

106TH CONGRESS
1ST SESSION

H. R. 990

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

MARCH 4, 1999

Mr. BARTLETT of Maryland (for himself, Mr. MARKEY, Mr. POMEROY, Mr. DUNCAN, and Mr. MATSUI) 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 PRESCRIBED BALANCE IN
2 SOCIAL SECURITY INVESTMENT FUND.—

3 “(1) IN GENERAL.—Except as otherwise pro-
4 vided in this section, the Managing Trustee of the
5 Federal Old-Age and Survivors Insurance Trust
6 Fund shall transfer from the Trust Fund to the So-
7 cial Security Investment Fund during each of the
8 fiscal years 2001 through 2015 amounts equivalent
9 to 100 percent of the prescribed transfer for such
10 fiscal year specified in paragraph (2). The amounts
11 shall be transferred from time to time from the
12 Trust Fund to the Social Security Investment Fund,
13 such amounts to be determined on the basis of esti-
14 mates by the Managing Trustee; and proper adjust-
15 ments shall be made in amounts subsequently trans-
16 ferred to the extent prior estimates were in excess
17 of or were less than actual amounts.

18 “(2) PRESCRIBED TRANSFER.—For purposes of
19 paragraph (1), the ‘prescribed transfer’ for a fiscal
20 year shall be the amount specified for the fiscal year
21 in the following table:

“For the fiscal year—	The prescribed transfer is—
2001	\$34.2 billion.
2002	\$28.4 billion.
2003	\$37.2 billion.
2004	\$36.7 billion.
2005	\$44.5 billion.
2006	\$49.4 billion.
2007	\$62.5 billion.
2008	\$73.5 billion.

“For the fiscal year—	The prescribed transfer is—
2009	\$85.4 billion.
2010	\$97.7 billion.
2011	\$107.7 billion.
2012	\$117.6 billion.
2013	\$126.0 billion.
2014	\$133.0 billion.
2015	\$136.3 billion.

1 “(3) MAINTENANCE OF BALANCE OF SOCIAL
2 SECURITY INVESTMENT FUND AT LEVEL NECESSARY
3 TO ENSURE 6-YEAR INCREASE IN TRUST FUND SOL-
4 VENCY.—

5 “(A) ANNUAL DETERMINATIONS BY MAN-
6 AGING TRUSTEE.—The Managing Trustee of
7 the Federal Old-Age and Survivors Insurance
8 Trust Fund shall determine at the beginning of
9 each of the fiscal years beginning with or after
10 fiscal year 2002 whether the then current bal-
11 ance in the Social Security Investment Fund
12 has resulted in an increase of—

13 “(i) at least 6 years in the number of
14 years for which (under the actuarial as-
15 sumptions used in the most recent annual
16 report of the Board of Trustees of the
17 Trust Fund, and taking into account
18 amounts in the Social Security Investment
19 Fund made available under this subsection
20 to the Trust Fund) the Trust Fund is in
21 close actuarial balance, over

1 “(ii) the number of years for which
2 (under such assumptions) the Trust Fund
3 would have been in close actuarial balance
4 if amounts previously transferred to the
5 Social Security Investment Fund had not
6 been transferred but had been retained in
7 the Trust Fund and invested as provided
8 in section 201(d).

9 Upon determining at the beginning of any such
10 fiscal year that the then current balance in the
11 Social Security Investment Fund has resulted
12 in the 6-year increase described in clause (i),
13 the Managing Trustee shall certify such deter-
14 mination to the Social Security Investment
15 Board, the Comptroller General of the United
16 States, and each House of the Congress.

17 “(B) TRANSFERS BETWEEN FUNDS TO
18 MAINTAIN 6 ADDITIONAL YEARS OF SOL-
19 VENCY.—

20 “(i) IN GENERAL.—In any case in
21 which the Managing Trustee determines
22 under subparagraph (A) at the beginning
23 of any fiscal year that the then current
24 balance in the Social Security Investment
25 Fund has resulted in the 6-year increase

1 described in subparagraph (A)(ii), effective
2 for such fiscal year and subsequent fiscal
3 years—

4 “(I) paragraph (1) shall not
5 apply, and

6 “(II) amounts shall be trans-
7 ferred between the Social Security In-
8 vestment Fund and the Federal Old-
9 Age and Survivors Insurance Trust
10 Fund only in accordance with this
11 paragraph, and only to the extent nec-
12 essary to ensure, to the maximum ex-
13 tent practicable, that the balance in
14 the Social Security Investment Fund
15 does not exceed the minimum level
16 necessary for such 6-year increase to
17 be maintained.

