

Many of my colleagues in the Senate come to the floor each year and join me in supporting character education in our schools. For the past six years, I have been working to support character education. In 1994, the amendment Senator DOMENICI and I offered to the Elementary and Secondary Education bill was adopted by the full Senate. The amendment provided funding for schools to start character education curriculums.

Since then, I have had the opportunity to visit schools in my home state of Connecticut and I have seen these funds at work. Teachers, parents and the students themselves are enthusiastic about these programs and have reported better attendance, higher academic performance, and improved behavior among students. My colleagues can confirm that these positive results are evident throughout the Nation.

Again, I compliment my colleague and friend from New Mexico for his leadership on character education. I invite my colleagues from both sides of the aisle to join us in supporting National Character Counts Week and recognizing character education as a critical part of creating more responsible children and a safer society in which to live.

Mr. FRIST. Mr. President, it gives me great pleasure to rise, as I have in years past, in support of what has become an annual resolution to designate the third week of October—this year—the week of October 17th—as National Character Counts Week.

The importance of character to the future of our nation cannot be over-emphasized. As the noted educator, George S. Benson, once observed, "Great ideals and principles do not live from generation to generation because they are right, nor even because they have been carefully legislated. Ideals and principles continue from generation to generation only when they are built into the hearts of children as they grow up."

There was a time when great ideals and principles were "built into the hearts of children" as a matter of course—in every school house, and classroom, all across our great land; a time when we believed that to educate a man in mind and not in morals, as Teddy Roosevelt put it, was to educate a menace of society.

Sadly, this is no longer the case.

Not only do many schools no longer teach children the difference between good and evil, right and wrong, they convey the philosophy that there is no difference; that it is all a matter of choice, and that choice—not truth—or justice—or responsibility, is the ultimate object of democracy.

That is the greatest threat to democracy any nation can face—but especially ours. For America is a nation founded on principle, forged by courage, and strengthened by every succeeding generation that has been unwilling to let those principles or that courage be diminished.

Yet, in many ways, moral leadership is more important now than it has ever been before. The 21st century will hold many challenges that will require the most of us. And the greatest of those challenges will be moral not economic: cloning, genetics, bioengineering; human rights vs. economic prosperity? right to life or right to die?

They are challenges that will require principle, demand character.

Who will be the leaders of tomorrow, and will they be up to the task? In many ways, the answer is up to us.

Which is why I have worked to promote character development in elementary and secondary education, and urged our Nation's colleges and universities to affirm character development as a primary goal of higher education.

It is also why I am also proud to support the Character Counts movement, and why I have done so every year since I've been in the United States Senate.

In 1995, in the very first quarter of my first term, I became a member of the bipartisan Character Counts Working Group—a coalition of Senators organized to affirm and support the millions of Americans who still believe that character counts, that it should be not just touted but taught, in homes and churches, certainly, but also in schools across America.

It is why I have annually co-sponsored this Senate resolution to designate the third week of October as National Character Counts Week. And it is why I am proud to say that, in Tennessee, Character Counts! is flourishing.

Mr. President, Character Counts! teaches children respect, responsibility, trust, caring and citizenship. It teaches them the value of virtue, the importance of character. It renews not only the promises of our past, but our faith in the future.

In Knoxville, Tennessee alone, 38 schools so far have received Character Counts! training. One of them, Norwood Elementary, asked students to write essays about the importance of character.

Another, Farragut Primary School, held an assembly for parents and kids that highlighted ways to be good citizens.

In Johnson City, a little boy and his friends at Cherokee Elementary School built a ramp at the home of a boy with a disability so he could get in and out safely in his wheelchair.

In Hamblin County, I met a fourth grader—a little girl named Heidi Shackelford—who was the first student to make her school's Character Counts! "Wall of Fame."

What did she do to earn such an honor? She found a \$100 bill in her school, but rather than stick it in her pocket, she turned it in to her teacher because she learned—through Character Counts education—why it is important to do the right thing.

In Sullivan County—where the Character Counts! program began in Ten-

nessee—students at the Indian Springs Elementary School make monthly visits to a grandmother they adopted at a Kingsport nursing home.

They have also experienced 25 percent reduction in juvenile crime since the Character Counts! program began—an improvement they attribute directly to the impact the program has had on the region.

These are just a few examples of how Tennessee children are learning the value of virtue, the importance of character, and how their communities have benefitted as a result.

It has been my honor to support all of these efforts—to help Tennessee communities kick-off new programs, and to encourage and support those already in place.

But it is not enough to promote this program in Tennessee, or New Mexico, or in any one of the other states that have taken up the challenge.

We must promote the development of character in every state, in every school, in every city in America. For if education is the most important gift we can give to the future, then character education is doubly so.

The job of instilling character in the hearts of America's children has always been an important one. But as the tragic violence in Littleton and other cities recently have shown us, it has never been more important than it is today.

We are justifiably proud of the liberty we enjoy as Americans. But as the wise British statesman, Edmund Burke, once observed, What is liberty without virtue? It is the greatest of all possible evils, for it is folly, vice and madness without tuition or restraint.

We must take every opportunity to teach our children the difference between right and wrong, to sort out with them, what to value, and what to reject from among the vast array of choices made possible by our freedom.

We must all, young and old, rich and poor, Democrat and Republican, work together to sow the seeds of character into the hearts of every young American so that together we can give our children and our country one of the greatest gifts any democratic nation can bestow—the assurance that character does count.

AMENDMENTS SUBMITTED

FINANCIAL SERVICES MODERNIZATION ACT OF 1999

SANTORUM (AND BUNNING) AMENDMENT NO. 307

Mr. SANTORUM (for himself and Mr. BUNNING) proposed an amendment to the bill (S. 900) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other purposes; as follows:

At the appropriate place, insert the following:

(e) USE OF FUND RESERVES TO PAY FICO OBLIGATIONS.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) is amended by inserting after subparagraph (C) the following:

“(D) USE OF DEPOSIT INSURANCE FUNDS TO PAY CERTAIN FINANCING CORPORATION OBLIGATIONS.—

“(i) IN GENERAL.—Beginning on January 1, 2000, the Board of Directors shall use the funds of the Bank Insurance Fund and the Savings Association Insurance Fund in excess of 1.35 percent of estimated insured deposits or such level established by the Board of Directors pursuant to Section 7(b)(2)(A)(iv)(II) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)(iv)(II)) to pay the bond interest obligations of the Financing Corporation.

“(ii) LIMITATION.—If the funds available under clause (i) are insufficient to meet the Financing Corporation’s annual interest obligations, the Board of Directors shall use such amounts available under clause (i) and shall impose a special assessment, consistent with 12 U.S.C. 1441(f)(2) and Section 2703(c)(2)(A) of the Deposit Insurance Funds Act of 1996, on insured depository institutions in such amount and for such period as is necessary to generate funds sufficient to permit the Financing Corporation to meet all interest obligations due.

GRAMM AMENDMENT NO. 308

Mr. GRAMM proposed an amendment to the bill, S. 900, supra; as follows:

On page 98, strike lines 5 through 9, and insert the following:

SEC. 304. FINANCIAL INFORMATION PRIVACY PROTECTION.

(a) FINANCIAL INFORMATION ANTI-FRAUD.—The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end the following:

“TITLE X—FINANCIAL INFORMATION PRIVACY PROTECTION

“SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

“(a) SHORT TITLE.—This title may be cited as the ‘Financial Information Anti-Fraud Act of 1999’.

“(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

“TITLE X—FINANCIAL INFORMATION PRIVACY PROTECTION

“Sec. 1001. Short title; table of contents.

“Sec. 1002. Definitions.

“Sec. 1003. Privacy protection for customer information of financial institutions.

“Sec. 1004. Administrative enforcement.

“Sec. 1005. Civil liability.

“Sec. 1006. Criminal penalty.

“Sec. 1007. Relation to State laws.

“Sec. 1008. Agency guidance.

“SEC. 1002. DEFINITIONS.

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

“(1) CUSTOMER.—The term ‘customer’ means, with respect to a financial institution, any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.

“(2) CUSTOMER INFORMATION OF A FINANCIAL INSTITUTION.—The term ‘customer information of a financial institution’ means any information maintained by a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is identified with the customer.

“(3) DOCUMENT.—The term ‘document’ means any information in any form.

“(4) FINANCIAL INSTITUTION.—

“(A) IN GENERAL.—The term ‘financial institution’ means any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.

“(B) CERTAIN FINANCIAL INSTITUTIONS SPECIFICALLY INCLUDED.—The term ‘financial institution’ includes any depository institution (as defined in section 19(b)(1)(A) of the Federal Reserve Act), any loan or finance company, any credit card issuer or operator of a credit card system, and any consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(p)).

“(C) FURTHER DEFINITION BY REGULATION.—The Board of Governors of the Federal Reserve System may prescribe regulations further defining the term ‘financial institution’, in accordance with subparagraph (A), for purposes of this title.

“SEC. 1003. PRIVACY PROTECTION FOR CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.

“(a) PROHIBITION ON OBTAINING CUSTOMER INFORMATION BY FALSE PRETENSES.—It shall be a violation of this title for any person to obtain or attempt to obtain, or cause to be disclosed or attempt to cause to be disclosed to any person, customer information of a financial institution relating to another person—

“(1) by knowingly making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution with the intent to deceive the officer, employee, or agent into relying on that statement or representation for purposes of releasing the customer information;

“(2) by knowingly making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution with the intent to deceive the customer into relying on that statement or representation for purposes of releasing the customer information or authorizing the release of such information; or

“(3) by knowingly providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation, if the document is provided with the intent to deceive the officer, employee, or agent into relying on that document for purposes of releasing the customer information.

“(b) PROHIBITION ON SOLICITATION OF A PERSON TO OBTAIN CUSTOMER INFORMATION FROM FINANCIAL INSTITUTION UNDER FALSE PRETENSES.—It shall be a violation of this title to request a person to obtain customer information of a financial institution, knowing or consciously avoiding knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in subsection (a).

“(c) NONAPPLICABILITY TO LAW ENFORCEMENT AGENCIES.—No provision of this section shall be construed so as to prevent any action by a law enforcement agency, or any officer, employee, or agent of such agency, to obtain customer information of a financial institution in connection with the performance of the official duties of the agency.

