

PUBLIC LAW 109-351—OCT. 13, 2006

FINANCIAL SERVICES REGULATORY RELIEF  
ACT OF 2006

Public Law 109–351  
109th Congress

An Act

Oct. 13, 2006  
[S. 2856]

To provide regulatory relief and improve productivity for insured depository institutions, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Financial  
Services  
Regulatory Relief  
Act of 2006.  
12 USC 1811  
note.

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Financial Services Regulatory Relief Act of 2006”.

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

Sec. 1. Short title; table of contents.

**TITLE I—BROKER RELIEF**

Sec. 101. Joint rulemaking required for revised definition of broker in the Securities Exchange Act of 1934.

**TITLE II—MONETARY POLICY PROVISIONS**

Sec. 201. Authorization for the Federal Reserve to pay interest on reserves.

Sec. 202. Increased flexibility for the Federal Reserve Board to establish reserve requirements.

Sec. 203. Effective date.

**TITLE III—NATIONAL BANK PROVISIONS**

Sec. 301. Voting in shareholder elections.

Sec. 302. Simplifying dividend calculations for national banks.

Sec. 303. Repeal of obsolete limitation on removal authority of the Comptroller of the Currency.

Sec. 304. Repeal of obsolete provision in the Revised Statutes.

Sec. 305. Enhancing the authority for banks to make community development investments.

**TITLE IV—SAVINGS ASSOCIATION PROVISIONS**

Sec. 401. Parity for savings associations under the Securities Exchange Act of 1934 and the Investment Advisers Act of 1940.

Sec. 402. Repeal of overlapping rules governing purchased mortgage servicing rights.

Sec. 403. Clarifying citizenship of Federal savings associations for Federal court jurisdiction.

Sec. 404. Repeal of limitation on loans to one borrower.

**TITLE V—CREDIT UNION PROVISIONS**

Sec. 501. Leases of land on Federal facilities for credit unions.

Sec. 502. Increase in general 12-year limitation of term of Federal credit union loans to 15 years.

Sec. 503. Check cashing and money transfer services offered within the field of membership.

Sec. 504. Clarification of definition of net worth under certain circumstances for purposes of prompt corrective action.

Sec. 505. Amendments relating to nonfederally insured credit unions.

## TITLE VI—DEPOSITORY INSTITUTION PROVISIONS

- Sec. 601. Reporting requirements relating to insider lending.
- Sec. 602. Investments by insured savings associations in bank service companies authorized.
- Sec. 603. Authorization for member bank to use pass-through reserve accounts.
- Sec. 604. Streamlining reports of condition.
- Sec. 605. Expansion of eligibility for 18-month examination schedule for community banks.
- Sec. 606. Streamlining depository institution merger application requirements.
- Sec. 607. Nonwaiver of privileges.
- Sec. 608. Clarification of application requirements for optional conversion for Federal savings associations.
- Sec. 609. Exemption from disclosure of privacy policy for accountants.
- Sec. 610. Inflation adjustment for the small depository institution exception under the Depository Institution Management Interlocks Act.
- Sec. 611. Modification to cross marketing restrictions.

## TITLE VII—BANKING AGENCY PROVISIONS

- Sec. 701. Statute of limitations for judicial review of appointment of a receiver for depository institutions.
- Sec. 702. Enhancing the safety and soundness of insured depository institutions.
- Sec. 703. Cross guarantee authority.
- Sec. 704. Golden parachute authority and nonbank holding companies.
- Sec. 705. Amendments relating to change in bank control.
- Sec. 706. Amendment to provide the Federal Reserve Board with discretion concerning the imputation of control of shares of a company by trustees.
- Sec. 707. Interagency data sharing.
- Sec. 708. Clarification of extent of suspension, removal, and prohibition authority of Federal banking agencies in cases of certain crimes by institution-affiliated parties.
- Sec. 709. Protection of confidential information received by Federal banking regulators from foreign banking supervisors.
- Sec. 710. Prohibition on participation by convicted individuals.
- Sec. 711. Coordination of State examination authority.
- Sec. 712. Deputy Director; succession authority for Director of the Office of Thrift Supervision.
- Sec. 713. Office of Thrift Supervision representation on Basel Committee on Banking Supervision.
- Sec. 714. Federal Financial Institutions Examination Council.
- Sec. 715. Technical amendments relating to insured institutions.
- Sec. 716. Clarification of enforcement authority.
- Sec. 717. Federal banking agency authority to enforce deposit insurance conditions.
- Sec. 718. Receiver or conservator consent requirement.
- Sec. 719. Acquisition of FICO scores.
- Sec. 720. Elimination of criminal indictments against receiverships.
- Sec. 721. Resolution of deposit insurance disputes.
- Sec. 722. Recordkeeping.
- Sec. 723. Preservation of records.
- Sec. 724. Technical amendments to information sharing provision in the Federal Deposit Insurance Act.
- Sec. 725. Technical and conforming amendments relating to banks operating under the Code of Law for the District of Columbia.
- Sec. 726. Technical corrections to the Federal Credit Union Act.
- Sec. 727. Repeal of obsolete provisions of the Bank Holding Company Act of 1956.
- Sec. 728. Development of model privacy forms.

## TITLE VIII—FAIR DEBT COLLECTION PRACTICES ACT AMENDMENTS

- Sec. 801. Exception for certain bad check enforcement programs.
- Sec. 802. Other amendments.

## TITLE IX—CASH MANAGEMENT MODERNIZATION

- Sec. 901. Collateral modernization.

## TITLE X—STUDIES AND REPORTS

- Sec. 1001. Study and report by the Comptroller General on the currency transaction report filing system.
- Sec. 1002. Study and report on institution diversity and consolidation.

## TITLE I—BROKER RELIEF

### SEC. 101. JOINT RULEMAKING REQUIRED FOR REVISED DEFINITION OF BROKER IN THE SECURITIES EXCHANGE ACT OF 1934.

#### (a) FINAL RULES REQUIRED.—

(1) AMENDMENT TO SECURITIES EXCHANGE ACT.—Section 3(a)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(4)) is amended by adding at the end the following:

“(F) JOINT RULEMAKING REQUIRED.—The Commission and the Board of Governors of the Federal Reserve System shall jointly adopt a single set of rules or regulations to implement the exceptions in subparagraph (B).”.

Deadline.  
15 USC 78c note.

(2) TIMING.—Not later than 180 days after the date of the enactment of this Act, the Securities and Exchange Commission (in this section referred to as the “Commission”) and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the “Board”) shall jointly issue a proposed single set of rules or regulations to define the term “broker” in accordance with section 3(a)(4) of the Securities Exchange Act of 1934, as amended by this subsection.

(3) RULEMAKING SUPERSEDES PREVIOUS RULEMAKING.—A final single set of rules or regulations jointly adopted in accordance with this section shall supersede any other proposed or final rule issued by the Commission on or after the date of enactment of section 201 of the Gramm-Leach-Bliley Act with regard to the exceptions to the definition of a broker under section 3(a)(4)(B) of the Securities Exchange Act of 1934. No such other rule, whether or not issued in final form, shall have any force or effect on or after that date of enactment.

(b) CONSULTATION.—Prior to jointly adopting the single set of final rules or regulations required by this section, the Commission and the Board shall consult with and seek the concurrence of the Federal banking agencies concerning the content of such rulemaking in implementing section 3(a)(4)(B) of the Securities Exchange Act of 1934, as amended by this section and section 201 of the Gramm-Leach-Bliley Act.

(c) DEFINITION.—For purposes of this section, the term “Federal banking agencies” means the Office of the Comptroller of the Currency, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation.

## TITLE II—MONETARY POLICY PROVISIONS

### SEC. 201. AUTHORIZATION FOR THE FEDERAL RESERVE TO PAY INTEREST ON RESERVES.

(a) IN GENERAL.—Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended by adding at the end the following:

“(12) EARNINGS ON BALANCES.—

“(A) IN GENERAL.—Balances maintained at a Federal Reserve bank by or on behalf of a depository institution may receive earnings to be paid by the Federal Reserve bank at least once each calendar quarter, at a rate or rates not to exceed the general level of short-term interest rates.

“(B) REGULATIONS RELATING TO PAYMENTS AND DISTRIBUTIONS.—The Board may prescribe regulations concerning—

“(i) the payment of earnings in accordance with this paragraph;

“(ii) the distribution of such earnings to the depository institutions which maintain balances at such banks, or on whose behalf such balances are maintained; and

“(iii) the responsibilities of depository institutions, Federal Home Loan Banks, and the National Credit Union Administration Central Liquidity Facility with respect to the crediting and distribution of earnings attributable to balances maintained, in accordance with subsection (c)(1)(A), in a Federal Reserve bank by any such entity on behalf of depository institutions.

“(C) DEPOSITORY INSTITUTIONS DEFINED.—For purposes of this paragraph, the term ‘depository institution’, in addition to the institutions described in paragraph (1)(A), includes any trust company, corporation organized under section 25A or having an agreement with the Board under section 25, or any branch or agency of a foreign bank (as defined in section 1(b) of the International Banking Act of 1978).”

(b) CONFORMING AMENDMENT.—Section 19 of the Federal Reserve Act (12 U.S.C. 461) is amended—

(1) in subsection (b)(4)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(2) in subsection (c)(1)(A), by striking “subsection (b)(4)(C)” and inserting “subsection (b)”.

#### **SEC. 202. INCREASED FLEXIBILITY FOR THE FEDERAL RESERVE BOARD TO ESTABLISH RESERVE REQUIREMENTS.**

Section 19(b)(2)(A) of the Federal Reserve Act (12 U.S.C. 461(b)(2)(A)) is amended—

(1) in clause (i), by striking “the ratio of 3 per centum” and inserting “a ratio of not greater than 3 percent (and which may be zero)”; and

(2) in clause (ii), by striking “and not less than 8 per centum,” and inserting “(and which may be zero),”.

#### **SEC. 203. EFFECTIVE DATE.**

12 USC 461 note.

The amendments made by this title shall take effect October 1, 2011.

## **TITLE III—NATIONAL BANK PROVISIONS**

#### **SEC. 301. VOTING IN SHAREHOLDER ELECTIONS.**

Section 5144 of the Revised Statutes of the United States (12 U.S.C. 61) is amended—

(1) by striking “or to cumulate” and inserting “or, if so provided by the articles of association of the national bank, to cumulate”; and

(2) by striking the comma after “his shares shall equal”.

**SEC. 302. SIMPLIFYING DIVIDEND CALCULATIONS FOR NATIONAL BANKS.**

(a) IN GENERAL.—Section 5199 of the Revised Statutes of the United States (12 U.S.C. 60) is amended to read as follows:

**“SEC. 5199. NATIONAL BANK DIVIDENDS.**

“(a) IN GENERAL.—Subject to subsection (b), the directors of any national bank may declare a dividend of so much of the undivided profits of the bank as the directors judge to be expedient.

“(b) APPROVAL REQUIRED UNDER CERTAIN CIRCUMSTANCES.—A national bank may not declare and pay dividends in any year in excess of an amount equal to the sum of the total of the net income of the bank for that year and the retained net income of the bank for the preceding 2 years, minus the sum of any transfers required by the Comptroller of the Currency and any transfers required to be made to a fund for the retirement of any preferred stock, unless the Comptroller of the Currency approves the declaration and payment of dividends in excess of such amount.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter three of title LXII of the Revised Statutes of the United States is amended by striking the item relating to section 5199 and inserting the following:

“5199. National bank dividends.”.

**SEC. 303. REPEAL OF OBSOLETE LIMITATION ON REMOVAL AUTHORITY OF THE COMPTROLLER OF THE CURRENCY.**

Section 8(e)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(4)) is amended by striking the 5th sentence.

**SEC. 304. REPEAL OF OBSOLETE PROVISION IN THE REVISED STATUTES.**

Section 5143 of the Revised Statutes of the United States (12 U.S.C. 59) is amended to read as follows:

**“SEC. 5143. REDUCTION OF CAPITAL.**

“(a) IN GENERAL.—Subject to the approval of the Comptroller of the Currency, a national banking association may, by a vote of shareholders owning, in the aggregate, two-thirds of its capital stock, reduce its capital.

“(b) SHAREHOLDER DISTRIBUTIONS AUTHORIZED.—As part of its capital reduction plan approved in accordance with subsection (a), and with the affirmative vote of shareholders owning at least two thirds of the shares of each class of its stock outstanding (each voting as a class), a national banking association may distribute cash or other assets to its shareholders.”.

