Relief Act will extend States' authority to continue such exceptions until Congress can act to responsibly address this issue.

Madam Speaker, the purpose of the Department of Transportation rulemaking is to protect the public from harmful materials on our Nation's highways. Farmers, who are merely transporting substances from their supplier to the farm are not the ones who are involved in the type of accidents which have led the Department of Transportation to act. Agricultural transportation of chemical fertilizers, fuels and pesticides occurs during specific times of the year, on a much smaller basis, on rural roadways and in carriers which are easily identifiable to emergency response personnel. We need not complicate the lives of our family farmer by linking them with high-volume transporters of industrial chemicals.

This compromise, Madam Speaker, is responsible government in action. The amendment which we have accepted today allows Congress a period encompassing two planting seasons to carefully weigh the potential danger to the public against the burden to our farmers which could result from too broad a rulemaking. In order to force the most timely action on this matter, my colleagues and I will reintroduce H.R. 4102 on the first day of the next session. We will work with other members, the farm industry, public safety officials and the Department of Transportation to assure that the most necessary requirements for public safety will be implemented. We owe this to our citizens who rely upon us to protect them and to protect their livelihood.

THE DEPOSITORY INSTITUTIONS AND THRIFT CHARTER CONVERSION ACT

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mrs. ROUKEMA, Mr. Speaker, today, I am introducing the Depository Institution Affiliation and Thrift Charter Conversion Act, legislation that represents the first step toward crafting meaningful financial reform legislation that will take us into the 21st century and put us on sound footing to compete in the global market place.

The issues surrounding financial modernization have been long standing issues that the Banking Committee has been grappling with over time. As chairwoman of the Financial Institutions and Consumer Credit Subcommittee, I have been more than a little bit preoccupied with this subject during the 104th Congress. Unfortunately, efforts to pass meaningful reform this Congress have been unsuccessful. With the introduction of this legislation today, I believe we are laying the groundwork to begin discussions before the start of the 105th Congress. This legislation is a comprehensive approach that addresses affiliation issues, Glass-Steagall reform, functional regulation, insurance issues and thrift charter conversion by melding together key elements of the major reform bills introduced previously in Congress.

As many of you are aware, I have been a strong supporter of resolving the BIF/SAIF issue including addressing the larger question of charter merger. That is why my Subcommittee on Financial Institutions in 1995 dealt with not only SAIF/BIF funding, but with restructuring issues as well. My subcommittee considered and reported out H.R. 2363, the Thrift Charter Conversion Act, and it was subsequently included in the House-passed reconciliation bill. Even though I strongly supported a more comprehensive approach to resolving the BIF/SAIF problem, time constraints and political realities made passage of a comprehensive charter merger bill impossible this year. The legislation that we are introducing here today deals with many of the same issues addressed in my legislation, H.R. 2363—like eliminating the thrift charter. Thrifts would be required to convert to banks by January 1, 1998, with a 3-year transition provision to allow institutions adequate time to comply with existing national bank laws. Unitary thrift holding companies would be required to convert to either a bank holding company or a financial services company. The other charter conversion provisions included in this bill are the same as those included in my thrift charter conversion bill (H.R. 2363) which was subsequently included as part of the House-passed budget reconciliation bill.

In addition to the thrift charter provisions, the other key elements of the bill include:

Creation of a new, optional structure allowing financial companies to affiliate with banks similar to the D'Amato-Baker approach but modified to restrict ownership of insured banks by commercial firms. This particular provision of the bill is one that is open to further analysis. Consequently, it is one area that I will pay particular attention to with the express purpose of making sure that the safety and soundness of our financial institutions are adequately preserved, and that regulatory authority is adequate.

The regulation and oversight of holding companies would be based on current requirements similar to the structure currently applied to unitary thrift holding companies. As we consider provisions that address the regulation of various institutions, I will be taking special care to assure that all institutions are regulated in such a way as to preserve the safety and soundness and the integrity of the insurance funds.

SECTION-BY-SECTION

The Draft Bill is an effort to break the current logjam that is blocking financial services reform legislation. It is a comprehensive approach that addresses affiliation issues, Glass-Steagal reform, functional regulation, insurance issues, and thrift charter conversion. It does this by melding together key elements of the major reform bills that are currently pending in Congress. The purposes of this approach are to (1) build on the constructive efforts of Chairmen D'Amato and Leach and Representatives McCollum, Baker, and Roukema, among others, during the past two years; (2) provide a comprehensive framework for addressing the major concerns of the broadest possible range of industry participants; and (3) address legitimate concerns of the regulators that were reflected in both legislative and regulatory proposals that emerged during the last several years.

1. FINANCIAL SERVICES HOLDING COMPANIES

Using modified language from the D'Amato-Baker bills, the draft bill creates a new and entirely optional structure for financial companies to affiliate with banks. A company would choose to own a bank through a new ''financial services holding company'' that would not be subject to the Bank Holding Company Act. Instead, the financial services holding company would be subject to a new regulatory structure established by a newly-created section of financial services law called the ''Financial Services Company Act.'' Any company that owns a bank but chooses not to form a financial services holding company would remain subject to the Bank Holding Company Act to the same extent and in the same manner as it is under existing law. However, an affiliate of a bank that is not part of a financial services holding company generally could not engage in securities activities to a greater extent than has been permitted under existing law.

