

114TH CONGRESS
1ST SESSION

S. 1709

To reduce risks to the financial system by limiting banks’ ability to engage in certain risky activities and limiting conflicts of interest, to reinstate certain Glass-Steagall Act protections that were repealed by the Gramm-Leach-Bliley Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 7, 2015

Ms. WARREN (for herself, Mr. MCCAIN, Mr. KING, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To reduce risks to the financial system by limiting banks’ ability to engage in certain risky activities and limiting conflicts of interest, to reinstate certain Glass-Steagall Act protections that were repealed by the Gramm-Leach-Bliley Act, and for other purposes.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 “21st Century Glass-
5 Steagall Act of 2015”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

1 (1) in response to a financial crisis and the en-
2 suing Great Depression, Congress enacted the Bank-
3 ing Act of 1933, known as the “Glass-Steagall Act”,
4 to prohibit commercial banks from offering invest-
5 ment banking and insurance services;

6 (2) a series of deregulatory decisions by the
7 Board of Governors of the Federal Reserve System
8 and the Office of the Comptroller of the Currency,
9 in addition to decisions by Federal courts, permitted
10 commercial banks to engage in an increasing num-
11 ber of risky financial activities that had previously
12 been restricted under the Glass-Steagall Act, and
13 also vastly expanded the meaning of the “business of
14 banking” and “closely related activities” in banking
15 law;

16 (3) in 1999, Congress enacted the “Gramm-
17 Leach-Bliley Act”, which repealed the Glass-Steagall
18 Act separation between commercial and investment
19 banking and allowed for complex cross-subsidies and
20 interconnections between commercial and investment
21 banks;

22 (4) former Kansas City Federal Reserve Presi-
23 dent Thomas Hoenig observed that “with the elimi-
24 nation of Glass-Steagall, the largest institutions with
25 the greatest ability to leverage their balance sheets

1 increased their risk profile by getting into trading,
2 market making, and hedge fund activities, adding
3 ever greater complexity to their balance sheets.”;

4 (5) the Financial Crisis Inquiry Report issued
5 by the Financial Crisis Inquiry Commission con-
6 cluded that, in the years between the passage of
7 Gramm-Leach Bliley and the global financial crisis,
8 “regulation and supervision of traditional banking
9 had been weakened significantly, allowing commer-
10 cial banks and thrifts to operate with fewer con-
11 straints and to engage in a wider range of financial
12 activities, including activities in the shadow banking
13 system.” The Commission also concluded that
14 “[t]his deregulation made the financial system espe-
15 cially vulnerable to the financial crisis and exacer-
16 bated its effects.”;

17 (6) a report by the Financial Stability Over-
18 sight Council pursuant to section 123 of the Dodd-
19 Frank Wall Street Reform and Consumer Protection
20 Act states that increased complexity and diversity of
21 financial activities at financial institutions may
22 “shift institutions towards more risk-taking, increase
23 the level of interconnectedness among financial
24 firms, and therefore may increase systemic default
25 risk. These potential costs may be exacerbated in

1 cases where the market perceives diverse and com-
2 plex financial institutions as ‘too big to fail,’ which
3 may lead to excessive risk taking and concerns about
4 moral hazard.”;

5 (7) the Senate Permanent Subcommittee on In-
6 vestigations report, “Wall Street and the Financial
7 Crisis: Anatomy of a Financial Collapse”, states that
8 repeal of Glass-Steagall “made it more difficult for
9 regulators to distinguish between activities intended
10 to benefit customers versus the financial institution
11 itself. The expanded set of financial services invest-
12 ment banks were allowed to offer also contributed to
13 the multiple and significant conflicts of interest that
14 arose between some investment banks and their cli-
15 ents during the financial crisis.”;

16 (8) the Senate Permanent Subcommittee on In-
17 vestigations report, “JPMorgan Chase Whale
18 Trades: A Case History of Derivatives Risks and
19 Abuses”, describes how traders at JPMorgan Chase
20 made risky bets using excess deposits that were
21 partly insured by the Federal Government;

22 (9) in Europe, the Vickers Independent Com-
23 mission on Banking (for the United Kingdom) and
24 the Liikanen Report (for the Euro area) have both
25 found that there is no inherent reason to bundle “re-

1 tail banking” with “investment banking” or other
2 forms of relatively high risk securities trading, and
3 European countries are set on a path of separating
4 various activities that are currently bundled together
5 in the business of banking;

6 (10) private sector actors prefer having access
7 to underpriced public sector insurance, whether ex-
8 plicit (for insured deposits) or implicit (for “too big
9 to fail” financial institutions), to subsidize dan-
10 gerous levels of risk-taking, which, from a broader
11 social perspective, is not an advantageous arrange-
12 ment; and

13 (11) the financial crisis, and the regulatory re-
14 sponse to the crisis, has led to more mergers be-
15 tween financial institutions, creating greater finan-
16 cial sector consolidation and increasing the domi-
17 nance of a few large, complex financial institutions
18 that are generally considered to be “too big to fail”,
19 and therefore are perceived by the markets as hav-
20 ing an implicit guarantee from the Federal Govern-
21 ment to bail them out in the event of their failure.

