

113TH CONGRESS
1ST SESSION

S. 985

To repeal certain provisions of the Gramm-Leach-Bliley Act and revive the separation between commercial banking and the securities business, in the manner provided in the Banking Act of 1933, the so-called “Glass-Steagall Act”, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 16, 2013

Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To repeal certain provisions of the Gramm-Leach-Bliley Act and revive the separation between commercial banking and the securities business, in the manner provided in the Banking Act of 1933, the so-called “Glass-Steagall Act”, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Return to Prudent
5 Banking Act of 2013”.

1 **SEC. 2. GLASS-STEAGALL REVIVED.**

2 (a) WALL BETWEEN COMMERCIAL BANKS AND SE-
 3 CURITIES ACTIVITIES REESTABLISHED.—Section 18 of
 4 the Federal Deposit Insurance Act (12 U.S.C. 1828), as
 5 amended by section 615(a) of the Dodd-Frank Wall Street
 6 Reform and Consumer Protection Act, is amended by add-
 7 ing at the end the following new subsection:

8 “(aa) LIMITATIONS ON SECURITY AFFILIATIONS.—

9 “(1) PROHIBITION ON AFFILIATION BETWEEN
 10 INSURED DEPOSITORY INSTITUTIONS AND INVEST-
 11 MENT BANKS OR SECURITIES FIRMS.—An insured
 12 depository institution may not be or become an affil-
 13 iate of any broker or dealer, any investment adviser,
 14 any investment company, or any other person en-
 15 gaged principally in the issue, flotation, under-
 16 writing, public sale, or distribution at wholesale or
 17 retail or through syndicate participation of stocks,
 18 bonds, debentures, notes, or other securities.

19 “(2) PROHIBITION ON OFFICERS, DIRECTORS
 20 AND EMPLOYEES OF SECURITIES FIRMS SERVICE ON
 21 BOARDS OF DEPOSITORY INSTITUTIONS.—

22 “(A) IN GENERAL.—An individual who is
 23 an officer, director, partner, or employee of any
 24 broker or dealer, any investment adviser, any
 25 investment company, or any other person en-
 26 gaged principally in the issue, flotation, under-

1 writing, public sale, or distribution at wholesale
2 or retail or through syndicate participation of
3 stocks, bonds, debentures, notes, or other secu-
4 rities may not serve at the same time as an of-
5 ficer, director, employee, or other institution-af-
6 filiated party of any insured depository institu-
7 tion.

8 “(B) EXCEPTION.—Subparagraph (A)
9 shall not apply with respect to service by any
10 individual which is otherwise prohibited under
11 such subparagraph if the appropriate Federal
12 banking agency determines, by regulation with
13 respect to a limited number of cases, that serv-
14 ice by such individual as an officer, director,
15 employee, or other institution-affiliated party of
16 any insured depository institution would not un-
17 duly influence the investment policies of the de-
18 pository institution or the advice the institution
19 provides to customers.

20 “(C) TERMINATION OF SERVICE.—Subject
21 to a determination under subparagraph (B),
22 any individual described in subparagraph (A)
23 who, as of the date of enactment of the Return
24 to Prudent Banking Act of 2013, is serving as
25 an officer, director, employee, or other institu-

tion-affiliated party of any insured depository institution shall terminate such service as soon as practicable after such date of enactment and no later than the end of the 60-day period beginning on such date.

“(3) TERMINATION OF EXISTING AFFILIATION.—

“(A) ORDERLY WIND-DOWN OF EXISTING AFFILIATION.—Any affiliation of an insured depository institution with any broker or dealer, any investment adviser, any investment company, or any other person, as of the date of enactment of the Return to Prudent Banking Act of 2013, which is prohibited under paragraph (1) shall be terminated as soon as practicable and in any event no later than the end of the 2-year period beginning on such date of enactment.

“(B) EARLY TERMINATION.—The appropriate Federal banking agency, after opportunity for hearing, may terminate, at any time, the authority conferred by the preceding subparagraph to continue any affiliation subject to such subparagraph until the end of the period referred to in such subparagraph if the agency

determines, having due regard for the purposes of this subsection and the Return to Prudent Banking Act of 2013, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices and is in the public interest.

“(C) EXTENSION.—Subject to a determination under subparagraph (B), an appropriate Federal banking agency may extend the 2-year period referred to in subparagraph (A) from time to time as to any particular insured depository institution for not more than 6 months at a time, if, in the judgment of the agency, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed 1 year.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) the terms ‘broker’ and ‘dealer’ have the same meanings as in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)); and

“(B) the terms ‘investment adviser’ and ‘investment company’ have the same meanings

1 as in section 202 of the Investment Advisers
 2 Act of 1940 (15 U.S.C. 80b–2) and section 3
 3 of the Investment Company Act of 1940 (15
 4 U.S.C. 80a–3), respectively.”.

