

111TH CONGRESS
1ST SESSION

H. R. 3310

To reform the financial regulatory system of the United States, and for
other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2009

Mr. BACHUS (for himself, Mr. BOEHNER, Mr. CANTOR, Mr. PENCE, Mr. SMITH of Texas, Mr. FRANKS of Arizona, Mr. ISSA, Mr. NEUGEBAUER, Mr. GARRETT of New Jersey, Mr. HENSARLING, Mr. PRICE of Georgia, Mrs. BIGGERT, Mrs. CAPITO, Mr. JONES, Mr. POSEY, Mr. LANCE, Mr. MARCHANT, Mr. ROYCE, Mr. LEE of New York, Mr. LUCAS, Mr. ROSKAM, Mrs. BACHMANN, Ms. JENKINS, Mr. BARRETT of South Carolina, Mr. SCALISE, Mr. GOODLATTE, Mr. GERLACH, and Mr. RYAN of Wisconsin) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on Education and Labor, Transportation and Infrastructure, the Judiciary, Agriculture, Oversight and Government Reform, the Budget, Rules, and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reform the financial regulatory system of the United
States, 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,*

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Consumer Protection
3 and Regulatory Enhancement Act”.

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Sec. 1. Short title.
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1 **TITLE I—RESOLUTION OF NON-**
 2 **BANK FINANCIAL INSTITUTIONS**
 3 **SEC. 101. AMENDMENTS TO TITLE 28 OF THE UNITED**
 4 **STATES CODE.**

5 Title 28 of the United States Code is amended—

6 (1) in section 1408 by striking “section 1409”

7 and inserting “sections 1409 and 1409A”,

8 (2) by inserting after section 1409 the fol-

9 lowing:

10 **“§ 1409A. Venue of cases involving non-bank financial**
 11 **institutions**

12 “A case under chapter 14 may be commenced in the

13 district court of the United States for the district—

14 “(1) in which the debtor has its principal place

15 of business or principal assets in the United States

1 if a Federal Reserve Bank is located in that district,
2 or

3 “(2) if venue does not exist under paragraph
4 (1), in which there is a Federal Reserve Bank and
5 in a Federal circuit in which the debtor has its prin-
6 cipal place of business or principal assets in the
7 United States.”, and

8 (3) by amending the table of sections of chapter
9 87 of such title to insert after the item relating to
10 section 1408 the following:

“1409A. Venue of cases involving non-bank financial institutions.”.

11 **SEC. 102. AMENDMENTS TO TITLE 11 OF THE UNITED**
12 **STATES CODE.**

13 (a) DEFINITIONS.—Section 101 of title 11, United
14 States Code, is amended—

15 (1) by inserting after paragraph (26) the fol-
16 lowing:

17 “(26A) The term ‘functional regulator’ means
18 the Federal regulatory agency with the primary Fed-
19 eral regulatory authority over the debtor, such as an
20 agency listed in section 509 of the Gramm-Leach-
21 Bliley Act.”,

22 (2) by redesignating paragraphs (38A) and
23 (38B) as paragraphs (38B) and (38C), respectively,

24 (3) by inserting after paragraph (38) the fol-
25 lowing:

1 “(38A) the term ‘Market Stability and Capital
2 Adequacy Board’ means the entity established in
3 section 201 of the Consumer Protection and Regu-
4 lator Enhancement Act.”, and

5 (4) by inserting after paragraph (40) the fol-
6 lowing:

7 “(40A) The term ‘non-bank financial institu-
8 tion’ means an institution the business of which is
9 engaging in financial activities that is not an insured
10 depository institution.”.

11 (b) APPLICABILITY OF CHAPTERS.—Section 103 of
12 title 11, United States Code, is amended—

13 (1) in subsection (a) by striking “13” and in-
14 serting “13, and 14”,

15 (2) by redesignating subsection (k) as sub-
16 section (l), and

17 (3) by inserting after subsection (j) the fol-
18 lowing:

19 “(k) Chapter 14 applies only in a case under such
20 chapter.”.

21 (c) WHO MAY BE A DEBTOR.—Section 109 of title
22 11, United States Code, is amended—

23 (1) in subsection (b)—

24 (A) in paragraph (2) by striking “or” at
25 the end,

1 (B) in paragraph (3) by striking the period
2 at the end and insert and inserting “; or”, and

3 (C) by adding at the end the following:

4 “(4) a non-bank financial institution that has
5 not been a debtor under chapter 14 of this title.”,

6 (2) in subsection (d) by striking “or commodity
7 broker” and inserting “, commodity broker, or a
8 non-bank financial institution”, and

9 (3) by adding at the end the following:

10 “(i) Only a non-bank financial institution may be a
11 debtor under chapter 14 of this title.”.

12 (d) INVOLUNTARY CASES.—Section 303 of title 11,
13 the United States Code, is amended—

14 (1) in subsection (a) by striking “or 11” and
15 inserting “, 11, or 14”, and

16 (2) in subsection (b) by striking “or 11” and
17 inserting “, 11, or 14”.

18 (e) OBTAINING CREDIT.—Section 364 of title 11,
19 United States Code, is amended by adding at the end the
20 following:

21 “(g) Notwithstanding any other provision of this sec-
22 tion, the trustee may not, and the court may not authorize
23 the trustee to, obtain credit, if the source of that credit
24 either directly or indirectly is the United States.”.

1 (f) CHAPTER 14.—Title 11, United States Code, is
2 amended—

3 (1) by inserting the following after chapter 13:

4 **“CHAPTER 14—ADJUSTMENT TO THE**
5 **DEBTS OF A NON-BANK FINANCIAL IN-**
6 **STITUTION**

“1401. Inapplicability of other sections.

“1402. Applicability of chapter 11 to cases under this chapter.

“1403. Prepetition consultation.

“1404. Appointment of trustee.

“1405. Right to be heard.

“1406. Right to communicate.

“1407. Exemption with respect to certain contracts or agreements.

“1408. Conversion or dismissal.

7 **“§ 1401. Inapplicability of other sections**

8 “Except as provided in section 1408, sections
9 362(b)(6), 362(b)(7), 559, 560, and 561 do not apply in
10 a case under this chapter.

11 **“§ 1402. Applicability of chapter 11 to cases under**
12 **this chapter**

13 “With the exception of sections 1104(d), 1109,
14 1112(a), 1115, and 1116, subchapters I, II, and III of
15 chapter 11 apply in a case under this chapter.

16 **“§ 1403. Prepetition consultation**

17 “(a) Subject to subsection (b)—

18 “(1) a non-bank financial institution may not
19 be a debtor under this chapter unless that institu-
20 tion has, at least 10 days prior to the date of the

1 filing of the petition by such institution, taken part
2 in the consultation described in subsection (c); and

3 “(2) a creditor may not commence an involun-
4 tary case under this chapter unless, at least 10 days
5 prior to the date of the filing of the petition by such
6 creditor, the creditor notifies the non-bank financial
7 institution, the functional regulator, and the Market
8 Stability and Capital Adequacy Board of its intent
9 to file a petition and requests a consultation as de-
10 scribed in subsection (c).

11 “(b) If the non-bank financial institution, the func-
12 tional regulator, and the Market Stability and Capital
13 Adequacy Board, in consultation with any agency charged
14 with administering a nonbankruptcy insolvency regime for
15 any component of the debtor, certify that the immediate
16 filing of a petition under section 301 or 303 is necessary,
17 or that an immediate filing would be in the interests of
18 justice, a petition may be filed notwithstanding subsection
19 (a).

20 “(c) The non-bank financial institution, the func-
21 tional regulator, the Market Stability and Capital Ade-
22 quacy Board, and any agency charged with administering
23 a nonbankruptcy insolvency regime for any component of
24 the debtor shall engage in prepetition consultation in order
25 to attempt to avoid the need for the non-bank financial

1 institution’s liquidation or reorganization in bankruptcy,
2 to make any liquidation or reorganization of the non-bank
3 financial institution under this title more orderly, or to
4 aid in the nonbankruptcy resolution of any of the non-
5 bank financial institution’s components under its non-
6 bankruptcy insolvency regime. Such consultation shall spe-
7 cifically include the attempt to negotiate forbearance of
8 claims between the non-bank financial institution and its
9 creditors if such forbearance would likely help to avoid the
10 commencement of a case under this title, would make any
11 liquidation or reorganization under this title more orderly,
12 or would aid in the nonbankruptcy resolution of any of
13 the non-bank financial institution’s components under its
14 nonbankruptcy insolvency regime. Additionally, the con-
15 sultation shall consider whether, if a petition is filed under
16 section 301 or 303, the debtor should file a motion for
17 an exemption authorized by section 1407.

18 “(d) The court may allow the consultation process to
19 continue for 30 days after the petition, upon motion by
20 the debtor or a creditor. Any post-petition consultation
21 proceedings authorized should be facilitated by the court’s
22 mediation services, under seal, and exclude ex parte com-
23 munications.

24 “(e) The Market Stability and Capital Adequacy
25 Board and the functional regulator shall publish and

1 transmit to Congress a report documenting the course of
2 any consultation. Such report shall be published and
3 transmitted to Congress within 30 days of the conclusion
4 of the consultation.

5 “(f) Nothing in this section shall be interpreted to
6 set aside any of the limitations on the use of Federal funds
7 set forth in the Consumer Protection and Regulator En-
8 hancement Act or the amendments made by such Act.

9 **“§ 1404. Appointment of trustee**

10 “In applying section 1104 to a case under this chap-
11 ter, if the court orders the appointment of a trustee or
12 an examiner, if the trustee or an examiner dies or resigns
13 during the case or is removed under section 324, or if a
14 trustee fails to qualify under section 322, the functional
15 regulator, in consultation with the Market Stability and
16 Capital Adequacy Board, shall submit a list of five disin-
17 terested persons that are qualified and willing to serve as
18 trustees in the case and the United States trustee shall
19 appoint, subject to the court’s approval, one of such per-
20 sons to serve as trustee in the case.

21 **“§ 1405. Right to be heard**

22 “(a) The functional regulator, the Market Stability
23 and Capital Adequacy Board, the Federal Reserve, the
24 Department of the Treasury, the Securities and Exchange
25 Commission, and any domestic or foreign agency charged

1 with administering a nonbankruptcy insolvency regime for
2 any component of the debtor may raise and may appear
3 and be heard on any issue in a case under this chapter,
4 but may not appeal from any judgment, order, or decree
5 entered in the case.

6 “(b) A party in interest, including the debtor, the
7 trustee, a creditors’ committee, an equity security holders’
8 committee, a creditor, an equity security holder, or any
9 indenture trustee may raise, and may appear and be heard
10 on, any issue in a case under this chapter.

11 **“§ 1406. Right to communicate**

12 “The court is entitled to communicate directly with,
13 or to request information or assistance directly from, the
14 functional regulator, the Market Stability and Capital
15 Adequacy Board, the Board of Governors of the Federal
16 Reserve System, the Department of the Treasury, or any
17 agency charged with administering a nonbankruptcy insol-
18 vency regime for any component of the debtor, subject to
19 the rights of a party in interest to notice and participation.

20 **“§ 1407. Exemption with respect to certain contracts**
21 **or agreements**

22 “(a) Subject to subsection (b)—

23 “(1) upon motion of the debtor, consented to by
24 the Market Stability and Capital Adequacy Board—

1 “(A) the debtor and the estate shall be ex-
2 empt from the operation of sections 362(b)(6),
3 362(b)(7), 559, 560, and 561;

4 “(B) if the Market Stability and Capital
5 Adequacy Board consents to the filing of such
6 motion by the debtor, the Board shall inform
7 the court of its reasons for consenting; and

8 “(C) the debtor may limit its motion, or
9 the board may limit its consent, to exempt the
10 debtor and the estate from the operation of sec-
11 tion 362(b)(6), 362(b)(7), 559, 560, or 561, or
12 any combination thereof; and

13 “(2) if the Market Stability and Capital Ade-
14 quacy Board does not consent to the filing of a mo-
15 tion by the debtor under paragraph (1), the debtor
16 may file a motion to exempt the debtor and the es-
17 tate from the operation of sections 362(b)(6),
18 362(b)(7), 559, 560, and 561.

19 “(b) The court shall commence a hearing on a motion
20 under subsection (a) not later than 5 days after the filing
21 of the motion to determine whether to maintain, termi-
22 nate, annul, modify, or condition the exemption under sub-
23 section (a)(1) or, in the case of a motion under subsection
24 (a)(2), grant the exemption. The court shall request that
25 the functional regulator and the Market Stability and

1 Capital Adequacy Board file briefs on whether the court
2 should maintain the exemption. The court shall decide the
3 motion not later than 5 days after commencing such hear-
4 ing unless—

5 “(1) the parties in interest consent to a exten-
6 sion for a specific period of time; or

7 “(2) except with respect to an exemption from
8 the operation of section 559, the court sua sponte
9 extends for 5 additional days the period for decision
10 if such extension would be in the interests of justice
11 or is required by compelling circumstances.

12 “(c) The court shall maintain, terminate, annul, mod-
13 ify, or condition the exemption under subsection (a)(1),
14 or, in the case of a motion under subsection (a)(2), grant
15 the exemption only upon showing of good cause. In deter-
16 mining whether good cause has been shown, the court
17 shall balance the interests of both debtor and creditors
18 while attempting to preserve the debtor’s assets for repay-
19 ment and reorganization of the debtors obligations, or to
20 provide for a more orderly liquidation.

21 **“§ 1408. Conversion or dismissal**

22 “‘In applying section 1112 to a case under this chap-
23 ter, the debtor may convert a case under this chapter to
24 a case under chapter 7 of this title if the debtor may be

1 a debtor under such chapter unless the debtor is not a
2 debtor in possession.”, and

3 (2) by amending the table of chapters of such
4 title by adding at the end the following:

“14. Adjustment to the Debts of a Non-Bank Financial Institution 1401”.

5 **SEC. 103. EFFECTIVE DATE; APPLICATION OF AMEND-**
6 **MENTS.**

7 (a) **EFFECTIVE DATE.**—Except as provided in sub-
8 section (b), this Act and the amendments made by this
9 Act shall take effect on the date of the enactment of this
10 Act.