22 (b) PURPOSES.—The purposes of this Act are—

23 (1) to reduce risks to the financial system by
24 limiting the ability of banks to engage in activities
25 other than socially valuable core banking activities;

1 (2) to protect taxpayers and reduce moral haz-
 2 ard by removing explicit and implicit government
 3 guarantees for high-risk activities outside of the core
 4 business of banking; and

5 (3) to eliminate any conflict of interest that
 6 arises from banks engaging in activities from which
 7 their profits are earned at the expense of their cus-
 8 tomers or clients.

9 **SEC. 3. SAFE AND SOUND BANKING.**

10 (a) INSURED DEPOSITORY INSTITUTIONS.—Section
 11 18(s) of the Federal Deposit Insurance Act (12 U.S.C.
 12 1828(s)) is amended by adding at the end the following:

13 “(6) LIMITATIONS ON BANKING AFFILI-
 14 ATIONS.—

15 “(A) PROHIBITION ON AFFILIATIONS WITH
 16 NONDEPOSITORY ENTITIES.—An insured depos-
 17 itory institution may not—

18 “(i) be or become an affiliate of any
 19 insurance company, securities entity, or
 20 swaps entity;

21 “(ii) be in common ownership or con-
 22 trol with any insurance company, securities
 23 entity, or swaps entity; or

24 “(iii) engage in any activity that
 25 would cause the insured depository institu-

tion to qualify as an insurance company,
securities entity, or swaps entity.

“(B) INDIVIDUALS ELIGIBLE TO SERVE ON
BOARDS OF DEPOSITORY INSTITUTIONS.—

“(i) IN GENERAL.—An individual who
is an officer, director, partner, or employee
of any securities entity, insurance com-
pany, or swaps entity may not serve at the
same time as an officer, director, employee,
or other institution-affiliated party of any
insured depository institution.

“(ii) EXCEPTION.—Clause (i) shall
not apply with respect to service by any in-
dividual which is otherwise prohibited
under clause (i), if the appropriate Federal
banking agency determines, by regulation
with respect to a limited number of cases,
that service by such an individual as an of-
ficer, director, employee, or other institu-
tion-affiliated party of an insured deposi-
tory institution would not unduly influ-
ence—

“(I) the investment policies of
the depository institution; or

1 “(II) the advice that the institu-
2 tion provides to customers.

3 “(iii) TERMINATION OF SERVICE.—
4 Subject to a determination under clause
5 (i), any individual described in clause (i)
6 who, as of the date of enactment of the
7 21st Century Glass-Steagall Act of 2015,
8 is serving as an officer, director, employee,
9 or other institution-affiliated party of any
10 insured depository institution shall termi-
11 nate such service as soon as is practicable
12 after such date of enactment, and in no
13 event, later than the end of the 60-day pe-
14 riod beginning on that date of enactment.

15 “(C) TERMINATION OF EXISTING AFFILI-
16 ATIONS AND ACTIVITIES.—

17 “(i) ORDERLY TERMINATION OF EX-
18 ISTING AFFILIATIONS AND ACTIVITIES.—
19 Any affiliation, common ownership or con-
20 trol, or activity of an insured depository in-
21 stitution with any securities entity, insur-
22 ance company, swaps entity, or any other
23 person, as of the date of enactment of the
24 21st Century Glass-Steagall Act of 2015,
25 which is prohibited under subparagraph

1 (A) shall be terminated as soon as is prac-
2 ticable, and in no event later than the end
3 of the 5-year period beginning on that date
4 of enactment.

5 “(ii) EARLY TERMINATION.—The ap-
6 propriate Federal banking agency, at any
7 time after opportunity for hearing, may
8 order termination of an affiliation, common
9 ownership or control, or activity prohibited
10 by clause (i) before the end of the 5-year
11 period described in clause (i), if the agency
12 determines that such action—

13 “(I) is necessary to prevent
14 undue concentration of resources, de-
15 creased or unfair competition, con-
16 flicts of interest, or unsound banking
17 practices; and

18 “(II) is in the public interest.

19 “(iii) EXTENSION.—Subject to a de-
20 termination under clause (ii), an appro-
21 priate Federal banking agency may extend
22 the 5-year period described in clause (i) as
23 to any particular insured depository insti-
24 tution for not more than an additional 6
25 months at a time, if—

1 “(I) the agency certifies that
2 such extension would promote the
3 public interest and would not pose a
4 significant threat to the stability of
5 the banking system or financial mar-
6 kets in the United States; and

7 “(II) such extension, in the ag-
8 gregate, does not exceed 1 year for
9 any single insured depository institu-
10 tion.