“(d) NONAPPLICABILITY TO FINANCIAL INSTITUTIONS IN CERTAIN CASES.—No provision of this section shall be construed to prevent any financial institution, or any officer, employee, or agent of a financial institution, from obtaining customer information of such financial institution in the course of—

“(1) testing the security procedures or systems of such institution for maintaining the confidentiality of customer information;

“(2) investigating allegations of misconduct or negligence on the part of any officer, employee, or agent of the financial institution; or

“(3) recovering customer information of the financial institution which was obtained or received by another person in any manner described in subsection (a) or (b).

“(e) NONAPPLICABILITY TO CERTAIN TYPES OF CUSTOMER INFORMATION OF FINANCIAL INSTITUTIONS.—No provision of this section shall be construed to prevent any person from obtaining customer information of a financial institution that otherwise is available as a public record filed pursuant to the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934).

“SEC. 1004. ADMINISTRATIVE ENFORCEMENT.

“(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—Except as provided in subsection (b), compliance with this title shall be enforced by the Federal Trade Commission in the same manner and with the same power and authority as the Commission has under the Fair Debt Collection Practices Act to enforce compliance with that title.

“(b) ENFORCEMENT BY OTHER AGENCIES IN CERTAIN CASES.—

“(1) IN GENERAL.—Compliance with this title shall be enforced under—

“(A) section 8 of the Federal Deposit Insurance Act, in the case of—

“(i) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

“(ii) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, by the Board;

“(iii) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System and national nonmember banks) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation; and

“(iv) savings associations the deposits of which are insured by the Federal Deposit Insurance Corporation, by the Director of the Office of Thrift Supervision; and

“(B) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

“(2) VIOLATIONS OF THIS TITLE TREATED AS VIOLATIONS OF OTHER LAWS.—For the purpose of the exercise by any agency referred to in paragraph (1) of its powers under any Act referred to in that paragraph, a violation of this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in paragraph (1), each of the agencies referred to in that paragraph may exercise, for the purpose of enforcing compliance with this title, any other authority conferred on such agency by law.

“(c) STATE ACTION FOR VIOLATIONS.—

“(1) AUTHORITY OF STATES.—In addition to such other remedies as are provided under State law, if the chief law enforcement officer of a State, or an official or agency designated by a State, has reason to believe that any person has violated or is violating this title, the State—

“(A) may bring an action to enjoin such violation in any appropriate United States district court or in any other court of competent jurisdiction;

“(B) may bring an action on behalf of the residents of the State to recover damages of not more than \$1,000 for each violation; and

“(C) in the case of any successful action under subparagraph (A) or (B), shall be awarded the costs of the action and reasonable attorney fees as determined by the court.

“(2) RIGHTS OF FEDERAL REGULATORS.—

“(A) PRIOR NOTICE.—The State shall serve prior written notice of any action under paragraph (1) upon the Federal Trade Commission and, in the case of an action which involves a financial institution described in section 1004(b)(1), the agency referred to in such section with respect to such institution and provide the Federal Trade Commission and any such agency with a copy of its complaint, except in any case in which such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action.

“(B) RIGHT TO INTERVENE.—The Federal Trade Commission or an agency described in subsection (b) shall have the right—

“(i) to intervene in an action under paragraph (1);

“(ii) upon so intervening, to be heard on all matters arising therein;

“(iii) to remove the action to the appropriate United States district court; and

“(iv) to file petitions for appeal.

“(3) INVESTIGATORY POWERS.—For purposes of bringing any action under this subsection, no provision of this subsection shall be construed as preventing the chief law enforcement officer, or an official or agency designated by a State, from exercising the powers conferred on the chief law enforcement officer or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

“(4) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Federal Trade Commission or any agency described in subsection (b) has instituted a civil action for a violation of this title, no State may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Federal Trade Commission or such agency for any violation of this title that is alleged in that complaint.

“SEC. 1005. CIVIL LIABILITY.

“Any person, other than a financial institution, who fails to comply with any provision of this title with respect to any financial institution or any customer information of a financial institution shall be liable to such financial institution or the customer to whom such information relates in an amount equal to the sum of the amounts determined under each of the following paragraphs:

“(1) ACTUAL DAMAGES.—The greater of—

“(A) the amount of any actual damage sustained by the financial institution or customer as a result of such failure; or

“(B) any amount received by the person who failed to comply with this title, including an amount equal to the value of any non-monetary consideration, as a result of the action which constitutes such failure.

“(2) ADDITIONAL DAMAGES.—Such additional amount as the court may allow.

“(3) ATTORNEYS’ FEES.—In the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with reasonable attorneys’ fees.

“SEC. 1006. CRIMINAL PENALTY.

“(a) IN GENERAL.—Whoever violates, or attempts to violate, section 1003 shall be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

“(b) ENHANCED PENALTY FOR AGGRAVATED CASES.—Whoever violates, or attempts to violate, section 1003 while violating another

law of the United States or as part of a pattern of any illegal activity involving more than \$100,000 in a 12-month period shall be fined twice the amount provided in subsection (b)(3) or (c)(3) (as the case may be) of section 3571 of title 18, United States Code, imprisoned for not more than 10 years, or both.

“SEC. 1007. RELATION TO STATE LAWS.

“(a) IN GENERAL.—This title shall not be construed as superseding, altering, or affecting the statutes, regulations, orders, or interpretations in effect in any State, except to the extent that such statutes, regulations, orders, or interpretations are inconsistent with the provisions of this title, and then only to the extent of the inconsistency.

“(b) GREATER PROTECTION UNDER STATE LAW.—For purposes of this section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this title if the protection such statute, regulation, order, or interpretation affords any person is greater than the protection provided under this title.

“SEC. 1008. AGENCY GUIDANCE.

“In furtherance of the objectives of this title, each Federal banking agency (as defined in section 3(z) of the Federal Deposit Insurance Act) shall issue advisories to depository institutions under the jurisdiction of the agency, in order to assist such depository institutions in deterring and detecting activities proscribed under section 1003.”

(b) REPORT TO CONGRESS ON FINANCIAL PRIVACY.—Not later than 18 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Federal Trade Commission, the Federal banking agencies, and other appropriate Federal law enforcement agencies, shall submit to the Congress a report on—

(1) the efficacy and adequacy of the remedies provided in the amendments made by subsection (a) in addressing attempts to obtain financial information by fraudulent means or by false pretenses; and

(2) any recommendations for additional legislative or regulatory action to address threats to the privacy of financial information created by attempts to obtain information by fraudulent means or false pretenses.

(c) REPORTS ON ONGOING FTC STUDY OF CONSUMER PRIVACY ISSUES.—With respect to the ongoing multistage study being conducted by the Federal Trade Commission on consumer privacy issues, the Commission shall submit to the Congress an interim report on the findings and conclusions of the Commission, together with such recommendations for legislative and administrative action as the Commission determines to be appropriate, at the conclusion of each stage of such study and a final report at the conclusion of the study.

(d) CONSUMER GRIEVANCE PROCESS.—The Federal banking agencies (as that term is defined in section 3 of the Federal Deposit Insurance Act) shall jointly establish a consumer complaint mechanism, for receiving and expeditiously addressing consumer complaints alleging a violation of regulations issued under section 45 of the Federal Deposit Insurance Act (as added by section 202 of this Act), which mechanism shall—

(1) establish a group within each Federal banking agency to receive such complaints; and

(2) develop procedures for—

(A) investigating such complaints;

(B) informing consumers of rights they may have in connection with such complaints; and

(C) addressing concerns raised by such complaints, as appropriate, including procedures for the recovery of losses, to the extent appropriate.

JOHNSON (AND OTHERS)
AMENDMENT NO. 309

Mr. JOHNSON (for himself, Mr. THOMAS, Mr. KERREY, Mr. DASCHLE, Mr. DORGAN, Mr. KOHL, and Mrs. LINCOLN) proposed an amendment to the bill, S. 900, supra; as follows:

On page 149, strike line 12 and all that follows through page 150, line 21 and insert the following:

SEC. 601. PREVENTION OF CREATION OF NEW S&L HOLDING COMPANIES WITH COMMERCIAL AFFILIATES.

(a) IN GENERAL.—Section 10(c) of the Home Owners’ Loan Act (12 U.S.C. 1467a(c)) is amended by adding at the end the following new paragraph:

“(9) PREVENTION OF NEW AFFILIATIONS BETWEEN S&L HOLDING COMPANIES AND COMMERCIAL FIRMS.—

“(A) IN GENERAL.—Notwithstanding paragraph (3), no company may directly or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after May 4, 1999, unless the company is engaged, directly or indirectly (including through a subsidiary other than a savings association), only in activities that are permitted—

“(i) under paragraph (1)(C) or (2) of this subsection; or

“(ii) for financial holding companies under section 4(k) of the Bank Holding Company Act of 1956.

“(B) PREVENTION OF NEW COMMERCIAL AFFILIATIONS.—Notwithstanding paragraph (3), no savings and loan holding company may engage directly or indirectly (including through a subsidiary other than a savings association) in any activity other than as described in clauses (i) and (ii) of subparagraph (A).

“(C) PRESERVATION OF AUTHORITY OF EXISTING UNITARY S&L HOLDING COMPANIES.—Subparagraphs (A) and (B) do not apply with respect to any company that was a savings and loan holding company on March 4, 1999, or that becomes a savings and loan holding company pursuant to an application pending before the Office on or before that date, and that—

“(i) meets and continues to meet the requirements of paragraph (3); and

“(ii) continues to control not fewer than 1 savings association that it controlled on March 4, 1999, or that it acquired pursuant to an application pending before the Office on or before that date, or the successor to such savings association.

“(D) CORPORATE REORGANIZATIONS PERMITTED.—This paragraph does not prevent a transaction that—

“(i) involves solely a company under common control with a savings and loan holding company from acquiring, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company; or

“(ii) involves solely a merger, consolidation, or other type of business combination as a result of which a company under common control with the savings and loan holding company acquires, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company.

“(E) AUTHORITY TO PREVENT EVASIONS.—The Director may issue interpretations, regulations, or orders that the Director determines necessary to administer and carry out the purpose and prevent evasions of this paragraph, including a determination that, notwithstanding the form of a transaction,

the transaction would in substance result in a company acquiring control of a savings association.