11 (b) **APPLICATION OF AMENDMENTS.**—The amend-
12 ments made by this Act shall apply only with respect to
13 cases commenced under title 11 of the United States Code
14 on or after the date of the enactment of this Act.

15 **TITLE II—MARKET STABILITY**
16 **AND CAPITAL ADEQUACY**

17 **SEC. 201. ESTABLISHMENT OF MARKET STABILITY AND**
18 **CAPITAL ADEQUACY BOARD.**

19 (a) **IN GENERAL.**—There is hereby established the
20 Market Stability and Capital Adequacy Board (hereafter
21 in this title referred to as the “Board”) as an independent
22 establishment in the Executive Branch.

23 (b) **CONSTITUTION OF BOARD.**—Subject to para-
24 graph (4), the Board shall have 11 members as follows:

1 (1) PUBLIC MEMBERS.—The following shall be
2 members of the Board—

3 (A) The Secretary of the Treasury.

4 (B) The Chairman of the Board of Gov-
5 ernors of the Federal Reserve System.

6 (C) The Chairman of the Securities and
7 Exchange Commission.

8 (D) The Chairperson of the Federal De-
9 posit Insurance Corporation.

10 (E) The Chairman of the Commodity Fu-
11 tures Trading Commission.

12 (F) The Chairperson of the Financial In-
13 stitutions Regulator.

14 (2) PRIVATE MEMBERS.—The Board shall also
15 have 5 members appointed by the President, by and
16 with the advise and consent of the Senate, who shall
17 be appointed from among individuals who—

18 (A) are specially qualified to serve on the
19 Board by virtue of their education, training,
20 and experience; and

21 (B) are not officers or employees of the
22 Federal Government, including the Board of
23 Governors of the Federal Reserve System.

1 (3) CHAIRPERSON.—The Secretary of the
2 Treasury shall serve as the Chairperson of the
3 Board.

4 (4) DIRECTOR OF FHFA AS INTERIM MEM-
5 BER.—Until such time as the charters of the Fed-
6 eral National Mortgage Association and the Federal
7 Home Loan Mortgage Corporation are both repealed
8 pursuant to section 506(d), the Board shall consist
9 of 12 members with the Director of the Federal
10 Housing Finance Agency serving as a public member
11 under paragraph (1).

12 (c) APPOINTMENTS.—

13 (1) TERM.—

14 (A) IN GENERAL.—Each appointed mem-
15 ber shall be appointed for a term of 5 years.

16 (B) STAGGERED TERMS.—Of the members
17 of the Board first appointed under subsection
18 (b)(2), as designated by the President at the
19 time of appointment—

20 (i) 1 shall be appointed for a term of
21 5 years;

22 (ii) 1 shall be appointed for a term of
23 4 years;

24 (iii) 1 shall be appointed for a term of
25 3 years;

1 (iv) 1 shall be appointed for a term of
2 2 years; and

3 (v) 1 shall be appointed for a term of
4 1 year.

5 (2) INTERIM APPOINTMENTS.—Any member ap-
6 pointed to fill a vacancy occurring before the expira-
7 tion of the term for which such member's prede-
8 cessor was appointed shall be appointed only for the
9 remainder of such term.

10 (3) CONTINUATION OF SERVICE.—Each ap-
11 pointed member may continue to serve after the ex-
12 piration of the term of office to which such member
13 was appointed until a successor has been appointed
14 and qualified.

15 (4) REAPPOINTMENT TO A 2ND TERM.—Each
16 member appointed to a term on the Board under
17 subsection (b)(2), including an interim appointment
18 under paragraph (2), may be reappointed by the
19 President to serve 1 additional term.

20 (d) VACANCY.—

21 (1) IN GENERAL.—Any vacancy on the Board
22 shall be filled in the manner in which the original
23 appointment was made.

24 (2) ACTING OFFICIALS MAY SERVE.—In the
25 event of a vacancy in any position listed in sub-

1 section (b)(1) and pending the appointment of a suc-
2 cessor, or during the absence or disability of the in-
3 dividual serving in such position, any acting official
4 in such position shall be a member of the Board
5 while such vacancy, absence or disability continues
6 and the acting official continues acting in such posi-
7 tion.

8 (e) INELIGIBILITY FOR OTHER OFFICES.—

9 (1) POSTSERVICE RESTRICTION.—No member
10 of the Board may hold any office, position, or em-
11 ployment in any financial institution or affiliate of a
12 financial institution during—

13 (A) the time such member is in office; and

14 (B) the 2-year period beginning on the
15 date such member ceases to serve on the Board.

16 (2) CERTIFICATION.—Upon taking office, each
17 member of the Board shall certify under oath that
18 such member has complied with this subsection and
19 such certification shall be filed with the secretary of
20 the Board.

21 (f) QUALIFICATIONS; INITIAL MEETING.—

22 (1) POLITICAL PARTY AFFILIATION.—Not more
23 than 3 members of the Board appointed under sub-
24 section (b)(2) shall be from the same political party.

1 (2) QUALIFICATIONS GENERALLY.—It is the
2 sense of the Congress that individuals appointed to
3 the Commission should be prominent United States
4 citizens, with national recognition and significant
5 depth of experience commensurate with the duties of
6 the Board.

7 (3) SPECIFIC APPOINTMENT QUALIFICATIONS
8 FOR CERTAIN APPOINTED MEMBERS.—

9 (A) STATE BANK.—Of the members ap-
10 pointed to the Board under subsection (b)(2),
11 at least 1 shall be appointed from among indi-
12 viduals who have had experience as a State
13 bank supervisor or senior management execu-
14 tive with a State depository institution.

15 (B) INSURANCE COMMISSIONER.—Of the
16 members appointed to the Board under sub-
17 section (b)(2), at least 1 shall be appointed
18 from among individuals who have served as a
19 State insurance commissioner or supervisor.

20 (4) INITIAL MEETING.—The Board shall meet
21 and begin the operations of the Board as soon as
22 practicable but not later than the end of the 180-day
23 period beginning the date of the enactment of this
24 Act.

1 (g) QUORUM.—Four of the members of the Board
2 designated under subsection (b)(1) and 3 members of the
3 Board appointed under (b)(2) shall constitute a quorum.

4 (h) QUARTERLY MEETINGS.—The Board shall meet
5 upon the call of the chairperson or a majority of the mem-
6 bers at least once in each calendar quarter

7 **SEC. 202. FUNCTIONS OF BOARD.**

8 (a) PRINCIPAL FUNCTIONS.—The principal functions
9 of the Board shall be to—

10 (1) monitor the interactions of various sectors
11 of the financial system; and

12 (2) identify risks that could endanger the sta-
13 bility and soundness of the system.

14 (b) SPECIFIC REVIEW FUNCTIONS INCLUDED.—In
15 carrying out the functions described in subsection (a), the
16 Board shall—

17 (1) review financial industry data collected from
18 the appropriate functional regulators;

19 (2) review insurance industry data, in coordina-
20 tion with State insurance supervisors, for all lines of
21 insurance other than health insurance;

22 (3) monitor government policies and initiatives;

23 (4) review risk management practices within fi-
24 nancial regulatory agencies;

1 (5) review capital standards set by the appro-
2 priate functional regulators and make recommenda-
3 tions to ensure capital and leverage ratios match
4 risks regulated entities are taking on;

5 (6) review transparency and regulatory under-
6 standing of risk exposures in the over-the-counter
7 derivatives markets and make recommendations re-
8 garding the appropriate clearing of trades in those
9 markets through central counterparties;

10 (7) make recommendations regarding any gov-
11 ernment or industry policies and practices that are
12 exacerbating systemic risk; and

13 (8) take such other actions and make such
14 other recommendations as the Board, in the discre-
15 tion of the Board, determines to be appropriate.

16 (c) REPORTS TO FEDERAL FUNCTIONAL REGU-
17 LATORS AND THE CONGRESS.—The Board shall periodi-
18 cally make a report to the Congress and the functional
19 regulators on the findings, conclusions, and recommenda-
20 tions of the Board in a manner and within a time frame
21 that allows the Congress and such regulators to act to con-
22 tain risks posed by specific firms, industry practices, ac-
23 tivities and interactions of entities under different regu-
24 latory regimes, or government policies.

1 (d) TESTIMONY TO CONGRESS.—Not later than Feb-
2 ruary 20 and July 20 of each year, the Chairperson of
3 the Board shall testify to the Congress at semiannual
4 hearings before the Committee on Banking, Housing, and
5 Urban Affairs of the Senate and the Committee on Finan-
6 cial Services of the House of Representatives, about the
7 state of systemic risk in the financial services industry and
8 proposals or recommendations by the Board to address
9 any undue risk.

10 (e) RULE OF CONSTRUCTION.—No provision of this
11 title shall be construed as giving the Board any enforce-
12 ment authority over any financial institution.

13 **SEC. 203. POWERS OF BOARD.**

14 (a) CONTRACTING.—The Board may, to such extent
15 and in such amounts as are provided in appropriation
16 Acts, enter into contracts to enable the Board to discharge
17 its duties under this title.

18 (b) INFORMATION FROM FEDERAL AGENCIES.—

19 (1) IN GENERAL.—The Board may secure di-
20 rectly from any executive department, agency, or
21 independent establishment, or any other instrumen-
22 tality of the United States information and rec-
23 ommendations for the purposes of this title.

24 (2) DELIVERY OF REQUESTED INFORMATION.—
25 Each executive department, agency, or independent

1 establishment, or any other instrumentality of the
2 United States shall, to the extent authorized by law,
3 furnish any information and recommendations re-
4 quested under paragraph (1) directly to the Board,
5 upon request made by the chairperson or any mem-
6 ber designated by a majority of the Commission.

7 (3) RECEIPT, HANDLING, STORAGE, AND DIS-
8 SEMINATION.—Information shall only be received,
9 handled, stored, and disseminated by members of
10 the Board and its staff consistent with all applicable
11 statutes, regulations, and Executive orders.

12 (c) ASSISTANCE FROM FEDERAL AGENCIES.—

13 (1) GENERAL SERVICES ADMINISTRATION.—
14 The Administrator of General Services shall provide
15 to the Board on a reimbursable basis administrative
16 support and other services for the performance of
17 the Commission's functions.

18 (2) OTHER DEPARTMENTS AND AGENCIES.—In
19 addition to the assistance prescribed in paragraph
20 (1), departments and agencies of the United States
21 may provide to the Commission such services, funds,
22 facilities, staff, and other support services as they
23 may determine advisable and as may be authorized
24 by law, including agencies represented on the Board
25 under section 201(b)(1).

1 **SEC. 204. RESPONSIBILITIES OF FEDERAL FUNCTIONAL**
2 **REGULATORS.**

3 (a) FEDERAL FUNCTIONAL REGULATOR DEFINED.—
4 For purposes of this title, the term “Federal functional
5 regulator” has the same meaning as in section 509(2) of
6 the Gramm-Leach-Bliley Act, except that such term in-
7 cludes the Commodity Futures Trading Commission.

8 (b) ASSESSMENTS AND REVIEWS.—In order to ad-
9 dress current regulatory gaps, each Federal functional
10 regulator shall, before each quarterly meeting of the
11 Board,—

12 (1) assess the effects on macroeconomic sta-
13 bility of the activities of financial institutions that
14 are subject to the jurisdiction of such agency;

15 (2) review how such financial institutions inter-
16 act with entities outside the jurisdiction of such
17 agency; and

18 (3) report the results of such assessment and
19 review to the Board, together with such rec-
20 ommendations for administrative action as the agen-
21 cy determines to be appropriate.

22 **SEC. 205. STAFF OF BOARD.**

23 (a) APPOINTMENT AND COMPENSATION.—The chair-
24 person, in accordance with rules agreed upon by the Board
25 and title 5, United States Code, may appoint and fix the
26 compensation of a staff director and such other personnel

1 as may be necessary to enable the Board to carry out its
2 functions.

3 (b) DETAILEES.—Any Federal Government employee
4 may be detailed to the Board and such detailee shall retain
5 the rights, status, and privileges of his or her regular em-
6 ployment without interruption.

7 (c) CONSULTANT SERVICES.—The Board may pro-
8 cure the services of experts and consultants in accordance
9 with section 3109 of title 5, United States Code, but at
10 rates not to exceed the daily rate paid a person occupying
11 a position at level IV of the Executive Schedule under sec-
12 tion 5315 of title 5, United States Code.

13 **SEC. 206. COMPENSATION AND TRAVEL EXPENSES.**

14 (a) COMPENSATION.—Each member of the Board ap-
15 pointed under section 201(b)(2) may be compensated at
16 not to exceed the daily equivalent of the annual rate of
17 basic pay in effect for a position at level IV of the Execu-
18 tive Schedule under section 5315 of title 5, United States
19 Code, for each day during which that member is engaged
20 in the actual performance of the duties of the Board.

21 (b) TRAVEL EXPENSES.—While away from their
22 homes or regular places of business in the performance
23 of services for the Board, members of the Board shall be
24 allowed travel expenses, including per diem in lieu of sub-
25 sistence, in the same manner as persons employed inter-

1 mittedly in the Government service are allowed expenses
2 under section 5703(b) of title 5, United States Code.

3 **TITLE III—REGULATORY CON-**
4 **SOLIDATION AND CONSUMER**
5 **PROTECTION**

6 **SEC. 301. ESTABLISHMENT.**

7 (a) IN GENERAL.—There is hereby established in the
8 executive branch of the Government an independent agen-
9 cy to be known as the Financial Institutions Regulator
10 (hereafter in this title referred to as the “FIR”).

11 (b) DIVISIONS OF THE FIR.—There are hereby es-
12 tablished within the FIR—

13 (1) a division to be known as the Federal Bank-
14 ing Division; and

15 (2) a division to be known as the State Banking
16 Division;

17 (c) INSURED DEPOSITORY INSTITUTION DEFINED.—
18 For purposes of this title, the term “insured depository
19 institution” has the meaning given to such term in section
20 3(c) of the Federal Deposit Insurance Act.