11 “(iv) REQUIREMENTS FOR ENTITIES
12 RECEIVING AN EXTENSION.—Upon receipt
13 of an extension under clause (iii), the in-
14 sured depository institution shall notify
15 shareholders of the insured depository in-
16 stitution and the general public that it has
17 failed to comply with the requirements of
18 clause (i).

19 “(D) DEFINITIONS.—For purposes of this
20 paragraph, the following definitions shall apply:

21 “(i) INSURANCE COMPANY.—The term
22 ‘insurance company’ has the meaning given
23 the term in section 2(q) of the Bank Hold-
24 ing Company Act of 1956 (12 U.S.C.
25 1841(q)).

1 “(ii) INSURED DEPOSITORY INSTITU-
 2 TION.—The term ‘insured depository insti-
 3 tution’—

4 “(I) has the meaning given the
 5 term in section 3(c)(2); and

6 “(II) does not include a savings
 7 association controlled by a savings
 8 and loan holding company, as de-
 9 scribed in section 10(c)(9)(C) of the
 10 Home Owners’ Loan Act (12 U.S.C.
 11 1467a(c)(9)(C)).

12 “(iii) SECURITIES ENTITY.—Except as
 13 provided in clause (iii), the term ‘securities
 14 entity’—

15 “(I) includes any entity engaged
 16 in—

17 “(aa) the issue, flotation,
 18 underwriting, public sale, or dis-
 19 tribution of stocks, bonds, deben-
 20 tures, notes, or other securities;

21 “(bb) market making;

22 “(cc) activities of a broker
 23 or dealer, as those terms are de-
 24 fined in section 3(a) of the Secu-

1 urities Exchange Act of 1934 (15
2 U.S.C. 78c(a));

3 “(dd) activities of a futures
4 commission merchant;

5 “(ee) activities of an invest-
6 ment adviser or investment com-
7 pany, as those terms are defined
8 in section 202(a) of the Invest-
9 ment Advisers Act of 1940 (15
10 U.S.C. 80b-2(a)) and section
11 3(a)(1) of the Investment Com-
12 pany Act of 1940 (15 U.S.C.
13 80a-3(a)(1)), respectively; or

14 “(ff) hedge fund or private
15 equity investments in the securi-
16 ties of either privately or publicly
17 held companies; and

18 “(II) does not include a bank
19 that, pursuant to its authorized trust
20 and fiduciary activities—

21 “(aa) purchases and sells in-
22 vestments for the account of its
23 customers; or

1 “(bb) provides financial or
2 investment advice to its cus-
3 tomers.

4 “(iv) SWAPS ENTITY.—The term
5 ‘swaps entity’ means any swap dealer, se-
6 curity-based swap dealer, major swap par-
7 ticipant, or major security-based swap par-
8 ticipant, that is registered under—

9 “(I) the Commodity Exchange
10 Act (7 U.S.C. 1 et seq.); or

11 “(II) the Securities Exchange
12 Act of 1934 (15 U.S.C. 78a et seq.).”.

13 (b) LIMITATION ON BANKING ACTIVITIES.—Section
14 21 of the Banking Act of 1933 (12 U.S.C. 378) is amend-
15 ed by adding at the end the following:

16 “(c) BUSINESS OF RECEIVING DEPOSITS.—For pur-
17 poses of this section, the term ‘business of receiving depos-
18 its’ includes the establishment and maintenance of any
19 transaction account (as defined in section 19(b)(1)(C) of
20 the Federal Reserve Act (12 U.S.C. 461(b)(1)(C))).”.

21 (c) PERMITTED ACTIVITIES OF NATIONAL BANKS.—
22 The paragraph designated as “Seventh” of section 24 of
23 the Revised Statutes (12 U.S.C. 24) is amended to read
24 as follows:

1 “Seventh. (A) To exercise by its board of direc-
 2 tors or duly authorized officers or agents, subject to
 3 law, all such powers as are necessary to carry on the
 4 business of banking.

5 “(B) As used in this paragraph, the term ‘busi-
 6 ness of banking’ shall be limited to the following
 7 core banking services:

8 “(i) RECEIVING DEPOSITS.—A national
 9 banking association may engage in the business
 10 of receiving deposits.

11 “(ii) EXTENSIONS OF CREDIT.—A national
 12 banking association may—

13 “(I) extend credit to individuals, busi-
 14 nesses, not for profit organizations, and
 15 other entities;

16 “(II) discount and negotiate promiss-
 17 sory notes, drafts, bills of exchange, and
 18 other evidences of debt; and

19 “(III) loan money on personal secu-
 20 rity.

21 “(iii) PAYMENT SYSTEMS.—A national
 22 banking association may participate in payment
 23 systems, defined as instruments, banking proce-
 24 dures, and interbank funds transfer systems
 25 that ensure the circulation of money.

“(iv) COIN AND BULLION.—A national banking association may buy, sell, and exchange coin and bullion.