5 (b) PROHIBITION ON BANKING ACTIVITIES BY SECU-
 6 RITIES FIRMS CLARIFIED.—Section 21 of the Banking
 7 Act of 1933 (12 U.S.C. 378) is amended by adding at
 8 the end the following new subsection:

9 “(c) BUSINESS OF RECEIVING DEPOSITS.—For pur-
 10 poses of this section, the term ‘business of receiving depos-
 11 its’ includes the establishment and maintenance of any
 12 transaction account (as defined in section 19(b)(1)(C) of
 13 the Federal Reserve Act).”.

14 (c) CONTINUED APPLICABILITY OF ICI VS. CAMP.—

15 (1) IN GENERAL.—The Congress ratifies the in-
 16 terpretation of the paragraph designated the “Sev-
 17 enth” of section 5136 of the Revised Statutes of the
 18 United States (12 U.S.C. 24, as amended by section
 19 16 of the Banking Act of 1933 and subsequent
 20 amendments) and section 21 of the Banking Act of
 21 1933 (12 U.S.C. 378) by the Supreme Court of the
 22 United States in the case of Investment Company
 23 Institute v. Camp (401 U.S. 617 et seq. (1971))
 24 with regard to the permissible activities of banks

1 and securities firms, except to the extent expressly
 2 prescribed otherwise by this section.

3 (2) APPLICABILITY OF REASONING.—The rea-
 4 soning of the Supreme Court of the United States
 5 in the case referred to in paragraph (1) with respect
 6 to sections 20 and 32 of the Banking Act of 1933
 7 (as in effect prior to the date of enactment of the
 8 Gramm-Leach-Bliley Act) shall continue to apply to
 9 subsection (aa) of section 18 of the Federal Deposit
 10 Insurance Act (as added by subsection (a) of this
 11 section) except to the extent the scope and applica-
 12 tion of such subsection as enacted exceed the scope
 13 and application of such sections 20 and 32.

14 (3) LIMITATION ON AGENCY INTERPRETATION
 15 OR JUDICIAL CONSTRUCTION.—No appropriate Fed-
 16 eral banking agency, as defined in section 3 of the
 17 Federal Deposit Insurance Act, by regulation, order,
 18 interpretation, or other action, and no court within
 19 the United States may construe the paragraph des-
 20 ignated the “Seventh” of section 5136 of the Re-
 21 vised Statutes of the United States (12 U.S.C. 24,
 22 as amended by section 16 of the Banking Act of
 23 1933 and subsequent amendments), section 21 of
 24 the Banking Act of 1933, or section 18(aa) of the
 25 Federal Deposit Insurance Act more narrowly than

1 the reasoning of the Supreme Court of the United
 2 States in the case of Investment Company Institute
 3 v. Camp (401 U.S. 617 et seq. (1971)) as to the
 4 construction and the purposes of such provisions.

5 **SEC. 3. REPEAL OF GRAMM-LEACH-BLILEY ACT PROVI-**
 6 **SIONS.**

7 (a) FINANCIAL HOLDING COMPANY.—

8 (1) IN GENERAL.—Section 4 of the Bank Hold-
 9 ing Company Act of 1956 (12 U.S.C. 1843) is
 10 amended by striking subsections (k), (l), (m), (n),
 11 and (o).

12 (2) TRANSITION.—

13 (A) ORDERLY WIND-DOWN OF EXISTING
 14 AFFILIATION.—In the case of a bank holding
 15 company which, pursuant to the amendments
 16 made by paragraph (1), is no longer authorized
 17 to control or be affiliated with any entity that
 18 was permissible for a financial holding company
 19 as of the date of enactment of this Act, any af-
 20 filiation by the bank holding company which is
 21 not permitted for a bank holding company shall
 22 be terminated as soon as is practicable, and in
 23 no event later than the end of the 2-year period
 24 beginning on that date of enactment.

1 (B) EARLY TERMINATION.—The Board of
2 Governors of the Federal Reserve System (in
3 this Act referred to as the “Board”), after op-
4 portunity for hearing, may terminate, at any
5 time, the authority conferred by subparagraph
6 (A) to continue any affiliation subject to such
7 subparagraph until the end of the period re-
8 ferred to in such subparagraph, if the Board
9 determines, having due regard to the purposes
10 of this Act, that such action is necessary to pre-
11 vent undue concentration of resources, de-
12 creased or unfair competition, conflicts of inter-
13 est, or unsound banking practices, and is in the
14 public interest.