21 **SEC. 302. BOARD OF DIRECTORS.**

22 (a) IN GENERAL.—The management of the FIR shall
23 be vested in a Board of Directors consisting of 5 mem-
24 bers—

1 (1) 1 of whom shall be the Chairman of the
2 FIR and who shall be appointed by the President,
3 by and with the advice and consent of the Senate;

4 (2) 1 of whom shall be the head of the Federal
5 Banking Division and who shall be appointed by the
6 President, by and with the advice and consent of the
7 Senate;

8 (3) 1 of whom shall be the head of the State
9 Banking Division and who shall be appointed by the
10 President, by and with the advice and consent of the
11 Senate;

12 (4) 1 of whom shall be the Chairman of the Na-
13 tional Credit Union Administration; and

14 (5) 1 of whom shall be the Chairperson of the
15 Board of Directors of the Federal Deposit Insurance
16 Corporation.

17 (b) TERMS.—

18 (1) 5-YEAR TERMS.—Each member appointed
19 under paragraphs (1), (2), and (3) of subsection (a)
20 shall be appointed for a term of 5 years.

21 (2) INTERIM APPOINTMENTS.—Any member ap-
22 pointed to fill a vacancy occurring before the end of
23 the term to which such member's predecessor was
24 appointed shall be appointed only for the remainder
25 of such term.

1 (3) CONTINUATION OF SERVICE.—Any member
2 may continue to serve after the expiration of the
3 term of office to which such member was appointed
4 until a successor has been appointed and confirmed.

5 (c) VACANCY.—Any vacancy on the Board of Direc-
6 tors shall be filled in the manner in which the original
7 appointment was made.

8 (d) INELIGIBILITY FOR OTHER OFFICES.—

9 (1) RESTRICTIONS ON EMPLOYMENT BY DEPOS-
10 ITORY INSTITUTIONS.—No member of the Board of
11 Directors may hold any office, position, or employ-
12 ment in any insured depository institution or any af-
13 filiate (as defined in section 2(k) of the Bank Hold-
14 ing Company Act of 1956) of an insured depository
15 institution during—

16 (A) the time such member is in office; and

17 (B) the 2-year period beginning on the
18 date such member ceases to serve on the Board
19 of Directors.

20 (2) OTHER RESTRICTIONS DURING SERVICE AS
21 MEMBER.—No member of the Board of Directors
22 may—

23 (A) be an officer or director of any Federal
24 Reserve bank or Federal home loan bank; or

1 (B) hold any stock in any insured depository
2 institution or any affiliate (as defined in
3 section 2(k) of the Bank Holding Company Act
4 of 1956) of an insured depository institution.

5 (3) CERTIFICATION.—Upon taking office, each
6 member of the Board of Directors shall file a certifi-
7 cation under oath with the secretary of the Board of
8 Directors that such member has complied with the
9 requirements of this subsection.

10 **SEC. 303. POWERS AND DUTIES OF THE FIR.**

11 (a) REGULATION OF NATIONAL BANKS.—

12 (1) TRANSFER TO THE FIR.—All functions of
13 the Comptroller of the Currency are hereby trans-
14 ferred to the FIR.

15 (2) FIR POWERS.—The FIR shall have all pow-
16 ers, duties, and authority which, before the date of
17 the enactment of this Act, were vested in the Com-
18 ptroller of the Currency under any provision of Fed-
19 eral law to the extent such provision applies to na-
20 tional banks or the office, officers, or employees of
21 the Comptroller of the Currency.

22 (b) REGULATION OF MEMBER BANKS, BANK HOLD-
23 ING COMPANIES AND AFFILIATES, AND VARIOUS INTER-
24 NATIONAL BANKING ENTITIES.—

1 (1) TRANSFER TO THE FIR.—All functions of
2 the Board of Governors of the Federal Reserve Sys-
3 tem (and any Federal reserve bank) relating to—

4 (A) the supervision and regulation of
5 banks which are members of the Federal Re-
6 serve System,

7 (B) the supervision and regulation of bank
8 holding companies and any subsidiary or affil-
9 iate of a bank holding company which is not a
10 depository institution,

11 (C) the supervision and regulation of com-
12 panies operating under section 25 or 25A of the
13 Federal Reserve Act or the International Bank-
14 ing Act of 1978,

15 (D) the supervision and regulation of any
16 company which is subject to supervision and
17 regulation by the Board of Governors under any
18 title of the Consumer Credit Protection Act,
19 and

20 (E) the supervision and regulation of any
21 foreign bank, any branch or agency of a foreign
22 bank, and any commercial lending company
23 controlled by a foreign bank,

24 are hereby transferred to the FIR.

1 (2) FIR POWERS.—The FIR shall have all pow-
2 ers, duties, and authority which, before the date of
3 the enactment of this Act, were vested in the Board
4 of Governors of the Federal Reserve System under
5 any provision of Federal law to the extent such pro-
6 visions apply to banks or other companies described
7 in any subparagraph of paragraph (1).

8 (c) REGULATION OF SAVINGS ASSOCIATIONS AND
9 SAVINGS AND LOAN HOLDING COMPANIES.—

10 (1) TRANSFER TO THE FEDERAL BANKING DI-
11 VISION.—All functions of the Director of the Office
12 of Thrift Supervision are hereby transferred to the
13 FIR.

14 (2) FIR POWERS.—The FIR shall have all pow-
15 ers, duties, and authority which, before the date of
16 the enactment of this Act, were vested in the Direc-
17 tor of the Office of Thrift Supervision under any
18 provision of Federal law to the extent such provision
19 applies to savings associations, savings and loan
20 holding companies, or the office, officers, or employ-
21 ees of the Director.

22 (d) REGULATION OF STATE NONMEMBER BANKS.—

23 (1) TRANSFER TO THE FIR.—All functions of
24 the Federal Deposit Insurance Corporation relating
25 to the supervision and regulation of State non-

1 member banks, including savings banks, (other than
2 insurance, conservatorship, or receivership functions)
3 and foreign banks with insured branches (as defined
4 in section 3(s)(3) of the Federal Deposit Insurance
5 Act) are hereby transferred to the FIR.

6 (2) FIR POWERS.—The FIR shall have all pow-
7 ers, duties, and authority which, before the date of
8 the enactment of this Act, were vested in the Fed-
9 eral Deposit Insurance Corporation under any provi-
10 sion of Federal law to the extent such provisions
11 apply to the supervision and regulation of State non-
12 member banks, including savings banks, (other than
13 insurance, conservatorship, or receivership functions)
14 and foreign banks with insured branches (as defined
15 in section 3(s)(3) of the Federal Deposit Insurance
16 Act).

17 (e) REGULATIONS AND ORDERS.—In addition to any
18 authority under any provision referred to in subsection
19 (a), (b), (c), or (d), the FIR may prescribe such regula-
20 tions and issue such orders as the FIR may determine
21 to be appropriate to carry out the purposes of this title
22 and the powers and duties of the FIR under this title and
23 any provision referred to in any such subsection.

1 (f) NO INTENDED IMPACT ON EXISTING RIGHTS AND
 2 JUDICIAL PRECEDENT.—Nothing in this section shall be
 3 construed—

4 (1) to impact any existing right or obligation
 5 under any function or power transferred to the FIR,
 6 solely by reason of such transfer; or

7 (2) to impact any judicial precedent established
 8 with respect to any function or power transferred to
 9 the FIR, solely by reason of such transfer.

10 (g) EFFECTIVE DATE.—The provisions of this sec-
 11 tion shall take effect after the end of the 90-day period
 12 beginning on the date of the enactment of this Act.

13 **SEC. 304. ALLOCATION OF RESPONSIBILITY AMONG FIR DI-**
 14 **VISIONS.**

15 (a) FEDERAL BANKING DIVISION.—The Federal
 16 Banking Division shall have the primary responsibility for
 17 carrying out the FIR’s authority with respect to—

18 (1) national banking associations;

19 (2) foreign banks and Federal branches or
 20 agencies of a foreign bank;

21 (3) bank holding companies and any subsidiary
 22 or affiliate of a bank holding company which is not
 23 a depository institution, other than a bank holding
 24 company, subsidiary, or affiliate that consists solely
 25 of State banks that are insured banks (as such

1 terms is defined in section 3(h) of the Federal De-
2 posit Insurance Act (12 U.S.C. 1813(h));

3 (4) companies operating under section 25 or
4 25A of the Federal Reserve Act or the International
5 Banking Act of 1978;

6 (5) commercial lending companies, other than a
7 Federal agency;

8 (6) savings associations;

9 (7) savings and loan holding companies; and

10 (8) such additional areas as the Board of Direc-
11 tors may prescribe.

12 (b) STATE BANKING DIVISION.—The State Banking
13 Division shall have the primary responsibility for carrying
14 out the FIR’s authority with respect to—

15 (1) any State bank that is an insured bank (as
16 such terms is defined in section 3(h) of the Federal
17 Deposit Insurance Act (12 U.S.C. 1813(h)));

18 (2) any bank holding company or subsidiary or
19 affiliate of a bank holding company, if such bank
20 holding company, subsidiary, or affiliate consists
21 solely of State banks described in paragraph (1);
22 and

23 (3) such additional areas as the Board of Direc-
24 tors may prescribe.

1 **SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS RE-**
2 **LATING TO TRANSFERS OF FUNCTIONS TO**
3 **THE FIR.**

4 (a) **APPROPRIATE FEDERAL BANKING AGENCY RE-**
5 **DEFINED.**—Section 3(q) of the Federal Deposit Insurance
6 Act (12 U.S.C. 1813(q)) is amended to read as follows:

7 “(q) **APPROPRIATE FEDERAL BANKING AGENCY.**—
8 The term ‘appropriate Federal banking agency’ means the
9 Financial Institutions Regulator.”.

10 (b) **MEMBERS OF FDIC BOARD.**—Section 2(a)(1) of
11 the Federal Deposit Insurance Act (12 U.S.C. 1812(a)(1))
12 is amended—

13 (1) by striking subparagraph (A) and redesignig-
14 nating subparagraphs (B) and (C) as subparagraphs
15 (A) and (B), respectively;

16 (2) in subparagraph (A) (as so redesignated by
17 paragraph (1)), by striking “Director of the Office
18 of Thrift Supervision” and inserting “Chairman of
19 the Financial Institutions Regulator”; and

20 (3) in subparagraph (B) (as so redesignated by
21 paragraph (1)), by striking “3” and inserting “4”.

22 (c) **EFFECTIVE DATE.**—The provisions of this section
23 shall take effect after the end of the 90-day period begin-
24 ning on the date of the enactment of this Act.

1 **SEC. 306. OFFICE OF COMPTROLLER OF THE CURRENCY**
2 **AND POSITION OF COMPTROLLER OF THE**
3 **CURRENCY ABOLISHED.**

4 (a) IN GENERAL.—Effective at the end of the 180-
5 day period beginning on the date of the enactment of this
6 Act, the Office of the Comptroller of the Currency and
7 the position of Comptroller of the Currency are hereby
8 abolished.

9 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
10 Effective at the end of the 180-day period beginning on
11 the date of the enactment of this Act:

12 (1) Chapter nine of title VII of the Revised
13 Statutes is amended by striking sections 324, 325,
14 and 326.

15 (2) Subchapter I of chapter 3 of title 31,
16 United States Code, is amended by striking section
17 307.

18 **SEC. 307. OFFICE OF THRIFT SUPERVISION AND POSITION**
19 **OF DIRECTOR OF THE OFFICE OF THRIFT SU-**
20 **PERVISION ABOLISHED.**

21 (a) IN GENERAL.—Effective at the end of the 180-
22 day period beginning on the date of the enactment of this
23 Act, the Office of Thrift Supervision and the position of
24 Director of the Office of Thrift Supervision are hereby
25 abolished.

1 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
2 Effective at the end of the 180-day period beginning on
3 the date of the enactment of this Act:

4 (1) Section 3 of the Home Owners' Loan Act
5 (12 U.S.C. 1462a) is amended by striking sub-
6 sections (a) and (b).

7 (2) Subchapter I of chapter 3 of title 31,
8 United States Code, is amended by striking section
9 309.

10 **SEC. 308. SAVINGS PROVISIONS.**

11 (a) SAVINGS PROVISIONS RELATING TO THE COMP-
12 TROLLER OF THE CURRENCY.—

13 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
14 TIONS NOT AFFECTED.—Sections 303(a)(1) and 306
15 shall not affect the validity of any right, duty, or ob-
16 ligation of the United States, the Comptroller of the
17 Currency, the Office of the Comptroller of the Cur-
18 rency, or any other person, which—

19 (A) arises under or pursuant to any provi-
20 sion of law referred to in section 303(a)(2); and

21 (B) existed on the day before the date of
22 the enactment of this Act.

23 (2) CONTINUATION OF SUITS.—No action or
24 other proceeding commenced by or against the
25 Comptroller of the Currency or the Office of the

1 Comptroller of the Currency shall abate by reason of
2 the enactment of this Act, except that the FIR shall
3 be substituted for the Comptroller or Office as a
4 party to any such action or proceeding.

5 (b) SAVINGS PROVISIONS RELATING TO THE BOARD
6 OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—

7 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
8 TIONS NOT AFFECTED.—Section 303(b)(1) shall not
9 affect the validity of any right, duty, or obligation of
10 the United States, the Board of Governors of the
11 Federal Reserve System, or any other person,
12 which—

13 (A) arises under or pursuant to any provi-
14 sion of law referred to in section 303(b)(2); and

15 (B) existed on the day before the date of
16 the enactment of this Act.

17 (2) CONTINUATION OF SUITS.—No action or
18 other proceeding commenced by or against the
19 Board of Governors of the Federal Reserve System
20 with respect to any function transferred to the FIR
21 shall abate by reason of the enactment of this Act,
22 except that the FIR shall be substituted for the
23 Board of Governors as a party to any such action
24 or proceeding.

1 (c) SAVINGS PROVISIONS RELATING TO THE DIREC-
2 TOR OF THE OFFICE OF THRIFT SUPERVISION.—

3 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
4 TIONS NOT AFFECTED.—Sections 303(c)(1) and 307
5 shall not affect the validity of any right, duty, or ob-
6 ligation of the United States, the Director of the Of-
7 fice of Thrift Supervision, the Office of Thrift Su-
8 pervision, or any other person, which—

9 (A) arises under or pursuant to any provi-
10 sion of law referred to in section 303(c)(2); and

11 (B) existed on the day before the date of
12 the enactment of this Act.