“(v) INVESTMENTS IN SECURITIES.—

“(I) IN GENERAL.—A national banking association may invest in investment securities, defined as marketable obligations evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes, or debentures (commonly known as ‘investment securities’), obligations of the Federal Government, or any State or subdivision thereof, and includes the definition of ‘investment securities’, as may be jointly prescribed by regulation by—

“(aa) the Comptroller of the Currency;

“(bb) the Federal Deposit Insurance Corporation; and

“(cc) the Board of Governors of the Federal Reserve System.

“(II) LIMITATIONS.—The business of dealing in securities and stock by the association shall be limited to—

1 “(aa) purchasing and selling such
2 securities and stock without recourse,
3 solely upon the order, and for the ac-
4 count of, customers, and in no case
5 for its own account, and the associa-
6 tion shall not underwrite any issue of
7 securities or stock; and

8 “(bb) purchasing for its own ac-
9 count investment securities under
10 such limitations and restrictions as
11 the Comptroller of the Currency, the
12 Federal Deposit Insurance Corpora-
13 tion, and the Board of Governors of
14 the Federal Reserve System may
15 jointly prescribe, by regulation.

16 “(III) PROHIBITION ON AMOUNT OF
17 INVESTMENT.—In no event shall the total
18 amount of the investment securities of any
19 single obligor or maker, held by the asso-
20 ciation for its own account, exceed 10 per-
21 cent of its capital stock actually paid in
22 and unimpaired and 10 percent of its
23 unimpaired surplus fund, except that such
24 limitation shall not require any association

1 to dispose of any securities lawfully held by
2 it on August 23, 1935.

3 “(C) PROHIBITION AGAINST TRANSACTIONS IN-
4 VOLVING STRUCTURED OR SYNTHETIC PRODUCTS.—
5 A national banking association may not—

6 “(i) invest in a structured or synthetic
7 product, a financial instrument in which a re-
8 turn is calculated based on the value of, or by
9 reference to the performance of, a security,
10 commodity, swap, other asset, or an entity, or
11 any index or basket composed of securities,
12 commodities, swaps, other assets, or entities,
13 other than customarily determined interest
14 rates; or

15 “(ii) otherwise engage in the business of
16 receiving deposits or extending credit for trans-
17 actions involving structured or synthetic prod-
18 ucts.”.

19 (d) PERMITTED ACTIVITIES OF FEDERAL SAVINGS
20 ASSOCIATIONS.—Section 5(c)(1) of the Home Owners’
21 Loan Act (12 U.S.C. 1464(c)(1)) is amended—

22 (1) by striking subparagraph (Q); and
23 (2) by redesignating subparagraphs (R)
24 through (U) as subparagraphs (Q) through (T), re-
25 spectively.

1 (e) CLOSELY RELATED ACTIVITIES.—Section 4(c) of
 2 the Bank Holding Company Act of 1956 (12 U.S.C.
 3 1843(c)) is amended—

4 (1) in paragraph (8), by striking “had been de-
 5 termined” and all that follows through the end and
 6 inserting the following: “are so closely related to
 7 banking so as to be a proper incident thereto, as
 8 provided under this paragraph or any rule or regula-
 9 tion issued by the Board under this paragraph, pro-
 10 vided that the following shall not be considered
 11 closely related for purposes of this paragraph:

12 “(A) Serving as an investment adviser (as
 13 defined in section 2(a)(20) of the Investment
 14 Company Act of 1940 (15 U.S.C. 80a-
 15 2(a)(20))) to an investment company registered
 16 under that Act, including sponsoring, orga-
 17 nizing, and managing a closed-end investment
 18 company.

19 “(B) Agency transactional services for cus-
 20 tomer investments, except that this subpara-
 21 graph may not be construed as prohibiting pur-
 22 chases and sales of investments for the account
 23 of customers conducted by a bank (or sub-
 24 sidiary thereof) pursuant to the bank’s trust
 25 and fiduciary powers.

1 “(C) Investment transactions as principal,
2 except for activities specifically allowed by para-
3 graph (14).

4 “(D) Management consulting and coun-
5 seling activities.”;

6 (2) in paragraph (13), by striking “or” at the
7 end;

8 (3) by redesignating paragraph (14) as para-
9 graph (15); and

10 (4) by inserting after paragraph (13) the fol-
11 lowing:

12 “(14) purchasing, as an end user, any swap, to
13 the extent that—

14 “(A) the purchase of any such swap occurs
15 contemporaneously with the underlying hedged
16 item or hedged transaction;

17 “(B) there is formal documentation identi-
18 fying the hedging relationship with particularity
19 at the inception of the hedge; and

20 “(C) the swap is being used to hedge
21 against exposure to—

22 “(i) changes in the value of an indi-
23 vidual recognized asset or liability or an
24 identified portion thereof that is attrib-
25 utable to a particular risk;

1 “(ii) changes in interest rates; or
 2 “(iii) changes in the value of currency;
 3 or”.