“(F) PRESERVATION OF AUTHORITY FOR FAMILY TRUSTS.—Subparagraphs (A) and (B) do not apply with respect to any trust that becomes a savings and loan holding company with respect to a savings association, if—

“(i) not less than 85 percent of the beneficial ownership interests in the trust are continuously owned, directly or indirectly, by or for the benefit of members of the same family, or their spouses, who are lineal descendants of common ancestors who controlled, directly or indirectly, such savings association on March 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before March 4, 1999; and

“(ii) at the time at which such trust becomes a savings and loan holding company, such ancestors or lineal descendants, or spouses of such descendants, have directly or indirectly controlled the savings association continuously since March 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before March 4, 1999.”.

(b) CONFORMING AMENDMENT.—Section 10(o)(5)(E) of the Home Owners’ Loan Act (15 U.S.C. 1467a(o)(5)(E)) is amended by striking “, except subparagraph (B)” and inserting “or (c)(9)(A)(ii)”.

BENNETT AMENDMENT NO. 310

Mr. GRAMM (for Mr. BENNETT) proposed an amendment to the bill, S. 900, supra; as follows:

At the appropriate place in the bill, insert the following:

Section 23B(b)(2) of the Federal Reserve Act (12 U.S.C. 371c-1) is amended to read as follows:

“Subparagraph (B) of paragraph (1) shall not apply if the purchase or acquisition of such securities has been approved, before such securities are initially offered for sale to the public, by a majority of the directors of the bank based on a determination that the purchase is a sound investment for the bank irrespective of the fact that an affiliate of the bank is a principal underwriter of the securities.”

BENNETT AMENDMENT NO. 311

(Ordered to lie on the table.)

Mr. BENNETT submitted an amendment intended to be proposed by him to the bill, S. 900, supra; as follows:

On page 11, line 11, after “represent” insert “, as determined by the insurance authority of the State of domicile of the insurance company,”.

EXPLANATION

S. 900 requires that for an investment by an insurance company to be treated as “financial in nature” it must be “made in the ordinary course of business of such insurance company in accordance with relevant State law governing such investments.” This amendment makes clear that the determination whether an investment is “made in the ordinary course of business of such insurance company in accordance with State law governing such investments” will be made by the insurance authority of the state of domicile of the insurance company.

State insurance authorities are most experienced and best qualified to determine whether insurance company investments are made in the ordinary course of business in accordance with relevant state law governing such investments. This amendment also will implement the principle of functional regulation established generally in S.

900 with respect to the conduct of business by insurance companies.

DORGAN AMENDMENTS NOS. 312–313

Mr. DORGAN proposed two amendments to the bill, S. 900, supra; as follows:

AMENDMENT NO. 312

At the appropriate place, insert the following:

SEC. ____ . LIMITATION ON DERIVATIVES ACTIVITIES.

(a) INSURED DEPOSITORY INSTITUTIONS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

“SEC. 45. DERIVATIVE INSTRUMENTS.

“(a) DERIVATIVES ACTIVITIES.—

“(1) GENERAL PROHIBITION.—Except as provided in paragraph (2), neither an insured depository institution, nor any affiliate thereof, may purchase, sell, or engage in any transaction involving a derivative financial instrument for the account of that institution or affiliate.

“(2) EXCEPTIONS.—

“(A) HEDGING TRANSACTIONS.—An insured depository institution may purchase, sell, or engage in hedging transactions to the extent that such activities are approved by rule, regulation, or order of the appropriate Federal banking agency issued in accordance with paragraph (3).

“(B) SEPARATELY CAPITALIZED AFFILIATE.—A separately capitalized affiliate of an insured depository institution that is not itself an insured depository institution may purchase, sell, or engage in a transaction involving a derivative financial instrument if such affiliate complies with all rules, regulations, or orders of the appropriate Federal banking agency issued in accordance with paragraph (3).

“(C) DE MINIMIS INTERESTS.—An insured depository institution may purchase, sell, or engage in transactions involving de minimis interests in derivative financial instruments for the account of that institution to the extent that such activity is defined and approved by rule, regulation, or order of the appropriate Federal banking agency issued in accordance with paragraph (3).

“(D) EXISTING INTERESTS.—During the 3-month period beginning on the date of enactment of this section, nothing in this section shall be construed—

“(i) as affecting an interest of an insured depository institution in any derivative financial instrument that existed on the date of enactment of this section; or

“(ii) as restricting the ability of the institution to acquire reasonably related interests in other derivative financial instruments for the purpose of resolving or terminating an interest of the institution in any derivative financial instrument that existed on the date of enactment of this section.

“(3) ISSUANCE OF RULES, REGULATIONS, AND ORDERS.—The appropriate Federal banking agency shall issue appropriate rules, regulations, and orders governing the exceptions provided for in paragraph (2), including—

“(A) appropriate public notice requirements;

“(B) a requirement that any affiliate described in paragraph (2)(B) shall clearly and conspicuously notify the public that none of the assets of the affiliate, nor the risk of loss associated with the transaction involving a derivative financial instrument, are insured under Federal law or otherwise guaranteed by the Federal Government or the parent company of the affiliate; and

“(C) any other requirements that the appropriate Federal banking agency considers to be appropriate.

“(b) DEFINITIONS.—For purposes of this section—

“(1) the term ‘derivative financial instrument’ means—

“(A) an instrument the value of which is derived from the value of stocks, bonds, other loan instruments, other assets, interest or currency exchange rates, or indexes, including qualified financial contracts (as defined in section 11(e)(8)); and

“(B) any other instrument that an appropriate Federal banking agency determines, by regulation or order, to be a derivative financial instrument for purposes of this section; and

“(2) the term ‘hedging transaction’ means any transaction involving a derivative financial instrument if—

“(A) such transaction is entered into in the normal course of the institution’s business primarily—

“(i) to reduce risk of price change or currency fluctuations with respect to property that is held or to be held by the institution; or

“(ii) to reduce risk of interest rate or price changes or currency fluctuations with respect to loans or other investments made or to be made, or obligations incurred or to be incurred, by the institution; and

“(B) before the close of the day on which such transaction was entered into (or such earlier time as the appropriate Federal banking agency may prescribe by regulation), the institution clearly identifies such transaction as a hedging transaction.”.

(b) INSURED CREDIT UNIONS.—Title II of the Federal Credit Union Act (12 U.S.C. 1781 et seq.) is amended by adding at the end the following new section:

“SEC. 215. DERIVATIVE INSTRUMENTS.

“(a) DERIVATIVE ACTIVITIES.—Except as provided in subsection (b), neither an insured credit union, nor any affiliate thereof, may purchase, sell, or engage in any transaction involving a derivative financial instrument.

“(b) APPLICABILITY OF SECTION 45 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 45 of the Federal Deposit Insurance Act shall apply with respect to insured credit unions and affiliates thereof and to the Board in the same manner that such section applies to insured depository institutions and affiliates thereof (as those terms are defined in section 3 of that Act) and shall be enforceable by the Board with respect to insured credit unions and affiliates under this Act.

“(c) DERIVATIVE FINANCIAL INSTRUMENT.—For purposes of this section, the term ‘derivative financial instrument’ means—

“(1) an instrument the value of which is derived from the value of stocks, bonds, other loan instruments, other assets, interest or currency exchange rates, or indexes, including qualified financial contracts (as such term is defined in section 207(c)(8)(D)); and

“(2) any other instrument that the Board determines, by regulation or order, to be a derivative financial instrument for purposes of this section.”.

(c) BANK HOLDING COMPANIES.—Section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) is amended by adding at the end the following new subsection:

“(h) DERIVATIVES ACTIVITIES.—

“(1) IN GENERAL.—A subsidiary of a bank holding company may purchase, sell, or engage in any transaction involving a derivative financial instrument for the account of that subsidiary if that subsidiary—

“(A) is not an insured depository institution or a subsidiary of an insured depository institution; and

“(B) is separately capitalized from any affiliated insured depository institution.

“(2) APPLICABILITY OF SECTION 45 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 45

of the Federal Deposit Insurance Act shall apply with respect to bank holding companies and the Board in the same manner that section applies to an insured depository institution (as such term is defined in section 3 of that Act) and shall be enforceable by the Board with respect to bank holding companies under this Act.

“(3) DERIVATIVE FINANCIAL INSTRUMENT.—For purposes of this subsection, the term ‘derivative financial instrument’ means—

“(A) an instrument the value of which is derived from the value of stocks, bonds, other loan instruments, other assets, interest or currency exchange rates, or indexes, including qualified financial contracts (as such term is defined in section 207(c)(8)(D)); and

“(B) any other instrument that the Board determines, by regulation or order, to be a derivative financial instrument for purposes of this subsection.”

AMENDMENT NO. 313

At the end of title III, insert the following:

SEC. 312. TREATMENT OF LARGE HEDGE FUNDS UNDER INVESTMENT COMPANY ACT OF 1940.

Section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)) is amended—

(1) in paragraph (1), in the first sentence, by inserting “, which has total assets of less than \$1,000,000,000, and” after “hundred persons”; and

(2) in paragraph (7), in the first sentence, by inserting “which has total assets of less than \$1,000,000,000,” after “qualified purchasers.”

SCHUMER AMENDMENT NO. 314

Mr. SCHUMER proposed an amendment to the bill, S. 900, supra; as follows:

At the appropriate place, insert the following:

TITLE VII—ATM FEE REFORM

SEC. 701. SHORT TITLE.

This title may be cited as the “ATM Fee Reform Act of 1999”.

SEC. 702. ELECTRONIC FUND TRANSFER FEE DISCLOSURES AT ANY HOST ATM.

Section 904(d) of the Electronic Fund Transfer Act (15 U.S.C. 1693b(d)) is amended by adding at the end the following:

“(3) FEE DISCLOSURES AT AUTOMATED TELLER MACHINES.—

“(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall require any automated teller machine operator who imposes a fee on any consumer for providing host transfer services to such consumer to provide notice in accordance with subparagraph (B) to the consumer (at the time the service is provided) of—

“(i) the fact that a fee is imposed by such operator for providing the service; and

“(ii) the amount of any such fee.

“(B) NOTICE REQUIREMENTS.—

“(i) ON THE MACHINE.—The notice required under clause (i) of subparagraph (A) with respect to any fee described in such subparagraph shall be posted in a prominent and conspicuous location on or at the automated teller machine at which the electronic fund transfer is initiated by the consumer; and

“(ii) ON THE SCREEN.—The notice required under clauses (i) and (ii) of subparagraph (A) with respect to any fee described in such subparagraph shall appear on the screen of the automated teller machine, or on a paper notice issued from such machine, after the transaction is initiated and before the consumer is irrevocably committed to completing the transaction.