13 (2) CONTINUATION OF SUITS.—No action or
14 other proceeding commenced by or against the Di-
15 rector of the Office of Thrift Supervision or the Of-
16 fice of Thrift Supervision shall abate by reason of
17 the enactment of this Act, except that the FIR shall
18 be substituted for the Director or Office as a party
19 to any such action or proceeding.

20 (d) SAVINGS PROVISIONS RELATING TO THE FED-
21 ERAL DEPOSIT INSURANCE CORPORATION.—

22 (1) EXISTING RIGHTS, DUTIES, AND OBLIGA-
23 TIONS NOT AFFECTED.—Section 303(d)(1) shall not
24 affect the validity of any right, duty, or obligation of
25 the United States, the Federal Deposit Insurance

1 Corporation, the Board of Directors of such Cor-
2 poration, or any other person, which—

3 (A) arises under or pursuant to any provi-
4 sion of law referred to in section 303(d)(2); and

5 (B) existed on the day before the date of
6 the enactment of this Act.

7 (2) CONTINUATION OF SUITS.—No action or
8 other proceeding commenced by or against the Fed-
9 eral Deposit Insurance Corporation or the Board of
10 Directors of such Corporation with respect to any
11 function transferred to the FIR shall abate by rea-
12 son of the enactment of this Act, except that the
13 FIR may be substituted for the Corporation or
14 Board of Directors, as the case may be, as a party
15 to any such action or proceeding.

16 (e) CONTINUATION OF ORDERS, RESOLUTIONS, DE-
17 TERMINATIONS, AND REGULATIONS.—All orders, resolu-
18 tions, determinations, and regulations, which—

19 (1) have been issued, made, prescribed, or al-
20 lowed to become effective by the Director of the Of-
21 fice of Thrift Supervision, the Comptroller of the
22 Currency, the Federal Deposit Insurance Corpora-
23 tion, or the Board of Governors of the Federal Re-
24 serve System (including orders, resolutions, deter-
25 minations, and regulations which relate to the con-

1 duct of conservatorships and receiverships), or by a
2 court of competent jurisdiction, in the performance
3 of functions which are transferred by this Act, and
4 (2) are in effect on the date this Act takes ef-
5 fect (or become effective after such date pursuant to
6 the terms of the order, resolution, determination or
7 regulation, as in effect on such date),
8 shall continue in effect according to the terms of such or-
9 ders, resolutions, determinations, and regulations and
10 shall be enforceable by or against the FIR until modified,
11 terminated, set aside, or superseded in accordance with
12 applicable law by the FIR, by any court of competent ju-
13 risdiction, or by operation of law.

14 (f) EFFECTIVE DATE.—The provisions of this section
15 shall take effect after the end of the 90-day period begin-
16 ning on the date of the enactment of this Act.

17 **SEC. 309. REFERENCES IN FEDERAL LAW TO FEDERAL**
18 **BANKING AGENCIES.**

19 (a) COMPTROLLER OF THE CURRENCY AND DIREC-
20 TOR OF THE OFFICE OF THRIFT SUPERVISION.—Any ref-
21 erence in any Federal law to the Comptroller of the Cur-
22 rency, the Office of the Comptroller of the Currency, the
23 Director of the Office of Thrift Supervision, or the Office
24 of Thrift Supervision shall be deemed to be a reference
25 to the FIR.

1 (b) BOARD OF GOVERNORS OF THE FEDERAL RE-
2 SERVE SYSTEM.—Any reference in any Federal law to the
3 Board of Governors of the Federal Reserve System in con-
4 nection with any function of the Board under any provi-
5 sion of law referred to in section 304(b)(2) shall be
6 deemed to be a reference to the FIR.

7 (c) FEDERAL DEPOSIT INSURANCE CORPORATION.—
8 Any reference in any Federal law to the Federal Deposit
9 Insurance Corporation or the Board of Directors of such
10 Corporation in connection with any function of the Cor-
11 poration or Board of Directors under any provision of law
12 referred to in section 303(d)(2) shall be deemed to be a
13 reference to the FIR.

14 (d) EFFECTIVE DATE.—The provisions of this sec-
15 tion shall take effect after the end of the 90-day period
16 beginning on the date of the enactment of this Act.

17 **SEC. 310. NATIONAL CREDIT UNION ADMINISTRATION**
18 **MOVED WITHIN THE FIR.**

19 (a) IN GENERAL.—The Nation Credit Union Admin-
20 istration is hereby moved within the FIR and shall be
21 maintained as a distinct entity within the FIR.

22 (b) EFFECTIVE DATE.—The provisions of this sec-
23 tion shall take effect after the end of the 90-day period
24 beginning on the date of the enactment of this Act.

1 **SEC. 311. OFFICE OF CONSUMER PROTECTION.**

2 (a) OFFICE OF CONSUMER PROTECTION.—There is
3 hereby established within the FIR an Office of Consumer
4 Protection (hereinafter in this section referred to as the
5 “Office”).

6 (b) DELEGATION OF AUTHORITY TO THE OFFICE.—
7 The Office shall have the primary responsibility for car-
8 rying out the FIR’s authority with respect to laws and
9 regulations relating to consumer protection, including the
10 authority of the FIR under the Consumer Credit Protec-
11 tion Act.

12 (c) RULEMAKING APPROVAL.—No rule or regulation
13 issued by the Office shall take effect unless the Board of
14 Directors of the FIR approves such rule or regulation.

15 (d) CONSUMER COMPLAINT HOTLINE AND
16 WEBSITE.—The Office shall establish a toll-free hotline
17 and a website for consumers to contact regarding inquiries
18 or complaints related to insured depository institutions.
19 Such hotline and website shall then refer such inquiries
20 or complaints to the appropriate FIR division, which will
21 then respond to the inquiry or complaint.

22 (e) DISCLOSURE REVIEW.—Not less than once every
23 7 years, the Office shall undertake a comprehensive review
24 of all public disclosures (including policies, procedures,
25 guidelines, standards, and regulatory filings) made by the
26 FIR and each division of the FIR. In making such review

1 the Office shall perform a cost and benefit analysis of each
2 such disclosure and determine if the policy of the FIR to-
3 wards such disclosure should remain the same or be re-
4 vised.

5 (f) CONSUMER TESTING REQUIREMENT.—Before
6 prescribing any regulation pursuant to the authority of the
7 FIR under the Consumer Credit Protection Act, the Office
8 shall carry out consumer testing with respect to such regu-
9 lation.

10 (g) PERIODIC REVIEW OF REGULATIONS.—

11 (1) REVIEW.—Not less than once every 7 years,
12 the Office shall undertake a comprehensive review of
13 all regulations issued by the Office, the FIR, or any
14 entity preceding the FIR, with respect to the author-
15 ity of the FIR under the Consumer Credit Protec-
16 tion Act. In making such review, the Office shall
17 perform a cost and benefit analysis of each regula-
18 tion and determine if such regulation should remain
19 the same or if such regulation should be revised.

20 (2) REPORT.—After performing a review re-
21 quired by paragraph (1), the Office shall issue a re-
22 port to the Congress describing the review process,
23 any determinations made by the Office, and any re-
24 visions to regulations that the Office determined
25 were needed.

1 **TITLE IV—FEDERAL RESERVE**
2 **REFORM**

3 **SEC. 401. GAO AUTHORITY TO AUDIT THE FEDERAL RE-**
4 **SERVE SYSTEM.**

5 (a) IN GENERAL.—Subsection (b) of section 714 of
6 title 31, United States Code, is amended by striking all
7 after “shall audit an agency” and inserting a period.

8 (b) AUDIT.—Section 714 of title 31, United States
9 Code, is amended by adding at the end the following new
10 subsection:

11 “(e) AUDIT AND REPORT OF THE FEDERAL RE-
12 SERVE SYSTEM.—

13 “(1) IN GENERAL.—The audit of the Board of
14 Governors of the Federal Reserve System and the
15 Federal reserve banks under subsection (b) shall be
16 completed before the end of 2010.

17 “(2) REPORT.—

18 “(A) REQUIRED.—A report on the audit
19 referred to in paragraph (1) shall be submitted
20 by the Comptroller General to the Congress be-
21 fore the end of the 90-day period beginning on
22 the date on which such audit is completed and
23 made available to the Speaker of the House, the
24 majority and minority leaders of the House of
25 Representatives, the majority and minority

1 leaders of the Senate, the Chairman and Rank-
2 ing Member of the committee and each sub-
3 committee of jurisdiction in the House of Rep-
4 resentatives and the Senate, and any other
5 Member of Congress who requests it.

6 “(B) CONTENTS.—The report under sub-
7 paragraph (A) shall include a detailed descrip-
8 tion of the findings and conclusion of the
9 Comptroller General with respect to the audit
10 that is the subject of the report, together with
11 such recommendations for legislative or admin-
12 istrative action as the Comptroller General may
13 determine to be appropriate.”.

14 **SEC. 402. MONETARY POLICY AND INFLATION TARGETS.**

15 Section 2A of the Federal Reserve Act (12 U.S.C.
16 225a) is amended to read as follows:

17 **“SEC. 2A. MONETARY POLICY.**

18 “(a) PRICE STABILITY.—The Board and the Federal
19 Open Market Committee shall—

20 “(1) establish an explicit numerical definition of
21 the term ‘price stability’;

22 “(2) implement such definition through infla-
23 tion targets; and

24 “(3) maintain a monetary policy that effectively
25 promotes long-term price stability.

1 “(b) MARKET STABILITY AND LIQUIDITY.—Sub-
2 section (a) shall not be construed as a limitation on the
3 authority or responsibility of the Board—

4 “(1) to provide liquidity to markets in the event
5 of a disruption that threatens the smooth func-
6 tioning and stability of the financial sector; or

7 “(2) to serve as a lender of last resort under
8 this Act when the Board determines such action is
9 necessary.”.

10 **SEC. 403. REFORMS OF SECTION 13 EMERGENCY POWERS.**

11 (a) RESTRICTIONS ON EMERGENCY POWERS.—The
12 third undesignated paragraph of section 13 of the Federal
13 Reserve Act is amended—

14 (1) by striking “In unusual and exigent” and
15 inserting the following:

16 “(3) EMERGENCY AUTHORITY.—

17 “(A) IN GENERAL.—In unusual and exi-
18 gent”; and

19 (2) by adding at the end the following new sub-
20 paragraph:

21 “(B) REQUIREMENT FOR BROAD AVAIL-
22 ABILITY OF DISCOUNTS.—Subject to the limita-
23 tions provided under subparagraph (A), any au-
24 thorization made pursuant to the authority pro-
25 vided under subparagraph (A) shall require dis-

1 counts to be made broadly available to individ-
2 uals, partnerships, and corporations within the
3 market sector for which such authorization is
4 being made.

5 “(C) TRANSPARENCY AND OVERSIGHT.—

6 “(i) SECRETARY OF THE TREASURY
7 APPROVAL REQUIRED; NOTICE TO THE
8 CONGRESS.—No authorization may be
9 made pursuant to the authority provided
10 under subparagraph (A) unless—

11 “(I) such authorization is first
12 approved by the Secretary of the
13 Treasury; and

14 “(II) the Secretary of the Treas-
15 ury issues a notice to the Congress
16 detailing what authorization the Sec-
17 retary has approved.

18 “(ii) PROGRAMS MOVED ON-BUDGET
19 AFTER 90 DAYS.—On and after the date
20 that is 90 days after the date on which any
21 authorization is made pursuant to the au-
22 thority provided under subparagraph (A),
23 all receipts and disbursements resulting
24 from such authorization shall be counted

1 as new budget authority, outlays, receipts,
2 or deficit or surplus for purposes of—

3 “(I) the budget of the United
4 States Government as submitted by
5 the President;

6 “(II) the congressional budget;
7 and

8 “(III) the Balanced Budget and
9 Emergency Deficit Control Act of
10 1985.

11 “(D) JOINT RESOLUTION OF DIS-
12 APPROVAL.—

13 “(i) IN GENERAL.—With respect to an
14 authorization made pursuant to the au-
15 thority provided under subparagraph (A),
16 if, during the 90-day period beginning on
17 the date the Congress receives a notice de-
18 scribed under subparagraph (C)(i)(II) with
19 respect to such authorization, there is en-
20 acted into law a joint resolution dis-
21 approving such authorization, any action
22 taken under such authorization must be
23 discontinued and unwound not later than
24 the end of the 180-day period beginning on
25 the date that such authorization was made.

1 “(ii) CONTENTS OF JOINT RESOLU-
2 TION.—For the purpose of this paragraph,
3 the term ‘joint resolution’ means only a
4 joint resolution—

5 “(I) that is introduced not later
6 than 3 calendar days after the date on
7 which the notice referred to in clause
8 (i) is received by the Congress;

9 “(II) which does not have a pre-
10 amble;

11 “(III) the title of which is as fol-
12 lows: ‘Joint resolution relating to the
13 disapproval of authorization under the
14 emergency powers of the Federal Re-
15 serve Act’; and

16 “(IV) the matter after the resolv-
17 ing clause of which is as follows:
18 ‘That Congress disapproves the au-
19 thorization contained in the notice
20 submitted to the Congress by the Sec-
21 retary of the Treasury on the date of
22 _____ relating to
23 _____.’ (The blank spaces
24 being appropriately filled in.).

1 “(E) FAST TRACK CONSIDERATION IN
2 HOUSE OF REPRESENTATIVES.—

3 “(i) RECONVENING.—Upon receipt of
4 a notice referred to in subparagraph
5 (D)(i), the Speaker, if the House would
6 otherwise be adjourned, shall notify the
7 Members of the House that, pursuant to
8 this section, the House shall convene not
9 later than the second calendar day after
10 receipt of such report.