15 (C) EXTENSION.—Subject to a determina-
16 tion under subparagraph (B), the Board may
17 extend the 2-year period referred to in subpara-
18 graph (A) from time to time as to any par-
19 ticular bank holding company for not more than
20 6 months at a time, if, in the judgment of the
21 Board, such an extension would not be detri-
22 mental to the public interest, except that no
23 such extensions shall in the aggregate exceed 1
24 year.

1 (3) TECHNICAL AND CONFORMING AMEND-
2 MENTS.—

3 (A) BANK HOLDING COMPANY ACT OF
4 1956.—The Bank Holding Company Act of
5 1956 (12 U.S.C. 1841 et seq.) is amended—

6 (i) in section 2 (12 U.S.C. 1841)—

7 (I) by striking subsection (p);

8 and

9 (II) by redesignating subsection
10 (q) as subsection (p);

11 (ii) in section 5 (12 U.S.C. 1844)—

12 (I) in subsection (c)—

13 (aa) in paragraph (2), by
14 striking subparagraph (E); and

15 (bb) by striking paragraphs
16 (3), (4), and (5); and

17 (II) by striking subsection (g);

18 and

19 (iii) by striking section 10A (12
20 U.S.C. 1848a).

21 (B) FEDERAL DEPOSIT INSURANCE ACT.—

22 The Federal Deposit Insurance Act (12 U.S.C.
23 1811 et seq.) is amended by striking section 45
24 (12 U.S.C. 1831v) and inserting the following:

1 **“SEC. 45. [REPEALED].”.**

2 (C) GRAMM-LEACH-BLILEY ACT.—Subtitle
3 B of title I of the Gramm-Leach-Bliley Act is
4 amended—

5 (i) by striking section 114 (12 U.S.C.
6 1828a) and inserting the following:

7 **“SEC. 14. [REPEALED].”;**

8 and

9 (ii) by striking section 115 (12 U.S.C.
10 1820a) and inserting the following:

11 **“SEC. 15. [REPEALED].”.**

12 (b) FINANCIAL SUBSIDIARIES REPEALED.—

13 (1) IN GENERAL.—Section 5136A of the Re-
14 vised Statutes of the United States (12 U.S.C. 24a)
15 is amended to read as follows:

16 **“SEC. 5136A. [REPEALED].”.**

17 (2) TRANSITION.—

18 (A) ORDERLY WIND-DOWN OF EXISTING
19 AFFILIATION.—In the case of a national bank
20 which, pursuant to the amendments made by
21 paragraph (1), is no longer authorized to con-
22 trol or be affiliated with a financial subsidiary
23 as of the date of enactment of this Act, such af-
24 filiation shall be terminated as soon as is prac-
25 ticable, and in no event later than the end of

1 the 2-year period beginning on that date of en-
2 actment.

3 (B) EARLY TERMINATION.—The Comp-
4 troller of the Currency, after opportunity for
5 hearing, may terminate, at any time, the au-
6 thority conferred by subparagraph (A) to con-
7 tinue any affiliation subject to such subpara-
8 graph until the end of the period referred to in
9 such subparagraph, if the Comptroller deter-
10 mines, having due regard for the purposes of
11 this Act, that such action is necessary to pre-
12 vent undue concentration of resources, de-
13 creased or unfair competition, conflicts of inter-
14 est, or unsound banking practices, and is in the
15 public interest.

16 (C) EXTENSION.—Subject to a determina-
17 tion under subparagraph (B), the Comptroller
18 of the Currency may extend the 2-year period
19 referred to in subparagraph (A) from time to
20 time as to any particular national bank for not
21 more than 6 months at a time, if, in the judg-
22 ment of the Comptroller, such an extension
23 would not be detrimental to the public interest,
24 except that no such extensions shall in the ag-
25 gregate exceed 1 year.

1 (3) TECHNICAL AND CONFORMING AMEND-
2 MENTS.—

3 (A) FEDERAL RESERVE ACT.—The 20th
4 undesignated paragraph of section 9 of the
5 Federal Reserve Act (12 U.S.C. 335) is amend-
6 ed by striking the last sentence.

7 (B) FEDERAL DEPOSIT INSURANCE ACT.—
8 The Federal Deposit Insurance Act (12 U.S.C.
9 1811 et seq.) is amended by striking section 46
10 (12 U.S.C. 1831w) and inserting the following:
11 “**SEC. 46. [REPEALED].**”.

12 (C) CLERICAL AMENDMENT.—The table of
13 sections for chapter one of title LXII of the Re-
14 vised Statutes of the United States is amended
15 by striking the item relating to section 5136A.