“(C) PROHIBITION ON FEES NOT PROPERLY DISCLOSED AND EXPLICITLY ASSUMED BY CON-

SUMER.—No fee may be imposed by any automated teller machine operator in connection with any electronic fund transfer initiated by a consumer for which a notice is required under subparagraph (A), unless—

“(i) the consumer receives such notice in accordance with subparagraph (B); and

“(ii) the consumer elects to continue in the manner necessary to effect the transaction after receiving such notice.

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

“(i) ELECTRONIC FUND TRANSFER.—The term ‘electronic fund transfer’ includes a transaction which involves a balance inquiry initiated by a consumer in the same manner as an electronic fund transfer, whether or not the consumer initiates a transfer of funds in the course of the transaction.

“(ii) AUTOMATED TELLER MACHINE OPERATOR.—The term ‘automated teller machine operator’ means any person who—

“(I) operates an automated teller machine at which consumers initiate electronic fund transfers; and

“(II) is not the financial institution which holds the account of such consumer from which the transfer is made.

“(iii) HOST TRANSFER SERVICES.—The term ‘host transfer services’ means any electronic fund transfer made by an automated teller machine operator in connection with a transaction initiated by a consumer at an automated teller machine operated by such operator.”

SEC. 703. DISCLOSURE OF POSSIBLE FEES TO CONSUMERS WHEN ATM CARD IS ISSUED.

Section 905(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693c(a)) is amended—

(1) by striking “and” at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting “; and”; and

(3) by inserting after paragraph (9) the following:

“(10) a notice to the consumer that a fee may be imposed by—

“(A) an automated teller machine operator (as defined in section 904(d)(3)(D)(ii)) if the consumer initiates a transfer from an automated teller machine which is not operated by the person issuing the card or other means of access; and

“(B) any national, regional, or local network utilized to effect the transaction.”

SEC. 704. FEASIBILITY STUDY.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the feasibility of requiring, in connection with any electronic and transfer initiated by a consumer through the use of an automated teller machine—

(1) a notice to be provided to the consumer before the consumer is irrevocably committed to completing the transaction, which clearly states the amount of any fee which will be imposed upon the consummation of the transaction by—

(A) any automated teller machine operator (as defined in section 904(d)(2)(D)(ii) of the Electronic Fund Transfer Act) involved in the transaction;

(B) the financial institution holding the account of the consumer;

(C) any national, regional, or local network utilized to effect the transaction; and

(D) any other party involved in the transfer; and

(2) the consumer to elect to consummate the transaction after receiving the notice described in paragraph (1).

(b) FACTORS TO BE CONSIDERED.—In conducting the study required under subsection (a) with regard to the notice requirement described in such subsection, the Comptroller General shall consider the following factors:

(1) The availability of appropriate technology.

(2) Implementation and operating costs.

(3) The competitive impact any such notice requirement would have on various sizes and types of institutions, if implemented.

(4) The period of time which would be reasonable for implementing any such notice requirement.

(5) The extent to which consumers would benefit from any such notice requirement.

(6) Any other factor the Comptroller General determines to be appropriate in analyzing the feasibility of imposing any such notice requirement.

(c) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Comptroller General shall submit a report to the Congress containing—

(1) the findings and conclusions of the Comptroller General in connection with the study required under subsection (a); and

(2) the recommendation of the Comptroller General with regard to the question of whether a notice requirement described in subsection (a) should be implemented and, if so, how such requirement should be implemented.

SEC. 705. NO LIABILITY IF POSTED NOTICES ARE DAMAGED.

Section 910 of the Electronic Fund Transfer Act (15 U.S.C. 1693h) is amended by adding at the end the following new subsection:

“(d) EXCEPTION FOR DAMAGED NOTICES.—If the notice required to be posted pursuant to section 904(d)(3)(B)(i) by an automated teller machine operator has been posted by such operator in compliance with such section and the notice is subsequently removed, damaged, or altered by any person other than the operator of the automated teller machine, the operator shall have no liability under this section for failure to comply with section 904(d)(3)(B)(i).”

SHELBY (AND OTHERS) AMENDMENT NO. 315

Mr. SHELBY (for himself, Mr. DASCHLE, Mr. GRAMS, Mr. REED, Mr. BENNETT, Mr. HAGEL, and Ms. LANDRIEU) proposed an amendment to the bill, S. 900, supra; as follows:

Redesignate sections 123, 124, and 125 as sections 125, 126, and 127 respectively, strike section 122, and insert the following:

SEC. 122. SUBSIDIARIES OF NATIONAL BANKS AUTHORIZED TO ENGAGE IN FINANCIAL ACTIVITIES.

Chapter one of title LXII of the revised statutes of United States (12 U.S.C. 21 et seq.) is amended—

(1) by redesignating section 5136A (12 U.S.C. 25a) as section 5136B; and

(2) by inserting after section 5136 (12 U.S.C. 24) the following new section:

“SEC. 5136A. SUBSIDIARIES OF NATIONAL BANKS.

“(a) ACTIVITIES PERMISSIBLE.—

“(1) IN GENERAL.—A subsidiary of a national bank may—

“(A) engage in any activity that is permissible for the parent national bank;

“(B) engage in any activity authorized under section 25 or 25A of the Federal Reserve Act, the Bank Service Company Act, or any other Federal statute that expressly by its terms authorizes national banks to own or control subsidiaries (other than this section); and

“(C) engage in any activity permissible for a bank holding company under any provision of section 4(k) of the Bank Holding Company Act of 1956 other than—

“(i) paragraph (4)(B) of such section (relating to insurance activities) insofar as such

paragraph permits a bank holding company to engage as principal in insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, or death, or to engage as principal in providing or issuing annuities; and

“(ii) paragraph (4)(I) of such section (relating to insurance company investments).

“(2) LIMITATIONS.—A subsidiary of a national bank—

“(A) may not, pursuant to subparagraph (C) of paragraph (1)—

“(i) underwrite insurance other than credit-related insurance;

“(ii) engage in real estate investment or development activities (except to the extent that a Federal statute expressly authorizes a national bank to engage directly in such an activity); and

“(B) may not engage in any activity not permissible under paragraph (1).

“(b) REQUIREMENTS APPLICABLE TO NATIONAL BANKS WITH FINANCIAL SUBSIDIARIES.—

“(1) IN GENERAL.—A financial subsidiary of a national bank may engage in activities pursuant to subsection (a)(1)(C) only if—

“(A) the national bank meets the requirements, as determined by the Comptroller of the Currency, of Section (4)(1)(1) of the Bank Holding Company Act of 1956 (other than subparagraph (C));

“(B) each insured depository institution affiliate of the national bank meet the requirements, as determined by the Comptroller of the Currency, of Section (4)(1)(1) of the Bank Holding Company Act of 1956 (other than subparagraph (C)); and

“(C) the national bank has received the approval of the Comptroller of the Currency by regulation or order.

“(2) CORRECTIVE PROCEDURES.—

“(A) IN GENERAL.—The Comptroller of the Currency shall, by regulations prescribe procedures to enforce paragraph (1).

“(B) STRINGENCY.—The regulation prescribed under subparagraph (A) shall be no less stringent than the corresponding restrictions and requirements of section 4(m) of the Bank Holding Company Act of 1956.

“(c) DEFINITIONS.—For purpose of this section, the following definitions shall apply;

“(1) AFFILIATE.—The term ‘affiliate’ has the same meaning as in section 3 of the Federal Deposit Insurance Act.

“(2) FINANCIAL SUBSIDIARY.—The term ‘financial subsidiary’ means a company that—

“(A) is a subsidiary of an insured bank; and

“(B) is engaged as principal in any financial activity that is not permissible under subparagraph (A) or (B) of subsection (a)(1) of this section.

“(3) SUBSIDIARY.—The term ‘subsidiary’ has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

“(4) WELL CAPITALIZED.—The term ‘well capitalized’ has the same meaning as in section 38 of the Federal Deposit Insurance Act.

“(5) WELL MANAGED.—The term ‘well managed’ means—

“(A) in the case of an insured depository institution that has been examined, the achievement of—

“(i) a composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating under an equivalent rating system) in connection with the most recent examination or subsequent review of the insured depository institution; and

“(ii) at least a rating of 2 for management, if that rating is given; or

“(B) in the case of an insured depository institution that has not been examined, the existence and use of managerial resources that the appropriate Federal banking agency determines are satisfactory.”.

SEC. 123. SAFETY AND SOUNDNESS FIREWALLS BETWEEN BANKS AND THEIR FINANCIAL SUBSIDIARIES.

(a) PURPOSES.—The purposes of this section are—

(1) to protect the safety and soundness of any insured bank that has a financial subsidiary;

(2) to apply to any transaction between the bank and the financial subsidiary (including a loan, extension of credit, guarantee, or purchase of assets), other than an equity investment, the same restrictions and requirements as would apply if the financial subsidiary were a subsidiary of a bank holding company having control of the bank; and

(3) to apply to any equity investment of the bank in the financial subsidiary restrictions and requirements equivalent to those that would apply if—

(A) the bank paid a dividend in the same dollar amount to a bank holding company having control of the bank; and

(B) the bank holding company used the proceeds of the dividend to make an equity investment in a subsidiary that was engaged in the same activities as the financial subsidiary of the bank.

(b) SAFETY AND SOUNDNESS FIREWALLS APPLICABLE TO SUBSIDIARIES OF BANKS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

“SEC. 45. SAFETY AND SOUNDNESS FIREWALLS APPLICABLE TO SUBSIDIARIES OF BANKS.

“(a) LIMITING THE EQUITY INVESTMENT OF A BANK IN A SUBSIDIARY.—

“(1) CAPITAL DEDUCTION.—In determining whether an insured bank complies with applicable regulatory capital standards—

“(A) the appropriate Federal banking agency shall deduct from the assets and tangible equity of the bank the aggregate amount of the outstanding equity investments of the bank in financial subsidiaries of the bank; and

“(B) the assets and liabilities of such financial subsidiaries shall not be consolidated with those of the bank.

“(2) INVESTMENT LIMITATION.—An insured bank shall not, without the prior approval of the appropriate Federal banking agency, make any equity investment in a financial subsidiary of the bank if that investment would, when made, exceed the amount that the bank could pay as a dividend without obtaining prior regulatory approval.