**SEC. 305. ENHANCING THE AUTHORITY FOR BANKS TO MAKE COMMUNITY DEVELOPMENT INVESTMENTS.**

(a) NATIONAL BANKS.—The paragraph designated as the “Eleventh.” of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended to read as follows:

“Eleventh. To make investments directly or indirectly, each of which promotes the public welfare by benefiting primarily low- and moderate-income communities or families (such as by providing

housing, services, or jobs). An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the association is adequately capitalized. In no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 15 percent of the association's capital stock actually paid in and unimpaired and 15 percent of the association's unimpaired surplus fund. The foregoing standards and limitations apply to investments under this paragraph made by a national bank directly and by its subsidiaries."

(b) CONFORMING AMENDMENTS FOR STATE MEMBER BANKS.—The 23rd undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 338a) is amended to read as follows:

"(23) A State member bank may make investments directly or indirectly, each of which promotes the public welfare by benefiting primarily low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law. A State member bank shall not make any such investment if the investment would expose the State member bank to unlimited liability. The Board shall limit a State member bank's investment in any 1 project and a State member bank's aggregate investments under this paragraph. The aggregate amount of investments of any State member bank under this paragraph may not exceed an amount equal to the sum of 5 percent of the State member bank's capital stock actually paid in and unimpaired and 5 percent of the State member bank's unimpaired surplus, unless the Board determines, by order, that a higher amount will pose no significant risk to the affected deposit insurance fund; and the State member bank is adequately capitalized. In no case shall the aggregate amount of investments of any State member bank under this paragraph exceed an amount equal to the sum of 15 percent of the State member bank's capital stock actually paid in and unimpaired and 15 percent of the State member bank's unimpaired surplus. The foregoing standards and limitations apply to investments under this paragraph made by a State member bank directly and by its subsidiaries."

## **TITLE IV—SAVINGS ASSOCIATION PROVISIONS**

### **SEC. 401. PARITY FOR SAVINGS ASSOCIATIONS UNDER THE SECURITIES EXCHANGE ACT OF 1934 AND THE INVESTMENT ADVISERS ACT OF 1940.**

(a) SECURITIES EXCHANGE ACT OF 1934.—

(1) DEFINITION OF BANK.—Section 3(a)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(6)) is amended—

(A) in subparagraph (A), by inserting “or a Federal savings association, as defined in section 2(5) of the Home Owners’ Loan Act” after “a banking institution organized under the laws of the United States”; and

(B) in subparagraph (C)—

(i) by inserting “or savings association, as defined in section 2(4) of the Home Owners’ Loan Act” after “banking institution”; and

(ii) by inserting “or savings associations” after “having supervision over banks”.

(2) INCLUSION OF OTS UNDER THE DEFINITION OF APPROPRIATE REGULATORY AGENCY FOR CERTAIN PURPOSES.—Section 3(a)(34) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)) is amended—

(A) in subparagraph (A)—

(i) in clause (ii), by striking “(i) or (iii)” and inserting “(i), (iii), or (iv)”;

(ii) in clause (iii), by striking “and” at the end;

(iii) by redesignating clause (iv) as clause (v); and

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

“(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, a subsidiary or a department or division of any such savings association, or a savings and loan holding company; and”;

(B) in subparagraph (B)—

(i) in clause (ii), by striking “(i) or (iii)” and inserting “(i), (iii), or (iv)”;

(ii) in clause (iii), by striking “and” at the end;

(iii) by redesignating clause (iv) as clause (v); and

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

“(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, or a subsidiary of any such savings association, or a savings and loan holding company; and”;

(C) in subparagraph (C)—

(i) in clause (ii), by striking “(i) or (iii)” and inserting “(i), (iii), or (iv)”;

(ii) in clause (iii), by striking “and” at the end;

(iii) by redesignating clause (iv) as clause (v); and

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

“(iv) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation, a savings and loan holding company, or a subsidiary of a savings and loan holding company when the appropriate regulatory agency for such clearing agency is not the Commission; and”;

(D) in subparagraph (D)—



(i) in clause (ii), by striking “and” at the end;  
(ii) by redesignating clause (iii) as clause (iv); and  
(iii) by inserting after clause (ii) the following:  
“(iii) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))) the deposits of which are insured by the Federal Deposit Insurance Corporation; and”;  
(E) in subparagraph (F)—

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

(ii) by inserting after clause (i) the following:

“(ii) the Director of the Office of Thrift Supervision, in the case of a savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), the deposits of which are insured by the Federal Deposit Insurance Corporation; and”;  
(F) by moving subparagraph (H) and inserting such subparagraph immediately after subparagraph (G); and

(G) by adding at the end of the undesignated matter at the end the following: “As used in this paragraph, the term ‘savings and loan holding company’ has the same meaning as in section 10(a) of the Home Owners’ Loan Act (12 U.S.C. 1467a(a)).”.

(3) CONFORMING EXEMPTION TO REPORTING REQUIREMENT.—Section 23(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78w(b)(1)) is amended by inserting “other than the Office of Thrift Supervision,” before “shall each”.

(b) INVESTMENT ADVISERS ACT OF 1940.—

(1) DEFINITION OF BANK.—Section 202(a)(2) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(2)) is amended—

(A) in subparagraph (A), by inserting “or a Federal savings association, as defined in section 2(5) of the Home Owners’ Loan Act” after “a banking institution organized under the laws of the United States”; and

(B) in subparagraph (C)—

(i) by inserting “, savings association, as defined in section 2(4) of the Home Owners’ Loan Act,” after “banking institution”; and

(ii) by inserting “or savings associations” after “having supervision over banks”.

(2) CONFORMING AMENDMENTS.—Section 210A of the Investment Advisers Act of 1940 (15 U.S.C. 80b-10a) is amended in each of subsections (a)(1)(A)(i), (a)(1)(B), (a)(2), and (b), by striking “bank holding company” each place that term appears and inserting “bank holding company or savings and loan holding company”.

(c) CONFORMING AMENDMENT TO THE INVESTMENT COMPANY ACT OF 1940.—Section 10(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-10(c)) is amended by inserting after “1956)” the following: “or any one savings and loan holding company, together with its affiliates and subsidiaries (as such terms are defined in section 10 of the Home Owners’ Loan Act),”.

**SEC. 402. REPEAL OF OVERLAPPING RULES GOVERNING PURCHASED MORTGAGE SERVICING RIGHTS.**

Section 5(t) of the Home Owners' Loan Act (12 U.S.C. 1464(t)) is amended—

- (1) by striking paragraph (4) and inserting the following:  
“(4) [Repealed].”; and
- (2) in paragraph (9)(A), by striking “intangible assets, plus” and all that follows through the period at the end and inserting “intangible assets.”.

**SEC. 403. CLARIFYING CITIZENSHIP OF FEDERAL SAVINGS ASSOCIATIONS FOR FEDERAL COURT JURISDICTION.**

Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

“(x) HOME STATE CITIZENSHIP.—In determining whether a Federal court has diversity jurisdiction over a case in which a Federal savings association is a party, the Federal savings association shall be considered to be a citizen only of the State in which such savings association has its home office.”.

**SEC. 404. REPEAL OF LIMITATION ON LOANS TO ONE BORROWER.**

Section 5(u)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(u)(2)(A)) is amended—

- (1) in clause (i)—
  - (A) by striking “for any” and inserting “For any”; and
  - (B) by striking “; or” and inserting a period; and
- (2) in clause (ii)—
  - (A) by striking “to develop domestic” and inserting “To develop domestic”;
  - (B) by striking subclause (I); and
  - (C) by redesignating subclauses (II) through (V) as subclauses (I) through (IV), respectively.

## **TITLE V—CREDIT UNION PROVISIONS**

**SEC. 501. LEASES OF LAND ON FEDERAL FACILITIES FOR CREDIT UNIONS.**

(a) IN GENERAL.—Section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended—

- (1) by striking “Upon application by any credit union” and inserting “Notwithstanding any other provision of law, upon application by any credit union”;
- (2) by inserting “on lands reserved for the use of, and under the exclusive or concurrent jurisdiction of, the United States or” after “officer or agency of the United States charged with the allotment of space”;
- (3) by inserting “lease land or” after “such officer or agency may in his or its discretion”; and
- (4) by inserting “or the facility built on the lease land” after “credit union to be served by the allotment of space”.

(b) CLERICAL AMENDMENT.—The section heading for section 124 of the Federal Credit Union Act (12 U.S.C. 1770) is amended by inserting “OR FEDERAL LAND” after “BUILDINGS”.

**SEC. 502. INCREASE IN GENERAL 12-YEAR LIMITATION OF TERM OF FEDERAL CREDIT UNION LOANS TO 15 YEARS.**

Section 107(5) of the Federal Credit Union Act (12 U.S.C. 1757(5)) is amended in the matter preceding subparagraph (A), by striking “to make loans, the maturities of which shall not exceed twelve years” and inserting “to make loans, the maturities of which shall not exceed 15 years.”.

**SEC. 503. CHECK CASHING AND MONEY TRANSFER SERVICES OFFERED WITHIN THE FIELD OF MEMBERSHIP.**

Section 107(12) of the Federal Credit Union Act (12 U.S.C. 1757(12)) is amended to read as follows:

“(12) in accordance with regulations prescribed by the Board— Regulations.

“(A) to sell, to persons in the field of membership, negotiable checks (including travelers checks), money orders, and other similar money transfer instruments (including international and domestic electronic fund transfers); and

“(B) to cash checks and money orders and receive international and domestic electronic fund transfers for persons in the field of membership for a fee;”.

**SEC. 504. CLARIFICATION OF DEFINITION OF NET WORTH UNDER CERTAIN CIRCUMSTANCES FOR PURPOSES OF PROMPT CORRECTIVE ACTION.**

Section 216(o)(2)(A) of the Federal Credit Union Act (12 U.S.C. 1790d(o)(2)(A)) is amended—

(1) by inserting “the” before “retained earnings balance”; and

(2) by inserting “, together with any amounts that were previously retained earnings of any other credit union with which the credit union has combined” before the semicolon at the end.

**SEC. 505. AMENDMENTS RELATING TO NONFEDERALLY INSURED CREDIT UNIONS.**

(a) IN GENERAL.—Subsection (a) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t(a)) is amended by adding at the end the following new paragraph:

“(3) ENFORCEMENT BY APPROPRIATE STATE SUPERVISOR.—Any appropriate State supervisor of a private deposit insurer, and any appropriate State supervisor of a depository institution which receives deposits that are insured by a private deposit insurer, may examine and enforce compliance with this subsection under the applicable regulatory authority of such supervisor.”.

(b) AMENDMENT RELATING TO DISCLOSURES REQUIRED, PERIODIC STATEMENTS, AND ACCOUNT RECORDS.—Section 43(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(1)) is amended by striking “or similar instrument evidencing a deposit” and inserting “or share certificate.”.

(c) AMENDMENTS RELATING TO DISCLOSURES REQUIRED, ADVERTISING, PREMISES.—Section 43(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(2)) is amended to read as follows:

“(2) ADVERTISING; PREMISES.—

“(A) IN GENERAL.—Include clearly and conspicuously in all advertising, except as provided in subparagraph (B);

and at each station or window where deposits are normally received, its principal place of business and all its branches where it accepts deposits or opens accounts (excluding automated teller machines or point of sale terminals), and on its main Internet page, a notice that the institution is not federally insured.

“(B) EXCEPTIONS.—The following need not include a notice that the institution is not federally insured:

“(i) Any sign, document, or other item that contains the name of the depository institution, its logo, or its contact information, but only if the sign, document, or item does not include any information about the institution’s products or services or information otherwise promoting the institution.

“(ii) Small utilitarian items that do not mention deposit products or insurance if inclusion of the notice would be impractical.”

(d) AMENDMENTS RELATING TO ACKNOWLEDGMENT OF DISCLOSURE.—Section 43(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to read as follows:

“(3) ACKNOWLEDGMENT OF DISCLOSURE.—

“(A) NEW DEPOSITORS OBTAINED OTHER THAN THROUGH A CONVERSION OR MERGER.—With respect to any depositor who was not a depositor at the depository institution before the effective date of the Financial Services Regulatory Relief Act of 2006, and who is not a depositor as described in subparagraph (B), receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgement that—

“(i) the institution is not federally insured; and

“(ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor’s money.

“(B) NEW DEPOSITORS OBTAINED THROUGH A CONVERSION OR MERGER.—With respect to a depositor at a federally insured depository institution that converts to, or merges into, a depository institution lacking federal insurance after the effective date of the Financial Services Regulatory Relief Act of 2006, receive any deposit for the account of such depositor only if—

“(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

“(ii) the institution makes an attempt, as described in subparagraph (D) and sent by mail no later than 45 days after the effective date of the conversion or merger, to obtain the acknowledgment.

“(C) CURRENT DEPOSITORS.—Receive any deposit after the effective date of the Financial Services Regulatory Relief Act of 2006 for the account of any depositor who was a depositor on that date only if—

“(i) the depositor has signed a written acknowledgement described in subparagraph (A); or

“(ii) the institution has complied with the provisions of subparagraph (E) which are applicable as of the date of the deposit.