11 “(ii) REPORTING AND DISCHARGE.—
12 Any committee of the House of Represent-
13 atives to which a joint resolution is re-
14 ferred shall report it to the House not later
15 than 5 calendar days after the date of re-
16 ceipt of the notice referred to in subpara-
17 graph (D)(i). If a committee fails to report
18 the joint resolution within that period, the
19 committee shall be discharged from further
20 consideration of the joint resolution and
21 the joint resolution shall be referred to the
22 appropriate calendar.

23 “(iii) PROCEEDING TO CONSIDER-
24 ATION.—After each committee authorized
25 to consider a joint resolution reports it to

1 the House or has been discharged from its
2 consideration, it shall be in order, not later
3 than the sixth day after Congress receives
4 the notice referred to in subparagraph
5 (D)(i), to move to proceed to consider the
6 joint resolution in the House. All points of
7 order against the motion are waived. Such
8 a motion shall not be in order after the
9 House has disposed of a motion to proceed
10 on the joint resolution. The previous ques-
11 tion shall be considered as ordered on the
12 motion to its adoption without intervening
13 motion. The motion shall not be debatable.
14 A motion to reconsider the vote by which
15 the motion is disposed of shall not be in
16 order.

17 “(iv) CONSIDERATION.—The joint res-
18 olution shall be considered as read. All
19 points of order against the joint resolution
20 and against its consideration are waived.
21 The previous question shall be considered
22 as ordered on the joint resolution to its
23 passage without intervening motion except
24 two hours of debate equally divided and
25 controlled by the proponent and an oppo-

1 ment. A motion to reconsider the vote on
2 passage of the joint resolution shall not be
3 in order.

4 “(F) FAST TRACK CONSIDERATION IN SEN-
5 ATE.—

6 “(i) RECONVENING.—Upon receipt of
7 a notice referred to in subparagraph
8 (D)(i), if the Senate has adjourned or re-
9 cessed for more than 2 days, the majority
10 leader of the Senate, after consultation
11 with the minority leader of the Senate,
12 shall notify the Members of the Senate
13 that, pursuant to this section, the Senate
14 shall convene not later than the second cal-
15 endar day after receipt of such message.

16 “(ii) PLACEMENT ON CALENDAR.—
17 Upon introduction in the Senate, the joint
18 resolution shall be placed immediately on
19 the calendar.

20 “(iii) FLOOR CONSIDERATION.—

21 “(I) IN GENERAL.—Notwith-
22 standing Rule XXII of the Standing
23 Rules of the Senate, it is in order at
24 any time during the period beginning
25 on the 4th day after the date on

1 which Congress receives a notice re-
2 ferred to in subparagraph (D)(i) and
3 ending on the 6th day after the date
4 on which Congress receives a notice
5 referred to in subparagraph (D)(i)
6 (even though a previous motion to the
7 same effect has been disagreed to) to
8 move to proceed to the consideration
9 of the joint resolution, and all points
10 of order against the joint resolution
11 (and against consideration of the joint
12 resolution) are waived. The motion to
13 proceed is not debatable. The motion
14 is not subject to a motion to postpone.
15 A motion to reconsider the vote by
16 which the motion is agreed to or dis-
17 agreed to shall not be in order. If a
18 motion to proceed to the consideration
19 of the resolution is agreed to, the joint
20 resolution shall remain the unfinished
21 business until disposed of.

22 “(II) DEBATE.—Debate on the
23 joint resolution, and on all debatable
24 motions and appeals in connection
25 therewith, shall be limited to not more

1 than 10 hours, which shall be divided
2 equally between the majority and mi-
3 nority leaders or their designees. A
4 motion further to limit debate is in
5 order and not debatable. An amend-
6 ment to, or a motion to postpone, or
7 a motion to proceed to the consider-
8 ation of other business, or a motion to
9 recommit the joint resolution is not in
10 order.

11 “(III) VOTE ON PASSAGE.—The
12 vote on passage shall occur imme-
13 diately following the conclusion of the
14 debate on a joint resolution, and a
15 single quorum call at the conclusion of
16 the debate if requested in accordance
17 with the rules of the Senate.

18 “(IV) RULINGS OF THE CHAIR
19 ON PROCEDURE.—Appeals from the
20 decisions of the Chair relating to the
21 application of the rules of the Senate,
22 as the case may be, to the procedure
23 relating to a joint resolution shall be
24 decided without debate.

1 “(G) RULES RELATING TO SENATE AND
2 HOUSE OF REPRESENTATIVES.—

3 “(i) COORDINATION WITH ACTION BY
4 OTHER HOUSE.—If, before the passage by
5 one House of a joint resolution of that
6 House, that House receives from the other
7 House a joint resolution, then the following
8 procedures shall apply:

9 “(I) The joint resolution of the
10 other House shall not be referred to a
11 committee.

12 “(II) With respect to a joint res-
13 olution of the House receiving the res-
14 olution—

15 “(aa) the procedure in that
16 House shall be the same as if no
17 joint resolution had been received
18 from the other House; but

19 “(bb) the vote on passage
20 shall be on the joint resolution of
21 the other House.

22 “(ii) TREATMENT OF JOINT RESOLU-
23 TION OF OTHER HOUSE.—If one House
24 fails to introduce or consider a joint resolu-
25 tion under this section, the joint resolution

1 of the other House shall be entitled to ex-
2 pedited floor procedures under this section.

3 “(iii) TREATMENT OF COMPANION
4 MEASURES.—If, following passage of the
5 joint resolution in the Senate, the Senate
6 then receives the companion measure from
7 the House of Representatives, the com-
8 panion measure shall not be debatable.

9 “(iv) VETOES.—If the President ve-
10 toes the joint resolution, debate on a veto
11 message in the Senate under this section
12 shall be 1 hour equally divided between the
13 majority and minority leaders or their des-
14 ignees.

15 “(v) RULES OF HOUSE OF REP-
16 RESENTATIVES AND SENATE.—This sub-
17 paragraph and subparagraphs (D), (E),
18 and (F) are enacted by Congress—

19 “(I) as an exercise of the rule-
20 making power of the Senate and
21 House of Representatives, respec-
22 tively, and as such it is deemed a part
23 of the rules of each House, respec-
24 tively, but applicable only with respect
25 to the procedure to be followed in that

1 House in the case of a joint resolu-
2 tion, and it supersedes other rules
3 only to the extent that it is incon-
4 sistent with such rules; and

5 “(II) with full recognition of the
6 constitutional right of either House to
7 change the rules (so far as relating to
8 the procedure of that House) at any
9 time, in the same manner, and to the
10 same extent as in the case of any
11 other rule of that House.”.

12 (b) CURRENT PROGRAMS MOVED ON-BUDGET.—Not
13 later than 90 days after the date of the enactment of this
14 Act, all receipts and disbursements resulting from any au-
15 thorization made before the date of the enactment of this
16 Act pursuant to the authority granted by the third undes-
17 igned paragraph of section 13 of the Federal Reserve
18 Act shall be counted as new budget authority, outlays, re-
19 ceipts, or deficit or surplus for purposes of—

20 (1) the budget of the United States Govern-
21 ment as submitted by the President;

22 (2) the congressional budget; and

23 (3) the Balanced Budget and Emergency Def-
24 icit Control Act of 1985.

1 **TITLE V—GOVERNMENT-SPON-**
2 **SORED ENTERPRISES RE-**
3 **FORM**

4 **SEC. 501. SHORT TITLE.**

5 This title may be cited as the “Government-Spon-
6 sored Enterprises Free Market Reform Act of 2009”.

7 **SEC. 502. DEFINITIONS.**

8 For purposes of this title, the following definitions
9 shall apply:

10 (1) CHARTER.—The term “charter” means—

11 (A) with respect to the Federal National
12 Mortgage Association, the Federal National
13 Mortgage Association Charter Act (12 U.S.C.
14 1716 et seq.); and

15 (B) with respect to the Federal Home
16 Loan Mortgage Corporation, the Federal Home
17 Loan Mortgage Corporation Act (12 U.S.C.
18 1451 et seq.).

19 (2) DIRECTOR.—The term “Director” means
20 the Director of the Federal Housing Finance Agen-
21 cy.

22 (3) ENTERPRISE.—The term “enterprise”
23 means—

24 (A) the Federal National Mortgage Asso-
25 ciation; and

1 (B) the Federal Home Loan Mortgage
2 Corporation.

3 (4) GUARANTEE.—The term “guarantee”
4 means, with respect to an enterprise, the credit sup-
5 port of the enterprise that is provided by the Fed-
6 eral Government through its charter as a Govern-
7 ment-sponsored enterprise.

8 **SEC. 503. TERMINATION OF CURRENT CONSERVATORSHIP.**

9 (a) IN GENERAL.—Upon the expiration of the period
10 referred to in subsection (b), the Director of the Federal
11 Housing Finance Agency shall determine, with respect to
12 each enterprise, if the enterprise is financially viable at
13 that time and—

14 (1) if the Director determines that the enter-
15 prise is financially viable, immediately take all ac-
16 tions necessary to terminate the conservatorship for
17 each of the enterprises; or

18 (2) if the Director determines that the enter-
19 prise is not financially viable, immediately appoint
20 the Federal Housing Finance Agency as receiver
21 under section 1367 of the Federal Housing Enter-
22 prises Financial Safety and Soundness Act of 1992
23 and carry out such receivership under the authority
24 of such section.

1 (b) TIMING.—The period referred to in this sub-
2 section is, with respect to an enterprise—

3 (1) except as provided in paragraph (2), the 24-
4 month period beginning upon the date of the enact-
5 ment of this Act; or

6 (2) if the Director determines before the expira-
7 tion of the period referred to in paragraph (1) that
8 the financial markets would be adversely affected
9 without the extension of such period under this
10 paragraph with respect to that enterprise, the 30-
11 month period beginning upon the date of the enact-
12 ment of this Act.

13 (c) FINANCIAL VIABILITY.—The Director may not
14 determine that an enterprise is financially viable for pur-
15 poses of subsection (a) if the Director determines that any
16 of the conditions for receivership set forth in paragraph
17 (3) or (4) of section 1367(a) of the Federal Housing En-
18 terprises Financial Safety and Soundness Act of 1992 (12
19 U.S.C. 4617(a)) exists at the time with respect to the en-
20 terprise.

21 **SEC. 504. LIMITATION OF ENTERPRISE AUTHORITY UPON**
22 **EMERGENCE FROM CONSERVATORSHIP.**

23 (a) REVISED AUTHORITY.—Upon the expiration of
24 the period referred to in section 503(b), if the Director

1 makes the determination under section 503(a)(1), the fol-
2 lowing provisions shall take effect:

3 (1) PORTFOLIO LIMITATIONS.—Subtitle B of
4 title XIII of the Housing and Community Develop-
5 ment Act of 1992 (12 U.S.C. 4611 et seq.) is
6 amended by adding at the end the following new sec-
7 tion:

8 **“SEC. 1369E. RESTRICTION ON MORTGAGE ASSETS OF EN-**
9 **TERPRISES.**

10 “(a) RESTRICTION.—No enterprise shall own, as of
11 any applicable date in this subsection or thereafter, mort-
12 gage assets in excess of—

13 “(1) upon the expiration of the period referred
14 to in section 503(b) of the Government-Sponsored
15 Enterprises Free Market Reform Act of 2009,
16 \$850,000,000,000; or

17 “(2) on December 31 of each year thereafter,
18 80.0 percent of the aggregate amount of mortgage
19 assets of the enterprise as of December 31 of the
20 immediately preceding calendar year;

21 except that in no event shall an enterprise be required
22 under this section to own less than \$250,000,000,000 in
23 mortgage assets.

24 “(b) DEFINITION OF MORTGAGE ASSETS.—For pur-
25 poses of this section, the term ‘mortgage assets’ means,

1 with respect to an enterprise, assets of such enterprise
2 consisting of mortgages, mortgage loans, mortgage-related
3 securities, participation certificates, mortgage-backed
4 commercial paper, obligations of real estate mortgage in-
5 vestment conduits and similar assets, in each case to the
6 extent such assets would appear on the balance sheet of
7 such enterprise in accordance with generally accepted ac-
8 counting principles in effect in the United States as of
9 September 7, 2008 (as set forth in the opinions and pro-
10 nouncements of the Accounting Principles Board and the
11 American Institute of Certified Public Accountants and
12 statements and pronouncements of the Financial Account-
13 ing Standards Board from time to time; and without giv-
14 ing any effect to any change that may be made after Sep-
15 tember 7, 2008, in respect of Statement of Financial Ac-
16 counting Standards No. 140 or any similar accounting
17 standard).”.

18 (2) INCREASE IN MINIMUM CAPITAL REQUIRE-
19 MENT.—Section 1362 of the Federal Housing En-
20 terprises Financial Safety and Soundness Act of
21 1992 (12 U.S.C. 4612), as amended by section 1111
22 of the Housing and Economic Recovery Act of 2008
23 (Public Law 110–289), is amended—

24 (A) in subsection (a), by striking “For
25 purposes of this subtitle, the minimum capital

1 level for each enterprise shall be” and inserting
2 “The minimum capital level established under
3 subsection (g) for each enterprise may not be
4 lower than”;

5 (B) in subsection (c)—

6 (i) by striking “subsections (a) and”
7 and inserting “subsection”;

8 (ii) by striking “regulated entities”
9 the first place such term appears and in-
10 sserting “Federal Home Loan Banks”;

11 (iii) by striking “for the enterprises,”;

12 (iv) by striking “, or for both the en-
13 terprises and the banks,”;

14 (v) by striking “the level specified in
15 subsection (a) for the enterprises or”; and

16 (vi) by striking “the regulated entities
17 operate” and inserting “such banks oper-
18 ate”;

19 (C) in subsection (d)(1)—

20 (i) by striking “subsections (a) and”
21 and inserting “subsection”; and

22 (ii) by striking “regulated entity”
23 each place such term appears and inserting
24 “Federal home loan bank”;

1 (D) in subsection (e), by striking “regu-
2 lated entity” each place such term appears and
3 inserting “Federal home loan bank”;

4 (E) in subsection (f)—

5 (i) by striking “the amount of core
6 capital maintained by the enterprises,”;
7 and

8 (ii) by striking “regulated entities”
9 and inserting “banks”; and

10 (F) by adding at the end the following new
11 subsection:

12 “(g) ESTABLISHMENT OF REVISED MINIMUM CAP-
13 ITAL LEVELS.—

14 “(1) IN GENERAL.—The Director shall cause
15 the enterprises to achieve and maintain adequate
16 capital by establishing minimum levels of capital for
17 the enterprises and by using such other methods as
18 the Director deems appropriate.