“(b) OPERATIONAL AND FINANCIAL SAFEGUARDS FOR THE BANK.—An insured bank that has a financial subsidiary shall maintain procedures for identifying and managing any financial and operational risks posed by the financial subsidiary.

“(c) MAINTENANCE OF SEPARATE CORPORATE IDENTITY AND SEPARATE LEGAL STATUS.—

“(1) IN GENERAL.—Each insured bank shall ensure that the bank maintains and complies with reasonable policies and procedures to preserve the separate corporate identity and legal status of the bank and any financial subsidiary or affiliate of the bank.

“(2) EXAMINATIONS.—The appropriate Federal banking agency, as part of each examination, shall review whether an insured bank is observing the separate corporate identity and separate legal status of any subsidiaries and affiliates of the bank.

“(d) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section, the term ‘financial subsidiary’ has the same meaning as section 5136A(c)(2) of the Revised Statutes of the United States.

“(e) REGULATIONS.—The appropriate Federal banking agencies shall jointly prescribe regulations implementing this section.”.

(c) LIMITING A BANK'S CREDIT EXPOSURE TO A FINANCIAL SUBSIDIARY TO THE AMOUNT OF

PERMISSIBLE CREDIT EXPOSURE TO AN AFFILIATE.—Section 23A of the Federal Reserve Act (12 U.S.C. 371c) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d), the following new subsection:

“(e) RULES RELATING TO BANKS WITH FINANCIAL SUBSIDIARIES.—

“(1) FINANCIAL SUBSIDIARY DEFINED.—For purposes of this section and section 23B, the term ‘financial subsidiary’ has the same meaning as section 5136A(c)(2) of the revised statutes of the United States.

“(2) APPLICATION TO TRANSACTIONS BETWEEN A FINANCIAL SUBSIDIARY OF A BANK AND THE BANK.—For purposes of applying this section and section 23B to a transaction between a financial subsidiary of a bank and the bank (or between such financial subsidiary and any other subsidiary of the bank that is not a financial subsidiary), and notwithstanding subsection (b)(2) and section 23B(d)(1)—

“(A) the financial subsidiary of the bank—

“(i) shall be deemed to be an affiliate of the bank and of any other subsidiary of the bank that is not a financial subsidiary; and

“(ii) shall not be deemed a subsidiary of the bank; and

“(B) a purchase of or investment in equity securities issued by the financial subsidiary shall not be deemed to be a covered transaction.

“(3) APPLICATION TO TRANSACTIONS BETWEEN FINANCIAL SUBSIDIARY AND NONBANK AFFILIATES.—

“(A) IN GENERAL.—A transaction between a financial subsidiary and an affiliate of the financial subsidiary (that is not a subsidiary of a bank) shall not be deemed to be a transaction between a subsidiary of a bank and an affiliate of the bank for purposes of section 23A or section 23B of this Act.

“(B) CERTAIN AFFILIATES EXCLUDED.—For purposes of this paragraph, the term ‘affiliate’ shall not include a bank, or a subsidiary of a bank that is engaged exclusively in activities permissible for a national bank to engage in directly or authorized for a subsidiary of a national bank under any federal statute other than section 5136A of the Revised Statutes of the United States.”.

SEC. 124. FUNCTIONAL REGULATION.

(a) PURPOSE.—The purpose of this section is to ensure that—

(1) securities activities conducted in a subsidiary of a bank are functionally regulated by the Securities and Exchange Commission to the same extent as if they were conducted in a nondepository subsidiary of a bank holding company; and

(2) insurance agency and brokerage activities conducted in a subsidiary of a bank are functionally regulated by a State insurance authority to the same extent as if they were conducted in a nondepository subsidiary of a bank holding company.

(b) FUNCTIONAL REGULATION OF FINANCIAL SUBSIDIARIES.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), is amended by inserting after section 45 (as added by section 123 of this subtitle) the following new section:

“SEC. 46. FUNCTIONAL REGULATION OF SECURITIES SUBSIDIARIES AND INSURANCE AGENCY SUBSIDIARIES OF INSURED DEPOSITORY INSTITUTIONS.

“(a) BROKER OR DEALER SUBSIDIARY.—A broker or dealer that is a subsidiary of an insured depository institution shall be subject to regulation under the Securities Exchange Act of 1934 in the same manner and to the same extent as a broker or dealer that—

“(1) is controlled by the same bank holding company as controls the insured depository institution; and

“(2) is not an insured depository institution or a subsidiary of an insured depository institution.

“(b) INSURANCE AGENCY SUBSIDIARY.—Subject to Section 104 of the Act, an insurance agency or brokerage that is a subsidiary of an insured depository institution shall be subject to regulation by a State insurance authority in the same manner and to the same extent as an insurance agency or brokerage that—

“(1) is controlled by the same bank holding company as controls the insured depository institution; and

“(2) is not an insured depository institution or a subsidiary of an insured depository institution.

“(c) DEFINITIONS.—For purposes of this section, the terms ‘broker’ and ‘dealer’ have the same meanings as in section 3 of the Securities Exchange Act of 1934.”

BRYAN AMENDMENT NO. 316

Mr. BRYAN proposed an amendment to the bill, S. 900, supra; as follows:

On page 150, after line 21, add the following:

TITLE VII—FINANCIAL INFORMATION PRIVACY

SEC. 701. SHORT TITLE.

This title may be cited as the “Financial Information Privacy Act of 1999”.

SEC. 702. DEFINITIONS.

In this title—

(1) the term “covered person” means a person that is subject to the jurisdiction of any of the Federal financial regulatory authorities; and

(2) the term “Federal financial regulatory authorities” means—

(A) each of the Federal banking agencies, as that term is defined in section 3(z) of the Federal Deposit Insurance Act; and

(B) the Securities and Exchange Commission.

SEC. 703. PRIVACY OF CONFIDENTIAL CUSTOMER INFORMATION.

(a) RULEMAKING.—The Federal financial regulatory authorities shall jointly issue final rules to protect the privacy of confidential customer information relating to the customers of covered persons, not later than 270 days after the date of enactment of this Act (and shall issue a notice of proposed rulemaking not later than 150 days after the date of enactment of this Act), which rules shall—

(1) define the term “confidential customer information” to be personally identifiable data that includes transactions, balances, maturity dates, payouts, and payout dates, of—

(A) deposit and trust accounts;

(B) certificates of deposit;

(C) securities holdings; and

(D) insurance policies;

(2) require that a covered person may not disclose or share any confidential customer information to or with any affiliate or agent of that covered person if the customer to whom the information relates has provided written notice, as described in paragraphs (4) and (5), to the covered person prohibiting such disclosure or sharing—

(A) with respect to an individual that became a customer on or after the effective date of such rules, at the time at which the business relationship between the customer and the covered person is initiated and at least annually thereafter; and

(B) with respect to an individual that was a customer before the effective date of such rules, at such time thereafter that provides a reasonable and informed opportunity to the customer to prohibit such disclosure or sharing and at least annually thereafter;

(3) require that a covered person may not disclose or share any confidential customer

information to or with any person that is not an affiliate or agent of that covered person unless the covered person has first—

(A) given written notice to the customer to whom the information relates, as described in paragraphs (4) and (5); and

(B) obtained the informed written or electronic consent of that customer for such disclosures or sharing;

(4) require that the covered person provide notices and consent acknowledgments to customers, as required by this section, in separate and easily identifiable and distinguishable form;

(5) require that the covered person provide notice as required by this section to the customer to whom the information relates that describes what specific types of information would be disclosed or shared, and under what general circumstances, to what specific types of businesses or persons, and for what specific types of purposes such information could be disclosed or shared;

(6) require that the customer to whom the information relates be provided with access to the confidential customer information that could be disclosed or shared so that the information may be reviewed for accuracy and corrected or supplemented;

(7) require that, before a covered person may use any confidential customer information provided by a third party that engages, directly or indirectly, in activities that are financial in nature, as determined by the Federal financial regulatory authorities, the covered person shall take reasonable steps to assure that procedures that are substantially similar to those described in paragraphs (2) through (6) have been followed by the provider of the information (or an affiliate or agent of that provider); and

(8) establish a means of examination for compliance and enforcement of such rules and resolving consumer complaints.

(b) LIMITATION.—The rules prescribed pursuant to subsection (a) may not prohibit the release of confidential customer information—

(1) that is essential to processing a specific financial transaction that the customer to whom the information relates has authorized;

(2) to a governmental, regulatory, or self-regulatory authority having jurisdiction over the covered financial entity for examination, compliance, or other authorized purposes;

(3) to a court of competent jurisdiction;

(4) to a consumer reporting agency, as defined in section 603 of the Fair Credit Reporting Act for inclusion in a consumer report that may be released to a third party only for a purpose permissible under section 604 of that Act; or

(5) that is not personally identifiable.

(c) CONSTRUCTION.—Nothing in this section or the rules prescribed under this section shall be construed to amend or alter any provision of the Fair Credit Reporting Act.

LEVIN (AND SCHUMER) AMENDMENT NO. 317

Mr. LEVIN (for himself and Mr. SCHUMER) proposed an amendment to the bill, S. 900, supra; as follows:

On page 124, line 25, before “Section” insert the following:

“(1) It is the intention of this Act subject to carefully defined exceptions which do not undermine the dominant principle of functional regulation to ensure that securities transactions effected by a bank are regulated by securities regulators, notwithstanding any other provision of this Act.

(2)”.

GRAMM (AND SARBANES) AMENDMENT NO. 318

Mr. GRAMM (for himself and Mr. SARBANES) proposed an amendment to the bill, S. 900, supra; as follows:

On page 18, strike line 22 and all that follows through page 19, line 2 and insert the following:

“(2) the attributed aggregate consolidated assets of the company held by the bank holding company pursuant to this subsection, and not otherwise permitted to be held by a bank holding company, are equal to not more than 5 percent of the total consolidated assets of the bank holding company, except that the Board may increase that percentage by such amounts and under such circumstances as the Board considers appropriate, consistent with the purposes of this Act; and

“(3) the bank holding company does not permit—

“(A) any company, the shares of which it owns or controls pursuant to this subsection, to offer or market any product or service of an affiliated insured depository institution; or

“(B) any affiliated insured depository institution to offer or market any product or service of any company, the shares of which are owned or controlled by such bank holding company pursuant to this subsection.”