Deadline.

“(D) ALTERNATIVE PROVISION OF NOTICE TO NEW DEPOSITORS OBTAINED THROUGH A CONVERSION OR MERGER.—

“(i) IN GENERAL.—Transmit to each depositor who has not signed a written acknowledgement described in subparagraph (A)—

“(I) a conspicuous card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

“(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

“(E) ALTERNATIVE PROVISION OF NOTICE TO CURRENT DEPOSITORS.—

“(i) IN GENERAL.—Transmit to each depositor who was a depositor before the effective date of the Financial Services Regulatory Relief Act of 2006, and has not signed a written acknowledgement described in subparagraph (A)—

“(I) a conspicuous card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

“(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

“(ii) MANNER AND TIMING OF NOTICE.—

Deadlines.

“(I) FIRST NOTICE.—Make the transmission described in clause (i) via mail not later than three months after the effective date of the Financial Services Regulatory Relief Act of 2006.

“(II) SECOND NOTICE.—Make a second transmission described in clause (i) via mail not less than 30 days and not more than three months after a transmission to the depositor in accordance with subclause (I), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i) which has been signed by the depositor.”.

(e) AMENDMENTS RELATING TO MANNER AND CONTENT OF DISCLOSURE.—Section 43(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831t(c)) is amended to read as follows:

“(c) MANNER AND CONTENT OF DISCLOSURE.—To ensure that current and prospective customers understand the risks involved in foregoing Federal deposit insurance, the Federal Trade Commission, by regulation or order, shall prescribe the manner and content of disclosure required under this section, which shall be presented in such format and in such type size and manner as to be simple and easy to understand.”.

Regulations.

(f) REPEAL OF PROVISION PROHIBITING NONDEPOSITORY INSTITUTIONS FROM ACCEPTING DEPOSITS.—Section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended—

(1) by striking subsection (e); and

(2) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(g) REPEAL OF FTC AUTHORITY TO ENFORCE INDEPENDENT AUDIT REQUIREMENT; CONCURRENT STATE ENFORCEMENT.—Subsection (f) (as so redesignated by subsection (e) of this section) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t) is amended to read as follows:

“(f) ENFORCEMENT.—

“(1) LIMITED FTC ENFORCEMENT AUTHORITY.—Compliance with the requirements of subsections (b), (c) and (e), and any regulation prescribed or order issued under any such subsection, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.

“(2) BROAD STATE ENFORCEMENT AUTHORITY.—

“(A) IN GENERAL.—Subject to subparagraph (C), an appropriate State supervisor of a depository institution lacking Federal deposit insurance may examine and enforce compliance with the requirements of this section, and any regulation prescribed under this section.

“(B) STATE POWERS.—For purposes of bringing any action to enforce compliance with this section, no provision of this section shall be construed as preventing an appropriate State supervisor of a depository institution lacking Federal deposit insurance from exercising any powers conferred on such official by the laws of such State.

“(C) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION PENDING.—If the Federal Trade Commission has instituted an enforcement action for a violation of this section, no appropriate State supervisor may, during the pendency of such action, bring an action under this section against any defendant named in the complaint of the Commission for any violation of this section that is alleged in that complaint.”.

## **TITLE VI—DEPOSITORY INSTITUTION PROVISIONS**

### **SEC. 601. REPORTING REQUIREMENTS RELATING TO INSIDER LENDING.**

(a) REPORTING REQUIREMENTS REGARDING LOANS TO EXECUTIVE OFFICERS OF MEMBER BANKS.—Section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) is amended—

(1) by striking paragraphs (6) and (9); and

(2) by redesignating paragraphs (7), (8), and (10) as paragraphs (6), (7), and (8), respectively.

(b) REPORTING REQUIREMENTS REGARDING LOANS FROM CORRESPONDENT BANKS TO EXECUTIVE OFFICERS AND SHAREHOLDERS OF INSURED BANKS.—Section 106(b)(2) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)) is amended—

(1) by striking subparagraph (G); and

(2) by redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

### **SEC. 602. INVESTMENTS BY INSURED SAVINGS ASSOCIATIONS IN BANK SERVICE COMPANIES AUTHORIZED.**

(a) IN GENERAL.—Sections 2 and 3 of the Bank Service Company Act (12 U.S.C. 1862, 1863) are each amended by striking

“insured bank” each place that term appears and inserting “insured depository institution”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) BANK SERVICE COMPANY ACT DEFINITIONS.—Section 1(b) of the Bank Service Company Act (12 U.S.C. 1861(b)) is amended—

(A) in paragraph (4)—

(i) by inserting “, except when such term appears in connection with the term ‘insured depository institution,’” after “means”; and

(ii) by striking “Federal Home Loan Bank Board” and inserting “Director of the Office of Thrift Supervision”;

(B) by striking paragraph (5) and inserting the following:

“(5) INSURED DEPOSITORY INSTITUTION.—The term ‘insured depository institution’ has the same meaning as in section 3(c) of the Federal Deposit Insurance Act;”;

(C) by striking “and” at the end of paragraph (7);

(D) by striking the period at the end of paragraph (8) and inserting “; and”;

(E) by adding at the end the following:

“(9) the terms ‘State depository institution’, ‘Federal depository institution’, ‘State savings association’ and ‘Federal savings association’ have the same meanings as in section 3 of the Federal Deposit Insurance Act.”;

(F) in paragraph (2), in subparagraphs (A)(ii) and (B)(ii), by striking “insured banks” each place that term appears and inserting “insured depository institutions”; and

(G) in paragraph (8)—

(i) by striking “insured bank” and inserting “insured depository institution”;

(ii) by striking “insured banks” each place that term appears and inserting “insured depository institutions”; and

(iii) by striking “the bank’s” and inserting “the depository institution’s”.

(2) AMOUNT OF INVESTMENT.—Section 2 of the Bank Service Company Act (12 U.S.C. 1862) is amended by inserting “or savings associations, other than the limitation on the amount of investment by a Federal savings association contained in section 5(c)(4)(B) of the Home Owners’ Loan Act” after “relating to banks”.

(3) LOCATION OF SERVICES.—Section 4 of the Bank Service Company Act (12 U.S.C. 1864) is amended—

(A) in subsection (b), by inserting “as permissible under subsection (c), (d), or (e) or” after “Except”;

(B) in subsection (c), by inserting “or State savings association” after “State bank” each place that term appears;

(C) in subsection (d), by inserting “or Federal savings association” after “national bank” each place that term appears;

(D) by striking subsection (e) and inserting the following:

“(e) PERFORMANCE WHERE STATE BANK AND NATIONAL BANK ARE SHAREHOLDERS OR MEMBERS.—A bank service company may perform—

“(1) only those services that each depository institution shareholder or member is otherwise authorized to perform under any applicable Federal or State law; and

“(2) such services only at locations in a State in which each such shareholder or member is authorized to perform such services.”; and

(E) in subsection (f), by inserting “or savings associations” after “location of banks”.

(4) PRIOR APPROVAL OF INVESTMENTS.—Section 5 of the Bank Service Company Act (12 U.S.C. 1865) is amended—

(A) in subsection (a)—

(i) by striking “insured bank” and inserting “insured depository institution”; and

(ii) by striking “bank’s”; and

(iii) by inserting before the period “for the insured depository institution”;

(B) in subsection (b)—

(i) by striking “insured bank” and inserting “insured depository institution”;

(ii) by inserting “authorized only” after “performs any service”; and

(iii) by inserting “authorized only” after “perform any activity”; and

(C) in subsection (c)—

(i) by striking “the bank or banks” and inserting “any insured depository institution”; and

(ii) by striking “capability of the bank” and inserting “capability of the insured depository institution”.

(5) REGULATION AND EXAMINATION.—Section 7 of the Bank Service Company Act (12 U.S.C. 1867) is amended—

(A) in subsection (b), by striking “insured bank” and inserting “insured depository institution”; and

(B) in subsection (c)—

(i) by striking “a bank” each place that term appears and inserting “a depository institution”; and

(ii) by striking “the bank” each place that term appears and inserting “the depository institution”.

#### **SEC. 603. AUTHORIZATION FOR MEMBER BANK TO USE PASS-THROUGH RESERVE ACCOUNTS.**

Section 19(c)(1)(B) of the Federal Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by striking “which is not a member bank”.

#### **SEC. 604. STREAMLINING REPORTS OF CONDITION.**

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following:

“(11) STREAMLINING REPORTS OF CONDITION.—

“(A) REVIEW OF INFORMATION AND SCHEDULES.—Before the end of the 1-year period beginning on the date of enactment of the Financial Services Regulatory Relief Act of 2006 and before the end of each 5-year period thereafter, each Federal banking agency shall, in conjunction with the other relevant Federal banking agencies, review the information and schedules that are required to be filed

Deadlines.



by an insured depository institution in a report of condition required under paragraph (3).

“(B) REDUCTION OR ELIMINATION OF INFORMATION FOUND TO BE UNNECESSARY.—After completing the review required by subparagraph (A), a Federal banking agency, in conjunction with the other relevant Federal banking agencies, shall reduce or eliminate any requirement to file information or schedules under paragraph (3) (other than information or schedules that are otherwise required by law) if the agency determines that the continued collection of such information or schedules is no longer necessary or appropriate.”.

**SEC. 605. EXPANSION OF ELIGIBILITY FOR 18-MONTH EXAMINATION SCHEDULE FOR COMMUNITY BANKS.**

Section 10(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4)(A)) is amended by striking “\$250,000,000” and inserting “\$500,000,000”.

**SEC. 606. STREAMLINING DEPOSITORY INSTITUTION MERGER APPLICATION REQUIREMENTS.**

(a) IN GENERAL.—Section 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(4)) is amended to read as follows:

“(4) REPORTS ON COMPETITIVE FACTORS.—

“(A) REQUEST FOR REPORT.—In the interests of uniform standards and subject to subparagraph (B), before acting on any application for approval of a merger transaction, the responsible agency shall—

“(i) request a report on the competitive factors involved from the Attorney General of the United States; and

“(ii) provide a copy of the request to the Corporation (when the Corporation is not the responsible agency).

Records.

“(B) FURNISHING OF REPORT.—The report requested under subparagraph (A) shall be furnished by the Attorney General to the responsible agency—

Deadlines.

“(i) not later than 30 calendar days after the date on which the Attorney General received the request; or

“(ii) not later than 10 calendar days after such date, if the requesting agency advises the Attorney General that an emergency exists requiring expeditious action.

“(C) EXCEPTIONS.—A responsible agency may not be required to request a report under subparagraph (A) if—

“(i) the responsible agency finds that it must act immediately in order to prevent the probable failure of 1 of the insured depository institutions involved in the merger transaction; or

“(ii) the merger transaction involves solely an insured depository institution and 1 or more of the affiliates of such depository institution.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 18(c)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(6)) is amended—

(1) in the second sentence, by striking “banks or savings associations involved and reports on the competitive factors

have” and inserting “insured depository institutions involved, or if the proposed merger transaction is solely between an insured depository institution and 1 or more of its affiliates, and the report on the competitive factors has”; and

Deadline.

(2) by striking the penultimate sentence and inserting the following: “If the agency has advised the Attorney General under paragraph (4)(B)(ii) of the existence of an emergency requiring expeditious action and has requested a report on the competitive factors within 10 days, the transaction may not be consummated before the fifth calendar day after the date of approval by the agency.”.

#### **SEC. 607. NONWAIVER OF PRIVILEGES.**

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

“(x) **PRIVILEGES NOT AFFECTED BY DISCLOSURE TO BANKING AGENCY OR SUPERVISOR.**—

“(1) **IN GENERAL.**—The submission by any person of any information to any Federal banking agency, State bank supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such agency, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such agency, supervisor, or authority.

“(2) **RULE OF CONSTRUCTION.**—No provision of paragraph (1) may be construed as implying or establishing that—

“(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

“(B) any person would waive any privilege applicable to any information by submitting the information to any Federal banking agency, State bank supervisor, or foreign banking authority, but for this subsection.”

(b) **INSURED CREDIT UNIONS.**—Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end the following:

“(j) **PRIVILEGES NOT AFFECTED BY DISCLOSURE TO BANKING AGENCY OR SUPERVISOR.**—

“(1) **IN GENERAL.**—The submission by any person of any information to the Administration, any State credit union supervisor, or foreign banking authority for any purpose in the course of any supervisory or regulatory process of such Board, supervisor, or authority shall not be construed as waiving, destroying, or otherwise affecting any privilege such person may claim with respect to such information under Federal or State law as to any person or entity other than such Board, supervisor, or authority.

“(2) **RULE OF CONSTRUCTION.**—No provision of paragraph (1) may be construed as implying or establishing that—

“(A) any person waives any privilege applicable to information that is submitted or transferred under any circumstance to which paragraph (1) does not apply; or

“(B) any person would waive any privilege applicable to any information by submitting the information to the

Administration, any State credit union supervisor, or foreign banking authority, but for this subsection.”.

