the accounts, books, and records
23 referred to in such subsection have been maintained in
24 conformity with generally accepted accounting principles
25 applied on a basis consistent with the manner in which
26 such principles were applied during the examination con-

1 ducted under such subsection during the preceding year.
 2 The public accountant shall transmit to the Board a re-
 3 port on his examination, including his determination
 4 under this subsection.

5 “(c) DEFINITION.—For the purposes of this section,
 6 the term ‘qualified public accountant’ shall have the same
 7 meaning as is provided in section 103(a)(3)(D) of the Em-
 8 ployee Retirement Income Security Act of 1974 (29
 9 U.S.C. 1023(a)(3)(D)).

10 “FIDUCIARY RESPONSIBILITIES

11 “SEC. 254. (a) IN GENERAL.—Under regulations of
 12 the Secretary of Labor, the provisions of section 8477 of
 13 title 5, United States Code (relating to fiduciary respon-
 14 sibilities; liability and penalties) and section 8478 of such
 15 title (relating to bonding) shall apply in connection with
 16 the amounts maintained in the Common Stock Index
 17 Fund of the Social Security Investment Fund in the same
 18 manner and to the same extent as such provisions apply
 19 in connection with the Thrift Savings Fund.

20 “(b) INVESTIGATIVE AUTHORITY.—Any authority
 21 available to the Secretary of Labor under section 504 of
 22 the Employee Retirement Income Security Act of 1974 is
 23 hereby made available to the Secretary of Labor, and any
 24 officer designated by the Secretary of Labor, to determine
 25 whether any person has violated, or is about to violate,
 26 any provision applicable under subsection (a).

1 “(c) EXCULPATORY PROVISIONS; INSURANCE.—

2 “(1) IN GENERAL.—Any provision in an agree-
3 ment or instrument which purports to relieve a fidu-
4 ciary from responsibility or liability for any respon-
5 sibility, obligation, or duty under this part shall be
6 void.

7 “(2) INSURANCE.—Amounts in the Social Secu-
8 rity Investment Fund available for administrative
9 expenses shall be available and may be used at the
10 discretion of the Social Security Investment Board
11 to purchase insurance to cover potential liability of
12 persons who serve in a fiduciary capacity with re-
13 spect to amounts maintained in the Common Stock
14 Index Fund of the Social Security Investment Fund,
15 without regard to whether a policy of insurance per-
16 mits recourse by the insurer against the fiduciary in
17 the case of a breach of a fiduciary obligation.

18 “DIVERSIFICATION THROUGH INVESTMENT MANAGEMENT

19 “SEC. 255. The Social Security Investment Board
20 shall prescribe policies governing investment of the Social
21 Security Investment Fund which shall ensure—

22 “(1) that the management of investments on
23 behalf of the Fund undertaken in the course of car-
24 rying out the investment responsibilities of the Exec-
25 utive Director of the Fund is exercised by qualified
26 professional asset managers pursuant to section 252

1 in such manner as to ensure that not fewer than 3
2 such managers are each engaged in the management
3 of a substantial portion of such investments,

4 “(2) that investments managed on behalf of the
5 Fund by any such qualified professional asset man-
6 ager do not represent more than 1 percent of the
7 total equity interest in any person, and

8 “(3) that each investment manager will vote on
9 any matter the shares of any issuer held by the
10 Fund under the management of such investment
11 manager in conformity with the voting on such mat-
12 ter of all other shares of such issuer.”.

13 (b) CONFORMING AMENDMENT.—Section 201(d) of
14 such Act (42 U.S.C. 401(d)) is amended in the first sen-
15 tence by striking “withdrawals” and inserting “withdraw-
16 als, or, in the case of the Federal Old-Age and Survivors
17 Insurance Trust Fund, to meet the transfer requirements
18 under section 251(b)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply with respect to fiscal years begin-
21 ning on or after October 1, 2000.

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