4 (f) PROHIBITED ACTIVITIES.—Section 4(a) of the
 5 Bank Holding Company Act of 1956 (12 U.S.C. 1843(a))
 6 is amended—

7 (1) in paragraph (1), by striking “or” at the
 8 end and inserting a semicolon;

9 (2) in paragraph (2), by striking the period at
 10 the end and inserting “; or”; and

11 (3) by inserting before the undesignated matter
 12 following paragraph (2) the following:

13 “(3) with the exception of the activities per-
 14 mitted under subsection (c), engage in the business
 15 of a ‘securities entity’ or a ‘swaps entity’, as those
 16 terms are defined in section 18(s)(6)(D) of the Fed-
 17 eral Deposit Insurance Act (12 U.S.C.
 18 1828(s)(6)(D)), including dealing or making mar-
 19 kets in securities, repurchase agreements, exchange
 20 traded and over-the-counter swaps, as defined by the
 21 Commodity Futures Trading Commission and the
 22 Securities and Exchange Commission, or structured
 23 or synthetic products, as defined in the paragraph
 24 designated as ‘Seventh’ of section 24 of the Revised
 25 Statutes (12 U.S.C. 24), or any other over-the-

1 counter securities, swaps, contracts, or any other
 2 agreement that derives its value from, or takes on
 3 the form of, such securities, derivatives, or contracts;

4 “(4) engage in proprietary trading, as provided
 5 by section 13, or any rule or regulation under that
 6 section;

7 “(5) own, sponsor, or invest in a hedge fund, or
 8 private equity fund, or any other fund, as provided
 9 by section 13, or any rule or regulation under that
 10 section, or any other fund which exhibits the charac-
 11 teristics of a fund that takes on proprietary trading
 12 activities or positions;

13 “(6) hold ineligible securities or derivatives;

14 “(7) engage in market-making; or

15 “(8) engage in prime brokerage activities.”.

16 (g) ANTI-EVASION.—

17 (1) IN GENERAL.—Any attempt to structure
 18 any contract, investment, instrument, or product in
 19 such a manner that the purpose or effect of such
 20 contract, investment, instrument, or product is to
 21 evade or attempt to evade the prohibitions described
 22 in section 18(s)(6) of the Federal Deposit Insurance
 23 Act (12 U.S.C. 1828(s)(6)), section 21(c) of the
 24 Banking Act of 1933 (12 U.S.C. 378(c)), the para-
 25 graph designated as “Seventh” of section 24 of the

1 Revised Statutes, section 5(c)(1) of the Home Own-
 2 ers' Loan Act (12 U.S.C. 1464(c)(1)), or section
 3 4(a) of the Bank Holding Company Act of 1956 (12
 4 U.S.C. 1843(a)), as added or amended by this sec-
 5 tion, shall be considered a violation of the Federal
 6 Deposit Insurance Act (12 U.S.C. 1811 et seq.), the
 7 Banking Act of 1933 (Public Law 73–66; 48 Stat.
 8 162), section 24 of the Revised Statutes (12 U.S.C.
 9 24), the Home Owners' Loan Act (12 U.S.C. 1461
 10 et seq.), and the Bank Holding Company Act of
 11 1956 (12 U.S.C. 1841 et seq.), respectively.

12 (2) TERMINATION.—

13 (A) IN GENERAL.—Notwithstanding any
 14 other provision of law, if a Federal agency has
 15 reasonable cause to believe that an insured de-
 16 pository institution, securities entity, swaps en-
 17 tity, insurance company, bank holding company,
 18 or other entity over which that agency has reg-
 19 ulatory authority has made an investment or
 20 engaged in an activity in a manner that func-
 21 tions as an evasion of the prohibitions described
 22 in paragraph (1) (including through an abuse
 23 of any permitted activity) or otherwise violates
 24 such prohibitions, the agency shall—

1 (i) order, after due notice and oppor-
2 tunity for hearing, the entity to terminate
3 the activity and, as relevant, dispose of the
4 investment;

5 (ii) order, after the procedures de-
6 scribed in clause (i), the entity to pay a
7 penalty equal to 10 percent of the entity's
8 net profits, averaged over the previous 3
9 years, into the United States Treasury;
10 and

11 (iii) initiate proceedings described in
12 section 8(e) of the Federal Deposit Insur-
13 ance Act (12 U.S.C. 1818(e)) for individ-
14 uals involved in evading the prohibitions
15 described in paragraph (1).

16 (B) CONSTRUCTION.—Nothing in this
17 paragraph shall be construed to limit the inher-
18 ent authority of any Federal agency or State
19 regulatory authority to further restrict any in-
20 vestments or activities under otherwise applica-
21 ble provisions of law.