**SEC. 608. CLARIFICATION OF APPLICATION REQUIREMENTS FOR OPTIONAL CONVERSION FOR FEDERAL SAVINGS ASSOCIATIONS.**

(a) **HOME OWNERS’ LOAN ACT.**—Section 5(i)(5) of the Home Owners’ Loan Act (12 U.S.C. 1464(i)(5)) is amended to read as follows:

“(5) **CONVERSION TO NATIONAL OR STATE BANK.**—

“(A) **IN GENERAL.**—Any Federal savings association chartered and in operation before the date of enactment of the Gramm-Leach-Bliley Act, with branches in operation before such date of enactment in 1 or more States, may convert, at its option, with the approval of the Comptroller of the Currency for each national bank, and with the approval of the appropriate State bank supervisor and the appropriate Federal banking agency for each State bank, into 1 or more national or State banks, each of which may encompass 1 or more of the branches of the Federal savings association in operation before such date of enactment in 1 or more States subject to subparagraph (B).

“(B) **CONDITIONS OF CONVERSION.**—The authority in subparagraph (A) shall apply only if each resulting national or State bank—

“(i) will meet all financial, management, and capital requirements applicable to the resulting national or State bank; and

“(ii) if more than 1 national or State bank results from a conversion under this subparagraph, has received approval from the Federal Deposit Insurance Corporation under section 5(a) of the Federal Deposit Insurance Act.

“(C) **NO MERGER APPLICATION UNDER FDIA REQUIRED.**—No application under section 18(c) of the Federal Deposit Insurance Act shall be required for a conversion under this paragraph.

“(D) **DEFINITIONS.**—For purposes of this paragraph, the terms ‘State bank’ and ‘State bank supervisor’ have the same meanings as in section 3 of the Federal Deposit Insurance Act.”.

(b) **FEDERAL DEPOSIT INSURANCE ACT.**—Section 4(c) of the Federal Deposit Insurance Act (12 U.S.C. 1814(c)) is amended—

(1) by inserting “of this Act and section 5(i)(5) of the Home Owners’ Loan Act” after “Subject to section 5(d)”; and

(2) in paragraph (2), after “insured State,” by inserting “or Federal”.

**SEC. 609. EXEMPTION FROM DISCLOSURE OF PRIVACY POLICY FOR ACCOUNTANTS.**

(a) **IN GENERAL.**—Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended by adding at the end the following:

“(d) **EXEMPTION FOR CERTIFIED PUBLIC ACCOUNTANTS.**—

“(1) **IN GENERAL.**—The disclosure requirements of subsection (a) do not apply to any person, to the extent that the person is—

“(A) a certified public accountant;

“(B) certified or licensed for such purpose by a State; and

“(C) subject to any provision of law, rule, or regulation issued by a legislative or regulatory body of the State, including rules of professional conduct or ethics, that prohibits disclosure of nonpublic personal information without the knowing and expressed consent of the consumer.

“(2) LIMITATION.—Nothing in this subsection shall be construed to exempt or otherwise exclude any financial institution that is affiliated or becomes affiliated with a certified public accountant described in paragraph (1) from any provision of this section.

“(3) DEFINITIONS.—For purposes of this subsection, the term ‘State’ means any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, or the Northern Mariana Islands.”

(b) CLERICAL AMENDMENTS.—Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803) is amended—

(1) by redesignating subsection (b) as subsection (c); and  
(2) in subsection (a), by striking “Such disclosures” and inserting the following:

“(b) REGULATIONS.—Disclosures required by subsection (a)”.

**SEC. 610. INFLATION ADJUSTMENT FOR THE SMALL DEPOSITORY INSTITUTION EXCEPTION UNDER THE DEPOSITORY INSTITUTION MANAGEMENT INTERLOCKS ACT.**

Section 203(1) of the Depository Institution Management Interlocks Act (12 U.S.C. 3202(1)) is amended by striking “\$20,000,000” and inserting “\$50,000,000”.

**SEC. 611. MODIFICATION TO CROSS MARKETING RESTRICTIONS.**

Section 4(n)(5)(B) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(n)(5)(B)) is amended by striking “subsection (k)(4)(I)” and inserting “subparagraph (H) or (I) of subsection (k)(4)”.

## **TITLE VII—BANKING AGENCY PROVISIONS**

**SEC. 701. STATUTE OF LIMITATIONS FOR JUDICIAL REVIEW OF APPOINTMENT OF A RECEIVER FOR DEPOSITORY INSTITUTIONS.**

(a) NATIONAL BANKS.—Section 2 of the National Bank Receivership Act (12 U.S.C. 191) is amended—

(1) by amending the section heading to read as follows:

**“SEC. 2. APPOINTMENT OF RECEIVER FOR A NATIONAL BANK.**

“(a) IN GENERAL.—The Comptroller of the Currency”; and

(2) by adding at the end the following:

“(b) JUDICIAL REVIEW.—If the Comptroller of the Currency appoints a receiver under subsection (a), the national bank may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such bank is located, or in the United States District Court for the District of Columbia, for an order requiring the Comptroller of the Currency to remove the receiver, and the court shall, upon

Deadline.

the merits, dismiss such action or direct the Comptroller of the Currency to remove the receiver.”.

(b) **INSURED DEPOSITORY INSTITUTIONS.**—Section 11(c)(7) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(7)) is amended to read as follows:

“(7) **JUDICIAL REVIEW.**—If the Corporation is appointed (including the appointment of the Corporation as receiver by the Board of Directors) as conservator or receiver of a depository institution under paragraph (4), (9), or (10), the depository institution may, not later than 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such depository institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Corporation to be removed as the conservator or receiver (regardless of how such appointment was made), and the court shall, upon the merits, dismiss such action or direct the Corporation to be removed as the conservator or receiver.”. Deadline.

(c) **EFFECTIVE DATE.**—The amendments made by subsections (a) and (b) shall apply with respect to conservators or receivers appointed on or after the date of enactment of this Act. 12 USC 191 note.

**SEC. 702. ENHANCING THE SAFETY AND SOUNDNESS OF INSURED DEPOSITORY INSTITUTIONS.**

(a) **CLARIFICATION RELATING TO THE ENFORCEABILITY OF AGREEMENTS AND CONDITIONS.**—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following:

**“SEC. 50. ENFORCEMENT OF AGREEMENTS.**

12 USC 1831aa.

“(a) **IN GENERAL.**—Notwithstanding clause (i) or (ii) of section 8(b)(6)(A) or section 38(e)(2)(E)(i), the appropriate Federal banking agency for a depository institution may enforce, under section 8, the terms of—

“(1) any condition imposed in writing by the agency on the depository institution or an institution-affiliated party in connection with any action on any application, notice, or other request concerning the depository institution; or

“(2) any written agreement entered into between the agency and the depository institution or an institution-affiliated party.

“(b) **RECEIVERSHIPS AND CONSERVATORSHIPS.**—After the appointment of the Corporation as the receiver or conservator for a depository institution, the Corporation may enforce any condition or agreement described in paragraph (1) or (2) of subsection (a) imposed on or entered into with such institution or institution-affiliated party through an action brought in an appropriate United States district court.”.

(b) **PROTECTION OF CAPITAL OF INSURED DEPOSITORY INSTITUTIONS.**—Section 18(u)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(u)(1)) is amended—

(1) by striking subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (B); and

(3) in subparagraph (A), by adding “and” at the end.

(c) **CONFORMING AMENDMENTS.**—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended—

(1) in paragraph (3), by striking “This subsection and subsections (c) through (s) and subsection (u) of this section” and

inserting “This subsection, subsections (c) through (s) and subsection (u) of this section, and section 50 of this Act”; and (2) in paragraph (4), by striking “This subsection and subsections (c) through (s) and subsection (u) of this section” and inserting “This subsection, subsections (c) through (s) and subsection (u) of this section, and section 50 of this Act”.

**SEC. 703. CROSS GUARANTEE AUTHORITY.**

Section 5(e)(9)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1815(e)(9)(A)) is amended to read as follows:

“(A) such institutions are controlled by the same company; or”.

**SEC. 704. GOLDEN PARACHUTE AUTHORITY AND NONBANK HOLDING COMPANIES.**

Section 18(k) of the Federal Deposit Insurance Act (12 U.S.C. 1828(k)) is amended—

(1) in paragraph (2)(A), by striking “or depository institution holding company” and inserting “or covered company”;

(2) in paragraph (2), by striking subparagraph (B), and inserting the following:

“(B) Whether there is a reasonable basis to believe that the institution-affiliated party is substantially responsible for—

“(i) the insolvency of the depository institution or covered company;

“(ii) the appointment of a conservator or receiver for the depository institution; or

“(iii) the troubled condition of the depository institution (as defined in the regulations prescribed pursuant to section 32(f)).”;

(3) in paragraph (2)(F), by striking “depository institution holding company” and inserting “covered company”;

(4) in paragraph (3) in the matter preceding subparagraph (A), by striking “depository institution holding company” and inserting “covered company”;

(5) in paragraph (3)(A), by striking “holding company” and inserting “covered company”;

(6) in paragraph (4)(A)—

(A) by striking “depository institution holding company” each place that term appears and inserting “covered company”; and

(B) by striking “holding company” each place that term appears (other than in connection with the term referred to in subparagraph (A)) and inserting “covered company”;

(7) in paragraph (5)(A), by striking “depository institution holding company” and inserting “covered company”;

(8) in paragraph (5), by adding at the end the following:

“(D) COVERED COMPANY.—The term ‘covered company’ means any depository institution holding company (including any company required to file a report under section 4(f)(6) of the Bank Holding Company Act of 1956), or any other company that controls an insured depository institution.”; and

(9) in paragraph (6)—

(A) by striking “depository institution holding company” and inserting “covered company”; and

(B) by striking “or holding company” and inserting “or covered company”.

**SEC. 705. AMENDMENTS RELATING TO CHANGE IN BANK CONTROL.**

Section 7(j) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended—

(1) in paragraph (1)(D)—

(A) by striking “is needed to investigate” and inserting “is needed—

“(i) to investigate”;

(B) by striking “United States Code.” and inserting “United States Code; or”; and

(C) by adding at the end the following:

“(ii) to analyze the safety and soundness of any plans or proposals described in paragraph (6)(E) or the future prospects of the institution.”; and

(2) in paragraph (7)(C), by striking “the financial condition of any acquiring person” and inserting “either the financial condition of any acquiring person or the future prospects of the institution”.

**SEC. 706. AMENDMENT TO PROVIDE THE FEDERAL RESERVE BOARD WITH DISCRETION CONCERNING THE IMPUTATION OF CONTROL OF SHARES OF A COMPANY BY TRUSTEES.**

Section 2(g)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(2)) is amended by inserting before the period at the end “, unless the Board determines that such treatment is not appropriate in light of the facts and circumstances of the case and the purposes of this Act”.

**SEC. 707. INTERAGENCY DATA SHARING.**

(a) **FEDERAL BANKING AGENCIES.**—Section 7(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(2)) is amended by adding at the end the following:

“(C) **DATA SHARING WITH OTHER AGENCIES AND PERSONS.**—In addition to reports of examination, reports of condition, and other reports required to be regularly provided to the Corporation (with respect to all insured depository institutions, including a depository institution for which the Corporation has been appointed conservator or receiver) or an appropriate State bank supervisor (with respect to a State depository institution) under subparagraph (A) or (B), a Federal banking agency may, in the discretion of the agency, furnish any report of examination or other confidential supervisory information concerning any depository institution or other entity examined by such agency under authority of any Federal law, to—

“(i) any other Federal or State agency or authority with supervisory or regulatory authority over the depository institution or other entity;

“(ii) any officer, director, or receiver of such depository institution or entity; and

“(iii) any other person that the Federal banking agency determines to be appropriate.”

(b) **NATIONAL CREDIT UNION ADMINISTRATION.**—Section 202(a) of the Federal Credit Union Act (12 U.S.C. 1782(a)) is amended by adding at the end the following:

“(8) DATA SHARING WITH OTHER AGENCIES AND PERSONS.—In addition to reports of examination, reports of condition, and other reports required to be regularly provided to the Board (with respect to all insured credit unions, including a credit union for which the Corporation has been appointed conservator or liquidating agent) or an appropriate State commission, board, or authority having supervision of a State-chartered credit union, the Board may, in the discretion of the Board, furnish any report of examination or other confidential supervisory information concerning any credit union or other entity examined by the Board under authority of any Federal law, to—

“(A) any other Federal or State agency or authority with supervisory or regulatory authority over the credit union or other entity;

“(B) any officer, director, or receiver of such credit union or entity; and

“(C) any other person that the Board determines to be appropriate.”.