18 “(ii) TRANSFERS FROM THE SOCIAL
19 SECURITY INVESTMENT FUND.—Upon any
20 determination made by the Managing
21 Trustee that a transfer of any amount
22 from the Social Security Investment Fund
23 to the Federal Old-Age and Survivors In-
24 surance Trust Fund is necessary in order
25 to comply with clause (i), the Managing

1 Trustee shall certify such determination to
2 the Executive Director and, upon receipt of
3 such certification, the Executive Director
4 shall transfer such amount from the Social
5 Security Investment Fund to the Trust
6 Fund.

7 “(d) SPECIAL RULES EFFECTIVE UPON DEPLETION
8 OF FEDERAL OLD-AGE AND SURVIVORS INSURANCE
9 TRUST FUND.—

10 “(1) IN GENERAL.—At the beginning of fiscal
11 year 2002 and each subsequent fiscal year, the Man-
12 aging Trustee of the Federal Old-Age and Survivors
13 Insurance Trust Fund shall determine whether,
14 under reasonable assumptions, the balance in the
15 Trust Fund would, but for the provisions of this
16 subsection, be reduced during such fiscal year to the
17 amount which is necessary for such fiscal year to
18 meet current withdrawals from the Trust Fund
19 under part A. Upon so determining that such bal-
20 ance would be reduced to such an amount during
21 such fiscal year, the Managing Trustee shall certify
22 such determination to the Social Security Invest-
23 ment Board, the Comptroller General of the United
24 States, and each House of the Congress.

1 “(2) TRANSFERS UPON CERTIFICATION.—In
2 any case in which the Managing Trustee issues a
3 certification under paragraph (1) at the beginning of
4 any fiscal year—

5 “(A) subsection (b) shall cease to be effec-
6 tive with respect to any transfers thereunder for
7 such fiscal year and subsequent fiscal years,
8 and

9 “(B) effective for such fiscal year and sub-
10 sequent fiscal years, upon any determination
11 made by the Managing Trustee that a transfer
12 of any amount from the Social Security Invest-
13 ment Fund to the Federal Old-Age and Sur-
14 vivors Insurance Trust Fund is necessary to en-
15 sure that amounts are available for current
16 withdrawals from the Trust Fund, the Manag-
17 ing Trustee shall certify such determination to
18 the Executive Director and, upon receipt of
19 such certification, the Executive Director shall
20 transfer such amount from the Social Security
21 Investment Fund to the Trust Fund.

22 “(3) AUTHORIZATION OF APPROPRIATIONS FOR
23 ADMINISTRATIVE EXPENSES UPON TERMINATION OF
24 TRANSFERS.—There is authorized to be appro-
25 priated, for the fiscal year referred to in paragraph

1 (2) and subsequent fiscal years, from amounts in the
 2 general fund of the Treasury which are not other-
 3 wise appropriated, such sums as are necessary to
 4 pay the administrative expenses of the Social Secu-
 5 rity Investment Board and the Executive Director
 6 of the Board.

7 “INVESTMENT OF SOCIAL SECURITY INVESTMENT FUND
 8 IN COMMON STOCK

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

18 “(b) COMMON STOCK INDEX FUND.—

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

23 “(2) SELECTION OF INDEX AND PORTFOLIO
 24 DESIGN.—

25 “(A) SELECTION OF INDEX.—The Social
 26 Security Investment Board shall select for pur-

1 poses of this subsection one or more indices
2 each of which is comprised of common stock the
3 aggregate market value of which is a reasonably
4 complete representation of all publicly held
5 companies whose shares are traded on the
6 United States equity markets.

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

1 section because of political, social, or religious
2 considerations.

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

6 “(A) exercise voting rights associated with
7 the ownership of securities by the Social Secu-
8 rity Investment Fund, or

9 “(B) direct the manner in which any vot-
10 ing rights are exercised on behalf of the Social
11 Security Investment Fund by any qualified pro-
12 fessional asset manager pursuant to this sec-
13 tion.