On page 11, line 11, after “represent” insert “, as determined by the insurance authority of the State of domicile of the insurance company.”

At the appropriate place insert:

SEC. — INTERSTATE BRANCHES AND AGENCIES OF FOREIGN BANKS.

Section 5 of the International Banking Act of 1978, as amended (12 U.S.C. §3103), is amended by striking subsection (a)(7) and substituting the following:

“(7) Additional authority for interstate branches and agencies of foreign banks; upgrades of certain foreign bank agencies and branches.

“Notwithstanding paragraphs (1) and (2), a foreign bank may,

“(A) with the approval of the Board and the Comptroller of the Currency, establish and operate a Federal branch or Federal agency or, with the approval of the Board and the appropriate State bank supervisor, a State branch or State agency in any State outside the foreign bank’s home State if

(i) the establishment and operation of such branch or agency is permitted by the State in which the branch or agency is to be established; and

(ii) in the case of a Federal or State branch, the branch receives only such deposits as would be permitted for a corporation organized under Section 25A of the Federal Reserve Act (12 U.S.C. §611 et seq.); or

“(B) with the approval of the Board and the relevant licensing authority (the Comptroller in the case of a Federal branch or the appropriate State supervisor in the case of a State branch), upgrade an agency, or a branch of the type referred to in subsection (a)(7)(A)(ii), located in a State outside the foreign bank’s home state, into a Federal or State branch if the establishment and operation of such branch is permitted by such State; and

“(i) such agency or branch was in operation in such State on the day before September 29, 1994, or

“(ii) such agency or branch has been in operation in such State for a period of time that meets the State’s minimum age requirement permitted under 12 U.S.C. §1831u(a)(5).”

At the appropriate place, insert the following:

SEC. ____ . PROVISION OF TECHNICAL ASSISTANCE TO MICROENTERPRISES.

(a) IN GENERAL.—Title I of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is amended by adding at the end the following:

“Subtitle C—Microenterprise Technical Assistance and Capacity Building Program

“SEC. 171. SHORT TITLE.

“This subtitle may be cited as the ‘Program for Investment in Microentrepreneurs Act of 1999’, also referred to as the ‘PRIME Act’.

“SEC. 172. DEFINITIONS.

“For purposes of this subtitle—

“(1) the term ‘Administrator’ has the same meaning as in section 103;

“(2) the term ‘capacity building services’ means services provided to an organization that is, or is in the process of becoming a microenterprise development organization or program, for the purpose of enhancing its ability to provide training and services to disadvantaged entrepreneurs;

“(3) the term ‘collaborative’ means 2 or more nonprofit entities that agree to act jointly as a qualified organization under this subtitle;

“(4) the term ‘disadvantaged entrepreneur’ means a microentrepreneur that is—

“(A) a low-income person;

“(B) a very low-income person; or

“(C) an entrepreneur that lacks adequate access to capital or other resources essential for business success, or is economically disadvantaged, as determined by the Administrator;

“(5) the term ‘Fund’ has the same meaning as in section 103;

“(6) the term ‘Indian tribe’ has the same meaning as in section 103;

“(7) the term ‘intermediary’ means a private, nonprofit entity that seeks to serve microenterprise development organizations and programs as authorized under section 175;

“(8) the term ‘low-income person’ has the same meaning as in section 103;

“(9) the term ‘microentrepreneur’ means the owner or developer of a microenterprise;

“(10) the term ‘microenterprise’ means a sole proprietorship, partnership, or corporation that—

“(A) has fewer than 5 employees; and

“(B) generally lacks access to conventional loans, equity, or other banking services;

“(11) the term ‘microenterprise development organization or program’ means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged entrepreneurs or prospective entrepreneurs;

“(12) the term ‘training and technical assistance’ means services and support provided to disadvantaged entrepreneurs or prospective entrepreneurs, such as assistance for the purpose of enhancing business planning, marketing, management, financial management skills, and assistance for the purpose of accessing financial services; and

“(13) the term ‘very low-income person’ means having an income, adjusted for family size, of not more than 150 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section).

“SEC. 173. ESTABLISHMENT OF PROGRAM.

“The Administrator shall establish a microenterprise technical assistance and capacity building grant program to provide assistance from the Fund in the form of grants to qualified organizations in accordance with this subtitle.

“SEC. 174. USES OF ASSISTANCE.

“A qualified organization shall use grants made under this subtitle—

“(1) to provide training and technical assistance to disadvantaged entrepreneurs;

“(2) to provide training and capacity building services to microenterprise development organizations and groups of such organizations to assist such organizations and programs in developing microenterprise training and services;

“(3) to aid in researching and developing the best practices in the field of microenterprise and technical assistance programs for disadvantaged entrepreneurs; and

“(4) for such other activities as the Administrator determines are consistent with the purposes of this subtitle.

“SEC. 175. QUALIFIED ORGANIZATIONS.

“For purposes of eligibility for assistance under this subtitle, a qualified organization shall be—

“(1) a nonprofit microenterprise development organization or program (or a group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged entrepreneurs;

“(2) an intermediary;

“(3) a microenterprise development organization or program that is accountable to a local community, working in conjunction with a State or local government or Indian tribe; or

“(4) an Indian tribe acting on its own, if the Indian tribe can certify that no private organization or program referred to in this paragraph exists within its jurisdiction.

“SEC. 176. ALLOCATION OF ASSISTANCE; SUBGRANTS.

“(a) ALLOCATION OF ASSISTANCE.—

“(1) IN GENERAL.—The Administrator shall allocate assistance from the Fund under this subtitle to ensure that—

“(A) activities described in section 174(1) are funded using not less than 75 percent of amounts made available for such assistance; and

“(B) activities described in section 174(2) are funded using not less than 15 percent of amounts made available for such assistance.

“(2) LIMIT ON INDIVIDUAL ASSISTANCE.—No single organization or entity may receive more than 10 percent of the total funds appropriated under this subtitle in a single fiscal year.

“(b) TARGETED ASSISTANCE.—The Administrator shall ensure that not less than 50 percent of the grants made under this subtitle are used to benefit very low-income persons, including those residing on Indian reservations.

“(c) SUBGRANTS AUTHORIZED.—

“(1) IN GENERAL.—A qualified organization receiving assistance under this subtitle may provide grants using that assistance to qualified small and emerging microenterprise organizations and programs, subject to such rules and regulations as the Administrator determines to be appropriate.

“(2) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 7.5 percent of assistance received by a qualified organization under this subtitle may be used for administrative expenses in connection with the making of subgrants under paragraph (1).

“(d) DIVERSITY.—In making grants under this subtitle, the Administrator shall ensure that grant recipients include both large and small microenterprise organizations, serving urban, rural, and Indian tribal communities and racially and ethnically diverse populations.

“SEC. 177. MATCHING REQUIREMENTS.

“(a) IN GENERAL.—Financial assistance under this subtitle shall be matched with funds from sources other than the Federal

Government on the basis of not less than 50 percent of each dollar provided by the Fund.

“(b) SOURCES OF MATCHING FUNDS.—Fees, grants, gifts, funds from loan sources, and in-kind resources of a grant recipient from public or private sources may be used to comply with the matching requirement in subsection (a).

“(c) EXCEPTION.—

“(1) IN GENERAL.—In the case of an applicant for assistance under this subtitle with severe constraints on available sources of matching funds, the Administrator may reduce or eliminate the matching requirements of subsection (a).

“(2) LIMITATION.—Not more than 10 percent of the total funds made available from the Fund in any fiscal year to carry out this subtitle may be excepted from the matching requirements of subsection (a), as authorized by paragraph (1) of this subsection.

“SEC. 178. APPLICATIONS FOR ASSISTANCE.

“An application for assistance under this subtitle shall be submitted in such form and in accordance with such procedures as the Fund shall establish.

“SEC. 179. RECORDKEEPING.

“The requirements of section 115 shall apply to a qualified organization receiving assistance from the Fund under this subtitle as if it were a community development financial institution receiving assistance from the Fund under subtitle A.

“SEC. 180. AUTHORIZATION.

“In addition to funds otherwise authorized to be appropriated to the Fund to carry out this title, there are authorized to be appropriated to the Fund to carry out this subtitle—

“(1) \$15,000,000 for fiscal year 2000;

“(2) \$15,000,000 for fiscal year 2001;

“(3) \$15,000,000 for fiscal year 2002; and

“(4) \$15,000,000 for fiscal year 2003.

“SEC. 181. IMPLEMENTATION.

“The Administrator shall, by regulation, establish such requirements as may be necessary to carry out this subtitle.”.

(b) ADMINISTRATIVE EXPENSES.—Section 121(a)(2)(A) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4718(a)(2)(A)) is amended—

(1) by striking “\$5,550,000” and inserting “\$6,100,000”; and

(2) in the first sentence, by inserting before the period “, including costs and expenses associated with carrying out subtitle C”.

(c) CONFORMING AMENDMENTS.—Section 104(d) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4703(d)) is amended—

(1) in paragraph (2)—

(A) by striking “15” and inserting “17”; and

(B) in subparagraph (G)—

(i) by striking “9” and inserting “11”; and

(ii) by redesignating clauses (iv) and (v) as clauses (v) and (vi), respectively; and

(iii) by inserting after clause (iii) the following:

“(iv) 2 individuals who have expertise in microenterprises and microenterprise development;” and

(2) in paragraph (4), in the first sentence, by inserting before the period “and subtitle C”.

At the appropriate place, insert the following:

SEC. ____ . DISCLOSURES TO CONSUMERS UNDER THE TRUTH IN LENDING ACT.

(a) DISCLOSURE OF LATE PAYMENT DEADLINES AND PENALTIES.—Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

“(12) If a charge is to be imposed due to the failure of the obligor to make payment on or before a required payment due date, the date that payment is due or, if different, the date on which a late payment fee will be charged,

shall be stated prominently in a conspicuous location on the billing statement, together with the amount of the charge to be imposed if payment is made after such date.”.

(b) DISCLOSURES RELATED TO “TEASER RATES”.—Section 127(c) (15 U.S.C. 1637(c)) is amended by inserting after paragraph (5) (as so redesignated by section 4 of this Act) the following:

“(6) ADDITIONAL NOTICE CONCERNING ‘TEASER RATES’.—

“(A) IN GENERAL.—An application or solicitation for a credit card for which a disclosure is required under this subsection shall contain the disclosure contained in subparagraph (B) or (C), as appropriate, if the application or solicitation offers, for an introductory period of less than 1 year, an annual percentage rate of interest that—

“(i) is less than the annual percentage rate of interest that will apply after the end of the introductory period; or

“(ii) in the case of an annual percentage rate that varies in accordance with an index, is less than the current annual percentage rate under the index that will apply after the end of such period.