Permissible Affiliations. A financial services holding company could own or affiliate with companies engaged in a much broader range of activities than is permitted for bank holding companies under current law (with contrary state law preempted). The bill would not, however, eliminate all current restrictions on affiliations between banks and commercial firms. A financial services holding company would have to maintain at least 75 percent of its business in financial activities or financial services institutions, which would include such institutions as banks, insurance companies, securities broker dealers, and wholesale financial institutions. In addition, a bank holding company that became a financial services holding company could not enter the insurance agency business through a new affiliate unless it bought an insurance agency that had been in business for at least two years. Finally, foreign banks could also choose to become financial services holding companies.

The bill includes lists of activities that are deemed to be ''financial'' and entities that are deemed to be ''financial services institutions.'' A new National Financial Services Committee, which would be chaired by the Treasury Department and include the bank regulators and the SEC, would (1) determine whether additional activities should be deemed to be ''financial'' or additional types of companies should be deemed to be ''financial services institutions''; and (2) issue regulations describing the methods for calculating compliance with the 75 percent test. Other than these limited circumstances, a financial services holding company would not be subject to the cumbersome application and prior approval process that currently applies to bank holding companies.

Holding Company Oversight. Because it would own a bank, a financial services holding company would be subject to examination and reporting requirements, but only to the extent necessary to protect the safety and soundness of the bank. These examination and reporting requirements are modeled on those currently in place for unitary thrift holding companies. To the extent that certain elements of the so-called ''Fed Lite'' provisions of H.R. 2520, the most recently introduced version of the Leach bill, are consistent with the unitary thrift holding company model, they, too, have been included. While the National Financial Services Committee would establish uniform standards for these requirements, the appropriate Federal banking agency that regulates the lead depository institution of the financial services holding company would implement and enforce them.

Apart from these general requirements, financial services holding companies would not be subject to the bank-like regulation that currently applies to the capital and activities of bank holding companies. However, as in the D'Amato-Baker bills, financial services holding companies would be subject to the following additional safety and soundness requirements:

Affiliate transaction restrictions, including but not limited to the requirements of

Sections 23A and 23B of the Federal Reserve Act.

Prohibition on credit extensions to nonfinancial affiliates.

Change in Control Act restrictions.

Insider lending restrictions.

A ''well-capitalized'' requirement for subsidiary banks.

Civil money penalties, cease-and-desist authority, and similar banking law enforcement provisions applicable to violations of the new statute.

New criminal law penalty provisions for knowing violations of the new statute.

Divestiture requirement applicable to banks within any financial services holding company that fails to satisfy certain safety and soundness standards.

Anti-Tying and Cross-Marketing Provisions. As with the D'Amato-Baker bills, (1) anti-tying restrictions would apply to a financial services holding company as if it were a bank holding company, but (2) the bill would preempt cross-marketing restrictions imposed on financial services holding companies by state law or any other federal law.

Securities Activities. The draft bill includes principal elements of the most recently introduced version of the Leach bill, H.R. 2520, as it relates to Glass-Steagall issues. These include statutory firewall, ''push-out,'' and ''functional regulation'' provisions, with some modifications. These new restrictions would apply only to financial services holding companies; they would not apply to the securities or investment company activities of banks that remained part of bank holding companies.

Wholesale Financial Institutions. Financial services holding companies (but not bank holding companies) could also form uninsured bank subsidiaries called wholesale financial institutions or ''WFIs.'' Unlike the Leach bill, such WFIs could be either state or nationally chartered, and there would be no restrictions on the ability of a WFI to affiliate with an insured bank. A WFI would not be subject to the statutory securities firewalls applicable to insured banks and their securities affiliates, but the WFI could not be used to evade such statutory firewalls.

2. ELIMINATION OF THRIFT CHARTER

With the new financial services holding company structure in place, the thrift charter would be eliminated; thrifts would generally be required to convert to banks, with grandfathering/transition provisions; and unitary thrift holding companies would be required to convert to either bank holding companies or financial services holding companies, also with grandfathering/transition provisions. The statutory language for the charter conversion is the same as the language included in the last version of the Roukema bill, which is the one that was used in the House's offer in the Budget Reconciliation conference in late 1995.

3. NATIONAL MARKET FUNDED LENDING INSTITUTIONS

Unlike the D'Amato-Baker bills, the draft bill generally precludes a commercial firm from owning an insured depository institution. However, the bill recognizes the important role that nonfinancial companies play in other aspects of the financial services industry by allowing such companies to own ''national market funded lending institutions.'' This new kind of OCC-regulated institution would have national bank lending powers, but would have no access to the federal safety net: it could not take deposits or receive federal deposit insurance, and it would have no bank-like access to the payments system or the Federal Reserve's discount window. In addition, the institution could not use the term ''bank'' in its name. By owning a national market funded lending institution, a nonfinancial company could provide all types of credit throughout the country using uniform lending rates and terms.