14 “(c) QUALIFIED PROFESSIONAL ASSET MAN-
15 AGERS.—

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

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

1 “(A) a bank, as defined in section
2 202(a)(2) of the Investment Advisers Act of
3 1940 (15 U.S.C. 80b–2(a)(2)) which—

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

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

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

17 “(B) a savings association, the accounts of
18 which are insured by the Federal Deposit In-
19 surance Corporation, which—

20 “(i) has applied for and been granted
21 trust powers to manage, acquire, or dis-
22 pose of assets of a plan by a State or Gov-
23 ernment authority having supervision over
24 savings associations;

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 or net worth in
5 excess of \$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 “(C) an insurance company which—

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

16 “(ii) has, as of the last day of its lat-
17 est fiscal year ending before the date of a
18 determination for the purpose of this sub-
19 paragraph, net worth in excess of
20 \$10,000,000;

21 “(iii) is subject to supervision and ex-
22 amination by a State authority having su-
23 pervision over insurance companies; and

24 “(iv) has, on the last day of its latest
25 fiscal year ending before the date of a de-

1 termination for the purpose of this sub-
2 paragraph, total client assets under its dis-
3 cretionary management and control for in-
4 vestment in excess of \$100,000,000; or

5 “(D) an investment adviser registered
6 under section 203 of the Investment Advisers
7 Act of 1940 (15 U.S.C. 80b–3) if the invest-
8 ment adviser has, on the last day of its latest
9 fiscal year ending before the date of a deter-
10 mination for the purpose of this subparagraph,
11 total client assets under its discretionary man-
12 agement and control for investment in excess of
13 \$100,000,000, and—

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

17 “(ii) payment of all of the investment
18 adviser’s liabilities, including any liabilities
19 which may arise by reason of a breach or
20 violation of a duty described in section
21 254, is unconditionally guaranteed by—

22 “(I) a person who directly or in-
23 directly, through one or more inter-
24 mediaries, controls, is controlled by,
25 or is under common control with the

1 investment adviser and who has, on
2 the last day of the person's latest fis-
3 cal year ending before the date of a
4 determination for the purpose of this
5 subparagraph, shareholder's or part-
6 ner's equity in an amount which,
7 when added to the amount of the
8 shareholder's or partner's equity of
9 the investment adviser on such day,
10 exceeds \$10,000,000;

11 “(II) a qualified professional
12 asset manager described in paragraph
13 (1), (2), or (3); or

14 “(III) a broker or dealer reg-
15 istered under section 15 of the Securi-
16 ties Exchange Act of 1934 (15 U.S.C.
17 78o) that has, on the last day of the
18 broker's or dealer's latest fiscal year
19 ending before the date of a determina-
20 tion for the purpose of this subpara-
21 graph, net worth in excess of
22 \$10,000,000.

23 For purposes of subparagraph (D), the term ‘share-
24 holder's or partner's equity’, when used with respect
25 to an investment adviser, or a person who is affili-

1 ated with the investment adviser in a manner de-
2 scribed in clause (ii)(I) of subparagraph (D), means
3 the equity shown in the most recent balance sheet
4 prepared for such investment adviser or affiliated
5 person, in accordance with generally accepted ac-
6 counting principles, within 2 years before the date
7 on which the investment adviser's status as a quali-
8 fied professional asset manager is determined for the
9 purposes of this section.

10 “ENGAGEMENT OF QUALIFIED PUBLIC ACCOUNTANT

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

24 “(b) EXAMINATION AND REPORT.—The public ac-
25 countant conducting an examination under subsection (a)
26 shall determine whether the accounts, books, and records

1 referred to in such subsection have been maintained in
 2 conformity with generally accepted accounting principles
 3 applied on a basis consistent with the manner in which
 4 such principles were applied during the examination con-
 5 ducted under such subsection during the preceding year.
 6 The public accountant shall transmit to the Board a re-
 7 port on his examination, including his determination
 8 under this subsection.

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

14 “FIDUCIARY RESPONSIBILITIES

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

24 “(b) INVESTIGATIVE AUTHORITY.—Any authority
 25 available to the Secretary of Labor under section 504 of
 26 the Employee Retirement Income Security Act of 1974 is

1 hereby made available to the Secretary of Labor, and any
2 officer designated by the Secretary of Labor, to determine
3 whether any person has violated, or is about to violate,
4 any provision applicable under subsection (a).

5 “(c) EXCULPATORY PROVISIONS; INSURANCE.—

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

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

22 “DIVERSIFICATION THROUGH INVESTMENT MANAGEMENT

23 “SEC. 255. The Social Security Investment Board
24 shall prescribe policies governing investment of the Social
25 Security Investment Fund which shall ensure—

1 “(1) that the management of investments on
2 behalf of the Fund undertaken in the course of car-
3 rying out the investment responsibilities of the Exec-
4 utive Director of the Fund is exercised by qualified
5 professional asset managers pursuant to section 252
6 in such manner as to ensure that not fewer than 3
7 such managers are each engaged in the management
8 of a substantial portion of such investments,

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

13 “(3) that each investment manager will vote on
14 any matter the shares of any issuer held by the
15 Fund under the management of such investment
16 manager in conformity with the voting on such mat-
17 ter of all other shares of such issuer.”.

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

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

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