22 (3) REPORTING REQUIREMENT.—

23 (A) IN GENERAL.—Not later than 1 year
24 after the date of enactment of this Act, and
25 every year thereafter, each Federal agency hav-

ing regulatory authority over any entity described in paragraph (2)(A) shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives and make available to the public a report, which shall identify—

(i) the number and character of any activities that took place in the preceding year that function as an evasion of the prohibitions described in paragraph (1);

(ii) the names of the particular entities engaged in those activities; and

(iii) the actions of the Federal agency taken under paragraph (2).

(h) ATTESTATION.—Section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1843), as amended by section 4(a)(1) of this Act, is amended by adding at the end the following:

“(k) ATTESTATION.—Executives of any bank holding company or its affiliate shall attest in writing, under penalty of perjury, that the bank holding company or affiliate is not engaged in any activity that is prohibited under subsection (a), except to the extent that such activity is permitted under subsection (c).”.

1 **SEC. 4. REPEAL OF GRAMM-LEACH-BLILEY ACT PROVI-**
2 **SIONS.**

3 (a) **TERMINATION OF FINANCIAL HOLDING COM-**
4 **PANY DESIGNATION.—**

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

9 (2) **TRANSITION.—**

10 (A) **ORDERLY TERMINATION OF EXISTING**
11 **AFFILIATION.**—In the case of a bank holding
12 company which, pursuant to the amendments
13 made by paragraph (1), is no longer authorized
14 to control or be affiliated with any entity that
15 was permissible for a financial holding company
16 on the day before the date of enactment of this
17 Act, any affiliation, ownership or control, or ac-
18 tivity by the bank holding company which is not
19 permitted for a bank holding company shall be
20 terminated as soon as is practicable, and in no
21 event later than the end of the 5-year period
22 beginning on the date of enactment of this Act.

23 (B) **EARLY TERMINATION.**—The Board of
24 Governors of the Federal Reserve System (in
25 this section referred to as the “Board”), after
26 opportunity for hearing, at any time, may ter-

minate an affiliation prohibited by subparagraph (A) before the end of the 5-year period described in subparagraph (A), if the Board determines that such action—

(i) is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices; and

(ii) is in the public interest.

(C) EXTENSION.—Subject to a determination under subparagraph (B), the Board may extend the 5-year period described in subparagraph (A), as to any particular bank holding company, for not more than an additional 6 months at a time, if—

(i) the Board certifies that such extension would promote the public interest and would not pose a significant risk to the stability of the banking system or financial markets of the United States; and

(ii) such extension, in the aggregate, does not exceed 1 year for any single bank holding company.

(D) REQUIREMENTS FOR ENTITIES RECEIVING AN EXTENSION.—Upon receipt of an

1 extension under subparagraph (C), the bank
 2 holding company shall notify the shareholders
 3 of the bank holding company and the general
 4 public that it has failed to comply with the re-
 5 quirements of subparagraph (A).

6 (b) FINANCIAL SUBSIDIARIES OF NATIONAL BANKS
 7 DISALLOWED.—

8 (1) IN GENERAL.—Section 5136A of the Re-
 9 vised Statutes (12 U.S.C. 24a) is repealed.

10 (2) TRANSITION.—

11 (A) ORDERLY TERMINATION OF EXISTING
 12 AFFILIATION.—In the case of a national bank
 13 which, pursuant to the amendment made by
 14 paragraph (1), is no longer authorized to con-
 15 trol or be affiliated with a financial subsidiary
 16 as of the date of enactment of this Act, such af-
 17 filiation, ownership or control, or activity shall
 18 be terminated as soon as is practicable, and in
 19 no event later than the end of the 5-year period
 20 beginning on the date of enactment of this Act.

21 (B) EARLY TERMINATION.—The Comp-
 22 troller of the Currency (in this section referred
 23 to as the “Comptroller”), after opportunity for
 24 hearing, at any time, may terminate an affili-
 25 ation prohibited by subparagraph (A) before the

1 end of the 5-year period described in subpara-
 2 graph (A), if the Comptroller determines, hav-
 3 ing due regard for the purposes of this Act,
 4 that—

5 (i) such action is necessary to prevent
 6 undue concentration of resources, de-
 7 creased or unfair competition, conflicts of
 8 interest, or unsound banking practices; and

9 (ii) is in the public interest.

10 (C) EXTENSION.—Subject to a determina-
 11 tion under subparagraph (B), the Comptroller
 12 may extend the 5-year period described in sub-
 13 paragraph (A) as to any particular national
 14 bank for not more than an additional 6 months,
 15 if—

16 (i) the Comptroller certifies that such
 17 extension would promote the public inter-
 18 est and would not pose a significant risk to
 19 the stability of the banking system or fi-
 20 nancial markets of the United States; and

21 (ii) such extension, in the aggregate,
 22 does not exceed 1 year for any single na-
 23 tional bank.

24 (D) REQUIREMENTS FOR ENTITIES RE-
 25 CEIVING AN EXTENSION.—Upon receipt of an

1 extension under subparagraph (C), the national
 2 bank shall notify its shareholders and the gen-
 3 eral public that it has failed to comply with the
 4 requirements described in subparagraph (A).