19 “(2) AUTHORITY.—The Director shall have the
20 authority to establish such minimum level of capital
21 for an enterprise in excess of the level specified
22 under subsection (a) as the Director, in the Direc-
23 tor’s discretion, deems to be necessary or appro-
24 priate in light of the particular circumstances of the
25 enterprise.

1 “(h) FAILURE TO MAINTAIN REVISED MINIMUM
2 CAPITAL LEVELS.—

3 “(1) UNSAFE AND UNSOUND PRACTICE OR CON-
4 DITION.—Failure of an enterprise to maintain cap-
5 ital at or above its minimum level as established
6 pursuant to subsection (c) of this section may be
7 deemed by the Director, in his discretion, to con-
8 stitute an unsafe and unsound practice or condition
9 within the meaning of this title.

10 “(2) DIRECTIVE TO ACHIEVE CAPITAL
11 LEVEL.—

12 “(A) AUTHORITY.—In addition to, or in
13 lieu of, any other action authorized by law, in-
14 cluding paragraph (1), the Director may issue
15 a directive to an enterprise that fails to main-
16 tain capital at or above its required level as es-
17 tablished pursuant to subsection (c) of this sec-
18 tion.

19 “(B) PLAN.—Such directive may require
20 the enterprise to submit and adhere to a plan
21 acceptable to the Director describing the means
22 and timing by which the enterprise shall achieve
23 its required capital level.

24 “(C) ENFORCEMENT.—Any such directive
25 issued pursuant to this paragraph, including

1 plans submitted pursuant thereto, shall be en-
2 forceable under the provisions of subtitle C of
3 this title to the same extent as an effective and
4 outstanding order issued pursuant to subtitle C
5 of this title which has become final.

6 “(3) ADHERENCE TO PLAN.—

7 “(A) CONSIDERATION.—The Director may
8 consider such enterprise’s progress in adhering
9 to any plan required under this subsection
10 whenever such enterprise seeks the requisite ap-
11 proval of the Director for any proposal which
12 would divert earnings, diminish capital, or oth-
13 erwise impede such enterprise’s progress in
14 achieving its minimum capital level.

15 “(B) DENIAL.—The Director may deny
16 such approval where it determines that such
17 proposal would adversely affect the ability of
18 the enterprise to comply with such plan.”.

19 (3) REPEAL OF INCREASES TO CONFORMING
20 LOAN LIMITS.—

21 (A) REPEAL OF TEMPORARY INCREASES.—

22 (i) ECONOMIC STIMULUS ACT OF
23 2008.—Section 201 of the Economic Stim-
24 ulus Act of 2008 (Public Law 110–185) is
25 hereby repealed.

1 (ii) AMERICAN RECOVERY AND REIN-
2 VESTMENT ACT OF 2009.—Section 1203 of
3 division A of the American Recovery and
4 Reinvestment Act of 2009 (Public Law
5 111–5; 123 Stat. 225) is hereby repealed.

6 (B) REPEAL OF GENERAL LIMIT AND PER-
7 MANENT HIGH-COST AREA INCREASE.—Para-
8 graph (2) of section 302(b) of the Federal Na-
9 tional Mortgage Association Charter Act (12
10 U.S.C. 1717(b)(2)) and paragraph (2) of sec-
11 tion 305(a) of the Federal Home Loan Mort-
12 gage Corporation Act (12 U.S.C. 1454(a)(2))
13 are each amended to read as such sections were
14 in effect immediately before the enactment of
15 the Housing and Economic Recovery Act of
16 2008 (Public Law 110–289).

17 (C) REPEAL OF NEW HOUSING PRICE
18 INDEX.—Section 1322 of the Federal Housing
19 Enterprises Financial Safety and Soundness
20 Act of 1992, as added by section 1124(d) of the
21 Housing and Economic Recovery Act of 2008
22 (Public Law 110–289), is hereby repealed.

23 (D) REPEAL.—Section 1124 of the Hous-
24 ing and Economic Recovery Act of 2008 (Public
25 Law 110–289) is hereby repealed.

1 (E) ESTABLISHMENT OF CONFORMING
2 LOAN LIMIT.—For the year in which the expira-
3 tion of the period referred to in section 503(b)
4 of this section occurs, the limitations governing
5 the maximum original principal obligation of
6 conventional mortgages that may be purchased
7 by the Federal National Mortgage Association
8 and the Federal Home Loan Mortgage Cor-
9 poration, referred to in section 302(b)(2) of the
10 Federal National Mortgage Association Charter
11 Act (12 U.S.C. 1717(b)(2)) and section
12 305(a)(2) of the Federal Home Loan Mortgage
13 Corporation Act (12 U.S.C. 1454(a)(2)), re-
14 spectively, shall be considered to be—

15 (i) \$417,000 for a mortgage secured
16 by a single-family residence,

17 (ii) \$533,850 for a mortgage secured
18 by a 2-family residence,

19 (iii) \$645,300 for a mortgage secured
20 by a 3-family residence, and

21 (iv) \$801,950 for a mortgage secured
22 by a 4-family residence,

23 and such limits shall be adjusted effective each
24 January 1 thereafter in accordance with such
25 sections 302(b)(2) and 305(a)(2).

1 (F) PROHIBITION OF PURCHASE OF MORT-
2 GAGES EXCEEDING MEDIAN AREA HOME
3 PRICE.—

4 (i) FANNIE MAE.—Section 302(b)(2)
5 of the Federal National Mortgage Associa-
6 tion Charter Act (12 U.S.C. 1717(b)(2)) is
7 amended by adding at the end the fol-
8 lowing new sentence: “Notwithstanding
9 any other provision of this title, the cor-
10 poration may not purchase any mortgage
11 for a property having a principal obligation
12 that exceeds the median home price, for
13 properties of the same size, for the area in
14 which such property subject to the mort-
15 gage is located.”.

16 (ii) FREDDIE MAC.—Section
17 305(a)(2) of the Federal Home Loan
18 Mortgage Corporation Act (12 U.S.C.
19 1454(a)(2)) is amended by adding at the
20 end the following new sentence: “Notwith-
21 standing any other provision of this title,
22 the Corporation may not purchase any
23 mortgage for a property having a principal
24 obligation that exceeds the median home
25 price, for properties of the same size, for

1 the area in which such property subject to
2 the mortgage is located.”.

3 (4) REQUIREMENT TO PAY STATE AND LOCAL
4 TAXES.—

5 (A) FANNIE MAE.—Paragraph (2) of sec-
6 tion 309(c) of the Federal National Mortgage
7 Association Charter Act (12 U.S.C.
8 1723a(c)(2)) is amended—

9 (i) by striking “shall be exempt from”
10 and inserting “shall be subject to”; and

11 (ii) by striking “except that any” and
12 inserting “and any”.

13 (B) FREDDIE MAC.—Section 303(e) of the
14 Federal Home Loan Mortgage Corporation Act
15 (12 U.S.C. 1452(e)) is amended—

16 (i) by striking “shall be exempt from”
17 and inserting “shall be subject to”; and

18 (ii) by striking “except that any” and
19 inserting “and any”.

20 (5) REPEALS RELATING TO REGISTRATION OF
21 SECURITIES.—

22 (A) FANNIE MAE.—

23 (i) MORTGAGE-BACKED SECURI-
24 TIES.—Section 304(d) of the Federal Na-
25 tional Mortgage Association Charter Act

1 (12 U.S.C. 1719(d)) is amended by strik-
2 ing the fourth sentence.

3 (ii) SUBORDINATE OBLIGATIONS.—
4 Section 304(e) of the Federal National
5 Mortgage Association Charter Act (12
6 U.S.C. 1719(e)) is amended by striking the
7 fourth sentence.

8 (B) FREDDIE MAC.—Section 306 of the
9 Federal Home Loan Mortgage Corporation Act
10 (12 U.S.C. 1455) is amended by striking sub-
11 section (g).

12 (6) RECOUPMENT OF COSTS FOR FEDERAL
13 GUARANTEE.—

14 (A) ASSESSMENTS.—The Director of the
15 Federal Housing Finance Agency shall establish
16 and collect from each enterprise assessments in
17 the amount determined under subparagraph
18 (B). In determining the method and timing for
19 making such assessments, the Director shall
20 take into consideration the determinations and
21 conclusions of the study under subsection (b) of
22 this section.

23 (B) DETERMINATION OF COSTS OF GUAR-
24 ANTEE.—Assessments under subparagraph (A)
25 with respect to an enterprise shall be in such

1 amount as the Director determines necessary to
2 recoup to the Federal Government the full value
3 of the benefit the enterprise receives from the
4 guarantee provided by the Federal Government
5 for the obligations and financial viability of the
6 enterprise, based upon the dollar value of such
7 benefit in the market to such enterprise when
8 not operating under conservatorship or receiver-
9 ship. To determine such amount, the Director
10 shall establish a risk-based pricing mechanism
11 as the Director considers appropriate, taking
12 into consideration the determinations and con-
13 clusions of the study under subsection (b) of
14 this section.

15 (C) TREATMENT OF RECOUPED
16 AMOUNTS.—The Director shall cover into the
17 general fund of the Treasury any amounts re-
18 ceived from assessments made under this para-
19 graph.

20 (b) GAO STUDY REGARDING RECOUPMENT OF
21 COSTS FOR FEDERAL GOVERNMENT GUARANTEE.—The
22 Comptroller General of the United States shall conduct
23 a study to determine a risk-based pricing mechanism to
24 accurately determine the value of the benefit the enter-
25 prises receive from the guarantee provided by the Federal

1 Government for the obligations and financial viability of
2 the enterprises. Such study shall establish a dollar value
3 of such benefit in the market to each enterprise when not
4 operating under conservatorship or receivership, shall ana-
5 lyze various methods of the Federal Government assessing
6 a charge for such value received (including methods involv-
7 ing an annual fee or a fee for each mortgage purchased
8 or securitized), and shall make a recommendation of the
9 best such method for assessing such charge. Not later
10 than 12 months after the date of the enactment of this
11 Act, the Comptroller General shall submit to the Congress
12 a report setting forth the determinations and conclusions
13 of such study.

14 **SEC. 505. REQUIREMENT TO PERIODICALLY RENEW CHAR-**
15 **TER UNTIL WIND DOWN AND DISSOLUTION.**

16 (a) **REQUIRED RENEWAL; WIND DOWN AND DIS-**
17 **SOLUTION UPON NON-RENEWAL.**—Upon the expiration of
18 the 3-year period that begins upon the expiration of the
19 period referred to in section 503(b), unless the charter of
20 an enterprise is renewed pursuant to subsection (b) of this
21 section, section 506 (relating to wind down of operations
22 and dissolution of enterprise) shall apply to the enterprise.

23 (b) **RENEWAL PROCEDURE.**—

24 (1) **APPLICATION; TIMING.**—The Director shall
25 provide for each enterprise to apply to the Director,

1 before the expiration of the 3-year period under sub-
2 section (a), for renewal of the charter of the enter-
3 prise.

4 (2) STANDARD.—The Director shall approve
5 the application of an enterprise for the renewal of
6 the charter of the enterprise if—

7 (A) the application includes a certification
8 by the enterprise that the enterprise is finan-
9 cially sound and is complying with all provisions
10 of, and amendments made by, section 504 of
11 this title applicable to such enterprise; and

12 (B) the Director verifies that the certifi-
13 cation made pursuant to subparagraph (A) is
14 accurate.

15 (c) OPTION TO REAPPLY.—Nothing in this section
16 may be construed to require an enterprise to apply under
17 this section for renewal of the charter of the enterprise.

18 **SEC. 506. REQUIRED WIND DOWN OF OPERATIONS AND DIS-**

19 **SOLUTION OF ENTERPRISE.**

20 (a) APPLICABILITY.—This section shall apply to an
21 enterprise—

22 (1) upon the expiration of the 3-year period re-
23 ferred to in such section 505(a), to the extent pro-
24 vided in such section; and

1 (2) if this section has not previously applied to
2 the enterprise, upon the expiration of the 6-year pe-
3 riod that begins upon the expiration of the period re-
4 ferred to in section 503(b).

5 (b) WIND DOWN.—Upon the applicability of this sec-
6 tion to an enterprise, the Director and the Secretary of
7 the Treasury shall jointly take such action, and may pre-
8 scribe such regulations and procedures, as may be nec-
9 essary to wind down the operations of an enterprise as
10 an entity chartered by the United States Government over
11 the duration of the 10-year period beginning upon the ap-
12 plicability of this section to the enterprise (pursuant to
13 subsection (a)) in an orderly manner consistent with this
14 title and the ongoing obligations of the enterprise.

15 (c) DIVISION OF ASSETS AND LIABILITIES; AUTHOR-
16 ITY TO ESTABLISH HOLDING CORPORATION AND DIS-
17 SOLUTION TRUST FUND.—The action and procedures re-
18 quired under subsection (b)—

19 (1) shall include the establishment and execu-
20 tion of plans to provide for an equitable division and
21 distribution of assets and liabilities of the enterprise,
22 including any liability of the enterprise to the United
23 States Government or a Federal reserve bank that
24 may continue after the end of the period described
25 in subsection (b); and

1 (2) may provide for establishment of—

2 (A) a holding corporation organized under
3 the laws of any State of the United States or
4 the District of Columbia for the purposes of the
5 reorganization and restructuring of the enter-
6 prise; and

7 (B) one or more trusts to which to trans-
8 fer—

9 (i) remaining debt obligations of the
10 enterprise, for the benefit of holders of
11 such remaining obligations; or

12 (ii) remaining mortgages held for the
13 purpose of backing mortgage-backed secu-
14 rities, for the benefit of holders of such re-
15 maining securities.