“(B) FIXED ANNUAL PERCENTAGE RATE.—If the annual percentage rate that will apply after the end of the introductory period will be a fixed rate, the application or solicitation shall include the following disclosure: ‘The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate that will apply after the end of the introductory period. The permanent annual percentage rate will apply after [insert applicable date] and will be [insert applicable percentage rate].’

“(C) VARIABLE ANNUAL PERCENTAGE RATE.—If the annual percentage rate that will apply after the end of the introductory period will vary in accordance with an index, the application or solicitation shall include the following disclosure: ‘The annual percentage rate of interest applicable during the introductory period is not the annual percentage rate that will apply after the end of the introductory period. The permanent annual percentage rate will be determined by an index, and will apply after [insert applicable date]. If the index that will apply after such date were applied to your account today, the annual percentage rate would be [insert applicable percentage rate].’

“(D) CONDITIONS FOR INTRODUCTORY RATES.—If the annual percentage rate of interest that will apply during the introductory period described in subparagraph (A) is revocable or otherwise conditioned upon any action by the obligor, including any failure by the obligor to pay the minimum payment amount or finance charge or to make any payment by the stated monthly payment due date, the application or solicitation shall include disclosure of—

“(i) the conditions that the obligor must meet to retain the annual percentage rate of interest during the introductory period; and

“(ii) the annual percentage rate of interest that will apply as a result of the failure of the obligor to meet such conditions.

“(E) FORM OF DISCLOSURE.—The disclosures required under this paragraph shall be made in a clear and conspicuous manner, in a prominent fashion.”.

On page 10, at line 4, following “by”, insert “(I)”;

On page 10, at line 5, following “thereof”, insert the following: “or (II) an affiliate of an insurance company described in paragraph (I)(ii) below that provides investment advice to an insurance company and is registered pursuant to the Investment Advisers Act of 1940, or an affiliate of such investment adviser.”

At the appropriate place in the bill, insert a new section as follows:

“SEC. . CRA SUNSHINE REQUIREMENTS.

“(a) DISCLOSURE AND REPORTING.—The Federal Deposit Insurance Act (12 U.S.C. §1811 et seq.) is amended by adding at the end thereof the following new section:

“SEC. . CRA SUNSHINE REQUIREMENTS.

“(a) PUBLIC DISCLOSURE OF AGREEMENTS.—Any agreement entered into by an insured depository institution or affiliate with a nongovernmental entity or person made pursuant to or in connection with the Community Reinvestment Act involving funds or other resources of such insured depository institution or affiliate shall be in its entirety fully disclosed, and the full text thereof made available to the appropriate federal banking agency with supervisory responsibility over the insured depository institution and to the public and shall obligate each party to comply with the provisions of this section.

“(b) ANNUAL REPORT OF ACTIVITY.—Each party to the agreement shall report, as applicable, to the appropriate federal banking agency with supervisory responsibility over the insured depository institution, no less frequently than once each year, such information as the federal banking agency may be rule require relating to the following action taken by the party pursuant to an agreement described in subsection (a) during the previous 12-month period—

“(1) payments, fees or loans made to any party to the agreement or received from any party to the agreement and the terms and conditions of the same; and

“(2) aggregate data on loans, investments and services provided by each party in its community or communities pursuant to the agreement; and

“(3) such other pertinent matters as determined by rule by the appropriate federal banking agency with supervisory responsibility over the insured depository institution.

“(4) The Federal banking agency shall ensure that the regulations implementing this section do not impose an undue burden on the parties and that proprietary and confidential information is protected.

“(c) EXISTING AGREEMENTS.—The requirements of subsection (b)(1), (2), and (3) shall be deemed to be fulfilled with respect to any agreement made prior to May 5, 1999.

“(d) SECONDARY AGREEMENTS.—Any agreement made on or after May 5, 1999 pursuant to an agreement described in subsection (a) also is subject to the requirements of subsections (a) and (b).

“(e) DEFINITIONS.—

“(1) AGREEMENT.—As used in this section, the term “agreement” refers to any written contract, written agreement, or other written understanding with a value in excess of \$10,000 annually, or a group of substantively related contracts with an aggregate value of \$10,000 annually, made pursuant to or in connection with the Community Reinvestment Act of 1977, at least one party to which is an insured depository institution or affiliate thereof, or entity owned or controlled by an insured depository institution or affiliate, whether organized on a profit or not-for-profit basis. The term “agreement” shall not include any specific contract or commitment for a loan or extension of credit to individuals, businesses, farms, or other entities, where the purpose of the loan or extension of credit does not include any re-lending or the borrowed funds to the other parties.

“(2) APPROPRIATE FEDERAL BANKING AGENCY AND INSURED DEPOSITORY INSTITUTION.—As used in this section, the terms “appropriate federal banking agency” and “insured depository institution” have the same meanings as defined in section 3 of this Act.

“(d) VIOLATIONS.—Any violation of the provisions of this section shall be considered

a violation of this Act. If the party to the agreement that is not an insured depository institution or affiliate fails to comply with this section, the agreement shall not be enforceable after being given notice and a reasonable period of time to perform or comply.

“(e) LIMITATION.—Nothing in this section is intended to provide any authority upon any appropriate federal banking agency to enforce the provisions of the agreements that are subject to the requirements of subsection (a).

“(f) REGULATIONS.—Each appropriate federal banking agency shall prescribe regulations requiring procedures reasonably designed to assure and monitor compliance with the requirements of this section.”

At the appropriate place, insert the following:

SEC. . FEDERAL RESERVE AUDITS.

(a) IN GENERAL.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 11A the following:

“SEC. 11B. ANNUAL INDEPENDENT AUDITS OF FEDERAL RESERVE BANKS.

“(a) AUDIT REQUIRED.—Each Federal reserve bank shall annually obtain an audit of the financial statements of each Federal reserve bank (which shall have been prepared in accordance with generally accepted accounting principles) using generally accepted auditing standards from an independent auditor that meets the requirements of subsection (b).

“(b) AUDITOR’S QUALIFICATIONS.—The independent auditor referred to in subsection (a) shall—

“(1) be a certified public accountant who is independent of the Federal Reserve System; and

“(2) meet any other qualifications that the Board may establish.

“(c) CERTIFICATION REQUIRED.—In each audit required under subsection (a), the auditor shall certify to the Federal reserve bank and to the Board that the auditor—

“(1) is a certified public accountant and is independent of the Federal Reserve System; and

“(2) conducted the audit using generally accepted auditing standards.

“(d) CERTIFICATION BY FEDERAL RESERVE BANK.—Not later than 30 days after the completion of each audit required under subsection (a), the Federal reserve bank shall provide to the Comptroller General of the United States—

“(1) a certification that—

“(A) the Federal reserve bank has obtained the audit required under subsection (a);

“(B) the Federal reserve bank has received the certifications of the auditor required under subsection (c); and

“(C) the audit fully complies with subsection (a).

“(e) DETECTION OF ILLEGAL ACTS.—

“(1) AUDIT PROCEDURES.—Each audit required by this section shall include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts.

“(2) REPORTING POSSIBLE ILLEGALITIES.—If, in the course of conducting an audit required by this section, the independent auditor detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have an effect on the financial statements of the Federal reserve bank) has or may have occurred, the auditor—

“(A) shall determine whether it is likely that the illegal act has occurred; and

“(B) shall, if the auditor determines that the illegal act is likely to have occurred—

“(i) determine and consider the possible effect of the illegal act on the financial statements of the Federal reserve bank; and

“(ii) as soon as practicable, inform the Board that the illegal act is likely to have occurred.

“(3) REPORT TO CONGRESS.—The independent auditor under this section shall, as soon as practicable, directly report its conclusions to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives with regard to any possible illegal act that has been detected or has otherwise come to the attention of the auditor during the course of the audit required by this section, if, after determining that the Board is adequately informed with respect to such possible illegal act, the auditor concludes that—

“(A) the possible illegal act has a direct and material effect on the financial statements of the Federal reserve bank;

“(B) the Board has not taken timely and appropriate remedial actions with respect to the possible illegal act; and

“(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor when made, or warrant resignation from the audit engagement.

“(4) RESIGNATION OF AUDITOR.—If an independent auditor resigns from its engagement to audit a Federal reserve bank under paragraph (3), the auditor shall furnish to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, not later than 1 business day after such resignation, a copy of the report of the auditor (or documentation of any oral report given).

“(f) RECORDKEEPING.—To facilitate compliance with this section, each Federal reserve bank shall—

“(1) ensure that the books, records, and accounts of the Federal reserve bank are maintained and kept in sufficient detail to accurately and fairly reflect the transactions and dispositions of the assets of the bank;

“(2) devise and maintain a system of internal controls sufficient to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets;

“(3) ensure that access to assets of the Federal reserve bank is permitted only in accordance with the general or specific authorization of the Board; and

“(4) ensure that—

“(A) the recorded accountability for assets is compared with the existing assets at reasonable intervals; and

“(B) appropriate action is taken with respect to any differences.

“(g) REPORTS TO BOARD, CONGRESS.—Not later than April 30 of each year, each Federal reserve bank shall submit a copy of each audit conducted under this section to the Board, and to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

“SEC. 11C. INDEPENDENT AUDITS OF FEDERAL RESERVE SYSTEM AND FEDERAL RESERVE BOARD.

“(a) AUDIT OF FEDERAL RESERVE SYSTEM.—The Board shall annually obtain an audit of the consolidated financial statements of the Federal Reserve System (which shall have been prepared in accordance with generally accepted accounting principles) from an independent auditor, using generally accepted auditing standards, based on reports of audits of Federal reserve banks submitted to the Board under section 11B(g) and the audit of the Board under subsection (b) of this section.

“(b) AUDIT OF BOARD.—

“(1) IN GENERAL.—The Board shall annually obtain an audit of the financial statements

of the Board (which shall have been prepared in accordance with generally accepted accounting principles) from an independent auditor, using generally accepted auditing standards.