5 (3) CLERICAL AMENDMENT.—The table of sec-
 6 tions for chapter one of title LXII of the Revised
 7 Statutes is amended by striking the item relating to
 8 section 5136A.

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

13 **SEC. 5. REPEAL OF BANKRUPTCY PROVISIONS.**

14 Title 11, United States Code, is amended by repeal-
 15 ing sections 555, 559, 560, and 562.

16 **SEC. 6. TECHNICAL AND CONFORMING AMENDMENTS.**

17 (a) BANK HOLDING COMPANY ACT OF 1956.—The
 18 Bank Holding Company Act of 1956 (12 U.S.C. 1841 et
 19 seq.) is amended—

20 (1) in section 2 (12 U.S.C. 1841)—

21 (A) by striking subsection (p); and

22 (B) by redesignating subsection (q) as sub-
 23 section (p); and

24 (2) in section 5 (12 U.S.C. 1844)—

1 (A) in subsection (a), by striking the last
2 sentence;

3 (B) in subsection (c), by striking para-
4 graphs (3), (4), and (5); and

5 (C) by striking subsection (g).

6 (b) BANK HOLDING COMPANY ACT AMENDMENTS OF
7 1970.—Section 106(a) of the Bank Holding Company Act
8 Amendments of 1970 (12 U.S.C. 1971(a)) is amended by
9 striking the last sentence.

10 (c) CLAYTON ACT.—Section 7A(c) of the Clayton Act
11 (15 U.S.C. 18a(c)) is amended—

12 (1) in paragraph (7), by striking “, except
13 that” and all that follows and inserting a semicolon;
14 and

15 (2) in paragraph (8), by striking “, except
16 that” and all that follows and inserting a semicolon.

17 (d) COMMODITY EXCHANGE ACT.—Section
18 2(h)(7)(C)(i)(VIII) of the Commodity Exchange Act (7
19 U.S.C. 2(h)(7)(C)(i)(VIII)) is amended by striking “, as
20 defined in section 4(k) of the Bank Holding Company Act
21 of 1956”.

22 (e) COMMUNITY REINVESTMENT ACT OF 1977.—
23 Section 804 of the Community Reinvestment Act of 1977
24 (12 U.S.C. 2903) is amended—

25 (1) by striking subsection (c); and

1 (2) by redesignating subsection (d) as sub-
2 section (c).

3 (f) DODD-FRANK WALL STREET REFORM AND CON-
4 SUMER PROTECTION ACT.—Section 201(a)(11)(B) of the
5 Dodd-Frank Wall Street Reform and Consumer Protec-
6 tion Act (12 U.S.C. 5381(a)(11)(B)) is amended by strik-
7 ing “for purposes of section 4(k) of the Bank Holding
8 Company Act of 1956 (12 U.S.C. 1843(k))” each place
9 that term appears.

10 (g) FEDERAL DEPOSIT INSURANCE ACT.—The Fed-
11 eral Deposit Insurance Act (12 U.S.C. 1811 et seq.) is
12 amended—

13 (1) in section 8(b)(3) (12 U.S.C. 1818(b)(3)),
14 by striking “section 50” and inserting “section 48”;

15 (2) in section 18(u)(1)(B) (12 U.S.C.
16 1828(u)(1)(B)), by striking “or section 45 of this
17 Act”;

18 (3) by striking sections 45 and 46 (12 U.S.C.
19 1831v and 1831w); and

20 (4) by redesignating sections 47 through 50 as
21 sections 45 through 48, respectively.

22 (h) FEDERAL RESERVE ACT.—The Federal Reserve
23 Act (12 U.S.C. 221 et seq.) is amended—

1 (1) in the 20th undesignated paragraph of sec-
 2 tion 9 (12 U.S.C. 335), by striking the last sentence;
 3 and

4 (2) in section 23A (12 U.S.C. 371c)—

5 (A) in subsection (b)(11), by striking “sub-
 6 paragraph (H) or (I) of section 4(k)(4) of the
 7 Bank Holding Company Act of 1956 or”;

8 (B) by striking subsection (e); and

9 (C) by redesignating subsection (f) as sub-
 10 section (e).

11 (i) FINANCIAL STABILITY ACT OF 2010.—The Fi-
 12 nancial Stability Act of 2010 (12 U.S.C. 5301 et seq.)
 13 is amended—

14 (1) in section 113(c)(5) (12 U.S.C. 5323(c)(5)),
 15 by striking “(as defined in section 4(k) of the Bank
 16 Holding Company Act of 1956)”;

17 (2) in section 163 (12 U.S.C. 5363)—

18 (A) by striking subsection (b); and

19 (B) in subsection (a), by striking “(a)”
 20 and all that follows through “For purposes”
 21 and inserting “For purposes”;

22 (3) in section 167(b) (12 U.S.C. 5367(b)), by
 23 striking “under section 4(k) of the Bank Holding
 24 Company Act of 1956” each place that term ap-
 25 pears; and

1 (4) in section 171(b) (12 U.S.C. 5371(b))—

2 (A) by striking paragraph (3); and

3 (B) by redesignating paragraphs (4)
4 through (7) as paragraphs (3) through (6), re-
5 spectively.