**SEC. 708. CLARIFICATION OF EXTENT OF SUSPENSION, REMOVAL, AND PROHIBITION AUTHORITY OF FEDERAL BANKING AGENCIES IN CASES OF CERTAIN CRIMES BY INSTITUTION-AFFILIATED PARTIES.**

(a) **INSURED DEPOSITORY INSTITUTIONS.**—

(1) **IN GENERAL.**—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended—

(A) in subparagraph (A)—

(i) by striking “is charged in any information, indictment, or complaint, with the commission of or participation in” and inserting “is the subject of any information, indictment, or complaint, involving the commission of or participation in”;

(ii) by striking “may pose a threat to the interests of the depository institution’s depositors or may threaten to impair public confidence in the depository institution,” and insert “posed, poses, or may pose a threat to the interests of the depositors of, or threatened, threatens, or may threaten to impair public confidence in, any relevant depository institution (as defined in subparagraph (E)),”; and

(iii) by striking “affairs of the depository institution” and inserting “affairs of any depository institution”;

(B) in subparagraph (B)(i), by striking “the depository institution” and inserting “any depository institution that the subject of the notice is affiliated with at the time the notice is issued”;

(C) in subparagraph (C)(i)—

(i) by striking “may pose a threat to the interests of the depository institution’s depositors or may threaten to impair public confidence in the depository institution,” and insert “posed, poses, or may pose a threat to the interests of the depositors of, or threatened, threatens, or may threaten to impair public confidence in, any relevant depository institution (as defined in subparagraph (E)),”; and



(ii) by striking “affairs of the depository institution” and inserting “affairs of any depository institution”;

(D) in subparagraph (C)(ii), by striking “affairs of the depository institution” and inserting “affairs of any depository institution”;

(E) in subparagraph (D)(i), by striking “the depository institution” and inserting “any depository institution that the subject of the order is affiliated with at the time the order is issued”; and

(F) by adding at the end the following:

“(E) RELEVANT DEPOSITORY INSTITUTION.—For purposes of this subsection, the term ‘relevant depository institution’ means any depository institution of which the party is or was an institution-affiliated party at the time at which—

“(i) the information, indictment, or complaint described in subparagraph (A) was issued; or

“(ii) the notice is issued under subparagraph (A) or the order is issued under subparagraph (C)(i).”.

(2) CLERICAL AMENDMENT.—The subsection heading for section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended to read as follows:

“(g) SUSPENSION, REMOVAL, AND PROHIBITION FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMINAL OFFENSES.—”.

(b) INSURED CREDIT UNIONS.—

(1) IN GENERAL.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended—

(A) in subparagraph (A), by striking “the credit union” each place that term appears and inserting “any credit union”;

(B) in subparagraph (B)(i), by inserting “of which the subject of the order is, or most recently was, an institution-affiliated party” before the period at the end;

(C) in subparagraph (C)—

(i) by striking “the credit union” each place such term appears and inserting “any credit union”; and

(ii) by striking “the credit union’s” and inserting “any credit union’s”;

(D) in subparagraph (D)(i), by striking “upon such credit union” and inserting “upon the credit union of which the subject of the order is, or most recently was, an institution-affiliated party”; and

(E) by adding at the end the following:

“(E) CONTINUATION OF AUTHORITY.—The Board may issue an order under this paragraph with respect to an individual who is an institution-affiliated party at a credit union at the time of an offense described in subparagraph (A) without regard to—

“(i) whether such individual is an institution-affiliated party at any credit union at the time the order is considered or issued by the Board; or

“(ii) whether the credit union at which the individual was an institution-affiliated party at the time of the offense remains in existence at the time the order is considered or issued by the Board.”.

(2) CLERICAL AMENDMENT.—Section 206(i) of the Federal Credit Union Act (12 U.S.C. 1786(i)) is amended by striking “(i)” at the beginning and inserting the following:

“(i) SUSPENSION, REMOVAL, AND PROHIBITION FROM PARTICIPATION ORDERS IN THE CASE OF CERTAIN CRIMINAL OFFENSES.—”.

**SEC. 709. PROTECTION OF CONFIDENTIAL INFORMATION RECEIVED BY FEDERAL BANKING REGULATORS FROM FOREIGN BANKING SUPERVISORS.**

Section 15 of the International Banking Act of 1978 (12 U.S.C. 3109) is amended by adding at the end the following:

“(c) CONFIDENTIAL INFORMATION RECEIVED FROM FOREIGN SUPERVISORS.—

“(1) IN GENERAL.—Except as provided in paragraph (3), a Federal banking agency may not be compelled to disclose information received from a foreign regulatory or supervisory authority if—

“(A) the Federal banking agency determines that the foreign regulatory or supervisory authority has, in good faith, determined and represented in writing to such Federal banking agency that public disclosure of the information would violate the laws applicable to that foreign regulatory or supervisory authority; and

“(B) the relevant Federal banking agency obtained such information pursuant to—

“(i) such procedures as the Federal banking agency may establish for use in connection with the administration and enforcement of Federal banking laws; or

“(ii) a memorandum of understanding or other similar arrangement between the Federal banking agency and the foreign regulatory or supervisory authority.

“(2) TREATMENT UNDER TITLE 5, UNITED STATES CODE.—For purposes of section 552 of title 5, United States Code, this subsection shall be treated as a statute described in subsection (b)(3)(B) of such section.

“(3) SAVINGS PROVISION.—No provision of this section shall be construed as—

“(A) authorizing any Federal banking agency to withhold any information from any duly authorized committee of the House of Representatives or the Senate; or

“(B) preventing any Federal banking agency from complying with an order of a court of the United States in an action commenced by the United States or such agency.

“(4) FEDERAL BANKING AGENCY DEFINED.—For purposes of this subsection, the term ‘Federal banking agency’ means the Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Director of the Office of Thrift Supervision.”.

**SEC. 710. PROHIBITION ON PARTICIPATION BY CONVICTED INDIVIDUALS.**

(a) EXTENSION OF AUTOMATIC PROHIBITION.—Section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) is amended by adding at the end the following new subsections:

“(d) BANK HOLDING COMPANIES.—

“(1) IN GENERAL.—Subsections (a) and (b) shall apply to any company (other than a foreign bank) that is a bank holding

Applicability.

company and any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, as if such bank holding company or organization were an insured depository institution, except that such subsections shall be applied for purposes of this subsection by substituting ‘Board of Governors of the Federal Reserve System’ for ‘Corporation’ each place that term appears in such subsections.

“(2) AUTHORITY OF BOARD.—The Board of Governors of the Federal Reserve System may provide exemptions, by regulation or order, from the application of paragraph (1) if the exemption is consistent with the purposes of this subsection.”

“(e) SAVINGS AND LOAN HOLDING COMPANIES.—

“(1) IN GENERAL.—Subsections (a) and (b) shall apply to any savings and loan holding company as if such savings and loan holding company were an insured depository institution, except that such subsections shall be applied for purposes of this subsection by substituting ‘Director of the Office of Thrift Supervision’ for ‘Corporation’ each place that term appears in such subsections.

Applicability.

“(2) AUTHORITY OF DIRECTOR.—The Director of the Office of Thrift Supervision may provide exemptions, by regulation or order, from the application of paragraph (1) if the exemption is consistent with the purposes of this subsection.”

(b) ENHANCED DISCRETION TO REMOVE CONVICTED INDIVIDUALS.—Section 8(e)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)(A)) is amended—

(1) by striking “or” at the end of clause (ii);

(2) by striking the comma at the end of clause (iii) and inserting “; or”; and

“(3) by adding at the end the following new clause:

“(iv) an institution-affiliated party of a subsidiary (other than a bank) of a bank holding company or of a subsidiary (other than a savings association) of a savings and loan holding company has been convicted of any criminal offense involving dishonesty or a breach of trust or a criminal offense under section 1956, 1957, or 1960 of title 18, United States Code, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such an offense.”

#### SEC. 711. COORDINATION OF STATE EXAMINATION AUTHORITY.

Section 10(h) of the Federal Deposit Insurance Act (12 U.S.C. 1820(h)) is amended to read as follows:

“(h) COORDINATION OF EXAMINATION AUTHORITY.—

“(1) STATE BANK SUPERVISORS OF HOME AND HOST STATES.—

“(A) HOME STATE OF BANK.—The appropriate State bank supervisor of the home State of an insured State bank has authority to examine and supervise the bank.

“(B) HOST STATE BRANCHES.—The State bank supervisor of the home State of an insured State bank and any State bank supervisor of an appropriate host State shall exercise its respective authority to supervise and examine the branches of the bank in a host State in accordance with the terms of any applicable cooperative agreement between the home State bank supervisor and the State bank supervisor of the relevant host State.

“(C) SUPERVISORY FEES.—Except as expressly provided in a cooperative agreement between the State bank supervisors of the home State and any host State of an insured State bank, only the State bank supervisor of the home State of an insured State bank may levy or charge State supervisory fees on the bank.

“(2) HOST STATE EXAMINATION.—

“(A) IN GENERAL.—With respect to a branch operated in a host State by an out-of-State insured State bank that resulted from an interstate merger transaction approved under section 44, or that was established in such State pursuant to section 5155(g) of the Revised Statutes of the United States, the third undesignated paragraph of section 9 of the Federal Reserve Act or section 18(d)(4) of this Act, the appropriate State bank supervisor of such host State may—

“(i) with written notice to the State bank supervisor of the bank’s home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of such home State, examine such branch for the purpose of determining compliance with host State laws that are applicable pursuant to section 24(j), including those that govern community reinvestment, fair lending, and consumer protection; and

“(ii) if expressly permitted under and subject to the terms of a cooperative agreement with the State bank supervisor of the bank’s home State or if such out-of-State insured State bank has been determined to be in a troubled condition by either the State bank supervisor of the bank’s home State or the bank’s appropriate Federal banking agency, participate in the examination of the bank by the State bank supervisor of the bank’s home State to ascertain that the activities of the branch in such host State are not conducted in an unsafe or unsound manner.

“(B) NOTICE OF DETERMINATION.—

“(i) IN GENERAL.—The State bank supervisor of the home State of an insured State bank shall notify the State bank supervisor of each host State of the bank if there has been a final determination that the bank is in a troubled condition.

“(ii) TIMING OF NOTICE.—The State bank supervisor of the home State of an insured State bank shall provide notice under clause (i) as soon as is reasonably possible, but in all cases not later than 15 business days after the date on which the State bank supervisor has made such final determination or has received written notification of such final determination.

“(3) HOST STATE ENFORCEMENT.—If the State bank supervisor of a host State determines that a branch of an out-of-State insured State bank is violating any law of the host State that is applicable to such branch pursuant to section 24(j), including a law that governs community reinvestment, fair lending, or consumer protection, the State bank supervisor of the host State or, to the extent authorized by the law of the host State, a host State law enforcement officer may, with

Deadline.

written notice to the State bank supervisor of the bank's home State and subject to the terms of any applicable cooperative agreement with the State bank supervisor of the bank's home State, undertake such enforcement actions and proceedings as would be permitted under the law of the host State as if the branch were a bank chartered by that host State.

“(4) COOPERATIVE AGREEMENT.—

“(A) IN GENERAL.—The State bank supervisors from 2 or more States may enter into cooperative agreements to facilitate State regulatory supervision of State banks, including cooperative agreements relating to the coordination of examinations and joint participation in examinations.

“(B) DEFINITION.—For purposes of this subsection, the term ‘cooperative agreement’ means a written agreement that is signed by the home State bank supervisor and the host State bank supervisor to facilitate State regulatory supervision of State banks, and includes nationwide or multi-State cooperative agreements and cooperative agreements solely between the home State and host State.

“(C) RULE OF CONSTRUCTION.—Except for State bank supervisors, no provision of this subsection relating to such cooperative agreements shall be construed as limiting in any way the authority of home State and host State law enforcement officers, regulatory supervisors, or other officials that have not signed such cooperative agreements to enforce host State laws that are applicable to a branch of an out-of-State insured State bank located in the host State pursuant to section 24(j).

“(5) FEDERAL REGULATORY AUTHORITY.—No provision of this subsection shall be construed as limiting in any way the authority of any Federal banking agency.

“(6) STATE TAXATION AUTHORITY NOT AFFECTED.—No provision of this subsection shall be construed as affecting the authority of any State or political subdivision of any State to adopt, apply, or administer any tax or method of taxation to any bank, bank holding company, or foreign bank, or any affiliate of any bank, bank holding company, or foreign bank, to the extent that such tax or tax method is otherwise permissible by or under the Constitution of the United States or other Federal law.

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

“(A) HOST STATE, HOME STATE, OUT-OF-STATE BANK.—The terms ‘host State’, ‘home State’, and ‘out-of-State bank’ have the same meanings as in section 44(g).