4. EFFECTIVE DATE

The bill's provisions would generally become effective on January 1, 1997.

STRUCTURE OF DRAFT BILL

Title I. This title creates a new freestanding banking law called the ''Financial Services Holding Company Act.''

Subtitle A is the modified D'Amato/Baker bill (H.R. 814), which provides companies the option of becoming ''financial services holding companies.'' Only ''predominantly financial companies'' may be financial services holding companies. The holding company oversight provisions reflect the unitary thrift holding company model and consistent aspects of ''Fed lite'' from H.R. 2520, the most recent Glass Steagall bill introduced by Chairman Leach. Companies that choose not to become financial services holding companies remain subject to existing law, subject to Title II's limits on affiliations between banks and securities companies.

Subtitle B includes H.R. 2520's statutory firewall and baking law ''push-out'' provisions, with some modifications. These apply to companies that choose to become financial services holding companies.

Subtitle C includes H.R. 814's requirement that any company that enters the insurance agency business must do so by acquiring an existing insurance agency that has been in business for at least two years.

Title II. This title includes conforming amendments to other laws for financial services holding companies (taken from H.R. 814 and H.R. 2520). It also includes a modified version of H.R. 2520's FDI Act provision limiting affiliations between banks and securities companies.

Title III. This title includes H.R. 2520's ''functional regulation/push-out'' amendments to the securities laws, with some modifications. It applies only to financial services holding companies.

Title IV. This title includes H.R. 2520's ''wholesale financial institution'' provisions for state member banks. It adds a parallel provision for national banks. Only financial services holding companies may own WFIs. Unlike H.R. 2520, WFIs may affiliate with insured banks. The principal benefit of the WFI is that it is not subject to statutory securities firewalls.

Title V. This title is the most recent version of Rep. Roukema's Thrift Charter Conversion Act (taken from the House offer in the 1995 reconciliation conference).

Title VI. This title authorizes formation of ''national market funded lending institutions.'' These OCC-regulated institutions may not call themselves ''banks.'' take deposits, or receive federal deposit insurance. They also may not have access to the discount window or the payments system. They do have national bank lending powers, which allows them to lend at uniform rates throughout the country. Because they have no access to the federal safety net, any commercial firm may own a national market funded lending institution without being treated as a bank holding company or the new financial services holding company.

Title VII. The bill's general effective date is January 1, 1997.

MEDICARE AND OUTPATIENT INFECTIOUS DISEASES THERAPY: LEGISLATION TO PROVIDE A COST-SAVING BENEFIT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 25, 1996

Mr. STARK. Mr. Speaker, Medicare could save money and benefit patients by facilitating certain cost-effective outpatient treatments in place of inpatient treatment. As the body of medical knowledge grows about what diseases can be safely and effectively treated at home, Medicare's policies need to be updated to capture the cost savings. A crucial area where Medicare policy lags relates to infections and treatment. After years of study by health experts, it is well-established that outpatient intravenous antibiotic therapy for certain infectious can be a cost-effective alternative to prolonged hospitalization. Although only a subset of patients are medically appropriate candidates for outpatient therapy, significant cost savings may accrue. The bill I am introducing today provides a benefit for outpatient parenteral antimicrobial therapy while ensuring that Medicare capture the savings from use of this outpatient rather than inpatient rather than inpatient treatment.

Certain infections require prolonged antimicrobial therapy. These include endocarditis, an infection of the heart valves, osteomyelitis, an infection of bones, infections involving certain prosthetic devices such as prosthetic joints, and certain abscesses such as those of liver, lung, or brain. Patients with these diseases often require intravenous antibiotic therapy for 4 to 6 weeks and sometimes longer. Intravenous therapy can produce much higher and more constant blood levels of an antibiotic than oral therapy and is used for serious infections. Certain viral and fungal infections also require prolonged antimicrobial therapy.

After initial hospitalization and stabilization of their condition, many patients would be well enough to be discharged from the hospital except for the need for continued intravenous therapy. For these patients, outpatient antibiotic therapy would be beneficial and cost-effective. Unfortunately, many patients must currently remain in the hospital because Medicare does not cover the outpatient treatment. Medicare loses because it may have to pay the hospital an outlier payment in addition to the usual diagnosis-related group [DRG] payment; the outlier payment is an extra amount to help cover the patient's longer than average stay. Alternatively, the hospital may try to save costs by transferring the patient to an extended care facility to complete treatment. Again Medicare loses, because it pays for the treatment at the receiving facility in addition to the DRG payment it makes to the hospital. If Medicare covered the outpatient treatment, it could avoid these extra inpatient payments. In addition, Medicare's DRG payments for these diseases could potentially be reduced as the average inpatient cost for the conditions decreases.

Not all patients are medically appropriate candidates for outpatient antimicrobial therapy. However, for those that are, outpatient therapy avoids the restrictive environment of a hospital and decreases the patient's risk for hospital-