6 (j) GRAMM-LEACH-BLILEY ACT.—The Gramm-
7 Leach-Bliley Act (Public Law 106–102; 113 Stat. 1338)
8 is amended—

9 (1) by striking section 115 (12 U.S.C. 1820a);

10 (2) in section 505(c) (15 U.S.C. 6805(c))—

11 (A) by striking “section 47(g)(2)(B)(iii) of
12 the Federal Deposit Insurance Act” and insert-
13 ing “section 45(g)(2)(B)(iii) of the Federal De-
14 posit Insurance Act”; and

15 (B) by striking “section 47(a)” and insert-
16 ing “section 45(a)”; and

17 (3) in section 509(3)(A) (15 U.S.C.
18 6809(3)(A)), by striking “as described in section
19 4(k) of the Bank Holding Company Act of 1956”.

20 (k) HOME OWNERS’ LOAN ACT.—Section 10(c) of
21 the Home Owners’ Loan Act (12 U.S.C. 1467a(c)) is
22 amended—

23 (1) in paragraph (2), by striking subparagraph

24 (H); and

1 (2) in paragraph (9)(A), by striking “per-
 2 mitted” and all that follows and inserting “per-
 3 mitted under paragraph (1)(C) or (2) of this sub-
 4 section.”.

5 (l) PAYMENT, CLEARING, AND SETTLEMENT SUPER-
 6 VISION ACT OF 2010.—Section 803(5)(A) of the Payment,
 7 Clearing, and Settlement Supervision Act of 2010 (12
 8 U.S.C. 5462(5)(A)) is amended—

9 (1) in clause (viii), by adding “and” at the end;
 10 (2) in clause (ix), by striking “; and” and in-
 11 serting a period; and
 12 (3) by striking clause (x).

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

16 (1) in section 3(a)(4)(B)(vi)(II) (15 U.S.C.
 17 78c(a)(4)(B)(vi)(II)), by striking “other than” and
 18 all that follows and inserting “other than a reg-
 19 istered broker or dealer.”; and

20 (2) in section 3C(g)(3)(A) (15 U.S.C. 78c-
 21 3(g)(3)(A))—

22 (A) in clause (vi), by adding “and” at the
 23 end;

24 (B) in clause (vii), by striking the semi-
 25 colon and inserting a period; and

1 (C) by striking clause (viii).

2 (n) TITLE 11.—Title 11, United States Code, is
3 amended—

4 (1) in section 101—

5 (A) in paragraph (25)(E), by striking “,
6 measured in accordance with section 562”;

7 (B) in paragraph (47)(A)(v), by striking “,
8 measured in accordance with section 562 of this
9 title”; and

10 (C) in paragraph (53B)(A)(vi), by striking
11 “, measured in accordance with section 562”;

12 (2) in section 103(a), by striking “555 through
13 557, and 559 through 562” and inserting “and
14 555”;

15 (3) in section 362(b)—

16 (A) in paragraph (6), by striking “555 or”
17 each place that term appears;

18 (B) in paragraph (7), by striking “(as de-
19 fined in section 559)” each place that term ap-
20 pears;

21 (C) in paragraph (17), by striking “(as de-
22 fined in section 560)” each place that term ap-
23 pears; and

24 (D) in paragraph (27), by striking “(as de-
25 fined in section 555, 556, 559, or 560)” each

- 1 place that term appears and inserting “(as de-
- 2 fined in section 556)”;
- 3 (4) in section 502(g)—
- 4 (A) by striking “(1)” before “A claim”;
- 5 and
- 6 (B) by striking paragraph (2);
- 7 (5) in section 553—
- 8 (A) in subsection (a)—
- 9 (i) in paragraph (2)(B)(ii), by striking
- 10 “555, 556, 559, 560, or 561” and insert-
- 11 ing “or 556”; and
- 12 (ii) in paragraph (3)(C), by striking
- 13 “555, 556, 559, 560, or 561” and insert-
- 14 ing “or 556”; and
- 15 (B) in subsection (b)(1), by striking “555,
- 16 556, 559, 560, 561” and inserting “556”;
- 17 (6) in section 561(b)(1), by striking “555, 556,
- 18 559, or 560” and inserting “556”;
- 19 (7) in section 741(7)(A)(xi), by striking “,
- 20 measured in accordance with section 562”;
- 21 (8) in section 761(4)(J), by striking “, meas-
- 22 ured in accordance with section 562”; and
- 23 (9) in section 901(a), by striking “555, 556,
- 24 557, 559, 560, 561, 562” and inserting “556, 557”.

○