“(B) STATE SUPERVISORY FEES.—The term ‘State supervisory fees’ means assessments, examination fees, branch fees, license fees, and all other fees that are levied or charged by a State bank supervisor directly upon an insured State bank or upon branches of an insured State bank.

“(C) TROUBLED CONDITION.—Solely for purposes of paragraph (2)(B), an insured State bank has been determined to be in ‘troubled condition’ if the bank—

“(i) has a composite rating, as determined in its most recent report of examination, of 4 or 5 under the Uniform Financial Institutions Ratings System;

“(ii) is subject to a proceeding initiated by the Corporation for termination or suspension of deposit insurance; or

“(iii) is subject to a proceeding initiated by the State bank supervisor of the bank’s home State to vacate, revoke, or terminate the charter of the bank, or to liquidate the bank, or to appoint a receiver for the bank.

“(D) FINAL DETERMINATION.—For purposes of paragraph (2)(B), the term ‘final determination’ means the transmittal of a report of examination to the bank or transmittal of official notice of proceedings to the bank.”.

**SEC. 712. DEPUTY DIRECTOR; SUCCESSION AUTHORITY FOR DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION.**

(a) ESTABLISHMENT OF POSITION OF DEPUTY DIRECTOR.—Section 3(c)(5) of the Home Owners’ Loan Act (12 U.S.C. 1462a(c)(5)) is amended to read as follows:

“(5) DEPUTY DIRECTOR.—

“(A) IN GENERAL.—The Secretary of the Treasury shall appoint a Deputy Director, and may appoint not more than 3 additional Deputy Directors of the Office.

“(B) FIRST DEPUTY DIRECTOR.—If the Secretary of the Treasury appoints more than 1 Deputy Director of the Office, the Secretary shall designate one such appointee as the First Deputy Director.

“(C) DUTIES.—Each Deputy Director appointed under this paragraph shall take an oath of office and perform such duties as the Director shall direct.

“(D) COMPENSATION AND BENEFITS.—The Director shall fix the compensation and benefits for each Deputy Director in accordance with this Act.”.

(b) SERVICE OF DEPUTY DIRECTOR AS ACTING DIRECTOR.—Section 3(c)(3) of the Home Owners’ Loan Act (12 U.S.C. 1462a(c)(3)) is amended—

(1) by striking “VACANCY.—A vacancy in the position of Director” and inserting “VACANCY.—

“(A) IN GENERAL.—A vacancy in the position of Director”; and

(2) by adding at the end the following:

“(B) ACTING DIRECTOR.—

“(i) IN GENERAL.—In the event of a vacancy in the position of Director or during the absence or disability of the Director, the Deputy Director shall serve as Acting Director.

“(ii) SUCCESSION IN CASE OF 2 OR MORE DEPUTY DIRECTORS.—If there are 2 or more Deputy Directors serving at the time a vacancy in the position of Director occurs or the absence or disability of the Director commences, the First Deputy Director shall serve as Acting Director under clause (i) followed by such other Deputy Directors under any order of succession the Director may establish.

“(iii) **AUTHORITY OF ACTING DIRECTOR.**—Any Deputy Director, while serving as Acting Director under this subparagraph, shall be vested with all authority, duties, and privileges of the Director under this Act and any other provision of Federal law.”.

**SEC. 713. OFFICE OF THRIFT SUPERVISION REPRESENTATION ON BASEL COMMITTEE ON BANKING SUPERVISION.**

Government  
organization.

(a) **IN GENERAL.**—Section 912 of the International Lending Supervision Act of 1983 (12 U.S.C. 3911) is amended—

(1) in the section heading, by inserting at the end the following: “**AND THE OFFICE OF THRIFT SUPERVISION**”;

(2) by striking “As one of the three” and inserting the following:

“(a) **IN GENERAL.**—As one of the 4”; and

(3) by adding at the end the following:

“(b) As one of the 4 Federal bank regulatory and supervisory agencies, the Office of Thrift Supervision shall be given equal representation with the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation on the Committee on Banking Regulations and Supervisory Practices of the Group of Ten Countries and Switzerland.”.

(b) **CONFORMING AMENDMENTS.**—Section 910(a) of the International Lending Supervision Act of 1983 (12 U.S.C. 3909(a)) is amended—

(1) in paragraph (2), by striking “insured bank” and inserting “insured depository institution”; and

(2) in paragraph (3), by striking “an ‘insured bank’, as such term is used in section 3(h)” and inserting “an ‘insured depository institution’, as such term is defined in section 3(c)(2)”.

**SEC. 714. FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.**

(a) **COUNCIL MEMBERSHIP.**—Section 1004(a) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)) is amended—

(1) in paragraph (4), by striking “Thrift” and all that follows through the end of the paragraph and inserting “Thrift Supervision,”;

(2) in paragraph (5) by striking the period at the end and inserting “, and”; and

(3) by adding at the end the following:

“(6) the Chairman of the State Liaison Committee.”.

(b) **CHAIRPERSON OF LIAISON COMMITTEE.**—Section 1007 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3306) is amended by adding at the end the following: “Members of the Liaison Committee shall elect a chairperson from among the members serving on the committee.”.

**SEC. 715. TECHNICAL AMENDMENTS RELATING TO INSURED INSTITUTIONS.**

(a) **TECHNICAL AMENDMENT TO THE FEDERAL DEPOSIT INSURANCE ACT.**—Section 8(i)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(3)) is amended by inserting “or order” after “notice” each place that term appears.

(b) **TECHNICAL AMENDMENT TO THE FEDERAL CREDIT UNION ACT.**—Section 206(k)(3) of the Federal Credit Union Act (12 U.S.C.

1786(k)(3)) is amended by inserting “or order” after “notice” each place that term appears.

**SEC. 716. CLARIFICATION OF ENFORCEMENT AUTHORITY.**

(a) ACTIONS ON APPLICATIONS, NOTICES, AND OTHER REQUESTS; CLARIFICATION THAT CHANGE IN CONTROL CONDITIONS ARE ENFORCEABLE.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) in subsection (b)(1), in the first sentence, by striking “the granting of any application or other request by the depository institution” and inserting “any action on any application, notice, or other request by the depository institution or institution-affiliated party,”;

(2) in subsection (e)(1)(A)(i)(III), by striking “the grant of any application or other request by such depository institution” and inserting “any action on any application, notice, or request by such depository institution or institution-affiliated party”; and

(3) in subsection (i)(2)(A)(iii), by striking “the grant of any application or other request by such depository institution” and inserting “any action on any application, notice, or other request by the depository institution or institution-affiliated party”.

(b) CLARIFICATION THAT CHANGE IN CONTROL CONDITIONS ARE ENFORCEABLE.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended—

(1) in subsection (b)(1), in the first sentence, by striking “the granting of any application or other request by the credit union” and inserting “any action on any application, notice, or other request by the credit union or institution-affiliated party,”;

(2) in subsection (g)(1)(A)(i)(III), by striking “the grant of any application or other request by such credit union” and inserting “any action on any application, notice, or request by such credit union or institution-affiliated party”; and

(3) in subsection (k)(2)(A)(iii), by striking “the grant of any application or other request by such credit union” and inserting “any action on any application, notice, or other request by the credit union or institution-affiliated party”.

**SEC. 717. FEDERAL BANKING AGENCY AUTHORITY TO ENFORCE DEPOSIT INSURANCE CONDITIONS.**

Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended—

(1) in subsection (b)(1), in the 1st sentence—

(A) by striking “in writing by the agency” and inserting “in writing by a Federal banking agency”; and

(B) by striking “the agency may issue and serve” and inserting “the appropriate Federal banking agency for the depository institution may issue and serve”;

(2) in subsection (e)(1)—

(A) in subparagraph (A)(i)(III), by striking “in writing by the appropriate Federal banking agency” and inserting “in writing by a Federal banking agency”; and

(B) in the undesignated matter at the end, by striking “the agency may serve upon such party” and inserting “the appropriate Federal banking agency for the depository institution may serve upon such party”; and



(3) in subsection (i)(2)(A)(iii), by striking “in writing by the appropriate Federal banking agency” and inserting “in writing by a Federal banking agency”.

**SEC. 718. RECEIVER OR CONSERVATOR CONSENT REQUIREMENT.**

(a) **INSURED DEPOSITORY INSTITUTIONS.**—Section 11(e)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(13)) is amended by adding at the end the following:

“(C) **CONSENT REQUIREMENT.**—

“(i) **IN GENERAL.**—Except as otherwise provided by this section or section 15, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which the depository institution is a party, or to obtain possession of or exercise control over any property of the institution or affect any contractual rights of the institution, without the consent of the conservator or receiver, as appropriate, during the 45-day period beginning on the date of the appointment of the conservator, or during the 90-day period beginning on the date of the appointment of the receiver, as applicable.

“(ii) **CERTAIN EXCEPTIONS.**—No provision of this subparagraph shall apply to a director or officer liability insurance contract or a depository institution bond, to the rights of parties to certain qualified financial contracts pursuant to paragraph (8), or to the rights of parties to netting contracts pursuant to subtitle A of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 4401 et seq.), or shall be construed as permitting the conservator or receiver to fail to comply with otherwise enforceable provisions of such contract.

“(iii) **RULE OF CONSTRUCTION.**—Nothing in this subparagraph shall be construed to limit or otherwise affect the applicability of title 11, United States Code.”.

(b) **INSURED CREDIT UNIONS.**—Section 207(c)(12) of the Federal Credit Union Act (12 U.S.C. 1787(c)(12)) is amended by adding the following:

“(C) **CONSENT REQUIREMENT.**—

“(i) **IN GENERAL.**—Except as otherwise provided by this section, no person may exercise any right or power to terminate, accelerate, or declare a default under any contract to which the credit union is a party, or to obtain possession of or exercise control over any property of the credit union or affect any contractual rights of the credit union, without the consent of the conservator or liquidating agent, as appropriate, during the 45-day period beginning on the date of the appointment of the conservator, or during the 90-day period beginning on the date of the appointment of the liquidating agent, as applicable.

“(ii) **CERTAIN EXCEPTIONS.**—No provision of this subparagraph shall apply to a director or officer liability insurance contract or a credit union bond, or to the rights of parties to certain qualified financial contracts pursuant to paragraph (8), or shall be construed as permitting the conservator or liquidating

agent to fail to comply with otherwise enforceable provisions of such contract.

“(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed to limit or otherwise affect the applicability of title 11, United States Code.”.

**SEC. 719. ACQUISITION OF FICO SCORES.**

Section 604(a) of the Fair Credit Reporting Act (15 U.S.C. 1681b(a)) is amended by adding at the end the following:

“(6) To the Federal Deposit Insurance Corporation or the National Credit Union Administration as part of its preparation for its appointment or as part of its exercise of powers, as conservator, receiver, or liquidating agent for an insured depository institution or insured credit union under the Federal Deposit Insurance Act or the Federal Credit Union Act, or other applicable Federal or State law, or in connection with the resolution or liquidation of a failed or failing insured depository institution or insured credit union, as applicable.”.

**SEC. 720. ELIMINATION OF CRIMINAL INDICTMENTS AGAINST RECEIVERSHIPS.**

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 15(b) of the Federal Deposit Insurance Act (12 U.S.C. 1825(b)) is amended by inserting immediately after paragraph (3) the following:

“(4) EXEMPTION FROM CRIMINAL PROSECUTION.—The Corporation shall be exempt from all prosecution by the United States or any State, county, municipality, or local authority for any criminal offense arising under Federal, State, county, municipal, or local law, which was allegedly committed by the institution, or persons acting on behalf of the institution, prior to the appointment of the Corporation as receiver.”.

(b) INSURED CREDIT UNIONS.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by adding at the end the following:

“(K) EXEMPTION FROM CRIMINAL PROSECUTION.—The Administration shall be exempt from all prosecution by the United States or any State, county, municipality, or local authority for any criminal offense arising under Federal, State, county, municipal, or local law, which was allegedly committed by a credit union, or persons acting on behalf of a credit union, prior to the appointment of the Administration as liquidating agent.”.

**SEC. 721. RESOLUTION OF DEPOSIT INSURANCE DISPUTES.**

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(f) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f)) is amended by striking paragraphs (3) through (5) and inserting the following:

“(3) RESOLUTION OF DISPUTES.—A determination by the Corporation regarding any claim for insurance coverage shall be treated as a final determination for purposes of this section. In its discretion, the Corporation may promulgate regulations prescribing procedures for resolving any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit.

“(4) REVIEW OF CORPORATION DETERMINATION.—A final determination made by the Corporation regarding any claim for insurance coverage shall be a final agency action reviewable in accordance with chapter 7 of title 5, United States Code,

by the United States district court for the Federal judicial district where the principal place of business of the depository institution is located.