“(2) PRICED SERVICES AUDIT.—

“(A) IN GENERAL.—As part of each audit of the Board required by this subsection, the auditor shall—

“(i) audit the calculation of the private sector adjustment factor established by the Board pursuant to section 11A(c)(3) for the year that is the subject of the audit; and

“(ii) audit the pro forma balance sheet and income statement for the services described in section 11A(b), including the determination of revenue, expenses, and income before income taxes for each service listed in that section (in accordance with the criteria specified in section 11A(c)(3)).

“(B) REPORT TO THE BOARD.—The auditor shall report the results of the audit under subparagraph (A)(ii) to the Board in written form.

“(3) LIMITATION.—The evaluations and audits required by this subsection shall not include deliberations, decisions, or actions on monetary policy matters, including discount authority under section 13, reserves of national banks, securities credit, interest on deposits, and open market operations.

“(c) AUDITOR'S QUALIFICATIONS.—An independent auditor referred to in this section shall—

“(1) be a certified public accountant and be independent of the Federal Reserve System; and

“(2) meet any other qualifications that the Board may establish.

“(d) CERTIFICATION REQUIRED.—In each audit required under this section, the auditor shall certify to the Board that the auditor—

“(1) is a certified public accountant and is independent of the Federal Reserve System; and

“(2) conducted the audit using generally accepted auditing standards.

“(e) DETECTION OF ILLEGAL ACTS.—

“(1) AUDIT PROCEDURES.—Each audit required by this section shall include procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts.

“(2) REPORTING POSSIBLE ILLEGALITIES.—If, in the course of conducting an audit of the Federal Reserve System or the Board as required by this section, the independent auditor detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have an effect on the financial statements of the Federal reserve bank) has or may have occurred, the auditor—

“(A) shall determine whether it is likely that the illegal act has occurred; and

“(B) shall, if the auditor determines that the illegal act is likely to have occurred—

“(i) determine and consider the possible effect of the illegal act on the financial statements of the Federal Reserve System or the Board, as applicable; and

“(ii) as soon as practicable, inform the Board that the illegal act is likely to have occurred.

“(3) REPORT TO CONGRESS.—An independent auditor under this section shall directly report, as soon as practicable, its conclusions to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, with regard to any possible illegal act that has been detected or has otherwise come to the attention of the auditor during the course of an audit of the Federal Reserve System or the Board required by this section, if, after determining that the Board is

adequately informed with respect to such possible illegal act, the auditor concludes that—

“(A) the possible illegal act has a direct and material effect on the financial statements of the Federal Reserve System or the Board, as applicable;

“(B) the Board has not taken timely and appropriate remedial actions with respect to the possible illegal act; and

“(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor when made, or warrant resignation from the audits engagement.

“(4) RESIGNATION OF AUDITOR.—If an independent auditor resigns from its engagement to audit the Federal Reserve System or the Board under paragraph (3), the auditor shall furnish to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives, not later than 1 business day after such resignation, a copy of the report of the auditor (or documentation of any oral report given).

“(f) RECORDKEEPING.—To facilitate compliance with this section, the Board shall—

“(1) ensure that the books, records, and accounts of the Board are maintained and kept in sufficient detail to accurately and fairly reflect the transactions and dispositions of assets;

“(2) devise and maintain a system of internal controls sufficient to provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets;

“(3) ensure that access to assets of the Board is permitted only in accordance with general or specific authorization of the Board; and

“(4) ensure that—

“(A) the recorded accountability for assets is compared with the existing assets at reasonable intervals; and

“(B) appropriate action is taken with respect to any differences.

“(g) REPORTS TO CONGRESS.—Not later than May 31 of each year, the Board shall make available all audits and reports required by this section to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.”.

(b) FEDERAL RESERVE REQUIREMENTS.—

(1) CLARIFICATION OF FEE SCHEDULE REQUIREMENTS.—

(A) IN GENERAL.—Section 11A(b) of the Federal Reserve Act (12 U.S.C. 248a(b)) is amended—

(i) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(ii) by inserting after paragraph (6) the following:

“(7) transportation of paper checks in the clearing process;”.

(B) PUBLICATION OF REVISED SCHEDULE.—Not later than 60 days after the date of enactment of this Act, the Board of Governors of the Federal Reserve System shall publish a revision of the schedule of fees required under section 11A of the Federal Reserve Act that reflects the changes made in the schedule in accordance with the amendments made by subparagraph (A) of this paragraph.

(2) CLARIFICATION OF APPLICABLE PRICING CRITERIA.—Section 11A(c) of the Federal Reserve Act (12 U.S.C. 248a(c)) is amended by striking paragraph (3) and inserting the following:

“(3)(A) In each fiscal year, fees shall be established for each service provided by the Federal reserve banks on the basis of all direct and indirect costs actually incurred (excluding the effect of any pension cost credit)

in providing each of the services, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs, which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been provided by a private business firm.

“(B) The pricing principles referred to in subparagraph (A) shall be carried out with due regard to competitive factors and the provision of an adequate level of such services nationwide.

“(C)(i) Not later than 1 year after the date of enactment of the Financial Services Modernization Act of 1999, and not less frequently than once every 3 years thereafter, the Board shall conduct a comprehensive review of the methodology used to calculate the private sector adjustment factor pursuant to section 11A(c)(3), including a public notice and comment period.

“(ii) In conducting the review under clause (i), the Board shall publish in the Federal Register all elements of the methodology in use by the Board in the calculation of the private sector adjustment factor pursuant to section 11A(c)(3) provide notice and solicit public comment on the methodology, requesting commentators to identify areas of the methodology that are outdated, inappropriate, unnecessary, or that contribute to an inaccurate result in the calculation of the private sector adjustment factor.

“(iii) The Board shall—

“(I) publish in the Federal Register a summary of the comments received under this subparagraph, identifying significant issues raised; and

“(II) provide comment on such issues and make changes to the methodology to the extent that the Board considers to be appropriate.

“(iv) Not later than 30 days after the completion of each review under clause (i), the Board shall submit to Congress a report which shall include—

“(I) a summary of any significant issues raised by public comments received by the Board under this subparagraph and the relative merits of such issues; and

“(II) an analysis of whether the Board is able to address the concerns raised, or whether such concerns should be addressed by legislation.”.

On page 150, after line 21, add the following:

“(5) **CONVERSION TO NATIONAL BANK.**—Notwithstanding any other provision of law, any Federal savings association chartered and in operation prior to the date of enactment of the Financial Services Modernization Act of 1999, with branches in one or more States, may convert, at its option, with the approval of the Comptroller of the Currency, into one or more National banks, each of whom may encompass one or more of the branches of the Federal savings association in one or more States; but only if the resulting national bank or banks will meet any and all financial, management, and capital requirements applicable to national banks.”.

At the appropriate place, insert the following:

SEC. 2. COMMUNITY DEVELOPMENT INSTITUTIONS TO BE ELIGIBLE TO BORROW AS A NONMEMBER FROM THE FEDERAL HOME LOAN BANK SYSTEM.

SECTION 10b.—Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in subsection (a) by striking the second sentence and inserting the following two sentences: “Such mortgagees must be (i) chartered institutions having succession and (ii) subject to the inspection and supervision of some governmental agency or a community development financial institution (other

than an insured depository institution or a subsidiary thereof) that, at the time of the advance is made, is certified under the Community Development Banking and Financial Institutions Act of 1994. The principal activity of such mortgagees in the mortgage field must consist of lending their own funds and any advances may be subject to the same collateralization requirements as applied to other nonmember borrowers.

(2) in the last sentence of subsection (a) by replacing the word “such” with “the same” and by replacing the phrase “shall be determined by the board” with the phrase “are comparable extensions of credit to members”; and

(3) in subsection (b) by inserting in the first sentence between the words “agency” and “for” the following phrase: “or a certified development financial institution”.

At the appropriate place, insert the following:

SEC. ____ . STUDY AND REPORT ON ADVERTISING PRACTICES OF ONLINE BROKERAGE SERVICES.

(a) **STUDY.**—The Securities and Exchange Commission (hereafter in this section referred to as the “Commission”), in consultation with the National Association of Securities Dealers and other interested parties, shall conduct a study of—

(1) the nature and content of advertising by online brokerage services in all media, including television, on the Internet, radio, and in print;

(2) if such advertising influences investors and potential investors to make investment decisions, and if such advertising improperly influences those investors and potential investors to make inappropriate investment decisions;

(3) whether such advertising properly discloses the risks associated with trading and investing in the capital markets; and

(4) whether—

(A) there are appropriate regulatory mechanisms in place to prevent any improper or deceptive advertising; and

(B) the Commission has or needs additional resources or authority to actively participate in such regulation.

(b) **REPORT.**—Not later than 180 days after the date of enactment of this Act, the Commission shall submit a report to the Congress on the results of the study conducted under subsection (a), together with any recommendations for changes that it considers necessary to protect investors and potential investors from improper or deceptive advertising.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that on Wednesday, May 12, 1999, the Committee on Energy and Natural Resources will hold an oversight hearing on Damage to the National Security from Chinese Espionage at DOE Nuclear Weapons Laboratories. The hearing will be held at 9:30 a.m. in room 216 of the Hart Senate Office Building in Washington, D.C. A portion of the hearing may be closed for national security reasons.

Those who wish further information may write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of

the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation, and Recreation of the Committee on Energy and Natural Resources. The purpose of this hearing is to receive testimony on S. 140, a bill to establish the Thomas Cole National Historic Site in the State of New York as an affiliated area of the National Park System, and for other purposes; S. 734, the National Discovery Trails Act of 1999; S. 762, a bill to direct the Secretary of the Interior to conduct a feasibility study on the inclusion of the Miami Circle in Biscayne National Park; S. 938, a bill to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park, and for other purposes; S. 939, a bill to correct spelling errors in the statutory designations of Hawaiian National Parks; S. 946, a bill to authorize the Secretary of the Interior to transfer administrative jurisdiction over land within the boundaries of the Home of Franklin D. Roosevelt National Historic Site to the Archivist of the United States for the construction of a visitor center; and S. 955, a bill to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield in Virginia, as previously authorized by law, by purchase.

The hearing will take place on Tuesday, May 25, 1999 at 2:15 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD-364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Jim O'Toole or Shawn Taylor of the committee staff at (202) 224-6969.

AUTHORITY OF COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, May 6, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this oversight hearing is to consider the results of the December 1998 plebiscite on Puerto Rico.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, May 6, 1999 at 2:00 pm to hold a hearing.