16 (c) DEFINITION OF BROKER.—Section 3(a)(4)(B) of
17 the Securities Exchange Act of 1934 (15 U.S.C.
18 78c(a)(4)(B)) is amended—

19 (1) by striking clauses (i), (iii), (v), (vii), (x),
20 and (xi); and

21 (2) by redesignating clauses (ii), (iv), (vi), (viii),
22 and (ix) as clauses (i), (ii), (iii), (iv), and (v), respec-
23 tively.

1 (d) DEFINITION OF DEALER.—Section 3(a)(5)(C) of
 2 the Securities Exchange Act of 1934 (15 U.S.C.
 3 78c(a)(5)(C)) is amended—

4 (1) by striking clauses (i) and (iii); and

5 (2) by redesignating clauses (ii) and (iv) as
 6 clauses (i) and (ii), respectively.

7 (e) DEFINITION OF IDENTIFIED BANKING PROD-
 8 UCT.—Section 206(a) of the Gramm-Leach-Bliley Act (15
 9 U.S.C. 78c note) is amended—

10 (1) in paragraph (4), by inserting “and” after
 11 the semicolon at the end;

12 (2) in paragraph (5)(B)(ii), by striking “; or”
 13 and inserting a period; and

14 (3) by striking paragraph (6) and all that fol-
 15 lows through the end of the subsection.

16 (f) DEFINITION OF ACTIVITIES CLOSELY RELATED
 17 TO BANKING.—

18 (1) IN GENERAL.—Section 4(c)(8) of the Bank
 19 Holding Company Act of 1956 (12 U.S.C.
 20 1843(c)(8)) is amended by striking “the day before
 21 the date of the enactment of the Gramm-Leach-Bli-
 22 ley Act” and inserting “January 1, 1970”.

23 (2) PROVISION ALLOWING FOR EXCEPTIONS
 24 AFTER REPORT TO CONGRESS.—Section 4(j) of the

1 Bank Holding Company Act of 1956 (12 U.S.C.
2 1843(j)) is amended to read as follows:

3 “(j) APPROVAL FOR CERTAIN POST-1970 SUB-
4 SECTION (c)(8) ACTIVITIES.—

5 “(1) IN GENERAL.—Notwithstanding the limita-
6 tion of the January 1, 1970, approval deadline in
7 subsection (c)(8), the Board may determine an activ-
8 ity to be so closely related to banking as to be a
9 proper incident thereto for purposes of such sub-
10 section, subject to the requirements of this sub-
11 section and such terms and conditions as the Board
12 may require.

13 “(2) GENERAL STANDARDS.—In making any
14 determination under paragraph (1), the Board shall
15 consider whether performance of the activity by a
16 bank holding company or a subsidiary of such com-
17 pany can reasonably be expected to result in a viola-
18 tion of section 18(aa) of the Federal Deposit Insur-
19 ance Act, section 21 of the Banking Act of 1933, or
20 the spirit of section 2(c) of the Return to Prudent
21 Banking Act of 2013, and other possible adverse ef-
22 fects, such as undue concentration of resources, de-
23 creased or unfair competition, conflicts of interests,
24 or unsound banking practices.

1 “(3) REPORT AND WAIT.—No determination of
 2 the Board under paragraph (1) may take effect be-
 3 fore the end of the 180-day period beginning on the
 4 date by which notice of the determination has been
 5 submitted to both Houses of the Congress together
 6 with a detailed explanation of the activities to which
 7 the determination relates and the basis for the de-
 8 termination, unless before the end of such period,
 9 such activities have been approved by an Act of Con-
 10 gress.”.

11 (g) REPEAL OF PROVISION RELATING TO FOREIGN
 12 BANKS FILING AS FINANCIAL HOLDING COMPANIES.—
 13 Section 8(c) of the International Banking Act of 1978 (12
 14 U.S.C. 3106(c)) is amended by striking paragraph (3).

15 **SEC. 4. REPORTS TO CONGRESS.**

16 (a) REPORTS REQUIRED.—Each time the Board of
 17 Governors of the Federal Reserve System, the Comptroller
 18 of the Currency, or another appropriate Federal banking
 19 agency (as defined in section 3 of the Federal Deposit In-
 20 surance Act) makes a determination or an extension under
 21 subparagraph (B) or (C) of paragraph (2) or (3) of section
 22 18(aa) of the Federal Deposit Insurance Act (as added
 23 by section 2(a)) or subparagraph (B) or (C) of subsection
 24 (a)(2) or (b)(2) of section 3 of this Act, as the case may
 25 be, the Board, Comptroller, or agency shall promptly sub-

1 mit a report of such determination or extension to the
2 Congress.

3 (b) CONTENTS.—Each report submitted to Congress
4 under subsection (a) shall contain a detailed description
5 of the basis for the determination or extension.

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