“(5) STATUTE OF LIMITATIONS.—Any request for review of a final determination by the Corporation regarding any claim for insurance coverage shall be filed with the appropriate United States district court not later than 60 days after the date on which such determination is issued.” Deadline.

(b) INSURED CREDIT UNIONS.—Section 207(d) of the Federal Credit Union Act (12 U.S.C. 1787(d)) is amended by striking paragraphs (3) through (5) and inserting the following:

“(3) RESOLUTION OF DISPUTES.—A determination by the Administration regarding any claim for insurance coverage shall be treated as a final determination for purposes of this section. In its discretion, the Board may promulgate regulations prescribing procedures for resolving any disputed claim relating to any insured deposit or any determination of insurance coverage with respect to any deposit. A final determination made by the Board regarding any claim for insurance coverage shall be a final agency action reviewable in accordance with chapter 7 of title 5, United States Code, by the United States district court for the Federal judicial district where the principal place of business of the credit union is located.

“(4) STATUTE OF LIMITATIONS.—Any request for review of a final determination by the Board regarding any claim for insurance coverage shall be filed with the appropriate United States district court not later than 60 days after the date on which such determination is issued.” Deadline.

#### SEC. 722. RECORDKEEPING.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(d)(15)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(15)(D)) is amended—

(1) by striking “After the end of the 6-year period” and inserting the following:

“(i) IN GENERAL.—Except as provided in clause (ii), after the end of the 6-year period”; and

(2) by adding at the end the following:

“(ii) OLD RECORDS.—Notwithstanding clause (i), the Corporation may destroy records of an insured depository institution which are at least 10 years old as of the date on which the Corporation is appointed as the receiver of such depository institution in accordance with clause (i) at any time after such appointment is final, without regard to the 6-year period of limitation contained in clause (i).”.

(b) INSURED CREDIT UNIONS.—Section 207(b)(15)(D) of the Federal Credit Union Act (12 U.S.C. 1787(b)(15)(D)) is amended—

(1) by striking “After the end of the 6-year period” and inserting the following:

“(i) IN GENERAL.—Except as provided in clause (ii), after the end of the 6-year period”; and

(2) by adding at the end the following:

“(ii) OLD RECORDS.—Notwithstanding clause (i) the Board may destroy records of an insured credit union which are at least 10 years old as of the date on which the Board is appointed as liquidating agent of

such credit union in accordance with clause (i) at any time after such appointment is final, without regard to the 6-year period of limitation contained in clause (i).”.

**SEC. 723. PRESERVATION OF RECORDS.**

(a) **INSURED DEPOSITORY INSTITUTIONS.**—Section 10(f) of the Federal Deposit Insurance Act (12 U.S.C. 1820(f)) is amended to read as follows:

“(f) **PRESERVATION OF AGENCY RECORDS.**—

“(1) **IN GENERAL.**—A Federal banking agency may cause any and all records, papers, or documents kept by the agency or in the possession or custody of the agency to be—

“(A) photographed or microphotographed or otherwise reproduced upon film; or

“(B) preserved in any electronic medium or format which is capable of—

“(i) being read or scanned by computer; and

“(ii) being reproduced from such electronic medium or format by printing any other form of reproduction of electronically stored data.

“(2) **TREATMENT AS ORIGINAL RECORDS.**—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies, and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

“(3) **AUTHORITY OF THE FEDERAL BANKING AGENCIES.**—Any photographs, microphotographs, or photographic film or copies thereof described in paragraph (1)(A) or reproduction of electronically stored data described in paragraph (1)(B) shall be preserved in such manner as the Federal banking agency shall prescribe, and the original records, papers, or documents may be destroyed or otherwise disposed of as the Federal banking agency may direct.”.

(b) **INSURED CREDIT UNIONS.**—Section 206(s) of the Federal Credit Union Act (12 U.S.C. 1786(s)) is amended by adding at the end the following:

“(9) **PRESERVATION OF RECORDS.**—

“(A) **IN GENERAL.**—The Board may cause any and all records, papers, or documents kept by the Administration or in the possession or custody of the Administration to be—

“(i) photographed or microphotographed or otherwise reproduced upon film; or

“(ii) preserved in any electronic medium or format which is capable of—

“(I) being read or scanned by computer; and

“(II) being reproduced from such electronic medium or format by printing or any other form of reproduction of electronically stored data.

“(B) **TREATMENT AS ORIGINAL RECORDS.**—Any photographs, microphotographs, or photographic film or copies thereof described in subparagraph (A)(i) or reproduction of electronically stored data described in subparagraph (A)(ii)

shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies, and shall be admissible to prove any act, transaction, occurrence, or event therein recorded.

“(C) AUTHORITY OF THE ADMINISTRATION.—Any photographs, microphotographs, or photographic film or copies thereof described in subparagraph (A)(i) or reproduction of electronically stored data described in subparagraph (A)(ii) shall be preserved in such manner as the Administration shall prescribe, and the original records, papers, or documents may be destroyed or otherwise disposed of as the Administration may direct.”.

**SEC. 724. TECHNICAL AMENDMENTS TO INFORMATION SHARING PROVISION IN THE FEDERAL DEPOSIT INSURANCE ACT.**

Section 11(t) of the Federal Deposit Insurance Act (12 U.S.C. 1821(t)) is amended—

(1) in paragraph (1), by inserting “, in any capacity,” after “A covered agency”; and

(2) in paragraph (2)(A)—

(A) in clause (i), by striking “appropriate”;

(B) by striking clause (ii); and

(C) by redesignating clauses (iii) through (vi) as clauses (ii) through (v), respectively.

**SEC. 725. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO BANKS OPERATING UNDER THE CODE OF LAW FOR THE DISTRICT OF COLUMBIA.**

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

(1) in the second undesignated paragraph of the first section (12 U.S.C. 221), by adding at the end the following: “For purposes of this Act, a State bank includes any bank which is operating under the Code of Law for the District of Columbia.”; and

(2) in the first sentence of the first undesignated paragraph of section 9 (12 U.S.C. 321), by striking “incorporated by special law of any State, or” and inserting “incorporated by special law of any State, operating under the Code of Law for the District of Columbia, or”.

(b) BANK CONSERVATION ACT.—Section 202 of the Bank Conservation Act (12 U.S.C. 202) is amended—

(1) by striking “means (1) any national” and inserting “means any national”; and

(2) by striking “, and (2) any bank or trust company located in the District of Columbia and operating under the supervision of the Comptroller of the Currency”.

(c) DEPOSITORY INSTITUTION DEREGULATION AND MONETARY CONTROL ACT OF 1980.—Part C of title VII of the Depository Institution Deregulation and Monetary Control Act of 1980 (12 U.S.C. 216 et seq.) is amended—

(1) in paragraph (1) of section 731 (12 U.S.C. 216(1)), by striking “and closed banks in the District of Columbia”; and

(2) in paragraph (2) of section 732 (12 U.S.C. 216a(2)), by striking “or closed banks in the District of Columbia”.

(d) FEDERAL DEPOSIT INSURANCE ACT.—Section 3(a)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)(2)(B)) is amended by striking “(except a national bank)”.

(e) NATIONAL BANK CONSOLIDATION AND MERGER ACT.—Section 7(1) of the National Bank Consolidation and Merger Act (12 U.S.C. 215b(1)) is amended by striking “(except a national banking association located in the District of Columbia)”.

(f) ACT OF AUGUST 17, 1950.—Section 1(a) of the Act entitled “An Act to provide for the conversion of national banking associations into and their merger or consolidation with State banks, and for other purposes” and approved August 17, 1950 (12 U.S.C. 214(a)) is amended by striking “(except a national banking association)”.

(g) FEDERAL TRADE COMMISSION ACT.—Section 18(f)(2) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(2)) is amended—

(1) in subparagraph (A), by striking “, banks operating under the code of law for the District of Columbia,”; and

(2) in subparagraph (B), by striking “and banks operating under the code of law for the District of Columbia”.

**SEC. 726. TECHNICAL CORRECTIONS TO THE FEDERAL CREDIT UNION ACT.**

The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended as follows:

12 USC 1752.

(1) In section 101(3), strike “and” after the semicolon.

(2) In section 101(5), strike the terms “account account” and “account accounts” each place any such term appears and insert “account”.

12 USC 1757.

(3) In section 107(5)(E), strike the period at the end and insert a semicolon.

(4) In each of paragraphs (6) and (7) of section 107, strike the period at the end and insert a semicolon.

(5) In section 107(7)(D), strike “the Federal Savings and Loan Insurance Corporation or”.

(6) In section 107(7)(E), strike “the Federal Home Loan Bank Board,” and insert “the Federal Housing Finance Board,”.

(7) In section 107(9), strike “subchapter III” and insert “title III”.

(8) In section 107(13), strike “and” after the semicolon at the end.

12 USC 1759.

(9) In section 109(c)(2)(A)(i), strike “(12 U.S.C. 4703(16))”.

12 USC 1766.

(10) In section 120(h), strike “the Act approved July 30, 1947 (6 U.S.C., secs. 6–13),” and insert “chapter 93 of title 31, United States Code,”.

12 USC 1781.

(11) In section 201(b)(5), strike “section 116 of”.

12 USC 1782.

(12) In section 202(h)(3), strike “section 207(c)(1)” and insert “section 207(k)(1)”.

12 USC 1784.

(13) In section 204(b), strike “such others powers” and insert “such other powers”.

12 USC 1786.

(14) In section 206(e)(3)(D), strike “and” after the semicolon at the end.

(15) In section 206(f)(1), strike “subsection (e)(3)(B)” and insert “subsection (e)(3)”.

(16) In section 206(g)(7)(D), strike “and subsection (1)”.

(17) In section 206(t)(2)(B), insert “regulations” after “as defined in”.

(18) In section 206(t)(2)(C), strike “material affect” and insert “material effect”.

(19) In section 206(t)(4)(A)(ii)(II), strike “or” after the semicolon at the end.

(20) In section 206A(a)(2)(A), strike “regulator agency” and insert “regulatory agency”. 12 USC 1786a.

(21) In section 207(c)(5)(B)(i)(I), insert “and” after the semicolon at the end. 12 USC 1787.

(22) In the heading for subparagraph (A) of section 207(d)(3), strike “TO” and insert “WITH”.

(23) In section 207(f)(3)(A), strike “category or claimants” and insert “category of claimants”.

(24) In section 209(a)(8), strike the period at the end and insert a semicolon. 12 USC 1789.

(25) In section 216(n), insert “any action” before “that is required”. 12 USC 1790d.

(26) In section 304(b)(3), strike “the affairs or such credit union” and insert “the affairs of such credit union”. 12 USC 1795c.

(27) In section 310, strike “section 102(e)” and insert “section 102(d)”. 12 USC 1795i.

#### **SEC. 727. REPEAL OF OBSOLETE PROVISIONS OF THE BANK HOLDING COMPANY ACT OF 1956.**

(a) IN GENERAL.—Section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841) is amended—

(1) in subsection (c)(2), by striking subparagraphs (I) and (J); and

(2) by striking subsection (m) and inserting the following: “(m) [Repealed]”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Paragraphs (1) and (2) of section 4(h) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(h)) are each amended by striking “(G), (H), (I), or (J) of section 2(c)(2)” and inserting “(G), or (H) of section 2(c)(2)”.

#### **SEC. 728. DEVELOPMENT OF MODEL PRIVACY FORM.**

Section 503 of the Gramm-Leach-Bliley Act (15 U.S.C. 6803), as amended by section 609, is amended by adding at the end the following:

“(e) MODEL FORMS.—

“(1) IN GENERAL.—The agencies referred to in section 504(a)(1) shall jointly develop a model form which may be used, at the option of the financial institution, for the provision of disclosures under this section.

“(2) FORMAT.—A model form developed under paragraph (1) shall—

“(A) be comprehensible to consumers, with a clear format and design;

“(B) provide for clear and conspicuous disclosures;

“(C) enable consumers easily to identify the sharing practices of a financial institution and to compare privacy practices among financial institutions; and

“(D) be succinct, and use an easily readable type font.

“(3) TIMING.—A model form required to be developed by this subsection shall be issued in proposed form for public comment not later than 180 days after the date of enactment of this subsection.

Deadline.

“(4) SAFE HARBOR.—Any financial institution that elects to provide the model form developed by the agencies under this subsection shall be deemed to be in compliance with the disclosures required under this section.”.

## TITLE VIII—FAIR DEBT COLLECTION PRACTICES ACT AMENDMENTS

### SEC. 801. EXCEPTION FOR CERTAIN BAD CHECK ENFORCEMENT PROGRAMS.

(a) IN GENERAL.—The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended—

15 USC 1692  
note.

- (1) by redesignating section 818 as section 819; and
- (2) by inserting after section 817 the following:

15 USC 1692p.

#### “§ 818. Exception for certain bad check enforcement programs operated by private entities

“(a) IN GENERAL.—

Contracts.