16 (d) REPEAL OF CHARTER.—Effective upon the expi-
17 ration of the 10-year period referred to in subsection (b)
18 for an enterprise, the charter for the enterprise is re-
19 pealed, except that the provisions of such charter in effect
20 immediately before such repeal shall continue to apply
21 with respect to the rights and obligations of any holders
22 of outstanding debt obligations and mortgage-backed secu-
23 rities of the enterprise.

1 **TITLE VI—CREDIT RATING**
2 **AGENCY REFORM**

3 **SEC. 601. CLARIFICATION OF DESIGNATION.**

4 (a) IN GENERAL.—

5 (1) SINGULAR.—Each applicable law is amend-
6 ed by striking “nationally recognized statistical rat-
7 ing organization” each place it appears and inserting
8 “nationally registered statistical rating organiza-
9 tion”.

10 (2) PLURAL.—Each applicable law is amended
11 by striking “nationally recognized statistical rating
12 organizations” each place it appears and inserting
13 “nationally registered statistical rating organiza-
14 tions”.

15 (b) APPLICABLE LAWS.—For purposes of this sec-
16 tion, the term “applicable laws” means—

17 (1) the Securities Exchange Act of 1934; and

18 (2) the Investment Advisers Act of 1940.

19 **SEC. 602. ELIMINATION OF SECURITY CREDIT RATING RE-**
20 **QUIREMENTS IN FEDERAL LAW.**

21 (a) SECURITIES EXCHANGE ACT OF 1934.—The Se-
22 curities Exchange Act of 1934 (15 U.S.C. 78a et seq.)
23 is amended—

24 (1) in section 3(a)(41), by striking “is rated in
25 one of the two highest rating categories by at least

1 one nationally recognized statistical rating organiza-
2 tion, and”); and

3 (2) in section 3(a)(53)(A), by striking “is rated
4 in 1 of the 4 highest rating categories by at least 1
5 nationally recognized statistical rating organization,
6 and”.

7 (b) INVESTMENT COMPANY ACT OF 1940.—Section
8 6(a)(5)(A) of the Investment Company Act of 1940 (15
9 U.S.C. 80a–6(a)(5)(A)) is amended—

10 (1) in clause (ii), by adding “and” at the end;

11 (2) in clause (iii), by striking “; and” and in-
12 serting a period; and

13 (3) by striking clause (iv).

14 (c) HIGHER EDUCATION ACT OF 1965.—Section 439
15 of the Higher Education Act of 1965 (20 U.S.C. 1087–
16 2) is amended—

17 (1) by striking subsection (d)(5); and

18 (2) in subsection (r), by striking paragraph
19 (11) and inserting the following:

20 “(11) [Repealed]”.

21 (d) LAUNCHING OUR COMMUNITIES’ ACCESS TO
22 LOCAL TELEVISION ACT OF 2000.—Section
23 1004(d)(2)(D) of the Launching Our Communities’ Ac-
24 cess to Local Television Act of 2000 (47 U.S.C.
25 1103(d)(2)(D)) is amended—

1 (1) in clause (i)(II), by striking “, if the Board
2 determines that such nonprofit corporation has one
3 or more issues of outstanding long-term debt that is
4 rated within the highest three rating categories of a
5 nationally recognized statistical rating organization”;
6 and

7 (2) by striking clause (ii) (and redesignating
8 succeeding clauses accordingly).

9 (e) EMPLOYEE RETIREMENT INCOME SECURITY ACT
10 OF 1974.—Section 4041(b)(5)(B) of the Employee Retire-
11 ment Income Security Act of 1974 (29 U.S.C.
12 1341(b)(5)(B)) is amended to read as follows:

13 “(B) LIMITATION.—Subparagraph (A)
14 shall not apply to any transaction or series of
15 transactions unless the employer maintaining
16 the plan after the transaction or series of trans-
17 actions employs at least 20 percent of the em-
18 ployees located in the United States who were
19 employed by such employer immediately before
20 the transaction or series of transactions.”.

21 (f) CHAPTER 6 OF TITLE 23.—Chapter 6 of title 23,
22 United States Code, is amended—

23 (1) in section 601(a), by striking paragraph (3)
24 and paragraph (10) and redesignating succeeding
25 paragraphs accordingly;

1 (2) in section 602(b)(2), by amending subpara-
2 graph (B) to read as follows:

3 “(B) [Repealed]”;

4 (3) in section 603(a)(3)—

5 (A) by striking “and each rating agency
6 providing a preliminary rating opinion letter
7 under section 602 (b)(2)(B)”;

8 (B) by striking “, taking into account such
9 letter”;

10 (4) in section 603(a), by striking paragraph
11 (4);

12 (5) in section 603(b)(2), by striking “ or, if the
13 secured loan does not receive an investment grade
14 rating, the amount of the senior project obligations”;

15 (6) in section 604(a)(3)—

16 (A) by striking “and each rating agency
17 providing a preliminary rating opinion letter
18 under section 602 (b)(2)(B)”;

19 (B) by striking “, taking into account such
20 letter”;

21 (7) in section 604(a), by striking paragraph
22 (4); and

23 (8) by striking section 604(a)(4).

24 (g) FEDERAL HOUSING ENTERPRISES FINANCIAL
25 SAFETY AND SOUNDNESS ACT OF 1992.—Section 1319

1 of the Federal Housing Enterprises Financial Safety and
2 Soundness Act of 1992 (12 U.S.C. 4519) is amended by
3 striking “that is a nationally recognized statistical rating
4 organization, as such term is defined in section 3(a) of
5 the Securities Exchange Act of 1934,”.

6 (h) REVISED STATUTES.—Section 5136A of title
7 LXII of the Revised Statutes of the United States is
8 amended—

9 (1) in subsection (a)(2)(E), by striking “appli-
10 cable rating or other”;

11 (2) in the heading for subsection (a)(3) by
12 striking “Rating or comparable requirement” and
13 inserting “Requirement”;

14 (3) by amending subsection (a)(3)(A) to read as
15 follows:

16 “(A) IN GENERAL.—A national bank meets
17 the requirements of this paragraph if the bank
18 is 1 of the second 50 largest insured banks and
19 meets such criteria as the Secretary of the
20 Treasury and the Board of Governors of the
21 Federal Reserve System may jointly establish
22 by regulation.”;

23 (4) in the heading for subsection (f), by striking
24 “maintain public rating or”; and

1 (5) in subsection (f)(1), by striking “applicable
2 rating or other”.

3 (i) FEDERAL DEPOSIT INSURANCE ACT.—Section 28
4 of the Federal Deposit Insurance Act (12 U.S.C. 1831e)
5 is amended by striking subsections (d) and (e) (and redese-
6 ignating succeeding subsections accordingly).

7 **SEC. 603. ELIMINATION OF SECURITY CREDIT RATING RE-**
8 **QUIREMENTS IN REGULATIONS.**

9 Not later than 3 months after the date of the enact-
10 ment of this Act, each Federal agency and department
11 shall modify any regulation promulgated by such agency
12 or department that requires the use of an assessment of
13 the creditworthiness of a security or money market instru-
14 ment by removing such requirement from any such regula-
15 tion.

16 **TITLE VII—ANTI-FRAUD**
17 **PROVISIONS**

18 **SEC. 701. AUTHORITY TO IMPOSE CIVIL PENALTIES IN**
19 **CEASE AND DESIST PROCEEDINGS.**

20 (a) UNDER THE SECURITIES ACT OF 1933.—Section
21 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is
22 amended by adding at the end the following new sub-
23 section:

24 “(g) AUTHORITY TO IMPOSE MONEY PENALTIES.—

1 “(1) GROUNDS FOR IMPOSING.—In any cease-
2 and-desist proceeding under subsection (a), the
3 Commission may impose a civil penalty on a person
4 if it finds, on the record after notice and opportunity
5 for hearing, that—

6 “(A) such person—

7 “(i) is violating or has violated any
8 provision of this title, or any rule or regu-
9 lation thereunder; or

10 “(ii) is or was a cause of the violation
11 of any provision of this title, or any rule or
12 regulation thereunder; and

13 “(B) such penalty is in the public interest.

14 “(2) MAXIMUM AMOUNT OF PENALTY.—

15 “(A) FIRST TIER.—The maximum amount
16 of penalty for each act or omission described in
17 paragraph (1) shall be \$6,500 for a natural
18 person or \$65,000 for any other person.

19 “(B) SECOND TIER.—Notwithstanding
20 paragraph (A), the maximum amount of pen-
21 alty for each such act or omission shall be
22 \$65,000 for a natural person or \$325,000 for
23 any other person if the act or omission de-
24 scribed in paragraph (1) involved fraud, deceit,

1 manipulation, or deliberate or reckless dis-
2 regard of a regulatory requirement.

3 “(C) THIRD TIER.—Notwithstanding para-
4 graphs (A) and (B), the maximum amount of
5 penalty for each such act or omission shall be
6 \$130,000 for a natural person or \$650,000 for
7 any other person if—

8 “(i) the act or omission described in
9 paragraph (1) involved fraud, deceit, ma-
10 nipulation, or deliberate or reckless dis-
11 regard of a regulatory requirement; and

12 “(ii) such act or omission directly or
13 indirectly resulted in substantial losses or
14 created a significant risk of substantial
15 losses to other persons or resulted in sub-
16 stantial pecuniary gain to the person who
17 committed the act or omission.

18 “(3) EVIDENCE CONCERNING ABILITY TO
19 PAY.—In any proceeding in which the Commission
20 may impose a penalty under this section, a respond-
21 ent may present evidence of the respondent’s ability
22 to pay such penalty. The Commission may, in its
23 discretion, consider such evidence in determining
24 whether such penalty is in the public interest. Such
25 evidence may relate to the extent of such person’s

1 ability to continue in business and the collectability
2 of a penalty, taking into account any other claims of
3 the United States or third parties upon such per-
4 son's assets and the amount of such person's as-
5 sets.”.

6 (b) UNDER THE SECURITIES EXCHANGE ACT OF
7 1934.—Subsection (a) of section 21B of the Securities
8 Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amend-
9 ed—

10 (1) by striking “(a) COMMISSION AUTHORITY
11 TO ASSESS MONEY PENALTIES.—In any pro-
12 ceeding” and inserting the following:

13 “(a) COMMISSION AUTHORITY TO ASSESS MONEY
14 PENALTIES.—

15 “(1) IN GENERAL.—In any proceeding”;

16 (2) by redesignating paragraphs (1) through
17 (4) of such subsection as subparagraphs (A) through
18 (D), respectively and moving such redesignated sub-
19 paragraphs and the matter following such subpara-
20 graphs 2 ems to the right; and

21 (3) by adding at the end of such subsection the
22 following new paragraph:

23 “(2) CEASE-AND-DESIST PROCEEDINGS.—In
24 any proceeding instituted pursuant to section 21C of
25 this title against any person, the Commission may

1 impose a civil penalty if it finds, on the record after
2 notice and opportunity for hearing, that such per-
3 son—

4 “(A) is violating or has violated any provi-
5 sion of this title, or any rule or regulation
6 thereunder; or

7 “(B) is or was a cause of the violation of
8 any provision of this title, or any rule or regula-
9 tion thereunder.”.

10 (c) UNDER THE INVESTMENT COMPANY ACT OF
11 1940.—Paragraph (1) of section 9(d) of the Investment
12 Company Act of 1940 (15 U.S.C. 80a-9(d)(1)) is amend-
13 ed—

14 (1) by striking “(1) AUTHORITY OF COMMIS-
15 SION.—In any proceeding” and inserting the fol-
16 lowing:

17 “(1) AUTHORITY OF COMMISSION.—

18 “(A) IN GENERAL.—In any proceeding”;

19 (2) by redesignating subparagraphs (A) through
20 (C) of such paragraph as clauses (i) through (iii),
21 respectively and by moving such redesignated clauses
22 and the matter following such subparagraphs 2 ems
23 to the right; and

24 (3) by adding at the end of such paragraph the
25 following new subparagraph:

1 “(B) CEASE-AND-DESIST PROCEEDINGS.—
 2 In any proceeding instituted pursuant to sub-
 3 section (f) against any person, the Commission
 4 may impose a civil penalty if it finds, on the
 5 record after notice and opportunity for hearing,
 6 that such person—

7 “(i) is violating or has violated any
 8 provision of this title, or any rule or regu-
 9 lation thereunder; or

10 “(ii) is or was a cause of the violation
 11 of any provision of this title, or any rule or
 12 regulation thereunder.”.

13 (d) UNDER THE INVESTMENT ADVISERS ACT OF
 14 1940.—Paragraph (1) of section 203(i) of the Investment
 15 Advisers Act of 1940 (15 U.S.C. 80b-3(i)(1)) is amend-
 16 ed—

17 (1) by striking “(1) AUTHORITY OF COMMIS-
 18 SION.—In any proceeding” and inserting the fol-
 19 lowing:

20 “(1) AUTHORITY OF COMMISSION.—

21 “(A) IN GENERAL.—In any proceeding”;

22 (2) by redesignating subparagraphs (A) through
 23 (D) of such paragraph as clauses (i) through (iv),
 24 respectively and moving such redesignated clauses

1 and the matter following such subparagraphs 2 ems
2 to the right; and

3 (3) by adding at the end of such paragraph the
4 following new subparagraph:

5 “(B) CEASE-AND-DESIST PROCEEDINGS.—

6 In any proceeding instituted pursuant to sub-
7 section (k) against any person, the Commission
8 may impose a civil penalty if it finds, on the
9 record after notice and opportunity for hearing,
10 that such person—

11 “(i) is violating or has violated any
12 provision of this title, or any rule or regu-
13 lation thereunder; or

14 “(ii) is or was a cause of the violation
15 of any provision of this title, or any rule or
16 regulation thereunder.”.

17 **SEC. 702. FORMERLY ASSOCIATED PERSONS.**

18 (a) MEMBER OR EMPLOYEE OF THE MUNICIPAL SE-
19 CURITIES RULEMAKING BOARD.—Section 15B(c)(8) of
20 the Securities Exchange Act of 1934 (15 U.S.C. 78o-
21 4(c)(8)) is amended by striking “any member or em-
22 ployee” and inserting “any person who is, or at the time
23 of the alleged misconduct was, a member or employee”.