“(1) TREATMENT OF CERTAIN PRIVATE ENTITIES.—Subject to paragraph (2), a private entity shall be excluded from the definition of a debt collector, pursuant to the exception provided in section 803(6), with respect to the operation by the entity of a program described in paragraph (2)(A) under a contract described in paragraph (2)(B).

“(2) CONDITIONS OF APPLICABILITY.—Paragraph (1) shall apply if—

“(A) a State or district attorney establishes, within the jurisdiction of such State or district attorney and with respect to alleged bad check violations that do not involve a check described in subsection (b), a pretrial diversion program for alleged bad check offenders who agree to participate voluntarily in such program to avoid criminal prosecution;

“(B) a private entity, that is subject to an administrative support services contract with a State or district attorney and operates under the direction, supervision, and control of such State or district attorney, operates the pretrial diversion program described in subparagraph (A); and

“(C) in the course of performing duties delegated to it by a State or district attorney under the contract, the private entity referred to in subparagraph (B)—

“(i) complies with the penal laws of the State;

“(ii) conforms with the terms of the contract and directives of the State or district attorney;

“(iii) does not exercise independent prosecutorial discretion;

“(iv) contacts any alleged offender referred to in subparagraph (A) for purposes of participating in a program referred to in such paragraph—

“(I) only as a result of any determination by the State or district attorney that probable cause of a bad check violation under State penal law exists, and that contact with the alleged offender for purposes of participation in the program is appropriate; and



“(II) the alleged offender has failed to pay the bad check after demand for payment, pursuant to State law, is made for payment of the check amount;

“(v) includes as part of an initial written communication with an alleged offender a clear and conspicuous statement that—

“(I) the alleged offender may dispute the validity of any alleged bad check violation;

“(II) where the alleged offender knows, or has reasonable cause to believe, that the alleged bad check violation is the result of theft or forgery of the check, identity theft, or other fraud that is not the result of the conduct of the alleged offender, the alleged offender may file a crime report with the appropriate law enforcement agency; and

“(III) if the alleged offender notifies the private entity or the district attorney in writing, not later than 30 days after being contacted for the first time pursuant to clause (iv), that there is a dispute pursuant to this subsection, before further restitution efforts are pursued, the district attorney or an employee of the district attorney authorized to make such a determination makes a determination that there is probable cause to believe that a crime has been committed; and

Deadline.

“(vi) charges only fees in connection with services under the contract that have been authorized by the contract with the State or district attorney.

“(b) CERTAIN CHECKS EXCLUDED.—A check is described in this subsection if the check involves, or is subsequently found to involve—

“(1) a postdated check presented in connection with a payday loan, or other similar transaction, where the payee of the check knew that the issuer had insufficient funds at the time the check was made, drawn, or delivered;

“(2) a stop payment order where the issuer acted in good faith and with reasonable cause in stopping payment on the check;

“(3) a check dishonored because of an adjustment to the issuer’s account by the financial institution holding such account without providing notice to the person at the time the check was made, drawn, or delivered;

“(4) a check for partial payment of a debt where the payee had previously accepted partial payment for such debt;

“(5) a check issued by a person who was not competent, or was not of legal age, to enter into a legal contractual obligation at the time the check was made, drawn, or delivered; or

“(6) a check issued to pay an obligation arising from a transaction that was illegal in the jurisdiction of the State or district attorney at the time the check was made, drawn, or delivered.

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

Applicability.

“(1) STATE OR DISTRICT ATTORNEY.—The term ‘State or district attorney’ means the chief elected or appointed prosecuting attorney in a district, county (as defined in section 2 of title 1, United States Code), municipality, or comparable jurisdiction, including State attorneys general who act as chief elected or appointed prosecuting attorneys in a district, county (as so defined), municipality or comparable jurisdiction, who may be referred to by a variety of titles such as district attorneys, prosecuting attorneys, commonwealth’s attorneys, solicitors, county attorneys, and state’s attorneys, and who are responsible for the prosecution of State crimes and violations of jurisdiction-specific local ordinances.

“(2) CHECK.—The term ‘check’ has the same meaning as in section 3(6) of the Check Clearing for the 21st Century Act.

“(3) BAD CHECK VIOLATION.—The term ‘bad check violation’ means a violation of the applicable State criminal law relating to the writing of dishonored checks.”.

(b) CLERICAL AMENDMENT.—The table of sections for the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.) is amended—

(1) by redesignating the item relating to section 818 as section 819; and

(2) by inserting after the item relating to section 817 the following new item:

“818. Exception for certain bad check enforcement programs operated by private entities.”.

#### **SEC. 802. OTHER AMENDMENTS.**

(a) LEGAL PLEADINGS.—Section 809 of the Fair Debt Collection Practices Act (15 U.S.C. 1692g) is amended by adding at the end the following new subsection:

“(d) LEGAL PLEADINGS.—A communication in the form of a formal pleading in a civil action shall not be treated as an initial communication for purposes of subsection (a).”.

(b) NOTICE PROVISIONS.—Section 809 of the Fair Debt Collection Practices Act (15 U.S.C. 1692g) is amended by adding after subsection (d) (as added by subsection (a) of this section) the following new subsection:

“(e) NOTICE PROVISIONS.—The sending or delivery of any form or notice which does not relate to the collection of a debt and is expressly required by the Internal Revenue Code of 1986, title V of Gramm-Leach-Bliley Act, or any provision of Federal or State law relating to notice of data security breach or privacy, or any regulation prescribed under any such provision of law, shall not be treated as an initial communication in connection with debt collection for purposes of this section.”.

(c) ESTABLISHMENT OF RIGHT TO COLLECT WITHIN THE FIRST 30 DAYS.—Section 809(b) of the Fair Debt Collection Practices Act (15 U.S.C. 1692g(b)) is amended by adding at the end the following new sentences: “Collection activities and communications that do not otherwise violate this title may continue during the 30-day period referred to in subsection (a) unless the consumer has notified the debt collector in writing that the debt, or any portion of the debt, is disputed or that the consumer requests the name and

address of the original creditor. Any collection activities and communication during the 30-day period may not overshadow or be inconsistent with the disclosure of the consumer's right to dispute the debt or request the name and address of the original creditor.”.

## **TITLE IX—CASH MANAGEMENT MODERNIZATION**

### **SEC. 901. COLLATERAL MODERNIZATION.**

(a) IN GENERAL.—Section 9301(2) of title 31, United States Code, is amended to read as follows:

“(2) ‘eligible obligation’ means any security designated as acceptable in lieu of a surety bond by the Secretary of the Treasury.”.

(b) USE OF ELIGIBLE OBLIGATIONS INSTEAD OF SURETY BONDS.—Section 9303(a)(2) of title 31, United States Code, is amended to read as follows:

“(2) as determined by the Secretary of the Treasury, have a market value that is equal to or greater than the amount of the required surety bond; and”.

(c) TECHNICAL AMENDMENTS.—Section 9303 of title 31, United States Code, is amended—

(1) in the section heading, by striking “**Government obligations**” and inserting “**eligible obligations**”;

(2) in subsection (f), by striking “Government obligations” and inserting “eligible obligations”;

(3) by striking “a Government obligation” each place that term appears and inserting “an eligible obligation”; and

(4) by striking “Government obligation” each place that term appears and inserting “eligible obligation”.

## **TITLE X—STUDIES AND REPORTS**

### **SEC. 1001. STUDY AND REPORT BY THE COMPTROLLER GENERAL ON THE CURRENCY TRANSACTION REPORT FILING SYSTEM.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the volume of currency transaction reports filed with the Secretary of the Treasury under section 5313(a) of title 31, United States Code.

(b) PURPOSE.—The purpose of the study required under subsection (a) shall be—

(1) to evaluate, on the basis of actual filing data, patterns of currency transaction reports filed by depository institutions of all sizes and locations; and

(2) to identify whether and the extent to which the filing rules for currency transaction reports described in section 5313(a) of title 31, United States Code—

(A) are burdensome; and

(B) can or should be modified to reduce such burdens without harming the usefulness of such filing rules to Federal, State, and local anti-terrorism, law enforcement, and regulatory operations.

(c) PERIOD COVERED.—The study required under subsection (a) shall cover the period beginning at least 3 calendar years prior to the date of enactment of this section.

(d) CONTENT.—The study required under subsection (a) shall include a detailed evaluation of—

(1) the extent to which depository institutions are availing themselves of the exemption system for the filing of currency transaction reports set forth in section 103.22(d) of title 31, Code of Federal Regulations, as in effect during the study period (in this section referred to as the “exemption system”), including specifically, for the study period—

(A) the number of currency transaction reports filed (out of the total annual numbers) involving companies that are listed on the New York Stock Exchange or the NASDAQ National Market;

(B) the number of currency transaction reports filed by the 100 largest depository institutions in the United States by asset size, and thereafter in tiers of 100, by asset size;

(C) the number of currency transaction reports filed by the 200 smallest depository institutions in the United States, including the number of such currency transaction reports involving companies listed on the New York Stock Exchange or the NASDAQ National Market; and

(D) the number of currency transaction reports that would have been filed during the filing period if the exemption system had been used by all depository institutions in the United States;

(2) what types of depository institutions are using the exemption system, and the extent to which such exemption system is used;

(3) difficulties that limit the willingness or ability of depository institutions to reduce their currency transaction reports reporting burden by making use of the exemption system, including considerations of cost, especially in the case of small depository institutions;

(4) the extent to which bank examination difficulties have limited the use of the exemption system, especially with respect to—

(A) the exemption of privately-held companies permitted under such exemption system; and

(B) whether, on a sample basis, the reaction of bank examiners to implementation of such exemption system is justified or inhibits use of such exemption system without an offsetting compliance benefit;

(5) ways to improve the use of the exemption system by depository institutions, including making such exemption system mandatory in order to reduce the volume of currency transaction reports unnecessarily filed; and

(6) the usefulness of currency transaction reports filed to law enforcement agencies, taking into account—

(A) advances in information technology;

(B) the impact, including possible loss of investigative data, that various changes in the exemption system would have on the usefulness of such currency transaction reports; and

(C) changes that could be made to the exemption system without affecting the usefulness of currency transaction reports.

(e) ASSISTANCE.—The Secretary of the Treasury shall provide such information processing and other assistance, including from the Commissioner of the Internal Revenue Service and the Director of the Financial Crimes Enforcement Network, to the Comptroller General in analyzing currency transaction report filings for the study period described in subsection (c), as is necessary to provide the information required by subsection (a).

(f) VIEWS.—The study required under subsection (a) shall, if appropriate, include a discussion of the views of a representative sample of Federal, State, and local law enforcement and regulatory officials and officials of depository institutions of all sizes.

(g) RECOMMENDATIONS.—The study required under subsection (a) shall, if appropriate, include recommendations for changes to the exemption system that would reflect a reduction in unnecessary cost to depository institutions, assuming reasonably full implementation of such exemption system, without reducing the usefulness of the currency transaction report filing system to anti-terrorism, law enforcement, and regulatory operations.

(h) REPORT.—Not later than 15 months after the date of enactment of this section, the Comptroller General shall submit a report on the study required under subsection (a) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

#### **SEC. 1002. STUDY AND REPORT ON INSTITUTION DIVERSITY AND CONSOLIDATION.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study regarding—

(1) the vast diversity in the size and complexity of institutions in the banking and financial services sector, including the differences in capital, market share, geographical limitations, product offerings, and general activities;

(2) the differences in powers among the depository institution charters, including—

(A) identification of the historical trends in the evolution of depository institution charters;

(B) an analysis of the impact of charter differences to the overall safety and soundness of the banking industry, and the effectiveness of the applicable depository institution regulator; and

(C) an analysis of the impact that the availability of options for depository institution charters on the development of the banking industry;

(3) the impact that differences of size and overall complexity among financial institutions makes with respect to regulatory oversight, efficiency, safety and soundness, and charter options for financial institutions; and

(4) the aggregate cost and breakdown associated with regulatory compliance for banks, savings associations, credit unions, or any other financial institution, including potential disproportionate impact that the cost of compliance may pose on smaller institutions, given the percentage of personnel that the institution must dedicate solely to compliance.

(b) CONSIDERATIONS.—In conducting the study under subsection (a), the Comptroller General shall consider the efficacy and efficiency of the consolidation of financial regulators, as well as charter simplification and homogenization.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study required by this section.

Approved October 13, 2006.

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LEGISLATIVE HISTORY—S. 2856:

SENATE REPORTS: No. 109–256 (Comm. on Banking, Housing, and Urban Affairs).  
CONGRESSIONAL RECORD, Vol. 152 (2006):

May 25, considered and passed Senate.

Sept. 27, considered and passed House, amended.

Sept. 29, Senate concurred in House amendment.