24 (b) PERSON ASSOCIATED WITH A GOVERNMENT SE-
25 CURITIES BROKER OR DEALER.—Section 15C of the Se-

1 curities Exchange Act of 1934 (15 U.S.C. 78o–5) is
2 amended—

3 (1) in subsection (c)(1)(C), by striking “or
4 seeking to become associated,” and inserting “seek-
5 ing to become associated, or, at the time of the al-
6 leged misconduct, associated or seeking to become
7 associated”;

8 (2) in subsection (c)(2)(A), by inserting “, seek-
9 ing to become associated, or, at the time of the al-
10 leged misconduct, associated or seeking to become
11 associated” after “any person associated”; and

12 (3) in subsection (c)(2)(B), by inserting “,
13 seeking to become associated, or, at the time of the
14 alleged misconduct, associated or seeking to become
15 associated” after “any person associated”.

16 (c) PERSON ASSOCIATED WITH A MEMBER OF A NA-
17 TIONAL SECURITIES EXCHANGE OR REGISTERED SECURI-
18 TIES ASSOCIATION.—Section 21(a)(1) of the Securities
19 Exchange Act of 1934 (15 U.S.C. 78u(a)(1)) is amended
20 by inserting “, or, as to any act or practice, or omission
21 to act, while associated with a member, formerly associ-
22 ated” after “member or a person associated”.

23 (d) PARTICIPANT OF A REGISTERED CLEARING
24 AGENCY.—Section 21(a)(1) of the Securities Exchange
25 Act of 1934 (15 U.S.C. 78u(a)(1)) is amended by insert-

1 ing “or, as to any act or practice, or omission to act, while
2 a participant, was a participant,” after “in which such
3 person is a participant,”.

4 (e) OFFICER OR DIRECTOR OF A SELF-REGULATORY
5 ORGANIZATION.—Section 19(h)(4) of the Securities Ex-
6 change Act of 1934 (15 U.S.C. 78s(h)(4)) is amended—

7 (1) by striking “any officer or director” and in-
8 serting “any person who is, or at the time of the al-
9 leged misconduct was, an officer or director”; and

10 (2) by striking “such officer or director” and
11 inserting “such person”.

12 (f) OFFICER OR DIRECTOR OF AN INVESTMENT COM-
13 PANY.—Section 36(a) of the Investment Company Act of
14 1940 (15 U.S.C. 80a–35(a)) is amended—

15 (1) by striking “a person serving or acting” and
16 inserting “a person who is, or at the time of the al-
17 leged misconduct was, serving or acting”; and

18 (2) by striking “such person so serves or acts”
19 and inserting “such person so serves or acts, or at
20 the time of the alleged misconduct, so served or
21 acted”.

22 **SEC. 703. COLLATERAL BARS.**

23 (a) SECTION 15(b)(6)(A) OF THE SECURITIES EX-
24 CHANGE ACT OF 1934.—Section 15(b)(6)(A) of the Secu-
25 rities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)(A)) is

1 amended by striking “12 months, or bar such person from
2 being associated with a broker or dealer,” and inserting
3 “12 months, or bar any such person from being associated
4 with a broker, dealer, investment adviser, municipal secu-
5 rities dealer, or transfer agent,”.

6 (b) SECTION 15B(c)(4) OF THE SECURITIES EX-
7 CHANGE ACT OF 1934.—Section 15B(c)(4) of the Securi-
8 ties Exchange Act of 1934 (15 U.S.C. 78o–4(c)(4)) is
9 amended by striking “twelve months or bar any such per-
10 son from being associated with a municipal securities deal-
11 er,” and inserting “twelve months or bar any such person
12 from being associated with a broker, dealer, investment
13 adviser, municipal securities dealer, or transfer agent,”.

14 (c) SECTION 17A(e)(4)(C) OF THE SECURITIES EX-
15 CHANGE ACT OF 1934.—Section 17A(e)(4)(C) of the Se-
16 curities Exchange Act of 1934 (15 U.S.C. 78q–1(e)(4)(C))
17 is amended by striking “twelve months or bar any such
18 person from being associated with the transfer agent,”
19 and inserting “twelve months or bar any such person from
20 being associated with any transfer agent, broker, dealer,
21 investment adviser, or municipal securities dealer,”.

22 (d) SECTION 203(f) OF THE INVESTMENT ADVISERS
23 ACT OF 1940.—Section 203(f) of the Investment Advisers
24 Act of 1940 (15 U.S.C. 80b–3(f)) is amended by striking
25 “twelve months or bar any such person from being associ-

1 ated with an investment adviser,” and inserting “twelve
2 months or bar any such person from being associated with
3 an investment adviser, broker, dealer, municipal securities
4 dealer, or transfer agent,”.

5 **SEC. 704. UNLAWFUL MARGIN LENDING.**

6 Section 7(c)(1)(A) of the Securities Exchange Act of
7 1934 (15 U.S.C. 78g(c)(1)(A)) is amended by striking “;
8 and” and inserting “; or”.

9 **SEC. 705. NATIONWIDE SERVICE OF SUBPOENAS.**

10 (a) SECURITIES ACT OF 1933.—Section 22(a) of the
11 Securities Act of 1933 (15 U.S.C. 77v(a)) is amended by
12 inserting after the second sentence the following: “In any
13 action or proceeding instituted by the Commission under
14 this title in a United States district court for any judicial
15 district, subpoenas issued by or on behalf of such court
16 to compel the attendance of witnesses or the production
17 of documents or tangible things (or both) may be served
18 in any other district. Such subpoenas may be served and
19 enforced without application to the court or a showing of
20 cause, notwithstanding the provisions of rule 45(b)(2),
21 (c)(3)(A)(ii), and (c)(3)(B)(iii) of the Federal Rules of
22 Civil Procedure.”.

23 (b) SECURITIES EXCHANGE ACT OF 1934.—Section
24 27 of the Securities Exchange Act of 1934 (15 U.S.C.
25 78aa) is amended by inserting after the third sentence the

1 following: “In any action or proceeding instituted by the
2 Commission under this title in a United States district
3 court for any judicial district, subpoenas issued by or on
4 behalf of such court to compel the attendance of witnesses
5 or the production of documents or tangible things (or
6 both) may be served in any other district. Such subpoenas
7 may be served and enforced without application to the
8 court or a showing of cause, notwithstanding the provi-
9 sions of rule 45(b)(2), (c)(3)(A)(ii), and (c)(3)(B)(iii) of
10 the Federal Rules of Civil Procedure.”.

11 (c) INVESTMENT COMPANY ACT OF 1940.—Section
12 44 of the Investment Company Act of 1940 (15 U.S.C.
13 80a–43) is amended by inserting after the fourth sentence
14 the following: “In any action or proceeding instituted by
15 the Commission under this title in a United States district
16 court for any judicial district, subpoenas issued by or on
17 behalf of such court to compel the attendance of witnesses
18 or the production of documents or tangible things (or
19 both) may be served in any other district. Such subpoenas
20 may be served and enforced without application to the
21 court or a showing of cause, notwithstanding the provi-
22 sions of rule 45(b)(2), (c)(3)(A)(ii), and (c)(3)(B)(iii) of
23 the Federal Rules of Civil Procedure.”.

24 (d) INVESTMENT ADVISERS ACT OF 1940.—Section
25 214 of the Investment Advisers Act of 1940 (15 U.S.C.

1 80b–14) is amended by inserting after the third sentence
2 the following: “In any action or proceeding instituted by
3 the Commission under this title in a United States district
4 court for any judicial district, subpoenas issued by or on
5 behalf of such court to compel the attendance of witnesses
6 or the production of documents or tangible things (or
7 both) may be served in any other district. Such subpoenas
8 may be served and enforced without application to the
9 court or a showing of cause, notwithstanding the provi-
10 sions of rule 45(b)(2), (c)(3)(A)(ii), and (c)(3)(B)(iii) of
11 the Federal Rules of Civil Procedure.”.

12 **SEC. 706. REAUTHORIZATION OF THE FINANCIAL CRIMES**
13 **ENFORCEMENT NETWORK.**

14 (a) FINDINGS.—

15 (1) The Congress finds as follows:

16 (A) The work of the Financial Crimes En-
17 forcement Network (hereinafter in this section
18 referred to as “FinCEN”) is essential to safe-
19 guard the United States financial system and
20 its international affiliates from the abuses of fi-
21 nancial crime, including terrorist financing,
22 weapons of mass destruction proliferation, and
23 money laundering.

24 (B) All avenues of financial intermediation
25 are vulnerable to abuse by illicit actors, and

1 FinCEN exercises the authorities of the Bank
2 Secrecy Act over a broad range of financial in-
3 stitutions.

4 (2) The Congress further finds and recognizes
5 the recent establishment by FinCEN of an Inter-
6 national Programs Division to expand and enhance
7 global financial intelligence sharing initiatives aimed
8 at combating transnational crime threats facing
9 United States financial markets, and takes note of
10 FinCEN’s efforts to collaborate with foreign finan-
11 cial intelligence unit partners on analytical projects
12 to identify and address emerging threats and
13 vulnerabilities.

14 (3) The Congress further finds and recognizes
15 the role of FinCEN in discovering and investigating
16 widespread fraud in the mortgage market and else-
17 where in the financial services industry. Alongside
18 an effective licensing and registration system for all
19 mortgage originators, a vigilant FinCEN is critical
20 to the recovery of our housing markets and con-
21 sumer confidence in both the home buying process
22 and the financial services industry as a whole.

23 (b) REAUTHORIZATION.—Section 310(d)(1) of title
24 31, United States Code, is amended by striking “such
25 sums as may be necessary for fiscal years 2002, 2003,

1 2004, and 2005” and inserting “not more than
2 \$105,500,000 for fiscal year 2010, and such sums as may
3 be necessary for fiscal years 2011, 2012, 2013, and
4 2014”.

5 (c) **ADDITIONAL FINANCIAL FRAUD AUTHORIZATION**
6 **OF APPROPRIATIONS.**—In addition to such other amounts
7 otherwise made available or appropriated to FinCEN,
8 there are authorized to be appropriated to FinCEN
9 \$15,000,000 to be used specifically for efforts to detect
10 financial fraud. Such sums are authorized to remain avail-
11 able until expended.

12 **SEC. 707. FAIR FUND IMPROVEMENTS.**

13 (a) **AMENDMENT.**—Subsection (a) of section 308 of
14 the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(a)) is
15 amended to read as follows:

16 “(a) **CIVIL PENALTIES TO BE USED FOR THE RE-**
17 **LIEF OF VICTIMS.**—If in any judicial or administrative ac-
18 tion brought by the Commission under the securities laws
19 (as such term is defined in section 3(a)(47) of the Securi-
20 ties Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), the
21 Commission obtains a civil penalty against any person for
22 a violation of such laws, the amount of such civil penalty
23 shall, on the motion or at the direction of the Commission,
24 be added to and become part of a disgorgement fund or

1 other fund established for the benefit of the victims of
2 such violation.”.

3 (b) CONFORMING AMENDMENTS.—Section 308 of
4 such Act is amended—

5 (1) in subsection (b)—

6 (A) by striking “for a disgorgement fund
7 described in subsection (a)” and inserting “for
8 a disgorgement fund or other fund described in
9 subsection (a)”;

10 (B) by striking “in the disgorgement fund”
11 and inserting “in such fund”;

12 (2) by striking subsection (e).

13 **SEC. 708. AUTHORITY TO CONTRACT FOR COLLECTION OF**
14 **DELINQUENT JUDGMENTS AND ORDERS.**

15 Subsection (b) of section 4 of the Securities Exchange
16 Act of 1934 (15 U.S.C. 78d(b)) is amended—

17 (1) in the heading of such subsection, by strik-
18 ing “AND LEASING AUTHORITY” and inserting “,
19 LEASING AUTHORITY, AND CONTRACTING AUTHOR-
20 ITY”;

21 (2) by adding at the end the following new
22 paragraph:

23 “(4) CONTRACTING AUTHORITY.—

24 “(A) IN GENERAL.—Notwithstanding any
25 other provision of law, the Commission is au-

1 thorized to enter into contracts to assist in the
2 collection of any claim of indebtedness resulting
3 from any judgment or order (either by litigation
4 or settlement) obtained by the Commission in
5 any judicial action or administrative proceeding
6 brought by or on behalf of the Commission.
7 This authority includes, but is not limited to,
8 the retention of private legal counsel to furnish
9 legal services, including representation in litiga-
10 tion, negotiation, compromise, and settlement.
11 Private counsel retained under this paragraph
12 may represent the Commission in such debt col-
13 lection matters to the same extent as the Com-
14 mission may represent itself.

15 “(B) TERMS AND CONDITIONS OF CON-
16 TRACT.—Each such contract shall include such
17 terms and conditions as the Commission con-
18 siders necessary and appropriate, and shall in-
19 clude provisions specifying—

20 “(i) the amount of the fee to be paid
21 under such contract or the method for cal-
22 culating that fee;

23 “(ii) that the Commission retains the
24 authority to represent itself, resolve a dis-
25 pute, compromise a claim, end collection

1 efforts, and refer a matter to other counsel
2 or to the Attorney General; and

3 “(iii) that the Commission may termi-
4 nate either the contract or the private
5 counsel’s representation of the Commission
6 in particular cases for any reason, includ-
7 ing for the convenience of the Commission.

8 “(C) PAYMENT OF FEES.—Notwith-
9 standing section 3302(b) of title 31, United
10 States Code, a contract under this paragraph
11 may provide that fees and costs incurred by pri-
12 vate counsel under such contracts are payable
13 from the amounts recovered.

14 “(D) COMPETITION REQUIRED.—Nothing
15 in this paragraph shall relieve the Commission
16 of the competition requirements set forth in
17 title III of the Federal Property and Adminis-
18 trative Services Act of 1949 (41 U.S.C. 251 et
19 seq.).

20 “(E) COUNTERCLAIMS.—In any action to
21 recover indebtedness which is brought on behalf
22 of the Commission by private counsel retained
23 under this paragraph, no counterclaim may be
24 asserted against the Commission unless the
25 counterclaim is served directly on the Commis-

1 sion. Such service shall be made in accordance
2 with the rules of procedure of the court in
3 which the action is brought.”.

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